

## Embarrassment of riches

*Chance finds have shed light on the vast fortunes stashed away by the Marcos regime. But with members of the former first family of the Philippines in positions of power, returning the wealth to the people remains a challenge, writes Raissa Robles*

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In a nondescript building along Manila's traffic-choked Edsa (Epifanio de los Santos Avenue) highway, the hunt continues for a toppled dictator's ill-gotten wealth. In this edifice - now occupied by the Presidential Commission on Good Government (PCGG) - Maria Imelda, or Imee, the eldest daughter of Imelda and Ferdinand Marcos, once had an office. Inadvertently, she left behind a very interesting notebook.

The book contained lists of vast secret holdings belonging to Imee's father and held by dummy nominees in various corporations. Other incriminating documents were left behind in Malacanang Palace when Ferdinand Marcos was driven out of the country in 1986 by a peaceful "people power" uprising, staged along the same highway.

Those documents led investigators to, among other discoveries, secret Swiss bank deposits totalling US\$356 million and four buildings in Manhattan, New York.

In the palace basement were found what has become the greatest symbol of the regime's excesses: 3,000 pairs of shoes that had belonged to Imelda - then a powerful cabinet minister. Private auditing firm SGV catalogued the shoes, pair by pair, but Imelda, then known as Asia's "Iron Butterfly", dismissed the audit as "[a] lie. [I have] only 200 pairs. I had more panties than shoes ... [The government] displayed them and it was good all my panties were black. I had thousands of them."

The shoes were displayed to help expose the true Ferdinand Marcos, who had vowed, in his inaugural presidential speech, in 1965: "Any act of extravagance in government will be considered not only an offence to good morals but also an act punishable with dismissal from office."

Investigators' estimates put the ill-gotten assets amassed by the tyrant and his wife - and stashed in Manila and abroad - at US\$10 billion. By contrast, their combined net worth - calculated from official earnings and tax returns - shortly before their ousting was less than US\$1 million: US\$957,487.75, to be exact.

Corazan Aquino, who replaced Marcos, made it her top priority to sequester the family's assets. Indeed, the first act of her revolutionary government was to create the PCGG for that purpose.

In more than 27 years of searching, the commission has recovered less than half of the embezzled wealth - or 164 billion pesos (HK\$30.9 billion) - but no member or crony of the

Marcos family has gone to jail. Ferdinand Marcos died in 1989, without having faced justice.

The surviving Marcoses have succeeded in making their legal problems shrink by returning to positions of power. The only son, Ferdinand "Bongbong" Marcos Jr, is a sitting senator and a source close to the Marcoses tells Post Magazine that his mother wants him to run for president in 2016, to "put back Ferdinand Marcos in Malacanang."

Imelda herself is running for re-election as congresswoman this month in the Marcos stronghold of Ilocos Norte, while Imee is running for re-election, unopposed, as governor of the same province. Mother and daughter are both likely to win.

In April last year, however, the Supreme Court issued a decision that could have far-reaching consequences for the family: it ruled that the "filthy riches" Ferdinand and Imelda Marcos "laundered" through various corporations all belong to the state. It also left the door open for the forfeiture of Marcos assets yet to be discovered.

One of those corporations is the cash-rich Panamanian company Arelma, which fell into the PCGG's lap only in 2000. It is currently the subject of lawsuits in New York and Manila over its cash hoard, now estimated to amount to US\$40 million.

Imelda's lawyer, Robert Sison, tells Post Magazine: "I am expecting to lose that [the Arelma case]."

The government's efforts to recover the lost wealth have been aided by the confessions of 28 individuals who told the PCGG that the Marcoses used them to hide assets. The first to settle in exchange for immunity from prosecution was businessman Jose Yao Campos, known as "JY". Campos surrendered the building on the Edsa highway where Imee had her office and confessed to having formed dummy companies and hidden assets under his own name for the former president.

However, at least 20 other known Marcos associates are continuing to battle lawsuits over 174 million pesos worth of assets.

PCGG commissioner Maita Gonzaga now occupies Imee's old office. She shows me a curious design feature: a secret door disguised as a wall panel that leads to a fire escape. It is a metaphor, perhaps, for the intricate web of offshore accounts, foundations, fake identities and dummy companies that has kept much of the Marcos money well hidden. It could prove extremely useful - but only until someone leaks knowledge of its existence, which is what happened recently with information about the overseas holdings of Imee and her three sons.

According to the Washington-based International Consortium of Investigative Journalists, Imee formed a company overseas called Sintra Trust, in 2002, which was used to open offshore accounts in Singapore.

The problem here is that as a sitting provincial governor, she never disclosed the accounts in her statements of assets, liabilities and net worth, which, under the country's 1987

constitution, every public official is required to do. Imee could not be reached for comment. Sison, meanwhile, declines to comment, saying he is not her lawyer in this case.

Gonzaga says she submitted her findings on Sintra Trust to her bosses on April 23, but declines to elaborate.

The financial set-up used by Imee is a familiar and frustrating one for the PCGG. The Philippine Centre for Investigative Journalism notes that Imee's late father formed similar corporations - including Arelma.

When the Supreme Court awarded Arelma's assets to the state last year, Imelda appealed the ruling - and there the matter hangs. The PCGG has been expecting a final judgment on the Arelma account "since yesterday", Gonzaga jokes.

Sison says his client will probably lose because "historically, the Supreme Court does not change its position, especially when the decision is unanimous."

Arelma's accounts, just like those of Sintra Trust, fell into PCGG's lap, proving again how important leaks of information and chance finds can be.

On September 21, 1972, when Ferdinand Marcos furtively signed a decree that placed an entire nation under his repressive rule, he signed off on another order.

"Simultaneous with the declaration of martial law, Marcos sent an order, originally to create the Maler Foundation. He later changed the name to Arelma," says PCGG research director Danilo Daniel, speaking only reluctantly to Post Magazine after having been instructed to do so by the commission's chairman, Andres Bautista.

Daniel says the Maler Foundation opened an account with Swiss Bank Corporation. The original deposit - a mere US\$150, he says.

What kind of treatment could a Swiss bank client get with a US\$150 deposit? In Marcos' case, a red-carpet one: he was attended to by Swiss Bank senior vice-president Jean-Louis Sunier, no less. But as the government has found, that was not the president's only account with the bank. Daniel says that at the outset "Sunier informed Marcos, through J.Y. Campos, 'It is best we establish two trading accounts.'"

According to court records, Sunier then instructed his bank's Panama office to form a company in the Central American country by issuing two bearer shares. But, the court noted, it was "organised in Liechtenstein, for sole purpose [sic] of maintaining an account in Merrill Lynch, New York". Merrill Lynch managed Arelma's trading account from 1972 to 2000.

The dictator's name does not appear in Arelma's corporate records. However, Imelda's name is there as a "beneficiary", according to Daniel, who adds that the Marcoses left letters from Sunier - one addressed to "Dear Excellency" - in Malacanang when they fled.

How the PCGG managed to seize control of Arelma over the objections of Imelda's furious lawyers is a bizarre tale.

In 2000, Peter Cosandey, the examining magistrate on the Marcoses' frozen assets in Switzerland, contacted the PCGG with the news that Sunier had surrendered Arelma's two bearer shares to him.

"PCGG had to act fast so we could get the money," says Daniel, who surmised that Sunier surrendered the shares because "he is a Swiss national and I think he was informed that Cosandey was asking for the surrender of the shares."

"What Cosandey did was to transmit the two bearer shares to the Republic [of the Philippines], invoking the Imac [International Mutual Assistance in Criminal Matters] that we filed in August 13, 1995."

In 2010, however, sources privy to how the funds were repatriated discovered that a third party - one of whose members was connected to militant Islamist organisation al-Qaeda - had also been trying to lay claim to the money, saying it was the incorporator and owner of the company. Back in 2000, all the PCGG knew was that the bearer shares of Arelma had been handed over by a Swiss official.

The PCGG then ordered Daniel and another commissioner to fly to Panama. Daniel, who is built like a wrestler, says: "I wrapped the two bearer shares in a laundry plastic bag and tied this to my chest. Whoever holds those bearer shares is the owner of the shares."

On arriving in Central America, two lawyers representing PCGG called four local lawyers - the Marcoses' nominees - to a stockholders meeting, along with an officer from Panama's Public Registry Office.

Says Daniel: "So at first, there was this confusion and the group [representing] Imelda was furious why a meeting would be held when they hadn't called one. Our lawyer then said, 'We are calling the meeting on behalf of the owner, which is the Republic.'"

Imelda's lawyers demanded that the bearer shares be produced. On examining the shares held by Daniel, the Panamanian registry officer declared, "These are the original shares and whoever has the original shares becomes the owner of the bearer shares."

Daniel and the other PCGG commissioner then took over the shell company, convened a meeting and appointed lawyers to the board, which then issued one resolution: to order Merrill Lynch to transfer the trading account deposit to the Philippine National Bank. On November 2, 2000, the two flew to New York, again with the bearer shares tied to Daniel's chest, to complete the transfer.

Over the next 12 years, however, the PCGG had to battle lawsuits in New York as Arelma's cash was claimed by two other parties: 7,522 victims of human-rights violations under the Marcos regime, and the heirs of the late Roger Roxas, a Filipino treasure hunter who said the former president stole a gold Buddha statue from him.

Gonzaga calls the Arelma case "a perfect example" of how hard it is to retrieve stolen loot. She says that even after the Philippines' top court issues a final and unappealable decision, the United States Department of Justice needs "to help us in going to court in the US to enforce the judgment."

To Sison, however, the Arelma court decision reeks of injustice. "They [the PCGG] refiled a dead case," he says.

In 2003, he says, the Supreme Court ruled with finality on Civil Case No 0141, stating that the Marcos deposits totalling US\$356 million in two Swiss banks were ill-gotten because the amount greatly exceeded the couple's net worth.

"We lost the case," says Sison. "But for the record, that's the only case the Marcoses lost. So the funds came into the Philippines. The case was closed, final and executory. So you can't anymore file any other pleadings. But five years after, the government saw they forgot something. They forgot Arelma [and the case was reopened]."

"Imagine, the case was dead and they revived it. So we raised it to the Supreme Court."

Last year, the Marcoses lost again. The Supreme Court decision was quite a blow, because it stated that the 2003 decision covers even those assets that the Marcoses continue to hide.

Rather than just covering the Swiss deposits, said Justice Maria Lourdes Sereno, "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 27,744,535 pesos, time deposits worth 46.4 million pesos, foreign currencies and jewellery seized by the United States customs authorities in Honolulu, Hawaii; 5) US\$30 million in the custody of the Central Bank in dollar-denominated Treasury Bills; shares of stock, private vehicles and real estate in the United States, among others."

Sereno is now chief justice and may not retire until 2030. But despite that, and the fact Imelda is facing 11 criminal cases, including one on opening Swiss bank accounts using the alias "Jane Ryan", Sison remains optimistic that the iron butterfly will emerge unscathed.

In 2006, she was acquitted in a graft case involving a local foundation; in 2007, she was acquitted of tax evasion; in 2008, she was acquitted of 32 counts of dollar "salting"; in 2010, the court ordered the government to return two mansions to her family. Sison says,

proudly: "In those cases where Mrs Marcos was acquitted, we did not present evidence. We just told the court, 'Please decide the case on the basis of the prosecution. They have no case. Their evidence is insufficient, please acquit her.'"

Asked if she has ever admitted owning the US\$356 million in Swiss deposits, Sison says: "In the forfeiture case, during the preliminary conference or pretrial conference, we stated that Mrs Marcos was a beneficiary of those. She was a beneficiary."

And asked whether she has ever admitted using the name Jane Ryan, Sison says: "She has never admitted to anything. Why would she make admissions? Besides, what are the charges? Is it using a fictitious name? That's not the charge. The charge is stealing money.

"But how could she do that? That money was being managed by foundations in Switzerland. And the government itself said that the accounts were managed by professionals."

Sison is optimistic that, in time, the Marcoses will be seen in a better light "once emotions die down ... maybe after our generation". Despite everything, he says, "she is still standing. She is turning 84 in July and she's still strong and she still smiles ... despite all these unfair things happening to her."

Sison's "unfair things" no doubt include the public display of her seized jewellery now being planned. Documents she left behind in Malacanang show the collection was bought with government money.

Gonzaga says the display will be "a mechanism for remembrance. That these assets are symbolic of the profligacy of the past.

"There are certain quarters that seek to revise history. This is our way of countering that."

Gonzaga, born in 1975, is what political scientists call a "martial-law baby". From the same province as Imelda, she learned of the Marcoses from history books, which to this day deal only briefly with the period, if at all.

"Once I joined PCGG, I got a heightened sense of what was going on - the excesses, the sense of entitlement," she says. "All these make you think there are certain things that have to be remembered by posterity, so that the sacrifices of the past will not be forgotten."

Bautista shocked the nation last year by recommending the abolition of the commission. "I was, in a way, venting," he tells Post Magazine. "I wanted to know where the commission stood with respect to the Filipino people. We just want to tell people - if you really want us to do our job right, you gotta help us, you gotta support us.

"I'm asking Filipinos, how did these people come back to power? Why did we allow this to happen?"

This month's election will confirm how resoundingly the Marcoses have returned to the political sphere. Meanwhile, the hunt for the family's ill-gotten millions plods on.