

Republic of the Philippines
SANDIGANBAYAN
Quezon City

FOURTH DIVISION

REPUBLIC OF THE
PHILIPPINES,

CIVIL CASE NO. 0178

For: Reconveyance,
Reversion, Accounting,
Restitution and Damages

-versus-

ANDRES L. AFRICA,
ET. AL.,

Accused.

Present:
Quiroz, J., Chairperson
Pahimna, J.
Hidalgo, J.

Promulgated:

MAY 23 2022



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RESOLUTION

PAHIMNA, J.:

Submitted before this Court are the following incidents:

1. *Manifestation with Motion for Suspension*¹ dated February 22, 2022 filed on March 1, 2022 by defendants Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ma. Rita N. Delos Reyes, Carmen N. Tuazon, Ramon V. Nieto, Jr., the legal representative of the deceased Ramon Nieto, and Benigno Manuel Valdes, the legal representative of Rafael C. Valdes;

¹ Records, Volume 4, pp. 51 to 56

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2. *Manifestation of Adoption of "Motion for Suspension"*² dated March 21, 2022 filed by defendant Victor Africa on the same date;
3. *Comment*³ dated March 29, 2022 filed by the Plaintiff Republic of the Philippines, represented by the Presidential Commission on Good Government, through the Office of the Solicitor General on March 30, 2022; and,
4. *Reply (to Plaintiff's Comment dated March 29, 2022)*⁴ dated April 4, 2022, filed on the same date by defendants Rosario N. Arellano, et al.

By way of *Manifestation and Motion for Suspension*, defendants would like to bring to the attention of this Honorable Court that the Sandiganbayan's Third Division in Civil Case No. 0009 entitled "*Republic of the Philippines vs. Jose L. Africa, Manuel H. Nieto, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile, and Potenciano Ilusorio*" had, wittingly or unwittingly, included all the defendants in this case in its *Decision* dated 04 December 2019, adjudging all of them liable to the government.⁵ The dispositive portion of which reads:

"WHEREFORE, the judgment is hereby rendered:

1. Declaring that the shares of (1) defendants Jose L. Africa and Manuel H. Nieto, Jr., in the Eastern Telecommunications, Philippines, Inc., which were acquired on June 10, 1974, (2) Polygon Investors and Managers, Inc., and Aerocom Investors and Managers, Inc., and (3) the so-called small individual shareholders, namely: Victor Africa, Lourdes Africa ITF, Natalie Africa ITF, Paul Delfin Africa, Rosario Songco, Raquel Dinglasan, Manuel V. Nieto III, Ramon V. Nieto, Victoria N. Legarda, Ma. Rita N. Delos Reyes, Rosario N. Arellano, Angela N. Lobregat, Benito Nieto, Carlos V. Nieto, Carmen N. Tuazon, and Rafael Valdes, which were transferred to

² Id., pp. 222 to 225

³ Id., pp. 231 to 238

⁴ Id., pp. 270 to 274

⁵ Manifestation and Motion for Suspension, paragraph 2, Volume 4, page 51

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them by defendants Jose L. Africa and Manuel H. Nieto, Jr., are ill-gotten wealth of defendant Ferdinand Marcos; hence, should be reverted/reconveyed to the Republic of the Philippines;⁶

Aggrieved by said *Decision* of the Sandiganbayan Third Division, defendants have appealed their unwarranted inclusion in the aforementioned judgment before the Supreme Court via a *Petition for Review* in G.R. No. 250709 entitled "*Heirs of Manuel Nieto Jr. et al. vs. Republic of the Philippines*", which remains pending to this date.⁷

In their Petition before the Supreme Court, herein defendants argued:

"As to the small shareholders, their right to due process was clearly violated as they were not given, at the very least, the opportunity to be heard before their respective shares of stock had been forfeited in favor of Respondent Republic."⁸

The so-called "small individual shareholders"⁹, who are indicated in the dispositive portion of the assailed *Decision* in Civil Case No. 0009, are in fact impleaded in another active case that is Civil Case No. 0178, entitled "*Republic of the Philippines vs. Andres L. Africa, et. al.*"¹⁰, which is still pending before the Fourth Division of the Sandiganbayan¹¹.

Movants contend that by impleading the aforementioned Petitioners and declaring their shares "ill-gotten wealth," the Sandiganbayan evidently violated the well-established doctrine of non-interference or judicial stability, which succinctly states that:

⁶ Id., page 52

⁷ Id.,

⁸ Id.,

⁹ It collectively refers to the following persons: Rosario N. Arellano, Victoria N. Legarda, Angela N. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ma. Rita N. De Los Reyes, Carmen N. Tuason, Ramon Nieto Jr., the legal representative of the deceased Ramon V. Nieto, and Benigno Manuel Valdes, the legal representative of the deceased Rafael C. Valdes.

¹⁰ "Republic of the Philippines vs. Andres L. Africa, Victor Africa, Lourdes A. Africa, Nathalie A. Africa, Jose Enrique A. Africa, Paul Delfin A. Africa, Rosario N. Arellano, Juan De Ocampo, Racquel S. Dinglasan, Victoria N. Legarda, Angela A. Lobregat, Benito V. Nieto, Carlos V. Nieto, Manuel V. Nieto III, Ramon V. Nieto, Ma. Rita N. De Los Reyes, Evelyn A. Romero, Rosario A. Songco, Carmen N. Tuason, and Rafael C. Valdes."

¹¹ Id., page 53

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*"... a trial court has no authority to interfere with the proceedings of a court of equal jurisdiction, much less to annul the final judgment of a co-equal court. The rationale for this doctrine is founded on the concept of jurisdiction – "verily, a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment."*¹²

In support of their claim, the movants emphasized that relevant jurisprudence consistently states that procedural due process in judicial proceedings requires the following elements: (1) an impartial and competent court, (2) jurisdiction lawfully acquired over the person of the defendant and over the property, (3) a hearing; defendant must be given an opportunity to be heard, and finally (4) the judgment must be rendered upon lawful hearing.¹³ With respect to this case, procedural due process simply requires that, among others, an individual be heard before being punished.

The declaration that the small individual shareholders are liable despite the fact that there is a pending case relating thereto in Civil Case No. 0178 is already a clear violation of due process guaranteed by the Constitution. As pertinent jurisprudence succinctly explains, due process is violated when *"... the owner of the property confiscated is denied the right to be heard in his defense and is immediately condemned and punished."*¹⁴

Verily, having adjudged all the Defendants liable over the claims of the Petitioner in this case by the Third Division, it would be futile for this Honorable Court to proceed further, unless and until the Supreme Court shall have resolved with finality the issue of undue interference perpetuated by the Third Division against the jurisdiction of this Honorable Court.¹⁵

Faced with the possibility of conflicting decisions, the more prudent course for this Honorable Court is to hold the instant proceedings in abeyance until after a determination of the issue by the Supreme Court. Indeed, logic and pragmatism, if not

¹² Adlawan vs. Joaquin, et al., G.R. No. 203152, 20 June 2016

¹³ Banco Español vs. Palanca, 37 Phil. 921

¹⁴ Ynot vs. IAC, 148 SCRA 659

¹⁵ Supra, page 54

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jurisprudence, dictate such move. To allow the parties to undergo trial notwithstanding the possibility of the Third Division's decision being upheld is to needlessly require not only the parties, but the court as well, to expend time, effort and money in what may turn out to be a sheer exercise in futility.¹⁶

Defendant Victor Africa likewise asserts that his own shareholdings in ETPI, involved in the instant case, have also been included by the Sandiganbayan Third Division in the same case and *Decision*. Notwithstanding that he was not a party-defendant in that case, and his shares were not among the subjects in that case, his ETPI shares were still covered by the same declaration and disposition by the Sandiganbayan Third Division.¹⁷

And so, like Defendants Rosario N. Arellano, et al., he, too, has questioned before the Supreme Court the said *Decision* in G.R. No. 250708¹⁸ entitled *Victor Africa [one of the substituted heirs of the late named defendant Jose L. Africa] vs. Republic of the Philippines*.

On the other hand, plaintiff opposes movants' *Motion for Suspension* because it is a prohibited pleading under Section 12, Rule 15 of the 2019 Amendments, which in part provides:

12. Prohibited motions: - The following motions shall not be allowed:

- (d) Motion to suspend proceedings without a temporary restraining order or injunction by a higher court;

Movants have not shown that they secured a temporary restraining order or injunction from the Supreme Court in G.R. No. 250709.¹⁹

Moreover, in G.R. No. 106244,²⁰ entitled "*Republic of the Philippines v. Sandiganbayan, et al.*," where some of the movants were impleaded as private respondents, the Supreme Court ruled:

¹⁶ Id.,

¹⁷ Manifestation of Adoption of Motion for Suspension, Volume 4, page 239

¹⁸ Id.,

¹⁹ Comment dated March 29, 2022, Volume 4, page 232

²⁰ January 22, 1997

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Thus, since only Jose L. Africa, Manuel H. Nieto, Ferdinand E. Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile, and Potenciano Ilusorio were impleaded as defendants in Civil Case No. 0009 while private respondents were not, only the shares of stock registered in the names of defendants should be in issue. Those registered in the names of others, *e.g.*, those of private respondents, should be spared unless it can be shown in a proper proceeding that they are likewise ill-gotten wealth or fruits of ill-gotten wealth. In this regard, if only to uphold the rule of law, the minimum requirement is to implead the registered owners of those shares in a formal complaint to recover them.

which led plaintiff Republic to file the present complaint.²¹

Prior to the filing of this case, however, plaintiff had already filed a *Motion to Admit Amended Complaint* to implead movants as defendants in Civil Case No. 0009. However, the motion was denied by the Sandiganbayan.²²

Thus, the filing of the present case. Since Civil Case No. 0178 is a separate case from Civil Case No. 0009 and the Supreme Court has not issued a temporary restraining order or injunction to hold in abeyance the proceedings in this case, then Civil Case No. 0178 must proceed.²³

Movants, through *Reply* (to: Plaintiff's Comment dated March 29, 2022)²⁴, posited that Plaintiff's only issue with defendants' move to suspend the proceedings is the supposed absence of any restraining order issued by the Supreme Court without providing any justification for this Honorable Court to further proceed with the case. Because there is none.²⁵

Movants countered, however, that the Supreme Court has made exceptions where, even if there is no writ of preliminary injunction or TRO issued by a higher court, it ruled that it would be

²¹ Id.

²² Id., page 233

²³ Id.

²⁴ Volume 4, page 270

²⁵ Id.

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proper for a lower court or court of origin to suspend its proceedings on the precept of judicial courtesy.²⁶

Finally, movants asseverate that inasmuch as the instant case had already been decided on the merits by the Third Division, which judgment remains on appeal before the Supreme Court, it is respectfully submitted that this Honorable Court is now barred from proceeding further with the case under the operative rule of *litis pendentia*.²⁷

The Ruling of the Court

We are not persuaded.

It is true that the Rules should be interpreted so as to give litigants ample opportunity to prove their respective claims and that a possible denial of substantial justice due to legal technicalities should be avoided.²⁸ In rules of procedure, an act which is jurisdictional, or of the essence of the proceedings, or is prescribed for the protection or benefit of the party affected is mandatory.²⁹

If it is correct that the Third Division of this Court has committed palpable mistake in not affording due process to movants/defendants in relation to the Decision in Civil Case No. 0009, movants should have applied for a Temporary Restraining Order to arrest the happening of possible grave injury. However, records revealed that movants did not even apply for a Temporary Restraining Order and/or preliminary injunction when they filed the Petition for Review on *Certiorari*. The existence of an urgent necessity for the writ in order to prevent serious damage³⁰ is belied by their own omission to request the Supreme Court for the same. Thus, without any Temporary Restraining Order or writ of preliminary injunction from the Supreme Court ordering this Court to suspend the proceeding in this case, we do not have any other option but to deny the *Motion for Suspension* on account of pendency of the Petition for Review. This is in full compliance with Section 7, Rule 65, which is explicit:

²⁶ Citing the case of *Eternal Memorial Park v. Court of Appeals*, GR No. L-50054, 17 August 1988

²⁷ *Id.*

²⁸ *Enriquez v. Court of Appeals*, G.R. No. 140473, January 28, 2003

²⁹ *Ibid.*, citing *Vda. De Mesa v. Mencias*, 18 SCRA 533, 542 (1966)

³⁰ *Republic v. Sandiganbayan*, G.R. No. 166859, June 26, 2006, 525 PHIL 804-810

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*The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. The petition shall not interrupt the course of the principal case, unless a temporary restraining order or a writ of preliminary injunction has been issued, enjoining the public respondent from further proceeding in the case.*³¹

*The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for certiorari with a higher court or tribunal, absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge. (As amended by A.M. No. 07-7-12-SC, December 12, 2007.)*³²

It is imperative for this Court to carry on with the instant case because of the clear command of the Rule to proceed with the principal case within ten (10) days from the filing of the petition with a higher court, otherwise we will be exposing this Court from possible administrative liability as stated in the second paragraph of the aforesaid rule.

Movants have laden their motion with allegation of undue interference by the Third Division against the jurisdiction of this Honorable Court which they surmised as a violation of doctrine of judicial stability.

The doctrine of judicial stability or non-interference in the regular orders or judgments of a co-equal court is an elementary principle in the administration of justice: no court can interfere by injunction with the judgments or orders of another court of concurrent jurisdiction having the power to grant the relief sought by the injunction. The rationale for the rule is founded on the concept of jurisdiction: a court that acquires jurisdiction over the case and renders judgment therein has jurisdiction over its judgment, to the exclusion of all other coordinate courts, for its execution and over all its incidents, and to control, in furtherance of justice, the conduct of ministerial officers acting in connection with this judgment.³³

³¹ Emphasis supplied.

³² Emphasis supplied.

³³ Barroso v. Omelio, G.R. No. 194767, October 14, 2015

Simply stated, the aforementioned doctrine attests to the fact that, splitting of jurisdiction is obnoxious to the orderly administration of justice.³⁴

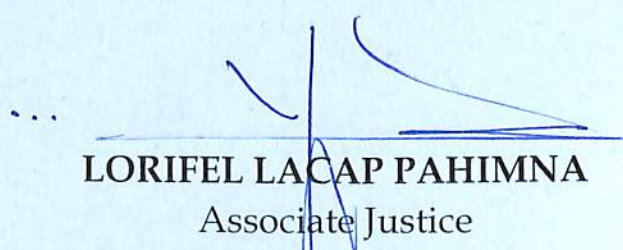
There is no question that this Court acquired jurisdiction over the person of the movants/defendants and over the subject matter of the case. The instant case was filed pursuant to the instruction of the Supreme Court³⁵ to implead the registered owners of those shares in a formal complaint. The *Decision* in Civil Case No. 0009 alluded to by the movants cannot be construed as an injunction to give an impression that the Third Division of the Sandiganbayan, a co-equal court, violated the said legal aphorism. Aside from the self-serving allegation of said legal principle, no other explanation was given by the movants convincing enough to justify their claim.

In the absence of preponderant legal principle applicable in this case, we are constrained to apply the clear and unmistakable provision of the Rules of Court that carries with it punitive administrative sanction in case of non-compliance.

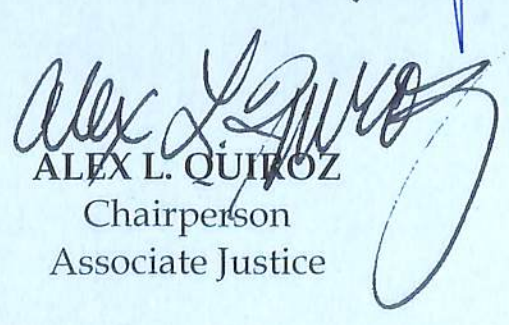
WHEREFORE, the instant *Motion for Suspension* is hereby **DENIED** for lack of merit.

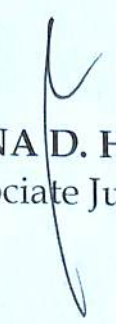
SO ORDERED.

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LORIFEL LACAP PAHIMNA
Associate Justice

We Concur:


ALEX L. QUIROZ
Chairperson
Associate Justice


GEORGINA D. HIDALGO*
Associate Justice

* Sitting as Special Member of the Fourth Division per Administrative Order No. 502-2018 dated October 3, 2018.

³⁴ Ibid.

³⁵ Supra