



Republic of the Philippines  
 Supreme Court  
 Manila

FIRST DIVISION

**EDGARDO T. YAMBAO,**  
*Petitioner,*

**G.R. No. 171054**

Present:

- versus -

**PERALTA, C.J.,**  
**CAGUIOA,**  
**CARANDANG,**  
**ZALAMEDA, and**  
**GAERLAN, JJ.**

**REPUBLIC OF THE PHILIPPINES,**  
 Represented by the **ANTI-MONEY**  
**LAUNDERING COUNCIL,**  
*Respondent.*

Promulgated:

**JAN 26 2021**

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**DECISION**

**GAERLAN, J.:**

Before Us is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court challenging the Resolution<sup>2</sup> dated January 4, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 90238, entitled “*In re: Ex-parte Application for the Issuance of Freeze Order Against the Monetary Instruments and Properties of Ret. Lt. Gen. Jacinto C. Ligot, Erlinda Y. Ligot, Paulo Y. Ligot, Riza Y. Ligot, George Y. Ligot, Miguel Y. Ligot and Edgardo Yambao, Republic of the Philippines, represented by the Anti-Money Laundering Council, applicant.*”

**Facts**

Through a letter dated February 1, 2005,<sup>3</sup> the Office of the Ombudsman (OMB) forwarded to the Anti-Money Laundering Council (AMLC) a copy of the OMB’s complaint<sup>4</sup> for perjury under Art. 183 of the

<sup>1</sup> *Rollo*, pp. 3-75.

<sup>2</sup> *Id.* at 77-86; penned by Associate Justice Aurora Santago-Lagman, with Associate Justices Conrado M. Vasquez, Jr. and Rebecca De Guia-Salvador, concurring.

<sup>3</sup> *Id.* at 533.

<sup>4</sup> *Id.* at 534-549.

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Revised Penal Code and violation of Republic Act (R.A.) No. 6713<sup>5</sup> and R.A. No. 3019<sup>6</sup> against Ret. Lt. Gen. Jacinto C. Ligot (Gen. Ligot) and members of his immediate family. The OMB recommended the conduct of further investigation on Gen. Ligot for possible violation of R.A. No. 9160 or the Anti-Money Laundering Act of 2001, as amended.<sup>7</sup> The OMB's recommendation resulted from its finding that Gen. Ligot and his family had accumulated wealth that is grossly disproportionate to their income.<sup>8</sup>

*The OMB's findings*

Specifically, the OMB's investigation revealed that from Gen. Ligot's initial asset of ₱105,000.00 in 1982, his declared assets grew tremendously to ₱3,848,000.00 in 2004, with an increase of ₱3,743,003.00.<sup>9</sup> The OMB noted that Gen. Ligot declared in his Statements of Assets and Liabilities (SALNs) that his sources of income mostly came from his salary as an officer of the Armed Forces of the Philippines (AFP).<sup>10</sup> Apparently, however, Gen. Ligot and his spouse, Erlinda Yambao Ligot (Erlinda), have investments and other properties registered in their names that were not declared in Gen. Ligot's SALNs.<sup>11</sup> The OMB's records further disclosed that the Ligots' children were able to acquire substantial assets when, at the time of the acquisition, they could not be reasonably considered to have the financial capacity to do so.<sup>12</sup> Also, Gen. Ligot had substantial funds to cover the tuition fees of his children and their family's travel expenses during the period subject of the OMB's investigation.<sup>13</sup>

The OMB likewise found that Edgardo Tecson Yambao, Erlinda's younger brother, (petitioner) is a mere dummy and/or nominee of the spouses Ligot. Petitioner's employment history stated that he was a private employee from 1977 to 1994 but his record of Social Security System contributions shows that he had no substantial salary when he was employed in the private sector. His other source of income possibly came from Mabelline Foods, Inc., which was registered with the Securities and Exchange Commission (SEC) in 1994. Petitioner appears to be the owner of said corporation. However, SEC records reveal that the company was not generating considerable income to enable petitioner to acquire substantial assets. In fact, petitioner has no record with the Bureau of Internal Revenue of filing his annual individual income tax return from 1999 up to the date of

<sup>5</sup> Code of Conduct and Ethical Standards for Public Officials and Employees. Enacted February 20, 1989.

<sup>6</sup> Anti-Graft and Corrupt Practices Act. Enacted August 17, 1960.

<sup>7</sup> *Rollo*, p. 534.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 538-539.

<sup>10</sup> *Id.* at 539.

<sup>11</sup> *Id.* at 540-543.

<sup>12</sup> *Id.* at 544.

<sup>13</sup> *Id.*

the OMB complaint. The OMB further noted that the three addresses used by petitioner in his records with the Bureau of Immigration, the SEC (General Information Sheet), and the National Statistics Office<sup>14</sup> (marriage contract) are also the addresses used by the Ligots in their pertinent documents. These, along with the fact that Mabelline Foods, Inc. uses as its principal address the residential address of Gen. Ligot and family, buttressed the OMB's conclusion that petitioner and his wife are mere nominees of Gen. Ligot and all properties<sup>15</sup> registered in petitioner's name are actually owned by Gen. Ligot and his family.<sup>16</sup>

According to the OMB, the unexplained wealth of Gen. Ligot is estimated to be at least ₱54,001,217.00, which includes, among others, the following:

Gen. Ligot's undeclared assets	-	₱41,185,583.53
Gen. Ligot's children assets	-	₱ 1,744,035.60
Tuition fees and travel expenses	-	₱ 2,308,047.87
Edgardo Yambao's assets relative to real properties	-	₱ 8,763,550.00

**TOTAL UNEXPLAINED WEALTH - ₱54,001,217.00<sup>17</sup>**

For want of any record of the possible legal source of said unexplained wealth, the OMB ultimately concluded that the same may be presumed to have been acquired illegally, *i.e.*, proceeds from gifts, shares, benefits, present or percentage for Gen. Ligot in connection with or transactions between the government and any other party by reason of his office which he has to intervene under the law.<sup>18</sup>

<sup>14</sup> Now the Philippine Statistics Authority.

<sup>15</sup> *Rollo*, p. 547; these properties include:

Year of Acquisition	Description	Acquisition Cost
1993	Residential lot/Susana Heights Subdivision Village VI, Muntinlupa City (904 sq[m.])	₱1,050,000.00
1994	Mabelline Foods, Inc.	₱ 156,250.00
1996	1996 Honda Accord 4 Drive Sedan, (brand new) UFY223	amount paid as incorporator ₱ 878,000.00
1999	Condominium Unit/Burgundy Plaza Katipunan Avenue, Loyola Heights, Diliman Quezon City (54.05 sq[m.])	₱1,405,300.00
2001	2001 Toyota Hilander, XBD223	₱2,800,000.00
2002	Subaru Forester, XEB718	₱1,174,000.00
2003	Subaru Forester, XHY362	₱1,300,000.00
<b>Total</b>		<b>₱8,763,550.00</b>

<sup>16</sup> *Id.* at 536-538.

<sup>17</sup> *Id.* at 547.

<sup>18</sup> *Id.* at 547-548.

*The AMLC's findings*

Taking cue from the OMB's findings, the AMLC conducted its own investigation and eventually found that apart from real properties, bank accounts and significant investments were also maintained by Gen. Ligot and his family.<sup>19</sup> The AMLC then found reasonable grounds to believe that the monetary instruments and properties in the name of Gen. Ligot and his family, including petitioner, are related to unlawful activities as defined under Section 3(i) of R.A. No. 9160, as amended, in relation to Section 3(b) of R.A. No. 3019, as amended.<sup>20</sup>

Consequently, on the strength of AMLC Resolution No. 52, Series of 2005,<sup>21</sup> the AMLC, through the Office of the Solicitor General (OSG), filed with the CA an Urgent *Ex-parte* Application<sup>22</sup> for the issuance of a freeze order against the monetary instruments and properties of Gen. Ligot, Erlinda, and their children (Paulo, Riza, George, and Miguel, all surnamed Ligot), and petitioner.

*Proceedings in the CA*

Finding the existence of probable cause that the monetary instruments and properties enumerated in the *ex-parte* application are related to an unlawful activity, the CA, through a Resolution dated July 5, 2005,<sup>23</sup> issued a Freeze Order over the subject monetary instruments. The Freeze Order was initially valid for 20 days.

Among those covered by the Freeze Order were the following bank accounts<sup>24</sup> and motor vehicles<sup>25</sup> registered in the name of petitioner:

BANK	ACCOUNT NO.
Metropolitan Bank and Trust Co.	00012407 (US\$ account)
United Overseas Bank Phils.	021072002773
	002072001829
Keppel Bank Philippines	3035000914
Citicorp Financial Services	000117966 (US\$ account)
& Insurance Brokerage Phils., Inc.	006911804 (US\$ account)

<sup>19</sup> Id. at 554-556.

<sup>20</sup> Id. at 556-557.

<sup>21</sup> Id. at 551-558.

<sup>22</sup> Id. at 559-585.

<sup>23</sup> Id. at 87-100; penned by Associate Justice Aurora Santiago-Lagman, with Associate Justices Conrado M. Vasquez, Jr. and Rebecca De Guia-Salvador, concurring.

<sup>24</sup> Id. at 98-99.

<sup>25</sup> Id. at 99-100.

MOTOR VEHICLE	PLATE NO.
1996 Honda Accord Sedan	UFY 223
2001 Toyota Hi-Lander	XBD 223
2002 Subaru Forester	XEB 718
2003 Subaru Forester	XHY 362

Subsequently, petitioner filed a Motion to Lift Freeze Order Against the Monetary Instruments and Properties of Edgardo Yambao with Prayer Requests [sic] for Setting of an Oral Argument<sup>26</sup> dated July 22, 2005. The OSG then filed its Consolidated Comment<sup>27</sup> to petitioner's motion.

The OSG also filed an "Urgent Motion for Extension of Effectivity of Freeze Order,"<sup>28</sup> to which petitioner, Gen. Ligot and the latter's family filed separate oppositions.<sup>29</sup>

On September 20, 2005, the CA issued a Resolution,<sup>30</sup> the dispositive portion of which states:

**WHEREFORE**, premises considered, the:

(a) **Motion to Lift Freeze order Against the Monetary Instruments and Properties of Edgardo Yambao with Prayer Requests for Setting of an Oral Argument** is *DENIED* for lack of merit; and the

(b) **Urgent Motion for Extension of Effectivity of Freeze Order** filed by applicant Republic of the Philippines, through the Office of the Solicitor General, is *GRANTED*. As prayed for, **the Freeze Order issued by this Court on July 5, 2005 against the subject bank accounts, investments, vehicles and the related web accounts of the respondents, except those that were already closed as herein-above identified, is EXTENDED until after all the appropriate proceedings and/or investigations being conducted are terminated, conformably with Section 10 of Republic Act No. 9160, as amended.**

**SO ORDERED.**<sup>31</sup> (Emphasis and italics in the original, underscoring ours)

An Urgent Motion (to Separate Respondent Edgardo Yambao and to Resolve Pending Motion to Lift and Set Aside Freeze Order of the

<sup>26</sup> Id. at 101-128.

<sup>27</sup> Id. at 637-661.

<sup>28</sup> Id. at 609-619.

<sup>29</sup> Id. at 696-706.

<sup>30</sup> Id. at 130-140; penned by Associate Justice Aurora Santiago-Lagman with Associate Justices Conrado M. Vasquez, Jr. and Amelita G. Tolentino, concurring.

<sup>31</sup> Id. at 140.

Honorable Court),<sup>32</sup> dated 20 September 2005, was thereafter filed by petitioner.

Petitioner also moved for reconsideration of the September 20, 2005 CA Resolution.<sup>33</sup>

Meanwhile, on November 18, 2005, this Court promulgated A.M. No. 05-11-04-SC or the *Rule of Procedure in Cases of Civil Forfeiture, Asset Preservation, and Freezing of Monetary Instrument, Property, or Proceeds Representing, Involving, or Relating to an Unlawful Activity or Money Laundering Offense under Republic Act No. 9160, as amended*, which became effective on December 15, 2005.

Asserting the applicability of the aforesaid Rule - specifically its provisions on a summary or post-issuance hearing within the 20-day period of effectivity of a Freeze Order and the limitation on an extension thereof to a period of not exceeding six months - to his case, petitioner filed an Urgent Motion for Summary Hearing to Limit Effectivity of Freeze Order and/or to Declare Expiration of Freeze Order.<sup>34</sup>

On January 2, 2006, petitioner filed another Urgent Motion to Resolve Pending Urgent Motion (for Summary Hearing and to Limit Effectivity of Freeze Order and/or to Declare Expiration of Freeze Order).<sup>35</sup>

On January 4, 2006, the CA issued the challenged Resolution,<sup>36</sup> denying all pending motions,<sup>37</sup> including those of petitioner's.<sup>38</sup>

The CA ruled that A.M. No. 05-11-04-SC is inapplicable in petitioner's case because the issues of extending and lifting the Freeze Order issued against his monetary instruments and properties were already resolved through the July 4, 2005 and September 20, 2005 CA Resolutions. Hence, said issues are no longer pending at the time of the effectivity of said Rule.<sup>39</sup> Further, the CA denied petitioner's plea to be separated from the

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<sup>32</sup> Id. at 318-323.

<sup>33</sup> Id. at 330-362.

<sup>34</sup> Id. at 728-733.

<sup>35</sup> Id. at 325-328.

<sup>36</sup> Id. at 77-86.

<sup>37</sup> Id. at 77-78; Urgent Motion (to Separate Respondent Edgardo Yambao and to Resolve Pending Motion to Lift and Set Aside Freeze Order of the Honorable Court); Motion for Reconsideration; and Urgent Motion for Summary Hearing to Limit Effectivity of Freeze Order and/or to Declare Expiration of Freeze Order, filed by petitioner; Motion to Lift Extended Freeze Order filed by Gen. Ligot and family; and Urgent Motion for Extension of Effectivity of Freeze Order (on the Supplemental Application) filed by the OSG.

<sup>38</sup> Id. at 86.

<sup>39</sup> Id. at 83-84.

other respondents, ratiocinating that the charges against him and the Ligot family are based on the same facts and involve intertwining defenses.<sup>40</sup> Finally, the CA maintained its ruling on the existence of probable cause that warranted the issuance, and, subsequently, the extension of the Freeze Order against petitioner's monetary instruments and properties.<sup>41</sup>

*The petition before this Court*

Imputing reversible error to the CA, petitioner is now before this Court *via* the present Rule 45 petition anchored on the following grounds:

I.

THE CA ERRED IN HOLDING THAT THE FREEZE ORDER AGAINST THE PETITIONER IS NO LONGER PENDING AND HENCE NOT COVERED BY A.M. No. 05-11-04-SC OR THE NEW RULES ON CIVIL FORFEITURE AND FREEZE ORDERS[.]

II.

THE PETITIONER IS ENTITLED TO DUE PROCESS AND AS GUARANTEED BY THE CONSTITUTION AND AS PROVIDED BY THE NEW RULES[.]

III.

THE CA ERRED IN ITS DETERMINATION THAT PROBABLE CAUSE EXISTED AGAINST THE PETITIONER AND HIS MONETARY INSTRUMENTS AND FREEZE ORDERS (*sic*) AS NO EVIDENCE WAS EVER PRESENTED AGAINST HIM[.]

IV.

THE FREEZE ORDER AGAINST THE PETITIONER PROCEEDS FROM BASELESS ACCUSATIONS AND MERE SPECULATIONS[.]

V.

THE CA ERRED IN HOLDING THAT THE PETITIONER CANNOT BE SEPARATED FROM THE OTHER RESPONDENTS AS THERE ARE DIFFERENT CAUSES OF ACTIONS AND DEFENSES[.]<sup>42</sup>

*Petitioner's arguments*

In gist, petitioner asserts that it was erroneous for the CA to rule that the Freeze Order case was no longer pending at the time of the promulgation and effectivity of A.M. No. 05-11-04 considering that his motion for reconsideration (of the September 20, 2005 Resolution), among his other motions, was resolved by the CA only on January 4, 2006. Petitioner

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<sup>40</sup> Id. at 79.

<sup>41</sup> Id. at 81-83 and 134.

<sup>42</sup> Id. at 15-16.

likewise points out that the CA deprived him of his properties without due process of law when he was not given the opportunity to refute the allegations of the AMLC in its *Ex-parte* Application for freeze order. Worse, the CA issued the Freeze Order – and even extended its validity - despite the absence of sufficient evidence to support the finding of probable cause that the funds used to acquire his properties came from an illegal activity. On this score, petitioner is firm in his stance that he is not a dummy of Gen. Ligot. He is a legitimate businessman and he acquired his properties even prior to Gen. Ligot's appointment as comptroller of the AFP. The funds in his bank accounts are not connected to any unlawful activity. Neither are said bank accounts maintained through illegal means. Praying that the Freeze Order against his monetary instruments be lifted, petitioner emphasizes that he now only depends on his bank accounts for his sustenance. With the Freeze Order still effective and existing, petitioner is unable to withdraw his money to cover his daily expenses. Anent his prayer to be tried separately from his co-respondents in the Freeze Order case, petitioner insists that his evidence and defenses are separate and distinct from the Ligots' defenses.<sup>43</sup>

#### *The OSG's arguments*

The OSG counters that the CA did not err in issuing the subject Freeze Order. To stress, the OMB's investigation yielded these findings: (1) Gen. Ligot and his family's wealth is grossly disproportionate to their income; (2) petitioner has no significant source of income; (3) Mabelline Foods, Inc., petitioner's alleged source of funds, was not generating substantial income; and (4) while petitioner has several real estate properties, he uses the same addresses used by the Ligot family in pertinent documents. These facts and circumstances lead a reasonably discreet, prudent, and cautious man to believe that the subject monetary instruments and properties are illegally acquired and proceeds of an unlawful activity. The issuance of a freeze order is a provisional remedy intended to prevent the dissipation and removal of properties that are proceeds of or are being used for unlawful activities. Neither did the CA commit error in denying petitioner's motion for summary hearing. As aptly held by the CA, the application for extension of the Freeze Order was already acted upon by said court through the September 20, 2005 Resolution. Thus, it was no longer pending when A.M. No. 05-11-04-SC became effective on December 15, 2005. In any event, petitioner was able to present his purported evidence and arguments, which were duly considered by the CA. It cannot be said therefore that petitioner was denied due process. Anent petitioner's motion to be separated from his co-respondents in the Freeze Order case, the OSG highlights the fact that petitioner was impleaded, not solely because of his filial relations, but because he allowed himself to be used as a nominee or dummy which facilitated Gen. Ligot's perpetration of his unlawful activity. Hence, petitioner's defenses are not

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<sup>43</sup> Id. at 16-70.



antagonistic with the Ligots' defenses, but are actually borne of the same facts and premises.<sup>44</sup>

### The Court's Ruling

#### The petition is partly meritorious.

At the onset, the Court notes that Gen. Ligot, Erlinda, and their children filed a separate petition for *certiorari*<sup>45</sup> before this Court also challenging the subject January 4, 2006 Resolution of the CA in CA-G.R. SP No. 90238. On March 6, 2013, the Second Division<sup>46</sup> of the Court promulgated a Decision (Ligots' case) granting the Ligots' petition, and, accordingly, lifting the Freeze Order issued by the CA.

In the aforesaid Decision, the Court ruled that A.M. No. 05-11-04-SC is applicable to the Ligots' case. The Court noted that after the CA issued its 20 September 2005 Resolution extending the Freeze Order, the Ligots filed a motion to lift the extended Freeze Order on September 28, 2005, which the CA only acted upon on January 4, 2006 through the assailed Resolution. The Court held that “[w]hile denominated as a Motion to Lift Extended Freeze Order, this motion was actually a motion for reconsideration, as it sought the reversal of the assailed CA resolution. Since the Ligots' motion for reconsideration was still pending resolution at the time the Rule in Civil Forfeiture Cases came into effect on December 15, 2005, the Rule unquestionably applies to the [Ligots'] case.”<sup>47</sup>

Similarly, here, petitioner filed a motion for reconsideration of the September 20, 2005 CA Resolution extending the July 5, 2005 Freeze Order.<sup>48</sup> Said motion – along with petitioner's other motions – was only resolved, *i.e.*, denied, by the CA through the January 4, 2006 Resolution, after A.M. No. 05-11-04-SC had come into effect. Hence, said Rule likewise applies to petitioner's case.

Moreover, the Court, in the Ligots' case, found that probable cause was established to justify the issuance by the CA of the subject Freeze Order.

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<sup>44</sup> Id. at 514-529.

<sup>45</sup> Docketed as G.R. No. 176944.

<sup>46</sup> Then composed of Associates Justice Arturo D. Brion (*ponente*; now a retired Member of this Court), Antonio Carpio (now a retired Member of this Court), Mariano Del Castillo (now a retired Member of this Court), Jose Perez (now a retired Member of this Court), and Justice Estela Perlas-Bernabe (now the Chairperson of the Second Division).

<sup>47</sup> See *Ret. Lt. Gen. Ligot v. Republic of the Phils.*, 705 Phil. 477, 498 (2013). Emphasis omitted.

<sup>48</sup> *Rollo*, pp. 330-362.

To begin with, a freeze order is not dependent on a separate criminal charge, much less does it depend on a conviction.<sup>49</sup> Based on Section 10<sup>50</sup> of R.A. No. 9160, as amended, there are only two requisites for the issuance of a freeze order: (1) the application *ex-parte* by the AMLC and (2) the determination of probable cause by the CA.<sup>51</sup> In resolving the issue of whether probable cause exists, the CA's statutorily-guided determination's focus is not on the probable commission of an unlawful activity (or money laundering) that the OMB has already determined to exist, but on whether the bank accounts, assets, or other monetary instruments sought to be frozen are in any way related to any of the illegal activities enumerated under R.A. No. 9160, as amended. Otherwise stated, probable cause refers to the sufficiency of the relation between an unlawful activity and the property or monetary instrument which is the focal point of Section 10 of R.A. No. 9160, as amended.<sup>52</sup>

In petitioner's case, apart from the fact that he is the brother of Erlinda and the brother-in-law of Gen. Ligot, the OMB's investigation also revealed that he and his corporation (Mabelline Foods, Inc.) had no ample income to enable him to acquire substantial assets and that said corporation uses the residential address of the Ligots as its principal business address. These led the OMB to conclude that properties in the name of petitioner are actually owned by Gen. Ligot, and petitioner was his mere dummy who was utilized by the Ligots to conceal their unexplained wealth. These findings of the OMB, which are incorporated in the *ex-parte* application for freeze order filed by the AMLC with the CA, are sufficient to sustain the CA's finding of probable cause for the issuance of a freeze order.

Nonetheless, the Court, also in the Ligots' case, clarified that a freeze order cannot be issued for an indefinite period. In fact, in said case, We held that the continued extension of the freeze order beyond the six-month period violated the Ligots' right to due process.<sup>53</sup>

We expounded:

A freeze order is an *extraordinary and interim relief* issued by the CA to prevent the dissipation, removal, or disposal of properties that are suspected to be the proceeds of, or related to, unlawful activities as

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<sup>49</sup> *Ret. Lt. Gen. Ligot v. Republic of the Phils.*, supra note 47 at 502.

<sup>50</sup> Section 10. *Freezing of Monetary Instrument or Property*. — The Court of Appeals, upon application *ex parte* by the AMLC and after determination that probable cause exists that any monetary instrument or property is in any way related to an unlawful activity as defined in Section 3(i) hereof, may issue a freeze order which shall be effective immediately. The freeze order shall be for a period of twenty (20) days unless extended by the court.

<sup>51</sup> *Ret. Lt. Gen. Ligot v. Republic of the Phils.*, supra note 47 at 501-502.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 503.

defined in Section 3 (i) of RA No. 9160, as amended. The primary objective of a freeze order is to temporarily preserve monetary instruments or property that are in any way related to an unlawful activity or money laundering, by preventing the owner from utilizing them during the duration of the freeze order. The relief is *pre-emptive* in character, meant to prevent the owner from disposing his property and thwarting the State's effort in building its case and eventually filing civil forfeiture proceedings and/or prosecuting the owner.

Our examination of the *Anti-Money Laundering Act of 2001*, as amended, from the point of view of the freeze order that it authorizes, shows that the law is silent on the maximum period of time that the freeze order can be extended by the CA. The final sentence of Section 10 of the Anti-Money Laundering Act of 2001 provides, "[t]he freeze order shall be for a period of twenty (20) days unless extended by the court." In contrast, Section 55 of the Rule in Civil Forfeiture Cases qualifies the grant of extension "for a period not exceeding six months" "for good cause" shown.

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The silence of the law, however, does not in any way affect the Court's own power under the Constitution to 'promulgate rules concerning the protection and enforcement of constitutional rights . . . and procedure in all courts.' Pursuant to this power, **the Court issued A.M. No. 05-11-04 SC, limiting the effectivity of an extended freeze order to six months** — to otherwise leave the grant of the extension to the sole discretion of the CA, which may extend a freeze order indefinitely or to an unreasonable amount of time — carries serious implications on an individual's substantive right to due process. This right demands that no person be denied his right to property or be subjected to any governmental action that amounts to a denial. The right to due process, under these terms, requires a limitation or at least an inquiry on whether sufficient justification for the governmental action.

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x x x [T]he CA, *via* its September 20, 2005 resolution, extended the freeze order over the Ligots' various bank accounts and personal properties **until after all the appropriate proceedings and/or investigations being conducted are terminated.** By its very terms, the CA resolution effectively bars the Ligots from using any of the property covered by the freeze order until after an eventual civil forfeiture proceeding is concluded in their favor and after they shall have been adjudged not guilty of the crimes they are suspected of committing. **These periods of extension are way beyond the intent and purposes of a freeze order which is intended solely as an interim relief; the civil and criminal trial courts can very well handle the disposition of properties related to a forfeiture case or to a crime charged and need not rely on the interim relief that the appellate court issued as a guarantee against loss of property while the government is preparing its full case. The term of the CA's extension, too, borders on inflicting a punishment to the Ligots, in violation of their constitutionally protected right to be presumed innocent,**

**because the unreasonable denial of their property comes before final conviction.**

In more concrete terms, the freeze order over the Ligots' properties has been in effect since 2005, while the civil forfeiture case — per the Republic's manifestation — was filed only in 2011 and the forfeiture case under RA No. 1379 — per the petitioners' manifestation — was filed only in 2012. This means that the Ligots have not been able to access the properties subject of the freeze order for six years or so simply on the basis of the existence of probable cause to issue a freeze order, which was intended mainly as an interim preemptive remedy.

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As correctly noted by the petitioners, **a freeze order is meant to have a temporary effect; it was never intended to supplant or replace the actual forfeiture cases where the provisional remedy — which means, the remedy is an adjunct of or an incident to the main action — of asking for the issuance of an asset preservation order from the court where the petition is filed is precisely available.** For emphasis, a freeze order is both a preservatory and preemptive remedy.

To stress, the evils caused by the law's silence on the freeze order's period of effectivity compelled this Court to issue the Rule in Civil Forfeiture Cases. Specifically, **the Court fixed the maximum allowable extension on the freeze order's effectivity at six months.** In doing so, the Court sought to balance the State's interest in going after suspected money launderers with an individual's constitutionally-protected right not to be deprived of his property without due process of law, as well as to be presumed innocent until proven guilty.

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Thus, as a rule, the effectivity of a freeze order may be extended by the CA for a period not exceeding six months. Before or upon the lapse of this period, ideally, the Republic should have already filed a case for civil forfeiture against the property owner with the proper courts and accordingly secure an asset preservation order or it should have filed the necessary information. Otherwise, the property owner should already be able to fully enjoy his property without any legal process affecting it. However, should it become completely necessary for the Republic to further extend the duration of the freeze order, it should file the necessary motion before the expiration of the six-month period and explain the reason or reasons for its failure to file an appropriate case and justify the period of extension sought. The freeze order should remain effective prior to the resolution by the CA, which is hereby directed to resolve this kind of motion for extension with reasonable dispatch.<sup>54</sup> (Citations omitted, emphasis and underscoring ours)

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<sup>54</sup> Id. at 504-509.

From the foregoing, the lifting of the subsisting Freeze Order against the monetary instruments and properties of petitioner is in order, **more so in view of the fact that a petition for forfeiture (Civil Case No. 0197) – where petitioner is named as one of the respondents - has already been filed by the Republic before the Sandiganbayan sometime in September 2005.**<sup>55</sup>

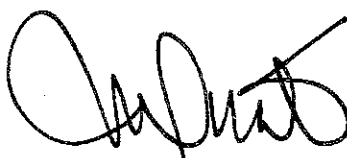
Anent petitioner's insistence to be separated from his co-respondents in the CA case, suffice it to state that petitioner was impleaded as an alleged dummy or nominee of Gen. Ligot for the latter's concealment of his purported unexplained wealth. Indubitably, the charges against petitioner and the Ligots are anchored on the same facts and their defenses are necessarily intertwined. In any event, petitioner's arguments on said issue could be best ventilated and threshed out in the forfeiture case before the Sandiganbayan where petitioner may adduce evidence in support of his assertions and to refute the Republic's claims.

**WHEREFORE**, the petition is **PARTLY GRANTED**. The Freeze Order against petitioner Edgardo T. Yambao's monetary instruments and properties enumerated in the July 5, 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 90238 is hereby **LIFTED**. This is without prejudice to other preservation orders, if any, that the *Sandiganbayan* may have issued over said monetary instruments and properties relative to the forfeiture case against petitioner filed before said court.

**SO ORDERED.**

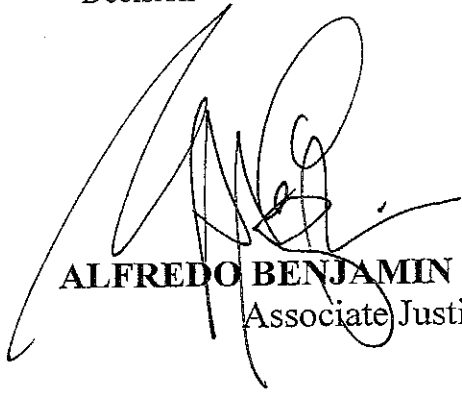
  
**SAMUEL H. GAERLAN**  
Associate Justice

WE CONCUR:

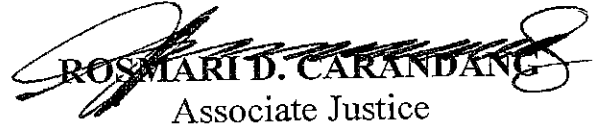
  
**DIOSDADO M. PERALTA**  
Chief Justice

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<sup>55</sup> *Rollo*, pp. 291-317.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



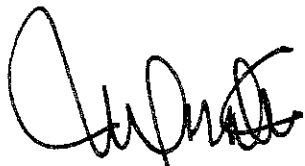
**ROSMARI D. CARANDANG**  
Associate Justice



**RODIL V. ZALAMEDA**  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



**DIOSDADO M. PERALTA**  
Chief Justice