796 Phil. 439 ← click for PDF copy

EN BANC

[G.R. Nos. 177857-58, October 05, 2016]

PHILIPPINE COCONUT PRODUCERS FEDERATION, INC. (COCOFED), MANUEL V. DEL ROSARIO, DOMINGO P. ESPINA, SALVADOR P. BALLARES, JOSELITO A. MORALEDA, PAZ M. YASON, VICENTE A. CADIZ, CESARIA DE LUNA TITULAR, AND RAYMUNDO C. DE VILLA, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

WIGBERTO E. TAÑADA, OSCAR F. SANTOS, SURIGAO DEL SUR FEDERATION OF AGRICULTURAL COOPERATIVES (SUFAC) AND MORO FARMERS ASSOCIATION OF ZAMBOANGA DEL SUR (MOFAZS), REPRESENTED BY ROMEO C. ROYANDOYAN, INTERVENORS.

[G.R. No. 178193]

DANILO B. URSUA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

R E S O L U T I O N

VELASCO JR., J.:

For consideration is the *Manifestation and Omnibus Motion (Omnibus Motion)* dated October 12, 2012 interposed by respondent Republic of the Philippines (Republic). In it, respondent claims that the Court, in its September 4, 2012 Resolution, has not included as part of its assets to be reconveyed to it the 25.45 million San Miguel Corporation (SMC) shares subject of the Compromise Agreement dated March 20 and 22, 1990 entered into by and between the SMC Group and the United Coconut Planters Bank (UCPB) Group that SMC subsequently converted to treasury shares.

Antecedents

On March 26, 1986, the Coconut Industry Investment Fund Holding Companies ("CIIF") sold 33,133,266 SMC common shares to Andres Soriano III of the SMC Group for

P3,313,326,600.00, payable in four (4) installments. On April 1, 1986, the SMC Group paid the initial purchase price of P500 million to the UCPB as administrator of the CIIF (the "UCPB Group"). The sale was transacted through the stock exchange and the shares were then registered in the name of Anscor-Hagedom Securities, Inc. (AHSI). [1]

On April 7, 1986, the Presidential Commission on Good Government (PCGG) sequestered the shares of stock. Due to the sequestration, the SMC Group suspended payment of the balance of the purchase price of the subject stocks. In retaliation, the UCPB Group attempted to rescind the sale by filing a complaint with the Regional Trial Court of Makati. The complaint, however, was eventually ordered dismissed for lack of jurisdiction.[2]

Early 1989 developments saw the SMC and UCPB groups successfully threshing out their dispute over the aborted sale of the over 33.1 million SMC shares which have meanwhile ballooned to 175,274,960 as a consequence of dividends and stock splits. But because any settlement required PCGG's intervention, Andres Soriano III, for SMC, and Ramon Y. Sy, for UCPB, in a joint letter of October 31, 1989, informed the PCGG about a proposal which would have the two groups give PCGG an "arbitration fee" in the form of 5,500,000 SMC shares to support the Comprehensive Agrarian Reform Program (CARP).[3]

PCGG approved the proposal. Thus, on March 20 and 22, 1990, SMC and UCPB representing the CIIF signed a *Compromise Agreement and Amicable Settlement* (*"Compromise Agreement"*). Its pertinent provisions state:

> 3.1. The sale of the shares covered by and corresponding to the first installment of the 1986 Stock Purchase Agreement consisting of Five Million SMC Shares is hereby recognized by the parties as valid and effective as of 1 April 1986. Accordingly, said shares and all stock and cash dividend declared thereon after 1 April 1986 shall pertain, and are hereby assigned, to SMC. x x x
>
> 3.2. The First Installment Shares shall revert to the SMC treasury for dispersal pursuant to the SMC Stock Dispersal Plan attached as Annex "A-1" hereof. The parties are aware that these First Installment Shares shall be sold to raise funds at the soonest possible time for the expansion program of SMC. x x x
>
> 3.3. The sale of the shares covered by and corresponding to the second, third and fourth installments of the 1986 Stock Purchase Agreement is hereby rescinded effective 1 April 1986 and deemed null and void, and of no force and effect. Accordingly, all stock and cash dividends declared after 1 April 1986 corresponding to the second, third and fourth installments shall pertain to CIIF Holding Corporations. x x x

On March 23, 1990, the SMC and the UCPB Groups filed with the Sandiganbayan a *Joint Petition for Approval of the Compromise Agreement and Amicable Settlement ('Joint*

Petition"), docketed as CC No. 0102.4

On June 18, 1990, the PCGG joined the OSG in praying that the SMC and UCPB Groups' *Joint Petition* be treated as an incident of Civil Case (CC) No. 0033, a case for the recovery of ill-gotten wealth instituted by the PCGG with the Sandiganbayan against former President Ferdinand Marcos, Eduardo Cojuangco, Jr. ("Cojuangco"), et al. on July 31, 1987. PCGG, however, interposed no objection to the implementation of the *Compromise Agreement* subject to some conditions.[5]

On July 4, 1991, the SMC and UCPB Groups filed a *Joint Manifestation of Implementation of Compromise Agreement and of Withdrawal of Petition* therein stating that they have implemented the Compromise Agreement with the conditions set by the PCGG and, accordingly, withdrawing their Joint Petition. They informed the Sandiganbayan of the execution of the following corporate acts:

> a. On instructions of the SMCGroup, the certificates of stock registered in the name of Anscor-Hagedom Securities, Inc. (AHSI) representing 175,274,960 SMC shares were surrendered to the SMC corporate secretary.[6]
>
> b. The said SMC shares were reissued and registered in the record books of SMC in the following manner: i) Certificates for 25,450,000 SMC shares were registered in the name of SMC, as treasury; ii) Certificates for 144,324,960 SMC shares were registered in the name of the CIIF Holding Companies; iii) Certificates for 5,500,000 SMC shares were registered in the name of the PCGG.
>
> c. The UCPB Group has delivered to the SMC Group the amount of P500,000,000.00 in full payment of the UCPB preferred shares.
>
> d. The SMC Group delivered to the UCPB Group the amount of 481,628,055.99 representing accumufated dividends (from Apri 11, 1986) on the shares reverted to the CIIF Holding Companies.

The PCGG, for its part, manifested that it has no objection to the action thus taken by the SMC and UCPB Groups.[7] COCOFED, et al. and Cojuangco filed their respective motions, both dated July 4, 1991, to nullify the implementation of the *Compromise Agreement. Acting on the Joint Manifestation of Implementation of Compromise Agreement and of Withdrawal of Petition*, the Sandiganbayan on July 5, 1991 noted the same.[8]

On July 16, 1991, SMC filed its *Manifestation* where it declared that Stock Certificate Nos. A 0004129 and A 0015556 representing 25,450,000 shares were issued in the name of SMC as treasury stocks.

On October 25, 1991, the Sandiganbayan issued a Resolution requiring SMC to deliver the 25.45 million SMC treasury shares to the PCGG.[9] On March 18, 1992, the Sandiganbayan denied the SMC Group's *Motion for Reconsideration*.[10]

Later, the Sandiganbayan ordered on December 8, 1994 that the causes of action in CC No. 0033 be divided and litigated separately. In Compliance, the Republic subdivided CC No. 0033 into eight complaints, two of which became:

a. CC No. 0033-A, entitled *Third Amended Complaint (Subdivided)[Re: Anomalous Purchase and Use of First United Bank (now "United Coconut Planters Bank')]*, the subject matter of which is the sequestered shares of stock of UCPB registered in the names of the coconut farmers (the UCPB shares) and of Cojuangco; and

b. CC No. 0033-F, entitled *Third Amended Complaint (Subdivided) [Re: Acquisition of San Miguel Corporation]*, the subject matter of which is the shares of stock of SMC registered in the names of the CIIF Holding Companies (the SMC shares).

In a Resolution, the Sandiganbayan admitted the eight subdivided complaints on March 24, 1999. [11]

Meanwhile, respondent Republic filed in CC No. 0033-A a *Motion for Partial Summary Judgment*, which the Sandiganbayan granted on 1 July 11, 2003 via a Partial Summary Judgment (PSJ) holding that the coco levy fund is public in nature.

On February 2, 2004, SMC filed in CC No. 0033-F a Complaint in-Intervention praying that any judgment forfeiting the CIIF block of shares should exclude the "treasury shares." Herein respondent opposed the SMC's *motion to intervene* in said case. By Resolution of May 6, 2004, the graft court denied the desired intervention.

The next day, the Sandiganbayan granted the Republic's *Motion for Judgment on the Pleadings and/or Partial Summary Judgment* in CC No. 0033-F in its May 7, 2004 PSJ, holding that "[t]he CIIF Companies having been acquired with public funds, the 14 CIIF-Holding Companies and all their assets, *including the CIIF Block of SMC Shares,* being public in character, belong. to the government."[12] In so ruling, the Sandiganbayan declared the 33,133,266 sequestered SMC shares subject of the stock purchase agreement by the CIIF Holding Companies and Andres Soriano III as owned by the Republic in trust for the coconut farmers.[13]

In its Resolution of May 11, 2007 in CC No. 0033-F, the Sandiganbayan held that there is no need for further trial on the issue regarding the actual percentage of the sequestered CIIF Block of SMC shares vis-a-vis the outstanding capital stock of SMC, effectively

deleting the last paragraph of the dispositive portion of its May 7, 2004 PSJ.[14]

It is upon the foregoing factual backdrop and proceedings that herein petitioners have filed the captioned consolidated *Petitions for Review on Certiorari* in May 2007.

Awaiting the decision thereon, COCOFED filed on July 24, 2009 an *Urgent Motion to Approve the Conversion of the SMC Common Shares into SMC Series 1 Preferred Shares*[15] praying for the approval of the conversion of the Class "A" and Class."B" common shares registered in the name of the 14 CIIF Holding Companies (listed in Annex "D" of the motion)[16] into SMC Series 1 Preferred Shares.

By then, the 14 CIIF Holding Companies' registered shareholdings in SMC already totaled 753,848,312 shares after dividend yields and availment by the CIIF of stock rights offering on April 11, 2005 of additional 28,645,672 shares.[17]

On September I7, 2009, this Court issued a Resolution[18] approving with qualification the conversion, viz:

> WHEREFORE, the Court APPROVES the conversion of the 753,848,312, ·sMC Common Shares registered in the CIIF companies to SMC SERIES 1 PREFERRED SHARES of 753,848,312, the converted shares to be registered in the names of the CIIF companies in accordance with the terms and conditions specified in the conversion offer set forth in SMC's Information Statement and appended as Annex "A" of COCOFED's Urgent Motion to Approve the Conversion of the CIIF SMC Common Shares into Series 1 Preferred Shares. The preferred shares shall remain in custodia legis and their ownership shall be subject to the final ownership determination of the Court. Until the ownership issue has been resolved, the preferred shares in the name of the CIIF Companies shall be placed under sequestration and PCGG management.
>
> xxxx
>
> Once the conversion is accomplished, the SMC Common Shares previously registered in the names of the CIIF companies shall be released from sequestration.[19]

Notably, the Court's September I7, 2009 Resolution was limited only to the 753,848,312 common shares that were registered in the name of the CIIF Companies. To stress, a part of these shares evolved from the 144,324,960 shares registered in the name of the CIIF Holding Companies following the implementation of the Compromise Agreement and augmented by the 28,645,672 shares availed during the stock rights offering in Apri12005. The September 17, 2009 Resolution did not include the 25.45 million shares in the name of

SMC as treasury shares. Neither did the same Resolution encompass the "arbitration fee" shares which already amounted to 27,571,409 Class "A" and Class "B" shares as of July 30, 2009.[20]

On June 28, 2011, respondent Republic filed with the Court an *Urgent Motion to Direct the San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan*[21] praying that this Court direct SMC to comply with the Sandiganbayan's October 25, 1991 and March 18, 1992

Resolutions. In a Resolution dated July 5, 2011, this Court required SMC to file a Comment on the Republic's Urgent Motion.[22]

On January 24, 2012, this Court finally rendered judgment on the captioned consolidated petitions and affirmed with modification the PSJs of the Sandiganbayan holding that the CIIF Companies and the CIIF block of SMC shares are public funds/assets.

Petitioners COCOFED, et al. interposed their Motion for Reconsideration dated February 14, 2012 of this Court's January 24, 2012 Decision.

Pending the resolution of the petitioners' motion for reconsideration, SMC filed its *Comment on the Urgent Motion to Direct the San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions Dated October 24, 1991 and March 18, 1992 of the Sandiganbayan* on March 30, 2012 opposing the Republic's motion on procedural and substantive grounds. In the main, SMC argued that the *Compromise Agreement* whence it derives its right on the treasury shares is effective and the Republic has no ground to assail it.

In its September 4, 2012 Resolution denying COCOFED's motion for reconsideration, the Court sought to reflect the current number of the shares registered in the name of the CIIF companies and so held:

> **As of 1983, the Class A and B San Miguel Corporation (SMC) common shares in the names of the 14 CIIF Holding Companies are 33,133,266 shares**. From 1983 to November 19, 2009 when the Republic of the Philippines representing the Presidential Commission on Good Government (PCGG) filed the "Motion To Approve Sale of CIIF SMC Series I Preferred Shares," **the common shares of the CIIF Holding companies increased to 753,848,312 Class A and B SMC common shares**.
>
> Owing, however, to a certain development that altered the factual situation then obtaining in G.R. Nos. 177857-58, there is, therefore, a compelling need to clarify the *fallo* of the January 24, 2012 Decision to reconcile it, vis-a-vis the sh&res of stocks in SMC which were declared owned by the Government, with this development. **We refer to the Resolution issued by the Court on**

September 17, 2009 in the then consolidated cases docketed as G.R. Nos. 177857-58, G.R. No. 178193 and G.R. No. 180705. In that Resolution which has long become final and executory, the Court, upon motion of COCOFED and with the approval of the Presidential Commission on Good Government, granted the conversion of 753,848,312 Class "A" and Class "B" SMC common shares registered in the name of the CIIF companies to SMC Series 1 Preferred Shares of 753,848,312, subject to certain terms and conditions. The dispositive portion of the aforementioned Resolution states:

x x x x

The CIIF block of SMC shares, as converted, is the same shares of stocks that are subject matter of, and declared as owned by the Government in, the January 24, 2012 Decision. Hence, the **need** to clarify.

WHEREFORE, the Court resolves to **DENY** with **FINALITY** the instant Motion for Reconsideration dated February 14, 2012 for lack of merit.

The Court further resolves to **CLARIFY** that the 753,848,312 SMC Series 1 preferred shares of the CIIF companies converted from the CIIF block of SMC shares, with all the dividend earnings as well as all increments arising from, but not limited to, the exercise of preemptive rights subject of the September 17, 2009 Resolution, shall now be the subject matter of the January 24, 2012 Decision and shall be declared owned by the Government and be used only for the benefit of all coconut farmers and for the development of the coconut industry.

As modified, the fallo of the January 24, 2012 Decision shall read, as follows:

> **WHEREFORE,** the petitions in G.R. Nos. 177857-58 and 178793 are hereby **DENIED**. The Partial Summary Judgment dated July 11, 2003 in Civil Case No. 0033-A as reiterated with modification in Resolution dated June 5, 2007, as well as the Partial Summary Judgment dated May 7, 2004 in Civil Case No. 0033-F, which was effectively amended in Resolution dated May 11, 2007, are **AFFIRMED with MODIFICATION**, only with respect to those issues subject of the petitions in G.R. Nos. 177857-58 and 178193. However, the issues raised in G.R. No. 180705 in relation to Partial Summary Judgment dated July 11, 2003 and Resolution dated June 5, 2007 in Civil Case No. 0033-A, shall be decided by this Court in a separate decision.
>
> The Partial Summary Judgment in Civil Case No. 0033-A dated July 11, 2003, is hereby **MODIFIED**, and shall read as follows:

x x x x

SO ORDERED.

The Partial Summary Judgment in Civil Case No. 0033-F dated May 7, 2004, is hereby **MODIFIED**, and shall read as follows:

> **WHEREFORE, the MOTION FOR EXECUTION OF PARTIAL SUMMARY JUDGMENT (RE: CIIF BLOCK OF SMC SHARES OF STOCK)** dated August 8, 2005 of the plaintiff is hereby denied for lack of merit. However, this Court orders the severance of this particular claim of Plaintiff. The Partial Summary Judgment dated May 7, 2004 is now considered a separate final and appealable judgment with respect to the said CIIF Block of SMC shares of stock.
>
> The Partial Summary Judgment rendered on May 7, 2004 is modified by deleting the last paragraph of the dispositive portion, which will now read, as follows:
>
> **WHEREFORE, in view of the foregoing, we hold that:**
>
> The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies - and Cocofed, et al.) filed by Plaintiff is hereby GRANTED.

ACCORDINGLY, THE CIIF COMPANIES, NAMELY:

1. Southern Luzon Coconut Oil Mills (SOLCOM);
2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
3. Iligan Coconut Industries, Inc. (ILICOCO);
4. San Pablo Manufacturing Corp. (SPMC);
5. Graneexport Manufacturing Corp. (GRANEX); and
6. Legaspi Oil Co., Inc. (LEGOIL),

AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

1. Soria Shares, Inc.;
2. ACS Investors, Inc.;
3. Roxas Shares, Inc.;
4. Arc Investors, Inc.;
5. Toda Holdings, Inc.;
6. AP Holdings, Inc.;

7. Fernandez Holdings, Inc.;
8. SMC Officers Corps, Inc.;
9. Te Deum Resources, Inc.;
10. Anglo Ventures, Inc.;
11. Randy Allied Ventures, Inc.;
12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd., Inc.; and
14. First Meridian Development, Inc.

AND THE CONVERTED SMC SERIES 1 PREFERRED SHARES TOTALING 753,848,312 SHARES SUBJE'CT OF THE RESOLUTION OF THE COURT DATED SEPTEMBER 17, 2009 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID OR ISSUED THEREON AFTER THAT DATE, AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT TO BE USED ONIy FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENOF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.

THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASEi NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES, AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.

SO ORDERED.

On October 15, 2012, respondent Republic filed the present *Manifestation and Omnibus Motion* dated October 12, 2012 particularly asserting that the 753,848,312 SMC Series 1 Preferred. Shares mentioned in this Court's September 4, 2012 Resolution does not equate to the 33,133,266 SMC common shares specified in its January 24, 2012 Decision. The Republic posits that the 25.45 million SMC treasury shares form part of the CIIF block of SMC shares totaling 33,133,266 shares as of 1983, which the Court has declared to be owned by the Government. Hence, the Republic prays that a new resolution be issued:

1. AMENDING the Resolution dated September 4, 2012 to include the "treasury shares" which are part and parcel of the 33,133,266 CIIF Block of Shares as of 1983 decreed as owned by the Government;

2. DIRECTING the San Miguel Corporation to comply with the Sandiganbayan's Resolution promulgated on October 24, 1991 and March 18, 1992 in Civil Case No. 0102 (integrated in Civil Case No. 0033 [Civil Case No. 0033-F]) as affirmed by the Honorable Court in the consolidated cases in G.R. Nos. 104037-38 and 109797 which directed the delivery to the [PCGG] of the treasury shares, including all the accrued cash and stock dividends from 1986 up to the present;

3. AWARDING actual damages in favor of the Republic of the Philippines in the form of legal interest on the cash and cash value of the stock dividends and cash dividends which ought to have accrued and delivered to the Republic and the PCGG by the SMC in compliance with the aforesaid resolutions and decision of. the Sandiganbayan and the Honorable Court.[23]

In its *Comment*[24] dated December 2, 2013 on the above *Manifestation and Omnibus Motion*, SMC maintains that the adverted SMC treasury shares belong to SMC pursuant to the March 20 and 22, 1990 *Compromise Agreement* and that this Court is without jurisdiction to order it to deliver the 25.45 million treasury shares to the Government since SMC's intervention in CC No. 0033-F was denied and so it is a non-party in said case.

Our Ruling

No Jurisdiction over SMC since it is not a party to the case

It is elementary that every person must be heard and given his day in court before a judgment involving his life, liberty or property issues against him. This rule is enshrined no less in the very first section of the Bill of Rights of our Constitution:

SECTION 1. **No person shall be deprived of** life, liberty or **property without due process of law**, nor shall any person be denied the equal protection of the laws. (emphasis supplied)

Corporate persons, needless to stress, are entitled to the due process protection. Thus, in *Palm Avenue Holding Co., Inc. v. Sandiganbayan*,[25] the Court echoed our ruling in *PCGG v. Sandiganbayan*[26] that the failure to implead a corporation in a suit for the recovery of ill-gotten wealth against its stockholders cannot bind the corporation itself; otherwise, its fundamental right to due process will be violated, *viz*:

The Court's ruling in ***Presidential Commission on Good Government v. Sandiganbayan***, which **remains good law, reiterates the necessity of the**

> **Republic to actually implead corporations as defendants in the complaint, out of recognition for their distinct and separate personalities, failure to do so would necessarily be denying such entities their right to due process. Here, the writ of sequestration issued against the assets of the Palm Companies is not valid because the suit in Civil Case No. 0035 against Benjamin Romualdez as shareholder in the Palm Companies is not a suit against the latter**. The Court has held, contrary to the assailed Sandiganbayan Resolution in G.R. No. 173082, that **failure to implead these corporations as defendants** and merely annexing a list of such corporations to the complaints **is a violation of their right to due process for it would be, in effect, disregarding their distinct and separate personality without a hearing**. Here, the Palm Companies were merely mentioned as Item Nos. 47 and 48, Annex A of the Complaint, as among the corporations where defendant Romualdez owns shares of stocks. **Furthermore, while the writ of sequestration was issued on October 27, 1986, the Palm Companies were impleaded in the case only in 1997, or already a decade from the ratification of the Constitution in 1987, way beyond the prescribed period.**

As a corollary rule, this Court has held that execution may issue only upon **a person who is a party to the action or proceeding**, and not against one who did not have or was denied his day in court. We said as much in *Atilano v. Asaali*: [27]

> It is well-settled that **no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by a judgment rendered by the court**. Execution of a judgment can only be issued against one who is a party to the action, and not against one who, not being a party thereto, did not have his day in court. Due process dictates that a court decision can only bind a party to the litigation and not against innocent third parties. (emphasis and underscoring added)

Even the Rules of Court provides that judgments can, in appropriate cases, only be exe? uted against a judgment obligor.[28]

As it were, SMC was **never** made a party to CC No. 0033-F filed by respondent Republic to recover the SMC shares of stock registered in the name of the CIIF Holding Companies. It was not given a chance to justify, let alone ventilate, its claim ever the 25.45 million shares it has in its possession even when it had volunteered to participate and moved to intervene in the said case, as will be expounded below.

Certainly, SMC cannot, under the premises, be considered as such judgment obligor in CC 0033-F as it was not impleaded by respondent Republic as a party despite the clear mandate of the Rules of Court that "parties in interest without whom no final determination

can be had of an action shall be joined as plaintiffs or defendants."[29]

It has been advanced, however, that "[SMC] need not be [a party] because its interests have already been clearly and finally addressed by this Court."[30]

This view, however, fails to consider that SMC's interests over these 25.45 million shares have not yet been addressed[31] precisely because SMC was not impleaded in the case when its legal presence is an ***absolute prerequisite*** before a prejudicial and confiscatory decision can be issued against it.[32] In other words, the non-joinder of SMC as a party in CC 0033-F did not confer upon this Court jurisdiction over the juridical person of SMC and so **the Court is without power to order SMC to comply with any pronouncement made in the case involving, adversely at that, its property.**

In a plethora of cases,[33] the Court has emphasized the well-entrenched principle that **a judgment rendered without jurisdiction cannot be the source of any right nor the creator of any obligation**. We said as much in *Florete v. Florete*[34] and *Arcelona v. Court of Appeals*:[35]

> **A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation.** All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void: "... it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head."[36]

The acknowledgment that the Court has no jurisdiction over SMC in the present case is not "allow[ing] San Miguel Corporation to keep these treasury shares under the guise of technicalities."[37] **The question of jurisdiction, the Court has repeatedly explained, is not a mere question of technicality or a simple matter of procedure but an element of due process**.[38] Indeed, it is unsporting, nay the height of injustice and a clear violation of the due process guarantee, to order SMC to comply with any decision rendered in CC 0033-F when it was never given the opportunity to present, explain, and prove its claim over the presently contested shares.

It may be that in *Republic v. Sandiganbayan, Maria Clara Lobregat, et al. (Lobregat)*,[39] one of the cases that sprung forth from the sequestration made by PCGG of properties suspected ill-gotten by former President Marcos and his cronies, including the CIIF Companies and its SMC shares, the Court mentioned that there is no need to implead SMC in cases seeking to recover sequestered SMC shares.[40]

Our pronouncements in *Lobregat*, however, are not applicable herein. Unlike in the foregoing cases, **SMC presently has a legitimate claim over the 25.45 million shares in its treasury by a commercial transaction not otherwise alleged to be conducted under any "illicit or anomalous conditions." SMC and the CIIF Companies (through UCPB) entered into the contract of sale in March 1986 and SMC paid P500 million on April 1, 1986 or several days prior to the actual sequestration**. The consequent transfer of the 5 million shares (now 26.45 million shares) to SMC vests in SMC the proprietary right over these shares. Put differently, as the manner of SMC's acquisition of these shares was arms-length and not made through public funds, the present issue does not fall within the ambit of our pronouncements in *Republic v. Sandiganbayan,* which refer to corporations as repositories of shares acquired by misappropriated public funds or "ill-gotten wealth."

More significantly, this Court, in *PCGG v. Interco*,[41] *Republic v. Sandiganbayan, Sipalay Trading Corp. and Allied Banking Corp*,[42] and *PCGG v. Sandiganbayan and Aerocom Investors and Managers, Inc*.,[43] effectively abrogated its ruling in Lobregat when it hewed to the lone dissent of Justice Teodoro R. Padilla in the very same Lobregat, to wit:

> ... failure to implead these corporations as defendants and merely annexing a list of such corporations to the complaints is a violation of their right to due process for it would in effect be disregarding their distinct and separate personality without a hearing.
>
> In cases where stocks of a corporation were allegedly the fruits of ill-gotten wealth, it should be remembered that in most of these cases the stocks involved constitute a substantial if not controlling interest in the corporations. . **The basic tenets of fair play demand that these corporations be impleaded as defendants since a judgment in favor of the government will undoubtedly substantially and decisively affect the corporations as distinct entities.** The judgment could strip them of everything without being previously heard as they are not parties to the action in which the judgment is rendered.
>
> . . . Holding that the 'corresponding judicial action or proceeding' contemplated by the Constitution is any action concerning or involving the corporation under sequestration is oversimplifying the solution, the result of which is antagonistic to the principles of justice and fair play.
>
> . . . the actions contemplated by the Constitution should be those which include the corporation not as a mere annex to the complaint but as defendant. This is the minimum requirement of the due process guarantee. **Short of being impleaded, the corporation has no standing in the judicial action. It cannot adequately defend itself. It may not even be heard.**
>
> On the opinion that alternatively the corporations can be impleaded as defendants by amendment of the complaint, Section 26, Article XVIII of the

> Constitution would appear to preclude this procedure, for allowing amendment of the complaint to implead theretofore unimpleaded corporations would in effect allow complaints against the corporation to be filed beyond the periods fixed by said Section 26.
>
> x x x x
>
> While government efforts to recover illegally amassed wealth should have support from all its branches, **eagerness and zeal should not be allowed to run berserk, overriding in the process the very principles that it is sworn to uphold. In our legal system, the ends do not always justify the means. Wrongs are never corrected by committing other wrongs, and as above-discussed the recovery of ill gotten wealth does not and should never justify unreasonable intrusions into constitutionally forbidden grounds**....

Indeed, **it is but in keeping with fair play that parties are allowed to present their respective claims in a full-blown trial regarding the "sale" of the 25.45 million SMC shares for P500 million.** This is not, at the first instance,. the appropriate case to make a final judgment over the ownership of the 25.45 million shares.

Nonetheless, it is advanced that SMC had already been afforded an opportunity to air its side in *San Miguel Corporation v. Sandiganbayan*[44] and in this very case where it filed its Comment on the Republic's Omnibus Motion. With all due respect, the posture fails to consider that the issue of ownership was never tackled in San Miguel and, certainly, the Comment filed by SMC in this case, over its repeated manifestation that it is not party to the instant case[45] and continuing objection on this Court's jurisdiction, is hardly enough to satisfy the requirements of due process.

The Court cannot set the benchmark of due process at the lowest level by considering each pleading submitted by a party as enough to satisfy the requirements of this Constitutional protection. If this Court is to animate the spirit of the Constitution and maintain in full strength the substance of the due process protection, it must afford each party the full legal opportunity to be heard and present evidence in support of his or her contentions. SMC must, therefore, be given full opportunity to proffer evidence on its claim of ownership over the treasury shares in a proper case before the right court.

In fact, SMC should have been al1owed to participate and present its evidence in CC 0033-F. To recall, SMC filed a "Motion to Intervene" with attached "Complaint-Intervention" dated February 2, 2004 with the Sandiganbayan.[46] It alleged, among other things, that it had an interest in the matter in dispute being the owner by purchase of a portion of the so-called "CIIF block of SMC shares of stock" sought to be recovered by the Republic as al1eged ill-gotten wealth.[47] SMC prayed, thus:

> WHEREFORE, it is respectfully prayed that the SMC shares comprising the "compromise shares" between SMC and defendant CIIF Companies, and covered by Certificate Nos. A0004129 and B0015556, be adjudged excluded (a) from the "CIIF Block of SMC shares" subject of plaintiffs forfeiture action, and (b) from an1 judgment that may be rendered in this suit as to such forfeiture claim.[48]

The Republic, however, opposed the intervention and found the same improper.[49] COCOFED and Ursua likewise posed their Opposition.[50] On May 6, 2004, the Sandiganbayan promulgated a Resolution finding SMC's motion to intervene devoid of merit.[51] SMC moved for reconsideration but to no avail.[52] Soon thereafter, or on May 7, 2004, the Sandiganbayan issued the Partial Summary Judgment in CC 0033-F[53] that was assailed in these consolidated petitions.

Undeniably, SMC was not given the proper chance to be heard and furnish proof on its claim of ownership over the treasury shares. That was a denial of its right to due process. It should be corrected.

The Clarification in the September 4, 2012 Resolution

A review of the past underlying transactions that led to the acquisition of the so-called "treasury shares" would indicate that SMC had acquired colorable title to retain possession of the 25.45 million shares of what were once CIIF shares **prior to the sequestration of these CIIF shares on April 7, 1986 and the institution of CC Nos. 0033 and 0033-F on July 31, 1987.**

It is worthy to consider that the original contract of sale between the SMC and UCPB Groups over a block of SMC shares, which was later the subject of the Compromise Agreement, was executed on March 26, 1986 and, as mentioned, **SMC paid P500 million as first installment on April 1, 1986 or several days before the government sequestered the 33,133,266 shares, on April 7, 1986.**

Because of differences regarding the implementation of the purchase agreement after the shares were sequestered, SMC and UCPB (acting on behalf of the CIIF companies) entered into a Compromise Agreement and Amicable Settlement in March 1990 wherein the P500-million first installment paid by SMC was considered as full payment for 5 million SMC shares, which by then had increased to 26,450,000 shares.

As a consequence of the implementation of this Compromise Agreement in July 1991, the CIIF-SMC shares which then numbered 175,274,960 were, thus, distributed among the CIIF Holding Companies, SMC-Treasury and the PCGG, which helped bring to reality the Compromise Agreement and agreed to hold the "arbitration fees" in trust for the CARP. The following illustrates the evolution of the CIIF shares before their sequestration until

this Court's September 4, 2012 Resolution:

	1986 (*Per the March 1986 Agreement)*	1990 *(Per the Compromise Agreement)*	1990 (*Manifestation of Implementation of Compromise Agreement and of Withdrawal of Petition)*	2009 (Per PCGG Resolution No. 2009-037-756)
CIIF Companies/ UCPB Group	28,133,266	148,824,960	144,324,960	753,848,312[54]
SMC Group	5,000,000	26,450,000	25,450,000	25,450,000
PCGG-ITF-CARP	-	-	5,500,000[55]	27,571,409
Total Number	33,133,26			

In sum, the 753,848,312 SMC shares now reflected in the fallo of the September 4, 2012 Resolution in these captioned cases, are the only remaining SMC shares in the name of the CIIF companies that can be, and were in fact, declared as owned by the Government. Hence, the need to clarify the Court's January 2012 Decision.

On this note, there was no mistake in the dispositive portitm of the September 4, 2012 Resolution. The *fallo* was clarified precisely to reflect the present number of shares registered in the name of the CIIF companies. Thus, the 5.5 million shares with the PCGG, and the 25.45 million shares with SMC, were no longer included therein.

There was never an equivalence made or implied between the 33,133,266 common shares and the 753,848,312 SMC Series 1 Preferred Shares. As observed, the current number of 753,848,312 SMC Series 1 Preferred Shares was taken from this -Court's September 17, 2009 Resolution, where there was no mention of the original 33,133,266 common shares. The September 17, 2009 Resolution limited itself to the conversion of the shares remaining in the name of the CIIF companies from common to Series 1 Preferred shares., i.e., those arising from the 144,324,960 shares registered in the name of CIIF companies following the implementation of the compromise agreement and the additional 28,645,672 subscribed by them in April 1995 following SMC's stock rights offering. This is so considering that COCOFED's "Urgent Motion: To Approve the Conversion of the SMC Common Shares Into SMC Series 1 Preferred Shares" dated July 24, 2009 specifically asked for the exchange of "ALL THE **SHARES OF STOCK OF SMC THAT ARE PRESENTLY SEQUESTERED AND REGISTERED IN THE RESPECTIVE NAMES OF THE 14 CIIF HOLDING COMPANIES IN THE TOTAL NUMBER OF 753,848,312**."[56] COCOFED did not ask for the conversion of all the shares that arose from the original 33,133,266 SMC Common Shares given the claim and possession of the remaining portion by the PCGG and the SMC over the remainder.

In other words, COCOFED did not ask for the conversion of the 5.5 million arbitration shares already in the name of PCGG because the shares were already transferred and registered in the name of PCGG as of July 1991.[57] Likewise, COCOFED did not ask for the conversion of the SMC treasury shares because it had no claim on them anymore, as the same were already transferred and registered in the name of SMC.[58] As a matter of fact, certificates of stocks were issued to SMC and PCGG, specifically: (1) Certificate Nos. 004127, 004128, and 015555 for PCGG; and (2) Certificate Nos. 004129 and 015556 for SMC. Thus, the PCGG shares and the SMC treasury shares were no longer included in the September 17, 2009 and September 4, 2012 Resolutions, which were limited to the 753,848,312 shares still registered in the name of COCOFED.

There is no gainsaying that the treasury shares were originally derived from the more than 33.13 million shares acquired by the CIIF shares in 1983. However, SMC is persistent in its claim of ownership over the 25.45 million shares following the events that transpired after the purchase by the CIIF of the shares in 1983. Thus, it is not incompatible, much less "illogical," to hold that the original 33,133,266 SMC common shares were bought with public funds in 1983 and yet the treasury shares may not now belong to the government given the foregoing events that supervened after the purchase of these shares, which, as will be discussed, bore the imprimatur of the government agency appointed to administer them.

The Republic participated in the Compromise Agreement

To sway this Court, the Republic relies on the fact that the Compromise Agreement between SMC and the CIIF Companies ratifYing the sale of the first installment shares had been submitted but has not been approved by the Sandiganbayan. But note, neither has the Compromise Agreement been disapproved by that or this Court. Nowhere in *San Miguel Corporation v. Sandiganbayan*[59] did the Court rule on the validity of the Compromise Agreement, much less "indirectly [deny] approval of the Compromise Agreement,"[60] since it was not the issue presented for the Court's resolution.[61]

The absence of an explicit approval of the Compromise Agreement by the Sandiganbayan, however, did not and does not preclude the PCGG from recognizing the agreement. In fact, the PCGG exercised ownership over the arbitration shares by asking, through the OSG, for the conversion of the PCGG shares into preferred shares per a Motion dated September 30, 2009.[62] More importantly, it retained ownership of the said arbitration fee shares from 1991 up to the present. Undoubtedly, the Republic, through the PCGG, implicitly recognized the validity of the Compromise Agreement.

The graft court's disinclination to explicitly approve the Compromise Agreement was, as admitted in the Dissent, only intended to prevent any "prejudice [of] their eventual delivery to their lawful owner or owners who will be determined at the close of the judicial

proceeding."[63] In effect, the Sandiganbayan intended to conserve the SMC shares ***for the party who will eventually be declared the beneficial owner thereof***.

Per this Court's January 2012 Decision, beneficial ownership of the shares pertains to the Republic. But as things stood, **the Republic was actually involved in the Compromise Agreement and its implementation.**

It is not lost on this Court that the PCGG, the government's primary representative in sequestration proceedings, virtually gave its consent to SMC's continuous possession of the 25.45 million shares by approving the Compromise Agreement on which SMC predicates its claim over the shares and continuing its possession of the so-called "arbitration fee" shares that came out of the same Compromise Agreem nt.

Put differently, the PCGG, the government agency empowered to exercise sequestration powers over the 25.45 SMC treasury shares, gave its consent to SMC's claim of ownership and possession of the treasury shares by approving the Compromise Agreement on which SMC predicates its claim and also asserting and exercising ownership and possession of the so called "arbitration· fees of 5.5 SMC shares that came out of the Compromise Agreement." This may be the real reason why PCGG did not implement the SB orders dated October 25, 1991 and March 18, 1992 which ordered SMC to surrender the treasury shares.

What is more, at the time the Compromise Agreement was signed, SMC's board was dominated by PCGG nominees and other government representatives.

The facts recited in *Cojuangco, Jr. v. Roxas*[64] reveal that on April 18, 1989, the annual meeting ofSMC shareholders was held. Among the matters taken up was the election of fifteen (15) members of the board of directors for the ensuing year. On such date, there were 140,849,970 shares outstanding, of which 133,224,130 shares, or 94.58%, were present at the meeting, either in person or by proxy.

Because of PCGG's ciaim that the shares of stock were under sequestration, PCGG was allowed to represent and vote 85,756,279 shares of stocks, or almost 2/3 of the actual votes cast. With PCGG voting the 85,756,279 shares or 1,286,744,185 votes, the following were elected members of the SMC Board:

1. Mr. Eduardo De Los Angeles
2. Mr. Feliciano Belmonte, Jr.
3. Mr. Teodoro L. Locsin
4. Mr. Domingo Lee
5. Mr. Philip Ella Juico
6. Mr. Patrick Pineda
7. Mr. Adolfo Azcuna
8. Mr. Edison Coseteng
9. Mr. Andres Soriano III

10. Mr. Eduardo Soriano
11. Mr. Francisco C. Eizmendi, Jr.
12. Mr. Benigno P. Toda, Jr.
13. Mr. Antonio J. Roxas
14. Mr. Jose L. Cuisia, Jr.
15. Mr. Oscar Hilado

Out of the 15 men elected to the board, eight (8) were PCGG nominees,[65] one (1) was nominated by SSS,[66] one by GSIS, and only five (5) were nominated by non-government institutions and/or individuals.[67] Similar facts attended the election of the directors of the SMC Board on April 17, 1990. Hence, 10 out of the 15 members of the SMC Board were government-nomi ated and elected.[68]

It would, therefore, be fair to state that the 10 men nominated and elected by the government to the SMC Board for the years 1989-1990 and 1990-1991 have actually acted to advance the interest ofthe Republic at the time that the Compromise Agreement was signed and implemented.

Without a doubt, the Republic had a hand in the transactions that eventually led to the designation of the more than 25.45 million shares as SMC treasury shares. Indeed, it is not disputed that the PCGG and, ergo, the Republic had an "influence" in the execution and eventual implementation of the Compromise Agreement through their representatives in the SMC Board.

Furthermore, neither has the PCGG ever moved for the actual execution of the Sandiganbayan's October 25, 1991 and March 18, 1992 Orders now relied upon by the Republic in claiming its renewed interest on the treasury shares. Twenty-four (24) years had elapsed and the Republic, either through the OSG or the PCGG, has not lifted even a finger to execute and enforce the said Sandiganbayan Orders. It should have filed a motion or instituted an action therefor within five·(5) or ten (10) years, as the case may be, as prescribed under the Rules of Court.[69] At the very least, the' Republic should have asked for a citation of contempt. Regrettably, the Republic did nothing.

Certainly, the PCGG and, ergo, the Republic had no interest to do so given the 5.5 million, now more than 27.5 million, shares it had accepted as "arbitration fees." Evidently, whatever will be the outcome of CC 0033-F, i.e., whether the courts grant the shares to the Republic, COCOFED, or the coconut farmers, the Republic through the PCGG was already assured of a piece of the pie.

Indeed, for all intents and purposes, it is safe to state that SMC is an innocent bystander caught betweethe conflict between the government, certain individuals, and COCOFED over the shares. There is, therefore, no reason for the Court to now resolve the incident at bar to benefit the Republic at the expense of SMC.

Unjust Enrichment and Estoppel bar the Republic's Motion

There is nothing on record that says that the government offered to return the P500 million to the SMC Group. That is to say, while the· respondent Republic is asking for the delivery and reconveyance of the 25.45 million shares, it has not intimated its intention to return the P500 million it received (through the CIIF Companies now declared as government-owned) for the same shares. The inevitable conclusion that can be made is the Republic plans to keep the P500 million along with the 25.45 million shares. Such retention and acquisition of the P500 million would, in context, amount to a flagrant and arbitrary deprivation of SMC's property in violation of the company's due process right. This act definitely trenches on the sacred Constitutional guarantee of due process.

Elementary rules against unjust enrichment,[70] if not the sporting idea of fair play, forbid the Republic to retain the P500 million with the over 25.45 millibn shares it now claims. At the very least, everyone has a reasonable expectation that the Republic follow its own laws, foremost of which is the Constitution.

In sum, by keeping the P500-million first installment, approving through tht; PCGG the Compromise Agreement, and even taking and keeping an "arbitration fee," the government descended to the level of an ordinary citlizen and stripped itself of the vestiges of immunity that is otherwise available to it in the perfonnance of governmental acts.[71] Clearly, it is now vulnerable to the application of the principle of estoppel which militates against the grant of respondent's motion.

While the general rule is that the State cannot be put in estoppel by the mistakes or errors of its officials or agents, it is established that "[t]he rule on non-estoppel of the government is not designed to perpetrate an injustice."[72] :Thus, several exceptions to the Republic's non-estoppel have been recogriized. In *Republic of the Philippines v. Court of Appeals*,[73] the Court held:

> The general rule is that the State cannot be put in estoppel by the mistaks or errors of its officials or agents. However, like all general rules, this is also subject to exceptions, viz.:
>
> > "Estoppel against the public are little favored. They should not be invoked except in rare and unusual circumstances and may not be invqked where they would operate to defeat the effective operation of a polity adopted to protect the public. They must be applied with circlimspection and should be applied only in those special cases where the interests of justice clearly require it. Nevertheless, the **government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; andi subject to limitations ..., the doctrine**

of equitable estoppel mall be invoked against public authorities as well as against private individuals."

In *Republic v. Sandiganbayan*, the government, in its effort to recoveill-gotten wealth, tried to skirt the application of estoppel against it by invoking a specific constitutional provision. The Court countered:

"We agree with the statement that the State is immune from estoppel, but this concept is understood to refer to acts and mistakes of its officials especially those which are irregular (Sharp International Marketing vs. Court of Appeals, 201 SCRA 299; 306 [1991]; Republic v. Aquino, 120 SCRA 186 [1983]), which peculiar circumstances are absent in the case at bar. Although the State's right of action to recover ill-gotten wealth is not vulnerable to estoppel[;] it is non sequitur to suggest **that a contract, freely and in good faith executed between the parties thereto is susceptible to disturbance ad infinitum. A different interpretation will lead to the absurd scenario of permitting a party to unilaterally jettison a compromise agreement which is supposed to have the authority of res judicata (Article 2037, New Civil Code), and like any other contract, has the force of law between parties thereto** (Article 1159, New Civil Code; Hernaez vs. Kao, 17 SCRA 296 [1966]; 6 Padilla, Civil Code Annotated, 7th ed., 1987, p. 711; 3 Aquino, Civil Code, 1990 ed., p. 463) ..."

The Court further declared that "(t)he real office of the equitable norm of estoppel is limited to supfly[ing] deficiency in the law, but it should not supplant positive law."[74]

The exception established in the foregoing cases is appropriate in the present case since the Compromise Agreement partook of the nature of a bonafide proprietary business transaction of the government and was not undertaken as an incident to any of its governmental functions.

Clearly, issues regarding SMC's right over the 25.45 millioo treasury shares or the entitlement to the alleged dividends on said shares or to the interests and increase in value of the PSOO million remain unresolved. These issues are better ventilated and threshed out in a proper proceeding before the right forum where SMC will be accorded due process.

With respect to the Republic's "Urgent Motion to Direct the San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions Dated October 24, 1991 and March 18, 1992 of the Sandiganbayan," the same is noted without action in view of the ruling of the Court that jurisdiction has not been acquired over SMC.

WHEREFORE, the Republic of the Philippines' *Manifestation and Omnibus Motion* dated October 12, 2012 is **DENIED** without prejudice to the right of respondent Republic to

institute the appropriate action or proceeding where SMC's alleged right over the 25.45 million SMC treasury shares will be determined and finally resolved.

SO ORDERED.

Brion, Bersamin, Del Castillo, Perez, and *Reyes, JJ.,* concur.
Sereno, C.J., on official business; the Chief Justice left her Disenting Opinion.
Carpio, Peralta, Perlas-Bernabe, Jardeleza and *Caguioa, JJ.*, no part.
Mendoza, J., joining dissent of J. Leonen.
Leonen, J., I dissent, see separate opinion.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on October 5, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on Ocotber 26, 2016 at 10:41 a.m.

Very truly yours,

(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

---

[1] *See San Miguel Corporation, et al. v. Sandiganbayan*, G.R. Nos. 104637-38, September 14, 2000, 340 SCRA 289, 295; and *Republic v. Sandiganbayan,* G.R. No. 118661, January 22, 2007, 512 SCRA 25, 34.

[2] See *Soriano III v. Yuzon*, G.R. No. 74910, August 10, 1988, 164 SCRA 226.

[3] See *Republic v. Sandiganbayan*, supra note 1.

[4] *San Miguel Corporation, et al. v. Sandiganbayan*, supra note I.

[5] One of the conditions stated, viz: "5. The consent of PCGG to the transfer of the sequestered shares of stock in accordance with the COMPROMISE, and to the lifting of

the sequestration thereon to permit such transfer, shall be effective only when approved by the Sandiganbayan. The Commission makes no determination of the legal rights of the parties as against each other. The consent it gives here conforms to its duty to care for the sequestered assets, and to its purpose to prevent the repetition of the national plunder. It is not to be construed as indicating any recognition of the legality or sufficiency of any act of any of the parties." (emphasis supplied)

[6] By 1991, the 33,133,266 shares have increased to 175,274,960 due to stock dividends and stock splits.

[7] See *San Miguel Corporation, et al. v. Sandiganbayan*, supra note 1, at 303; and Republic v. Sandiganbayan, supra note 1, at 41.

[8] *San Miguel Corporation, et al. v. Sandiganbayan,* id.

[9] Id.

[10] Id.

[11] Annex "W" of the Class Action Petition for Review on Certiorari.

[12] PSJ dated May 7, 2004, p. 64.

[13] *Rollo* (G.R. Nos. 177857-58), pp. 404-405. On the issue regarding the actual percentage of the sequestered CIIF Block of SMC shares vis-a-vis the outstanding capital stock of SMC, the Sandiganbayan stated in its May 7, 2004 PSJ, thus:

> The subject matter of the Motion for Partial Summary Judgment is the CIIF block of San Miguel Corporation shares or the shares of the 14 CIIF Holding Companies. While the plaintiff (Republic) claims that this would constitute twenty-seven percent (27%) ofthe SMC capital stock, COCOFED et al. and Ballares, et al. claim that the said shares constitute 31.23% of the issued and outstanding capital s ock of SMC based on the 33,133,266 SMC shares owned by the 14 Holding Companies in 1983 which they alleged now total 880,720,162.71 SMC shares by reason of stock dividends that should have been declared and delivered in the .respective names of the 14 Holding Companies. Defendants Cojuangco, et al. allege that a portion of the 27% SMC shares mentioned by plaintiff are now treasury shares, possibly referring to the shares involved in the SMC Motion for Intervention, which has already been denied by this Court. PSJ dated May 7, 2004, p. 46 (id. at 386).

[14] The dispositive portion of the May II, 2007 Sandiganbayan Resolution reads:

WHEREFORE, the MOTION FOR EXECUTION OF PARTIAL SUMMARY JUDGMENT (RE: CIIF BLOCK OF SMC SHARES OF STOCK) dated August 8, of the plaintiff is hereby denied for lack of merit. However, this Court orders the severance of this particular claim of Plaintiff. The Partial Summary Judgment dated May 7, 2004 is now considered a separate final and appealable judgment with respect to the said CIIF Block of SMC shares of stock.

The Partial Summary Judgment rendered in May 7, 2004 is modified by deleting. the last paragraph of the dispositive portion which will now read, as follows:

WHEREFORE, in view of the foregoing, we hold that:

The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed et al) filed by Plaintiff is hereby GRANTED ACCORDINGLY, the CIIF COMPANIES, NAMELY:

x x x x

AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

x x x x

AND THE CIIF BLOCK OF SAN MIGUEL CORPORATION (SMC) SHARES OF STOCK TOTALING 33,133,266 SHARES AS OF 1983, TOGETHER WITH ALL DIVIDENDS DECLARED, PAID AND ISSUED THEREON AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT IN TRUST FOR ALL THE COCONUT FARMERS AND ORDERED RECONVEYED TO THE GOVERNMENT.

The aforementioned Partial Summary Judgment is now deemed a separate appealable judgment which finally disposes of the ownership of the CIIF Block of SMC Shares, without prejudice to the continuation of the proceedings with respect to the remaining claims particularly those pertaining to the Cojuangco, et al. block ofSMC shares.

[15] *Rollo* (G.R. Nos. 177857-58), Vol. 3, pp. 1760-1775.

[16] Id. at 1842.

[17] With the stock dividends declared by SMC from 1991 to 200 I, the SMC shares registered in the name of the CIIF Holding Companies increased to 752,202,640. SMC conducted a stock rights offering on April II, 2005 and the CIIF Holding Companies subscribed to 28,645,672 shares resulting in an increase to 753,848,312 shares. (*Rollo*

[G.R. No. 178193], Vol. 3, p. 1596.)

[18] *Rollo* (G.R. Nos. 177857-58), Vol. 3, pp. 1881-1913.

[19] Id. at 1911. Underscoring supplied.

[20] A separate Urgent Motion to Approve the Conversion of the PCGG-ITF-CARP-SMC Common Shares Into SMC Series I Preferred Shares September 30, 2009 was filed by the Republic, id. at 2103-2110. *See also* PCGG Resolution No. 2009-037-75"6, id. at 2004.

[21] Id., Vol. 4-A, pp. 3322-3349.

[22] Id. at 3423-A-B.

[23] *Rollo* (G.R. No. 178193), Vol. 3, pp. 1443-1444.

[24] Id. at 1583-1696.

[25] G.R. No. 173082, August 6, 2014, 732 SCRA 156.

[26] 353 Phil. 80, 92 (1998).

[27] G.R. No. 174982, September 10, 2012, 680 SCRA 345, 351; citing *Fermin v. Han. Antonio Esteves*, G.R. No. 147977, March 26, 2008, 549 SCRA 424, 428.

[28] SECTION 8. Issuance, form, and contents of a writ of execution. The writ of execution shall: (l) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, **the case number and title**, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to **enforce the writ according to its terms, in the manner hereinafter provided**:

(a) If the execution be against the property of the judgment obligor, to satisfy the judgment, with interest, **out of the real or personal property of such judgment obligor;**

(b) **If it be against real or personal property** in the hand of personal representatives, heirs, devisees, legatees, tenants, or trustees, **of the judgment obligor**, to satisfy the judgment, with interest, out of such property;

xxxx

SECTION 9. Execution of judgments for money, how enforced. - (a) Immediate payment

on demand. - The officers shall enforce an execution of a judgment for money **by demanding from the judgment obligor** the immediate payment of the full amount ,stated in the writ of execution and all lawful fees. **The judgment obligor shall pay** in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. x x x If the judgment obligee or his authorized representative is not present to receive payment, **the judgment obligor shall deliver the aforesaid payment to the executing sheriff**. x x x

(b) Satisfaction by levy. **If the judgment obligor** cannot pay all or part of the obligation in

cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and otherwise exempt from execution x x x.

(c) Garnishment of debts and credits. - **The officer may levy on debts due the judgment obligor** and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. x x x (emphasis supplied)

[29] Section 7, Rule 3 of the Rules of Court.

[30] Justice Leonen's Dissent.

[31] Id.

[32] *Galicia v. Mercado*, G.R. No. 146744, March 6, 2006, 484 SCRA 131, 136-137.

[33] See *Metropolitan Bank and Trust Co. v. Alejo,* 417 Phil. 303 (2001); *Divinagracia v. Parilla*, G.R. No. 196750, March II, 2015; *Macawadib v. Philippine National Police Directorate for Personnel and Records Management,* G.R. No. 186610, July 29, 2013, 702 SCRA 496; *People v. Go,* G.R. No. 201644, September 24, 2014, 736 SCRA 501; *Valdez-Tallorin v. Heirs of Tarona*, 620 Phil. 268 (2009).

[34] G.R. No. 174909, January 20, 2016.

[35] 345 Phil. 250, 287 (1997).

[36] Emphasis supplied.

[37] Justice Leonen's Dissent.

[38] See *David v. Paragas*, G.R. No. 176973, February 25, 2015; and *Sy v. Court of Appeals*, G.R. No. 94285, August 31, 1999, 313 SCRA 328.

[39] G.R. No. 96073, January 23, 1995, 240 SCRA 376.

[40] The Court held, thus:

B. Impleading Unnecessary in Cases for Recovery of Shares of Stock or Bank Deposits

As regards actions in which the complaints seek recovery of defendants' shares of stock in existing corporations (e.g., San Miguel Corporation, Benguet Corporation, Meralco, etc.) because allegedly purchased with misappropriated public funds, in breach of fiduciary duty, or otherwise under illicit or anomalous conditions, the impleading of said firms would clearly appear to be unnecessary. If warranted by the evidence, judgments may be handed down against the corresponding defendants divesting them of ownership of their stock, the acquisition thereof being illegal and consequently burdened with a constructive trust, and imposing on them the obligation of surrendering them to the Government. (emphasis supplied)

[41] G.R. No. 92755, July 26, 1991, En Banc Minute Resolution.

[42] G.R. Nos. 112708-09, March 29, 1996, 255 SCRA 438.

[43] G.R. No. 125788, June 5, 1998, 290 SCRA 39.

[44] Supra note 1.

[45] Prior to filing its Comment on the Omnibus Motion, a "**Manifestation Re: "Resolution" Dated November 20,2012 dated December 17, 2012** was filed. It stated:

4.00 *Second*, **SMC, which is being required to comment** on the "Manifestation And Omnibus Motion ..." dated October 12, 2012, as well as the "Manifestation" dated October 4, 2012, **is not a party in the instant cases. Nor has it been furnished a copy of the Court's Resolution**. Nonetheless, in light of the foregoing, although the suggestion may appear officious, if indeed SMC is being required to comment on the matter subject of the "Resolution" of November 20, 2012, **perhaps a copy of the "Resolution" should be furnished on SMC itself.** (emphasis and underscoring supplied; *rollo* [G.R. Nos. 177857-58], Vol. 6, p. 5008)

In an Omnibus Motion dated September 3, 2013, SMC again emphasized, viz.:

"2. However, **SMC has not been furnished with copies of the various pleadings in regard which it is required to comment as enumerated above. It must be emphasized**

that SMC is not a party in either G.R. Nos. 177857-58 *(COCOFED. et al. vs. Republic ofthe Philippines)* or **G.R. No. 178193 ((Danilo B. Ursua vs. Republic o[the Philippines).**

xxxx

5. **SMC is not a party in either G.R. Nos. 177857-58** *(COCOFED. et al. vs. Republic of the Philippines)* or **G.R. No. 178193** *(Danilo B. Ursua vs. Republic ofthe Philippines)*. Preparation of the comment will require a study of the cases, the record of which are voluminous and cover a long period of time. x x x (emphasis and underscoring supplied; id. at 5056-5057)

[46] Decision, *Republic v. Cojuangco, et al*., CC No. 0033-F, November 28, 2007, p. 27; rolla (G.R. No. 178193), Vol. I, p. 492.

[47] Id.

[48] Comment of San Miguel Corporation on the "Manifestation and Omnibus Motion," p. 44.

[49] Decision, *Republic v. Cojuangco, et al*., CC No. 0033-F, November 28, 2007, supra note 46.

[50] Id.

[51] Id.

[52] Id. at 28; rollo (G.R. No. 178193), Vol. 1, p. 493.

[53] Id.

[54] The 144,324,960 increased to 725,202,640 from 1991 to 2001. In 2005, the CIIF subscribed to 28,645,672 shares when SMC conducted a stocks right offering. Thus, the total shares registered in the name ofthe CIIF in 2009 reached 753,848,312.

[55] UCPB Group contributed 4,500,000 shares; SMC Group contributed 1,000,000 shares.

[56] Emphasis supplied.

[57] On July 4, 1991, SMC and the UCPB Group filed a Joint Manifestation with the Sandiganbayan that they have implemented the Compromise Agreement and Amicable Settlement with the conditions set by the PCGG and accordingly, withdrew their Joint

Petition. They informed that they have executed the following corporate acts:

a. On instructions of the SMC Group, the certificates of stock registered in the name of Anscor-Hagedom Securities, Inc. (AHSI) representing 175,274,960 SMC shares were surrendered to the SMC corporate secretary.

b. **The said SMC shares were reissued and registered in the record books of SMC in the following manner:**

> **i) Certificates for 25,450,000 SMC shares were registered in the name of SMC, as treasury;**
>
> **ii) Certificates for 144,324,960 SMC shares were registered in the name of the CIIF Holding Companies;**
>
> **iii) Certificates for 5,500,000 SMC shares were registered in the name of the PCGG.** (emphasis supplied; *San Miguel Corporation v. Sandiganbayan,* supra note 1)..

[58] Id.

[59] Supra note 1.

[60] Justice Leonen's Dissent.

[61] Id.

[62] Urgent Motion to Approve the Conversion of the PCGG-ITF-CARP SMC Common Shares Into SMC Series 1 Preferred Shares dated September 30,2009, *rollo* (G.R. No. 177857-89), Vol. 3, pp. 2103-2110.

[63] Justice Leonen's Dissent; citing *rollo* (G.R. Nos. 117857-58), Vol. 4-A, pp. 3353-3354.

[64] G.R. No. 91925, April 16, 1991, 195 SCRA 797.

[65] Mr. Teodoro L. Locsin; Mr. Eduardo De Los Angeles; Mr. Domingo Lee; Mr. Patrick Pineda; Mr. Philip Ella Juico; Mr. Oscar Hilado; Mr. Edison Coseteng; and Mr. Adolfo Azcuna.

[66] Mr. Jose L. Cuisia, Jr.

[67] Mr. Andres Soriano III; Mr. Benigno P. Toda, Jr.; Mr. Francisco C. Eizmendi, Jr.; Mr.

Antonio J. Roxas; Mr. Antonio J. Roxas; and Mr. Eduardo Soriano.

[68] Cojuangco, Jr., supra note 64.

[69] Rules of Court, Rule 39, Sec. 6. *Execution by Motion or by Independent Action.*- A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

[70] The equitable principle against unjust enrichment is encapsulated in Article 22 of the Civil Code, viz:

> Art. 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

[71] *Republic v. Vinzon,* G.R. No. 154705, June 26,2003,405 SCRA 126; *Air Transportation Office v. David and Ramos,* G.R. No. 159402, February 23, 2011. See also *Minucher v. Court of Appeals,* G.R. No. 142396, February 11, 2003; citing Gary L. Maxis, "International Law, An Introduction," University Press of America, 1984, p. 119; D.W. Grieg, "International Law," London Butterworths, 1970, p. 221.

[72] *Leca Realty Corporation v. Republic of the Philippines, represented by the Department of Public Works and Highways*, G.R. No. 155605, September 27, 2006, 503 SCRA 563.

[73] G.R. No. 116111, January 21, 1999, 301 SCRA 366.

[74] Citing 31 CJS 675-676; *Republic v. Sandiganbayan,* G.R. No. 108292, September 10, 1993, 226 SCRA 314. Emphasis and underscoring supplied.

DISSENTING OPINION

SERENO, *CJ*:

The matter before the Court in these cases is the correctness of the modification made in the Resolution dated 4 September 2012, to wit:

WHEREFORE, the Court resolves to **DENY** with **FINALITY** the instant Motion for Reconsideration dated February 14, 2012 for lack of merit.

The Court further resolves to **CLARIFY** that the 753,848,312 SMC Series I preferred shares of the CIIF companies converted from the CIIF block of SMC shares, with all the dividend earnings as well as all increments arising from, but not limited to, the exercise of preemptive rights subject of the September 17, 2009 Resolution, shall now be the subject matter of the January 24, 2012 Decision and shall be declared owned by the Government and be used only for the benefit of all coconut farmers and for the development of the coconut industry.[1]

According to the Republic,[2] this Court ended up substantially modifying or altering the Decision dated 24 January 2012, which equated the 753,848,312 SMC Series 1 Preferred Shares with the 33,133,266 CIIF block of San Miguel Corporation (SMC) shares as of 1983 and the stock

dividends accruing thereafter.[3] This Court affirmed the Sandiganbayan resolutions directing the SMC to deliver the treasury shares to the Presidential Commission on Good Government (PCGG) in *San Miguel Corporation v. Sandiganbayan*.[4] The Republic alleged that despite this ruling, which had long become final and executory, SMC obstinately refused and continued to refuse to deliver the treasury shares and all the dividends therefrom.[5]

The Manifestation and Omnibus Motion of the Republic compelled me, as one of those who concurred in the Resolution dated 4 September 2012, to reflect on whether this Court indeed made a mistake in making the questioned modification. I humbly submit that it did.

The modification in the Resolution dated 4 September 2012 stemmed from that which was dated 17 September 2009, approving the conversion of the 753,848,312 SMC Common Shares registered in the name of CIIF companies to the SMC Series 1 Preferred Shares of 753,848,312. It also ordered that the preferred shares remain in *custodia legis,* and that their ownership be subject to a final ownership determination by the Court.

Notably, a thorough reading of the Resolution dated 17 September 2009 shows nowhere was there any reference to the amount "33,133,266."

What is clear, however, is the following statement in the Resolution dated 1 7 September 2009:

As records show, **PCGG sequestered the 753,848,312 SMC common shares registered in the name of CIIF companies on April 7, 1986.** From that time on, these sequestered shares became subject to the management, supervision, and control of PCGG, pursuant to

Executive Order No. (EO) 1, Series of 1986, creating that commission x x x[6] (Emphasis supplied)

The first sentence above has for its reference *Republic v. Sandiganbayan*,[7] the pertinent portion of which reads:

> **On April 7, 1986, the PCGG sequestered the subject 33.1 Million SMC shares**, the PCGG noting in its letter to Soriano III that said shares came "from the shareholdings of Mr. Eduardo Cojuangco, Jr. which are listed [as owned by the 14 CIIF Holding Companies]."[8] (Emphasis supplied)

The date "7 April 1986" is crucial here, because in San Miguel Corporation v: Sandiganbayan,[9] that was the date when the PCGG sequestered the 33,133,266 shares. To be precise, this Court ruled:

> It appears that on March 26, 1986, **the Coconut Industry Investment Fund Holding Companies ("CIIF" for brevity) sold 33,133,266 shares of the outstanding capital stock of San Miguel Corporation** to Andres Soriano III ofthe SMC Group payable in four (4) installments.
>
> On April 1, 1986, Andres Soriano III paid the initial P500 million to the UCPB as administrator of the CIIF. The sale was transacted through the stock exchange and the shares were registered in the name of Anscor Hagedom Securities, Inc. (AHSI).
>
> **On April 7, 1986, the Presidential Commission on Good Government (PCGG) then led by the former President of the Senate, the Honorable Jovito R. Salonga, sequestered the shares of stock subject of the sale**.[10] (Emphases supplied)

From the foregoing, the Resolution dated 17 September 2009 created equivalence between the 33,133,266 shares of the outstanding capital stock of SMC that were sold by the CIIF companies to Andres Soriano Ill and eventually sequestered by the PCGG on 7 April 1986, on the one hand, and the converted 753,848,312 SMC Series 1 Preferred Shares that were registered in the name of the CIIF companies and ordered to remain in *custodia legis*, on the other.

This supposed equivalence was repeated in the Resolution dated 4 September 2012, to wit:

> As of 1983, the Class A and B San Miguel Corporation (SMC) **common shares in the names of the 14 CIIF Holding Companies are 33,133,266 shares**. From 1983 to November 19, 2009 when the Republic of the Philippines representing the Presidential Commission on Good Government (PCGG) filed the "Motion to Approve Sale of CIIF SMC Series I Preferred Shares," **the common shares of the CIIF Holding companies increased to 753,848,312** Class A and B SMC common shares.[11] (Emphases supplied)

The use of the word "increased" connotes that by the mere passage of time and appreciation of value, the former 33,133,266 shares became 753,848,312.

In fact, even the *ponente* cited[12] this portion of the Resolution dated 4 September 2012 showing that the 33,133,266 common shares in the names of the 14 CIIF companies "increased" to 753,848,312 Class A and B SMC common shares. Notably, there was no mention of any deduction involving the 25.45 million treasury shares.

It thus became a matter of concern for me when, later in the Resolution, it was ruled that the 753,848,312 SMC Series 1 Prefened Shares as reflected in the *fallo* of the Resolution dated 4 September 2012 "**are the only remaining shares in the name of the CIIF companies that can be, and were in fact, declared as owned by the Government,**"[13] due to the deduction of the 25.45 million SMC treasury shares and the 5.5 million shares in the form of arbitration fees for the PCGG.

If the Court made a mistake in the modification of the Resolution dated 4 September 2012, it seems the most opportune time to correct that inadvertence. The Court has always proceeded under the assumption of equivalence between the 33,133,266 common shares and the 753,848,312 SMC Series 1 Prefened Shares. If it is now apparent that there is no such equivalence, then this Court may want to revisit the modification made in the Resolution dated 4 September 2012. Our Decision dated 24 January 2012 should stand, in that the entire 33,133,266 common shares as of 1983 are declared owned by the government and, as such, are to be used only for the benefit of all coconut farmers and for the development of the coconut industry. Hence, the entire 33,133,266 common shares as of 1983 in whatever form they may now be should be ordered reconveyed to the government.

Approval of the Compromise Agreement

We note the provisions of the Compromise Agreement and Amicable Settlement [14] (Compromise Agreement) forged between SMC, Neptunia Corporation Limited, Andres Soriano III, and ANSCOR Hagedorn Securities, Inc. (SMC Group); and United Coconut Planters Bank, the 14 corporations collectively referred to as the CIIF Holding Corporations, and the 10 corporations collectively refened to as the CIIF Copra Trading Companies (UCPB Group). The pertinent provisions of the agreement are quoted as

follows:

1. **All the terms of this Agreement are subject to approval by the Presidential Commission on Good Government** (PCGG) as may be required by Executive Orders numbered 1, 14, and 14-A. **This Agreement and the PCGG approval thereof shall be submitted to the Sandiganbayan**.

   xxxx

   3.1. The sale of the shares covered by and corresponding to the first installment of the 1986 Stock Purchase Agreement consisting of Five Million SMC Shares is hereby recognized by the parties as valid and effective as of 1 April 1986. Accordingly, said shares and all stock and cash dividends declared thereon after 1 April 1986 shall pertain, and are hereby assigned, to SMC. x x x

   3.2. The First Installment Shares shall revert to the SMC treasury for dispersal pursuant to the SMC Stock Dispersal Plan attached as Annex "A-1" hereof. The· parties are aware that these First Installment Shares shall be sold to raise funds at the soonest possible time for the expansion program of SMC. x x x

   3.3. The sale of the shares covered by and corresponding to the second, third and fourth installments of the 1986 Stock Purchase Agreement is hereby rescinded effective 1 April 1986 and deemed null and void, and of no force and effect. Accordingly, all stqck and cash dividends declared after 1 April 1986 corresponding to the second, third and fourth installments shall pertain to CIIF Holding Corporations.

x x x x

5. Unless extended by mutual agreement of the parties, the "Delivery Date" shall be on the 1oth Day from and after receipt by any party of the notice of approval of this Eompromise Agreement and Amicable Settlement by the Sandiganbayan. Upon receipt of such notice, all other parties shall be immediately informed. [15] (Emphases supplied)

The parties submitted the Compromise Agreement to the Sandiganbayan for approval on 23 March 1990.[16] While the Republic opposed, the PCGG interposed no objection to the implementation thereof, subject to certain conditions.[17] Foremost among the conditions imposed by the PCGG is that its consent to the transfer of the sequestered shares of stock and to the lifting of the sequestration to permit the transfer shall be effective only when the

Compromise Agreement is approved by the Sandiganbayan.

The SMC and UCPB Group filed a Joint Manifestation that they had implemented the Compromise Agreement in accordance with the conditions set by the PCGG.[18] On 5 July 1991, the Sandiganbayan noted the implementation "with the observation that the PCGG, the UCPB Group and the SMC Group shall always act with due regard to the sequestered character of the shares of stock involved herein as well as the fruits thereof, more particularly to prevent the loss or dissipation of their value"[19] and "without prejudice to whatever might be the resolution of this Court on the Motion to Nullify the Compromise Agreement filed by Eduardo Cojuangco, Jr."[20]

On 25 October 1991, the Sandiganbayan ordered SMC to deliver to the PCGG the 25.45 million treasury shares, subject of the Compromise Agreement.[21] On 18 March 1992, after denying the motion for reconsideration filed by the SMC Group, the Sandiganbayan further ordered it to pay dividends on the said treasury shares and to deliver these to the PCGG.[22]

When a contract is subject to a suspensive condition, its birth or effectivity can take place only if and when the condition happens or is fulfilled.[23] In this case, the Sandiganbayan has not approved the Compromise Agreement or made any ruling thereon. Thus, without the fulfillment of the condition that the *imprimatur* of the Sandiganbayan be obtained, the Compromise Agreement can neither be considered effective nor the source of rights on the treasury shares as invoked by SMC.

When the Sandiganbayan Resolutions dated 25 October 1991 and 18 March 1992 were assailed in a petition for certiorari, the Court - speaking through then Associate Justice, later Chief Justice, Reynato S. Puno- ruled that there was no grave abuse of discretion on the part of the Sandiganbayan when the latter ordered the SMC Group to deliver the treasury shares and pay the corresponding dividends thereon to the PCGG.[24]

The Court ruled that the Compromise Agreement involved sequestered shares of stock, the ownership of which was still under litigation. Because it is not yet known whether the sequestered shares are part of the alleged ill-gotten wealth of former President Marcos and his "cronies," any disposition concerning these shares falls within the unquestionable jurisdiction of the Sandiganbayan and is subject to its approval. Furthermore, its order regarding the treasury shares is merely preservative in nature.

The Court quoted with approval the Sandiganbayan ruling with regard to the contention of the SMC Group that the latter could no longer tum over the certificates of stock for the 25.25 million sequestered shares, because they had become treasury shares.[25] The Sandiganbayan ruled that these sequestered shares can only become SMC's treasury shares or reacquired property if the sale between the UCPB Group and the SMC Group is allowed. Moreover, SMC cannot be deemed to have reacquired the shares, because it is

only one among several buyers thereof. Even assuming that these have indeed become treasury shares, the Sandiganbayan ruled that they remain sequestered and cannot be subject to acts that would remove them from *custodia legis*.

Considering the foregoing, the following pronouncementsin the Resolution appears to be not in order:

1. "[T]he Compromise Agreement partook of the nature of a bonafide proprietary business transaction of the government."[26]

2. "[T]he PCGG, the government's primary representative in sequestration proceedings, virtually gave its consent to the SMC's continuous possession of the 25.45 million shares by approving the Compromise Agreement on which SMC predicates its claim over the shares and continuing its possession ·of the so-called 'arbitration fee' shares that came out of the same Compromise Agreement."[27]

3. "[T]he Republic had a hand in the transactions that eventually led to the designation of the more than 25.45 million shares as SMC treasury shares."[28]

The Compromise Agreement requires the Sandiganbayan's approval for two things: (1) the consent of the PCGG and (2) the effectivity of the agreement in general. The SMC and UCPB Group needed that approval in a form that was unequivocal, and not merely implied from a lack of disapproval. Absent such approval, there is no Compromise Agreement to speak of. No rights can emanate from that transaction, because its existence depends on the fulfillment of a condition voluntarily imposed by the parties.

For the Court to require the Republic to return the P500 million to SMC at this time would be tantamount to saying that the Compromise Agreement has been disapproved by the Sandiganbayan. Again, there has been no pronouncement regarding the approval or disapproval of the Compromise Agreement. Thus, the declaration that the Republic had been unjustly enriched or was estopped from claiming ownership over the 25.45 million treasury shares may prove to be too early if not unfair.

There seems to be no basis for the Court to conclude that "the Republic plans to keep the 500 million along with the 25.45 million shares."[29] Likewise without apparent basis is the statement of the Court that to "resolve the incident at bar [would be] to benefit the Republic at the expense of SMC."[30] These statements may be properly juxtaposed with the averment of the Republic that the present value of the shares is "17.65 billion pesos"[31] had they not been reverted to the SMC treasury pursuant to the implementation of the Compromise Agreement without the imprimatur ofthe Sandiganbayan.

There should be an effort to distinguish between the government ownership of the CIIF

companies and the entire CIIF block of SMC shares on the one hand and the validity of the Compromise Agreement on the other. The first has been unequivocally declared by this Court in the Decision dated 24 January 2012. The second is still pending before the Sandiganbayan. The correctness of the modification made in the Resolution dated 4 September 2012 bears heavily on the first, while the question regarding the 5.5 million shares in the form of arbitration fees for the PCGG and the 25.45 million SMC treasury shares is dependent on the second. The first is our concern at the moment; the second is not.

The Resolution has correctly stated that the issues regarding SMC's right over the 25.45 million treasury shares remain unresolved.[32] As such, it is not proper for the Court to declare that the 753,848,312 SMC SMC Series 1 Preferred Shares are the only ones that remained of the 33,133,266 CIIF block of SMC shares, because the 5.5 million shares in the fonn of arbitration fees for the PCGG and the 25.45 million SMC treasury shares should no longer be included therein. The appropriate course of action is to order all 33,133,266 CIIF block of SMC shares to be reconveyed to the government and then thresh out in a separate proceeding whether SMC had a right over the 25.45 million shares allegedly bought under the Compromise Agreement. This Resolution may even be utilized by SMC to invoke the principle of *res judicata* in that envisioned separate action or proceeding to be instituted by the Republic.[33]

It is inconsistent for the Resolution to claim that "the manner of SMC's acquisition of the shares was arms-length and not made through public funds,"[34] and yet point out that the SMC board was dominated by PCGG nominees and other gpvernment representatives at the time the Compromise Agreement was signed.[35] That kind of influence, as illustrated by the Resolution, negates the meaning of an anns-length transaction.

Furthermore, the circumstances surrounding the acquisition of the shares make it suspect. The sale of the 33,133,266 common shares took place a month after the EDSA Revolution.[36] On 1 April 1986 or six days before the PCGG sequestered the·shares of stock subject of the sale, the initial installment of P500 million was paid.[37] The timing practically shows that the sale was made in order to avoid scrutiny by the succeeding administration.

The Right of SMC to be Heard

I find myself unable to agree with the pronouncement in the Resolution that SMC "was not given a chance to justify, let alone ventilate, its claim over the 25.45 million shares it has in its possession."[38]

Despite the denial by the Sandiganbayan of the Motion for Intervention filed by SMC in Civil Case No. 0033-F, the latter was given many opportunities to air its side, albeit many chances also to demonstrate its obstinate refusal to comply with the Sandiganbayan directives.

When SMC and UCPB filed a Joint Manifestation informing the anti graft court that they had implemented the Compromise Agreement; that the certificates of stocks were surrendered to the SMC Corporate Secretary; and that the certificates for the 25.45 million shares were registered in the name of the SMC as treasury shares, the anti-graft court issued the Resolution dated 23 July 1991 requiring that all the certificates of stock representing all of the sequestered shares be physically deposited with the PCGG.

Rather than comply with the directive, SMC instead filed yet another Manifestation and Motion dated 21 August 1991 praying that it be allowed to keep the certificates of stock representing the sequestered shares.

This eventually led to the issuance of Resolutions dated 24 October 1991 and 18 March 1992 by the Sandiganbayan, the dispositive portions of which provide:

> WHEREFORE, the Manifestation and Motion of the "SMC Group" dated August 21, 1991, which in effect, seeks a reconsideration of this Court's resolution of July 23, 1991 requiring that all Certificates of Stock representing the sequestered shares in the SMC be physically deposited with the Presidential Commission on Good Government is denied.
>
> Additionally, the San Miguel Corporation is now ordered:
>
> > 1) To inform this Court of the amount of the cash dividends due to or actually earned by the 25,450,000 shares of stock represented by the Stock Certificates No. A0004129 for 15,274,484 class "A" shares and No. B00015556 for 10,175,516 calls "B" shares; and
> >
> > 2) To deliver the check representing that amount to the Presidential Commission on Good Government for the latter to deposit in or place with government bank offering at the best terms and conditions.
>
> This deposit or placement shall be made in the name of the Presidential Commission on Good Government in trust for whomever said shares of stock may eventually be adjudicated.
>
> Future dividends, whether of cash and/or of stock, which may hereafter be declared on the shares represented by the above stock certificates shall be similarly treated by the Presidential Commission on Good Government until further orders from this Court.
>
> Compliance hereon shall be reported to this Court

a. By the San Miguel Corporation within ten (10) days from receipt hereof; and

b. By the Presidential Commission on Good Government, with regard to its receipt and custody of the two certificates of stock above mentioned as well as with regard to its placement or deposit of the cash dividends thereon, within twenty (20) days from receipt hereof.

The individual Commissioners of the Presidential Commission on Good Government shall be responsible to this Court for the care, custody and disposition of the dividends, subject matter hereof.

SO ORDERED.[39]

x x x x

WHEREFORE, the San Miguel Corporation's Motion for Reconsideration [ofthe Resolution dated] October 24, 1991 is DENIED.

The San Miguel Corporation through its President and Corporate Secretary are now ordered:

1. To deliver to PCGG the 25.45 million shares represented by the following certificates of stock:

A 0004129	15,274,484 shares
B 0015556	10,175,516

and the other 1 million shares of stock forming part of the so-called First Installment Shares;

2. To deliver to PCGG the cash and/or stock dividends which have accrued to the above shares of stock from March 26, 1986 to dates and which might have further accrued thereto had not said shares of stock been declared Treasury Shares;

3. To report compliance therewith within fifteen (15) days from receipt hereof.

SO ORDERED.[40]

These Resolutions were later affirmed by this Court in *San Miguel Corporation v.*

Sandiganbayan, which in tum became final and executory on 27 June 2001.

Yet again, when the Republic filed its Urgent Motion[41] before this Court to direct SMC to comply with the abovementioned Sandiganbayan Resolutions, SMC once more ventilated its position as it filed its Comment.[42] It prayed that the Urgent Motion be denied for lack of merit and reasoned that this Court has no jurisdiction to act on the motion since this Court never acquired jurisdiction over case SB No. 0102;[43] the Resolutions are merely interlocutory and have no life independent of SB No. 0102 where no final judgment has been made rendering the said resolutions *functus officio*;[44] and in any case, the SMC treasury shares are not part of the shares adjudicated in Civil Case No. 0033-F and have been validly transferred from the CIIF Companies to the SMC on the basis of a perfected contract of sale and an effective compromise.[45]

SMC also filed a Comment[46] on the Republic's Manifestation and Omnibus Motion opposing the relief demanded by the Republic. Certainly, these pleadings and the reliefs SMC asked through these pleadings cannot be overlooked.

More importantly, in that Comment, SMC in fact reiterated the following allegations it had made in its Motion to Intervene in Civil Case No. 0033:

> 1.28. On top of all of the above, SMC filed before the Sandiganbayan in Civil Case No. 0033-F a "Motion to Intervene" dated February 2, 2004 through a "Complaint-in-Intervention" of even date in which it alleged, as follows:
>
> > 2. SMC has an interest in the matter in dispute between plaintiff and defendants CIIF companies, being the owner by purchase of **a portion of the so-called "CIIF block of SMC shares of stock"** which plaintiff seeks to recover in this case as alleged ill-gotten wealth.[47] (Emphasis supplied)

To my mind, SMC made a judicial admission, which has been elucidated by this Court in this wise:

> A party who judicially admits a fact cannot later challenge that fact as judicial admissions are a waiver of proof; production of evidence is dispensed with. A judicial admission also removes an admitted fact from the field of controversy. Consequently, an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to such party, and all proofs to the contrary or inconsistent therewith should be ignored, whether objection is interposed by the party or not. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader. A

party cannot subsequently take a position contrary of or inconsistent with what was pleaded.[48]

SMC had its chances to be heard, asked for reliefs, and as discussed above, even admitted that the treasury shares were part of the entire 33,133,266 SMC common shares that were sequestered and kept under legal custody in Civil Case No. 0033.

On this score, I must point out that in the Decision dated 24 January 2012, the Court has already made a pronouncement on the nature of the CIIF companies and the CIIF block of SMC shares as follows:

> Since the CIIF companies and the CIIF block of SMC shares were acquired using coconut levy funds - funds, which have been established to be public in character it goes without saying that these acquired corporations and assets ought to be regarded and treated as government assets. Being government properties, they are accordingly owned by the Government, for the coconut industry pursuant to currently existing laws.
>
> It may be conceded hypothetically, as COCOFED et al. urge, that the 14 CIIF holding companies acquired the SMC shares in question using advances from the CIIF companies and from UCPB loans. But there can be no gainsaying that the same advances and UCPB loans are public in character, constituting as they do assets of the 14 holding companies, which in turn are wholly-owned subsidiaries of the 6 CIIF Oil Mills. And these oil mills were organized, capitalized and/or financed using coconut levy funds. In net effect, the CIIF block of SMC shares are simply the fruits of the coconut levy funds acquired at the expense of the coconut industry. In *Republic v. COCOFED*. the *en banc* Court, speaking through Justice (later Chief Justice) Artemio Panganiban, stated: "*Because the su jecl UCPB shares were acquired with government funds, the government becomes their prima facie beneficial and true owner*." By parity of reasoning, the adverted block of SMC shares, acquired as they were with government funds, belong to the government as, at the very least, their beneficial and true owner.
>
> We thus affirm the decision of the Sandiganbayan on this point. But as We have earlier discussed, reiterating our holding in Republic v. COCOFED, tl:l.e States avowed policy or purpose in creating the coconut levy fund is for the development of the entire coconut industry, which is one of the major industries that promotes sustained economic stability, and not merely the livelihood of a significant segment of the population. Accordingly, We sustain the ruling of the Sandiganbayan in CC No. 0033-F that the CIIF companies and the CIIF block of SMC shares are public funds necessary owned by,the Government. We, however, modify the same in the following wise: Tnese shares shall belong to

the Government, which shall be used only for the benefit of the coconut farmers and for the development of the coconut industry.[49]

It was only because of the obstinate refusal of SMC to heed the Sandiganbayan's directives to deliver the shares, and its stark circumvention of the sequestration proceedings tht the Compromise Agreement was brazenly implemented despite the absence of the Sandiganbayan's approval. This Court cannot countenance these acts of SMC by holding it blameless and putting the Republic in estoppel through the delayed action of its agents.

I therefore vote to **GRANT** the Republic's motion.

---

[1] *Philippine Coconut Producers Federation, Inc. v. Republic,* 694 Phil. 43,47-48 (2012}.

[2] *Rollo*, pp. 4800-4822; Manifestation and Omnibus Motion: (I) To Amend the Resolution promulgated on September 4, 2012 to include the "Treasury Shares" which are part and parcel of the 33,133,266 Coconut Industry Investment Fund (CIIF) Block of San Miguel Corporation (SMC) Shares as of 1983 Decreed by the Sandiganbayan, and Sustained by the Honorable Court, as Owned by the Government; and (2) To Direct San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions dated October 24, 1991 and March 18, 1992 ofthe Sandiganbayan which were affirmed by the Honorable Court in G.R. Nos. 104637-38 dated 12 October 2012.

[3] Id. at 4810-4811.

[4] 394 Phil. 608 (2000).

[5] *Rollo*, p. 4818.

[6] *Philippine Coconut Producers Federation, Inc. v. Republic*, 616 Phil. 94, 108 (2009).

[7] 541 Phil. 24 (2007).

[8] Id. at 36.

[9] Supra note 4.

[10] Id. at 620-621.

[11] *Philippine Coconut Producers Federation. Inc. v. Republic*, supra note 1 at 46.

[12] Resolution dated 5 October 2016, p. 8.

[13] Id. at 18-19.

[14] *Rollo*, pp. 1658-1667.

[15] Id. at 1659 and 1664; Compromise Agreement and Amicable Settlement, pp. 2 and 7.

[16] *San Miguel Corporation v. Sandiganbayan,* 394 Phil. 608,621 (2000).

[17] PCGG interposed no o jection to the implementation of the Compromise Agreement subject to the incorporation of the following provisions:

1. As stated in the COMPROMISE, the 5 million SMC shares (now 26,450,000) paid for by the P500 million first installment shall be delivered to S C, kept in treasury, and sold as soon as feasible in accordance with a plan to be agreed upon by the Commission and SMC; provided, that SMC shall not unreasonably withhold its consent to a sales plan approved by PCGG.
The P500 million paid by SMC as first installment shall be accounted for by UCPB and the CIIF companies to the extent respectively received by them, and any portion thereof in excess of the usual business needs of the possessor shall be delivered by it to the Commission, to be held in escrow tor the ultimate owner.

2. On Delivery Date, the stock certificates for the balance of the SHARES in the name of the 14 holding companies shall be delivered to PCGG and deposited with the Central Bank for safekeeping to await their sale in accordance with the plan of dispersal that PCGG and UCPB shall agree to establish for them. As soon as practicable, but with proper account of market conditions, all those shares shall be sold, and the proceeds thereof disposed as provided below. UCPB shall not unreasonably withhold its consent to a sales plan approved by PCGG in accordance with this paragraph.

3. So much of the proceeds ofthe sale as may be necessary shall be used a) to finance the obligations of the CJIF Companies under the COMPROMISE, and b) to liquidate the obligations of the CIIF Companies to UCPB for the purchase price of the SHARES. The balance shall be kept by the PCGG in escrow to await final judicial determination of the ownership of the various coconut-related companies and of all the other assets involved here. The cash dividends that have been declared on the SHARES may be applied for the above purposes before proceeds from the sale of shares are realized. The balance of such cash dividends shall be held in escrow in the same manner as the sales proceeds.

4. All SHARES shall continue to be sequestered even beyond Delivery Date. Sequestration on them shall be lifted as they are sold consequent to approval of the sale by the Sandiganbayan, and in accordance with the dispersal plan approved by the Commission.

All of the SHARES that are unsold will continue to be voted by PCGG while still unsold.

5. The consent of PCGG to the transfer of the sequestered shares of stock in accordance with the COMPROMISE, and to the lifting of the sequestration th reon to permit such transfer, shall be effective only when approved by the Sandiganbayan. The Commission makes no determination of the legal rights of the parties as against each other. The consent it gives here conforms to its duty to care for the sequestered assets, and to its purpose to prevent the repetition of the national plunder. It is not to be construed as indicating any recognition of the legality or sufficiency of any act of any of the patiies. (Id. at 624-626.)

[18] *San Miguel Corporation v. Sandiganbayan,* 394 Phil. 608, 628 (2000).

[19] Id. at 629.

[20] Id.

[21] Id. at 631.

[22] Id.

[23] *Coronel v. CA*, 263 SCRA 15, 7 October 1996.

[24] Supra note 17 at 631.

[25] Id. at 639-642.

[26] Resolution dated 5 October 20 16, p. 25.

[27] Id. at21.

[28] Id. at 22.

[29] Id. at 23.

[30] Id.

[31] *Rollo*, p. 813.

[32] Resolution dated 5 October 2016, p. 25.

[33] Id.

[34] Id. at 15.

[35] Id. at 21.

[36] Supra note 4 at 620.

[37] Id. at 621.

[38] Resolution dated 5 October 2016, p. 13.

[39] *Rollo*, pp. 802-803.

[40] Id. at 803-804.

[41] Id. at 794-820.

[42] Id. at 4583-4628.

[43] Id. at 4596.

[44] Id. at 4605.

[45] Id. at 4606.

[46] Id. at 5180-5234.

[47] Id. at 5228; Comment of San Miguel Corporation on the Manifestation and Omnibus Motion, p. 44.

[48] *Alfelor v. Halasan,* 520 Phil. 982, 991 (2006).

[49] *Philippine Coconut Producers Federation Inc. v. Republic,* 679 Phil. 508, 621-622 (2012).

DISSENTING OPINION

LEONEN, *J.*:

This Court has just failed to do justice for millions of impoverished coconut farmers.

By denying the Manifestation and Omnibus Motion filed by the Republic of the Philippines, the ponencia effectively reconsiders the long settled cases of *San Miguel Corporation, et al. v. Sandiganbayan (First Division)*,[1] *COCOFED, et al. v. Republic*,[2] and *Republic v. COCOFED, et al.*[3] It also effectively weakens the claim of millions of impoverished coconut farmers to profitable assets bought through exactions imposed on them throughout Martial Law. In the process, the rich become richer; the poor, poorer.

Before this Court is a Manifestation and Omnibus Motion[4] filed by the Republic of the Philippines, alleging that this Court's September 4, 2012 Resolution[5] did not include 25.45 million San Iviiguel Corporation treasury shares for reconveyance to the Republic as part of the "coco levy" funds.

The treasury shares were the subject of a "Compromise Agreement" dated March 20 and 22, 1990, entered into by San Miguel Corporation and the United Coconut Planters Bank. San Miguel Corporation subsequently converted these shares into treasury shares.[6]

The "Compromise Agreement" was never approved by the Sandiganbayan. The subject of the "Compromise Agreement" now at issue was required by this Court to be transferred to the Presidential Commission on Good Governance (PCGG). San Miguel Corporation refused to transfer the certificates of the shares of stock and, in various comments filed before this Court, still refused to transfer the shares in question.

A brief genesis of the "coco levy" funds must first be discussed in order to clarify which San Miguel Corporation treasury shares are now being claimed by the Republic.

During the Marcos regime, a levy was instituted on the sale of coconut products, purportedly for the benefit of the coconut industry. Four (4) different levy funds were created by various laws.

The first was the **Coconut Investment Fund**, created under Republic Act No. 6260.[7] This Fund was derived from the levy of P0.55 for the first domestic sale of every 100 kilograms of copra or its equivalent coconut product. Fifty centavos (PO.SO) would accrue to the Fund, three centavos (P0.03) would go to the Philippine Coconut Administration, and two centavos (P0.02) would be at the disposition of the Philippine Coconut Producers Federation (COCOFED).[8] The Fund was to be "used exclusively to pay the subscription by the Philippine Government for and in behalf of the coconut farmers to the capital stock of [the Coconut Investment Company]."[9]

The Coconut Investment Comp ny would "grant medium and long term loans to Filipino citizens or enterprises"[10] or "invest in shares of stock of corporations"[11] for "the establishment, development and expansion of new and/or existing coconut agricultural, industrial or other productive enterprises with proven profitability or great profit potential."[12] It was also empowered to do acts necessary for the development of the coconut industry.[13] The Fund collected from the levy would be used to pay for shares of stock in the Coconut Investment Company, which were held by government on behalf of the coconut farmers, the transfer of which would be upon "full payment of the authorized capital stock ... or upon termination of . a ten-year period from the start of the collection of the levy as provided in section eight hereof, whichever comes first."[14]

The second was the **Coconut Consumer Stabilization Fund**, created by Presidential Decree No. 276.[15] The Fund was derived from the levy of P15.00 for every 100 kilograms of copra resecada or its equivalent product in order to "subsidize the sale of coconut-based products at prices set by the Price Control Council."[16] The Fund was supposed to last only one (1) year;[17] however, Presidential Decree No. 414[18] extended its duration indefinitely.

The third was the **Coconut Industry Development Fund**, created by Presidential Decree No. 582. [19] The Fund was derived from the levy of "Twenty centavos (P0.20) per kilogram of copra resecada or its equivalent out of its current collections of the coconut [consumer] stabilization levy"[20] for the "establishment, operation and maintenance of a hybrid coconut seednut farm."[21]

The previous "coco levy" laws were codified into Presidential Decree No. 961, otherwise known as the Coconut' Industry Code,[22] in 1976. The Coconut Industry Code was later amended in 1978 by Presidential Decree No. 1468, or the Revised Coconut Industry Code. [23]

Article III, Section 9[24] of the Revised Coconut Industry Code authorized the use of "the Coconut Consumers Stabilization Fund and/or the Coconut Industry Development Fund not required to finance the replanting program"[25] for the purchase "of shares of stock in corporations organized, for the purpose of engaging in the establishment and the operation of industries and commercial activities and other allied business undertakings relating to the coconut and other palm oils industry in all its aspects."[26] These investments were eventually referred to as the **Coconut Industry Investment Fund**.[27] The First United Bank was acquired and renamed as the United Coconut Planters Bank in order to make investments using the Coconut Industry Investment Fund.[28]

The fourth fund created by the levies was the **Coconut Industry Stabilization Fund**, created by Presidential Decree No. 1699.[29] In 1980, the collection of the Coconut Consumer Stabilization Fund and the Coconut Industry Development Fund were suspended due to the "drastic decline of coconut prices."[30] In 1981, however, the collection of the levies was brought back[31] with the Coconut Consumer Stabilization Fund renamed as the Coconut Industry Stabilization Fund.[32]

The levy imposed was P50.00 for every 100 kilos copra resecada or its equivalent product.[33] The proceeds of the Fund we-re to be divided "[t]o finance the cost of the coconut hybrid re-planting program";[34] "[t]o defray the cost of the scholarship program for the deserving and gifted children of the coconut farmers";[35] "[t]o defray the cost of the life and accident insurance on the lives of the coconut farmers";[36] "[t]o defray the operating expenses of the Philippine Coconut Producers Federation";[37] and "the Philippine Coconut Authority"[38]; and "[t]o defray the costs of the coconut industry rationalization program."[39]

The authoritarian Marcos regime ended with his sudden departure following major mobilizations in what is now referred to as the People Power Revolution on February 24, 1986.[40]

On March 19, 1986, the PCGG sequestered, among others, shares of stock of the United Coconut Planters Bank purportedly issued to 1,405,366 coconut farmers.[41]

The sequestration of the shares of stock became the subject of Case No. 0033 before the Sandiganbayan First Division against Eduardo Cojuangco, Jr. (Cojuangco, Jr.) and the heads and incorporators of the 14 Coconut Industry Investment Fund Companies (CIIF Companies).[42]

The complaint against Cojuangco, Jr. and CIIF Companies alleged that:

> 1) in 1975, with the active collaboration of his co-defendants, Cojuangco manipulated the purchase by the Philippine Coconut Authority (PCA) of 72.2% of the outstanding capital stock of the First United Bank (FUB) which was subsequently converted into a universal bank named United Coconut Planters Bank (UCPB); this was accomplished by the use of P85,773,100.00 initially from the Coconut Consumers Stabilization Fund (CCSF) levy — contrary to law and the specific purposes for which said levy was imposed and collected under PD 276 — and under anomalous circumstances, to wit:
>
> a) he (Cojuangco) used the coconut levy funds to exercise his private

option to buy controlling interest in FUB; claiming that the 72.2% of the outstanding capital stock of FUB could only be purchased and transferred through the exercise of his "personal and exclusive option to acquire the 144,000 shares" of said bank, he and the Philippine Coconut Authority (PCA), represented by Maria Clara Lobregat, executed on May 26, 1975, a purchase agreement providing, among others, for the cession to him as compensation thereof 95,383 shares worth P1,444,000.00, with the further condition that he shall manage and control the bank as Director and President for a term of five (5) years renewable for another five (5) years, and have authority to name for election three (3) persons of his choice as members of the bank's Board of Directors;

b) he caused the issuance by Pres. Marcos of PD 755 (a) declaring that the coconut levy funds shall not be considered special fiduciary and trust funds and do not form part of the general funds of the National Government repealing for that purpose PD Nos. 276 and 414 declaring the character of the coconut levy funds as special fiduciary trust and governmental funds: (b) confirming the agreement between him (Cojuangco) and PCA regarding the purchase of FUB, by incorporating that private commercial agreement by reference in PD 755;

c) to cbnsolidate his control of UCPB, he (Cojuangco) imposed as a cJndition attendant upon his purchase of its stock that he should receive and own one out of every nine shares given to PCA; and

d) to make use of the coconut levy fends to build his economic empire, to the prejudice of the government, he (Cojuangco) caused the issuance by Pres. Marcos of PD 1468 requiring the deposit with UCPB of all coconut levy funds, interest free;

2) again with the use of coconut levy funds, he (Cojuangco) created and/or funded various corporations such as the Philippine Coconut Producers Federation, Inc. (COCOFED), Coconut Investment Company (CIC), COCOFED Marketing Corporation (COCOMARK), and the United Coconut Planters Life Assurance Corporation (COCOLIFE) with the active collaboration and participation of his co-defendants Juan Ponce Emile, Maria Clara Lobregat, Rolando de la Cuesta, Jose R. Eleazar, Jr. Jose Reynaldo Morente, Eladio Chatto, Domingo Espina, Anastacio Emanol Sr., Bienvenido Marquez, Jose Gomez, Inaki Mendezona, Manuel del Rosario, Sulpicio Granada, Jose Martinez Jr., Emmanuel Almeda, Danilo Ursua, Herminigildo Zayco and Celestino Zabate, most of whom comprised the interlocking sets of officers and directors of said companies; and he and his co-defendants dissipated, misused

and/or misappropriated a substantial part of said coconut levy funds and alloted to themselves excessive salaries, allowances, bonuses and other emoluments, for their own personal benefit, including huge cash advances in millions of pesos which, to date remain unliquidated and unaccounted for; and finally, gained ownership and control of the UCPB by misusing the names and/or identities of the so-called "more than one million coconut farmers;"

3) he misappropriated, misused and dissipated P840 million of the Coconut Industry Development Funds (CIDF) deposited with the National Industry Development Corporation (NIDC) as administrator trustee of said shares and later with UCPB of which he (Cojaungco) was the Chief Executive Officer in connection with the (1) development, improvement, operation and maintenance of the Bugsuk Island Seed Garden ("Bugsuk") with Agricultural Investors, Inc. ("All") as developer (both Bugsuk and All being beneficially held and controlled by Cojuangco); (2) payment of liquidated damages in the amount of P640,856,878.67 and arbitration fees of P150,000.00 pursuant to a decision rendered by a Board of Arbitration against UCPB for alleged breach of contract;

4) he misappropriated and dissipated the coconut levy funds by withdrawing therefrom tens of millions of pesos in order to pay damages adjudged against UNICOM, headed and controlled by Cojuangco, as aforestated, in an anti-trust suit in California, USA;

5) he established and caused to be funded with coconut levy funds, with the active collaboration of Pres. Marcos (through the issuance of LOI 926) and of defendants Juan Ponce Emile, Jose R. Eleazar, Jr., Maria Clara Lobregat, Jose C. Concepcion, Inaki Mendoza, Douglas Luym, Teodoro D. Regala, Emmanuel Almeda, Eduardo Escueta, Leo Palma and Rolando de la Cuesta, the United Coconut Oil Mills, Inc. (UNICOM), a corporation beneficially controlled by him (Cojuangco), and bought sixteen (16) other competing and/or non-operating oil mills at exorbitant prices in the total amount of P184,935 million, to control the prices of copra and other coconut products, and assumed and paid the outstanding loan obligations of seven (7) of those purchased oil mills in the total amount of P805,984 million with the express consent and approval of Pres. Marcos, thereby establishing a coconut monopoly for their own benefit;
....

8) he misused, dissipated and unlawfully disbursed coconut levy funds with the active collaboration and participation of defendants Maria Clara Lobregat, Juan Ponce Enrile, Jose Eleazar Jr., Rohndo de Ia Cuesta and Herminigildo Zayco for projects of Imelda Marcos, including various donations made by PCA such as the amount of P400,000.00 and P10 million for social services and Mrs. Marcos' health and medical assistance projects; P125,000.00 for the yearly Malang *pasko* project; P10 million to the Cultural Center of the Philippines; P5 million to the Philippine Youth Health and Special Center; P50 million for the

construction of the Tahanang Maharlika Building, and P6 million to COCOFED; and other donations made by the UCPB of P100,000.00 to the Manila International Film Festival; P10 million to the UP Faculty Development Fund; P50,000.00 to the Manila Symphony Foundation, Inc., a parcel of land located at Baguio City to the University of Life and "other similar unlawful disbursements", which remain unaccounted for to date;

9) he misused coconut levy funds to buy out the majority of the outstanding shares of stock of San Miguel Corporation in order to control the largest agri-business food and beverage company in the country[.][43]

On March 26, 1986, the CIIF Companies sold 33,133,266 shares of its outstanding capital stock of San Miguel Corporation to Andres Soriano III (Soriano III) of the San Miguel Group. The shares would be payable in four (4) installments and were subsequently registered in the name of Anscor Hagedom Securities, Inc.[44]

On April 1, 1986, Soriano III paid the initial P500 million to the United Coconut Planters Bank as the administrator of the Coconut Industry Investment Fund.[45]

On April 21, 1986, the PCGG sequestered the shares ofstock.[46] As a consequence of the sequestration, the San Miguel Group suspended the payment of the balance; hence, the United Coconut Planters Bank rescinded the sale.[47]

The rescission became part of a civil case befcre the Regional Trial Court of Makati.[48] The· rescission was not confirmed since this Court dismissed the rescission case without prejudice to the resolution of the parties' claims before the Sandiganbayan in the Decision dated August 10, 1988.[49]

On March 1990, San Miguel Corporation and the United Coconut Planters Bank signed a "Compromise Agreement and Amicable Settlement" (the "Compromise Agreement") providing, in part:[50]

3.1. The sale of the shares covered by and corresponding to the first installment of the 1986 Stock Purchase Agreement consisting of Five Million SMC Shares is hereby recognized by the parties as valid and effective as of 1 April 1986. Accordingly, said shares and all stock and cash dividends declared thereon after 1 April 1986 shall pertain, and are hereby assigned, to SMC....

3.2. The First Installment Shares shall revert to the SMC treasury for dispersal pursuant to the SMC Stock Dispersal Plan attached as Annex "A-I" hereof. The parties are aware that these First Installment Shares shall be sold to raise funds

at the soonest possible time for the expansion program of SMC....

3.3. The sale of the shares [co]vered by and corresponding to the second, third and fourth installments of the 1986 Stock Purchase Agreement is hereby rescinded effective 1 April 1986 and deemed null and void, and of no force and effect. Accordingly, all stock and cash dividends declared after 1 April 1986 corresponding to the second, third and fourth installments shall pertain to CIIF Holding Corporations.[51]

The parties also agreed to pay an "arbitration fee" of 5.5 million San Miguel Corporation shares of stock to the PCGG, to be held in trust for the Comprehensive Agrarian Reform Program.[52]

On March 23, 1990, San Miguel Corporation and the United Coconut Planters Bank filed before the Sandiganbayan a *Joint Petition for the Approval of the Compromise Agreement and Amicable Settlement*.[53] On April 25, 1990, the Republic filed its Opposition to the Joint Petition alleging that the sequestered shares were part of the "coco levy" funds under litigation.[54]

On June 18, 1990, the PCGG filed a Manifestation praying that the Joint Petition be treated as an incident of Case No. 0033.[55] However, it had no objection to the implementation of the "Compromise Agreement," subject to the following conditions:[56]

1. As stated in the COMPROMISE, the 5 million SMC shares (now 26,450,000) paid for by the P500 million first installment shall be delivered to SMC, kept in treasury, and sold as soon as feasible in accordance with a plan to be agreed upon by the Commission and SMC; provided, that SMC shall not unreasonably withhold its consent to a sales plan approved by PCGG.

The P500 million paid by SMC as first installment shall be accounted for by UCPB and the CIIF companies to the extent respectively received by them, and any portion thereof in excess of the usual business needs of the possessor shall be delivered by it to the Commission, to be held in escrow for the ultimate owner.

2. On Delivery Date, the stock certificates for the balance of the SHARES in the name of the 14 holding companies shall be delivered to PCGG and deposited with the Central Bank for safekeeping to await their sale in accordance with the plan of dispersal that PCGG and UCPB shall agree to establish for them. As soon as ·practicable, but with proper account of market conditions, all those shares shall be sold, and the proceeds thereof disposed as provided below. UCPB shall not unreasonably withhold its consent to a sales plan approved by

PCGG in accordance with this paragraph.

3. So much of the proceeds of the sale as may be necessary shall be used a) to finance the obligations of the CIIF Companies under the COMPROMISE, and b) to liquidate the obligations of the CIIF Companies to UCPB for the purchase price of the SHARES. The balance shall be kept by the PCGG in escrow to await final judicial determination of the ownership of the various coconut-related companies and of all the other assets involved here. The cash dividends that have been declared on the SHARES may be applied for the above purposes before proceeds from the sale of shares are realized. The balance of such cash dividends shall be held in escrow in the same manner as the sales proceeds.

4. All SHARES shall continue to be sequestered even beyond Delivery Date. Sequestration on them shall be lifted as they are sold consequent to approvl of the sale by the Sandiganbayan, and in accordance with the dispersal plan approved by the Commission. All of the SHARES that are unsold will continue to be voted by PCGG while still unsold.

5. ***The consent of PCGG to the transfer of the sequestered shares of stock in accordance with the COMPROMISE, and to the lifting of the sequestration thereon to permit such transfer, shall be effective only when approved by the Sandiganbayan. The Commission makes 110 determination of the legal riglzts of the parties as ag'linst each other. The consent it gives here conforms to its duty to care for the sequestered assets, and to its purpose to prevent the repetition of the national plunder. It is not to be construed as indicating any recognition of the legality or sufficiency of any act of ny of the parties***.[57]
(Emphasis and underscoring supplied)

The Republic, through the Office of the Solicitor General, however, maintained its Opposition to the Joint Petition.[58]

On June 3, 1991, the Sandiganbayan issued the Resolution that did not approve the "Compromise Agreement":

It appearing that the sequestered character of the shares of stock subject of the instant petition for the approval of the compromise agreement, which are shares of stock in the San Miguel Corporation in the name of the CIIF Corporations, is independent of the transaction involving the contracting parties in the Compromise Agreement between what may be labeled as the "SMC Group" and the "UCPB Group," and it appearing further that the said sequestered SMC shares of stock have not been physically seized nor taken over by the PCGG, so much so that the reversions contemplated in said Compromise Agreement are without prejudice to the perpetuation of the sequestration thereon, until such

time as a judgment might be rendered on said sequestration (which issue is not before this Court as [sic] this time), and it appearing finally that the PCGG has not interposed any objection to the contractual resolution of the problems confronting the "SMC Group" and the "UCPB Group" to the extent that the sequestered character of the shares in question is not affected, this Court will await the pleasure of the Presidential Commission on Good Government before consideration of the Compromise Agreement is reinstated in the Court's calendar.

While this is, in effect, a denial of the "UCPB Group's" Motion to set consideration of the Compromise Agreement herein, this denial is without prejudice to a reiteration of the motion or any other action by the parties should developments hereafter justify the same."[59] (Emphasis supplied)

Despite lack of approval, on July 4, 1991, San Miguel Corporation and the United Coconut Planters Bank filed a Joint Manifestation that they had already implemented the "Compromise Agreement" and were accordingly withdrawing their Joint Petition.[60] They also manifested that the certificates of stock previously registered in the name of Anscor-Hagedom Securities representing **175,274,960 San Miguel Corporation shares of stock** have been divided as follows:

(a) 25,450,000 shares were registered in the name of San Miguel Corporation as treasury;
(b) 144,324,960 shares were registered in the name of 14 CIIF Companies; and
(c) 5,500,000 shares were registered in the name of the PCGG.[61]

On July 16, 1991, San Miguel Corporation and the United Coconut Planters Bank filed a Manifestation declaring the 25,450,000 shares as treasury shares.[62] The shares were marked "sequestered" by San Miguel Corporation and were allegedly in the custody of the PCGG.[63]

On July 23, 1991, the Sandiganbayan noted the Manifestations.[64] Upon motion for clarification by the PCGG, the Sandiganbayan issued the Order dated August 5, 1991 requiring San Miguel Corporation to deliver the certificates of stock to the PCGG.[65] On October 25, 1991, it issued another Resolution requiring San Miguel Corporation to deliver the 25,450,000 treasury shares to the PCGG, and that dividends should be paid pending the resolution of Civil Case No. 0033.[66]

As a result, San Miguel Corporation and the United Coconut Planters Bank filed before this Court a petition assailing the Sandiganbayan issuances, docketed as G.R. No. 104637-38 (*San Miguel Corporation v. Sandiganbayan [First Division]*).[67]

On September 14, 2000, this Court rendered the Decision holding that the Sandiganbayan's order for the delivery of the treasury shares were merely "preservative in nature"[68] in view of "many contested provisions"[69] in the "Compromise Agreement." It held that the shares should be in the custody of the PCGG while the determination of its ownership was still under litigation.[70]

On December 30, 2001, this Court in *Republic v. COCOFED, et al.*[71] declared that the "coco levy" funds were prima facie public funds; thus, all sequestered shares of stock bought from these levies were also prima facie public funds.

Subsequently, a class action suit was brought by COCOFED members and alleged coconut farmers to·this Court to assail the July 11, 2003 Partial Summary Judgment of the Sandiganbayan.[72] In particular, they assailed the Sandiganbayan's declaration that the 64.98% shares of stock in the United Coconut Planters Bank purportedly belonging to coconut farmers were conclusively owned by the Republic.[73] The case was docketed as G.R. No. 177857-58.

While the case was pending, COCOFED filed an Urgent Motion to Approve the Conversion of SMC Common Shares into SMC Series 1 Preferred Shares.[74] The Urgent Motion sought the approval of the conversion of 753,848,312 Class "A" shares and Class "B" common shares of San Miguel Corporation registered in the name of the CIIF Companies.[75]

On September 17, 2009, this Court approved the conversion on the ground that the conversion would guarantee an 8% dividend per annum, which was higher than the dividend rate of a common share.[76] Former

Associate Justice Conchita Carpio Morales, however, disagreed with the majority and opined that since the prevailing market price was higher than the issue price, the PCGG would, at the redemption period, be redeeming the shares below its actual market value.[77]

A Motion for Reconsideration was filed, but it was denied by this Court in the Resolution[78] dated February 11, 2010.

On January 24, 2012, this Court rendered its Decision in G.R. No. 177857-58.[79] The Decision declared that:

> Since the CIIF companies and the CIIF block of SMC shares were acquired using coconut levy funds-funds, which have been established to be public in character-it goes wi-thout saying that these acquired corporations and assets

ought to be regarded and treated as government assets. Being government properties, they are accordingly owned by the Goverriment, for the coconut industry pursuant to currently existing laws.[80]

The dispositive portion of the Decision held, in part:

The Partial Summary Judgment in Civil Case No. 0033-F dated May 7, 2004, is hereby MODIFIED, and shall read as follows:

WHEREFORE, THE MOTION FOR EXECUTION OF PARTIAL SUMMARY JUDGMENT (RE: CIIF BLOCK OF SMC SHARES OF STOCK) dated August 8, 2005 of the plaintiff is hereby denied for lack of merit. However, this Court orders the severance of this particular claim of Plaintiff. The Partial Summary Judgment dated May 7, 2004 is now considered a separate final and appealable judgment with respect to the said CIIF Block of SMC shares of stock.

The Partial Summary Judgment rendered on May 7, 2004 is modified by deleting the last paragraph of the dispositive portion, which will now read, as follows:

Wherefore, in view of the foregoing, we hold that:

The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed, et al) filed by Plaintiff is hereby GRANTED. Accordingly, the CIIF Companies, namely:

1. Southern Luzon Coconut Oil Mills (SOLCOM);
2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
3. Iligan Coconut Industries, Inc. (ILICOCO);
4. San Pablo Manufacturing Corp. (SPMC);
5. Granexport Manufacturing Corp. (GRANEX); and
6. Legaspi Oil Co., Inc. (LEGOIL),

As well as the 14 Holding Companies, namely:

1. Soriano Shares, Inc.;
2. ACS Investors, Inc.;
3. Roxas Shares, Inc.;
4. Arc Investors; Inc.;
5. Toda Holdings, Inc.;
6. AP Holdings, Inc.;
7. Fernandez Holdings, Inc.;
8. SMC Officers Corps, Inc.;

9. Te Deum Resources, Inc.;
10. Anglo Ventures, Inc.; ·
11. Randy AlliedVentures, Inc.;
12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd.; Inc.; and
14. First Meridian Development, Inc.

AND THE CIIF BLOCK OF SAN MIGUEL CORPORATION (SMC) SHARES OF STOCK TOTALING 33,133,266 SHARES AS OF 1983 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID AND ISSUED THEREON AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT TO BE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.

THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY II, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.[81]

Upon motion for reconsideration, however, this Court issued its Resolution dated September 4, 2012 **clarifying** the *fallo* of the January 24, 2012 Decision that the San Miguel Corporation shares to be reconveyed to the Republic were the 753,848,312 SMC Series 1 Preferred Shares, subject of the Resolution dated September 17, 2009.[82] The modified *fallo* states, in part:

WHEREFORE, the petitions in G.R. Nos. 177857-58 and 178793 are hereby DENIED. The Partial Summary Judgment dated July II, 2003 in Civil Case No. 0033-A as reiterated with modification in Resolution dated June 5, 2007, as well as the Partial Summary Judgment dated May 7, 2004 in Civil Case No. 0033-F, which was effectively amended in Resolution dated May 11, 2007, are AFFIRMED with MODIFICATION, only with respect to those issues subject of the petitions in G.R. Nos. 177857-58 and 178193. However, the issues raised in G.R. No. 180705 in relation to Partial Summary Judgment dated July 11, 2003 and Resolution dated June 5, 2007 in Civil Case No. 0033-A, shall be decided

by this Court in a separate decision.

The Partial Summary Judgment in Civil Case No. 0033-A dated July 11, 2003, is hereby MODIFIED, and shall read as follows:
....

The Partial Summary Judgment in Civil Case No. 0033-F dated May 7, 2004, is hereby MODIFIED, and shall read as follows:

WHEREFORE, the MOTION FOR EXECUTION OF PARTIAL SUMMARY JUDGMENT (RE: CIIF BLOCK OF SMC SHARES OF STOCK) dated August 8, 2005 of the plaintiff is hereby denied for lack of merit. However, this Court orders the severance of this particular claim of Plaintiff. The Partial Summary Judgment dated May 7, 2004 is now considered a separate final and appealable judgment with respect to the said CIIF Block of SMC shares of stock. The Partial Summary Judgment rendered on May 7, 2004 is modified by del,eting the last paragraph of the dispositive portion, which will now read, as follows:

WHEREFORE, in view of the foregoing, we hold that:

The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed, et al) filed by Plaintiff is hereby GRANTED. ACCORDINGLY, THE CIIF COMPANIES, NAMELY:

1. Southern Luzon Coconut Oil Mills (SOLCOM);
2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
3. Iligan Coconut Industries, Inc. (ILICOCO);
4. San Pablo Manufacturing Corp. (SPMC);
5. Granexport Manufacturing Corp. (GRANEX); and
6. Legaspi Oil Co., Inc. (LEGOIL),

AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

1. Soriano Shares, Inc.;
2. ACS Investors, Inc.;
3. Roxas Shares, Inc.;
4. Arc Investors; Inc.;
5. Toda Holdings, Inc.;
6. AP Holdings, Inc.;
7. Fernandez Holdings, Inc.;
8. SMC Officers Corps, Inc.;
9. Te Deum Resources, Inc.;
10. Anglo Ventures, Inc.;
11. Randy Allied Ventures, Inc.;
12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd., Inc.; and

14. First Meridian Development, Inc.

AND THE CONVERTED SMC SERIES 1 PREFERRED SHARES TOTALING 753,848,312 SHARES SUBJECT OF THE RESOLUTION OF THE COURT DATED SEPTEMBER 17, 2009 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID OR ISSUED THEREON AFTER THAT DATE, AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT TO RE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.

THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF ·(1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES, AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.

SO ORDERED.[83]

On October 15, 2012, the Republic filed the present Manifestation and Omnibus Motion[84] arguing that the 753,848,312 SMC Series 1 Preferred Shares referred to in the September 4, 2012 Resolution should include the reconveyance of the 25.45 million San Miguel Corporation treasury shares that were previously the subject of the "Compromise·Agreement" between San Miguel Corporation and the United Coconut Planters Bank.[85] It points out that the exclusion of these treasury shares would result in government losing billions that could have been otherwise used to benefit the coconut farmers and develop the coconut industry.[86]

For its part, San Miguel Corporation insists that the disputed treasury shares already belong to it as a result of the "Compromise Agreement."[87] It posits that the disputed treasury shares should not be lumped together with

the San Miguel Corporation shares of stock owned by the CIIF Companies since these shares were segregated by the "Compromise Agreement" as the result of the P500 million downpayment paid by Soriano III.[88] It also argues that this Court has no jurisdiction to direct it to deliver the treasury shares since its intervention in Civil Case No. 0033 was

denied.[89]

From the arguments of the parties, the issue before us is whether the Resolution dated September 4, 2012 should have included the 25.45 million San Miguel Corporation treasury shares subject of the "Compromise Agreement."

The ponencia, m denying the Republic's Omnibus Motion, makes three (3) points:

First, the September 4, 2012 Resolution on the 753,848,312 SMC Series 1 Preferred Shares referred to the shares discussed in the September 17, 2009 Resolution.[90] It did not include the 25.45 million treasury shares subject of a "Compromise Agreement";[91]

Second, the "Compromise Agreement" was valid because it was with the consent and participation of the PCGG and indirectly approved by the Sandiganbayan;[92] and

Lastly, San Miguel Corporation cannot be ordered to deliver the 25.45 million since it was never a party to the case.[93]

I

The September 4, 2012 Resolution should include reconveyance to the Republic of the 25.45 million San Miguel Corporation treasury shares.

To recall, on March 26, 1986, the CIIF Companies sold 33,133,266 shares of San Miguel Corporation stock to Soriano III and the shares were subsequently registered in the name of Anscor-Hagedom Securities.[94] These shares were sequestered on April 7, 1986.[95]

On July 4, 1991, San Miguel Corporation, the CIIF Companies, and United Coconut Planters Bank submitted before the Sandiganbayan a Joint Manifestation Implementing the Compromise Agreement. The parties manifested that 175,274,960 San Miguel Corporation shares of stock owned by Anscor-Hagedom Securities, Inc. were surrendered to the corporate secretary of San Miguel Corporation. Of these shares, 25.45 million shares[96] were registered in the name of San Miguel Corporation as treasury, 144,324,960 shares were registered in the name of the CIIF Companies, while 5,500,000 shares were registered in the name of the PCGG.[97]

In other words, the 33,133,266 San Miguel Corporation shares of stock sold to Soriano III in 1986 and registered in the name of Anscor Hagedom Securities, Inc. eventually became 175,274,960 shares by the time the parties submitted their Joint Manifestation to the Sandiganbayan in 1991.

It was the 33,133,266 San Miguel Corporation shares of stock (eventually 175,274,960 shares) that were subject of the January 24, 2012 Decision[98] in these cases. These were

the shares that this Court declared were government assets held in trust for the coconut industry:

> Since the CIIF companies and the CIIF block of SMC shares were acquired using coconut levy funds--funds, which have been established to be public in character-it goes without saying that these acquired corporations and assets ought to be regarded and treated as government assets. Being government properties, they are accordin.sly owned by the Government, for the coconut industry pursuant to currently existing laws.[99]

However, despite the final Decision of this Court in G.R. No. 104637-38 and the lack of approval ofthe "Compromise Agreement," the 25.45 million shares were converted to treasury shares per Manifestation of San Miguel Corporation and the, CIIF Companies to the Sandiganbayan dated July 16, 1991. [100] These shares, valued by COCOFED in 2000 at nine billion pesos (P9,000,000,000.00),[101] are now the subject of the present Omnibus Motion.

To underscore, both groups of shares-that is, the treasury shares and the CIIF Company shares-were the subject of the same "Compromise Agreement." All these shares were derived from the 33,133,126 shares sold to Soriano III in 1986, the same 33,133,126 shares that were the subject of this Court's January 24,2012 Decision.

According to footnote 54 of the ponencia, the 144,324,960 CIIF Companies shares increasd from 144,324,960 to 725,202,640 from 1991 to 2001.[102] It reached 753,848,3i2 shares by 2009.[103] These shares were the subject of conversion to preferred shares in this Court's September 19, 2009 Resolution and reconveyance to the Republic in the September 4, 2012 Resolution.

This Court denied the Motion for Reconsideration to its January 24, 2012 Decision dealing with the 33,133,266 shares (which should have become 175,274,960 shares). Inexplicably, however, by changing the nature of the shares and limiting the focus to only the 753,848,312 preferred shares, the September 4, 2012 Resolution dropped the 25.45 million shares without changing the ponencia.

In other words, nine billion pesos (P9,000,000,000.00) worth of San Miguel Corporation shares, which was the subject of litigation before the Sandiganbayan and declared by this Court to be owned by government in trust for millions of coconut farmers, was "lost" to them with a change in the numbers in the *fallo*.

Thus, a Manifestation and Omnibus Motion[104] dated October 12, 2012 was timely filed. San Miguel Corporation filed its Comment[105] on December 3, 2013, fully ventilating its

position on the issue in a 50-page pleading.

It is both illogical and absurd-and hence, a grave abuse of discretion on the part of this Court-to declare that the shares purchased with "coco levy" funds are government-owned yet remove 24.45 million shares of "treasury shares of San Miguel Corporation" from its purview.

Notably, the CIIF Companies sold these shares in March 1986 just days after Former President Ferdinand E. Marcos (Former President Marcos) was deposed in the People Power Revolution. It was the subject of a "Compromise Agreement" that was not approved by the Sandiganbayan. It was also the subject of a Decision of this Court ordering San Miguel Corporation to deliver it to the PCGG. Yet, there was no compliance by San Miguel Corporation. Today, we reward the contumacy as well as complete deprivation of rights of coconut farmers.

I dissent.

II

It was erroneous for the ponencia to state that the 753,848,312 SMC 1 Preferred Shares were the only remaining San Miguel Corporation shares that could be declared owned by the Republic[106] since the 25.45 million treasury shares were already sold to San Miguel Corporation as part of the "Compromise Agreement."

This reasoning is a complete m1smterpretation of *San Miguel Corporation, et al. v. Sandiganbayan (First Division), et al.*[107]

In page 18 of the ponencia:

> A review of past underlying transactions led to the acquisition of the so-called "treasury shares" would indicate that SMC had acquired colorable title to retain possession of the 25.45 million shares of what were once CIIF shares prior to the sequestration of these CIIF shares on April 7, 1986 and the institution of CC Nos. 0033 and 0033-F on July 31, 1987.[108]

In *San Miguel*:

On August 5, 1991, the Sandiganbayan issued an order requiring SMC to deliver the certificates of stock representing the subject matter of the Compromise Agreement to the PCGG in view of the oral manifestations of Commissioner Maceren seeking clarification of portions of Sandiganbayan's July 23, 1991 Resolution.
....

On October 25, I 99 I, the Sandiganbayan issued another Resolution requiring SMC to deliver the 25.45 million SMC treasury shares to the PCGG. On March 18, 1992, it denied petitioners' Motion for Reconsideration and further ordered SMC to pay dividends on the said treasury shares and to deliver them to the PCGG.

....

The order of the Sandiganbayan regarding the subject treasury shares is merely preservative in nature. When the petitioners and UCPB Group filed their Joint Manifestation of Implementation of the Compromise Agreement and of Withdrawal of Petition, the Sandiganbayan cautioned that "the PCGG, the UCPB and the SMC Group shall always act with due regard to the sequestered character of the shares of stock involved as well as the fruits thereof, more particularly to prevent the loss or dissipation of their value." The caution was wisely given in view of the many contested provisions of the Compromise Agreement. For one, the Sandiganbayan observed that the conversion of the SMC shares to treasury shares will result in a change in the status of the sequestered shares in that:

> 1. When the SMC converts these common shares to treasury stock, it is converting those outstanding shares into the corporation's property for which reason treasury shares do not earn dividends.
>
> 2. The retained dividends which would have accrued to those shares if converted to treasury would go into the corporation and enhance the corporation as a whole. The enhancement to the specific sequestered shares, however, would be only to the extent aliquot in relation to all the other outstanding SMC shares.
>
> 3. By converting the 26.45 million shares of stock into treasury shares, the SMC has altered not only the voting power of those shares of stock since treasury shares do not vote, but the SMC will have actually enhanced the voting strength of the other outstanding shares of stock to the extent that these 26.45 million shares no longer vote.[109] (Emphasissupplied)

These Sandiganbayan Resolutions were the assailed judgments in *San Miguel*, which were eventually upheld by this Court in its September 14, 2000 Decision in G.R. No. 104637-38. Despite the Decision, San Miguel Corporation never actually surrendered these treasury shares to the PCGG.

Sometime in 2003, Former PCGG Chair Haydee B. Yorac wrote to San Miguel Corporation reminding San Miguel of this Court's September 14, 2000 Decision and the order to deliver the treasury shares.[110] On January 20, 2004, San Miguel, through counsel, replied that the shares were already validly sold to it since the "Compromise

Agreement" proves that these shares were sold as of April 1, 1986, days before the sequestration on April 7, 1986.[111]

On June 16, 2011, the Republic eventually filed in this case an *Urgent Motion to Direct San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan*.[112]

It was similarly erroneous for the ponencia to state that:

> More importantly, the PCGG, the government agency empowered to exercise sequestration powers over the 25.45 [million] SMC treasury shares, gave its imprimatur to SMC's ownership and possession of said shares by approving the Compromise Agreement on which SMC predicates its claim and further asserting its ownership and possession of the so-called "arbitration fees of 5.5 million SMC shares that came out of the Compromise Agreement."[113]

In *San Miguel*, this Court denounced the payment as "'illegal, shocking and unconscionable":[114]

> For another, the payment to the PCGG of an arbitration fee in the fonn of 5,500,000 of SMC shares is denounced as illegal, shocking and unconscionable. COCOFED, et al. have assailed the legal right of PCGG to act as arbiter as well as the ,fairness of its acts as arbiter. COCOFED, et aL estimate that the value of the SMC shares given to PCGG as arbitration fee which allegedly is not deserved, can run to P1,966,635,000.00. This is a serious allegation and the Sandiganbayan cannot be[ ]charged with grave abuse of discretion when it ordered that SMC should be temporarily dispossessed of the subject treasury shares and that SMC should pay their dividends while the Compromise Agreement involving them is still under question.
> ....
>
> . . . Petitioners cannot insist on their right to have their Compromise Agreement approved on the ground that it bears the imprimatur of the PCGG. To be sure, *the consent of the PCGG is a factor that should be considered in the approval or disapproval of the subject Compromise Agreement but it is not the only factor*.[115] (Emphasis supplied)

This Court also noted that even the parties admitted that the "Compromise Agreement" should be with the consent of the PCGG, and its consent was "effective only when approved by the Sandiganbayan":[116]

> 1. The Compromise Agreement subject matter of this petitiOn categorically states that "(a)ll the terms of th(e) Agreement are subject to approval by the Presidential Commission on Good Government (PCGG) as may be required by Executive Orders numbered 1, 2, 14 and 14-A. (T)he Agreement and the PCGG approval thereof shall be submitted to the Sandiganbayan....
>
> PCGG has consented to the Compromise Agreement. *But its consent is "effective only when approved by the Sandiganbayan (PCGG Resolution dated 15 June 1990, In Re: Compromise Agreement between San M{guel Corporation, et al. and United Coconut Planters Bank, et al.).* Petitioners accepted this condition, and incorporated by [sic] reference such condition as an integral part of the Compromise Agreement.[117] (Emphasis supplied)

Clearly, the consent of the PCGG is only effective if the "Compromise Agreement" is actually approved by the Sandiganbayan. Until then, even the PCGG is deemed not to have given its consent to the "Compromise Agreement."

Strangely, the ponencia erroneously concludes that the "Compromise Agreement" was "*not disapproved*" by the Sandiganbayan and, therefore, must be deemed to have approved it:

> To sway this Court, the Republic relies on the fact that the Compromise Agreement between SMC and the CIIF Companies ratifying the sale of the first installment shares had been submitted but has not been approved by the Sandiganbayan. But note, neither has the Compromise Agreement been disapproved by that or this Court. Nowhere in *San Miguel Corporation v. Sandiganbayan* did the Court rule on the validity of the Compromise Agreement, much less "indirectly [deny] approval of the Compromise Agreement," since it was not the issue presented for the Court's Resolution.[118]

There are compromise agreements involving private interests where judicial approval is not necessary.[119] The "Compromise Agreement" in this case did not involve purely private interests. The "Compromise Agreement" involved shares of stock sequestered by government under the allegation that these were bought using the "ill-gotten wealth" by Former President Marcos and his cronies. The parties recognized this and, therefore, made the consent of the PCGG and the approval of the Sandiganbayan a condition *sine qua non* to its effectivity:

> The cases at bar do not merely involve a compromise agreement dealing with private interest. The Compromise Agreement here involves sequestered shares

of stock now worth more than nine (9) billions of pesos, per estimate given by COCOFED. Their ownership is still under litigation. It is not yet known whether the shares are part of the alleged ill gotten wealth of former President Marcos and his "cronies." *Any Compromise Agreement concerning these sequestered shares falls within the unquestionable jurisdiction of and has to be approved by the Sandiganbayan. The parties themselves recognized this jurisdiction.* In the Compromise Agreement itself, the petitioners and the UCPB Group expressly acknowledged the need to obtain the approval by the Sandiganbayan of its terms and conditions, thus:

> 5. Unless extended by mutual agreement of the parties, the 'Delivery Date' shall be on the 10th Day from and after receipt by any party of the notice of approval of this Compromise Agreement and Amicable Settlement by the Sandiganbayan. Upon receipt of such notice, all other parties shall be immediately informed.

The PCGG Resolution of June 15, 1990 also imposed the approval of the Sandiganbayan as a condition sine qua non for the transfer of these sequestered shares of stock, *viz*:

> "4. All SHARES shall continue to be sequestered even beyond Delivery Date. , Sequ.estration on them shall be lifled as they are sold consequent to approval of the sale by the Sandiganbayan, and in accordance with the dispersal plan approved by the Commission. All of the SHARES that are unsold will continue to be voted by PCGG while still unsold.
>
> 5. *The consent of PCGG to the transfer of the sequestered shares of stock in accordance with the COMPROMISE, and to the lifting of the sequestration thereon to permit such transfer, shall be effective only when approved by the Sandiganbayan.* The Commission makes no determination of the legal rights of the parties as against each other. The consent it gives here conforms to its duty to care for the sequestered assets, and to its purpose to prevent the repetition of the national plunder. It is not to be construed as indicating any recognition of the legality or sufficiency of any act of any ofthe parties."[120] (Emphasis supplied)

The effectivity of the "Compromise Agreement" depends on whether the Sandiganbayan actually gave its approval.

A closer look at the Sandiganbayan's October 25, 1991 Resolution reveals that the Sandiganbayan actually ordered that nothing should be done with the treasury shares "which might prejudice their eventual delivery to their lawful owner or owners who will be

determined at the close of the Judicial proceeding":[121]

> *At this time the Court has not approved any Compromise Agreement between the so-called "UCPB" and the "SMC Group.* " As of July 23, 1991, this Court has merely noted the Manifestation of these two groups, as well as the PCGG's and that of the SMC Corporate Secretary, that the contending groups had executed a Compromise Agreement in resolution of their difference.
>
> Consistent with this Court's earlier position as stated in its Resolution of June 3, 1991, this Court's continuing interest in the shares of stock subject of the Compromise Agreement between the so-called SMC and UCPB Groups remains only with respect to those shares of stock which are sequestered. These shares of stock are precisely the SMC shares owned by the CIIF Companies," *as well as the so-called "first installment shares" represented by the stock certificate No. A0004129 representing 15,274,484 shares and stock certificate No. B0001556 representing 10,175,516 shares (for a total of 25,450,000 shares).*
>
> At issue is now the physical custody of these two certificates of stock.
>
> As with all sequestered property, the true or final ownership of the shares -of stock is still unresolved at this time. Should San Miguel Corporation be found not to be entitled thereto in the end, as when these shares are found to have been "ill-gotten property" after all (should things turn out this way), these shares of stock and all their fruits must be turned over to the government.
>
> Put differently, *until the sequestration of these shares represented by the aforementioned stock certificates has been lifted by this Court, their conversion to Treasury Shares of SMC and their subsequent dispersal to SMC stockholders are merely a declaration of an intention made by the parties to the Compromise Agreement.*
>
> *These 25,450,000 shares of stock are today sequestered stock and at this time nothing may be done with them which might prejudice their eventual delivery to their lawful owner or owners who will be determined at the close of these judicial proceedings. Conversion of these shares of stock into Treasury Shares (and their dispersal as intimated in the Compromise Agreement) could prevent their delivery as well as the delivery of the fruits of these shares to anybody later found by the Court to be entitled thereto.*
>
> The intended declaration of these shares as Treasury Shares is, therefore, not capable of implementation at this time and the rules governing Treasury Shares cannot yet be deemed enforceable over them. [122] (Emphasis supplied)

This Sandiganbayan Resolution was upheld by this Court in *San Miguel*. In *San Miguel*, this Court upheld the Sandiganbayan's finding that the provisions of the "Compromise Agreement," *including those of the treasury shares*, should remain ineffective until a definite ruling on its ownership has been rendered by the courts. It did not outright say that it disapproved the "Compromise Agreement" since the issue before this Court was the delivery of the treasury shares, not the validity of the "Compromise Agreement." Former Associate Justice Bernardo P. Pardo's Dissenting Opinion is telling in this regard:

I regret to dissent from the maJonty decision upholding the disapproval of the compromise agreement by the Sandiganbayan.

The resolutions of the Sandiganbayan, subject of the two (2) petitions for review on certiorari before the Court would bar the implementation of a compromise agreement entered into by the SMC Group and the UCPB Group regarding the thirty (30) million plus shares of SMC in the name of the fourteen (14) holding companies of the CIIF Group of companies.[123]

On April 17, 2001, this Court issued a minute Resolution denying with finality the Motion for Reconsideration filed by COCOFED in G.R. Nos. 104637-38.[124] Entry of judgment of the September 14, 2000 Decision in G.R. Nos. 104637-38 was made on August 7, 2001.[125] To now say, therefore, that the "Compromise Agreement" was actually valid is a complete misinterpretation of *San Miguel*.

The nature of the ownership of these shares was resolved in these cases. Hence:

> "Since the CIIF companies and the CIIF block of SMC shares were acquired using coconut levy funds-funds, which have been established to be public in character-it goes without saying that these acquired corporations and assets ought to be regarded and treated as government assets. Being government properties, they are accordingly owned by the Government, for the coconut industry pursuant to currently existing laws.[126]

III

The September 4, 2012 Resolution of this Court was a *nunc pro tunc* order that went beyond the *fallo* it was clarifYing.

The September 4, 2012 denied with finality the Motion for Reconsideration but sought to clarify the *fallo* of the January 24, 2012 Decision in view of "a certain development that altered the factual situation then obtaining in G.R. Nos. 177857-58,"[127] which was

referring to the September 17, 2009 Decision that converted the CIIF Companies' 144,324,960 shares from common to preferred shares. It was, in effect, a *nunc pro tunc* order affirming the January 24, 2012 Decision, but correcting the *fallo* to include a fact previously omitted.

The "clarification" made, however, effectively overturned San Miguel. It also expanded the January 24, 2012 Decision by indirectly implying that the "Compromise Agreement" was valid. This is not within the competence of a *nunc pro tunc* order.

A *nunc pro tunc* order merely supplies something that was present in the records but was omitted in the judgment by mistake. It cannot correct judicial errors or supply a judicial action that was omitted by the court. *Lichauco, et al. v. Tan Pho, et al.*[128] explains:

> The office of a judgment *nunc pro tunc* is to record some act of the court done at a former time which was not then carried into the record, and the power of a court to make such entries is restricted to placing upon the record evidence of judicial action which has been actually taken. It may be used to make the record speak the truth, but not to make it speak what it did not speak but ought to have spoken. If the court has not rendered a judgment that it might or should have rendered, or if it has rendered an imperfect or improper judgment, it has no power to remedy these errors or omissions by ordering the entry *nunc pro tunc* of a proper judgment. Hence a court in entering a judgment nunc pro tunc has no power to construe what the judgment means, but only to enter of record such judgment as had been formerly rendered, but which had not been entered of record as rendered. In all cases the exercise of the power to enter judgments *nunc pro tunc* presupposes the actual rendition of a judgment, and a mere right to a judgment will not furnish the basis for such an entry.
>
> There can be no doubt that such an entry may operate so as to save proceedings which have been had before it is made, but where no proceedings have been had and the jurisdiction of the court over the subject has been withdrawn in the meantime, a court has no power to make a *nunc pro tunc* order. If the court has omitted to make an order, which it might or ought to have made, it cannot, at a subsequent term, be made *nunc pro tunc*. According to some authorities, in all cases in which an entry nunc pro tunc is made, the record should show the facts which authorize the entry, but other courts hold that in entering an order *nunc pro tunc* the court is not confined to an examination of the judge's minutes, or written evidence, but may proceed on any satisfactory evidence, including parol testimony. In the absence of a statute or rule of court requiring it, the failure of the judge to sign the journal entries or the record does not affect the force of the order granted.
>
> The phrase *nunc pro tunc* signifies 'now for then,' or that a thing is done now that shall have the same legal force and effect as if done at the time it ought to

have been done. A court may order an act done *nunc pro tunc* when it, or some one of its immediate ministerial officers, has done some act which for some reason has not been entered of record or otherwise noted at the time the order or judgment was made or should have been made to appear on the papers or proceedings by the ministerial officer.

The object of a judgment *nunc pro tunc* is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply nonaction by the court, however erroneous the judgment may have been.

A *nunc pro tunc* entry in practice is an entry made now of something which was actually previously done, to have effect as of the former date. Its office is not to supply omitted action by the court, but to supply an omission in the record of action really had, but omitted through inadvertence or mistake.

Except as to the rights of third parties, a judgment *nunc pro tunc* is retrospective, and has the same force and effect, to all intents and purposes, as if it had been entered at the time when the judgment was originally rendered.

It is competent for the court to make an entry *nunc pro tunc* after the term at which the transaction occurred, even though the rights of third persons may be affected. But entries *nunc pro tunc* will not be ordered except where this can be done without injustice to either party, and as a *nunc pro tunc* order is to supply on the record something which has actually occurred, it cannot supply omitted action by the court. Record entries *nunc pro tunc* can properly be made only when based on some writing in a cause which directly or by fair inference indicates the purpose of the entry so sought to be made, or on the personal knowledge and recollection of the court; but in a case where a statement of facts was filed after adjournment of the court for the term, but within the time allowed by an order not entered in the minutes on an oral motion made therefore at the trial, the court at a subsequent term was held to have jurisdiction to permit the filing of such order *nunc pro tunc* on the recollection of the judge and other parol testimony that the order had been applied for and granted during the previous term, without any memorandum or other written evidence thereof. A *nunc pro tunc* entry will be treated as a verity where not appealed from.[129] (Citations omitted)

The September 4, 2012 Resolution went beyond the Decision it was trying to correct. If this Court intended to redefine the number of San Miguel Corporation shares of stock bought from the "coco levy" funds, it should have issued a full resolution explaining the

modification. It cannot, by way of a *nunc pro tunc* order, overturn a long-decided Decision of this Court.

IV

It is erroneous for the ponencm to conclude that San Miguel Corporation is not a party to this case.

The Omnibus Motion concerns the 25.45 million treasury shares subject to the "Compromise Agreement" in San Miguel. In September 14, 2000, this Court upheld the Sandiganbayan's orders to San Miguel Corporation to deliver the certificates of stock of these shares to the PCGG.

This Court ordered San Miguel Corporation to comment on the Omnibus Motion, which it did on December 3, 2013.

Due process is the right to be heard.[130] It is, by its simplest interpretation, to hear the other side of the argument before making a judgment.[131] In *Ynot v. Intermediate Appellate Court*:[132]

> The closed mind has no place in the open society. It is part of the sporting idea of fair play to hear "the other side" before an opinion is formed or a decision is made by those who sit in judgment. Obviously, one side is only one-half of the question; the other half must also be considered if an impartial verdict is to be reached based on an informed appreciation of the issues in· contention. It is indispensable that the two sides complement each other, as unto the bow the arrow, in leading to the correct ruling after examination of the problem not from one or the other perspective only but in its totality. A judgment based on less that this full appraisal, on the pretext that a hearing is unnecessary or useless, is tainted with the vice of bias or intolerance or i§rorance, or worst of all, in repressive regimes, the insolence of power.[133]

The essence of due process is to be given an opportunity to be heard and the right to be able to present evidence on one's behalf.[134] The opportunity to be heard may be accomplished through notice and hearing, or the submission of pleadings.[135]

Before the January 24, 2012 Decision was promulgated, the Republic filed an *Urgent Motion to Direct San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan*.[136] This Court directed San Miguel Corporation to comment on the Urgent Motion.[137] San Miguel Corporation's Comment was noted in the Resolution dated October 4, 2010.[138]

When the Republic filed its Omnibus Motion, San Miguel Corporation was able to file its Comment[139] on December 2, 2013, outlining its argument that these treasury shares were already fully paid by the time

the "Compromise Agreemenfl was implemented. It also attached various documents proving its allegations, from Annex "A" to Annex D-27."[140]

San Miguel Corporation was given every opportunity to be heard in this case. It was able to convey all its arguments and present evidence on its behalf, both before the January 24, 2012 Decision was promulgated, and even after, when the Republic filed its Omnibus Motion. There can be no deprivation of due process as long as a party is given the opportunity to defend its cause.[141]

V

The laws creating the "coco levy" funds were declared unconstitutional and the funds were considered as public funds. As the CIIF Companies' shares of stock were acquired using these funds, the CIIF Companies could not have validly sold these shares to San Miguel Corporation since they could not sell something they did not actually own. The parties to an illegal sale are considered to be in *pari delicto*, and neither can seek any affirmative relief with the courts.[142]

In the January 24, 2012 Decision,[143] this Court declared Presidential Decree Nos. 755, 961, and 1468 as unconstitutional since public funds cannot be used to purchase shares of stock to be given for free to private individuals. This Court found that this was a direct violation of Article VI, Section 29(3) of the Constitution, which provides:

> ARTICLE VI
> Legislative Department
>
> ....
>
> SECTION 29.....
> ....
>
> (3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

This Court likewise stated that "any property purchased by means of the coconut levy

funds should likewise be treated as public funds or public property, subject to burdens and restrictions attached by law to such property."[144] The 33,133,126 San Miguel Corporation shares sold by the CIIF Companies in March 1986 are to be treated as public funds or public property. The CIIF Companies had no uthority to sell the shares of stock to any other private individual, including San Miguel Corporation.

The sale of the shares of stock was done one (1) month after the February 25, 1986 Revolution, on March 26, 1986. Former President Corazon Aquino already issued Executive Order No. 1,[145] which created the PCGG to recover all of Former President Marcos' ill-gotten wealth, as well as the ill-gotten wealth of his cronies. The sale occurred after the issuance of Executive Order No. 2,[146] which authorized the PCGG to freeze all assets and properties of Former President Marcos and his cronies. Merely one (1) week prior to the sale, the PCGG sequestered all the shares of the United Coconut Planter Bank purportedly issued to coconut farmers.[147] Given the factual antecedents, it is obvious that the sale was made in bad faith. The sale was clearly an attempt by he CIIF Companies to dispose of their assets before the PCGG could sequester it.

Ex dolo malo non oritur actio. In pari delicto potior est conditio defendentis.[148]

Both the CIIF Companies and San Miguel Corporation were in pari delicto when it attempted the sale of 33,133,126 San Miguel Corporation shares of stock on March 26, 1986. San Miguel Corporation cannot now claim that it is entitled to the shares equivalent to the P500 million it previously paid as a first installment. Parties in *pari delicto* cannot sue for specific performance, recover property previously sold and delivered, or ask for a refund of money previously paid.[149] The law, as well as the courts, will not grant them any affirmative relief.[150] If this Omnibus Motion is denied and the fallo of the September 4, 2012 Resolution is allowed to stand, this Court will have legitimized an illegal sale of public property.

It is the duty of this Court to see through the elaborate legal machinations of parties who have substantial resources by using the light of principle and the true spirit of our fundamental laws in order to achieve social justice. It is simply unfair for a party to decline to follow a final and executory order of this Court in one case and then cry due process in another. Social justice is not mere shibboleth. It is a constitutional fiat. Not only is it a juridical necessity; it is also the basis of a humane society.

The majority's position falls short of achieving this ideal. It has made it more difficult for impoverished coconut farmers to gain what is truly owing to them after suffering the exactions of the Martial Law years.

I dissent. I do so emphatically.

ACCORDINGLY, I vote to **GRANT** the Omnibus Motion.

[1] 394 Phil. 608 (2000) (Per J. Puno, En Banc].

[2] 679 Phil. 508 (2012) (Per J. Velasco, En Banc] and 694 Phil. 43 (2012) [Per J. Velasco, Jr. En Banc].

[3] 423 Phil. 735 (2001) [Per J. Panganiban, En Banc].

[4] *Rollo*, pp. 4800-4855.

[5] COCOFED, et al. v. Republic, et al., 694 Phil. 43 (2012) [Per J. Velasco, Jr., En Banc].

[6] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 624 (2000) [Per J. Puno, En Banc].

[7] Rep. Act No. 6260 (1971), Coconut Investment Act. Rep. Act No. 6260 (1971), sec. 8. See also *COCOFED v. PCGG*, 258-A Phil. 1 (1989) [Per J. Narvasa, En Banc].

[9] Rep. Act No. 6260 (971), sec. 8.

[10] Rep. Act No. 6260 (1971), sec. 5(a).

[11] Rep. Act No. 6260 (1971), sec. 5(b).

[12] Rep. Act No. 6260 (1971), sec.5(a).

[13] See Rep. Act No. 6260 (1971), sec. 5.

[14] Rep. Act No. 6260 (1971), sec. 7.

[15] Pres. Decree No. 276 (1973), Establishing a Coconut Consumers Stabilization Fund.

[16] Pres. Decree No. 276 (1973), sec. I (b).

[17] Pres. Decree No. 276 (1973), sec. 2.

[18] Pres. Decree No. 414 (1974), Further Amending Presidential Decree No. 232 As Amended. Pres. Decree No. 232 created the Philippine Coconut Authority.

[19] Pres. Decree No. 582 (1974), Further Amending Presidential Decree No. 232, As Amended.

[20] Pres. Decree No. 582 (1974), sec. 2.

[21] Pres. Decree No. 582 (1974), sec. 2.

[22] Pres. Decree No. 961 (1976).

[23] Pres. Decree No. 1468 (1978).

[24] Pres. Decree No. 1468 (1978), sec. 9 provides:

SECTION 9. Investments For the Benefit of the Coconut Farmers.-Notwithstanding any law to the contrary, the bank acquired for the benefit of the coconut farmers under PD 755 is hereby given full power and authority to make investments in the form of shares of stock in corporations organized, for the purpose of engaging in the establishment and the operation of industries and commercial activities and other allied business undertakings relating to the coconut and other palm oils industry in all its aspects and the establishment of a research into the commercial and industrial uses of coconut and other oil industry. For that purpose, the Authority shall, from time to time, ascertain how much of the collections of the Coconut Consumers Stabilization Fund and/or the Coconut Industry Development Fund is not required to finance the replanting program and other purposes herein authorized and such ascertained surplus shall be utilized by the bank for the investments herein authorized.

[25] Pres. Decree No. 1468 (1978), sec. 9.

[26] Pres. Decree No. 1468 (1978), sec. 9.

[27] *See COCOFED v. PCGG, 258-A- Phil*. 1, 8-9 (1989) [Per J. Narvasa, En Banc].

[28] *See COCOFED, et al. v. Republic*, 679 Phil. 508, 532 (2012) [Per J. Velasco, Jr., En Banc].

[29] Pres. Decree No. 1699 (1980).

[30] Pres. Decree No. 1699 (1980).

[31] *See* Pres. Decree No. 1841 (1981).

[32] *See* Pres. Decree No. 1841 (1981), sec. 6.

[33] Pres. Decree No. 1841 (1981), sec. 1.

[34] Pres. Decree No. 1841 (1981), sec. 1.

[35] Pres. Decree No. 1841 (1981), sec. 1.

[36] Pres. Decree No. 1841 (1981), sec. 1.

[37] Pres. Decree No. 1841 (1981), sec. 1.

[38] Pres. Decree No. 1841 (1981), sec. 1.

[39] Pres. Decree No. 1841 (1981), sec. 1.

[40] See *Javier v. Commission on Elections*, 228 Phil. 193 (1986) [Per J. Cruz, En Banc).

[41] *COCOFED v. PCGG*, 258-April. 1, 12 (1989) [Per J. Narvasa, En Banc].

[42] *Republic v. Sandiganbayan (First Division), et al.*, 310 Phil. 401, 449-460 (1995) [Per C.J. Narvasa, En Banc]. The 14 CIIF Companies are also referred to as the UCPB Group.

[43] ld. at 450-453.

[44] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 620 (2000) [Per J. Puno, En Banc].

[45] Id. at 621.

[46] *COCOFED v. PCGG*, 258-A Phil. 1, 12 (1989 [Per J. Narvasa, En Banc].

[47] *San Miguel Corporation v. Sandiganbayan (Firsi Division), et al*., 394 Phil. 608, 621 (2000) (Per J. Puno, En Banc].

[48] *Soriano III v. Han. Yuzon, et al.,* 247 Phil. 191 (1988) [Per J. Narvasa, En Banc].

[49] Id. at 208.

[50] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 621 (2000) [Per J. Puno, En Banc].

[51] Id. at 621-622.

[52] Id. at 622.

[53] Id.

[54] Id. at 622-623.

[55] Id. at 624.

[56] Id.

[57] Id. at 625-626.

[58] Id. at 627.

[59] Id. at 627-628.

[60] Id. at 628.

[61] Id.

[62] Id. at 630.

[63] Id.

[64] Id.

[65] Id.

[66] Id. at 631.

[67] 394 Phil. 608 (2000) [Per J. Puno, En Banc].

[68] Id. at 639.

[69] Id. at 640.

[70] Id. at 645.

[71] 423 PhiL 735 (2001) [Per J. Panganiban, En Banc].

[72] *COCOFED, et al. v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc].

[73] Id. at 614.

[74] *COCO FED, et al. v. Republic*, 616 Phil. 94, 102 (2009) [Per J. Velasco, Jr. En Banc].

[75] Id.

[76] Id. at 140. The common shares were valued at P53.50 and P54.00 as of June 1, 2009. The conversion would place the issue price at P75.00.

[77] *See* J. Carpio Morales, Dissenting Opinion in *COCOFED, et al. v. Republic*, 616 Phil. 94, 135-141 (2009) [Per J. Velasco, Jr. En Banc]. The shares were redeemed at P75.00, and the proceeds of the redemption were turned over to the Republic. See *rollo*, pp. 5100-5161, in compliance with this Court's Resolution dated September 4, 2012 denying the Motion for Reconsideration of the January 24,2012 Decision.

[78] *COCOFED, et at. v. Republic,* 626 Phil. 157 (2010) [Per J. Velasco, Jr. En Banc].

[79] *COCOFED, et al. v. Republic,* 679 Phil. 508, 621 (2012) [Per J. Velasco, Jr. En Banc].

[80] Id.

[81] Id. at 638-640.

[82] COCO *FED, et al. v. Republic,* 694 Phil. 43, 51 (2012) [Per J. Velasco, Jr. En Banc).

[83] Id. a t48-51.

[84] *Rollo*, pp. 4800-4827.

[85] Id. at 4812-4814, Manifestation and Omnibus Motion.

[86] Id.

[87] Id. at 5191, Comment on the Manifestation and Omnibus Motion.

[88] Id. at 5194-5196.

[89] Id. at 5213.

[90] Ponencia, p. 19.

[91] Id.

[92] Id. at 20-23.

[93] Id.at 11-17.

[94] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 620 (2000) [Per J. Puno, En Banc].

[95] Id. at 621.

[96] The sale of P500 million shares to San Miguel Corporation was recognized by the parties as valid in view of Soriano III's payment of the first installment. *See San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608,628 (2000) [Per J. Puno, En Banc].

[97] *San Miguel Corporation v. Sandiganbayan (First Division). et al.,* 394 Phil. 608, 628 (2000) [Per J. Puno, En Banc].

[98] *COCOFED, et al. v. Republic,* 679 Phil. 508 (20 12) [Per J. Velasco, En Banc].

[99] Id. at 621.

[100] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 630 (2000) [Per J. Puno, En Banc].

[101] *See San Miguel Corporation v. Sandiganbayan (First Division), et al*., 394 Phil. 608, 653 (2000) [Per J. Puno, En Banc].

[102] Ponencia, p. 18.

[103] Id.

[104] The full title is Manifestation and Omnibus Motion I) To amend the Resolution promulgated on September 4, 2012 to include the "treasury shares" which are part and parcel of the 33,133,266 Coconut Industry Investment Fund (CIIF) block of San Miguel Corporation (SMC) shares as of 1983 decreed by the Sandiganbayan, and sustained by the Honorable Court, as owned by the government; and 2) to direct San Miguel Corporation (SMC) to comply with the final and executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan which were affirmed by the Honorable Court in G.R. Nos. 104637-38.

[105] *Rollo*, pp. 5185-5237.

[106] Ponencia, p. 19.

[107] 394 Phil. 608 (2000) [Per J. Puno, En Banc].

[108] Ponencia, p. 18.

[109] *San Miguel Corporation, et al. v. Sandiganbayan (First Division), et al*., 394 Phil. 608, 630-640 (2000) [Per J. Puno, En Banc].

[110] *Rollo*, pp. 3413-3414.

[111] Id. at 3415-3416.

[112] Id. at 3322-3351.

[113] Ponencia, p.13.

[114] *San Miguel Corporation v. Sandiganbayan (First Division), et al*., 394 Phil. 608. 641 (2000) [Per J. Puno, En Banc].

[115] Id. at 641-652.

[116] ld. at 639, citing the Manifestation dated March 15, 1991 of San Miguel Corporation.

[117] Id. at 638-639, citing the Manifestation dated March 15, 1991 of San Miguel Corporation.

[118] Ponencia, p. 20.

[119] *See* CIVIL CODE, art. 2028, in relation to art. 2032, which provide:

Article 2028. A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.
....

Article 2032. The court's approval is necessary in compromises entered into by guardians, parents, absentee's representatives, and administrators or executors of decedent's estates.

[120] *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 637-638 (2000) [Per J. Puno, En Banc].

[121] *Rollo*, pp. 3351-3354.

[122] Id.

[123] J. Pardo, Dissenting Opinion in *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 654 (2000) [Per J. Puno, En Banc].

[124] *Rollo*, p. 583.

[125] Id. at 598.

[126] *COCOFED, et al. v. Republic*, 679 Phil. 508, 621 (2012) [Per J. Velasco, Jr. En Banc].

[127] *COCOFED, et al. v. Republic,* 694 Phil. 43, 46 (20 12) [Per J. Velasco, Jr., En Banc].

[128] 51 Phil. 862 (1923) [Per J. Romualdez, En Banc].

[129] Id. at 879-881.

[130] *Ynot v. Intermediate Appellate Court*, 232 Phil. 615, 631 (1987) [Per J. Cruz, En Banc].

[131] Id. at 624.

[132] 232 Phil. 615 (1987) [Per J. Cruz, En Banc).

[133] Id. at 624.

[134] *Mutuc v. Court of Appeals*, 268 Phil. 37, 43 (1990) [Per J. Paras, Second Division].

[135] Id., citing *Juanita Yap Say v. IAC*, 242 Phil. 802 (1988) [Per J. Sarmiento, Second Division].

[136] *Rollo*, pp. 3322-3350.

[137] Id. at 3423-A- 3423-C.

[138] Id. at 598.

[139] Id. at 5189-5237.

[140] Id. at 5238-5289.

[141] *See Duma and Duma v. Espinas, et al*., 515 Phil. 685, 699 (2006) [Per J. Austria-Martinez, First Division], citing *Etares v. Court of Appeals*, 498 Phil. 640, 658-659 (2005) [Per J. Austria-Martinez, Second Division].

[142] *See Bough and Bough v. Cantiveros and Hanopol,* 40 Phil. 210, 216 (1919) [Per J. Malcolm, En Banc] and *Rellosa v. Caw Chee Hun,* 93 Phil. 827, 832-833 (1953) [Per J. Bautista-Angelo, En Banc].

[143] *COCOFED, et al. v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc].

[144] Id. at 620.

[145] Enacted February 28, 1986.

[146] Enacted March 12, 1986.

[147] *See COCOFED v. PCGG*, 258-A Phil. 1 (1989) [Per J. Narvasa, En Banc).

[148] *Bough and Bough v. Cantiveros and Hanopol*, 40 Phil. 210, 216 (1919) [Per J. Malcolm, En Banc]: "[A] party tq an illegal contract cannot come into a court of law and ask to have his illegal objects carried out. . . . The law will not aid either party to an illegal agreement; it leaves the parties where it finds them."

[149] *See Rellosa v. Gaw Chee Hun*, 93 Phil. 827, 832-833 (1953) [Per J. Bautista-Angelo, En Banc].

[150] Id.