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NOV 18 2021

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ECJ AND SONS G.R. No. 207619

AGRICULTURAL
ENTERPRISES, BALETE
RANCH, INC., CHRISTENSEN
PLANTATION, INC.,
AUTONOMOUS DEVELOPMENT
CORPORATION, METROPLEX
COMMODITIES, INC., LUCENA
OIL FACTORY, INC., and PCY
OIL MANUFACTURING
CORPORATION,

Petitioners,

Present:

LEONEN, J., Chairperson,
HERNANDO,
INTING,
DELOS SANTOS, and
LOPEZ J., JJ:

-versus-

PRESIDENTIAL COMMISSION
ON GOOD GOVERNMENT,
Respondent.

Promulgated:
April 26, 2021

[Signature]

X-----X

DECISION

LEONEN, J.:

Sequestration ends when the sequestered properties are judicially determined as ill-gotten or not. The sequestration order is rendered *functus officio* when the properties' ownership has been conclusively determined.

This Court resolves a Petition for Review on Certiorari¹ assailing the

¹ Rollo, pp. 18-87. Filed under Rule 45 of the Rules of Court.

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Resolutions² of the Sandiganbayan, which upheld the sequestration of the United Coconut Planters Bank shares of stock held by ECJ and Sons Agricultural Enterprises, Balete Ranch, Inc., Christensen Plantation, Inc., Autonomous Development Corporation, Metroplex Commodities, Inc., Lucena Oil Factory, Inc., and PCY Oil Manufacturing Corporation (collectively, ECJ and Sons, et al.).

ECJ and Sons, et al. were stockholders of record of United Coconut Planters Bank, owning and holding 100,085,214 shares of the bank's outstanding capital stock.³

On May 9, 1986, the Presidential Commission on Good Government issued a Writ of Sequestration⁴ against Autonomous Development Corporation's assets, properties, records, and documents, including its United Coconut Planters Bank shares. The writ was registered with the Sandiganbayan as Sequestration Order No. 86-0089.⁵

A second Writ of Sequestration⁶ was issued on June 6, 1986 against ECJ and Sons, et al.,⁷ among others, for their shares of stock in United Coconut Planters Bank, registered as Sequestration Order No. 86-0126.⁸

On July 31, 1987, the Presidential Commission on Good Government instituted, among others, Civil Case No. 0033 against Eduardo Cojuangco, Jr. and 60 other defendants, on sequestration orders over the companies Philippine Coconut Producers Federation, Inc. (COCOFED), Cocomark, and Coconut Investment Company, and shares of stock in United Coconut Planters

² Id. at 131–139 and 140–146. The December 21, 2012 and June 17, 2013 Resolutions were penned by Associate Justice Efren N. De La Cruz, and concurred in by Associate Justices Rodolfo R. Ponferrada and Rafael R. Lagos of the First Division of the Sandiganbayan.

³ Id. at 98–99. The respective stockholdings of ECJ and Sons, et al. in United Coconut Planters Bank are:

Stockholder	Number of Shares
ECJ and Sons Agricultural Enterprises	54,678,043
Balete Ranch, Inc.	14,736,584
Christensen Plantation, Inc.	9,165,360
Autonomous Development Corp.	705,227
Metroplex Commodities, Inc.	7,020,000
Lucena Oil Factory, Inc.	6,890,000
PCY Oil Manufacturing Corp.	6,890,000
Total	100,085,214

⁴ Id. at 147.

⁵ Id. at 99.

⁶ Id. at 148.

⁷ Id. at 99. This excludes Autonomous Development Corporation, against whom the May 9, 1986 Sequestration Order was issued.

⁸ Id.

Bank, and the so-called “CIIF”⁹ and “Cojuangco companies.”¹⁰ Civil Case No. 0033 was later divided into eight complaints,¹¹ among which was Civil Case No. 0033-A. This subcase, involving the allegedly anomalous purchase and use of United Coconut Planters Bank,¹² named ECJ and Sons, et al. as among the assets of Eduardo Cojuangco, Jr.¹³

In Civil Case No. 0033-A, the Presidential Commission on Good Government impleaded Eduardo Cojuangco, Jr., Ferdinand E. Marcos, Imelda R. Marcos, Jose R. Eleazar, Jr., Maria Clara Lobregat, Juan Ponce Enrile, Danilo Ursua, and Herminigildo C. Zayco as defendants.¹⁴ It prayed for the reconveyance to the government of the United Coconut Planters Bank shares purchased with ₱85,773,100.00, which had been taken from the Coconut Consumers Stabilization Fund. It also prayed for the reconveyance of other properties, including ECJ and Sons, et al., allegedly acquired through abuse of right and power and unjust enrichment.¹⁵

On January 7, 1991, ECJ and Sons, et al. filed before the Sandiganbayan a Petition for Certiorari, Prohibition, and Injunction,¹⁶ assailing the validity of the two sequestration orders. They claimed that there was no *prima facie* evidence to show that their shares were ill-gotten. They added that the sequestration orders were deemed lifted since the Presidential Commission on Good Government did not file any judicial action against them within six months from the issuance of the orders, as required in Article XVIII, Section 26 of the Constitution.¹⁷ The Petition was docketed as Civil Case No. 0112.¹⁸

On June 9, 2011, the Sandiganbayan issued a Decision¹⁹ granting ECJ

⁹ In *Cojuangco, Jr. v. Republic*, 699 Phil. 443 (2012) [Per J. Velasco, Jr., En Banc], the Coconut Industry Investment Fund companies collectively refer to six companies, namely Southern Luzon Coconut Oil Mills, Cagayan De Oro Oil, Co., Inc., Iligan Coconut Industries, Inc., San Pablo Manufacturing Corp., Granexport Manufacturing Corp., and Legaspi Oil Co., Inc., sometimes referred to as the CIIF oil mills, and 14 Coconut Industry Investment Fund holding companies, namely Soriano Shares, ASC Investors, ARC Investors, Roxas Shares, Toda Holdings, AP Holdings, Fernandez Holdings, SMC Officers Corps., Te Deum Resources, and Anglo Ventures, Randy Allied Ventures, Rock Steel Resources, Valhalla Properties Ltd., and First Meridian Development, all names ending with the suffix “Corp.” or “Inc.”

¹⁰ In *Republic v. Sandiganbayan (First Division)*, 310 Phil. 401 (1995) [Per C.J. Narvasa, En Banc], “Cojuangco companies” was used to collectively refer to Agricultural Consultancy Services, Inc., Meadow Lark Plantations, Silver Leaf Plantations, Primavera Farms, Pastoral Farms, Reddee Developers, Inc., Discovery Realty Corp., First United Transport, Inc.; Archipelago Finance & Leasing Corp., San Esteban Dev. Corp.; Balete Ranch, Inc., Oro Verde Services, Inc., Kalawakan Resorts, Inc., Philippine Technologies, Inc., Wings Resorts Corp., Unexplored Land Developers, Inc., Archipelago Realty Corp., Balete Ranch, Inc., etc., Spade One Resorts Corporation, Oceanside Maritime Enterprises, Inc., Pura Electric Co., Inc.; Punong Bayan Housing Dev. Corp., Southern Service Traders, Inc., Northeast Contract Traders, Inc., Habagat Realty Dev., Inc., and Labayug Air Terminals, Inc.

¹¹ *COCOFED, et al. v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc].

¹² *Rollo*, pp. 149–167.

¹³ *Id.* at 156.

¹⁴ *Id.* at 149.

¹⁵ *Id.* at 165.

¹⁶ *Id.* at 220–226.

¹⁷ *Id.* at 222.

¹⁸ *Id.* at 98.

¹⁹ *Id.* at 98–130. The Decision was rendered by Associate Justices Efren N. Dela Cruz, Rodolfo A. Ponserrada, and Rafael R. Lagos of the Sandiganbayan First Division.

and Sons, et al.'s Petition. The dispositive portion of the Decision reads:

WHEREFORE, in light of all the foregoing, the petition is GRANTED. The writ of sequestration, dated May 9, 1986 (No. 86-0089) against "all assets, properties, records and documents of AUTONOMOUS DEVELOPMENT CORPORATION", and the writ of sequestration, dated June 6, 1986 (No. 86-0126) against the shares of stocks of ECJ AND SONS AGRICULTURAL ENTERPRISES, INC., BALETE RANCH, INC., CHRISTENSEN PLANTATION, INC., METROPLEX COMMODITIES, INC., LUCENA OIL FACTORY, INC. and PCY OIL MANUFACTURING, INC. are declared void and are hereby LIFTED.

SO ORDERED.²⁰ (Emphasis in the original)

The Sandiganbayan found that with Civil Case No. 0033 filed on July 31, 1987, a judicial action was properly instituted within the six-month period.²¹ It explained that despite ECJ and Sons, et al. not being included in Civil Case No. 0033, this Court, in *Republic v. Sandiganbayan (First Division)*,²² has ruled that the failure to implead firms was a mere technical defect that could be corrected at any stage of the proceedings.²³ In any case, it noted, the firms were subsequently impleaded in Civil Case No. 0033.²⁴

However, the Sandiganbayan found that there was no *prima facie* evidence that ECJ and Sons, et al.'s United Coconut Planters Bank shares were ill-gotten wealth. It ruled that the alleged proof of the ill-gotten nature of the shares of stock—financial statements, certificates of incorporation, and lawyers' affidavits—were not shown to have existed before the sequestration orders were issued, or were presented and considered in meetings of the Presidential Commission on Good Government.²⁵ It added that the sequestration orders were not signed by at least two Presidential Commission on Good Government commissioners,²⁶ contrary to Section 3 of the Presidential Commission on Good Government Rules and Regulations.²⁷

Thus, the Sandiganbayan held that the Presidential Commission on Good Government gravely abused its discretion when it issued the two writs of sequestration.²⁸

²⁰ Id. at 128-129.

²¹ Id. at 121-122.

²² 310 Phil. 302 (1995) [Per C.J. Narvasa, En Banc].

²³ *Rollo*, pp. 122-127.

²⁴ Id. at 127.

²⁵ Id. at 118.

²⁶ Id. at 119-121.

²⁷ Presidential Commission on Good Government Rules and Regulations (1986), sec. 3 provides: SECTION 3. *Who may issue.* — A writ of sequestration or a freeze or hold order may be issued by the Commission upon the authority of at least two Commissioners, based on the affirmation or complaint of an interested party or *motu proprio* when the Commission has reasonable grounds to believe that the issuance thereof is warranted.

²⁸ *Rollo*, p. 123.

Meanwhile, in Civil Case No. 0033-A, COCOFED and others filed a Class Action Motion for a Separate Summary Judgment, and the Republic of the Philippines filed a Motion for Partial Summary Judgment.²⁹ Among the prayers of the Republic in its Motion were:

b. that defendant Eduardo M. [Cojuangco], Jr. and his fronts, nominees and dummies, including but not limited to, Anchor Insurance Brokerage Corporation, Archipelago Finance Leasing Corporation, Autonomous Development Corporation, Balete Ranch, Inc., Cagayan De Oro Oil Co., Inc., Christensen Plantation Co., ECJ and Sons Agricultural Enterprises, Inc., Granexport Manufacturing Corporation, Iligan Coconut Industries, Inc., Legaspi Oil Co., Inc., Lucena Oil Co., Inc., Lucena Oil Factory, Inc., Metroplex Commodities, Inc., PCY Oil Manufacturing Corporation, Jesus M. Pineda, Narciso M. Pineda, San Pablo Manufacturing Corporation, Southern Luzon Coconut Oil Mills, United Janitorial & Manpower Services Corporation and Danilo S. Ursua, have not legally and validly obtained title over the subject UCPB shares; and

c. that the government is the lawful and true owner of the subject UCPB shares registered in the names of defendant Eduardo M. Cojuangco, Jr. and the entities and persons above-enumerated, for the benefit of all coconut farmers, and commanding that said ownership be entered in the books of UCPB and that new stock certificates in the name of the government be issued.³⁰ (Citations omitted)

Resolving these motions, the Sandiganbayan rendered a July 11, 2003 Partial Summary Judgment,³¹ holding among others that:

4. The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.2% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, *belong to the plaintiff Republic of the Philippines as their true and beneficial owner.*³² (Emphasis supplied)

On November 27, 2012, this Court affirmed but modified the Partial Summary Judgment in *Cojuangco, Jr. v. Republic*.³³ The dispositive portion reads:

WHEREFORE, Part C of the appealed Partial Summary Judgment in Sandiganbayan Civil Case No. 0033-A is **AFFIRMED** with modification. As **MODIFIED**, the dispositive portion in Part C of the Sandiganbayan's Partial Summary Judgment in Civil Case No. 0033-A, shall read as follows:

C. Re: MOTION FOR PARTIAL SUMMARY

²⁹ *COCOFED v. Republic*, 679 Phil. 508, 538-539 (2012) [Per J. Velasco, Jr., En Banc].

³⁰ *Rollo*, pp. 375-376.

³¹ *COCOFED, et al. v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc].

³² *Id.* at 554.

³³ 699 Phil. 443 (2012) [Per J. Velasco, Jr., En Banc].

JUDGMENT (RE: EDUARDO M. COJUANGCO, JR.)
dated September 18, 2002 filed by Plaintiff.

1. Sec. 1 of P.D. No. 755 did not validate the Agreement between PCA and defendant Eduardo M. Cojuangco, Jr. dated May 25, 1975 nor did it give the Agreement the binding force of a law because of the non-publication of the said Agreement.

2. The Agreement between PCA and defendant Eduardo M. Cojuangco, Jr. dated May 25, 1975 is a valid contract for having the requisite consideration under Article 1318 of the Civil Code.

3. The transfer by PCA to defendant Eduardo M. Cojuangco, Jr. of 14,400 shares of stock of FUB (later UCPB) from the "Option Shares" and the additional FUB shares subscribed and paid by PCA, consisting of

a. Fifteen Thousand Eight Hundred Eighty-Four (15,884) shares out of the authorized but unissued shares of the bank, subscribed and paid by PCA;

b. Sixty Four Thousand Nine Hundred Eighty (64,980) shares of the increased capital stock subscribed and paid by PCA; and

c. Stock dividends declared pursuant to paragraph 5 and paragraph 11 (iv) (d) of the PCA-Cojuangco Agreement dated May 25, 1975 or the so-called "Cojuangco-UCPB shares"

is declared unconstitutional, hence null and void.

4. The above-mentioned shares of stock of the FUB/UCPB transferred to defendant Cojuangco are hereby declared conclusively owned by the Republic of the Philippines to be used only for the benefit of all coconut farmers and for the development of the coconut industry, and ordered reconveyed to the Government.

5. The UCPB shares of stock of the alleged fronts, nominees and dummies of

defendant Eduardo M. Cojuangco, Jr. which form part of the 72.2% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, belong to the plaintiff Republic of the Philippines as their true and beneficial owner.

Accordingly, the instant petition is hereby **DENIED**.

Costs against petitioner Cojuangco.

SO ORDERED.³⁴ (Emphasis in the original)

Meanwhile, upon reconsideration, the Sandiganbayan reversed its June 9, 2011 Decision and reinstated the sequestration orders in a December 21, 2012 Resolution.³⁵ Its dispositive portion reads:

WHEREFORE, in light of all the foregoing, respondent PCGG's Motion for Reconsideration, dated July 5, 2011, is **GRANTED**. Accordingly, Writ of Sequestration Order No. 86-0089, dated May 9, 1986, and Writ of Sequestration Order No. 86-0216, dated June 6, 1986, are hereby **RESTORED**.

SO ORDERED.³⁶ (Emphasis in the original)

The Sandiganbayan applied this Court's Decision in *Republic v. COCOFED*³⁷ and the modified Partial Summary Judgment in *Cojuangco, Jr.*³⁸ It held that the United Coconut Planters Bank shares held by ECJ and Sons, et al. were part of the ill-gotten properties in Civil Case No. 0033-A.³⁹

To the Sandiganbayan, this Court's pronouncement in *COCOFED* that the United Coconut Planters Bank sequestered shares were public in nature settled all issues on the validity of the sequestration orders. Moreover, if the sequestration orders were to be lifted, this would be detrimental to the government's right to vote the sequestered shares.⁴⁰

On June 17, 2013, the Sandiganbayan issued a Resolution⁴¹ denying ECJ and Sons, et al.'s Motion for Reconsideration. It held that *Cojuangco, Jr.* and *COCOFED* applied to ECJ and Sons, et al.'s shares in United Coconut Planters Bank.⁴² *COCOFED* particularly affirmed the public nature of all

³⁴ Id. at 511-512.

³⁵ *Rollo*, pp. 131-139.

³⁶ Id. at 138-139.

³⁷ 423 Phil. 735 (2001) [Per J. Panganiban, En Banc].

³⁸ 699 Phil. 443 (2012) [Per J. Velasco, Jr., En Banc].

³⁹ *Rollo*, pp. 157-138.

⁴⁰ Id. at 137.

⁴¹ Id. at 140-146.

⁴² Id. at 142.

United Coconut Planters Bank shares subject of Civil Cases No. 0033-A, 0033-B, and 0033-F, which included those held by ECJ and Sons, et al.⁴³ According to the Sandiganbayan, if ECJ and Sons, et al. were not truly covered by the 72.2% as stated in the Partial Summary Judgment, they should have presented their evidence in Civil Case No. 0033-A.⁴⁴

On August 8, 2013, after having moved for extension,⁴⁵ ECJ and Sons, et al. filed before this Court a Petition for Review on Certiorari.⁴⁶

Petitioners argue that the Sandiganbayan erred when it restored the writs of sequestration. They say it should not have considered *COCOFED* and *Cojuangco, Jr.* because these cases did not involve petitioners' shares.⁴⁷

First, petitioners claim that the issue on whether property is ill-gotten wealth is a question of fact, which the Sandiganbayan had allegedly resolved in its June 9, 2011 Decision, based on the evidence presented during the proceedings. On the other hand, *COCOFED* and *Cojuangco, Jr.* were not part of the evidence presented.⁴⁸

Second, they claim that their United Coconut Planters Bank shares were not part of the 72.2% mentioned in *COCOFED* and *Cojuangco, Jr.* They point out that they were not parties to either case, and that the shares mentioned there pertained only to the respondents in each case.⁴⁹ To them, the 72.2% involved shares that the Philippine Coconut Authority acquired from Eduardo Cojuangco, Jr., of which the Philippine Coconut Authority then transferred 64.98% to *COCOFED* coconut farmers and 7.22% to *Cojuangco, Jr.*⁵⁰

Third, they claim that they were not impleaded as defendants in Civil Case No. 0033-A, and thus, cannot be bound by the Partial Summary Judgment.⁵¹

Petitioners present a certification issued by the corporate secretary of the United Coconut Planters Bank, stating that their shares "do not appear to have been 'acquired from the Philippine Coconut Authority but from the remaining 27.8% or any subsequent issuance of shares by the bank[.]'"⁵² They say that the certification must be given weight because it is an entry in an official record under Rule 130, Section 44 of the Rules of Court, as a

⁴³ Id. at 143-144.

⁴⁴ Id. at 145.

⁴⁵ Id. at 3-7.

⁴⁶ Id. at 18-85.

⁴⁷ Id. at 37.

⁴⁸ Id. at 60-62.

⁴⁹ Id. at 63-65.

⁵⁰ Id. at 72-73.

⁵¹ Id. at 70.

⁵² Id. at 74.

corporate secretary is obliged by law to keep the books of a corporation.⁵³

In its Comment,⁵⁴ respondent Presidential Commission on Good Government argues that the Sandiganbayan correctly applied *Republic v. COCOFED, et al.* and *Cojuangco, Jr. v. Republic*.⁵⁵

First, it claims that the Partial Summary Judgment in Civil Case No. 0033-A, which was affirmed with modification in *Cojuangco, Jr.*, covers those stock shares held by "alleged fronts, nominees and dummies"⁵⁶ of Eduardo Cojuangco, Jr., which expressly included petitioners. To respondent, this case is intertwined with Civil Case No. 0033-A; thus, the affirmation of the Partial Summary Judgment settled all issues relating to the nature of petitioners' shares in United Coconut Planters Bank.⁵⁷

Second, respondent argues that contrary to petitioners' claim, it has been settled that there was no need to implead firms which were merely the *res* of the actions in ill-gotten wealth cases.⁵⁸

Third, respondent claims that the certification issued by the corporate secretary of the United Coconut Planters Bank should not be given credence. It says that the certification was neither presented nor formally offered before the Sandiganbayan, and should be considered hearsay evidence. It then points out that petitioners never presented evidence to explain how they acquired their shares of stock, and that their arguments have been rendered moot by *Cojuangco, Jr.*⁵⁹

In their Reply,⁶⁰ petitioners claim that the Sandiganbayan did not rule in Civil Case No. 0033-A that their shares were ill-gotten. They reiterate that they were not parties to Civil Case No. 0033-A, were not mentioned in the dispositive portions of the Partial Summary Judgment, *COCOFED*, and *Cojuangco, Jr.*, and that their shares were not part of the 72.2%.⁶¹

The issues to be resolved in this case are:

First, whether or not petitioners ECJ and Sons Agricultural Enterprises, et al. may be bound by the rulings in *Republic v. COCOFED* and *Cojuangco, Jr. v. Republic* despite not being impleaded in these cases;

⁵³ Id. at 76-79.

⁵⁴ Id. at 369-408.

⁵⁵ Id. at 383.

⁵⁶ Id. at 385.

⁵⁷ Id. at 385-386.

⁵⁸ Id. at 398-401.

⁵⁹ Id. at 402.

⁶⁰ Id. at 415-447.

⁶¹ Id. at 429-438.

Second, whether or not the nature of petitioners ECJ and Sons Agricultural Enterprises, et al.'s shares of stock in United Coconut Planters Bank were settled in *Republic v. COCOFED and Cojuangco, Jr. v. Republic*; and

Finally, whether or not the Sandiganbayan correctly restored the writs of sequestration over petitioners ECJ and Sons Agricultural Enterprises, et al.'s shares of stock in United Coconut Planters Bank.

We partially grant this Petition.

Sequestration is an extraordinary remedy⁶² designed to control or possess properties to prevent their destruction, concealment, or dissipation, and to preserve them until the final disposition of the case.⁶³

Under the Civil Code, sequestration takes place "when an attachment or seizure of property in litigation is ordered."⁶⁴ It covers both movables and immovables.⁶⁵ In Presidential Decree No. 1834, sequestration of "mass media facilities, firearms and explosives, and all other instruments, equipment or tools used" was a consequence imposed upon persons convicted of giving aid and comfort to perpetrators of rebellion and sedition.⁶⁶

The Anti-Subversion Law of 1981 then authorized the sequestration of properties of any natural or juridical person engaged in subversive activities against the government:

SECTION 8. The sequestration of the property of any person, natural or juridical, engaged in subversive activities against the Government and its duly constituted authorities, is hereby authorized, in accordance with implementing rules and regulations as may be issued by the Secretary of National Defense.

As used herein, the term "sequester" and "sequestration" shall mean the seizure of private property or assets in the hands of any person or entity in order to prevent the utilization, transfer or conveyance of the same for purposes inimical to national security, or when necessary to protect the interest of the Government or any of its instrumentalities. It shall include the taking over and assumption of the management, control and operation of the private property or assets seized.⁶⁷

⁶² *Republic v. Sandiganbayan (Second Division)*, 639 Phil. 17 (2010) [Per J. Abad, Second Division].

⁶³ *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government*, 234 Phil. 180 (1987) [Per J. Narvasa, En Banc].

⁶⁴ CIVIL CODE, art. 2005.

⁶⁵ CIVIL CODE, art. 2006.

⁶⁶ Presidential Decree No. 1834 (1981), sec. 7.

⁶⁷ Presidential Decree No. 1835 (1981), sec. 8.

Executive Order No. 1, series of 1986, created the Presidential Commission on Good Government, which was tasked to recover ill-gotten wealth accumulated by “former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad.”⁶⁸

Recovery includes the “sequestration of all business enterprises and entities owned or controlled by them”:

SECTION 2. The [Presidential Commission on Good Government] shall be charged with the task of assisting the President in regard to the following matters:

(a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, *including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees*, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship. (Emphasis supplied)

Likewise, Proclamation No. 3, the 1986 Provisional Constitution, mandated the president to prioritize, among others, measures to “[r]ecover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people through orders of sequestration or freezing of assets of accounts[.]”⁶⁹

Under the Presidential Commission on Good Government Rules and Regulations Implementing Executive Orders Nos. 1 and 2, sequestration is the “taking into custody or placing under the Commission’s control or possession any asset, fund or other property, as well as relevant records, papers and documents, in order to prevent their concealment, destruction, impairment or dissipation pending determination of the question whether the said asset, fund or property is ill-gotten wealth under Executive Orders Nos. 1 and 2.”⁷⁰ Sequestration excludes taking over business operations, unless national interest or exigencies required it.⁷¹

*In Bataan Shipyard & Engineering Company, Inc. v. Presidential Commission on Good Government.*⁷²

By the clear terms of the law, the power of the PCGG to sequester

⁶⁸ Executive Order No. 1 (1986), sec. 2(a).

⁶⁹ Proclamation No. 3 (1986), art. II, sec. 1(d).

⁷⁰ Presidential Commission on Good Government Rules and Regulations (1986), sec. 1(B).

⁷¹ Id.

⁷² 234 Phil. 180 (1987) [Per J. Narvasa, En Banc].

property claimed to be “ill-gotten” means to place or cause to be placed under its possession or control said property, or any building or office wherein any such property and any records pertaining thereto may be found, including “business enterprises and entities,” — for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving, the same — until it can be determined through appropriate judicial proceedings, whether the property was in truth “ill-gotten,” i.e., acquired through or as a result of improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection or influence, resulting in unjust enrichment of the ostensible owner and grave damage and prejudice to the State. And this, too, is the sense in which the term is commonly understood in other jurisdictions.⁷³

A sequestration order is premised on a *prima facie* case⁷⁴ that the properties sought to be sequestered were ill-gotten wealth, based on evidence presented when the writ of sequestration was issued.⁷⁵

Sequestration does not entitle the party on whose behalf the writ is granted—the conservator—to exercise ownership over the sequestered properties. In *Bataan Shipyard*:

One thing is certain, and should be stated at the outset: the PCGG cannot exercise acts of dominion over property sequestered, frozen or provisionally taken over. As already earlier stressed with no little insistence, the act of sequestration; freezing or provisional takeover of property does not import or bring about a divestment of title over said property; does not make the PCGG the owner thereof. In relation to the property sequestered, frozen or provisionally taken over, the PCGG is a conservator, not an owner. Therefore, it can not perform acts of strict ownership; and this is specially true in the situations contemplated by the sequestration rules where, unlike cases of receivership, for example, no court exercises effective supervision or can upon due application and hearing, grant authority for the performance of acts of dominion.⁷⁶

Where the properties sequestered are stock shares, acts of ownership, among which is the right to vote those shares, may only be exercised by the conservator if it is proved that: first, there is *prima facie* evidence that the shares are ill-gotten; and second, if there is an imminent danger of their dissipation:

At the outset, it is necessary to restate the general rule that the registered owner of the shares of a corporation exercises the right and the privilege of voting. This principle applies even to shares that are

⁷³ Id. at 207.

⁷⁴ CONST., art. XVIII, sec. 26.

⁷⁵ *Presidential Commission on Good Government v. Tan*, 564 Phil. 426 (2007) [Per J. Sandoval-Gutierrez, First Division].

⁷⁶ *Bataan Shipyard & Engineering Co., Inc. v. Presidential Commission on Good Government*, 234 Phil. 180, 233-234 (1987) [Per J. Narvasa, En Banc].

sequestered by the government, over which the PCGG as a mere conservator cannot, as a general rule, exercise acts of dominion. On the other hand, it is authorized to vote these sequestered shares registered in the names of private persons and acquired with allegedly ill-gotten wealth, if it is able to satisfy the two-tiered test devised by the Court in *Cojuangco v. Calpo* and *PCGG v. Cojuangco Jr.*, as follows:

(1) Is there prima facie evidence showing that the said shares are ill-gotten and thus belong to the State?

(2) Is there an imminent danger of dissipation, thus necessitating their continued sequestration and voting by the PCGG, while the main issue is pending with the Sandiganbayan?

From the foregoing general principle, the Court in *Baseco v. PCGG* (hereinafter “Baseco”) and *Cojuangco Jr. v. Roxas* (“Cojuangco-Roxas”) has provided two clear “public character” exceptions under which the government is granted the authority to vote the shares:

(1) Where government shares are taken over by private persons or entities who/which registered them in their own names, and

(2) Where the capitalization or shares that were acquired with public funds somehow landed in private hands.

The exceptions are based on the common-sense principle that legal fiction must yield to truth; that public property registered in the names of non-owners is affected with trust relations; and that the prima facie beneficial owner should be given the privilege of enjoying the rights flowing from the *prima facie* fact of ownership.⁷⁷

If a sequestration order is lifted, it does not mean that the sequestered properties are not ill-gotten, but only that the government may not act as the properties’ conservator.⁷⁸

Sequestration ends when a final disposition has been made on the sequestered properties.⁷⁹ The final disposition involves a determination of whether the sequestered properties were ill-gotten in the appropriate judicial proceedings.⁸⁰ “Upon the final disposition of the sequestered properties, the sequestration is rendered *functus officio*.”⁸¹

Here, petitioners contest the continuing sequestration of their United Coconut Planters Bank shares of stock due to an alleged lack of *prima facie* evidence to support the claim that they were ill-gotten.

⁷⁷ *Republic v. COCOFED*, 423 Phil. 735, 753–755 (2001) [Per J. Panganiban, En Banc].

⁷⁸ *Republic v. Sandiganbayan (Second Division)*, 639 Phil. 17 (2010) [Per J. Abad, Second Division].

⁷⁹ *Philippine Overseas Telecommunications Corp. v. Sandiganbayan (Third Division)*, 780 Phil. 563 (2016) [Per J. Pérez, Third Division].

⁸⁰ *Id.* at 579 citing *Bataan Shipyard & Engineering Co., Inc. v. Presidential Commission on Good Government*, 234 Phil. 180 (1987) [Per J. Narvasa, En Banc].

⁸¹ *Id.* at 581.

Notably, the Sandiganbayan found in its June 9, 2011 Decision that such *prima facie* evidence was nonexistent. However, this Court's promulgation of *Republic v. COCOFED*⁸² and *Cojuangco, Jr. v. Republic*⁸³ led the Sandiganbayan to ultimately rule that the sequestration must continue.

COCOFED dealt with the issue of who may vote sequestered United Coconut Planters Bank shares during the pendency of Civil Case Nos. 0033-A, 0033-B, and 0033-F. In its December 21, 2012 Resolution, the Sandiganbayan held that *COCOFED* has settled the character of the sequestered United Coconut Planters Bank shares:

If the public character of the UCPB sequestered shares works to dispense with the determination of whether or not they are *prima facie* ill-gotten for purposes of establishing the government's right to vote these shares, then, by parity of reasoning, such a requirement becomes unnecessary too in testing the validity of the subject sequestration orders and the shares' sequestration. To the Court's mind, the judicial declaration as to the public character of the UCPB sequestered shares has settled all issues surrounding the strength and legitimacy of the sequestration orders, including the non-observance of the two-commissioner rule. After all, this rule is obviously intended to assure a collegial determination of the existence of a *prima facie* case, which still boils down to the issue of the *prima facie* ill-gotten nature of the sequestered shares.⁸⁴ (Citation omitted)

The Sandiganbayan's reliance on *COCOFED* is erroneous. In *COCOFED*, this Court found that the *prima facie* public character of the sequestered shares was subject to the Sandiganbayan's final judgment in the pending cases. Its finding was limited only to determine who may vote these shares:

In sum, we hold that the Sandiganbayan committed grave abuse of discretion in grossly contradicting and effectively reversing existing jurisprudence, and in depriving the government of its right to vote the sequestered UCPB shares which are *prima facie* public in character.

In making this ruling, we are in no way preempting the proceedings the Sandiganbayan may conduct or the final judgment it may promulgate in Civil Case Nos. 0033-A, 0033-B and 0033-F. Our determination here is merely *prima facie*, and should not bar the anti-graft court from making a final ruling, after proper trial and hearing, on the issues and prayers in the said civil cases, particularly in reference to the ownership of the subject shares.

We also lay down the caveat that, in declaring the coco levy funds to be *prima facie* public in character, we are not ruling in any final manner on their classification — whether they are general or trust or special funds

⁸² 423 Phil. 735 (2001) [Per J. Panganiban, En Banc].

⁸³ 699 Phil. 443 (2012) [Per J. Velasco, Jr., En Banc].

⁸⁴ *Rollo*, pp. 136-137.

— since such classification is not at issue here. *Suffice it to say that the public nature of the coco levy funds is decreed by the Court only for the purpose of determining the right to vote the shares, pending the final outcome of the said civil cases.*

Neither are we resolving in the present case the question of whether the shares held by Respondent Cojuangco are, as he claims, the result of private enterprise. This factual matter should also be taken up in the final decision in the cited cases that are pending in the court a quo. Again suffice it to say that the only issue settled here is the right of PCGG to vote the sequestered shares, pending the final outcome of said cases.⁸⁵ (Emphasis supplied)

COCOFED did not settle all questions on the sequestration of petitioners' shares of stock, considering it only made a *prima facie* finding to resolve a particular issue. Otherwise, persons who did not participate in *COCOFED*, such as petitioners, would forever be precluded from raising other pertinent defenses and having the opportunity to contest whether the sequestration of their particular shares was valid, which they have the right to do.⁸⁶ Had respondent timely invoked *COCOFED* in the Sandiganbayan when the Decision was promulgated in 2011, then the decade-long proceedings in this case could have been foreclosed. Yet, it did not.

Nonetheless, *Cojuangco, Jr.*, one of two cases which affirmed with modifications the Partial Summary Judgment issued by the Sandiganbayan in Civil Case No. 0033-A,⁸⁷ applies here.

At the outset, petitioners err in claiming that they cannot be bound by *Cojuangco, Jr.* because they were not impleaded in that case. This Court has settled that due to the nature of corporations or business enterprises, impleading those alleged to be repositories of ill-gotten wealth is not necessary for a comprehensive and effective judgment against them. As explained in *Republic v. Sandiganbayan (First Division)*:⁸⁸

As regards the sequestered corporations, the complaints in the actions thus brought all alleged that said entities were either the instruments or conduits for personal aggrandizement or the acquisition of ill-gotten wealth, or were the depositaries, or were themselves the fruits, of ill-gotten wealth. In other words, they were organized so that they could be used for improper, illegal and anomalous availment of financial or other advantage;

⁸⁵ *Republic v. COCOFED*, 423 Phil. 735, 776–777 (2001) [Per J. Panganiban, En Banc].

⁸⁶ *Presidential Commission on Good Government v. Tan*, 564 Phil. 426–447 (2007) [Per J. Sandoval-Gutierrez, First Division].

⁸⁷ Three separate petitions were filed before this Court assailing the Partial Summary Judgment: (1) G.R. Nos. 177857-58 filed by COCOFED, Manuel V. Del Rosario, Domingo P. Espina, Salvador P. Ballares, Joselito A. Moraleta, Paz M. Yason, Vicente A. Cadiz, Cesaria De Luna Titular, and Raymundo C. De Villa; (2) G.R. No. 178193 filed by Danilo S. Ursua; and (3) G.R. No. 180705 filed by Eduardo Cojuangco, Jr. The first two petitions were consolidated, then resolved in *COCOFED v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc], while G.R. No. 180705 was deconsolidated and resolved in *Cojuangco, Jr. v. Republic*, 699 Phil. 443 (2012) [Per J. Velasco, Jr., En Banc].

⁸⁸ 310 Phil. 401 (1995) [Per C.J. Narvasa, En Banc].

or were formed or being operated or manipulated by public officers sub rosa, or by private individuals, with the use of public funds or property or assets otherwise illegally acquired, or in breach of public trust or violation of fiduciary duty; or in the case of existing firms, that their stock had been purchased by or for public officers and their relatives, friends, and associates, with the use of public funds or illegally acquired money, or in violation of law or fiduciary duty, etc. Elsewise stated, following the classic pattern of a money-laundering operation, they were either sham, "shell" or "dummy" corporations serving as fraudulent devices or conduits for private gain of public officers and employees; or companies from which stock had been acquired, or firms into which capital had been infused, or shares of stock purchased, with the use of illegally acquired assets, and which therefore constituted the *res*: the thing or object treated of in the action.⁸⁹

As narrated in *Republic v. Sandiganbayan (First Division)*, petitioners were among the 242 corporations in which Eduardo Cojuangco, Jr. held shares of stock "allegedly constituting illegally acquired assets," as part of Civil Case No. 0033.⁹⁰ Thus:

And as to corporations organized with ill-gotten wealth, but are not themselves guilty of misappropriation, fraud or other illicit conduct — in other words, the companies themselves are the object or thing involved in the action, the *res* thereof — there is no need to implead them either. Indeed, their impleading is not proper on the strength alone of their having been formed with ill-gotten funds, absent any other particular wrongdoing on their part. The judgment may simply be directed against the shares of stock shown to have been issued in consideration of ill-gotten wealth.

Such showing of having been formed with, or having received ill-gotten funds, however strong or convincing, does not, without more, warrant identifying the corporations in question with the persons who formed or made use of them to give the color or appearance of lawful, innocent acquisition to illegally amassed wealth — at the least, not so as place on the Government the *onus* of impleading the former together with the latter in actions to recover such wealth. Distinguished, in terms of juridical personality and legal culpability from their erring members or stockholders, said corporations are not themselves guilty of the sins of the latter, of the embezzlement, asportation, etc., that gave rise to the Government's cause of action for recovery; their creation or organization was merely the result of their members' (or stockholders') manipulations and maneuvers to conceal the illegal origins of the assets or monies invested therein. In this light, *they are simply the res in the actions for the recovery of illegally acquired wealth*, and there is, in principle, no cause of action against them and no ground to implead them as defendants in said actions.

The Government is, thus, not to be faulted for not making such corporations defendants in the actions referred to. It is even conceivable that had this been attempted, motions to dismiss would have lain to frustrate such attempts.⁹¹ (Emphasis in the original)

⁸⁹ Id. at 505–506.

⁹⁰ Id. at 454.

⁹¹ Id. at 510–511.

In any case, they may be impleaded at any time during the pendency of the proceedings:

Even in those cases where it might reasonably be argued that the failure of the Government to implead the sequestered corporations as defendants is indeed a procedural aberration, as where said firms were allegedly used, and actively cooperated with the defendants, as instruments or conduits for conversion of public funds or property or illicit or fraudulent obtention of favored Government contracts, etc., slight reflection would nevertheless lead to the conclusion that the defect is not fatal, but one correctible under applicable adjective rules — e.g., Section 10, Rule 5 of the Rules of Court [specifying the remedy of amendment during trial to authorize or to conform to the evidence 52]; Section 1, Rule 20 [governing amendments before trial], in relation to the rule respecting the omission of so-called necessary or indispensable parties, set out in Section 11, Rule 3 of the Rules of Court. It is relevant in this context to advert to the old, familiar doctrines that the omission to implead such parties “is a mere technical defect which can be cured at any stage of the proceedings even after judgment”; and that, particularly in the case of indispensable parties, since their presence and participation is essential to the very life of the action, for without them no judgment may be rendered, amendments of the complaint in order to implead them should be freely allowed, even on appeal, in fact even after rendition of judgment by this Court, where it appears that the complaint otherwise indicates their identity and character as such indispensable parties.⁹² (Citations omitted)

Here, as the Sandiganbayan observed, the Complaint in Civil Case No. 0033-A was subsequently amended to implead petitioners,⁹³ an act sanctioned by *Republic v. Sandiganbayan (First Division)*. Thus, petitioners cannot claim that they are not bound by the proceedings in Civil Case No. 0033-A, specifically all incidents relating to the Partial Summary Judgment.

Likewise, the Sandiganbayan correctly ruled that the United Coconut Planters Bank shares held by petitioners were included in Civil Case No. 0033-A. The dispositive portion of *Cojuangco, Jr.* reads in part:

5. The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.2% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, belong to the plaintiff Republic of the Philippines as their true and beneficial owner.⁹⁴

Petitioners are among the “alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr.”⁹⁵ Thus, the shares of stock they held are covered by *Cojuangco, Jr.* This Court’s final and executory findings on the ownership of the shares cannot be overturned by a certificate issued by a

⁹² Id. at 511–513.

⁹³ Rollo, p. 127.

⁹⁴ *Cojuangco, Jr. v. Republic*, 699 Phil. 443, 512 (2012) [Per J. Velasco, Jr., En Banc].

⁹⁵ Id.

bank official, especially one that was neither presented during trial nor formally offered in evidence. As the Sandiganbayan discussed:

Petitioners contend that the phrase “which form part of the 72.2% shares of the FUB/UCPB” is a qualification for the “shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr.” to come within the ambit “belong to the plaintiff Republic of the Philippines as their true and beneficial owner”. Thus, the Republic still has to prove that petitioners really form part of that 72.2%. With the Certification from UCPB’s Corporate Secretary, petitioners further contend that their shares of stock were in actuality component of the 27.8% which did not originate from the coco levy funds.

The Court is not persuaded. To the Court’s mind, the phrase [“]which form part of the 72.2% shares of the FUB/UCPB” is just a “modifier” that describes that these fronts, nominees and dummies are included as part of the 72.2%.

The Court cannot consider the Certification made by the alleged UCPB Secretary Ildelfonso Jimenez as it was not presented during the trial and formally offered in evidence. Its standing cannot be equated with the COCOFED DECISION, the Partial Summary Judgment, dated July 1, 2003, and the COJUANGCO DECISION, which the Court took into consideration without the PCGG having mentioned them at the first instance. The Certification is a hearsay evidence which cannot be given probative weight. On the other hand, by the nature of its functions, the Court may take judicial notice of these Supreme Court decisions. The Court cannot be prevented from relying on jurisprudence or decisions of the Supreme Court just because it was not pleaded.

Moreover, it is observed that at the earlier part of these proceedings, petitioners were not categorical or certain on their claim that they belong to the 27.8% of the UCPB shares. They simply alleged that the remaining 27.8% may be assumed to have been registered and owned by other stockholders not parties in the agreements involved in Civil Case No. 0033-A, and not covered by the Partial Summary Judgment. It was only upon the reversal of the Court’s June 9, 2011 Decision that petitioners took a firmer stand on such declaration.⁹⁶

However, the Sandiganbayan erred in restoring the writs of sequestration. *Cojuangco, Jr.*, whose entry of judgment was ordered on July 9, 2013, settled the issue on the ownership of the United Coconut Planters Bank shares covered by those writs.⁹⁷ This rendered the writs *functus officio*.⁹⁸

Restoring the writs over the sequestered properties unduly diminishes the true and beneficial owner into a mere conservator, unable to exercise acts

⁹⁶ *Rollo*, pp. 144–145.

⁹⁷ *Cojuangco, Jr. v. Republic* (Notice), G.R. No. 180705, July 9, 2013.


⁹⁸ *Philippine Overseas Telecommunications Corp. v. Sandiganbayan (Third Division)*, 780 Phil. 563 (2016) [Per J. Perez, Third Division].

of strict ownership.⁹⁹ The Sandiganbayan should have lifted the writs—not for the reasons petitioners stated, but because the shares' sequestration has ended when this Court ruled with finality on their true ownership.

WHEREFORE, the Petition for Review on Certiorari is **PARTIALLY GRANTED**. The December 21, 2012 and June 17, 2013 Resolutions of the Sandiganbayan in Civil Case No. 0112 are **SET ASIDE**.


Sequestration Order Nos. 86-0089 and 86-0126 are **LIFTED**. This case is **REMANDED** to the Sandiganbayan for the disposition of the subject shares in accordance with this Court's November 27, 2012 Decision and July 9, 2013 Resolution in G.R. No. 180705, *Cojuangco, Jr. v. Republic of the Philippines*.

SO ORDERED.




MARVIC M.V.F. LEONEN
Associate Justice


WE CONCUR:



RAMON PAUL L. HERNANDO
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice




JHOSEP LOPEZ
Associate Justice

⁹⁹ *Bataan Shipyard and Engineering Co., Inc. v. Presidential Commission on Good Government*, 234 Phil. 180 (1987) [Per J. Narvasa, En Banc].

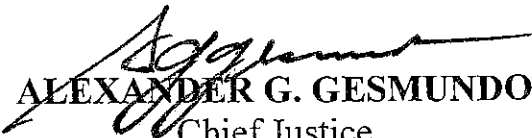
ATTESTATION

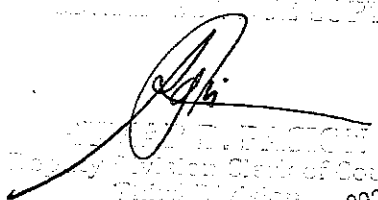
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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