

PHILIPPINES

Imee, Bongbong Marcos Were beneficiaries of illegal Swiss foundations

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MANILA, Philippines – Sandiganbayan records show that former senator Ferdinand “Bongbong” Jr and sister Ilocos Norte Governor Imee Marcos were beneficiaries of the Swiss foundations earlier found by the anti-graft court as illegally created and maintained.

The Sandiganbayan's 5th Division **convicted former First Lady Imelda Marcos of 7 counts of graft** for creating and maintaining 7 private foundations in Switzerland while holding government positions from 1968 to 1986. The court found that the foundations were used to earn from investments and interests to benefit Imelda, the late strongman Ferdinand Marcos, and their beneficiaries.

All 3 Marcos children – Bongbong, Imee, and Irene – were specifically named as beneficiaries of the Trinidad Foundation and the Xandy Foundation.

“In the regulations of Trinidad Foundation dated August 28, 1970 signed by both Markus Geel and Ms Marcos in Zurich, Ms Marcos was named as the first beneficiary during her lifetime while her children, Imelda (Imee), Ferdinand Jr (Bongbong) and Irene were named as second beneficiaries in equal shares,” the Sandiganbayan said.

In the case of the Xandy Foundation, the court said Imelda and Ferdinand wrote by hand that “the said spouses were named as the first beneficiaries, the surviving spouse as the second beneficiary, and the Marcos children as the third beneficiaries.”

In some of the foundations, only Imelda and Ferdinand were the beneficiaries; in the rest, Imelda was the sole beneficiary. Lead prosecutor Rey Quilala said that the Marcoses earned an estimated \$200 million from the scheme, or P10.6 billion in the foreign exchange rate as of posting.

Closing accounts and transferring assets

The court found that the Marcos couple employed the scheme of closing foundations then opening them under different names, with the assets just transferred to the new foundations.

For example, the couple dissolved the Vibur Foundation on March 18, 1986, and then opened in 1989 a securities account for the said foundation. Ferdinand Marcos was named as beneficial owner of the account with number 467857-5.

However, “the ‘Classification note: Confidential’ signed by G. Raber on behalf of the Vibur Foundation, dated September 30, 1988, reference to said account no. 467857-5 named Marcos family as the owner.”

“Though named as a foundation, the evidence shows that these entities were put up primarily for the entrepreneurial activity of opening bank accounts and deposits, transferring funds, earning interests and even profit from investment, for the private benefit of the Marcos family as beneficiaries,” said the Sandiganbayan’s decision penned by by Associate Justice Maryann Corpus-Mañalac, with concurrences from Associate Justices Rafael Lagos and Maria Theresa Mendoza-Arcega.

Bongbong is protesting his defeat in the 2016 vice presidential race before the Supreme Court, while Imee is running in the 2019 senatorial elections. Graft convict Imelda, who faces a sentence of 6 years and one month to 11 years in prison for each of the 7 counts, is running run for Ilocos Norte governor, the current position of eldest child Imee.

The Philippine justice system allows Imelda to appeal the court ruling, enjoy provisional liberty, and even run for office until the guilty verdict becomes final and excutory.

Integrity of the documents

The Philippine government obtained the documents from both local and foreign sources, as well as from a sweep of Malacañang when the Marcos family was forced to flee the Palace and go into exile following the EDSA People Power Revolution in 1986.

“The validity of the documents, presented and offered in evidence by the prosecution, passed the scrutiny of the court,” the Sandiganbayan said.

The court gave a lot of weight to the fact that some of the documents were obtained directly from the Swiss banks by former Zurich prosecutor Peter Cosandey.

“Full faith and credit must be given on these documents as they were officially transmitted in pursuance of the Decision rendered by Peter Cosandey dated December 6, 1989, and affirmed by the Swiss Federal Supreme Court in its decision dated December 21, 1990,” the Sandiganbayan said.

The late Solicitor General Frank Chavez was key to this litigation, standing as witness to corroborate the documents from Switzerland and Cosandey.

“The flow chart identified and marked by Chavez as Exhibit EE graphically demonstrates the creation, collapse, and merging of these foundations towards the design of the Marcos couple to hide their true ownership of these accounts,” said the Sandiganbayan.

Imelda was separately charged at the Manila Regional Trial Court (RTC) for illegally stashing foreign currencies in Swiss accounts in violation of Central Bank laws, but the court acquitted her of 32 counts of dollar salting in 2008.

The judge in that case, Judge Silvino Pampilo Jr, considered the Swiss documents as hearsay because Cosandey did not testify, only Chavez. This acquittal was upheld by the Supreme Court Third Division in June this year.

Cosandey also didn't testify before the Sandiganbayan, but the justices of the anti-graft court nevertheless gave merit to the documents for "having been authenticated in accordance with Swiss-established legal procedure."

In the words of the ponente, Justice Mañalac, "It should be emphasized likewise that since public interest, public policy and the nation's history are deeply rooted in these cases, substantial justices demands that the documents identified by the witnesses, who testified based on record, be considered, unbridled by technicalities." – **Rappler.com**