EN BANC

[G.R. No. 152154, November 18, 2003]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HONORABLE SANDIGANBAYAN (SPECIAL FIRST DIVISION), FERDINAND E. MARCOS (REPRESENTED BY HIS ESTATE/HEIRS: IMELDA R. MARCOS, MARIA IMELDA [IMEE] MARCOS-MANOTOC, FERDINAND R. MARCOS, JR. AND IRENE MARCOS-ARANETA), AND IMELDA ROMUALDEZ MARCOS, RESPONDENTS.

R E S O L U T I O N

CORONA, J.:

Before us are motions dated August 1, 2003, August 2, 2003 and August 25, 2003 of respondents Imelda R. Marcos, Irene Marcos-Araneta, Ma. Imelda Marcos and Ferdinand R. Marcos, Jr., respectively, seeking reconsideration of our decision dated July 15, 2003 which ordered the forfeiture in favor of the Republic of the Philippines of the Swiss deposits in escrow at the Philippine National Bank (PNB) in the estimated aggregate amount of US$658,175,373.60 as of January 31, 2002.

Respondent Imelda Marcos, in her motion for reconsideration, asks this Court to set aside the aforesaid decision dated July 15, 2003, premised on the following grounds:

I

THE DECISION OF THIS HONORABLE COURT EFFECTIVELY DEPRIVED RESPONDENT OF HER CONSTITUTIONALLY ENSHRINED RIGHT TO DUE PROCESS ON THE FOLLOWING GROUNDS:

A. FORFEITURE PROCEEDINGS UNDER R.A. 1379, IN RELATION TO THE EXECUTIVE ORDERS ARE CRIMINAL/PENAL IN NATURE, HENCE, RESPONDENT HAS ALL THE RIGHTS IN FAVOR OF THE ACCUSED UNDER

THE CONSTITUTION; AND THE PROSECUTION HAS THE BURDEN OF PROVING RESPONDENT'S GUILT BEYOND REASONABLE DOUBT.

B. CONSIDERING THE CRIMINAL/PENAL NATURE OF THE PROCEEDINGS, THE DENIALS RAISED BY RESPONDENT IN HER ANSWER WERE SUFFICIENT TO TRAVERSE THE ALLEGATIONS IN THE PETITION FOR FORFEITURE.

C. THE PROSECUTION HAD FAILED TO ESTABLISH EVEN A PRIMA FACIE CASE AGAINST RESPONDENT, MUCH LESS PROVEN ITS CASE FOR FORFEITURE BEYOND REASONABLE DOUBT.

D. EVEN ASSUMING THAT THE PROSECUTION WAS ABLE TO ESTABLISH A PRIMA FACIE CASE, A SUMMARY JUDGMENT CANNOT BE RENDERED IN FORFEITURE PROCEEDINGS. RESPONDENT HAS THE RIGHT TO BE GIVEN THE OPPORTUNITY TO OVERTHROW THE DISPUTABLE PRESUMPTION.

E. THE FACTUAL FINDING THAT THE FOUNDATIONS INVOLVED IN THE INSTANT FORFEITURE PROCEEDINGS ARE CONSIDERED BUSINESSES, AND WERE MANAGED BY RESPONDENT TOGETHER WITH HER LATE HUSBAND, WILL PERNICIOUSLY AFFECT THE CRIMINAL PROCEEDINGS FILED BY THE REPUBLIC AGAINST RESPONDENT.

II

THE DECISION OF THE SUPREME COURT, WHICH IMPROPERLY CONVERTED THE SPECIAL CIVIL ACTION INTO A REGULAR APPEAL, DIVESTED RESPONDENT OF HER RIGHT TO APPEAL THE CASE ON THE MERITS, THEREBY DEPRIVING HER OF DUE PROCESS.

A. THE RESOLUTION DATED 31 JANUARY 2002 RAISED BEFORE THIS HONORABLE COURT ON A PETITION FOR CERTIORARI, WAS OBVIOUSLY A MERE INTERLOCUTORY ORDER. THE DECISION OF THIS HONORABLE COURT SHOULD NOT HAVE DELVED ON THE MERITS OF THE

CASE, IN DIRECT VIOLATION OF RESPONDENTS' RIGHT TO APPEAL, WHICH IS EXPRESSLY CONFERRED BY THE RULES.

Respondent Imelda Marcos further alleges that our July 15, 2003 decision will prejudice the criminal cases filed against her.

Respondents Ferdinand, Jr. and Imee Marcos also pray that the said decision be set aside and the case be remanded to the Sandiganbayan to give petitioner Republic the opportunity to present witnesses and documents and to afford respondent Marcoses the chance to present controverting evidence, based on the following:

I

THE LETTER AND INTENT OF RA 1379 FORBID/PRECLUDE SUMMARY JUDGMENT AS THE PROCESS TO DECIDE FORFEITURE UNDER RA 1379. THUS, IT PROVIDES FOR SPECIFIC JURISDICTIONAL ALLEGATIONS IN THE PETITION AND MANDATES A WELL-DEFINED PROCEDURE TO BE STRICTLY OBSERVED BEFORE FORFEITURE JUDGMENT MAY BE RENDERED.

II

SUMMARY JUDGMENT IN THE DECISION UNDER RECONSIDERATION DIMINISHES/MODIFIES OR REPEALS VIA JUDICIAL LEGISLATION SUBSTANTIVE RIGHTS OF RESPONDENTS GRANTED AND GUARANTEED BY RA 1379 AND IS THEREFORE UNCONSTITUTIONAL.

III

THE DECISION IS CONSTITUTIONALLY INVALID FOR FAILURE TO EXPRESS CLEARLY AND DISTINCTLY THE TRUE/GENUINE STATEMENT OF FACTS (ADDUCED AFTER TRIAL/ PRESENTATION OF EVIDENCE) ON WHICH IT IS BASED.

IV

THE LAW(S) ON WHICH THE DECISION IS BASED IS/ARE NOT APPLICABLE/PROPER AND/OR ARE FORCEFULLY STRAINED TO JUSTIFY THE UNWARRANTED CONCLUSIONS REACHED,

VIOLATIVE OF CONSTITUTIONAL AND STATUTORY INJUNCTIONS.

V

THERE BEING A DEPRIVATION OF DUE PROCESS, THE COURT AXIOMATICALLY OUSTED ITSELF OF JURISDICTION. HENCE, THE DECISION IS VOID.

VI

ASSUMING SUMMARY JUDGMENT IS APPLICABLE AND PROPER, IT IS NOT WARRANTED UNDER THE PREMISES.

VII

ASSUMING THAT A SUMMARY JUDGMENT IS PROPER, THE AVERMENTS OF THE PETITION FORFEITURE ARE INCOMPLETE AND INCONCLUSIVE TO COMPLY WITH THE REQUISITE IMPERATIVES. JUDGMENT VIOLATES THE CONDITIONS SINE QUA NON TO BE OBSERVED TO RENDER A VALID DECISION OF FORFEITURE UNDER RA 1379.

VIII

THE STATEMENT OF OPERATIVE FACTS/FACTUAL NARRATION AS WELL AS THE CONCLUSIONS REACHED IN THE DECISION ARE CONTRADICTED OR REFUTED BY THE PLEADINGS OF THE PARTIES, THE JUDICIAL ADMISSIONS OF PETITIONER, THE PROCEEDINGS BEFORE SANDIGANBAYAN AND THE ORDERS ISSUED.

Respondent Irene Araneta, in her motion for reconsideration, merely reiterates the arguments previously raised in the pleadings she filed in this Court and prays that the Court's decision dated July 15, 2003 be set aside.

In its consolidated comment dated September 29, 2003, the Office of the Solicitor General argues that:

I

THE MOTIONS FOR RECONSIDERATION DO NOT RAISE ANY NEW MATTER AND WERE FILED MANIFESTLY TO DELAY THE EXECUTION OF THE DECISION DATED JULY 15, 2003.

II

SUMMARY JUDGMENT IS APPLICABLE TO A PETITION FOR FORFEITURE, AS LONG AS THERE IS NO GENUINE FACTUAL ISSUE WHICH WOULD CALL FOR TRIAL ON THE MERITS.

III

THE DECISION DATED JULY 15, 2003 OF THIS HONORABLE COURT CLEARLY EXPRESSED THE FACTS ON WHICH IT IS BASED, MOST OF WHICH WERE ADMITTED BY PRIVATE RESPONDENTS IN THEIR PLEADINGS SUBMITTED TO THE SANDIGANBAYAN AND IN THE COURSE OF THE PROCEEDINGS.

IV

CERTIORARI IS THE APPROPRIATE AND SPEEDY REMEDY OF PETITIONER REPUBLIC, GIVEN THE GRAVE ABUSE OF DISCRETION COMMITTED BY RESPONDENT SANDIGANBAYAN IN TOTALLY REVERSING ITS OWN DECISION DATED SEPTEMBER 19, 2000 AND IN ISSUING THE SUBJECT RESOLUTION DATED JANUARY 31, 2002, AND CONSIDERING THAT THE CASE IS IMBUED WITH IMMENSE PUBLIC INTEREST, PUBLIC POLICY AND DEEP HISTORICAL REPERCUSSIONS.

V

A FORFEITURE PROCEEDING UNDER REPUBLIC ACT NO. 1379 IS CIVIL AND NOT CRIMINAL IN NATURE.

VI

THE DECISION DATED JULY 15, 2003 OF THIS HONORABLE COURT WILL NOT PREJUDICE THE CRIMINAL ACTIONS FILED

> AGAINST RESPONDENT IMELDA R. MARCOS FOR VIOLATION OF THE ANTI- GRAFT AND CORRUPT PRACTICES ACT.

On October 6, 2003, respondents Marcos, Jr. and Imee Marcos filed a motion for leave to file a reply to petitioner Republic's consolidated comment, which this Court granted. On October 22, 2003, they filed their reply to the consolidated comment.

As the aforequoted issues are interwoven, the Court shall discuss them together.

At the outset, we note that respondents, in their motions for reconsideration, *do not raise any new matters* for the Court to resolve. The arguments in their motions for reconsideration are mere reiterations of their contentions fully articulated in their previous pleadings, and exhaustively probed and passed upon by the Court.

SUMMARY JUDGMENT IN FORFEITURE PROCEEDINGS

Respondent Marcoses argue that the letter and intent of RA 1379 forbid and preclude summary judgment as the process to decide forfeiture cases under the law. It provides for specific jurisdictional allegations in the petition and mandates a well-defined procedure to be strictly observed before a judgment of forfeiture may be rendered.

According to respondents, Section 5 of RA 1379 requires the court to set a date for hearing during which respondents shall be given ample opportunity to explain, to the satisfaction of the court, how they acquired the property. They contend that the proceedings under RA 1379 are criminal in character, thus they have all the rights of an accused under the Constitution such as the right to adduce evidence and the right to a hearing. They claim that it is petitioner which has the burden of proving respondents' guilt beyond reasonable doubt and that forfeiture of property should depend not on the weakness of their evidence but on the strength of petitioner's. Accordingly, respondents maintain that, due to the criminal nature of forfeiture proceedings, the denials raised by them were sufficient to traverse all the allegations in the petition for forfeiture.

The issue of the propriety of summary judgment was painstakingly discussed and settled in our July 15, 2003 decision:

> A summary judgment is one granted upon motion of a party for an expeditious settlement of the case, it appearing from the pleadings, depositions, admissions and affidavits that there are no important questions or issues of fact posed and, therefore, the movant is entitled to a judgment as a matter of law. A motion for summary judgment is premised on the assumption that the issues presented need not be tried

> either because these are patently devoid of substance or that there is no genuine issue as to any pertinent fact. It is a method sanctioned by the Rules of Court for the prompt disposition of a civil action where there exists no serious controversy. Summary judgment is a procedural devise for the prompt disposition of actions in which the pleadings raise only a legal issue, not a genuine issue as to any material fact.[1]

IS SUMMARY JUDGMENT IN FORFEITURE PROCEEDINGS A VIOLATION OF DUE PROCESS?

The principal contention now of respondent Marcoses is limited to their argument that our aforementioned decision effectively deprived them of their constitutionally enshrined right to due process.

According to respondents, RA 1379 is penal in substance and effect, hence, they are entitled to the constitutional safeguards enjoyed by an accused. Respondents further argue that the reinstatement of the decision of the Sandiganbayan dated September 19, 2000, which ordered the forfeiture of the properties subject of the instant case by summary judgment, diminished or repealed, by judicial legislation, respondents' rights guaranteed by RA 1379 for failure to set a date for hearing to benefit respondents.

We disagree.

Due process of law has two aspects: substantive and procedural due process. In order that a particular act may not be impugned as violative of the due process clause, there must be compliance with both substantive and the procedural requirements thereof. [2]

In the present context, substantive due process refers to the intrinsic validity of a law that interferes with the rights of a person to his property. [3] On the other hand, procedural due process means compliance with the procedures or steps, even periods, prescribed by the statute, in conformity with the standard of fair play and without arbitrariness on the part of those who are called upon to administer it.[4]

Insofar as substantive due process is concerned, there is no showing that RA 1379 is unfair, unreasonable or unjust. In other words, respondent Marcoses are not being deprived of their property through forfeiture for arbitrary reasons or on flimsy grounds. As meticulously explained in the July 15, 2003 decision of the Court, EO No. 1[5] created the PCGG primarily to assist then President Corazon Aquino in the recovery, pursuant to RA 1379, of vast government resources amassed and stolen by former President Ferdinand Marcos, his immediate family, relatives, close associates

and other cronies. These assets were stashed away here and abroad.

A careful study of the provisions of RA 1379 readily discloses that the forfeiture proceedings in the Sandiganbayan did not violate the substantive rights of respondent Marcoses. These proceedings are civil in nature, contrary to the claim of the Marcoses that it is penal in character.

In *Almeda Sr., et al. vs. Perez, et al.,*[6] we suggested a test to determine whether the proceeding for forfeiture is civil or criminal:

> " . . . Forfeiture proceedings may be either civil or criminal in nature, and may be in rem or in personam. If they are under a statute such that if an indictment is presented the forfeiture can be included in the criminal case they are criminal in nature, although they may be civil in form; and where it must be gathered from the statute that the action is meant to be criminal in its nature it cannot be considered as civil. If, however, the proceeding does not involve the conviction of the wrongdoer for the offense charged the proceeding is of a civil nature; and under statutes which specifically so provide, where the act or omission for which the forfeiture is imposed is not also a misdemeanor, such forfeiture may be sued for and recovered in a civil action." (37 CJS, Forfeiture, Sec. 5, pp. 15-16)

In the case of *Republic vs. Sandiganbayan and Macario Asistio, Jr.*, [7] this Court categorically declared that:

> The rule is settled that forfeiture proceedings are actions *in rem* and therefore civil in nature.

The proceedings under RA 1379 do not terminate in the imposition of a penalty but merely in the forfeiture of the properties illegally acquired in favor of the State. Section 6 of said law provides:

> x x x If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State x x x

The procedure outlined in the law leading to forfeiture is that provided for in a *civil action*:

x x x x x x x x x

> Sec. 3. The petition - The petition shall contain the following information:
>
> (a) The name and address of the respondent.
>
> (b) The public office or employment he holds and such other public offices or employments which he has previously held.
>
> (c) The approximate amount of property he has acquired during his incumbency in his past and present offices and employments.
>
> (d) A description of said property, or such thereof as has been identified by the Solicitor General.
>
> (e) The total amount of his government salary and other proper earnings and incomes from legitimately acquired property, and
>
> (f) Such other information as may enable the court to determine whether or not the respondent has unlawfully acquired property during his incumbency.
>
> x x x x x x x x x
>
> Sec. 4. Period for the answer. - The respondent shall have a period of fifteen days within which to present his answer.

In short, there is a petition, then an answer and lastly, a hearing. The preliminary investigation required prior to the filing of the petition, in accordance with Section 2 of the Act, is expressly provided to be similar to a preliminary investigation in a criminal case. The similarity, however, ends there for, if the investigation were akin to that in a criminal case but all the other succeeding steps were those for a civil proceeding, then the process as a whole is definitely not criminal. Were it a criminal proceeding, there would be, after preliminary investigation, a reading of the information, a plea of guilty or not guilty, a trial and a reading of judgment in the presence of respondents. But these steps, as above set forth, are clearly not provided for in the law.

Prescinding from the foregoing discussion, save for annulment of marriage or declaration of its nullity or for legal separation, summary judgment is applicable to all

kinds of actions.[8]

The proceedings in RA 1379 and EO No. 14 were observed in the prosecution of the petition for forfeiture. Section 1 of EO No.14-A, dated August 18, 1986, amending Section 3 of EO No.14, provides that civil suits to recover unlawfully acquired property under RA 1379 may be proven by preponderance of evidence. Under RA 1379 and EO Nos. 1 and 2, the Government is required only to state the known lawful income of respondents for the prima facie presumption of illegal provenance to attach. As we fully explained in our July 15, 2003 decision, *petitioner Republic was able to establish this prima facie presumption. Thus, the burden of proof shifted, by law, to the respondents to show by clear and convincing evidence that the Swiss deposits were lawfully acquired and that they had other legitimate sources of income.* This, respondent Marcoses did not do. They failed - or rather, refused - to raise any genuine issue of fact warranting a trial for the reception of evidence therefor. For this reason and pursuant to the State policy to expedite recovery of ill-gotten wealth, petitioner Republic moved for summary judgment which the Sandiganbayan appropriately acted on.

Respondents also claim that summary judgment denies them their right to a hearing and to present evidence purposely granted under Section 5 of RA 1379.

Respondents were repeatedly accorded full opportunity to present their case, their defenses and their pleadings. Not only did they obstinately refuse to do so. Respondents time and again tried to confuse the issues and the Court itself, and to delay the disposition of the case.

Section 5 of RA 1379 provides:

> The court shall set a date for a hearing which may be open to the public, and during which the respondent shall be given ample opportunity to explain, to the satisfaction of the court, how he has acquired the property in question.

And pursuant to Section 6 of the said law, if the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property forfeited in favor of the State.

Respondent Marcoses erroneously understood "hearing" to be synonymous with "trial." The words "hearing" and "trial" have different meanings and connotations. Trial may refer to the reception of evidence and other processes. It embraces the period for the introduction of evidence by both parties. Hearing, as known in law, is

not confined to trial but embraces the several stages of litigation, including the pre-trial stage. A hearing does not necessarily mean presentation of evidence. It does not necessarily imply the presentation of oral or documentary evidence in open court but that the parties are afforded the opportunity to be heard.

A careful analysis of Section 5 of RA 1379 readily discloses that the word "hearing" does not always require the formal introduction of evidence in a trial, only that the parties are given the occasion to participate and explain how they acquired the property in question. If they are unable to show to the satisfaction of the court that they lawfully acquired the property in question, then the court shall declare such property forfeited in favor of the State.[9] There is no provision in the law that a full blown trial ought to be conducted before the court declares the forfeiture of the subject property. Thus, even if the forfeiture proceedings do not reach trial, the court is not precluded from determining the nature of the acquisition of the property in question even in a summary proceeding.

Due process, a constitutional precept, does not therefore always and in all situations require a trial-type proceeding. The essence of due process is found in the reasonable opportunity to be heard and submit one's evidence in support of his defense. What the law prohibits is not merely the absence of previous notice but the absence thereof *and* the lack of opportunity to be heard.[10] This opportunity was made completely available to respondents who participated in all stages of the litigation.

When the petition for forfeiture was filed at the Sandiganbayan, respondent Marcoses argued their case and engaged in all of the lengthy discussions, argumentation, deliberations and conferences, and submitted their pleadings, documents and other papers. When petitioner Republic moved for summary judgment, respondent Marcoses filed their demurrer to evidence. They agreed to submit the case for decision with their opposition to the motion for summary judgment. They moved for the reconsideration of the Sandiganbayan resolution dated September 19, 2000 which granted petitioner Republic's motion for summary judgment (which was in fact subsequently reversed in its January 31, 2002 resolution.) And when the case finally reached this Court, respondent Marcoses were given, on every occasion, the chance to file and submit all the pleadings necessary to defend their case. And even now that the matter has been finally settled and adjudicated, their motion for reconsideration is being heard by this Court.

For twelve long years, respondent Marcoses tried to stave off this case with nothing but empty claims of "lack of knowledge or information sufficient to form a belief," or "they were not privy to the transactions," or "they could not remember (because the transactions) happened a long time ago" or that the assets "were lawfully acquired."

And they now allege deprivation of their right to be heard and present evidence in their defense?

It would be repulsive to our basic concepts of justice and fairness to allow respondents to further delay the adjudication of this case and defeat the judgment of this Court which was promulgated only after all the facts, issues and other considerations essential to a fair and just determination had been judiciously evaluated.

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. There is justice waiting to be done. The people and the State are entitled to favorable judgment, free from vexatious, capricious and oppressive delays, the salutary objective being to restore the ownership of the Swiss deposits to the rightful owner, the Republic of the Philippines, within the shortest possible time.

The respondent Marcoses cannot deny that the delays in this case have all been made at their instance. The records can testify to this incontrovertible fact. It will be a mockery of justice to allow them to benefit from it. By their own deliberate acts - not those of the Republic or anybody else - they are deemed to have altogether waived or abandoned their right to proceed to trial.

Respondent Imelda R. Marcos likewise asserts that the factual finding that the foundations involved in the instant forfeiture proceedings were businesses managed by her and her late husband, will adversely affect the criminal proceedings filed by the Republic against her. The contention is bereft of merit. The criminal cases referred to by said respondent are actions *in personam,* directed against her on the basis of her personal liability. In criminal cases, the law imposes the burden of proving guilt on the prosecution beyond reasonable doubt, and the trial judge in evaluating the evidence must find that all the elements of the crime charged have been established by sufficient proof to convict.

But a forfeiture proceeding is an action *in rem,* against the thing itself instead of against the person. Being civil in character, it requires no more than a preponderance of evidence.[11] And by preponderance of evidence is meant that the evidence as a whole adduced by one side is superior to that of the other. [12] Hence, the factual findings of this Court in its decision dated July 15, 2003 will, as a consequence, neither affect nor do away with the requirement of having to prove her guilt beyond reasonable doubt in the criminal cases against her.

One final note. We take judicial notice of newspaper accounts that a certain Judge Manuel Real of the US District Court of Hawaii issued a "global freeze order" on the Marcos assets, including the Swiss deposits. We reject this order outrightly because it is a transgression not only of the principle of territoriality in public international law but also of the jurisdiction of this Court recognized by the parties-in-interest and the Swiss government itself.

WHEREFORE, the motions for reconsideration are hereby DENIED with FINALITY.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna, and *Tinga, JJ.,* concur.
Carpio, J., no part.

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[1] G.R. No. 152154, Republic *vs.* Sandiganbayan, July 15, 2003, p. 55.

[2] Tupas *vs.* Court of Appeals, 193 SCRA 597 [1991].

[3] Ynot *vs.* Intermediate Appellate Court, 148 SCRA 659 [1987].

[4] Tupas *vs.* Court of Appeals, *supra*; Tatad *vs.* Sandiganbayan, 159 SCRA 70 [1988].

[5] Promulgated on February 28, 1986.

[6] G.R. No. L-18428, August 30, 1962.

[7] 200 SCRA 667 [1991].

[8] Articles 48 and 60, Family Code of the Philippines; Roque *vs.* Encarnacion, 95 Phil. 643 [1954].

[9] Section 6, RA 1379.

[10] Mutuc *vs.*Court of Appeals, 190 SCRA 43 [1990].

[11] Section 1, Rule 133, Rules of Court, as amended.

[12] Municipality of Moncada *vs.* Cajuigan, 21 Phil. 184.