



Republic of the Philippines  
**Supreme Court**  
Manila

**SPECIAL SECOND DIVISION**

**FERDINAND R. MARCOS, JR.,**  
Petitioner,

**G.R. No. 189434**

- versus -

**REPUBLIC OF THE PHILIPPINES,**  
represented by the Presidential  
Commission on Good Government,  
Respondent.

X ----- X  
**IMELDA ROMUALDEZ-MARCOS,**  
Petitioner ,

**G.R. No. 189505**

Present:

- versus -

**REPUBLIC OF THE PHILIPPINES,**  
Respondent.

SERENO, *CJ.*,  
BRION, \* Chairperson,  
ABAD,\*\*  
PEREZ, and  
REYES, *JJ.*

Promulgated:

MAR 12 2014 *HAN Cabalag/Projecto*

X -----X

**RESOLUTION**

**SERENO, C.J.:**

On 25 April 2012, this Court rendered a Decision affirming the 2 April 2009 Decision of the *Sandiganbayan* and declaring all the assets of Arelma, S.A., an entity created by the late Ferdinand E. Marcos, **forfeited** in favor of the Republic of the Philippines. The anti-graft court found that the totality of assets and properties acquired by the Marcos spouses was manifestly and grossly disproportionate to their aggregate salaries as public officials, and that petitioners were unable to overturn the *prima facie* presumption of ill-

\* Designated member in lieu of Justice Antonio T. Carpio, who took no part due to previous inhibition in a related case.

\*\* Per Raffle dated 25 April 2012.

*me*

gotten wealth, pursuant to Section 2 of Republic Act No. (RA) 1379.

Petitioners seek reconsideration of the denial of their petition, reiterating the following arguments:

1. That the *Sandiganbayan* erred in granting the Motion for Partial Summary Judgment because a) the Republic had earlier stated that it will file a separate forfeiture action regarding the assets of Arelma and b) Civil Case No. 0141 had already terminated; and
2. That the *Sandiganbayan* does not possess territorial jurisdiction over the *res* or the Arelma proceeds, which are held by Merrill Lynch in the United States.

We agree with the view of the Office of the Solicitor General (OSG) in its Opposition filed on 16 August 2012, that the first issue has already been raised and exhaustively discussed in our 25 April 2012 Decision. In fact, the discussion on the first issue is merely a restatement of petitioners' original assertions that the Sandiganbayan had no jurisdiction to render summary judgment over the assets of Arelma. According to petitioners, the judgment in Civil Case No. 0141 applied only to the Swiss deposits subject of our Decision in G.R. No. 152154, which were also listed in the Petition for Forfeiture.

It is clear from our 25 April 2012 Decision that this is a distorted reading of the facts. The said Petition for Forfeiture described among others, a corporate entity by the name "Arelma, Inc.," which maintained an account and portfolio in Merrill Lynch, New York, and which was purportedly organized for the purpose of hiding ill-gotten wealth.<sup>1</sup> The Decision of this Court in G.R. No. 152154 affirmed the partial summary judgment only over the Swiss deposits which the Sandiganbayan declared as forfeited in favor of the State.

This cannot be construed as a bar to a subsequent judgment over numerous other assets and properties expressly sought to be forfeited in Civil Case No. 0141. Respondent Republic's success in obtaining summary judgment over the Swiss accounts does not mean its preclusion from seeking partial summary judgment over a different subject matter covered by the same petition for forfeiture. In fact, Civil Case No. 0141 pertains to the recovery of **all** the assets enumerated therein, such as (1) holding companies, agro-industrial ventures and other investments; (2) landholdings, buildings, condominium units, mansions; (3) New York properties; (4) bills amounting to Php 27,744,535, time deposits worth Php 46.4 million, foreign currencies and jewelry seized by the United States customs authorities in Honolulu, Hawaii; (5) USD 30 million in the custody of the Central Bank in dollar-denominated Treasury Bills; shares of stock, private vehicles, and real estate

---

<sup>1</sup> *Rollo* (G.R. No. 189434), pp. 110-188, 170; Petition for Forfeiture.

in the United States, among others.<sup>2</sup>

The Swiss Deposits Decision, G.R. No. 152154, dealt only with the summary judgment as to the five Swiss accounts, because the 2000 Motion for Partial Summary Judgment dated 7 March 2000 specifically identified the five Swiss accounts. It did not include the Arelma account. To subscribe to the view of petitioners is to forever bar the State from recovering the assets listed above, including the properties it had specifically identified in its petition for forfeiture. As we have discussed in our Decision, the ruling of the Sandiganbayan is rightly characterized as a separate judgment, and allowed by the Rules of Court under Section 5 of Rule 36:

*Separate judgments.*—When more than one claim for relief is presented in an action, the court, at any stage, upon a determination of the issues material to a particular claim and all counterclaims arising out of the transaction or occurrence which is the subject matter of the claim, may render a separate judgment disposing of such claim. The judgment shall terminate the action with respect to the claim so disposed of and the action shall proceed as to the remaining claims. In case a separate judgment is rendered, the court by order may stay its enforcement until the rendition of a subsequent judgment or judgments and may prescribe such conditions as may be necessary to secure the benefit thereof to the party in whose favor the judgment is rendered.

Petitioners further insist that “Civil Case No. 0141 does not involve the Arelma account because the respondent unequivocally reserved its right to file a separate forfeiture petition concerning it.” However, petitioners failed to prove that such a reservation was made, and never even substantiated how such reservation could operate to deprive the State of its right to file for separate judgment. There is nothing in Republic Act 1379<sup>3</sup> or in the Rules which prohibits the graft court from taking cognizance of the Motion for Partial Summary Judgment only because of statements allegedly made by one party. This Court cannot countenance the view advanced by petitioners defeating the jurisdiction of the Sandiganbayan over violations of R.A. Nos. 3019 and 1379,<sup>4</sup> where the laws themselves do not provide for such limitations.

Petitioner Ferdinand Marcos, Jr. acknowledges that “the subject matter of the case (i.e. the power/authority to determine whether an asset may be forfeited under R.A. 1379) is within the (Sandiganbayan’s) jurisdiction.”<sup>5</sup> However, he objects to the graft court’s purported lack of *territorial* jurisdiction on the theory that forfeiture is an action in *rem*. He argues that the Sandiganbayan must first acquire territorial jurisdiction over the Arelma proceeds before the judgment may be enforced.

---

<sup>2</sup> See Annexes to the Petition for Foreclosure, Annexes A to G, I to P, V, and their sub-annexes, as cited in footnote 25 of the Sandiganbayan Decision.

<sup>3</sup> An Act Declaring Forfeiture in Favor of the State Any Property Found To Have Been Unlawfully Acquired By Any Public Officer or Employee and Providing for the Procedure Therefor.

<sup>4</sup> *Garcia v. Sandiganbayan*, G.R. No. 165835, 22 June 2005, 492 SCRA 600.

<sup>5</sup> Motion for Reconsideration filed by Ferdinand Marcos, Jr., p. 4.

At the outset, this theory fails to make a distinction between the issuance of a judgment, and its execution. It is basic that the execution of a Court's judgment is merely a ministerial phase of adjudication.<sup>6</sup> The authority of the Sandiganbayan to rule on the character of these assets as ill-gotten cannot be conflated with petitioner's concerns as to how the ruling may be effectively enforced.

More importantly, petitioner should be reminded of his earlier insistence that R.A. 1379 is penal, therefore petitions for forfeiture filed under this law are actions in *personam*, not in *rem*.<sup>7</sup> We reiterate our observations in the Swiss Deposits case: "Petitioner Republic has the right to a speedy disposition of this case. It would readily be apparent to a reasonable mind that respondent Marcoses have been deliberately resorting to every procedural device to delay the resolution hereof...The people and the State are entitled to favorable judgment, free from vexatious, capricious and oppressive delays x x x."<sup>8</sup>

In any case, we find that the Sandiganbayan did not err in granting the Motion for Partial Summary Judgment, despite the fact that the Arelma account and proceeds are held abroad. To rule otherwise contravenes the intent of the forfeiture law, and indirectly privileges violators who are able to hide public assets abroad: beyond the reach of the courts and their recovery by the State. Forfeiture proceedings, as we have already discussed exhaustively in our Decision, are actions considered to be in the nature of proceedings *in rem* or *quasi in rem*, such that:

Jurisdiction over the *res* is acquired either (a) by the seizure of the property under legal process, whereby it is brought into actual custody of the law; or (b) as a result of the institution of legal proceedings, in which the power of the court is recognized and made effective. **In the latter condition, the property, though at all times within the potential power of the court, may not be in the actual custody of said court.**<sup>9</sup>

The concept of potential jurisdiction over the *res*, advanced by respondent, is not at all new. As early as *Perkins v. Dizon*, deciding a suit against a non-resident, the Court held: "In order that the court may exercise power over the *res*, it is not necessary that the court should take actual custody of the property, potential custody thereof being sufficient. There is potential custody when, from the nature of the action brought, the power of the court over the property is impliedly recognized by law."<sup>10</sup>

Finally, we take note of the Decision rendered by the Appellate Division of the New York Supreme Court on 26 June 2012. In *Swezey v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, the foreign court agreed with

---

<sup>6</sup> *Far Eastern Surety v. De Hernandez*, G.R. No. L- 30359, 3 October 1975, 67 SCRA 256.

<sup>7</sup> (G.R. No. 189434), p. 27.

<sup>8</sup> *Republic of the Philippines v. Sandiganbayan* (18 November 2003, on the Marcoses' Motion for Reconsideration), 461 Phil. 598, 614

<sup>9</sup> *Macahilig v. Heirs of Grace M. Magalit*, G.R. No. 141423, 15 November 2000, 344 SCRA 838, 851.

<sup>10</sup> G.R. No. 46631, 16 November 1939, citing *El Banco Español Filipino v. Palanca*, 37 Phil., 921 (1918).

the dismissal of the turnover proceeding against the Arelma assets initiated by alleged victims of human rights abuses during the Marcos regime. It reasoned that the Republic was a necessary party, but could not be subject to joinder in light of its assertion of sovereign immunity:

(The Republic's) national interests would be severely prejudiced by a turnover proceeding because it has asserted a claim of ownership regarding the Arelma assets that rests on several bases: the Philippine forfeiture law that predated the tenure of President Marcos; evidence demonstrating that Marcos looted public coffers to amass a personal fortune worth billions of dollars; findings by the Philippine Supreme Court and Swiss Federal Supreme Court that Marcos stole related assets from the Republic; and, perhaps most critically, the recent determination by the Philippine Supreme Court that Marcos pilfered the money that was deposited in the Arelma brokerage account. Consequently, allowing the federal court judgment against the estate of Marcos to be executed on property that may rightfully belong to the citizens of the Philippines could irreparably undermine the Republic's claim to the Arelma assets.

x x x x

**The Republic's declaration of sovereign immunity in this case is entitled to recognition because it has a significant interest in allowing its courts to adjudicate the dispute over property that may have been stolen from its public treasury and transferred to New York through no fault of the Republic. The high courts of the United States, the Philippines and Switzerland have clearly explained in decisions related to this case that wresting control over these matters from the Philippine judicial system would disrupt international comity and reciprocal diplomatic self-interests.<sup>11</sup>**

These statements made by the foreign court, based on principles of comity and reciprocity, are highlighted if only to assuage petitioner's concerns on the effective enforcement of the Decision and this Resolution.

**WHEREFORE**, the Motions for Reconsideration of the Decision dated 25 April 2012 filed by petitioners Imelda Romualdez-Marcos and Ferdinand R. Marcos, Jr. are hereby **DENIED** with **FINALITY**.

**SO ORDERED.**





**MARIA LOURDES P. A. SERENO**  
Chief Justice

---

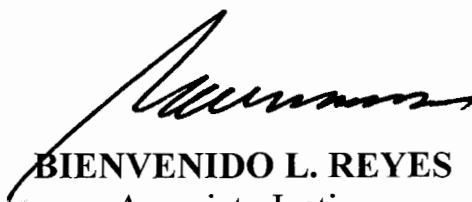
<sup>11</sup> *Swezey v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* 2011 NY Slip Op 05208 [87 AD3d 119] 16 June 2011.

WE CONCUR:

  
**ARTURO D. BRION**  
Associate Justice, Chairperson

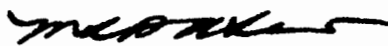
  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
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 Resolution 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