



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Petitioner,

SB-11-CVL-0003

Re: Forfeiture of Unexplained Wealth

-versus-

Present:

Quiroz, J., *Chairperson*

Cruz, J.

Jacinto, J.

**BENJAMIN "KOKOY"
ROMUALDEZ and JULIETTE
GOMEZ ROMUALDEZ,**

Respondents.

Promulgated on:

x-----x

JUNE 18, 2018 /y

JACINTO, J.:

RESOLUTION

This resolves the *Motion to Dismiss* dated 13 September 2011 filed by respondents Benjamin "Kokoy" Romualdez and Juliette Gomez-Romualdez.¹

ANTECEDENTS

On 17 August 2011, petitioner People of the Philippines, through the Office of the Ombudsman (OMB), filed the present *Petition for Forfeiture of Unlawfully Acquired Properties*² under Section 2 of Republic Act (R.A.) No. 1379,³ against the spouses Benjamin "Kokoy" Romualdez and Juliette Gomez-Romualdez.

The Petition, which was filed pursuant to the OMB's 26 June 2006 *Resolution* in OMB-C-C-03-0523-I, finding "reasonable ground to engender a well-founded belief that a violation of Republic Act No. 1379 has been committed and that respondents are probably guilty thereof,"⁴ seeks to forfeit in favor of the Republic the sums of money found in respondents' accounts with the Union Bank of Geneva AG Geneva (UBS Accounts). The funds are

¹ Records, pp. 167-192.

² Records, pp. 1-153 (with annexes). The Petition was signed by then Acting Ombudsman Orlando C. Casimiro.

³ An Act Declaring Forfeiture in Favor of the State Any Property Found to have been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceedings Therefor.

⁴ Entitled *Republic of the Philippines Rep. by the Presidential Commission on Good Government v. Benjamin "Kokoy" Romualdez and Juliette Gomez-Romualdez*; Records, pp. 65-86.

RESOLUTION

People v. Benjamin "Kokoy" Romualdez, et al.

SB-11-CVL-0003

Page 2 of 5

currently held in escrow with the Philippine National Bank (PNB), with a standing balance of \$5,193,726.37 as of 31 May 2003.

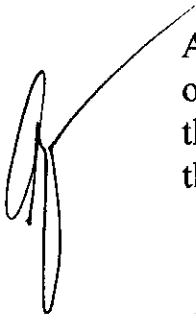
On 20 September 2011, respondents filed a *Motion to Dismiss*⁵ anchored on the following arguments:

- (a) The Petition was filed without first affording respondents their right to file a motion for reconsideration.
- (b) No preliminary investigation in the instant case was conducted in accordance with law.
- (c) The Office of the Solicitor General, not the Office of the Ombudsman, has the authority to file the instant Petition.

ARGUMENTS

The Court shall limit its discussion to the third ground raised by respondent spouses, given that it concerns a jurisdictional question.

Citing Section 15(11) of R.A. No. 6770⁶ and *Republic v. Sandiganbayan*,⁷ respondents argue that the OMB has no authority to conduct a "previous inquiry similar to preliminary investigations in criminal cases as in the instant case" and file the present Petition. They claim that since the subject of the Petition pertains to alleged ill-gotten wealth acquired prior to 25 February 1986, the authority to file the same belongs to the Office of the Solicitor General (OSG).

 In its *Comment/Opposition*,⁸ petitioner argues that the two UBS Accounts subject of this case were only discovered in 1998 and the source or origin of such funds has not been established with certainty. It thus claims that the OMB had the authority to file the Petition since there is a probability that the alleged unexplained wealth was amassed after 25 February 1986.

Respondents thereafter filed their *Reply (To Petitioner's Comment/Opposition)*,⁹ reiterating their previous arguments. They emphasize



⁵ *Supra* at note 1.

⁶ Section 15 of The Ombudsman Act of 1989 provides: "Section 15. Powers, Functions and Duties. — The Office of the Ombudsman shall have the following powers, functions and duties: xxx (11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

⁷ 200 SCRA 667.

⁸ Dated 19 October 2011, Records, pp. 214-222.

⁹ Records, pp. 223-232.

RESOLUTION

People v. Benjamin "Kokoy" Romualdez, et al.

SB-11-CVL-0003

Page 3 of 5

that the reckoning period is the time when the illegally acquired wealth was allegedly amassed, and not when it was discovered. They also point out that if the OMB is allowed to change its theory by stating that the questioned account was amassed after 25 February 1986, then the Court has no jurisdiction over the case since respondent Benjamin Romualdez ceased to be a public officer after the said date.

Petitioner then filed its *Comment/Opposition (To Respondents' Reply dated November 18, 2011)*¹⁰ wherein it merely adopted its earlier arguments relating to the OMB's authority to file the Petition.

RULING

The issue pertaining to the authority to file a petition for forfeiture has long been settled. In *Republic v. Sandiganbayan (Third Division)*,¹¹ the Supreme Court held that the OMB's authority to initiate forfeiture proceedings is restricted to cases involving ill-gotten wealth amassed after 25 February 1986. Thus –

Nonetheless, while we do not discount the authority of the Ombudsman, we believe and so hold that the exercise of his correlative powers to both investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth is restricted only to cases for the recovery of ill-gotten and/or unexplained wealth which were amassed after February 25, 1986. Prior to said date, the Ombudsman is without authority to *initiate* such forfeiture proceedings. We, however, uphold his authority to *investigate* cases for forfeiture or recovery of such ill-gotten and/or unexplained wealth amassed even before the aforementioned date, pursuant to his general investigatory power under Section 15(1) of Republic Act No. 6770.

In the case at bar, the alleged unexplained wealth of respondent Macario Asistio, Jr. was supposed to have been acquired from 1981 to 1983. Verily, the Ombudsman, like the Special Prosecutor, is without authority to initiate and file the petition for forfeiture against respondent Asistio.

It is our considered opinion, therefore, that in cases of unlawfully acquired wealth amassed before February 25, 1986, as is the situation obtaining in the case at bar, it is the Solicitor General who should file the petition for forfeiture. The reason is manifestly supplied by an analysis of the interplay of antecedent legislation.

¹⁰ Records, pp. 245-251.

¹¹ G.R. No. 90529, 16 August 1991.

✓

RESOLUTION

People v. Benjamin "Kokoy" Romualdez, et al.

SB-11-CVL-0003

Page 4 of 5

There is no doubt that the OMB has the authority to investigate or conduct an investigation akin to a preliminary investigation in forfeiture cases. The Supreme Court made the same pronouncement in *Romualdez v. The Honorable Sandiganbayan*,¹² which was cited by petitioner in its *Reply*. However, what is in issue is its authority to **file** the Petition. It bears emphasis that, in the same case, while it was the OMB that conducted the preliminary investigation, it was the OSG which filed the petition.

The Court cannot subscribe to petitioner's claim that "there is a reasonable assumption that the two UBS Geneva accounts are distinct, and the funds therein did not emanate from SA 7676" and that the said unexplained wealth was amassed after 25 February 1986. First, the Petition clearly states that "[i]t appears from the records that the said accounts originated from savings account number 7676 in Standard Chartered Bank, SA, Zurich (SA7676) which was opened on 03 August 1983 xxx."

Second, the Petition alleges that the ill-gotten wealth was acquired during respondent Benjamin Romualdez's "incumbency as Provincial Governor of the Province of Leyte and Ambassador Extraordinary and Plenipotentiary to Peking, Jeddah, and Washington D.C." Clearly then, the alleged ill-gotten wealth could have only been amassed before 25 February 1986 since, as pointed out by respondents, respondent Benjamin Romualdez was no longer a public official after 25 February 1986.

Similarly, petitioner's claim that the period should be reckoned from the date of discovery of the two UBS accounts in 1998 deserves scant consideration. Suffice it to state that the law and prevailing jurisprudence refer to the time the alleged ill-gotten wealth was amassed – not discovered. There is no room for any creative interpretation on this matter.

In sum, after conducting its preliminary investigation, the OMB should have referred its Resolution to the OSG as it did in *Romualdez v. The Honorable Sandiganbayan*. As it stands, the present Petition should be dismissed for lack of authority of the OMB to file the same.

In view of the foregoing, there is no need for the Court to pass upon the other issues raised by respondents in their Motion.

¹² G.R. No. 161602, 13 July 2010.

RESOLUTION

People v. Benjamin "Kokoy" Romualdez, et al.

SB-11-CVL-0003

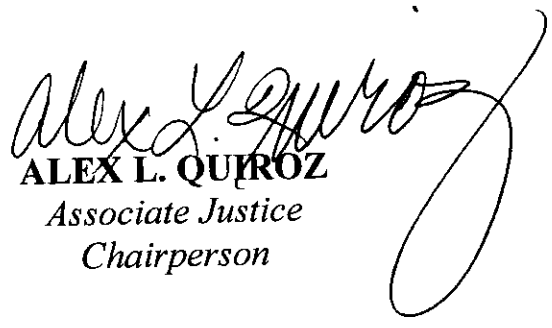
Page 5 of 5

WHEREFORE, in view of the foregoing, the *Petition for Forfeiture* filed by the Office of the Ombudsman against the spouses Benjamin "Kokoy" Romualdez and Juliette Gomez-Romualdez is **DISMISSED**, without prejudice to its re-filing by the Office of the Solicitor General.

SO ORDERED.


BAYANI H. JACINTO
Associate Justice

WE CONCUR:


ALEX L. QUIROZ
Associate Justice
Chairperson


REYNALDO P. CRUZ
Associate Justice