



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
SEP 20 2022
BY: YSA
TIME: 10:52

Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

TRANS MIDDLE EAST (PHILS.) G.R. No. 180350
EQUITIES, INC.,

Petitioner,

- versus -

THE SANDIGANBAYAN (FIFTH
DIVISION), REPUBLIC OF THE
PHILIPPINES REPRESENTED BY
THE PRESIDENTIAL
COMMISSION ON GOOD
GOVERNMENT (PCGG),

Respondents.

X-----X

FIRST PHILIPPINE HOLDINGS G.R. No. 205186
CORPORATION,

Petitioner,

- versus -

THE PRESIDENTIAL
COMMISSION ON GOOD
GOVERNMENT, JULIETTE
GOMEZ ROMUALDEZ, THE
HEIRS OF BENJAMIN
("KOKOY") ROMUALDEZ,
IMELDA ROMUALDEZ
MARCOS, and ESTATE OF
FERDINAND E. MARCOS,

Respondents.

X-----X

REPUBLIC OF THE PHILIPPINES **G.R. No. 222919**
REPRESENTED BY THE
PRESIDENTIAL COMMISSION
ON GOOD GOVERNMENT,

Petitioner,

- versus -

BENJAMIN “KOKOY”
ROMUALDEZ, JULIETTE
GOMEZ ROMUALDEZ, IMELDA
ROMUALDEZ MARCOS, THE
ESTATE OF FERDINAND E.
MARCOS,

Respondents.

X-----X

FIRST PHILIPPINE HOLDINGS **G.R. No. 223237**
CORPORATION,

Petitioner,

- versus -

THE HONORABLE
SANDIGANBAYAN [FIFTH (5TH
DIVISION], PRESIDENTIAL
COMMISSION ON GOOD
GOVERNMENT, JULIETTE
GOMEZ ROMUALDEZ, THE
HEIRS OF BENJAMIN (KOKOY)
ROMUALDEZ, IMELDA
ROMUALDEZ MARCOS, THE
ESTATE OF FERDINAND E.
MARCOS, AND BANCO DE ORO
UNIVERSAL BANK,

Present:

LEONEN, SAJ,*
HERNANDO, J., Acting Chairperson
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

Promulgated:

JUL 06 2022

Respondents.

* Designated additional Member per 22 June 2022 Raffle vice C.J. Gesmundo who recused from the cases due to his prior appointment as PCGG Commissioner.

D E C I S I O N

ZALAMEDA, J.:

By the dismissal of the case, there is *ipso facto* no more writ of sequestration to speak of.¹ The doctrine finds even greater application to these consolidated cases because not only was the civil case dismissed as against petitioner in G.R. No. 180350 Trans Middle East (Phils.) Equities, Inc. (TMEE), the writ of sequestration was also nullified with finality. Hence, no legal or factual basis remains for holding in *custodia legis* the previously sequestered shares of stock owned by TMEE.

The Cases

Before the Court are four (4) Petitions for *Certiorari* and Review on *Certiorari* under Rules 65 and 45 of the Rules of Court: 1) G.R. No. 180350; 2) G.R. No. 222919; 3) G.R. No. 223237; and 4) G.R. No. 205186. These cases were consolidated for involving the same shares of stock covered by a sequestration order. Further, these cases all emanate from the same Civil Case No. 0035 before the Sandiganbayan.²

In **G.R. No. 180350**, TMEE filed a Petition³ for *Certiorari* under Rule 65 of the Rules of Court assailing portions of the Sandiganbayan's Resolutions⁴ dated 09 June 2006 and 08 October 2007 in Civil Case No. 0035, which directed the shares of stock owned by TMEE in Philippine Commercial International Bank (PCI Bank), as well as the accrued dividends and interest thereon, be placed in *custodia legis*.

In **G.R. No. 205186**, First Philippine Holdings Corporation (FPHC) filed a Petition for Review⁵ on *Certiorari* under Rule 45 assailing the Sandiganbayan's Resolutions⁶ dated 26 July 2012 and 08 January 2013, which denied FPHC's second complaint-in-intervention.

In **G.R. No. 222919**, the Republic of the Philippines (the Republic), represented by the Presidential Commission on Good Government (PCGG),

¹ *Palm Avenue Holding Co., Inc. v. Sandiganbayan*, 740 Phil. 527 (2014).

² *Rollo* (G.R. No. 205186), p. 457.

³ *Rollo* (G.R. No. 180350), pp. 3-27.

⁴ *Id.* at 31-39 and 41-56; penned by Associate Justice Ma. Cristina G. Cortez-Estrada and concurred in by Associate Justices Roland B. Jurado and Teresita V. Diaz-Baldos.

⁵ *Rollo* (G.R. No. 205186), pp. 3-65.

⁶ *Id.* at 73-82 and 84-86; penned by Associate Justice Roland B. Jurado and concurred in by Associate Justices Teresita V. Diaz-Baldos and Alex L. Quiroz.

filed a Petition⁷ for *Certiorari* under Rule 65 seeking to reverse and set aside the Sandiganbayan's Resolutions dated 11 September 2014⁸ and 25 November 2015,⁹ which denied PCGG's motion for production and inspection of documents and records pertaining to TMEE's shares of stock in Banco De Oro Unibank, Inc. (BDO).

In **G.R. No. 223237**, FPHC filed a Petition for *Certiorari*¹⁰ under Rule 65 assailing the Sandiganbayan's Resolutions dated 11 September 2014,¹¹ 12 January 2015,¹² and 25 November 2015,¹³ which likewise denied the motion for production and inspection of documents pertaining to TMEE's shares of stock in BDO.

Antecedents

G.R. No. 180350

FPHC was the initial owner of 6,299,177 shares of stock in PCI Bank. Due to mergers and acquisitions, PCI Bank became Equitable-PCI Bank, and then later, Banco De Oro (BDO).¹⁴ Under a *Sale of Shares of Stock and Escrow Agreement* dated 24 May 1984, FPHC sold 6,119,067 shares of stock in PCI Bank to TMEE.¹⁵

On 15 April 1986, the PCGG sequestered the 6,119,067 shares registered in the name of TMEE.¹⁶ According to the PCGG, these shares constituted ill-gotten wealth and the beneficial owner of the shares was former Governor Benjamin Romualdez.¹⁷

More than a year after, or on 31 July 1987, the Republic, represented by the PCGG, filed a complaint for reconveyance, reversion, accounting, restitution, and damages before the Sandiganbayan, docketed as Civil Case No. 0035 and entitled *Republic of the Philippines v. Benjamin (Kokoy) Romualdez, et al.* The complaint included TMEE's shares of stock among the properties alleged as ill-gotten wealth.¹⁸ However, TMEE was neither named as a party-defendant nor included in the list of corporations owned by the defendants therein. The complaint was later amended several times until 22 January 1988, but TMEE was not impleaded as party-defendant.

⁷ *Rollo*, (G.R. No. 180350), pp. 1537-1556.

⁸ *Id.* at 1150-1169; penned by Associate Justice Roland B. Jurado and concurred in by Associate Justices Teresita V. Diaz-Baldos and Ma. Theresa Dolores C. Gomez-Estoesta.

⁹ *Rollo*, (G.R. No. 180350), pp. 1624-1633.

¹⁰ *Rollo*, (G.R. No. 223237), pp. 3-92.

¹¹ *Id.* at 1150-1169.

¹² *Id.* at 1643-1651.

¹³ *Id.* at 1624-1633.

¹⁴ *Id.* at 9.

¹⁵ *Id.* at 1882.

¹⁶ *Id.* at 9.

¹⁷ *Id.* at 1601.

¹⁸ *Id.* at 1882-1883.

On 28 March 1988, TMEE filed a motion for intervention and to admit its complaint-in-intervention. Therein, TMEE asserted ownership over the sequestered shares of stock and all the incidents of ownership, including its right to vote as a stockholder.¹⁹

Around 11 years from sequestration, through a motion dated 17 January 1997, the PCGG sought leave to further amend the complaint. Under the third amended complaint, TMEE was finally impleaded as one of the defendants.²⁰

On 28 January 1997, TMEE moved to nullify the writ of sequestration.²¹

In a Resolution dated 02 January 2003, the Sandiganbayan nullified the writ of sequestration on the ground that it was issued by only one PCGG commissioner.²² The dispositive portion reads:

WHEREFORE, in view of the foregoing:

1) The "URGENT MOTION TO NULLIFY WRIT OF SEQUESTRATION" dated January 28, 1997 filed by movant Trans Middle East (Phils.) Equities, Inc., is hereby GRANTED. Accordingly, Sequestration Order No. 86-0056 dated April 15, 1986 is hereby declared null and void for having been issued by one PCGG Commissioner only in direct contravention of Section 3 of the PCGG's own Rules and Regulations. **Conformably, however, with the manifestation of the movant Trans Middle East (Phils.) Equities, Inc. itself, the Court will not order the return of its shares of stocks sequestered per Sequestration Order No. 86-0056 dated April 15, 1986, but orders that the same, including the interests earned thereon, to be deposited with the Land Bank of the Philippines in escrow for the persons, natural or juridical, who shall eventually be adjudged lawfully entitled thereto.**

2) The "URGENT MOTION TO LIFT THE WRIT OF SEQUESTRATION" dated February 11, 1997 of Palm Avenue Realty and Development Corporation and Palm Avenue Holdings, Co., Inc. is hereby DENIED for lack of merit.

SO ORDERED.²³ (Emphasis supplied.)

PCGG moved for partial reconsideration and thereafter, in a Resolution dated 09 June 2006, the Sandiganbayan ordered that the shares of

¹⁹ Id. at 1883.

²⁰ Id. at 11.

²¹ Id.

²² Id. at 12.

²³ Id. at 122-123.

stock and its proceeds be deposited in escrow at the Land Bank of the Philippines for the persons, natural or juridical, who shall eventually be adjudged lawfully entitled thereto.²⁴

Aggrieved, TMEE filed a motion for partial reconsideration. TMEE argued that since the writ of sequestration has been nullified, the actual custody and control of the shares and its dividends should be returned to TMEE.²⁵

In a Resolution dated 08 October 2007, the Sandiganbayan denied TMEE's motion for partial reconsideration. Further, the Sandiganbayan modified its previous directive. Instead of placing in escrow the shares of stock and its proceeds, the Sandiganbayan ordered TMEE and PCGG to surrender the same to the Clerk of Court of the Anti-Graft Court.²⁶

Thus, TMEE filed the Petition for *Certiorari*²⁷ docketed as G.R. No. 180350 before this Court. TMEE averred that the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolutions dated 09 June 2006 and 08 October 2007.

Subsequent to the filing of the petition in G.R. No. 180350, the Sandiganbayan promulgated a Decision²⁸ dated 25 January 2010 dismissing the third amended complaint against TMEE, the dispositive portion provides:

IN VIEW OF THE FOREGOING, defendant TMEE's Motion to Dismiss dated April 8, 2008 is hereby GRANTED. The "Third Amended Complaint", insofar as it concerns TMEE as a party-defendant should, therefore, be DISMISSED.

SO ORDERED.²⁹

The Republic and FPHC filed separate appeals before the Court, which were both denied with finality in G.R. Nos. 192651 and 192653.³⁰

G.R. No. 205186

On 28 December 1988, FPHC filed a complaint-in-intervention in Civil Case No. 0035. According to FPHC, the *Sale of Shares of Stock and*

²⁴ Id. at 1602.

²⁵ Id. at 1602-1603.

²⁶ Id. at 1603-1604.

²⁷ Id. at 3-27.

²⁸ Id. at 1065-1071.

²⁹ Id. at 1071.

³⁰ G.R. Nos. 192651 and 192653, 15 September 2010 and 15 December 2010 [Unpublished].

Escrow Agreement dated 24 May 1984 transferring its shares in PCI Bank to TMEE should be annulled on the ground of fraud.³¹

On 22 February 2007, FPHC's complaint-in-intervention was dismissed by the Sandiganbayan based on prescription. The dismissal was later affirmed by the Court in *First Philippine Holdings Corporation vs. Trans Middle East (Phils.) Equities, Inc.*³²

On 16 September 2011, FPHC filed before the Sandiganbayan a second complaint-in-intervention in Civil Case No. 0035. Under the second complaint-in-intervention, FPHC sought to recover the same shares alleged in the first complaint-in-intervention. This time, FPHC argued that if the Republic succeeds in recovering the shares for being ill-gotten, the same should be turned over to FPHC as the legitimate owner thereof. FPHC averred that otherwise, the Republic would be guilty of unjust enrichment.

In a Resolution dated 26 July 2012, the Sandiganbayan dismissed FPHC's second complaint-in-intervention on the ground that it raised the same cause of action as the first complaint-in-intervention which was already dismissed with finality. FPHC moved for reconsideration but the same was denied by the Sandiganbayan through its Resolution dated 08 January 2013.

Thus, FPHC filed the instant Petition for Review on *Certiorari*³³ docketed as G.R. No. 205186.

G.R. No. 222919 and G.R. No. 223237

On 06 May 2014, the Republic filed a motion for production and inspection before the Sandiganbayan. The Republic prayed that BDO be directed to produce and allow the inspection and reproduction of all documents and records, including certificates of stock pertaining to the shares, all stock and cash dividends issued thereon and paid to TMEE by BDO, details of transfers of such shares, and related transactions. Incidentally, FPHC joined the Republic's motion for production and inspection.³⁴

According to the Republic, sometime in 2012, TMEE's shares in BDO were publicly traded on the Philippine Stock Exchange (PSE) in a matter of months despite being in *custodia legis*. As of 30 June 2012, BDO's published disclosures with the PSE indicated TMEE as the sixth highest-ranked stockholder in BDO representing 3.58% of the total shares. However, as of

³¹ *Rollo* (G.R. No. 180350), p. 1601.

³² 622 Phil. 623 (2009).

³³ *Rollo* (G.R. No. 205186), pp. 3-65.

³⁴ *Rollo* (G.R. No. 180350), pp. 1608-1609.

31 December 2012, TMEE disappeared from the Top 100 list of BDO shareholders.³⁵ Thus, the Republic claimed that TMEE's shares were already sold or transferred to third parties.

In a Resolution dated 11 September 2014, the Sandiganbayan denied the motion for production and inspection. The Republic and FPHC filed separate motions for reconsideration, which were both denied through the Resolutions dated 25 November 2015 and 12 January 2015, respectively.

Aggrieved, the Republic filed its Petition for *Certiorari*³⁶ docketed as G.R. No. 222919 while FPHC filed its own Petition for *Certiorari*³⁷ docketed as G.R. No. 223237.

Issues

In essence, the issues raised under the consolidated cases are:

i. Whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it directed the turnover of the shares of stock, as well as all dividends and interest earned thereon, to the Sandiganbayan's Clerk of Court.

ii. Whether the Sandiganbayan committed grave abuse of discretion amounting to lack or excess of jurisdiction when it dismissed FPHC's second complaint-in-intervention.

iii. Whether the Sandiganbayan committed grave abuse of discretion amounting to lack of jurisdiction when it denied the motion for production and inspection of documents and records pertaining to the shares of stock owned by TMEE.

Ruling of the Court

The Court finds merit in TMEE's petition under G.R. No. 180350. With the nullification of the writ of sequestration and subsequent dismissal of the complaint against TMEE, no basis remains for holding its shares of stock in *custodia legis*.

Sequestration is the means to place or cause to be placed under the PCGG's possession or control properties, building or office, including business enterprises and entities, for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving the same until it can be determined through appropriate judicial

³⁵ Id. at 1607.

³⁶ Id. at 1537-1556.

³⁷ *Rollo*, (G.R. No. 223237), pp. 3-92.

proceedings, whether the property was in truth “ill-gotten.”³⁸

Notably, the PCGG’s power to sequester is merely provisional. Section 3(c) of Executive Order No. 1³⁹ expressly provides:

c) To **provisionally** take over in the public interest or to prevent its disposal or dissipation, business enterprises and properties taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos, until the transactions leading to such acquisition by the latter can be disposed of by the appropriate authorities. (Emphasis supplied).

Sequestration is akin to the provisional remedy of preliminary attachment or receivership. Similarly, in attachment, the property of the defendant is seized as a security for the satisfaction of any judgment that may be obtained, and not disposed of, or dissipated, or lost intentionally or otherwise, pending litigation. In a receivership, the property is placed in the possession and control of a receiver appointed by the court, who shall conserve the property pending final determination of ownership or right of possession of the parties. In sequestration, the same principles hold true. Sequestration is a conservatory writ, with the purpose of preserving properties in *custodia legis*. By no means is it permanent in character.⁴⁰

In this case, the Sandiganbayan already nullified the writ of sequestration through the Resolution dated 02 January 2003. Moreover, the third amended complaint against TMEE was subsequently dismissed by the Sandiganbayan in its Decision dated 25 January 2010. Thereafter, this Court affirmed the dismissal with finality in G.R. Nos. 192651 and 192653.

With the final dismissal of Civil Case No. 0035 against TMEE, the Sandiganbayan can no longer hold TMEE’s property. Since TMEE ceased to be a party in the said civil case, the shares of stock registered under the name of TMEE cannot be retained in *custodia legis*. Otherwise stated, by the dismissal of the case against TMEE, there is *ipso facto* no more writ of sequestration to speak of.⁴¹

As the registered owner of the shares, TMEE cannot be deprived of its property without due process of law. In *Cojuangco, Jr. vs. Roxas*,⁴² the Court upheld the primacy of the Constitutional right against deprivation of life, liberty and property without due process over the PCGG’s power to sequester and takeover shares of stock, *viz.*:

³⁸ *Philippine Overseas Telecommunications Corp. v. Sandiganbayan*, 780 Phil. 563 (2016).

³⁹ Creating the Presidential Commission on Good Government, 28 February 1986.

⁴⁰ *Philippine Overseas Telecommunications Corp. v. Sandiganbayan*, supra note 38.

⁴¹ *Palm Avenue Holding Co., Inc. v. Sandiganbayan*, supra note 1.

⁴² *Cojuangco, Jr. v. Roxas*, 273 Phil. 168 (1991).

The constitutional right against deprivation of life, liberty and property without due process of law is so well-known and too precious so that the hand of the PCGG must be stayed in its indiscriminate takeover of and voting of shares allegedly ill-gotten in these cases. It is **only after appropriate judicial proceedings when a clear determination is made that said shares are truly ill-gotten** when such a takeover and exercise of acts of strict ownership by the PCGG are justified. (Emphasis supplied.)

In this case, there is no clear determination from appropriate judicial proceedings declaring the shares of stock as ill-gotten. In fact, the Sandiganbayan even dismissed the third amended complaint based on PCGG's failure to sufficiently allege that TMEE, as well as its shares of stock, were part of the ill-gotten wealth of former Governor Romualdez. The pertinent portion of the Sandiganbayan's Decision reads:

After a careful examination of the allegations of both parties, we find the "Motion to Dismiss" justified and meritorious.

Dismissal of the complaint for lack of cause of action is governed by Rule 16 Section 1 of the Rules of Court. As a rule, every complaint must sufficiently allege a cause of action; failure to do so warrants its dismissal. A complaint is said to assert a sufficient cause of action if, admitting what appears solely on its face to be correct, the plaintiff would be entitled to the relief prayed for. Assuming the facts that are alleged to be true, the Court should be able to render a valid judgment in accordance with the prayer in the complaint. Likewise, a motion to dismiss based on lack of cause of action hypothetically admits the truth of the alleged facts.

Paragraph 14 (j) of the "Third Amended Complaint" states:

"x x x The acquisition of PCIB shares was packaged by PCIB and financed by PCIB and the Philippine Commercial Capital Inc. through loans extended to SOLOIL, Inc. for and in behalf of Trans Middle East Philippine Equities, Inc. x x x"

It is evident from the above-quoted allegation that the purchase price of the PCIB shares was not paid by defendant Romualdez and that the money used for these shares came from PCIB and Philippine Commercial Capital, Inc. (PCCI) after SOLOIL, Inc., acting in behalf of TMEE, obtained a loan from PCIB and PCCI. **This very allegation by plaintiff itself only shows that TMEE's PCIB shares came from legitimate sources, that is, from loans obtained from private, not public financial institutions.**

Moreover, it must be noted that the list of Assets and Other Property of Romualdez marked as Annex "A" in the Third Amended Complaint would indicate that **TMEE is not among those properties owned and controlled by defendant Romualdez. This alone would**

refute plaintiff's allegations that TMEE is part of ill-gotten wealth of defendant Romualdez.⁴³ (Emphasis supplied.)

Further, under the subsequent Resolution⁴⁴ dated 11 September 2014, the Sandiganbayan resolved:

x x x Considering that the Third Amended Complaint against TMEE was dismissed, it follows that the writ of sequestration against TMEE is deemed automatically lifted. In fact, **the writ of sequestration was not merely lifted but rendered null and void *ab initio*** as the writ was signed by only one commissioner. With the subsequent dismissal of the complaint against TMEE, **there is no more ill-gotten wealth case, not even a *prima facie* case against TMEE.**⁴⁵ (Emphasis supplied.)

Despite the foregoing pronouncements, the Sandiganbayan erroneously maintained custody over TMEE's shares. Indubitably, with no clear determination from the appropriate judicial proceedings that TMEE and its shares of stock constitute ill-gotten wealth, the Sandiganbayan committed grave abuse of discretion when it retained the shares of stock in *custodia legis*. By withholding the shares without valid cause, TMEE was unduly deprived of its property without due process of law. Considering the nullity of writ of sequestration and the dismissal of the third amended complaint against TMEE, the Sandiganbayan can no longer detain the shares of stock without running afoul of the constitutional guarantee of due process.

The Sandiganbayan correctly dismissed FPHC's second complaint-in-intervention

We deny FPHC's petition in G.R. No. 205186 for lack of merit. FPHC's cause of action is already barred by prescription.

In *First Philippine Holdings Corporation vs. Trans Middle East (Phils.) Equities, Inc.*,⁴⁶ the Court held that FPHC raised its cause of action beyond the four-year prescriptive period:

In the case under consideration, the dispute centers on the element of consent, which FPHC claimed to be lacking since the supposed board of directors that composed the FPHC was allegedly a "dummy board" of Benjamin Romualdez, the members of which were allegedly installed after the management and control of FPHC were supposedly fraudulently wrested from its true owners. The Sandiganbayan, however, differed. It stood pat in its ruling that the

⁴³ *Rollo* (G.R. No. 180350), pp. 1068-1069.

⁴⁴ *Id.* at 1206-1225.

⁴⁵ *Id.* at 1217.

⁴⁶ *Supra* note 32.

consent by the board of directors, who had the legal capacity to enter into said contract with a third person, was duly obtained. This Court finds no reason to diverge from the disquisition of the anti-graft court on this matter[.] x x x

x x x x

These circumstances surrounding the questioned transaction fit in with what Article 1390 of the Civil Code contemplates as voidable contracts, viz.:

Art. 1390. The following contracts are voidable or annulable, even though there may have been no damage to the contracting parties:

x x x x

(2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence, or **fraud**.

Thus, contracts where consent is given through fraud, are voidable or annulable. These are not void *ab initio* since voidable or annulable contracts are existent, valid, and binding, although they can be annulled because of want of capacity or the vitiated consent of one of the parties. However, before such annulment, they are considered effective and obligatory between parties.

x x x x

As the complaint-in-intervention substantially alleged that the contract was voidable, the four-year prescriptive period under Art. 1391 of the New Civil Code will apply.

Under Article 1391 of the Civil Code, a suit for the annulment of a voidable contract on account of fraud shall be filed within four years from the discovery of the same, thus:

Article 1391. An action for annulment shall be brought within four years.

This period shall begin: In case of intimidation, violence or undue influence, from the time the defect of the consent ceases.

In case of mistake or fraud, from the time of the discovery of the same.⁴⁷ (Emphasis supplied.)

The Court finds that FPHC's second complaint-in-intervention is a blatant attempt to circumvent the bar by prescription. According to FPHC, the cause of action under the second complaint-in-intervention is different,

⁴⁷ Id.



i.e., based on the PCGG's legal obligation to return and reconvey the sequestered shares to the rightful owners if the State is able to recover the same.⁴⁸

FPHC is grossly mistaken. Logically, the manner by which FPHC will establish that it is the rightful owner of the shares is by rehashing its cause of action based on fraud. However, as held with finality in *First Philippine Holdings Corporation vs. Trans Middle East (Phils.) Equities, Inc.*,⁴⁹ this action remains barred by prescription. Ultimately, FPHC still raised the same cause of action under the second complaint-in-intervention.

Thus, the Sandiganbayan did not err in dismissing FPHC's second complaint-in-intervention. Under the Rules of Court, when a cause of action is dismissed based on the statute of limitations, the same action can no longer be refiled.⁵⁰

The grant or denial of the motion for production or inspection of documents and records is subject to the discretion of the Sandiganbayan as a trial court

We dismiss the petitions in G.R. Nos. 222919 and 223237. The Sandiganbayan did not commit grave abuse of discretion in denying the motion for production and inspection of documents or records.

Section 1, Rule 27 of the Rules of Court provides:

SECTION 1. *Motion for Production or Inspection; Order.* — Upon motion of any party showing good cause therefor, the court in which an action is pending may (a) order any party to produce and permit the inspection and copying or photographing, by or on behalf of the moving party, of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, not privileged, which constitute or contain evidence material to any matter involved in the action and which are in his possession, custody or control; or (b) order any party to permit entry upon designated land or other property in his possession or control for the purpose of inspecting, measuring, surveying, or photographing the property or any designated relevant

⁴⁸ *Rollo* (G.R. No. 180350), p. 1180.

⁴⁹ *Supra* note 32.

⁵⁰ Section 13, Rule 15 of the Rules of Court

Sec. 13. *Dismissal with Prejudice.* — Subject to the right of appeal, an order granting a motion to dismiss or an affirmative defense that the cause of action is barred by a prior judgment or by the statute of limitations; that the claim or demand set forth in the plaintiff's pleading has been paid, waived, abandoned or otherwise extinguished; or that the claim on which the action is founded is unenforceable under the provisions of the statute of frauds, shall bar the refile of the same action or claim.

object or operation thereon. The order shall specify the time, place and manner of making the inspection and taking copies and photographs, and may prescribe such terms and conditions as are just.

The provision on production and inspection of documents is one of the modes of discovery sanctioned by the Rules of Court in order to enable not only the parties, but also the court to discover all the relevant and material facts in connection with the case pending before it. Generally, the scope of discovery is to be liberally construed so as to provide the litigants with information essential to the fair and amicable settlement or expeditious trial of the case.⁵¹ The use of discovery is encouraged, for it operates with desirable flexibility under the discretionary control of the trial court.⁵²

Furthermore, in *Security Bank vs. Court of Appeals*,⁵³ the Court stated the procedural requisites for production and inspection of documents:

- (a) The party must file a motion for the production or inspection of documents or things, showing good cause therefor;
- (b) Notice of the motion must be served to all other parties of the case;
- (c) The motion must designate the documents, papers, books, accounts, letters, photographs, objects or tangible things which the party wishes to be produced and inspected;
- (d) Such documents, etc. are not privileged;
- (e) Such documents, etc. constitute or contain evidence material to any matter involved in the action; and
- (f) Such documents, etc. **are in the possession, custody or control of the other party.** (Emphasis supplied.)

Here, the documents and records sought to be produced are not in the possession, custody, or control of the other party. The Sandiganbayan duly exercised its discretion in denying the motion for production and inspection given that BDO was never impleaded as a party in Civil Case No. 0035. Moreover, TMEE is no longer a party-defendant. Thus, BDO and TMEE cannot be directed to produce documents and records as they are no longer parties in the pending action.

At any rate, there is no standing basis to hold TMEE's shares of stock in *custodia legis*. By reason of the dismissal of the third amended complaint against TMEE, it is entitled to the immediate return of its previously sequestered property. In resolving issues pertaining to sequestration, We

⁵¹ *Eagleridge Development Corp. v. Cameron Granville 3 Asset Management, Inc.*, 708 Phil. 693 (2013).

⁵² *Producers Bank of the Philippines v. Court of Appeals*, 349 Phil. 310 (1998).

⁵³ *Security Bank Corp. v. Court of Appeals*, 380 Phil. 299 (2000).

must always bear in mind the Constitutional right to due process of law. The Court emphasizes its pronouncement in *Palm Avenue Holding Co, Inc. vs. Sandiganbayan*.⁵⁴

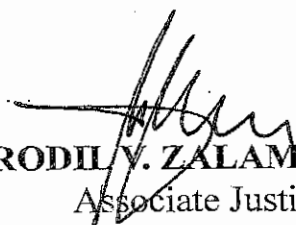
[S]equestration is an extraordinary and harsh remedy. As such, it should be confined to its lawful parameters and exercised with due regard to the requirements of fairness, due process, and justice. While the Court acknowledges the Government's admirable efforts to recover ill-gotten wealth allegedly taken by the corporations, it cannot, however, choose to turn a blind eye to the demands of the law, justice, and fairness.⁵⁵

WHEREFORE, the Petition for *Certiorari* in **G.R. No. 180350** is **GRANTED**. The assailed portions of the Resolutions dated 09 June 2006 and 08 October 2007 of the Sandiganbayan in Civil Case No. 0035 directing the turnover of the shares of stock, as well as all dividends and interest earned thereon, to the Sandiganbayan's Clerk of Court, are **ANNULLED and SET ASIDE**.

Accordingly, the Executive Clerk of Court of the Sandiganbayan, the Presidential Commission on Good Government, and all other concerned entities are **DIRECTED** to immediately release in favor of petitioner Trans Middle East (Phils.) Equities, Inc. its previously sequestered shares of stock, including all accrued dividends and interest thereon, as well as the corresponding stock certificates and other evidence of ownership, which are in their possession.

The Petition for Review on *Certiorari* in G.R. No. 205186, and the Petition for *Certiorari* in G.R. Nos. 222919 and 223237 are **DENIED** and **DISMISSED** for lack of merit, respectively.

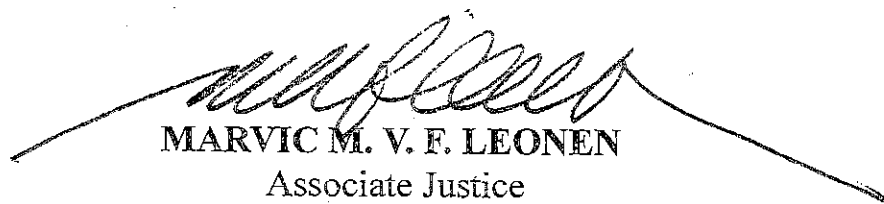
SO ORDERED.



RODIL V. ZALAMEDA
Associate Justice

⁵⁴ Supra note 1.

⁵⁵ Id. at 540.

WE CONCUR:


MARVIC M. V. F. LEONEN
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

ATTESTATION


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion in the Court's Division.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson, First Division



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.


ALEXANDER G. GESMUNDO
Chief Justice

