

**Marcos, Jr. v. Republic**  
GR No. 189434, 189505, April 25, 2012  
Serenio, J. / kmd

SUBJECT MATTER: Privileges and Salary of the President

CASE SUMMARY: In this case, the Court ruled that Sandiganbayan did not err in granting the Motion for Partial Summary judgment filed by the Republic, declaring the assets and properties of Arelma, Inc. as ill-gotten wealth and should be forfeited in favor of the government. It held that **Arelma, Inc. is presumed prima facie to have been unlawfully acquired as the an amount of said property is manifestly out of proportion to the spouses' combined salary.** Also, it held that proceedings for forfeiture of properties in a single suit can proceed separately for each property, Arelma proceeding for forfeiture is independent from the Swiss accounts forfeiture. Lastly, due to sham answers given by the Marcoses (i.e denial and inability to recall), the Court held that summary judgment may be allowed even when there is no genuine as long as the party who moves for summary judgment can demonstrate clearly that the absence of any genuine issue of fact is patently unsubstantial so as not to constitute a genuine issue for trial.

DOCTRINES:

Whenever any public officer or employee has acquired during his incumbency an amount of property manifestly out of proportion to his salary as such public officer and to his other lawful income, said property shall be presumed prima facie to have been unlawfully acquired.

The elements that must concur for this prima facie presumption to apply are the following: (1) the offender is a public officer or employee; (2) he must have acquired a considerable amount of money or property during his incumbency; and (3) said amount is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and income from legitimately acquired property.

Proceedings for forfeiture of properties in a single suit can proceed separately for each property; previous summary judgment for other properties does not preclude a party from seeking partial summary judgment over a different subject matter covered by the same petition for forfeiture.

Summary judgment may be allowed where there is no genuine issue as to any material fact and where the moving party is entitled to a judgment as a matter of law; To the party who moves for summary judgment rests the onus of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is patently unsubstantial so as not to constitute a genuine issue for trial.

Facts:

- Two consolidated petitions pray for the reversal of the 2 April 2009 decision of the Sandiganbayan granting the Motion for Partial Summary Judgment filed by respondent Republic of the Philippines (Republic) declaring all assets and properties of Arelma, S.A., an entity **created by the late Ferdinand E. Marcos** and shall be forfeited in favor of the government.
- 17 December 1991, Republic, through the Presidential Commission on Good Government (PCGG), filed a Petition for Forfeiture before the Sandiganbayan pursuant to the forfeiture law, Republic Act No. 1379 (R.A. 1379) in relation to Executive Order Nos. 1, 2 and 14, seeking the declaration of Swiss bank accounts totaling USD 356 million (now USD 658 million), and two treasury notes worth USD 25 million and USD 5 million, as ill-gotten wealth.

- Respondent also sought the forfeiture of the assets of dummy corporations and entities including a corporate entity by the name Arelma, Inc. which maintained an account in Merrill Lynch, New York for purpose of hiding ill-gotten wealth.
- 28 December 1993, Marcos children and PCGG Chairperson signed several Compromise Agreements (a General Agreement and Supplemental Agreements) for a global settlement of the Marcos assets.
  - It stated that USD 356 million belongs in principle to the Republic of the Philippines provided certain conditionalities are met.
- 18 October 1996, Republic filed a Motion for Summary Judgment pertaining to the forfeiture of the USD 356 million which was subsequently DENIED by the Sandiganbayan because the Marcoses moved for Compromise Agreements.
- On 10 March 2000, the Republic filed another Motion for Summary Judgment (the 2000 Motion) based on the grounds:
  - (1) the essential facts that warrant the forfeiture of the funds subject of the Petition under R.A. 1379 are admitted by respondents in their pleadings and other submissions; and
  - (2) the respondent Marcoses' pretrial admission that they did not have any interest or ownership over the funds subject of the action for forfeiture tendered no genuine issue or controversy as to any material fact.
- 19 September 2000 Decision, the Sandiganbayan initially granted the 2000 Motion, declaring that the Swiss deposits were ill-gotten wealth, and, thus, forfeited in favor of the State.
- On 18 November 2003, the Court denied with finality petitioner Marcoses' Motion for Reconsideration.
- 16 July 2004, the Republic filed a Motion for Partial Summary Judgment (2004 Motion) to declare the funds, properties, shares in and interests of ARELMA as ill-gotten assets.
- Petitioner contends that
  - (1) respondents are deemed to have admitted the allegations of the Petition as regards Arelma; and
  - (2) there is no dispute that the combined lawful income of the Marcoses is grossly disproportionate to the deposits of their foundations and dummy corporations, including Arelma.
- Marcos-Araneta filed a Motion to Expunge on the ground that the proceedings in Civil Case No. 0141 had already terminated.
- On 2 April 2009, the Sandiganbayan rendered the assailed Decision granting respondent's Motion for Partial Summary Judgment. It found that the proceedings in Civil Case No. 0141 had not yet terminated, as the Petition for Forfeiture included numerous other properties, which the Sandiganbayan and Supreme Court had not yet ruled upon.

- On 22 October 2009, Ferdinand R. Marcos, Jr. filed the instant Rule 45 Petition, questioning the said Decision. One week later, Imelda Marcos filed a separate Rule 45 Petition<sup>18</sup> on essentially identical grounds, which was later consolidated with the first Petition.

Issues:

1. WON the forfeiture proceeding with the Sandiganbayan is criminal in nature, such that summary judgment is not allowed; (NO)
2. WON the Republic complied with Section 3, subparagraphs c, d, and e of R.A. 1375; (YES)
3. WON petition for forfeiture has been terminated such that a motion for partial summary judgment may no longer be allowed; (NO)
4. WON there are genuine, triable issues which would preclude the application of the rule on summary judgment. (NO)

Holding:

1. No, forfeiture proceeding is civil in nature and that a summary judgment is allowed.

Cabal v. Kapunan, classified forfeiture proceedings as quasi- criminal, not criminal. And even so, Cabal declared that the right against self-incrimination is still applicable to the proceedings. Also, the right of the Marcoses against self-incrimination has been amply protected by the provisions of R.A. 1379.

In Republic v. Sandiganbayan, this Court settled the rule that forfeiture proceedings are actions in rem and therefore civil in nature. Also, in Almeda v. Judge Perez, proceedings under R.A. 1379 is a civil forfeiture.

2. **YES, the Republic complied with Section 3 c, d, and e of R.A. 1379.**

**In accordance with the principle of immutability of judgments, petitioners can no longer use the present forum to assail the ruling in the Swiss Deposits Decision, which has become final and executor. Using a Rule 45 Petition to question a judgment that has already become final is improper, especially when it seeks reconsideration of factual issues.**

For a petition to flourish under the forfeiture law (RA 1379), it must contain the following:

- (a) The name and address of the respondent.
- (b) The public officer or employment he holds and such other public offices or employment 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**<sup>[1]</sup><sub>SEP</sub>

(f) Such other information as may enable the court to determine whether or not the respondent has unlawfully acquired property during his incumbency

Petitioners never raised the existence of earnings from real properties by way of defense in their Answer. In their Answer, and even in their subsequent pleadings, they merely made general denials of the allegations without stating facts admissible in evidence at the hearing.

In the Swiss Deposits Decision, the Court ruled that petitioner Republic was able to establish the prima facie presumption that the assets and properties acquired by the Marcoses “were manifestly and patently disproportionate to their aggregate salaries as public officials.” It was noted that the combined salaries make up only 31.79% of the spouses’ total net worth from 1965 to 1984. This means petitioners are unable to account for or explain more than two-thirds of the total net worth of the Marcos spouses from 1965 to 1984.

3. NO. Proceedings for forfeiture (December 17 Sandiganbayan Case) has not yet terminated and that a motion for partial summary judgment is still allowed.

Petitioners are under the mistaken impression that the Swiss Deposits Decision serves as the entire judgment in Civil Case No. 0141. Just because respondent Republic succeeded in obtaining summary judgment over the Swiss accounts does not mean it is precluded from seeking partial summary judgment over a different subject matter covered by the same petition for forfeiture. The Swiss Deposits Decision dealt only with the summary judgment as to the five Swiss accounts. It did not include the Arelma account. Thus, the other properties, which were subjects of the Petition for Forfeiture, but were not included in the 2000 Motion, can still be subjects of a subsequent motion for summary judgment.

4. NO, petitioners’ sham denials justify the application of summary judgment.

It was noted that the entirety of the lawful income of the Marcoses represents only 9% of the entire assets of Arelma, which petitioners remain unable to explain. Petitioners employ the same tactic, consisting of general denials based on a purported lack of knowledge regarding the whereabouts of the Arelma assets.

Respondents’ defenses of “lack of knowledge for lack of privity” or “(inability to) recall because it happened a long time ago” or, on the part of Mrs. Marcos, that “the funds were lawfully acquired” are fully insufficient to tender genuine issues. Respondent Marcoses’ defenses were a sham and evidently calibrated to compound and confuse the issues. The Court found this to be an attempt to delay the goal of asset recovery by their evasiveness and the expedient profession of ignorance.

The Court further held that summary judgment may be allowed where there is no genuine issue as to any material fact and where the moving party is entitled to a judgment as a matter of law. In Yuchengco v. Sandiganbayan, the Court has previously discussed the importance of summary judgment in weeding out sham claims or defenses at an early stage of the litigation in order to avoid the expense and loss of time involved in a trial. Even if in the Answer itself there appears to be a tender of issues requiring trial, yet when the relevant affidavits, depositions, or admissions demonstrate that those issues are not genuine but sham or fictitious, the Court is justified in dispensing with the trial and rendering summary judgment for plaintiff.

**Petition is DENIED. The Decision dated 2 April 2009 of the Sandiganbayan is AFFIRMED.**