



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**PHILIPPINE OVERSEAS
TELECOMMUNICATIONS
CORPORATION (POTC) AND
PHILIPPINE
COMMUNICATIONS
SATELLITE CORPORATION
(PHILCOMSAT),**

Petitioners,

G.R. No. 184622

- versus -

**VICTOR AFRICA,
ERLINDA I. BILDNER,
SYLVIA K. ILUSORIO,
HONORIO POBLADOR III,
VICTORIA C. DELOS REYES,
JOHN BENEDICT SIOSON,
AND JOHN/JANE DOES.**

Respondents.

x-----x

**PHILIPPINE OVERSEAS
TELECOMMUNICATIONS
CORPORATION (POTC) AND
PHILIPPINE
COMMUNICATIONS
SATELLITE CORPORATION
(PHILCOMSAT),**

Petitioners,

G.R. Nos. 184712-14

- versus -

**HON. JENNY LIN ALDECOA-
DELORINO, PAIRING JUDGE OF
THE REGIONAL TRIAL COURT
OF MAKATI CITY-BRANCH 138,
VICTOR AFRICA, purportedly
representing PHILCOMSAT, AND
JOHN/JANE DOES**

Respondents.

x-----x

**PHILCOMSAT HOLDINGS
CORPORATION, represented by
CONCEPCION POBLADOR,**
Petitioner,

G.R. No. 186066

- *versus* -

**PHILIPPINE
COMMUNICATIONS
SATELLITE CORPORATION
(PHILCOMSAT), represented by
VICTOR AFRICA,**
Respondent.

x-----x
**PHILCOMSAT HOLDINGS
CORPORATION, represented by
ERLINDA I. BILDNER,**
Petitioner,

G.R. No. 186590

Present:

SERENO, C.J.,
*BRION,
BERSAMIN,
VILLARAMA, JR, and
REYES, JJ.

- *versus* -

**PHILCOMSAT HOLDINGS
CORPORATION, represented by
ENRIQUE L. LOCSIN,**
Respondent.

Promulgated:

JUL 03 2013

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DECISION

BERSAMIN, J.:

An intra-corporate dispute involving a corporation under sequestration of the Presidential Commission on Good Government (PCGG) falls under the jurisdiction of the Regional Trial Court (RTC), not the Sandiganbayan.

The Cases

These consolidated appeals *via* petitions for review on *certiorari* include the following:

* In lieu of Associate Justice Teresita Leonardo-De Castro, who inhibited due to her prior participation in the Sandiganbayan, per the raffle of December 3, 2008.

- (a) G.R. No.184622 - the appeal from the dismissal by the Sandiganbayan of the petitioners' complaint for injunction docketed as Civil Case No. 0198 on the ground that the Sandiganbayan had no jurisdiction over the issue due to its being an intra-corporate dispute;
- (b) G.R. No.184712-14 and G.R. No. 186066 - the appeals of the Locsin Group (in representation of Philippine Overseas Telecommunications Corporation (POTC), Philippine Communications Satellite Corporation (PHILCOMSAT), and Philcomsat Holdings Corporation (PHC) from the consolidated decision the Court of Appeals (CA) promulgated on September 30, 2008 in C.A.-G.R. SP No. 101225, C.A.-G.R. SP No. 98097 and C.A.-G.R. SP No. 98399; and
- (c) G.R. No. 186590 - the appeal of the Ilusorio Group seeking the reversal of the decision promulgated by the CA on July 16, 2008 in C.A.-G.R. SP No. 102437.

Common Antecedents

POTC is a domestic corporation organized for the purpose of, among others, constructing, installing, maintaining, and operating communications satellite systems, satellite terminal stations and associated equipments and facilities in the Philippines.¹

PHILCOMSAT is also a domestic corporation. Its purposes include providing telecommunications services through space relay and repeater stations throughout the Philippines.

PHC is likewise a domestic corporation, previously known as Liberty Mines, Inc., and is engaged in the discovery, exploitation, development and exploration of oil. In 1997, Liberty Mines, Inc. changed its name to PHC, declassified its shares, and amended its primary purpose to become a holding company.²

The ownership structure of these corporations implies that whoever had control of POTC necessarily held 100% control of PHILCOMSAT, and in turn whoever controlled PHILCOMSAT wielded 81% majority control of PHC. Records reveal that POTC has been owned by seven families through

¹ *Rollo* (G.R. No. 186066), p. 90.

² *Id.* at 90-91.

their individual members or their corporations, namely: (a) the Ilusorio Family; (b) the Nieto Family; (c) the Poblador Family; (d) the Africa Family; (e) the Benedicto Family; (f) the Ponce Enrile Family; and (g) the Elizalde Family.³

Atty. Potenciano Ilusorio, the patriarch of the Ilusorio Family, owned shares of stock in POTC. A block consisting of 5,400 POTC shares of stock has become the bone of contention in a prolonged controversy among the parties. Atty. Ilusorio claimed that he had incurred the ire of Imelda Marcos during the regime of President Marcos, leading to the Marcos spouses' grabbing from him the POTC shares of stock through threats and intimidation and without any valuable consideration, and placing such shares under the names of their *alter egos*, namely: 3,644 shares in the name of Independent Realty Corporation (IRC); 1,755 shares in the name of Mid-Pasig Land Development (Mid-Pasig); and one share in the name of Ferdinand Marcos, Jr.⁴

On February 25, 1986, the EDSA People Power Revolution deposed President Marcos from power and forced him and his family to flee the country. On February 28, 1986, newly-installed President Corazon C. Aquino issued Executive Order No. 1 to create the PCGG whose task was to assist the President in the recovery of all ill-gotten wealth amassed by President Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, through the takeover or sequestration of all business enterprises and entities owned or controlled by them during President Marcos' administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationships.⁵

Subsequently, Jose Y. Campos, a self-confessed crony of President Marcos, voluntarily surrendered to the PCGG the properties, assets, and corporations he had held in trust for the deposed President. Among the corporations surrendered were IRC (which, in the books of POTC, held 3,644 POTC shares) and Mid-Pasig (which, in the books of POTC, owned 1,755 POTC shares). Also turned over was one POTC share in the name of Ferdinand Marcos, Jr.⁶

With Campos' surrender of IRC and Mid-Pasig to the PCGG, the ownership structure of POTC became as follows:

³ Id. at 91.

⁴ Id.

⁵ Id. at 91-92.

⁶ Id. at 92.

Owner	% of Shareholdings
Ilusorio, Africa, Poblador, Benedicto and Ponce Enrile Families	46.39%
PCGG (IRC and Mid-Pasig)	39.92%
Nieto Family	13.12%
Elizalde Family	0.57%
Total	100.00%

With 39.92% of the POTC shareholdings under its control, the PCGG obtained three out of the seven seats in the POTC Board of Directors. At the time, Manuel Nieto, Jr. was the President of both POTC and PHILCOMSAT. However, Nieto, Jr. had a falling out with other stockholders. To keep control of the POTC and PHILCOMSAT, Nieto, Jr. aligned with the PCGG nominees to enable him to wrest four out of seven seats in the POTC Board of Directors and five out of the nine seats in the PHILCOMSAT Board of Directors. Thus, Nieto, Jr. remained as the President of POTC and PHILCOMSAT.⁷

On July 22, 1987, the Government, represented by the PCGG, filed in the Sandiganbayan a Complaint for reconveyance, reversion, accounting, restitution and damages against Jose L. Africa, Manuel H. Nieto, Jr., President Marcos, Imelda R. Marcos, Ferdinand R. Marcos, Jr., Roberto S. Benedicto, Juan Ponce Enrile and Atty. Potenciano Ilusorio.⁸ The Complaint, docketed as SB Civil Case No. 009, alleged that the defendants “acted in collaboration with each other as dummies, nominees and/or agents of defendants Ferdinand E. Marcos, Imelda R. Marcos and Ferdinand R. Marcos, Jr. in several corporations, such as the Mid-Pasig Land Development Corporation and the Independent Realty Corporation which, through manipulations by said defendants, appropriated a substantial portion of the shareholdings in Philippine Overseas Telecommunications Corporation and Philippine Communications Satellite Corporation held by the late Honorio Poblador, Jr., Jose Valdez and Francisco Reyes, thereby further advancing defendants’ scheme to monopolize the telecommunications industry;” that through their illegal acts, they acquired ill-gotten wealth; that their acts constituted “breach of public trust and the law, abuse of rights and power, and unjust enrichment;” and that their ill-gotten wealth, real and personal, “are deemed to have been acquired (by them) for the benefit of the plaintiff (Republic) and are, therefore, impressed with constructive trust in favor of (the latter) and the Filipino people.”⁹

⁷ Id. at 92-93.

⁸ Id. at 93.

⁹ Id. at 93-94.

The Complaint prayed that all the funds, properties and assets illegally acquired by the defendants, or their equivalent value, be reconveyed or reverted to the Government; and that the defendants be ordered to render an accounting and to pay damages.¹⁰

In his Amended Answer with Cross-Claim (against the Marcoses) and Third-Party Complaint against Mid-Pasig and IRC, Atty. Ilusorio denied having acquired ill-gotten wealth and having unjustly enriched himself by conspiring with any of the defendants in committing a breach of public trust or abuse of right or of power, stating that “he has never held any public office nor has he been a government employee;” and that he was never a dummy or agent of the Marcoses. He interposed the affirmative defense that he owned 5,400 POTC shares of stock, having acquired them through his honest toil, but the Marcoses had taken the shares from him through threats and intimidation and without valuable consideration and then placed the shares in the names of their *alter egos*; and that he thus became “the hapless victim of injustice,” with the right to recover the shares and their corresponding dividends.¹¹

On June 28, 1996, after a decade of litigation, the Republic, IRC and Mid-Pasig, and the PCGG (acting through PCGG Commissioner Hermilo Rosal) entered into a compromise agreement with Atty. Ilusorio, whereby Atty. Ilusorio recognized the ownership of the Republic over 4,727 of the POTC shares of stock in the names of IRC and Mid-Pasig, and, in turn, the Republic acknowledged his ownership of 673 of the POTC shares of stock and undertook to dismiss Civil Case No. 009 as against him.

The compromise agreement relevantly stated:

WHEREAS, this Compromise Agreement covers the full, comprehensive and final settlement of the claims of the GOVERNMENT against ILUSORIO in Civil Case No. SB-009, pending before the Third Division of the Sandiganbayan; the Cross-Claim involving several properties located in Parañaque, Metro Manila; and the Third-Party Complaint filed by ILUSORIO, in the same case, involving the Five Thousand Four Hundred (5,400) shares of stocks registered in the names of Mid-Pasig Land Development Corporation (MLDC) and Independent Realty Corporation (IRC), respectively, in the Philippine Overseas Telecommunications Corporation (POTC);

x x x x

¹⁰ Id.

¹¹ Id. at 94-95.

President Ramos approved the compromise agreement, and directed its submission to the Sandiganbayan for approval through his marginal note dated October 5, 1996.¹²

It was not until June 8, 1998, or nearly two years from its execution, however, that the Sandiganbayan approved the compromise agreement, the resolution for which reads:

WHEREFORE, and as prayed for in the Motion dated June 3, 1998, which is hereby granted.

1. The foregoing Compromise Agreement dated June 28, 1996 executed by and between the plaintiff and defendant Potenciano T. Ilusorio is hereby approved, the same not being contrary to law, good morals and public policy. The parties thereto are hereby enjoined to strictly abide by and comply with the terms and conditions of the said Compromise Agreement.
2. The complaint as against defendant Potenciano T. Ilusorio only in the above-entitled case No. 0009 is hereby dismissed.
3. The Motions for Injunction and Contempt, respectively, filed by defendant Potenciano T. Ilusorio against the Government/PCGG, its officers and agents, in Civil Case No. 0009 are hereby withdrawn;
4. The Third-Party Complaint and the Cross-Claim of defendant Potenciano T. Ilusorio are hereby dismissed; and
5. The Board of Directors, President and Corporate Secretary of the Philippine Overseas Telecommunications Corporation are hereby ordered to issue the corresponding stock certificates to, and in the names of Potenciano T. Ilusorio, Mid-Pasig Land Development Corporation, and Independent Realty Corporation, respectively.¹³

The result was the redistribution of the POTC shareholdings as follows:

Owner	% of Shareholdings
Ilusorio, Africa, Poblador, Benedicto and Ponce Enrile Families	51.37%
PCGG (IRC and Mid-Pasig)	34.94%
Nieto Family	13.12%
Elizalde Family	0.57%
Total	100.00%

¹² Id. at 95.

¹³ Id. at 97

The Ilusorio Family's shareholding became 18.12%, while that of the PCGG (through IRC and Mid-Pasig) was reduced to 34.94%. With its reduced shareholdings, the PCGG's number of seats in the POTC Board settled at only two. The Ilusorio Family continued its alliance with the Africa, Poblador, Benedicto and Ponce Enrile Families. In effect, the compromise agreement tilted the control in POTC, PHILCOMSAT and PHC, such that the alliance between the Nieto Family and the PCGG, theretofore dominant, became the minority.¹⁴

After assuming the Presidency in mid-1998, President Estrada nominated through the PCGG Ronaldo Salonga and Benito Araneta, the latter a nephew of Nieto, Jr., to the POTC Board of Directors to represent the IRC and Mid-Pasig shareholdings.¹⁵

As to the PHILCOMSAT Board of Directors, however, President Estrada through the PCGG nominated four nominees, namely: Salonga, Araneta, Carmelo Africa and Edgardo Villanueva. The nomination of the four ignored the reduction of the IRC and Mid-Pasig shareholdings in POTC that should have correspondingly reduced the board seats in PHILCOMSAT that the PCGG was entitled to from four to only three.¹⁶

On August 16, 1998, Mid-Pasig, represented by Salonga, filed in the Sandiganbayan in Civil Case No. 009 a Motion to Vacate the order dated June 8, 1998 approving the compromise agreement. On October 2, 1998, IRC, also represented by Salonga, filed a similar motion. Both motions insisted that the compromise agreement did not bind Mid-Pasig and IRC for not being parties thereto, although they held substantial interests in the POTC shareholdings subject of the compromise agreement; and that the compromise agreement was void because its terms were contrary to law, good morals and public policy for being grossly and manifestly disadvantageous to the Government.¹⁷

Aside from supporting the position taken by Mid-Pasig and IRC, PCGG added that the compromise agreement was fatally defective for lack of any PCGG resolution authorizing Commissioner Rosal to enter into the compromise agreement in behalf of the Government.¹⁸

On his part, Atty. Ilusorio vigorously opposed the motions.¹⁹

¹⁴ Id. at 98.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 99.

¹⁸ Id.

¹⁹ Id.

On August 28, 1998, PHILCOMSAT stockholders held an informal gathering at the Manila Golf Club for the apparent purpose of introducing the new PCGG nominees to the stockholders. During the proceedings, however, Atty. Luis Lokin, Jr. announced that the gathering was being considered as a Special PHILCOMSAT Stockholders' Meeting. Those in attendance then proceeded to elect as Directors and Officers of PHILCOMSAT Nieto, Jr., Lourdes Africa, Honorio Poblador III, Salvador Hizon, Salonga, Araneta, Carmelo Africa, and Edgardo Villanueva (Nieto Group-PCGG).²⁰

As a consequence, other PHILCOMSAT stockholders (namely, Ilusorio, Katrina Ponce Enrile, Fidelity Farms, Inc., Great Asia Enterprises and JAKA Investments Corporation) instituted a Complaint with application for the issuance of temporary restraining order (TRO) and writ of preliminary injunction (WPI) in the Securities and Exchange Commission (SEC) assailing the election of the Directors and Officers on several grounds, such as the lack of sufficient notice of the meeting, the lack of quorum, and the lack of qualifying shares of those who were elected. They maintained that by reason of POTC's 100% beneficial ownership of PHILCOMSAT, there should have been a notice to POTC, which, upon a proper board meeting, should have appointed proxies to attend the PHILCOMSAT Stockholders' Meeting. The case was docketed as SEC Case No. 09-98-6086.²¹

The SEC issued a TRO, and, later on, a WPI enjoining the Nieto Group-PCGG from acting as Directors and Officers of PHILCOMSAT and from representing themselves as such.²²

Salonga, Araneta, Africa and Villanueva commenced in the CA a special civil action for *certiorari* to nullify the WPI issued by the SEC (C.A.-G.R. SP NO. 49205). On October 15, 1998, however, the CA dismissed the petition for *certiorari* because of the petitioners' failure to furnish a copy of the petition to the SEC. The dismissal became final and executory.²³

Still, Salonga, Araneta, Africa and Villanueva brought in the CA another petition assailing the WPI issued by the SEC (C.A.-G.R. SP No. 49328). The CA also dismissed their petition on October 26, 1999.²⁴

²⁰ Id.

²¹ Id. at 100.

²⁰ Id.

²² Id.

²³ Id.

²⁴ Id. at 100-101.

For their part, Nieto, Jr. and Lourdes Africa likewise went to the CA to assail the WPI issued by the SEC (C.A.-G.R. SP No. 49770), but on April 19, 2001, the CA dismissed the petition. Nieto, Jr. initially intended to appeal the dismissal, but the Court denied his motion for extension of time to file petition for review on *certiorari*.²⁵

Following the enactment of Republic Act No. 8799 (*Securities Regulation Code*),²⁶ SEC Case No. 09-98-6086 was transferred to the RTC in Makati City, which re-docketed it as Civil Case No. 01-840 and raffled it to Branch 138.²⁷

Meanwhile, on January 18, 1999, POTC held a Special Stockholders' Meeting, at which the following were elected as Directors of POTC, namely: Roberto S. Benedicto, Atty. Victor Africa, Sylvia Ilusorio, Honorio Poblador III, Cristina Agcaoili, Katrina Ponce Enrile, and Nieto, Jr. The elected Directors, except Nieto, Jr., eventually formed the Africa-Ilusorio Group. Thereafter, the Board of Directors held an organizational meeting during which they elected the following as the Officers of POTC, namely: Roberto S. Benedicto (Chairman); Atty. Victor Africa (Vice-Chairman); Sylvia Ilusorio (President); Katrina Ponce Enrile (Vice President); Rafael Poblador (Treasurer); Kitchie Benedicto (Assistant Treasurer); and Atty. Victoria de los Reyes (Corporate Secretary).²⁸

On December 20, 1999, the Sandiganbayan promulgated a resolution in SB Civil Case No. 009 denying IRC and Mid-Pasig's motions to vacate the order approving the compromise agreement, *viz*:

WHEREFORE, premises considered, third-party defendant Mid-Pasig's Motion to Vacate Resolution Approving Compromise Agreement dated August 16, 1998 and third party defendant Independent Realty Corporation's Manifestation and Motion dated October 2, 1998 and the redundant and inappropriate concurrence of the PCGG and the OSG are hereby denied for lack of merit.

The Court also declares all POTC shares in the name of Mid-Pasig and IRC as null and void. Accordingly, out of the 5,400 POTC shares, six hundred seventy three (673) is hereby directed to be issued in the name of Potenciano Ilusorio and four thousand seven hundred twenty seven (4,727) in the name of the Republic of the Philippines. The Board of Directors, President and Corporate Secretary of the POTC are hereby ordered to comply with this requirement within ten (10) days from receipt of this Resolution.²⁹

²⁵ Id. at 101.

²⁶ Approved on July 19, 2000.

²⁷ *Rollo* (G.R. No. 186066), p. 101.

²⁸ Id.

²⁹ Id. at 102.

In compliance with the resolution, POTC Corporate Secretary Victoria de los Reyes effected the cancellation of the shares registered in the names of IRC and Mid-Pasig and issued Certificate of Stocks No. 131 covering the 4,727 POTC shares in the name of the Republic. Thereafter, Certificate of Stocks No. 131 was transmitted to then Chief Presidential Legal Counsel and PCGG Chairman Magdangal Elma, who acknowledged receipt. Through its resolution dated January 12, 2000, the Sandiganbayan noted the POTC Corporate Secretary's compliance.³⁰

As earlier mentioned, the implementation of the Sandiganbayan's resolution dated December 20, 1999 resulted in the re-distribution of the shareholdings in POTC in the manner earlier shown.

On March 16, 2000, the PCGG filed in this Court its petition assailing the resolution of the Sandiganbayan dated December 20, 1999 (G.R. No. 141796 entitled *Republic of the Philippines, represented by the Presidential Commission on Good Government v. Sandiganbayan and Potenciano T. Ilusorio, substituted by Ma. Erlinda Ilusorio Bildner*).

IRC and Mid-Pasig also filed in this Court their own petition to assail the resolution dated December 20, 1999 (G.R. No. 141804 entitled *Independent Realty Corporation and Mid-Pasig Land Development Corporation v. Sandiganbayan and Potenciano T. Ilusorio, substituted by Ma. Erlinda Ilusorio Bildner*).

On March 29, 2000, this Court issued a TRO to enjoin the Sandiganbayan from executing its assailed resolution.³¹

On September 6, 2000, President Estrada nominated another set to the PHILCOMSAT Board of Directors, namely: Carmelo Africa, Federico Agcaoili, Pacifico Marcelo and Edgardo Villanueva. Thereby, Africa and Villanueva were retained as PHILCOMSAT Directors, while Agcaoili and Marcelo replaced Araneta and Salonga.³²

Subsequently, POTC, through the Africa-Bildner Group, decided to hold a Special Stockholders' Meeting on September 22, 2000. POTC Corporate Secretary de los Reyes issued a Notice of Meeting. Attempting to stop the Stockholders' Meeting, Nieto, Jr., Araneta and Salonga filed in this Court in G.R. No. 141796 and G.R. No. 141804 a Motion for Leave to Intervene with urgent manifestation for contempt of court, praying, among

³⁰ Id.

³¹ Id.

³² Id. at 103-104.

others, that POTC Corporate Secretary de los Reyes be cited in contempt and/or disbarred for issuing the Notice of Meeting.³³

The Special Stockholders' Meeting on September 22, 2000 was attended by stockholders representing 81.32% of the outstanding capital stock of POTC (including PCGG). During the meeting, a new set of POTC Board of Directors were elected, namely: Nieto, Jr., Katrina Ponce Enrile, Victor V. Africa, Sylvia K. Ilusorio, Honorio A. Poblador III, Carmelo Africa and PCGG Commissioner Jorge Sarmiento (the latter two being nominated by PCGG).³⁴

POTC then convened a Special Stockholders' Meeting of PHILCOMSAT, at which the following were elected as Directors: Nieto, Jr., Francisca Benedicto, Katrina Ponce Enrile, Sylvia Ilusorio, Honorio Poblador III, and government representatives Africa, Marcelo, Villanueva and Agcaoili (the latter four being nominated by PCGG).³⁵

In line with existing corporate policy requiring the elected Directors to accept their election before assuming their positions, all the elected Directors (including Nieto, Jr.) were requested to sign acceptance letters to be submitted to POTC Corporate Secretary de los Reyes. A few days later, however, Nieto, Jr. refused to accept and instead opted to assail the validity of the September 22, 2000 POTC Special Stockholders' Meeting.³⁶

By virtue of the September 22, 2000 elections, the Africa-Bildner Group, together with the PCGG nominees, took control of the management and operations of POTC and PHILCOMSAT.³⁷

In March 2002, President Gloria Macapagal-Arroyo named Enrique L. Locsin and Manuel D. Andal as new PCGG nominees to sit in the POTC and PHILCOMSAT Boards of Directors. Julio Jalandoni was named as the third new PCGG nominee to the PHILCOMSAT Board of Directors.³⁸

On April 29, 2002, POTC, through the Africa-Ilusorio Group, decided to hold a stockholders' meeting. Notices for the meeting were dispatched to all stockholders of record, including the Republic. However, the meeting was adjourned for failure to obtain a quorum because of the absence of several stockholders, including the proxy for the Republic.³⁹

³³ Id. at 104.

³⁴ Id.

³⁵ Id.

³⁶ Id. at 105.

³⁷ Id. at 106.

³⁸ Id.

³⁹ Id.

On December 3, 2003, Atty. Jose Ma. Ozamiz, a stockholder of PHC, sent a letter-complaint informing the SEC that PHC had not conducted its annual stockholders' meetings since 2001. His letter-complaint was docketed as SEC Case No. 12-03-03.⁴⁰

On December 29, 2003, the SEC issued the following Order in SEC Case No. 12-03-03, to wit:

PREMISES CONSIDERED, the Commission in the exercise of its regulatory authority over corporations and associations registered with it hereby issues the following directives:

1. The board of directors, responsible officers of Philcomsat Holdings, Inc (PHI) (sic) shall organize a COMELEC composed of three members within ten (10) days from date of actual receipt of this Order. One member to be nominated by the group of Atty. Jose Ma. Ozamiz, the second member to be nominated by the group of either Mr. Manuel H. Nieto or Mr. Carmelo P. Africa, Jr. and the third member a neutral party, to be jointly nominated by both groups. Failure on the part of the contending parties to designate their common nominee, the SEC shall be constrained to designate the neutral party.

x x x x.⁴¹

By letter dated January 8, 2004, Philip Brodett and Locsin communicated to the SEC that:

1. PHC and its directors and officers are not averse to the holding of meetings of its stockholders annually. PHC's inability to hold its annual stockholders' meeting in the past years can be attributed to the following: previous attempts of the group of Mesdames Cristina Ilusorio and Sylvia Ilusorio and Mr. Carmelo Africa (for brevity the "Ilusorio Group") to control PHC without legal basis; delay in the completion of PHC's audited financial statements for the years 2001, 2002 and 2003 was caused by the Ilusorio Group and the pending dispute as to who between the Ilusorio Group, on one hand, and the group of Ambassador Manuel Nieto, Jr. Philippine Government, on the other, properly constitutes the governing board of directors and officers of the parent companies of PHC's, namely the Philcomsat and POTC;

Considering the aforesaid pending dispute as to who really controls the mother companies of PHC, it would be advisable and practicable that the annual meetings of the stockholders and the election of the directors and officers of Philcomsat and POTC should precede those of PHC. In view thereof, and for practical reasons and good order's sake, it was suggested that perhaps the Commission should direct the holding of the annual stockholders' meetings and election of directors and officers of both Philcomsat and POTC at a date or dates prior to those of PHC.

⁴⁰ Id.

⁴¹ Id. at 107

x x x x

4. x x x. Considering the foregoing, it is believed and humbly submitted that the 'COMELEC' directed to be organized under the Order is unnecessary considering that its would-be functions (we note that the Order did not state what are the functions of said COMELEC) can and will be performed by the Nomination Committee and the special committee of inspectors.

Considering the foregoing, it is respectfully requested and prayed that the said Order dated 5 January 2004 of the Commission be reconsidered and set aside. To enable PHC to hold an orderly and controversy-free meeting of its stockholders and election of directors this year, it is likewise requested that the Commission first direct and cause PHC's parent companies, namely Philcomsat and POTC, to hold their respective stockholders' meeting and election of directors and officers prior to those of PHC.⁴²

On May 6, 2004, the SEC ruled as follows:

Based on the foregoing premises, the Commission, in the exercise of its regulatory authority as well as supervision corporations and pursuant to its power under Section 5 (k) of the Securities Regulation Code (SRC) which states: "*Compel the officers of any registered corporation or association to call meetings of stockholders or members thereof under its supervision,*" hereby orders the following:

1. The board of directors, responsible officers of Philcomsat Holdings, Corporation ("PHC") shall immediately convene the COMELEC to consider the proposed election and annual meeting of subject corporation.

2. The board of directors and other responsible PHC officers are also enjoined to prepare proper notices of the intended annual meeting and all the necessary documents required by Section 20 of the SRC rules within the stated period provided thereunder in time for the scheduled annual meeting set by the Commission.

3. For the purpose of the meeting, Attys. Myla Gloria C. Amboy and Nicanor Patricio are hereby designated as the SEC representatives to observe the PHC meeting.

4. The PHC and all its responsible directors or officers are hereby directed to hold a meeting for the purpose of conducting the election of the board of directors of the PHC on 28 May 2004 at 10:00 a.m. To be held at the principal office of the corporation.

5. Failure on the part of the authorized person to set/call the meeting within five (5) days from date hereof, Atty. Ozamiz shall be authorized to call the meeting and to provide other stockholders with notice required under the Corporation Code, the Securities Regulation Code and By-laws of the corporation. In such event, Atty. Ozamiz shall preside in said

⁴² Id. at 107-109.

meeting until at least a majority of the PHC stockholders present shall have chosen one of their members as the presiding officer in the meeting.

6. The board of directors and authorized officers of PHC are hereby directed for the last time to submit the calendar of activities for the forthcoming meeting within five (5) days from date of this Order. The petitioning stockholder, Atty. Ozamiz, is likewise directed to submit his proposed calendar of activities which shall be used in case of failure on the part of PHC to submit the aforesaid calendar.⁴³

On June 7, 2004, the SEC received PCGG's comment through Commissioner Victoria A. Avena, to wit:

1. For the sake of accuracy, we respectfully draw attention to the fact that Messrs. Enrique L. Locsin and Manuel Andal are nominee-directors representing the Republic of the Philippines, through the PCGG, in the board of directors of the Philippine Overseas Telecommunications Corporation ("POTC") and the board of directors of Philippine Communications Satellite Corporation ("Philcomsat"), but not of Philcomsat Holdings Corporation ("PHC"). The third government nominee-director in Philcomsat is Mr. Julio Jalandoni. In February of 2004, Mr. Guy de Leon was nominated by President Gloria Macapagal-Arroyo as a third director for POTC in the event elections.

2. Based on the records of PCGG, it is true and correct that POTC has not held an uncontested annual meeting since its last uncontested stockholders' meeting in the year 1999.

3. Based on records of PCGG, it is true and correct that Philcomsat has not had an uncontested annual meeting since its special stockholders' meeting in the year 2000.

4. The Republic owns forty percent (40%) of the outstanding capital stock of POTC; Philcomsat is a wholly-owned subsidiary of POTC; and Philcomsat owns approximately eighty-five percent (85%) of the outstanding capital stock of PHC.

5. Because of the non-holding of elections for the board of directors of POTC, Philcomsat and PHC, the incumbent respective boards thereof have been holding office as "hold-over" directors, and opposing stockholders have contested their legitimacy.

6. The incumbent board of directors having actual corporate control of POTC and Philcomsat have invited government nominee-directors Messrs. Locsin and Andal, and Mr. Julio Jalandoni in respect of Philcomsat, to respectively occupy seats in said boards rendered vacant by resignations.

7. However, Messrs. Locsin, Andal and Jalandoni have not physically and actually assumed said positions, because of their request for assumption thereof on the basis of election for the board of directors through stockholders' meetings for the purpose.

⁴³ Id. at 109-110.

8. In view of the ownership structure of POTC, Philcomsat and PHC and the rump boards that have resulted over the years, the more judicious mode towards a truly fair election of directors based on an accurate identification of stockholder representation in PHC (including in respect of government shares) would be to determine issues of representation in Philcomsat and POTC.

9. Accordingly, annual stockholders' meetings and election of directors of the board must first be held for POTC, and then for Philcomsat, then for PHC.⁴⁴

On July 8, 2004, the SEC directed thuswise:

On the bases of the mandatory provision of Sec. 50 of the Corporation Code on calling of annual meeting and the PCGG's comment/manifestation which should be given weight, the following are hereby directed to:

1. POTC and Philcomsat, their respective board of directors or their duly authorized representatives are hereby directed to constitute, within ten (10) days from the date of actual receipt hereof, their COMELEC to be composed of the PCGG nominee/director to act as the neutral party, a representative from the Africa Group and one representative from Nieto Group to perform any and all acts necessary for the determination of the legitimate stockholders of the corporation qualified to vote or be represented in the corporate meetings and ensure a clean, orderly, and credible election of POTC and Philcomsat.

2. POTC is likewise directed to conduct its annual stockholders' meeting not later than 5 August 2004 while Philcomsat shall hold its annual stockholders' meeting on or before 12 August 2004. Thereafter, PHC shall call its annual stockholders' meeting not later than August 31, 2004.

3. PHC, on the other hand, its board of directors or duly authorized representative are ordered to submit a revised calendar of activities for the forthcoming 31 August 2004 annual stockholders' meeting within five (5) days from actual receipt of this Order. The said date for the Annual Stockholders' Meeting shall not be postponed unless with prior Order of the Commission. A nomination's (sic) Committee (NOMELEC) shall be constituted pursuant to the corporation's Manual on Corporate Governance submitted to this Commission. This Committee shall be composed of three (3) voting members and one (1) non-voting member in the person of the HR Director/Manager pursuant to x x x section 2.2.2.1 of the said Manual. One representative each from the Africa Group and the Nieto Group and a nominee/representative of the PCGG (to act as an independent member) shall comprise three (3) voting members. The committee shall perform the functions outlined in Sections 2.2.2.1.1, 2.2.2.1.2, 2.2.2.1.3 and 2.2.2.1.4 of the Manual in connection with the forthcoming election. Failure to submit the names of the representative of each group within ten (10) days from receipt of this Order shall authorize the Commission to appoint persons to represent each group. Failure or refusal on the part of the

⁴⁴ Id. at 110-111.

corporation to hold the stockholders' meeting on the scheduled date shall authorize the petitioning shareholder to call and preside in the said meeting pursuant to Section 50 of the Corporation Code. All previous orders inconsistent herewith are hereby revoked.

4. Let the Corporate Finance Department (CFD) of this Commission be furnished with a copy of this Order for its appropriate action on the matter.

5. To ensure protection of the interest of all outstanding capital stocks, including minority shareholders, Attys. Nicanor P. Patricio Jr. and Myla Gloria A. Amboy are hereby designated as SEC representatives to attend and supervise the said Annual Stockholders' Meeting.⁴⁵

On July 26, 2004, the SEC clarified its immediately preceding order, as follows:

Pending consideration by the Commission is the letter dated 22 July 2004 of Mr. Enrique Locsin, Nominees/Director of the Presidential Commission on Good Government To POTC and Philcomsat, seeking to enjoin the holding of any and all meetings of POTC, Philcomsat and/or PHC, contrary to the 8 July 2004 SEC Order and requesting the correction of the date of the Order cited in the 22 July 2004 Stay Order.

In order to clarify the Order issued by the Commission on July 8, 2004 and 22 July 2004, the following explications are hereby made:

First. The SEC Order of 8 July 2004 which states in part:

POTC is likewise directed to conduct its annual stockholders' meeting not later than 5 August 2004 while Philcomsat shall hold its annual stockholders' meeting on or before 12 August 2004. Thereafter, PHC shall call its annual stockholders' meeting not later than August 31, 2004, should be interpreted to mean that the stockholders' meeting of POTC, Philcomsat and PHC should be held successively, in the order mentioned, that is, POTC first, then Philcomsat, and lastly, PHC. This was the intention of the Commission in issuing the said Order (July 8, 2004).

To further clarify and ensure that the meetings shall be conducted on specific dates, the Order of July 8, 2004 is hereby modified and the dates of the meetings are hereby scheduled as follows:

1. For POTC — July 28, 2004
2. For Philcomsat — August 12, 2004
3. For PHC — August 31, 2004

Second. One of the relevant orders was inadvertently referred to in the Stay Order of 22 July 2004 as "June 8, 2004," which should have been actually written as "July 8, 2004." Hence, the same should be properly corrected.

⁴⁵ Id. at 111-112.

Accordingly, POTC, Philcomsat and Philcomsat Holdings Corporation (PHC) are hereby reminded to strictly adhere to the schedule dates of meetings of the said corporations set forth in this Order. POTC, Philcomsat and PHC are further reminded to also comply with the manner of the conduct of their respective meetings as provided in the Order of the Commission dated July 8, 2004.

As requested, let the 22 July 2004 Stay Order, particularly paragraphs 1, 2, and 3 thereof, be corrected to reflect the correct date of the Order cited therein as **“July 8, 2004” not “June 8, 2004.”**⁴⁶

On July 28, 2004, the Africa-Bildner Group held successive stockholders’ meetings for POTC and PHILCOMSAT. Elected as Directors during the POTC stockholders’ meeting were Katrina Ponce Enrile, Victor Africa, Erlinda Bildner and Honorio Poblador III, all from the Africa-Bilder Group. Although absent from the meeting, Nieto, Jr., Locsin and Andal of the Nieto-PCGG Group were also elected as Directors. Resultantly, the groups were represented on a 4:3 ratio. Victor Africa was designated as the POTC proxy to the PHILCOMSAT stockholders’ meeting. Locsin and Andal were also elected as PHILCOMSAT Directors. However, Nieto, Jr., Locsin and Andal did not accept their election as POTC and PHILCOMSAT Directors.⁴⁷

On August 5, 2004, the Nieto-PCGG Group conducted the annual stockholders’ meeting for POTC at the Manila Golf Club. Elected were Nieto, Jr. as President and Guy de Leon, a government nominee to POTC, as Chairman. At the same meeting, the Nieto-PCGG Group, through its elected Board of Directors, issued a proxy in favor of Nieto, Jr. and/or Locsin authorizing them to represent POTC and vote the POTC shares in the PHILCOMSAT stockholders’ meeting scheduled on August 9, 2004.⁴⁸

On August 9, 2004, the Nieto-PCGG Group held the stockholders’ meeting for PHILCOMSAT at the Manila Golf Club. Immediately after the stockholders’ meeting, an organizational meeting was held, and Nieto, Jr. and Locsin were respectively elected as Chairman and President of PHILCOMSAT. At the same meeting, PHILCOMSAT (Nieto-PCGG Group) issued a proxy in favor of Nieto, Jr. and/or Locsin authorizing them to represent PHILCOMSAT and vote the PHILCOMSAT shares in the stockholders’ meeting of PHC scheduled on August 31, 2004.⁴⁹

On August 11, 2004, POTC (Africa-Bildner Group), Victor Africa, Honorio Poblador III and Katrina Ponce Enrile filed a Complaint for injunction with prayer for TRO and WPI in the RTC in Makati City (Branch 133) against Nieto, Jr., Luis Lokin, Jr., and Alma Kristina O. Alobba seeking

⁴⁶ Id. at 112-113.

⁴⁷ Id. at 113-114.

⁴⁸ Id. at 114.

⁴⁹ Id.

to enjoin the latter from acting as Directors and Officers of POTC (Civil Case No. 04-935).

On August 27, 2004, the RTC (Branch 133) dismissed Civil Case No. 04-935 for lack of jurisdiction over the subject matter, explaining its action thusly:

X X X X

After a perusal of the complaint and of the memoranda filed, with particular attention on the authorities cited, the Court is of the opinion that it has no jurisdiction over the case but the Sandiganbayan.⁵⁰

X X X X

Thereafter, the Africa-Bildner Group filed a motion for reconsideration.

Earlier, on August 18, 2004, PHC (Nieto-PCGG Group) submitted to the SEC a final list of candidates for Independent Directors of PHC for the 2004-2005 term, to wit:

Please be informed that in connection with the annual stockholders' meeting of PHILCOMSAT HOLDINGS CORPORATION (PHC) to be held on August 31, 2004, and in compliance with the Order dated 8 July 2004 of the Securities and Exchange Commission in SEC Case No. 12-03-03 entitled "In the matter of Philcomsat Holdings Corporation, For: Calling of Meeting," the Board of Directors of PHC, at its meeting today constituted the Nomination Committee with the following persons as its members:

Voting Members:

1. Luis K. Lokin, Jr. (representative of the Nieto Group)
2. Enrique L. Locsin (representative of the PCGG)
3. Vacant (to be designated by the Securities and Exchange Commission in default of the designation of representative by the Africa group)

Non-voting member:

1. Philip G. Brodett

The said Nomination Committee which shall act upon the affirmative vote of at least two (2) of its voting members, shall have the following powers, duties and functions:

⁵⁰ Id. at 114-115.

(1) To pre-screen and shortlist all candidates nominated to become members of the board of directors in accordance with the qualifications and disqualifications and the procedures prescribed in the Corporation's Manual on Corporate Governance and the Securities Regulation Code (SRC) and its Implementing Rules and Regulations (SRC Rules);

(2) To submit to the Securities and Exchange Commission and the Philippine Stock Exchange the Final List of candidates for Independent Directors as required under the SEC Rules;

(3) To act as the committee of inspectors with powers to pass upon the validity of proxies, to canvass and tally the votes for the election of directors and to certify the winning directors based on the votes garnered;

(4) To do such acts or things as may from time to time be directed or delegated by the Board.⁵¹

On August 20, 2004, the SEC issued an order, pertinently stating:

On separate dates, the group of Atty. Victor Africa ("Africa Group") and the group of Ambassador Nieto ("Nieto group") conducted their respective annual stockholders' meetings. The Africa group held successive meetings for POTC and Philcomsat on July 28, 2004, while the Nieto group held similar meetings for POTC and Philcomsat on August 5 and August 9, respectively. On all these meetings, where the SEC representative was present (except the Philcomsat meeting of the Africa group), the Commission noted the following observations:

x x x x

In light of the foregoing, the Commission hereby upholds the validity of the stockholders' meetings conducted by the Nieto Group in view of the clear compliance by the said group with the condition set forth by the Commission in its Orders of July 8 and 26, 2004.

Meanwhile, the PHC meeting shall proceed as scheduled on August 31, 2004. The Officers and Directors of PHC are hereby reminded to strictly conform to the conditions stated in the July 8 and 26 Orders.

The President and the Corporate Secretary of PHC and its Stock and Transfer Agent are hereby ordered to submit to the Commission the certified list of stockholders and the stock and transfer book of PHC on or before August 25, 2004.

Due to the failure of the Africa group to nominate their representative to the PHC NOMELEC, Atty. Victoria De Los Reyes is hereby designated as the representative of the Africa group in the forthcoming August 31, 2004 PHC meeting.

The Corporation Finance Department is hereby directed to monitor PHC's compliance with the laws, rules and regulations relative to the

⁵¹ Id. at 115-116.

calling of the stockholders' meeting and to make the necessary action to ensure such compliance.

The Orders of 8 July 2004 and 26 July 2004 insofar as not inconsistent with this Order shall remain in full force and effect.⁵²

On August 23, 2004, the Africa Group commenced Civil Case No. 01-555 in the RTC in Makati City (Branch 61), praying for the issuance of a TRO or WPI to “enjoin Philcomsat Holdings Corporation from recognizing defendants Nieto[, Jr.] and Lokin as the representatives of PHILCOMSAT,” and to prevent Nieto, Jr. and Lokin from acting as Directors and Officers for and on behalf of POTC and PHILCOMSAT.

On August 30, 2004, the RTC denied the motion for the issuance of TRO and WPI.⁵³

On August 26, 2004, the Nomination Committee (NOMELEC) of PHC (Nieto Group) met to conduct the validation of the proxies and the evaluation and prequalification of the nominees for election as Independent Directors. After a majority vote of its voting members, the NOMELEC recognized and validated the proxy submitted by Locsin.

On August 27, 2004, the Nieto Group submitted to the SEC the final list of candidates for Independent Directors of PHC for the term 2004-2005. The list contained the names of Benito Araneta and Roberto Abad, both nominated by Brodett. The list was submitted by NOMELEC members Lokin, Jr., Locsin and Brodett.

On the same date, POTC and PHILCOMSAT (Africa Group), through Atty. Victor Africa, filed in the CA a petition for *certiorari* and prohibition (with prayer for TRO and WPI) seeking to annul and set aside the orders issued on July 8, 2004, July 26, 2004 and August 20, 2004 issued in SEC Case No. 12-03-03 (C.A.-G.R. SP No. 85959).⁵⁴

On August 31, 2004, the CA promulgated in C.A.-G.R. SP No. 85959 a resolution granting a TRO, pertinently stating:

In the meantime, since the petition questions the jurisdiction of public respondents in issuing the assailed Orders dated July 8, 2004, July 26, 2004 and August 20, 2004, and the implementation of the same will render moot and academic any and all orders, resolutions and decisions of this Court, this Court hereby TEMPORARILY RESTRAINS respondents, their officers, agents and other persons acting for and in their behalf, from

⁵² Id. at 116-118.

⁵³ Id. at 118.

⁵⁴ Id. at 118-119.

enforcing, implementing and executing the aforesaid assailed Orders within a period of sixty (60) days or until sooner revoked.⁵⁵

The CA later granted the application for WPI, and enjoined the respondents therein, their agents, officers, representatives and other persons acting for and in their behalf from executing, enforcing and implementing the assailed SEC orders issued on July 8, 2004, July 26, 2004 and August 20, 2004 pending final resolution of the petition, or unless the WPI was sooner lifted.⁵⁶

Also on August 31, 2004, the PHC (Nieto Group) conducted its annual stockholders' meeting. The Officers elected were Locsin as Director and Acting Chairman; Oliverio Laperal as Director and Vice Chairman; Nieto, Jr. as Director, President and Chief Executive Officer; Brodett as Director and Vice President; Manuel D. Andal as Director, Treasurer and Chief Financial Officer; Roberto San Jose as Director and Corporate Secretary; Julio Jalandoni, Lokin, Jr., Prudencio Somera, Roberto Abad, and Benito Araneta as Directors.⁵⁷

On September 10, 2004, PHILCOMSAT (Africa Group), represented by Victor Africa, filed in the RTC in Makati City (Branch 138) a complaint against PHC, Lokin, Jr., Locsin and Brodett (Civil Case No. 04-1049) seeking the following reliefs, to wit:

1. The proceedings of the Nomination Committee be invalidated for having been in violation of the Manual of Corporate Governance of defendant PHC;
2. The act of the Nomination Committee in validating the proxy issued in favor of Manuel Nieto and/or defendant Enrique Locsin and in invalidating the proxy issued in favor of Victor Africa be annulled;
3. The elections held and the proclamation of winners during the Annual Stockholders' Meeting of defendant PHC held on 31 August 2004 be annulled;
4. Defendant PHC be directed to recognize Atty. Victor Africa as the proxy of plaintiff and that he be allowed to vote the shares standing in the name of plaintiff at subsequent elections for the members of the board of directors of defendant PHC.⁵⁸

On October 21, 2004, PHILCOMSAT (Nieto Group) and Lokin, Jr. filed their Answer with Grounds for Dismissal and Compulsory Counterclaims, averring therein, among others, as follows:

⁵⁵ *Rollo* (G.R. No. 184622), pp. 277-278.

⁵⁶ *Id.* at 279-282.

⁵⁷ *Rollo* (G.R. No. 186066), p. 120.

⁵⁸ *Id.* at 120-121.

37. The instant complaint must be **DISMISSED** for lack of capacity and/or authority of the alleged representative, Victor V. Africa, to file the same and sue the defendants on behalf of Philcomsat.

38. While the Complaint names Philcomsat as the plaintiff, allegedly represented by Victor Africa, at no time did [P]hilcomsat, through its duly constituted Board of Directors, authorize him to file the same.

39. Victor Africa bases his authority upon the Secretary Certificate, alleging that the Philcomsat Board of Directors, during its meeting held on 28 July 2004, authorized him to file legal actions on behalf of the corporation.

40. It is respectfully averred, however, that Philcomsat, through its duly constituted Board of Directors DID NOT HOLD any meeting on 28 July 2004, and DID NOT AUTHORIZE Africa to file any action or to do any act or deed on its behalf. The Secretary's Certificate he represented is not signed by Atty. Luis K. Lokin, Jr., the duly-elected Corporate Secretary of Philcomsat.

x x x x

50. There was no Philcomsat Board meeting held or authorized to be held on 28 July 2004. Neither was there any authority vested upon Victor Africa to file this nuisance suit, which is only aimed at needlessly harassing defendants and the other lawful stockholders of Philcomsat and PHC and the public at large.

51. For lack of any factual and legal basis of the alleged authority of the person instituting and verifying the instant complaint, it must be declared as a NUISANCE SUIT and immediately DISMISSED by the Honorable Court, pursuant to Section 1 (b) of the Interim Rules.

52. Furthermore, not only does Africa lack any authority to file the instant action, the complaint itself is devoid of any meritorious legal basis.

53. The relevant facts are as follows: In 2003, a stockholder of PHC filed a letter-complaint (later docketed as SEC Case No. 12-03-03) with the SEC, alleging the non-holding of the annual stockholders' meeting since 2002. Hearings were conducted wherein the officers and directors of POTC and Philcomsat were required to be present and to file their comments. Victor Africa actively participated in the proceedings before the SEC, in his alleged capacity as officer of POTC, Philcomsat and PHC.

54. In view of the government interest in POTC which is the sole beneficial owner of Philcomsat, which in turn, is the 80% stockholder of PHC, and the fact that POTC and Philcomsat are under sequestration, the PCGG was likewise directed to file their comments on the matters raised by the parties. PCGG, through then Commissioner Victoria Avena, asserted that the government holds 40% interest in POTC. x x x.

55. Thereafter, the SEC issued the aforestated Order on 08 July 2004, directing the officers of POTC and Philcomsat to conduct their respective stockholders' meetings. Before the rendition of the 08 July 2004

Order, the Africa group did not conduct any stockholders' meeting of POTC or Philcomsat, but they would later claim that they had agreed, as early as 02 July 2004, to hold the meetings on 08 July 2004. Given the timing of the meeting, however, which was held after the 08 July 2004 SEC Order, no credence could be given to such self-serving claim. The timing and dates are more than mere convenient coincidences.

56. After POTC and Philcomsat duly held their respective stockholders' meetings on 05 August 2004 and 09 August 2004, the SEC upheld the validity of their meetings in its Order dated 20 August 2004.

57. Thereafter, Africa initiated a series of actions in different tribunals in an attempt to basically prevent the POTC and Philcomsat Directors and Officers from acting in their capacity as such.⁵⁹

On November 18, 2004, PCGG expressly adopted the Answer of PHILCOMSAT (Nieto Group) as its own Answer in Civil Case No. 04-1049.⁶⁰

On December 7, 2004, the RTC denied the Africa Group's Motion for Reconsideration assailing the order issued on August 27, 2004 in Civil Case No. 04-935.

Whereupon, POTC (Africa Group) went to the CA on *certiorari* to annul and set aside the orders issued on August 27, 2004 and December 7, 2004 in Civil Case No. 04-935 by the RTC (Branch 133). The suit, docketed as C.A.-G.R. SP NO. 88664, was dismissed by the CA on July 5, 2005, the decision pertinently stating:

x x x We thus have to address one crucial issue: Was the lower court correct in ruling that the Sandiganbayan had jurisdiction over the instant case?

It was.

It must be stressed that the petitioners' complaint essentially questions the legality by which the private respondents are exercising control over the assets and operations of a sequestered corporation. They posit that the private respondents are usurpers and have no right to sit in the board of directors or act as corporate officers of the POTC. Evidently, these issues are "arising from, incidental to, or related to" the sequestration case against POTC which, under the law, should be addressed by the Sandiganbayan.

x x x x

All told, the lower court did not commit grave abuse of discretion amounting to lack of or in excess of jurisdiction in dismissing the instant

⁵⁹ Id. at 121-122.

⁶⁰ Id. at 122.

complaint for lack of jurisdiction, the same being vested in the Sandiganbayan.⁶¹

On June 15, 2005, this Court rendered its decision in G.R. No. 141796 and G.R. No. 141804 by affirming the validity of the compromise agreement dated June 28, 1996 between the PCGG and Atty. Ilusorio, holding:

With the imprimatur of no less than the former President Fidel V. Ramos and the approval of the Sandiganbayan, the Compromise Agreement must be accorded utmost respect. Such amicable settlement is not only allowed but even encouraged. x x x.

Having been sealed with court approval, the Compromise Agreement has the force of *res judicata* between the parties and should be complied with in accordance with its terms. Pursuant thereto, Victoria C. de los Reyes, Corporate Secretary of the POTC, transmitted to Mr. Magdangal B. Elma, then Chief Presidential Legal Counsel and Chairman of PCGG, Stock Certificate No. 131 dated January 10, 2000, issued in the name of the Republic of the Philippines, for 4,727 POTC shares. Thus, the Compromise Agreement was partly implemented.⁶²

On July 5, 2005, the Africa Group, citing the decision in G.R. No. 141796 and G.R. No. 141804, filed a Manifestation with Ex-Parte Motion to Resolve in Civil Case No. 04-1049.⁶³

Also on July 5, 2005, the CA promulgated its decision in C.A.-G.R. SP No. 88664, dismissing the petition for *certiorari* (brought to assail the dismissal by the RTC (Branch 133) of the complaint in Civil Case No. 04-935).⁶⁴

On August 18, 2005, PHILCOMSAT (Nieto Group), through Locsin, submitted a Counter-Manifestation, contending that the decision in G.R. No. 141796 and G.R. No. 141804 did not operate to automatically nullify the proceedings during the stockholders' meeting of PHC on August 31, 2004.⁶⁵

On August 19, 2005, the RTC (Branch 138), apprised of the pendency of motions for reconsideration in G.R. No. 141796 and G.R. No. 141804, held in abeyance its action upon the parties' respective manifestations until after the resolution of the pending motions for reconsideration.⁶⁶

⁶¹ Id. at 123.

⁶² Id. at 123-124.

⁶³ Id. at 124.

⁶⁴ Id. at 180-188; penned by Associate Justice Conrado M. Vasquez, Jr. (later Presiding Justice, but since retired), with the concurrence of Associate Justice Rebecca De Guia-Salvador and Associate Justice Aurora Santiago Lagman (retired).

⁶⁵ Id. at 124.

⁶⁶ Id. at 124-125.

On September 7, 2005, the Court denied the motions for reconsideration in G.R. No. 141796 and G.R. No. 141804, stating:

Obviously, petitioners' motions for reconsideration are devoid of merit. The matters they raise are mere reiterations of the previous arguments in their petitions already considered and exhaustively passed upon in our July 27, 2005 (sic) Decision. Indeed, we find no cogent reason to deviate from our Decision.

As regards the second incident, respondent Bildner seeks a clarification on the effect of the TRO, issued by this Court on March 29, 2000, restraining the implementation of the challenged Sandiganbayan Resolution dated December 20, 1999 in Civil Case No. 0009.

It may be recalled that in our June 15, 2005 Decision, we dismissed these consolidated petitions assailing the Sandiganbayan Resolution of December 20, 1999. This Resolution (1) denied petitioners' separate motions to vacate the Sandiganbayan Order dated June 8, 1998 approving the Compromise Agreement; (2) declared the 5,400 POTC shares registered in the names of petitioners IRC and MLDC null and void as they categorically admitted that such shares are ill-gotten wealth of deposed President Marcos and his Family, and that the same were surrendered to the Government which now owns the same; and (3) ordered the Corporate Secretary of POTC, within 10 days from receipt of the Resolution, to issue 4,727 POTC shares in the name of the Republic, and 673 POTC shares in the name of Potenciano Ilusorio, pursuant to the approved Compromise Agreement. In compliance with the Sandiganbayan Resolution, Atty. Victoria C. de los Reyes, Corporate Secretary of the POTC, on January 10, 2000, transmitted to Mr. Justice Magdangal B. Elma, then Chief Presidential Legal Counsel and Chairman of Philippine Commission on Good Government (PCGG), Stock Certificate No. 131 (of even date) issued in the name of the Republic of the Philippines, for 4,727 POTC shares. Thus, the Compromise Agreement was partly implemented.

In her present motion for clarification, respondent Bildner alleges *inter alia* that, on March 29, 2000 or more than two (2) months after the Compromise Agreement had been implemented on January 10, 2000, this Court issued a TRO restraining its implementation.

There is no need for us to make a clarification being sought by respondent Bildner in her motion. Suffice it to say that when the TRO was issued on March 29, 2000, the Sandiganbayan Resolution of December 20, 1999 directing the issuance of POTC shares in the names of the Republic and Potenciano Ilusorio in accordance with the Compromise Agreement had been partially implemented on January 10, 2000 or more than two (2) months earlier by POTC Corporate Secretary Victoria C. de los Reyes. She already transmitted to then PCGG Chairman Magdangal B. Elma Stock Certificate No. 131 issued in the name of the Republic of the Philippines, for 4,727 POTC shares. This was never mentioned by petitioners in their petitions. In fact, even before the petitions in these cases were filed, the implementation of the Compromise Judgment had been partially effected. We were thus misled in issuing the TRO. In any case, the TRO has become moot and academic, the same having no more legal force as the act sought to be restrained had been partially implemented and considering our Decision in this case.

WHEREFORE, petitioners' instant motions for reconsideration are DENIED with FINALITY. On respondent Bildner's motion for clarification, the same is considered moot and academic.⁶⁷

In the meantime, the RTC (Branch 138) required the parties to submit their respective memoranda in Civil Case No. 04-1049. Both parties complied.⁶⁸

On September 14, 2005, the Africa Group brought a special civil action for *certiorari* and *prohibition* in this Court assailing the decision promulgated on July 5, 2005 in C.A.-G.R. SP No. 88664 (G.R. No. 171799).⁶⁹

On September 22, 2005, POTC and PHILCOMSAT (Africa-Ilusorio Group) elected a new set of Directors and Officers. Ma. Erlinda I. Bildner was elected as the Chairman of the Boards of Directors of both POTC and PHILCOMSAT.⁷⁰

On September 26, 2005, POTC and PHILCOMSAT (Nieto Group) initiated a Complaint for injunction and damages with prayer for TRO and WPI in the Sandiganbayan (SB Civil Case No. 0198).⁷¹

The Sandiganbayan issued a TRO in SB Civil Case No. 0198, enjoining the Africa-Ilusorio Group from acting as Officers and Directors of POTC and PHILCOMSAT.⁷²

On June 5, 2006, the Court dismissed G.R. No. 171799, viz:

Considering the allegations, issues and arguments adduced in the petition for certiorari and prohibition with prayer for writ of preliminary injunction and/or temporary restraining order dated 14 September 2005, the Court Resolves to DISMISS the petition for failure to sufficiently show that the questioned judgment of the Court of Appeals is tainted with grave abuse of discretion.⁷³

On October 14, 2006, the RTC (Branch 138) rendered its decision in Civil Case No. 04-1049, thus:

⁶⁷ Id. at 125-126.

⁶⁸ Id. at 126.

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id. at 127.

⁷² Id.

⁷³ Id. at 130.

In the case at bar, the Nieto Group did not specifically deny plaintiffs' allegation that their votes during the 2004 annual stockholders' meeting for POTC and Philcomsat mainly relied on the IRC and Mid-Pasig shares. Upon the promulgation of the above-cited Supreme Court Decision dated 15 June 2005, even as early as 1986, both IRC and Mid-Pasig corporations have no more right or interest over the subject POTC shares which was already surrendered by Jose Y. Campos to the Government. Mid-Pasig and IRC themselves were sequestered, and then voluntarily surrendered as part of the res covered by the Campos Compromise Agreement. Insofar as Mid-Pasig and IRC are concerned, they have already relinquished all rights or interest over all POTC shares registered in their names in favor of the Republic represented by PCGG, even as early as 1986. Hence, the Supreme Court Decision, in effect, invalidates the elections held by the Nieto Group in the annual stockholders' meeting of POTC and Philcomsat on 5 August 2004 and 9 August 2004, for not having the majority control of the said corporation. In turn, the defendant Nieto Group could not have, therefore, issued a valid proxy nor could they have appointed defendant Locsin as Philcomsat's representative to the PHC annual stockholders' meeting.

WHEREFORE, judgment is hereby rendered invalidating the proxy issued in favor Manuel Nieto and/or defendant Locsin for purposes of the Annual Stockholders' Meeting for the year 2004 and declaring the proxy issued in favor of Victor V. Africa for the said purpose, valid. Corollarily, the elections held and the proclamation of winners during the annual stockholders' meeting of defendant PHC held on 31 August 2004 is hereby annulled.⁷⁴

On October 23, 2006, the RTC (Branch 138) dismissed Civil Case No. 01-840 for lack of jurisdiction. Subsequently, the RTC (Branch 138) denied the petitioners' Motion for Reconsideration, and treated it instead as a notice of appeal.⁷⁵

On March 1, 2007, PHC (Nieto Group) and Brodett appealed the decision dated October 14, 2006 rendered in Civil Case No. 04-1049 to the CA *via* a petition for review (CA-G.R. SP NO. 98097). On March 27, 2007, the Africa-Ilusorio Groups submitted their comment (with opposition to the application for TRO and WPI).⁷⁶

On March 21, 2007, POTC and PHILCOMSAT (Nieto Group) brought to the CA a petition for *certiorari* (with prayer for TRO and WPI), similarly assailing the decision rendered on October 14, 2006 in Civil Case No. 04-1049 (C.A.-G.R. SP No. 98399).⁷⁷

On March 27, 2007, PHILCOMSAT (Africa Group) sought the execution of the decision rendered on October 14, 2006 in Civil Case No.

⁷⁴ Id. at 130-131.

⁷⁵ Id. at 131.

⁷⁶ Id.

⁷⁷ Id. at 132.

04-1049 by the RTC (Branch 138). Although on April 4, 2007, PHC (Nieto Group), Locsin and Brodett opposed the motion for execution, the RTC (Branch 138) granted the motion on April 12, 2007, to wit:

WHEREFORE, premises considered, the Court hereby grants the plaintiffs Motion. Let a writ of execution be issued directing the implementation of the following orders:

1) the individuals elected by defendant Locsin in the 2004 PHC ASM, and so proclaimed to be PHC's board of directors, namely: Enrique Locsin, Julio Jalandoni, Manuel Andal, Luis Lokin, Jr., Prudencio Somera, Jr., Manuel H. Nieto, Jr., Roberto V. San Jose, Philip Brodett, Oliverio Laperal, Benito Araneta and Roberto Abad and all their representatives or agents are enjoined from continuing to act as PHC board of directors;

2) the proxy of plaintiff issued to Victor V. Africa is declared valid and thus, the individuals elected by plaintiff's proxy in the 2004 PHC ASM namely: Victor V. Africa, Erlinda I. Bildner, Katrina Ponce Enrile, Honorio Poblador III, Federico Agcaoili, Sylvia K. Ilusorio and Jose Ma. Ozamiz are declared as the valid board of directors of PHC; and

3) the defendants are directed to render an accounting of funds of PHC since 2004 up to the present within 15 days from the finality of this Order.⁷⁸

On April 18, 2007, PHC (Nieto Group) and Brodett filed their Reply with Reiteration of the Urgent Application for Temporary Restraining Order and Preliminary Injunction in C.A.-G.R. SP NO. 98097. On April 20, 2007, they filed a Supplemental Petition with Urgent Application for Temporary Restraining Order and Preliminary Injunction, alleging that, upon motion of respondent (Africa Group), the RTC had issued an order dated April 12, 2007 directing the issuance of a writ of execution to implement the decision dated October 14, 2006.⁷⁹

On April 18, 2007, the RTC (Branch 138) issued a writ of execution of the decision dated October 14, 2006.⁸⁰

On April 24, 2007, the PHC (Africa Group) held an organizational meeting of its Board of Directors pursuant to the decision dated October 14, 2006 as well as the order dated April 12, 2007 and the writ of execution dated April 20, 2007, all issued in Civil Case No. 04-1049. At that organizational meeting, Victor V. Africa, Federico R. Agcaoili, Erlinda I. Bildner, Katrina C. Ponce Enrile, Sylvia K. Ilusorio, Honorio Poblador III, Jose Ozamiz, Prudencio Somera, Pablo Lobregat and Oliverio Laperal were elected as Directors. On the same occasion, the following were elected as

⁷⁸ Id. at 132-133.

⁷⁹ Id. at 133.

⁸⁰ Id.

Officers of PHC, namely: Honorio Poblador III as Chairman; Oliverio Laperal as Vice-Chairman; Erlinda I. Bildner as President; Lorna P. Kapunan as Vice President; Pablo Lobregat as Vice-President; Katrina Ponce Enrile as Treasurer; Rafael Poblador as Assistant Treasurer; John Benedict Sioson as Corporate Secretary; and Dennis R. Manzanal as Assistant Corporate Secretary.⁸¹

On April 30, 2007, PHILCOMSAT (Africa Group) filed an Urgent Motion to Lift the TRO in C.A.-G.R. SP No. 98399.⁸²

On May 2, 2007, PHC (Nieto Group) presented a Manifestation in C.A.-G.R. SP NO. 98097, alleging that they were informed that POTC and PHILCOMSAT had filed a petition dated March 14, 2007 in this Court which involved substantially the same issues raised in C.A.-G.R. SP No. 98097.⁸³

On May 10, 2007, the CA directed POTC and PHILCOMSAT (Nieto Group) to comment on the Urgent Motion to Lift the TRO filed in C.A.-G.R. SP NO. 98399.⁸⁴

On May 17, 2007, the CA issued a resolution in C.A.-G.R. SP No. 98097, to wit:

WHEREFORE, petitioners' application for a temporary restraining order/writ of preliminary injunction to enjoin the execution of the Decision dated October 14, 2006 of the court a quo in Civil Case No. 04-1049 is merely NOTED as the same has been rendered moot and academic.

The issues having been joined with the filing of the comment and reply, the petition for review is considered submitted for decision.⁸⁵

On June 8, 2007, the CA dismissed the petition in C.A.-G.R. CV NO. 88360 for being an improper mode of appeal.⁸⁶

On June 12, 2007, POTC and PHILCOMSAT (Nieto Group) filed their Reply with Urgent Motion to Resolve the Application for Preliminary Injunction in CA-G.R. SP No. 98399. The CA granted the Urgent Motion to Resolve on June 25, 2007, and issued the WPI on the same date.⁸⁷

⁸¹ Id. at 133-134.

⁸² Id. at 134.

⁸³ Id.

⁸⁴ Id. at 135.

⁸⁵ Id.

⁸⁶ Id.

⁸⁷ Id. at 136.

On August 17, 2007, POTC and PHILCOMSAT (Africa-Illusorio Group) brought a petition for *certiorari* to annul and set aside the CA's resolution dated June 25, 2007 in C.A.-G.R. SP No. 98399.⁸⁸

Earlier, on August 15, 2007, the Sandiganbayan issued its resolution dismissing the Complaint of POTC and PHILCOMSAT (Nieto Group) in SB Civil Case No. 0198, to wit:

WHEREFORE, in view of the foregoing, the Court hereby resolves as follows:

1) The Urgent Motion to Dismiss dated September 29, 2005 of the defendant is hereby GRANTED. Accordingly, the plaintiffs' Complaint dated September 20, 2005 is hereby ordered DISMISSED.

2) The following motions and pleadings are considered MOOT AND ACADEMIC in view of the dismissal of the case.

a. Motion to Consider and Declare Defendants in Default dated October 21, 2005 of the plaintiffs;

b. Motion for Consolidation with SB Civil Case No. 0009 dated September 24, 2006 of the plaintiffs;

c. Petition to Show Cause dated April 25, 2007 filed by the plaintiffs; and

d. Motion for Leave to Intervene and to Admit Complaint-In-Intervention dated May 16, 2007 filed by the PCGG.

3) The Court hereby REPRIMANDS Enrique L. Locsin and Atty. Sikini C. Labastilla for omitting material facts in their Complaint and Urgent Motion for Special Raffle and WARNS that a repetition of the same or similar acts in the future shall be dealt with more severely.⁸⁹

POTC and PHILCOMSAT (Nieto Group) moved for reconsideration on September 5, 2007, and later supplemented the motion.⁹⁰

On November 5, 2007, Atty. Sikini C. Labastilla filed in the CA a petition to cite Erlinda I. Bildner and her lawyer Atty. Dennis R. Manzanal for indirect contempt of court (C.A.-G.R. SP No. 101225), and prayed that the petition be consolidated with C.A.-G.R. SP No. 98399. The consolidation was allowed on December 12, 2007.⁹¹

⁸⁸ Id.

⁸⁹ Id. at 137-138.

⁹⁰ Id. at 138.

⁹¹ Id.

On November 13, 2007, President Arroyo named new nominees to the POTC Board of Directors, namely: Daniel C. Gutierrez, Allan S. Montaña, and Retired Justice Santiago J. Ranada; and to the PHILCOMSAT Board of Directors, namely: Ramon P. Jacinto, Abraham R. Abesamis, and Rodolfo G. Serrano, Jr.⁹²

On November 19, 2007, POTC held its Annual Stockholders' Meeting and Organizational Meeting of the Board of Directors. Elected were Daniel C. Gutierrez as Director and Chairman; Erlinda I. Bildner as Director and Vice Chairman; Katrina Ponce Enrile as Director and President/CEO; Marietta K. Ilusorio as Director and Treasurer; Francisca Benedicto Paulino, Pablo L. Lobregat, Allan Montaña, Honario A. Poblador III and Justice Ranada as Directors; Rafael A. Poblador as Assistant Treasurer; and Victoria C. de los Reyes as Corporate Secretary.⁹³

On the same date, PHILCOMSAT held its Annual Stockholders' Meeting and Organizational Meeting of the Board of Directors. Elected were: Abraham R. Abesamis as Director and Chairman; Pablo L. Lobregat as Director and Vice-Chairman; Ramon Jacinto as Director and Chairman of the Executive Committee; Erlinda I. Bildner as Director and President/CEO; Marietta K. Ilusorio as Director and Vice President; Katrina Ponce Enrile as Director and Treasurer; Lorna P. Kapunan, Honario A. Poblador III and Rodolfo G. Serrano, Jr. as Directors; Rafael A. Poblador as Assistant Treasurer; and John Benedict L. Sioson as Corporate Secretary.⁹⁴

Thereafter, Concepcion A. Poblador of the Nieto Group filed a Complaint for injunction and declaration of nullity (with prayer for TRO and WPI) with the Sandiganbayan, seeking to enjoin the PCGG from recognizing the stockholders' meeting held on November 19, 2007 (Civil Case No. 07-0001).

Meanwhile, PHC (Africa Group), through Erlinda I. Bildner, filed a Complaint for injunction against the Bank of the Philippine Islands (BPI) with the RTC (Branch 62) in Makati City, seeking to enjoin BPI from allowing further disbursements of PHC funds to unauthorized persons comprising those who were no longer members of the PHC Board of Directors due to the nullification of their election.

On the basis of the Complaint, the RTC (Branch 62) issued an order on December 13, 2007, as follows:

⁹² Id. at 138-139.

⁹³ Id. at 139

⁹⁴ Id. at 139-140.

FOREGOING CONSIDERED, pending final adjudication on the principal action raised herein and subject to the posting of the indemnity bond in the sum of Three Million Pesos (Php 3,000,000.00) issued in favor of the defendant Bank of the Philippine Islands and defendant intervener PHC represented by Enrique M. Locsin, let a writ of preliminary injunction issue, enjoining the said defendant bank, its employees, officers, and representatives from allowing the defendant intervener, Locsin Group, their officers, employees, agents, and/or representatives to inquire, withdraw, and/or in any manner transact relative to any and all Philcomsat Holdings Corporation accounts maintained with Bank of the Philippine Islands until further orders from this Court.

Finally, the defendant bank is hereby ordered to submit to this Court the latest (as of receipt of this Order) bank statements and/or certificates of all PHC accounts deposited with its bank within ten (10) days from notice thereof.⁹⁵

On December 14, 2007, POTC and PHILCOMSAT (Africa Group) filed in C.A.-G.R. SP NO. 98399 a Manifestation and Urgent Motion to Withdraw Petition, praying that the petition be considered withdrawn, and that the WPI issued on June 25, 2007 be immediately lifted. In support of the motion, POTC and PHILCOMSAT (Africa Group) averred:

(1) On 21 March 2007, Mr. Enrique Locsin (Locsin) purportedly representing POTC and PHILCOMSAT filed the instant petition, assailing the decision issued by the Regional Trial Court (RTC) of Makati Branch 138 in Civil Case No. 04-1049 x x x.

x x x x

(3) What Mr. Locsin has deliberately failed and/or refused to divulge to this Honorable Court upon filing the instant petition are the following facts: (1) Mr. Locsin and his group are exactly the same set of individuals who comprise the respondents in Civil Case No. 04-1049, the decision which is now herein assailed; and that (2) Mr. Locsin and his group, purportedly, representing earlier or two weeks prior to the filing of the instant petition, already filed an appeal also with this Honorable Court, albeit pending in a different division, docketed as CA-G.R. SP No. 98097, raising exactly the same issues and seeking identical reliefs as they are now pending in the case at bar.

x x x x

(5) The difficulty in resolving the present controversy lodged before this Honorable Court stems from the fact that even the legitimate POTC and PHILCOMSAT representatives become apparently undeterminable.

x x x x

(9) Nonetheless, the conflicting claims over POTC and PHILCOMSAT have finally come to resolution with the recent developments.

⁹⁵ Id. at 140.

(10) On 13 November 2007, the government appointed its new nominees to POTC and PHILCOMSAT. For POTC, the government, through Undersecretary Enrique D. Perez with the directive of President Gloria Macapagal Arroyo, appointed Atty. Daniel C. Gutierrez, Atty. Allan S. Montaña and Justice Santiago J. Ranada (Ret.) to the POTC board and represent the government's 34.9% shareholdings in the board of directors of POTC. In the same manner and for an akin purpose, the government appointed Mr. Ramon P. Jacinto, Mr. Rodolfo G. Serrano, Jr. and RADM. Abraham R. Abesamis (Ret.) to represent the government's 34.9% shareholdings on the board of directors of PHILCOMSAT. Although this Honorable Court may take judicial notice of these appointments, to evidence such new appointments, copies of the proxy issued by the Republic of the Philippines to Undersecretary Perez and the "I desire" letter of the Office of the President for the government's nominees to PHILCOMSAT, both dated 13 November 2007, and the list of nominees of Undersecretary Perez for POTC and his letter to PCGG Chairman Camilo Sabio, both dated 19 November 2007, are attached and made integral parts hereof as Annexes "B", "B", "C" and "D", respectively.

(11) Needless to state, with the designation and their selection of the new government nominees to POTC and PHILCOMSAT, the old nominees, namely: Mr. Locsin, Mr. Manuel Andal, Mr. Julio Jalandoni and Mr. Guy de Leon are automatically replaced. This is an undeniable fact and had always been the procedure in the appointment and replacement of government nominees to the board of companies where the government has a substantial interest.

(12) Following the said appointment of new nominees, necessarily, annual stockholders meetings of both POTC and PHILCOMSAT were conducted and held on 19 November 2007 in order to elect the new directors of the respective boards of the two companies. During the said meetings, where over 90% of the shareholders were present and/or duly represented, the stockholders elected the new board of directors of POTC and PHILCOMSAT. These elections are evidenced by the Secretary's Certificates duly executed by the Corporate Secretaries of POTC and PHILCOMSAT, copies of which are attached and made integral parts hereof as Annexes "E" and "F", respectively.

(13) Thus, the new government nominees, together with the private shareholders of POTC and Philcomsat are joined together in a unified board of directors for the two companies. In fact, after the new sets of directors had been elected, both companies conducted their respective organizational and board meetings.

(14) At the board meetings of POTC and Philcomsat held on 4 December 2007, POTC and PHILCOMSAT have decided, as the new, unassailably legitimate and only board of directors of POTC and PHILCOMSAT, to authorize the withdrawal of the instant petition filed in the name of POTC and PHILCOMSAT. The boards likewise in their resolutions, disallowed other persons to represent their companies. Copies of these resolutions issued by POTC and PHILCOMSAT are attached and made integral parts hereof as Annexes "G" and "H", respectively.

(15) Thus, based on the foregoing, POTC and PHILCOMSAT, who are supposedly the petitioners in this case, move for the immediate

withdrawal of the petition dated 14 March 2007 and the immediate lifting of the Writ of Preliminary Injunction dated 25 June 2007.⁹⁶

The Urgent Motion to Withdraw Petition was opposed in a Comment and Opposition filed on February 13, 2008 that averred as follows:

X X X X

4. Through the malicious motion to withdraw, there is a veiled attempt, to have this Honorable Court uphold and recognize the validity of the supposed meetings held by rump boards on November 19, 2007. This is a matter that is properly cognizable only by the Sandiganbayan.

5. In fact, there is already a pending complaint before the Sandiganbayan that assails the supposed November 19, 2007 meetings stated in the motion to withdraw.

6. The Sandiganbayan, acting through the Fifth Division, granted the issuance of a Temporary Restraining Order on December 21, 2007, to prevent and prohibit any recognition of these November 19, 2007 meetings. x x x.

12. Petitioners, however, are compelled to address the misleading allegations and conclusions in the motion to withdraw. It is respectfully manifested that these alleged November 19, 2007 meetings were not called by the legitimate boards of petitioners POTC and Philcomsat. Only the legitimate boards, here represented by Mr. Locsin, can properly act upon any change in the government nominees, and it is only the legitimate boards that can install them. As manifested by petitioners to this Honorable Court, since there are no more legal challenges to the respective Boards of Directors of petitioners originally led by Ronaldo Salonga and Manuel Nieto, Jr., since 1998, only the successors of these boards, here represented by Mr. Locsin, can properly represent petitioners POTC and PHILCOMSAT.

12.1. The issue was settled with the dismissal of the appeal in CA G.R. CV No. 88360, which stemmed from the original petition filed in 1998 by Potenciano Ilusorio, Katrina Ponce-Enrile, and their family owned corporations, to question the election of the Nieto-Salonga board. The appeal was dismissed by the Honorable Court of Appeals in its Resolution dated June 8, 2007, a copy of which is hereto attached as Annex B.

13. It is significant that the manifestation and motion to withdraw made admissions that recognize the validity of the boards represented by Mr. Locsin. While petitioners do not admit to the genuineness or due execution of the Secretary's Certificates which were not signed by the duly-elected Corporate Secretary x x x, it must be noted that the authority of Mr. Locsin to file the instant petition was recognized and admitted therein. It was only claimed that such authority "was lost" when he was allegedly replaced, which replacement, as discussed above, is still

⁹⁶ Id. at 140-142.

disputed. Thus, even the rump boards admit that the filing of this petition by Mr. Locsin was duly authorized by POTC and PHILCOMSAT.⁹⁷

X X X X

On December 21, 2007, the Sandiganbayan (Fifth Division) issued an order in Civil Case No. 07-0001, to wit:

X X X X

Wherefore, finding the complaint to be sufficient in form and substance and considering the necessity to maintain the status quo lest grave and irreparable injury would result to plaintiff pending the hearing of the main incident (Injunction and Declaration of Nullity), let a TEMPORARY RESTRAINING ORDER issue ordering the defendants, their agents, executives and other persons acting upon their instructions, from recognizing or acting pursuant to the 19 November 2007 stockholders meetings of POTC and PHILCOMSAT. The restraining order is good for twenty (20) days from notice to defendants or any of their representatives.⁹⁸

X X X X

On May 7, 2008, the PCGG passed Resolution No. 2008-009, viz:

NOW, THEREFORE, be it RESOLVED, as it is hereby RESOLVED, that:

1. The PCGG recognize the validity of the 19 November 2007 POTC/Philcomsat stockholders' meeting and confirm as valid the election of the following government nominees: Atty. Daniel C. Gutierrez, Justice Santiago J. Ranada and Atty. Allan S. Montano to the Board of Directors of POTC and Radm. Abraham R. Abesamis, Mr. Ramon P. Jacinto and Mr. Rodolfo G. Serrano, Jr. to the Board of Directors of Philcomsat;

2. The PCGG recognize the validity of the 11 December 2007 and 18 January 2008 special stockholders' meetings of Philcomsat subsidiaries, PHC and TCI, at which the new government nominees were also elected as members of their respective Board of Directors subject to the "I Desire" letter of the President requiring the nomination and installation of Mr. Enrique Locsin in PHC vice Mr. Rodolfo Serrano;

3. The PCGG direct the old government nominees and their appointed Corporate Secretaries under pain of contempt to submit to the Commission within ten (10) days from their receipt of the Resolution:

a. A complete set of Minutes of the Meetings of the Boards of Directors, Executive Committee, Legal Committee, Audit

⁹⁷ Id. at 142-143.

⁹⁸ Id. at 144.

Committee and all other committees with a Certification under oath of the completeness thereof from 1998 up to the present;

b. A complete and updated list of stockholders of the corporations with their last known addresses and number of shares duly certified by the Corporate Secretary and/or Stock Transfer Agent;

c. Copies of all audited and interim financial statements of these corporations; and

d. The stock transfer book and stock certificate booklet of PHC and TCI.

4. The PCGG request the Securities and Exchange Commission (“SEC”) and the Philippine Stock Exchange (“PSE”) to regulate and monitor POTC, Philcomsat, PHC and TCI, to cooperate with the new government nominees and assist them in complying with the reportorial requirements of these corporations, including, but not limited to, compelling the old government nominees and their appointed officers to submit copies of the documents referred to above;

RESOLVED, FURTHER, that the Commission Secretary be directed to furnish copies of this Resolution to the old government nominees/directors of POTC, Philcomsat, PHC and TCI namely Enrique Locsin, Manuel Andal, Julio Jalandoni, Guy De Leon, Benito Araneta and Ronaldo Salonga, to the new government nominees Daniel Gutierrez, Santiago Ranada, Allan Montano, Abraham Abesamis, Ramon Jacinto, Rodolfo Serrano, Jr. Enrique Locsin and to the SEC, PSE and BSP for their guidance, observation and compliance.⁹⁹

On July 16, 2008, the CA rendered its assailed decision in C.A.-G.R. SP No. 102437, annulling and setting aside the order dated December 13, 2007 and the WPI issued on December 17, 2007 by the RTC (Branch 62).¹⁰⁰

On February 13, 2009, the CA denied the motion for reconsideration.¹⁰¹

On September 30, 2008, the CA promulgated its assailed consolidated decision in C.A.-G.R. SP No. 98097, C.A.-G.R. SP No. 98399 and C.A.-G.R. SP No. 101225, dismissing the petitions.¹⁰² The CA held that the RTC acted within its jurisdiction in resolving the intra-corporate dispute; that the conduct of pre-trial was not required in corporate election cases; that the RTC had the authority to decide Civil Case No. 04-1049; that the decision of the RTC was valid and correct; and that the petition for contempt filed

⁹⁹ Id. at 144-145.

¹⁰⁰ *Rollo* (G.R. No. 186590), pp. 52-65.

¹⁰¹ Id. at 67-70.

¹⁰² *Rollo* (G.R. No. 186066), pp. 87-175; penned by Associate Justice Teresita Dy-Liacco Flores (retired), and concurred in by Associate Justice Portia Aliño-Hormachuelos (retired) and Associate Justice Hakim S. Abdulwahid.

against Atty. Sikini C. Labastilla was without basis. The CA lifted and dissolved the WPI issued on June 25, 2007.¹⁰³

On December 23, 2008, the CA denied the motion for reconsideration.¹⁰⁴

Issues

G.R. No. 184622

WHETHER THE SANDIGANBAYAN'S REFUSAL TO TAKE COGNIZANCE OF THE CONTROVERSY ON THE GROUND THAT THE SAME IS AN INTRA-CORPORATE CONTROVERSY IS IMPROPER AND AGAINST JURISPRUDENCE.¹⁰⁵

G.R. No. 184712-14

WHETHER THE SANDIGANBAYAN HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER SEQUESTERED CORPORATIONS, SEQUESTRATION-RELATED CASES, AND ANY AND OVER ALL INCIDENTS ARISING FROM, INCIDENTAL TO, OR RELATED TO SUCH CASES.¹⁰⁶

WHETHER THE SEQUESTRATION OVER POTC AND PHILCOMSAT REMAINS DESPITE THE APPROVAL OF THE PCGG-ILUSORIO COMPROMISE AGREEMENT IN G.R. NOS. 141796 AND 141804.¹⁰⁷

WHETHER THE MAKATI RTC MAY RENDER JUDGMENT ON THE COMPLAINT PURSUANT TO THE INTERIM RULES WHEN THE SAID COURT HAS NOT BEEN DESIGNATED AS A SPECIAL COMMERCIAL COURT BY THE SUPREME COURT.¹⁰⁸

WHETHER THE ORDER TO CONDUCT PRE-TRIAL AND THE SUBMISSION OF THE PRE-TRIAL BRIEFS IS MANDATORY UNDER ALL CASES FILED UNDER THE INTERIM RULES.¹⁰⁹

G.R. No. 186590

WHETHER THE COURT OF APPEALS ERRED WHEN IT NULLIFIED THE WRIT OF PRELIMINARY INJUNCTION ISSUED BY THE TRIAL COURT.¹¹⁰

¹⁰³ Id. at 175.

¹⁰⁴ Id. at 177-179.

¹⁰⁵ *Rollo* (G.R. No. 184622), p. 27.

¹⁰⁶ *Rollo* (G.R. Nos. 184712-14), p. 30.

¹⁰⁷ Id. at 37.

¹⁰⁸ Id. at 39.

¹⁰⁹ Id. at 41.

¹¹⁰ *Rollo* (G.R. No. 186590), p. 20.

G.R. No. 186066

WHETHER OR NOT THE CA ERRED IN RULING THAT THE REGIONAL TRIAL COURT OF MAKATI HAD JURISDICTION OVER CIVIL CASE NO. 04-1049;

WHETHER OR NOT THE CA ERRED IN RULING THAT THE DECISION IN G.R. NOS. 141796 AND 141804 FINALLY SETTLED THE ISSUES IN CIVIL CASE NO. 04-1049 AND CONSEQUENTLY ANNULLED THE POTC PROXY IN FAVOR OF MESSRS. NIETO AND LOCSIN;

WHETHER OR NOT THE CA ERRED IN RULING THAT BRANCH 138 COULD STILL ACT ON AND DECIDE CIVIL CASE NO. 04-1049 DESPITE THIS HONORABLE COURT'S REVOCATION OF ITS DESIGNATION AS SPECIAL COMMERCIAL COURT OF RTC MAKATI CITY;

WHETHER OR NOT THE CA ERRED IN RULING THAT PRE-TRIAL AND TRIAL CAN BE DISPENSED WITH IN CIVIL CASE NO. 01-1049;

WHETHER OR NOT THE CA ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT WHICH WAS CONTRARY TO THE FACTS AND EXISTING JURISPRUDENCE.¹¹¹

The Court reduces the issues for resolution to two main ones, namely:

- (a) Did RTC (Branch 138) have jurisdiction over the intra-corporate controversy (election contest)?
- (b) Who among the contending parties or groups held the controlling interest in POTC and, consequently, in PHILCOMSAT and PHC?

In G.R. No. 184712-14, the petitioners postulate that the Sandiganbayan had original and exclusive jurisdiction over sequestered corporations, sequestration-related cases, and any and over all incidents arising from, or incidental or related to such cases;¹¹² that it was error on the part of the CA to conclude that the Sandiganbayan was automatically ousted of jurisdiction over the sequestered assets once the complaint alleged an intra-corporate dispute due to the sequestered assets being *in custodia legis* of the Sandiganbayan;¹¹³ that the sequestration of POTC and PHILCOMSAT remained despite the approval of the compromise agreement in G.R. No. 141796 and G.R. No. 141804; that because the proceedings involving the shares of the Nieto, Africa and Ponce Enrile Families were still pending and

¹¹¹ *Rollo* (G.R. No. 186066), pp. 41-42.

¹¹² *Rollo* (G.R. No. 184712-14), p. 30.

¹¹³ *Id.* at 32.

had not yet been finally resolved,¹¹⁴ the RTC could not render a valid judgment on the dispute because it had not been designated as a Commercial Court;¹¹⁵ and that the conduct of a pre-trial and the submission of a pre-trial brief were mandatory under all cases filed under the Interim Rules.¹¹⁶

In its Comment, PHILCOMSAT counters that the rulings in *Olaguer* and *Del Moral* were not applicable because such cases arose from different factual settings;¹¹⁷ that the RTC had ample authority to rule upon the intra-corporate dispute;¹¹⁸ and that the conduct of pre-trial was not mandatory in corporate election cases.¹¹⁹

In G.R. No. 184622, the petitioners claim that the Sandiganbayan committed an error in refusing to take cognizance of the injunction suit they had filed on the ground that it was an intra-corporate dispute; that the Sandiganbayan thereby went against the spirit and intent of the Court's rulings stressing the importance of protecting sequestered assets and recovering ill-gotten wealth;¹²⁰ and that the Court's pronouncement in G.R. No. 171799 affirming the status of POTC shares as sequestered shares was more than enough reason for the Sandiganbayan to take cognizance of the injunction suit.¹²¹

In its Comment,¹²² respondent Ilusorio-Africa Group counter that the injunction suit was not within the jurisdiction of the Sandiganbayan; and that Locsin had no authority to institute the injunction suit due to his election being a patent nullity considering that the proxies issued by IRC and Mid-Pasig could not be given effect after the Court had affirmed the ruling of the Sandiganbayan on IRC and Mid-Pasig's shareholdings in POTC.¹²³

In G.R. No. 186590, PHILCOMSAT posits that the trial court properly issued the injunction against PHC after receiving evidence of massive looting of corporate funds that led to PHC's external auditor being suspended as found by Senate Committees and the SEC.¹²⁴

¹¹⁴ Id. at 37.

¹¹⁵ Id. at 39.

¹¹⁶ Id. at 41.

¹¹⁷ Id. at 490.

¹¹⁸ Id. at 492.

¹¹⁹ Id. at 493.

¹²⁰ *Rollo* (G.R. No. 184622), p. 27.

¹²¹ Id. at 29.

¹²² Victor Africa, acting *pro se*, submitted a Comment with the manifestation that the Comment of the other respondents was the more appropriate pleading, id. at 103-107.

¹²³ *Rollo* (G.R. No. 184622), pp. 148-151.

¹²⁴ *Rollo* (G.R. No. 186590), p. 31.

In its Comment, PHC states that PHILCOMSAT failed to establish its right *in esse* or the existence of a right to be protected so as to warrant the issuance of the injunctive writ in its favor.¹²⁵

In G.R. No. 186066, PHC argues that the CA erred in ruling that the RTC (Branch 138) was clothed with authority to decide Civil Case No. 04-1049 because POTC and PHILCOMSAT were under sequestration of the PCGG; that, accordingly, all issues and controversies arising or related or incidental to the sequestration fell under the sole and exclusive original jurisdiction of the Sandiganbayan;¹²⁶ that the CA erred in appreciating the nature of Civil Case No. 04-1049; that the controversy, albeit involving an intra-corporate dispute, was still cognizable by the Sandiganbayan because POTC and PHILCOMSAT shares were under sequestration;¹²⁷ that the ruling in G.R. Nos. 141796 and 141804 does not constitute *res judicata*; that even assuming that the RTC (Branch 138) had jurisdiction, its authority was revoked prior to the issuance of its assailed judgment;¹²⁸ and that PHC was denied due process due to the RTC's open violation of the Interim Rules.¹²⁹

In its Comment, PHILCOMSAT counters that the insistence of PHC that the sequestration of PHILCOMSAT automatically took away the jurisdiction of the RTC and conferred it to the Sandiganbayan was misplaced;¹³⁰ that the rulings in *Olaguer* and *Del Moral* are not on all fours with this case;¹³¹ that the issue of the shares being ill-gotten was already settled in G.R. Nos. 141796 and 141804;¹³² that the RTC (Branch 138) had ample authority to decide the intra-corporate controversy because the case, being already submitted for decision, remained cognizable by the same branch;¹³³ and that the conduct of the pre-trial was not required in election cases.¹³⁴

RULING OF THE COURT

We **DENY** the petitions in G.R. No. 184622, G.R. Nos. 184712-14, and G.R. No. 186066; but **GRANT** the petition in G.R. No. 186590.

¹²⁵ Id. at 466.

¹²⁶ *Rollo* (G.R. No. 186066), p. 42.

¹²⁷ Id. at 49.

¹²⁸ Id. at 59-60.

¹²⁹ Id. at 62-63.

¹³⁰ Id. at 557.

¹³¹ Id.

¹³² Id. at 560.

¹³³ Id. at 564-565.

¹³⁴ Id. at 565.

1.
RTC (Branch 138) had jurisdiction
over the election contest between the
Ilusorio-Africa Groups and Nieto-Locsin Groups

Both Civil Case No. 04-1049 of the RTC (Branch 138) in Makati City and SB Civil Case No. 0198 of the Sandiganbayan involved intra-corporate controversies among the stockholders and officers of the corporations. It is settled that there is an intra-corporate controversy when the dispute involves any of the following relationships, to wit: (a) between the corporation, partnership or association and the public; (b) between the corporation, partnership or association and the State in so far as its franchise, permit or license to operate is concerned; (c) between the corporation, partnership or association and its stockholders, partners, members or officers; and (d) among the stockholders, partners or associates themselves.¹³⁵

Consequently, we agree with the CA's consolidated decision promulgated on September 30, 2008 that the RTC (Branch 138), not the Sandiganbayan, had jurisdiction because Civil Case No. 04-1049 did not involve a sequestration-related incident but an intra-corporate controversy.

Originally, Section 5 of Presidential Decree (P.D.) No. 902-A vested the original and exclusive jurisdiction over cases involving the following in the SEC, to wit:

X X X X

(a) Devices or schemes employed by, or any acts of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organization registered with the Commission;

(b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchise or right as such entity;

(c) Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnership or associations;

(d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payment in cases where the corporation, partnership or association possesses sufficient property to

¹³⁵ *Yujuico v. Quiambao*, G.R. No. 168639, January 29, 2007, 513 SCRA 243, 254.

cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree.¹³⁶

Upon the enactment of Republic Act No. 8799 (*The Securities Regulation Code*), effective on August 8, 2000, the jurisdiction of the SEC over intra-corporate controversies and the other cases enumerated in Section 5 of P.D. No. 902-A was transferred to the Regional Trial Court pursuant to Section 5.2 of the law, which provides:

5.2. The Commission's jurisdiction over all cases enumerated in Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court; *Provided*, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

To implement Republic Act No. 8799, the Court promulgated its resolution of November 21, 2000 in A.M. No. 00-11-03-SC designating certain branches of the RTC to try and decide the cases enumerated in Section 5 of P.D. No. 902-A. Among the RTCs designated as special commercial courts was the RTC (Branch 138) in Makati City, the trial court for Civil Case No. 04-1049.

On March 13, 2001, the Court adopted and approved the *Interim Rules of Procedure for Intra-Corporate Controversies under Republic Act No. 8799* in A.M. No. 01-2-04-SC, effective on April 1, 2001, whose Section 1 and Section 2, Rule 6 state:

Section 1. *Cases covered.* – The provisions of this rule shall apply to **election contests** in stock and non-stock corporations.

Section 2. *Definition.* – An **election contest** refers to **any controversy or dispute involving** title or claim to any elective office in a stock or non-stock corporation, the validation of proxies, **the manner and validity of elections**, and the qualifications of candidates, including the proclamation of winners, to the office of director, trustee or other officer directly elected by the stockholders in a close corporation or by members of a non-stock corporation where the articles of incorporation or by-laws so provide. (bold underscoring supplied)

¹³⁶ Section 5, PD 902-A. See also Section 1, Rule 1 of the Interim Rules of Procedure Governing Intra-Corporate Controversies under R.A. No. 8799.

Conformably with Republic Act No. 8799, and with the ensuing resolutions of the Court on the implementation of the transfer of jurisdiction to the Regional Trial Court, the RTC (Branch 138) in Makati had the authority to hear and decide the election contest between the parties herein. There should be no disagreement that jurisdiction over the subject matter of an action, being conferred by law, could neither be altered nor conveniently set aside by the courts and the parties.¹³⁷

To buttress its position, however, the Nieto-Locsin Group relied on Section 2 of Executive Order No. 14,¹³⁸ which expressly mandated that the PCGG “shall file all such cases, whether civil or criminal, with the Sandiganbayan, which shall have exclusive and original jurisdiction thereof.”

The reliance was unwarranted.

Section 2 of Executive Order No. 14 had no application herein simply because the subject matter involved was an intra-corporate controversy, not any incidents arising from, incidental to, or related to any case involving assets whose nature as ill-gotten wealth was yet to be determined. In *San Miguel Corporation v. Kahn*,¹³⁹ the Court held that:

The subject matter of his complaint in the SEC does not therefore fall within the ambit of this Court’s Resolution of August 10, 1988 on the cases just mentioned, to the effect that, citing *PCGG v. Pena, et al.*, all cases of the Commission regarding ‘the funds, moneys, assets, and properties illegally acquired or misappropriated by former President Ferdinand Marcos, Mrs. Imelda Romualdez Marcos, their close relatives, Subordinates, Business Associates, Dummies, Agents, or Nominees, whether civil or criminal, are lodged within the exclusive and original jurisdiction of the Sandiganbayan,’ and all incidents arising from, incidental to, or related to, such cases necessarily fall likewise under the Sandiganbayan’s exclusive and original jurisdiction, subject to review on certiorari exclusively by the Supreme Court.” **His complaint does not involve any property illegally acquired or misappropriated by Marcos, et al., or “any incidents arising from, incidental to, or related to” any case involving such property**, but assets indisputably belonging to San Miguel Corporation which were, in his (de los Angeles’) view, being illicitly committed by a majority of its board of directors to answer for loans assumed by a sister corporation, Neptunia Co., Ltd.

De los Angeles’ complaint, in fine, is confined to the issue of the validity of the assumption by the corporation of the indebtedness of Neptunia Co., Ltd., allegedly for the benefit of certain of its officers and stockholders, an issue evidently distinct from, and not even remotely requiring inquiry into the matter of whether or not the 33,133,266 SMC

¹³⁷ *Machado v. Gatdula*, G.R. No. 156287, February 16, 2010, 612 SCRA 546, 559.

¹³⁸ Section 2. The Presidential Commission on Good Government shall file all such cases, whether civil or criminal, with the Sandiganbayan, which shall have exclusive and original jurisdiction thereof.

¹³⁹ G.R. No. 85339, August 11, 1989, 176 SCRA 447, 461-462.

shares sequestered by the PCGG belong to Marcos and his cronies or dummies (on which, issue, as already pointed out, de los Angeles, in common with the PCGG, had in fact espoused the affirmative). **De los Angeles' dispute**, as stockholder and director of SMC, with other SMC directors, **an intra-corporate one, to be sure, is of no concern to the Sandiganbayan, having no relevance whatever to the ownership of the sequestered stock. The contention, therefore, that in view of this Court's ruling as regards the sequestered SMC stock above adverted to, the SEC has no jurisdiction over the de los Angeles complaint, cannot be sustained and must be rejected. The dispute concerns acts of the board of directors claimed to amount to fraud and misrepresentation which may be detrimental to the interest of the stockholders, or is one arising out of intra-corporate relations between and among stockholders, or between any or all of them and the corporation of which they are stockholders.**¹⁴⁰

Moreover, the jurisdiction of the Sandiganbayan has been held not to extend even to a case involving a sequestered company notwithstanding that the majority of the members of the board of directors were PCGG nominees. The Court marked this distinction clearly in *Holiday Inn (Phils.), Inc. v. Sandiganbayan*,¹⁴¹ holding thusly:

The subject-matter of petitioner's proposed complaint-in-intervention involves basically, an interpretation of contract, *i.e.*, whether or not the right of first refusal could and/or should have been observed, based on the Addendum/Agreement of July 14, 1988, which extended the terms and conditions of the original agreement of January 1, 1976. **The question of whether or not the sequestered property was lawfully acquired by Roberto S. Benedicto has no bearing on the legality of the termination of the management contract by NRHDC's Board of Directors. The two are independent and unrelated issues and resolution of either may proceed independently of each other.** Upholding the legality of Benedicto's acquisition of the sequestered property is not a guarantee that HIP's management contract would be upheld, for only the Board of Directors of NRHDC is qualified to make such a determination.

Likewise, the Sandiganbayan correctly denied jurisdiction over the proposed complaint-in-intervention. The original and exclusive jurisdiction given to the Sandiganbayan over PCGG cases pertains to (a) cases filed by the PCGG, pursuant to the exercise of its powers under Executive Order Nos. 1, 2 and 14, as amended by the Office of the President, and Article XVIII, Section 26 of the Constitution, *i.e.*, where the principal cause of action is the recovery of ill-gotten wealth, as well as all incidents arising from, incidental to, or related to such cases and (b) cases filed by those who wish to question or challenge the commission's acts or orders in such cases.

Evidently, petitioner's proposed complaint-in-intervention is an ordinary civil case that does not pertain to the Sandiganbayan. As the

¹⁴⁰ Bold emphases were supplied.

¹⁴¹ G.R. No. 85576, June 8, 1990, 186 SCRA 447, 453 (italicized portions are part of the original text, but bold emphases are supplied).

Solicitor General stated, the complaint is not directed against PCGG as an entity, but against a private corporation, in which case it is not *per se*, a PCGG case.

In the cases now before the Court, what are sought to be determined are the propriety of the election of a party as a Director, and his authority to act in that capacity. Such issues should be exclusively determined only by the RTC pursuant to the pertinent law on jurisdiction because they did not concern the recovery of ill-gotten wealth.

2.

Lack of pre-trial was not fatal in intra-corporate election contests

Under Section 4 of Rule 6 (*Election Contests*) of the *Interim Rules of Procedure for Intra-Corporate Controversies*, which took effect on April 1, 2001 (A.M. No. 01-2-04-SC), issued pursuant to Republic Act No. 8799, the trial court, within two days from the filing of the complaint, may outrightly dismiss the complaint upon a consideration of the allegations thereof if the complaint is not sufficient in form and substance, or, if the complaint is sufficient, may order the issuance of summons which shall be served, together with a copy of the complaint, on the defendant within two days from its issuance. Should it find the need to hold a hearing to clarify specific factual matters, the trial court shall set the case for hearing, and the hearing shall be completed not later than 15 days from the date of the first hearing. The trial court is mandated to render a decision within 15 days from receipt of the last pleading, or from the date of the last hearing, as the case may be.

The CA correctly pointed out that Rule 6 nowhere required that the RTC acting as a special commercial court should first conduct a pre-trial conference before it could render its judgment in a corporate election contest. Hence, the RTC (Branch 138) in Makati properly heard the case of annulment of the election with dispatch in accordance with the guidelines set in the resolution in A.M. No. 01-2-04-SC. With the requirements of due process having been served, no defect infirmed the RTC's ruling to set aside the election, and to oust those illegally elected.

3.

RTC (Branch 138) retained its jurisdiction over the case that was ripe for adjudication

While it is true that this Court meanwhile revoked on June 27, 2006 the designation of the RTC (Branch 138) to act as a special commercial court, through the resolution in A.M. No. 03-3-03-SC, the RTC (Branch 138) did not thereafter become bereft of the jurisdiction to decide the

controversy because of the exception expressly stated in the resolution in A.M. No. 03-3-03-SC itself, to wit:

X X X X

Upon the effectivity of this designation, all commercial cases pending before Branches 138 and 61 shall be transferred to RTC, Branch 149, Makati City, **except those which are already submitted for decision, which cases shall be decided by the acting presiding judges thereat.** X X X.

Contrary to the assertion of the Nieto-PCGG group, the foregoing provision did not require the issuance of any special order stating that the case was already submitted for decision. It was sufficient, given the summary nature of intra-corporate controversies, especially election contests, that the trial court was done collating all the evidence from the pleadings (*i.e.*, pleadings, affidavits, documentary and other evidence attached thereto, and the answers of the witnesses to the clarificatory questions of the court given during the hearings), if deemed sufficient, or from the clarificatory hearings, if conducted. The purpose of the exception is to obviate the repetition of the gathering of evidence. It is clear from Section 9 of Rule 6 that after the collation of evidence, the only thing that remains is for the RTC to render its decision without issuing a special order declaring the case submitted for decision, *viz*:

Section 9. *Decision.* – The Court shall render a decision within fifteen (15) days from receipt of the last pleading, or from the date of the last hearing, as the case may be. The decision shall be based on the pleadings, affidavits, documentary and other evidence attached thereto and the answers of the witnesses to the clarificatory questions of the court given during the hearings.

4.

Ruling in G.R. No. 141796 and G.R. No. 141804 was properly applied to Civil Case No. 04-1049

It was not the principle of *res judicata*, as claimed by the Nieto-PCGG Group, that justified the application to Civil Case No. 04-1049 of the Court's ruling in G.R. No. 141796 and G.R. No. 141804 invalidating the PHC elections conducted by the Nieto-PCGG Group, but rather the doctrine of *stare decisis et non quieta movere*, which means "to adhere to precedents, and not to unsettle things which are established."¹⁴²

¹⁴² Black's Law Dictionary, Fifth Edition.

Under the doctrine of *stare decisis*, when the Court has once laid down a principle of law as applicable to a certain state of facts, the courts will adhere to that principle, and apply it to all future cases in which the facts are substantially similar, regardless of whether the parties and property involved are the same.¹⁴³ The doctrine of *stare decisis* is based upon the legal principle or rule involved, not upon the judgment that results therefrom. It is in this particular sense that *stare decisis* differs from *res judicata*, because *res judicata* is based upon the judgment.¹⁴⁴

The doctrine of *stare decisis* is grounded on the necessity for securing certainty and stability in judicial decisions, thus:

Time and again, the Court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere*. Stand by the decisions and disturb not what is settled. *Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.¹⁴⁵

The question of who held the majority shareholdings in POTC and PHILCOMSAT was definitively laid to rest in G.R. No. 141796 and G.R. No. 141804, whereby the Court upheld the validity of the compromise agreement the Government had concluded with Atty. Ilusorio. Said the Court:—

With the imprimatur of no less than the former President Fidel V. Ramos and the approval of the Sandiganbayan, the Compromise Agreement must be accorded utmost respect. **Such amicable settlement is not only allowed but even encouraged.** Thus, in *Republic vs. Sandiganbayan*, we held:

‘It is advocated by the PCGG that respondent Benedicto retaining a portion of the assets is anathema to, and incongruous with, the zero-retention policy of the government in the pursuit for the recovery of *all* ill-gotten wealth pursuant to Section 2(a) of Executive Order No. 1. **While full recovery is ideal, the PCGG is not precluded from entering into a Compromise**

¹⁴³ *Confederation of Sugar Producers Association, Inc. v. Department of Agrarian Reform (DAR)*, G.R. No. 169514, March 30, 2007, 519 SCRA 582, 618.

¹⁴⁴ *Id.* at 618-619.

¹⁴⁵ *Ty v. Banco Filipino Savings & Mortgage Bank*, G.R. No. 144705, November 15, 2005, 475 SCRA 65, 75-76.

Agreement which entails reciprocal concessions if only to expedite recovery so that the remaining ‘funds, assets and other properties may be used to hasten national economic recovery’ (3rd WHEREAS clause, Executive Order No. 14-A). To be sure, the so-called zero retention mentioned in Section 2(a) of Executive Order No. 1 had been modified to read:

‘WHEREAS, the Presidential Commission on Good Government was created on February 28, 1986 by Executive Order No. 1 to assist the President in the recovery of *ill-gotten wealth* accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates’;

which undoubtedly suggests a departure from the former goal of total restitution.

X X X X

The authority of the PCGG to enter into Compromise Agreements in civil cases and to grant immunity, under certain circumstances, in criminal cases is now settled and established. In *Republic of the Philippines and Jose O. Campos, Jr. vs. Sandiganbayan, et al.* (173 SCRA 72 [1989]), this Court categorically stated that amicable settlements and compromises are not only allowed but actually encouraged in civil cases. A specific grant of immunity from criminal prosecutions was also sustained. In *Benedicto vs. Board of Administrators of Television Stations RPN, BBC, and IBC* (207 SCRA 659 [1992]), the Court ruled that the authority of the PCGG to validly enter into Compromise Agreement for the purpose of avoiding litigation or putting an end to one already commenced was indisputable. x x x (italics supplied)

Having been sealed with court approval, the Compromise Agreement has the force of *res judicata* between the parties and should be complied with in accordance with its terms. Pursuant thereto, Victoria C. de los Reyes, Corporate Secretary of the POTC, transmitted to Mr. Magdangal B. Elma, then Chief Presidential Legal Counsel and Chairman of PCGG, Stock Certificate No. 131 dated January 10, 2000, issued in the name of the Republic of the Philippines, for 4,727 POTC shares. Thus, the Compromise Agreement was partly implemented.¹⁴⁶

As a result of the Government having expressly recognized that 673 POTC shares belonged to Atty. Ilusorio, Atty. Ilusorio and his group gained the majority control of POTC.

Applying the ruling in G.R. No. 141796 and G.R. No. 141804 to Civil Case No. 04-1049, the RTC (Branch 138) correctly concluded that the Nieto-PCGG Group, because it did not have the majority control of POTC,

¹⁴⁶ *Republic v. Sandiganbayan*, G.R. No. 141796 and G.R. No. 141804, June 15, 2006, 460 SCRA 146, 167-169 (bold emphases are part of the original text).

could not have validly convened and held the stockholders' meeting and election of POTC officers on August 5, 2004 during which Nieto, Jr. and PCGG representative Guy De Leon were respectively elected as President and Chairman; and that there could not be a valid authority for Nieto, Jr. and/or Locsin to vote the proxies of the group in the PHILCOMSAT meeting.

For the same reason, the POTC proxies used by Nieto, Jr. and Locsin to elect themselves respectively as Chairman and President of PHILCOMSAT; and the PHILCOMSAT proxies used by Nieto, Jr. and Locsin in the August 31, 2004 PHC elections to elect themselves respectively as President and Acting Chairman of PHC, were all invalid for not having the support of the majority shareholders of said corporations.

While it is true that judicial decisions should be given a prospective effect, such prospectivity did not apply to the June 15, 2005 ruling in G.R. No. 141796 and G.R. No. 141804 because the ruling did not enunciate a new legal doctrine or change the interpretation of the law as to prejudice the parties and undo their situations established under an old doctrine or prior interpretation. Indeed, the ruling only affirmed the compromise agreement consummated on June 28, 1996 and approved by the Sandiganbayan on June 8, 1998, and accordingly implemented through the cancellation of the shares in the names of IRC and MLDC and their registration in the names of Atty. Ilusorio to the extent of 673 shares, and of the Republic to the extent of 4,727 shares. In a manner of speaking, the decision of the Court in G.R. No. 141796 and G.R. No. 141804 promulgated on June 15, 2005 declared the compromise agreement valid, and such validation properly retroacted to the date of the judicial approval of the compromise agreement on June 8, 1998.

Consequently, although the assailed elections were conducted by the Nieto-PCGG group on August 31, 2004 but the ruling in G.R. No. 141796 and G.R. No. 141804 was promulgated only on June 15, 2005, the ruling was the legal standard by which the issues raised in Civil Case No. 04-1049 should be resolved.

5.

Proper mode of appeal in intra-corporate cases is by petition for review under Rule 43

In *Dee Ping Wee v. Lee Hiong Wee*,¹⁴⁷ the Court has expounded that the appropriate mode of appeal for an aggrieved party in an intra-corporate dispute is a petition for review under Rule 43 of the *Rules of Court*, to wit:

¹⁴⁷ G.R. No. 169345, August 25, 2010, 629 SCRA 145.

Verily, the first part of Section 4, Rule 1 of the Interim Rules is categorical. Save for the exceptions clearly stated therein, the provision enunciates that a decision and order issued under the Interim Rules shall be enforceable immediately after the rendition thereof. In order to assail the decision or order, however, the second part of the provision speaks of an appeal or petition that needs to be filed by the party concerned. In this appeal or petition, a restraining order must be sought from the appellate court to enjoin the enforcement or implementation of the decision or order. Unless a restraining order is so issued, the decision or order rendered under the Interim Rules shall remain to be immediately executory.

On September 14, 2004, the Court issued a Resolution in A.M. No. 04-9-07-SC to rectify the situation wherein “lawyers and litigants are in a quandary on how to prevent under appropriate circumstances the execution of decisions and orders in cases involving corporate rehabilitation and intra-corporate controversies.” To address the “need to clarify the proper mode of appeal in [cases involving corporate rehabilitation and intra-corporate controversies] in order to prevent cluttering the dockets of the courts with appeals and/or petitions for *certiorari*,” the Court thereby resolved that:

1. All decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the **Interim Rules of Procedure Governing Intra-Corporate Controversies** under Republic Act No. 8799 shall be appealable to the Court of Appeals through a **petition for review under Rule 43 of the Rules of Court**.

2. **The petition for review shall be taken within fifteen (15) days from notice of the decision or final order of the Regional Trial Court.** Upon proper motion and the payment of the full amount of the legal fee prescribed in Rule 141 as amended before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days within which to file the petition for review. No further extension shall be granted except for the most compelling reasons and in no case to exceed fifteen (15) days. (Emphases ours.)

x x x x

The issue that needs to be resolved at this point is whether or not petitioners pursued the correct remedy in questioning the RTC Decisions in Civil Case Nos. Q-04-091, Q-04-092 and Q-04-093. Corollary to this is whether or not the petitions for *certiorari* filed by petitioners could have been treated as petitions for review under Rule 43 of the Rules of Court, in accordance with the provisions of the Resolution in A.M. No. 04-9-07-SC, such that petitioners can be considered to have availed themselves of the proper remedy in assailing the rulings of the RTC.

We answer in the negative.

The term “petition” in the third and fourth paragraphs of A.M. No. 04-9-07-SC, cannot be construed as to include a petition for *certiorari* under Rule 65 of the Rules of Court. The rationale for this lies in the

essential difference between a petition for review under Rule 43 and a petition for *certiorari* under Rule 65 of the Rules of Court.

X X X X

The RTC Decisions in Civil Case Nos. Q-04-091, Q-04-092 and Q-04-093 are final orders that disposed of the whole subject matter or terminated the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined. As the RTC was unquestionably acting within its jurisdiction, all errors that it might have committed in the exercise of such jurisdiction are errors of judgment, which are reviewable by a timely appeal.

X X X X

The Court of Appeals (12th Division) was, therefore, correct in dismissing the petition for *certiorari* in CA-G.R. SP No. 85878, which assailed the RTC Decision in Civil Case No. Q-04-091. X X X¹⁴⁸

The rule providing that a petition for review under Rule 43 of the *Rules of Court* is the proper mode of appeal in intra-corporate controversies, as embodied in A. M. No. 04-9-07-SC, has been in effect since October 15, 2004. Hence, the filing by POTC and PHC (Nieto Group) of the petition for *certiorari* on March 21, 2007 (C.A.-G.R. SP No. 98399) was inexcusably improper and ineffectual. By virtue of its being an extraordinary remedy, *certiorari* could neither replace nor substitute an adequate remedy in the ordinary course of law, like appeal in due course.¹⁴⁹ Indeed, the appeal under Rule 43 of the *Rules of Court* would have been adequate to review and correct even the grave abuse of discretion imputed to the RTC.¹⁵⁰

As a consequence of the impropriety and ineffectuality of the remedy chosen by POTC and PHC (Nieto Group), the TRO and the WPI initially issued by the CA in C.A.-G.R. SP No. 98399 did not prevent the immediately executory character of the decision in Civil Case No. 04-1049.

6.

Petition for contempt against Bildner had no basis

The filing by Bildner and her counsel Atty. Manzanal of the complaint for perjury against Locsin and his counsel Atty. Labastilla in the Office of the City Prosecutor of Manila did not amount to unlawful interference with the processes of the CA. There is no denying that Bildner was within her right as a party in interest in the proceedings then pending in the CA to bring the perjury charge against Locsin and his counsel for their failure to aver in

¹⁴⁸ Id. at 168-173 (bold emphases are part of the original text).

¹⁴⁹ Section 1, Rule 65, *Rules of Court*.

¹⁵⁰ *Heirs of Spouses Teofilo M. Reterta and Elisa Reterta v. Spouses Lorenzo Mores and Virginia Lopez*, G.R. No. 159941, August 17, 2011, 655 SCRA 580, 594-595

the certification against forum shopping attached to the petition for *certiorari* in C.A.-G.R. SP No. 98399 of the pendency of another petition in C.A.-G.R. SP No. 98087 despite their knowledge thereof. Her complaint for perjury could really be dealt with by the Office of the City Prosecutor of Manila independently from any action the CA would take on the issue of forum shopping. As such, the filing of the complaint did not interfere with the CA's authority over the petition in C.A.-G.R. SP No. 98399.

In this regard, we deem to be appropriate to reiterate what the Court said on the nature of contempt of court in *Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines*,¹⁵¹ viz:

Misbehavior means something more than adverse comment or disrespect. There is no question that in contempt the intent goes to the gravamen of the offense. Thus, the good faith, or lack of it, of the alleged contemnor should be considered. Where the act complained of is ambiguous or does not clearly show on its face that it is contempt, and is one which, if the party is acting in good faith, is within his rights, the presence or absence of a contumacious intent is, in some instances, held to be determinative of its character. A person should not be condemned for contempt where he contends for what he believes to be right and in good faith institutes proceedings for the purpose, however erroneous may be his conclusion as to his rights. To constitute contempt, the act must be done willfully and for an illegitimate or improper purpose.

Nonetheless, the Court states that the power to punish for contempt is inherent in all courts, and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and ultimately, to the due administration of justice. But such power should be exercised on the preservative, not on the vindictive, principle. Only in cases of clear and contumacious refusal to obey should the power be exercised. Such power, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.¹⁵²

7.

Bildner Group entitled to injunctive relief

Concerning the propriety of the issuance of the WPI to enjoin BPI from letting the Locsin Group withdraw funds or transact with BPI on PHC's deposits, the Court finds that the Bildner Group as the applicant had a right *in esse* to be protected by the injunctive relief. A right that is *in esse* is a clear and unmistakable right to be protected, and is one founded on or granted by law or is enforceable as a matter of law.¹⁵³ The Bildner Group,

¹⁵¹ G.R. No. 155849, August 31, 2011, 656 SCRA 331, 349-350.

¹⁵² *Bank of the Philippines Island v. Calanza*, G.R. No. 180699, October 13, 2010, 633 SCRA 186, 193.

¹⁵³ *Tomawis v. Tabao-Caudong*, G.R. No. 166547, September 12, 2007, 533 SCRA 68, 85; *Lim v. BPI Agricultural Development Bank*, G. R. No. 179230; March 9, 2010, 614 SCRA 696, 702.

because of the indubitability of its standing as a party in interest, showed a clear and unmistakable right to be protected.

In granting the Bildner Group's application for the WPI, the RTC (Branch 62) emphasized the peculiarities of the case. Apparently, the Bildner Group relied on the fact that their election to the PHC Board of Directors was implemented and executed even prior to the WPI issued by the CA to stop the RTC (Branch 138) from implementing its decision in Civil Case No. 04-1049. The right that the Bildner Group relied on in seeking the execution of the decision was enforceable as a matter of law, for it emanated from the validly issued decision that was immediately executory under the pertinent rule. On the other hand, the TRO and WPI the CA issued in C.A.-G. R. SP No. 98399 could not and did not have any restraining effect on the immediately executory nature of the decision rendered in Civil Case No. 04-1049, because the matter had been brought to the CA through the wrong remedy.

Considering that the Bildner Group's clear right to an injunctive relief was established, coupled with the affirmance of the consolidated decision of the CA upholding the validity of the July 28, 2004 election of the Bildner Group as Directors and Officers of PHC, the decision promulgated in C.A.-G.R. SP No. 102437 to the effect that Bildner's standing as a party-in-interest was unclear, and that she failed to show a clear and unmistakable right to be protected by the writ of injunction, lost its ground.

Accordingly, the reversal of the decision promulgated in C.A.-G.R. SP No. 102437, and the reinstatement of the WPI issued against BPI by the RTC (Branch 62) in Civil Case No. 07-840 are in order.

8.

Supreme Court, not being a trier of facts, will not reexamine the evidence

The insistence by POTC and PHC (Nieto Group) that the RTC's decision in Civil Case No. 04-1049 was contrary to the facts and the evidence lacks merit.

The Court is not a trier of facts, and thus should not reexamine the evidence in order to determine whether the facts were as POTC and PHC (Nieto Group) now insist they were. The Court must respect the findings of the CA sustaining the factual findings of the RTC in Civil Case No. 04-1049. As a rule, the findings of fact by the CA are not reviewed on appeal,

but are binding and conclusive.¹⁵⁴ The reason for this has been well stated in *J.R. Blanco v. Quasha*:¹⁵⁵

To begin with, this Court is not a trier of facts. It is not its function to examine and determine the weight of the evidence supporting the assailed decision. In *Philippine Airlines, Inc. vs. Court of Appeals* (275 SCRA 621 [1997]), the Court held that factual findings of the Court of Appeals which are supported by substantial evidence are binding, final and conclusive upon the Supreme Court. So also, well-established is the rule that “factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court.” Moreover, well entrenched is the prevailing jurisprudence that only errors of law and not of facts are reviewable by this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court, which applies with greater force to the Petition under consideration because the factual findings by the Court of Appeals are in full agreement with what the trial court found.

We affirm, therefore, the appealed consolidated decision promulgated in C.A.-G.R. SP No. 101225, C.A.-G.R. SP No. 98097 and C.A.-G.R. SP No. 98399, and dismiss the petitions of the Locsin/Nieto-PCGG Group filed in G.R. No. 184712-14 and G.R. No. 186066.

WHEREFORE, the Court **DENIES** the petitions for review on *certiorari* in G.R. No. 184622, G.R. No. 184712-14, and G.R. No. 186066; **AFFIRMS** the resolution promulgated on August 15, 2007 by the Sandiganbayan in Civil Case No. 0198 and the consolidated decision promulgated on September 30, 2008 in C.A.-G.R. SP No. 101225, C.A.-G.R. SP No. 98097 and C.A.-G.R. SP No. 98399; **GRANTS** the petition for review on *certiorari* in G.R. No. 186590, and, accordingly, **ANNULS** and **SETS ASIDE** the decision promulgated on July 16, 2008 in C.A.-G.R. SP No. 102437; **AFFIRMS** the order issued on December 13, 2007 by the Regional Trial Court, Branch 62, in Makati City; and **REINSTATES** the writ of injunction issued on December 17, 2007 against Bank of Philippine Islands.

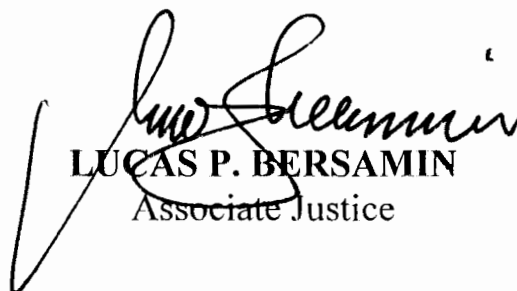
The Court **DIRECTS** the Locsin/Nieto-PCGG Group to render an accounting of all the funds and other assets received from the **PHILIPPINE OVERSEAS TELECOMMUNICATIONS CORPORATION, PHILIPPINE HOLDINGS CORPORATION** and **PHILIPPINE COMMUNICATIONS SATELLITE CORPORATION** since September 1, 2004, and to return such funds to the respective corporations within thirty days from the finality of this decision.

¹⁵⁴ *W-Red Construction and Development Corp. v. Court of Appeals*, G.R. No. 122648, August 17, 2000, 338 SCRA 341, 345.

¹⁵⁵ G.R. No. 133148, November 17, 1999, 318 SCRA 373, 382.

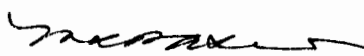
Costs of suit to be paid by the Group of Enrique L. Locsin and Manuel H. Nieto, Jr.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ARTURO D. BRION
Associate Justice




MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
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.



MARIA LOURDES P. A. SERENO
Chief Justice