



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 7, 2021** which reads as follows:*

“G.R. No. 232837 (Republic of the Philippines, represented by the Philippine Commission on Good Government [PCGG] vs. Paul C. Del Moral, Juan Antonio Del Moral, Jose Luis Del Moral, et. al.) — This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Minute Resolution² dated October 18, 2016 and Resolution³ dated July 17, 2017 of the Sandiganbayan in Civil Case No. 0173, which dismissed the petition of the Republic of the Philippines (Republic) for failure to prosecute.

ANTECEDENTS

Subject of this case is Mountain View Real Estate Corporation’s (Mountain View) interest over a parcel of land located in Mahabang Cahoy, Indang, Cavite, which was initially composed of 218,110 square meters (sq. m.), covered by Transfer Certificate of Title (TCT) No. 9497. The property was a portion of a bigger parcel of land, originally owned by Leonardo Osorio (Leonardo), and inherited by his legitimate children, Natividad Osorio (Natividad) and Antonio Osorio (Antonio). Natividad and Antonio subsequently sold the property to Magdalena Estate, Inc., who later on sold it to Mountain View. Through an action filed by the illegitimate children of Leonardo, however, Mountain View’s share was reduced to 110,075 sq. m. from 218,110 sq. m.⁴

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¹ *Rollo*, pp. 24-122.

² *Id.* at 14-15. Approved by Justices Efren N. Dela Cruz, Reynaldo P. Cruz, and Michael Frederick L. Musngi.

³ *Id.* at 125-130. Penned by Justice Efren N. Dela Cruz, with the concurrence of Justices Reynaldo P. Cruz and Michael Frederick L. Musngi.

⁴ *Id.* at 181-207.

In 1986, the Presidential Commission on Good Government (PCGG) issued a Writ of Sequestration⁵ over all assets, properties, records, and documents of Mountain View. The writ was annotated at the back of TCT No. 9497.⁶ Subsequently, the Republic, through the PCGG, filed a case for the recovery of ill-gotten wealth against Mountain View and its President Anthony Lee (Anthony) before the Sandiganbayan, docketed as Civil Case No. 0010. On June 18, 1992, the Sandiganbayan approved a Compromise Agreement between the parties, wherein Mountain View/Anthony agreed to convey their properties to the Republic to settle the case.⁷ However, before Mountain View/Anthony was able to cede their property rights in favor of the Republic pursuant to the Compromise Agreement, the Regional Trial Court (RTC) of Tagaytay City issued Decision⁸ dated March 24, 1988, Amended Decision⁹ dated April 26, 1988, and Order¹⁰ dated December 28, 1988 in Civil Case No. TG-951, which further reduced Mountain View's share in the property to 78,072 sq. m. from 110,075 sq. m. Civil Case No. TG-951 was an action for partition filed by several other claimants of the property, which includes some of herein respondents,¹¹ against Mountain View.¹²

Sometime in 1994, the Republic learned about the RTC issuances in TG-951, which affected the dispositions in the Compromise Agreement as approved by the Sandiganbayan in Civil Case No. 0010. Hence, on November 12, 1996, the Republic filed a petition¹³ to annul the RTC issuances before the Sandiganbayan, docketed as Civil Case No. 0173, arguing that the RTC had no jurisdiction over the property covered by a Writ of Sequestration. The Republic sought the reconveyance of Mountain View's share and

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⁵ Id. at 215.

⁶ Id. at 458.

⁷ Id. at 216-228.

⁸ Id. at 237-254.

⁹ Id. at 255-272.

¹⁰ Id. at 277-278.

¹¹ Id. at 229. Those claimants include: Paul C. Del Moral, Juan Antonio Del Moral, Jose Luis Del Moral, Nieves C. Primicias, Heirs of Natividad Osorio, namely Francisca Aguinaldo-Jacinto, Rodrigo O. Aguinaldo, and Regina O. Aguinaldo, Heirs of Antonio Osorio, namely Irene Osorio, Heirs of Rosa Gonzales, namely Leonarda Palanca-Arenas, Severina Palanca, Carlos Palanca, Jr., Antonio O. Palanca, Milagros Palanca-Furer, and Ramon G. Palanca, Heirs of Emilia Reyes, namely, Maxima Reyes-Lee, Josephine Lee-Pedro, Cesar Lee, Teresita Lee, Victoria Lee, and Danilo Lee.

¹² Id. at 237-254.

¹³ Id. at 145-180.

nullification of titles issued to thirty-three (33)¹⁴ claimants by virtue of the RTC judgment. On August 21, 1997, the Republic amended its petition to implead eight¹⁵ (8) additional defendants, including Tagaytay Resort Development Corporation (TRDC),¹⁶ SM Investment Corporation (SMIC),¹⁷ and Manila Electric Company (Meralco),¹⁸ which acquired interests over the property from some of the original defendants. Out of all the defendants, only the following filed their Answers: (1) Ramon Palanca on April 15, 2009; (2) Paul, Juan Antonio, and Jose Luis, all surnamed Del Moral, on October 14, 1999; (3) Meralco on June 12, 2007; (4) SMIC and TRDC on June 2, 2008;¹⁹ and (5) the Heirs of Manuel Maglabe on December 28, 2014.²⁰

Meantime in 2007, the Republic sought the issuance of alias summons to certain defendants.²¹ It also filed an *Ex-Parte* Motion to Serve Summons by Publication Upon Some Unserved Defendants,²²

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¹⁴ Id. The defendants in Civil Case No. 0173 are: (1) Paul C. Del Moral; (2) Juan Antonio Del Moral; (3) Jose Luis C. Del Moral; (4) Nieves C. Primicias; (5) Teresa Osorio; (6) Doris Murallon; (7) Atty. Jose E. Elegir; (8) Jacobe R. Mabanag; (9) Francisca Aguinaldo-Jacinto; (10) Rodrigo O. Aguinaldo; (11) Regina O. Aguinaldo; (12) Hilarion R. Maglabe; (13) Feliciano Panganiban; (14) Irene Osorio; (15) Leonarda Palanca-Aranas; (16) Severina Palanca; (17) Carlos G. Palanca, Jr.; (18) Macario G. Palanca, Antonio; (19) Antonio G. Palanca; (20) Milagros Palanca-Furer; (21) Ramon G. Palanca; (22) Gladys Palanca-Lenon; (23) Angelita Palanca; (24) Rosemarie Palanca; (25) Lily Palanca-Periquet; (26) Elesita Palanca-Lim; (27) Lulu Palanca-Castano; (28) Maxima Reyes vda. de Lee; (29) Atty. Roberto V. San Jose; (30) The Heirs of Leopoldo Aguinaldo; (31) The Law Firm of San Jose Enriquez, Lacas, Santos & Borja; (32) Atty. Sergio D. Vendero; and (33) John Doe.

¹⁵ Id. at 694-695. Aside from TRDC, Meralco, and SMIC, the additional defendants are (1) Carmelita S. Aribal; (2) Petrochemical Investment Corp., (3) Constanca C. Silan; (4) Joel S. Macabata; (5) Quintin M. Mendoza; (6) Teodoro A. Agrimano; (7) RFR Development Corp.; and (8) Manuel P. Maglabe.

¹⁶ Id. at 57-60. TRDC acquired its rights and interests to the property from Paul C. Del Moral, Juan Antonio Del Moral, Jose Luis C. Del Moral, Nieves C. Primicias, Teresa Osorio, Doris Murallon, Atty. Jose E. Elegir, Jacobe R. Mabanag, Heirs of Rosa Gonzales, and Heirs of Emilia Reyes.

¹⁷ Id. SMIC acquired its rights and interests to the property from Heirs of Leopoldo Aguinaldo.

¹⁸ Id. Meralco's rights and interests to the property originated from the Heirs of Natividad Osorio.

¹⁹ Id. at 60-64.

²⁰ Id. at 583.

²¹ Id. at 693-701. These defendants were: (1) Francesca Aguinaldo Osorio and/or Francesca Regina Osorio; (2) Rodrigo Aguinaldo; (3) Gladys Palanca Lenon; (4) Doris Murallon; (5) Amparo Osorio; (6) Amelita Palanca; (7) Lily Palanca-Periquet; (8) Nieves Primicias; (9) Heirs of Emilia Reyes; and (10) Heirs of Natividad Osorio, and the substituted service of summons by publication to: (1) Angelita (Amelita) Palanca; (2) Rosemarie Palanca; (3) Lulu Palanca-Castano; (4) Antonio Palanca; (5) Leonardo Palanca; (6) Severina Palanca; (7) Macario Palanca; (8) Teresa Osorio; (9) Jacobe Mabanag; (10) Irene Osorio; and (11) Elesita Palanca.

²² Id. at 666 and 695. These defendants were: (1) Teresa Osorio; (2) Atty. Jose E. Elegir; (3) Jacobe R. Mabanag; (4) Amparo Roldan Osorio; (5) Rodrigo O. Aguinaldo; (6) Regina O. Aguinaldo; (7) Irene Osorio; (8) Macario Palanca; (9) Gladys Palanca; (10) Lily Palanca-Periquet; (11) Elesita Palanca-Lim; (12) Amelita Palanca; (13) Heirs of Emilia Reyes; and (14) Heirs of Leopoldo Aguinaldo.

which was denied for being filed without prior leave of court; for failure to show that the addresses of the unserved defendants were unknown; and for failure to prove that the addresses could not be ascertained by diligent inquiry. Thus, the Republic filed another Motion for the Issuance of Alias Summons²³ and Service of Summons by Publication Upon Some Unserved Defendants. This time, the Sandiganbayan granted the motion in a Resolution dated May 11, 2011. On April 10, 2012, the Republic filed a Manifestation and Motion²⁴ to allow it to immediately serve summons by publication upon all remaining defendants to expedite the proceedings and minimize the cost of the publication, which was granted in a Resolution dated November 27, 2012.²⁵ On December 7, 2012, Sandiganbayan sheriffs manifested that they were not furnished with a copy of the Resolution dated May 11, 2011, which ordered the service of alias summons. Hence, the Sandiganbayan allowed anew the issuance of alias summons to the defendants covered by the Resolution dated May 11, 2011.²⁶

On May 11, 2015, the Sandiganbayan set the case for preliminary conference and pre-trial,²⁷ but the Republic moved to cancel it in order to serve summons by publication upon all unserved defendants.²⁸ The Sandiganbayan granted the motion in a Resolution²⁹ dated June 18, 2015. On July 2, 2015, the Sandiganbayan issued an Order requiring the Republic to file the necessary motion to cause the publication against the remaining unserved defendants.³⁰ On July 6, 2015, the Republic filed its immediate compliance, and moved to

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²³ Id. at 702-718. These defendants were: (1) Francesca Aguinaldo Osorio and/or Francesca Regina Osorio; (2) Rodrigo Aguinaldo; (3) Gladys Palanca Lenon; (4) Doris Murallon; (5) Amparo Osorio; (6) Amelita Palanca; (7) Lily Palanca-Periquet; (8) Nieves Primicias; (9) Heirs of Emilia Reyes; (10) Heirs of Natividad Osorio, and the substituted service of summons by publication to: (1) Angelita (Amelita) Palanca; (2) Rosemarie Palanca; (3) Lulu Palanca-Castano; (4) Antonio Palanca; (5) Leonardo Palanca; (6) Severina Palanca; (7) Macario Palanca; (8) Teresa Osorio; (9) Jacobe Mabanag; (10) Irene Osorio; and (11) Elesita Palanca.

²⁴ Id. at 733-748. The Republic prayed for the immediate issuance of service of summons by publication to: (1) Francesca Aguinaldo Osorio and/or Francesca Regina Osorio; (2) Rodrigo Aguinaldo; (3) Gladys Palanca Lenon; (4) Doris Murallon; (5) Amparo Osorio; (6) Amelita Palanca; (7) Lily Palanca-Periquet; (8) The Heirs of Emilia Reyes; (9) The Heirs of Leopoldo Aguinaldo; (10) The Law Firm of San Jose Enriquez, Lacas, Santos & Borja; (11) The Heirs of Natividad Osorio; (12) Rosemarie Palanca; (13) Lulu Palanca-Castano; (14) Antonio Palanca; (15) Leonardo Palanca-Aranas; (16) Severina Palanca; (17) Macario Palanca; (18) Teresa Osorio; (19) Jacobe Mabanag; (20) Irene Osorio; (21) Elesita Palanca; (22) Quintin Mendozal (23) Constancia Silan; (24) Teodora Agrimano; and (25) Milagros Palanca-Furer.

²⁵ Id. at 422-423.

²⁶ Id. at 424.

²⁷ Id. at 481.

²⁸ Id. at 68-69.

²⁹ Id. at 668.

³⁰ Id. at 483.

serve the remaining defendants with summons by publication. However, the motion was denied on July 13, 2015 for failure to comply with some formal requirements.

On August 25, 2015, the Republic filed another motion to serve summons by publication upon other additional defendants.³¹ Meantime, the Sandiganbayan scheduled the case anew for preliminary conference and pre-trial on September 7, 8, and 10, 2015, but the Republic moved to cancel it again on August 28, 2015 to allow service of summons upon all the remaining unserved defendants. The Sandiganbayan granted the motion in a Resolution dated September 3, 2015. On September 11, 2015, the Sandiganbayan also granted the Republic's motion dated August 25, 2015, and deferred the proceedings to allow the service of summons upon defendants who, on record, had not been previously served with summons. The grant of the motion was accompanied by an order for the Republic to submit proof of publication upon its completion.³²

On February 3, 2016, the Republic filed another motion to serve alias summons by publication on the remaining unserved defendants,³³ which the Sandiganbayan likewise granted in a Resolution dated March 7, 2016.

Finally, on May 4, 2016, the Republic filed its Compliance (Re: Order dated September 11, 2015, in relation to Resolution dated March 7, 2016),³⁴ manifesting the publication of the alias summons.

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³¹ Id. at 669, 487-489. These defendants were: (1) Meralco; (2) RFR Development Corp.; (3) Hilarion Maglabe; (4) Teresa G. Osorio; (5) Atty. Jose Elegir; (6) Jacober R. Mabanag; (7) Heir of Antonio Osorio, namely, Irene Osorio; (8) Heirs of Rosa Gonzales, namely, Leonarda Palanca-Aranas, Severina Palanca, Macarion G. Palanca, Antonio G. Palanca, and Milagros Palanca-Furer; (9) Heirs of Justo Palanca, namely, Gladys Palanca-Lenon, Angelita Palanca, Rosemarie Palanca, Lily Palanca-Periquet, Elesita Palanca-Lim, Lulu Palanca-Castano; (10) Heirs of Emelita Reyes, namely, Maxima Reyes vda. De Lee and Atty. Robert V. San Jose; (11) Heirs of Leopoldo Aguinaldo; (12) Law Firm of San Jose, Enriquez, Lacas, Santos & Borja; (13) Atty. Sergio D. Vendero; (14) Constancia C. Silan; and (15) Teodora A. Agrimano.

³² Id. at 487-489.

³³ Id. at 502-503. These defendants were: (1) Teresa G. Osorio; (2) Atty. Jose Elegir; (3) Jacober R. Mabanag; (4) Heir of Antonio Osorio, namely, Irene Osorio; (5) Heirs of Rosa Gonzales, namely, Leonarda Palanca-Aranas, Severina Palanca, Macarion G. Palanca, Antonio G. Palanca, and Milagros Palanca-Furer; (6) Heirs of Justo Palanca, namely, Gladys Palanca-Lenon, Angelita Palanca, Rosemarie Palanca, Lily Palanca-Periquet, Elesita Palanca-Lim, Lulu Palanca-Castano, (7) Heirs of Emelita Reyes, namely, Maxima Reyes vda. De Lee and Atty. Robert V. San Jose; (8) Heirs of Leopoldo Aguinaldo; (9) Law Firm of San Jose, Enriquez, Lacas, Santos & Borja; (10) Atty. Sergio D. Vendero; (11) Constancia C. Silan; and (12) Teodora A. Agrimano.

³⁴ Id. at 507-511.

Thereafter, in its assailed Minute Resolution³⁵ dated October 18, 2016, the Sandiganbayan dismissed the case for failure to prosecute for an unreasonable length of time. The dismissal was grounded upon the Republic's failure to set the case for pre-trial five (5) months after having manifested that summons were already served by publication. The Republic moved for reconsideration, but was denied in the assailed Resolution³⁶ dated July 17, 2017.

The Republic is now before this Court, questioning the summary dismissal of the case mainly on the ground of its alleged failure to schedule it pre-trial. The Republic argues that it was premature to set the case for pre-trial because most of the defendants have yet to file their Answers. The service of summons is not even completed because the Sandiganbayan has not ordered the complementary service through registered mail at the last known addresses as required under the Rules. Hence, there was no basis for the Sandiganbayan to dismiss the case *motu proprio*.³⁷

On the other hand, only respondents SMIC, TRDC, Heirs of Manuel Maglabe, and Teodoro Agrimano filed their separate Comments.³⁸ They uniformly counter that the dismissal was proper for the Republic's failure to prosecute as demonstrated by the fact that it was still in the process of serving summons twenty (20) years after the filing of the petition. They also blame the Republic for the defective service of summons by publication, arguing that it was the Republic's obligation to cause the complementary service of summons by registered mail.

ISSUE

Did the Sandiganbayan err in dismissing the Republic's petition for failure to prosecute?

RULING

We rule in the affirmative.

In dismissing the case for failure to prosecute after summons to numerous defendants were finally published in accordance with its orders, the Sandiganbayan ratiocinated that:

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³⁵ Id. at 14-15.

³⁶ Id. at 125-130.

³⁷ Id. at 24-122.

³⁸ Id. at 577-594; 665-683; 1747-1763.

A period of more than five (5) months has elapsed since the [Republic] submitted on May 4, 2016 its *Compliance* on the publication of the summons to some of the defendants. **Had the summoned defendants filed their Answers, they could have done so by May 19, 2016, which meant that the [Republic] should have set the case for pre-trial not long after that time.** However, it did not do so.

In the case of *Bank of the Philippine Islands vs. Spouses Roberto and Teresita Genuino*, the Supreme Court stated:

A.M. No. 03-1-09-SC does not remove the plaintiff's duty under Rule 18, Section 1 of the Rules of Court to promptly move *ex-parte* to set his or her case for pre-trial after the last pleading has been served and filed. While pre-trial promotes efficiency in court proceedings and aids in decongesting dockets, A.M. No. 03-1-09-SC did not give sole burden on the courts to set cases for pre-trial.

A.M. No. 03-1-09-SC, providing that **'[w]ithin five (5) days from date of filing of the reply, the plaintiff must promptly move *ex parte* that the case be set for pre-trial conference [and] [i]f the plaintiff fails to file said motion within the given period, the Branch COC shall issue a notice of pre-trial,'** must be read together with Rule 17, Section 3 of the Rules of Court on dismissals due to plaintiff's fault. Plaintiff should thus sufficiently show justifiable cause for its failure to set the case for pre-trial; otherwise, the court can dismiss the complaint outright.

Based on the above ruling, the Court is constrained to dismiss, as it hereby DISMISSES, the case for failure to prosecute.

SO ...

ORDERED.³⁹ (Citation omitted and emphases supplied)

In its assailed Resolution⁴⁰ dated July 17, 2017, the Sandiganbayan also pointed out the pendency of the case for 20 years, and the leniency it had extended to the Republic by the grant of its motions. According to the Sandiganbayan, the length of time that had lapsed for the Republic to prosecute the case was unreasonable, which justifies the dismissal.⁴¹

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³⁹ Id. at 14-15.

⁴⁰ Id. at 125-130.

⁴¹ Id. at 130.

We differ.

Under Section 3, Rule 17 of the 1997 Rules of Civil Procedure, as amended, an action may be dismissed for failure to prosecute in any of the following instances:

SEC. 3. *Dismissal due to fault of plaintiff.* – If, **for no justifiable cause**, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion x x x. (Emphasis supplied)

The fundamental test for *non prosecutur* or failure to prosecute is whether, under the circumstances, the plaintiff is chargeable with want of due diligence in failing to proceed with reasonable promptitude. There must be a manifest unwillingness on the part of the plaintiff to prosecute.⁴² In *Malayan Insurance Co., Inc. v. Ipil International Inc.*,⁴³ we explained that the plaintiff's failure to prosecute gives rise to the presumption that he or she is no longer interested to obtain from the court the relief prayed for in the complaint; hence, the court is authorized to order the dismissal of the complaint on its own initiative or on motion of the defendant/s. However, such presumption is not, by any means, conclusive because the plaintiff may allege and establish a justifiable cause for such failure.⁴⁴

Here, the dismissal of the action was mainly grounded upon the Republic's failure to set the case for pre-trial five (5) months after the service of summons by publication. We agree with the Sandiganbayan that the Republic, as the plaintiff, has the duty to set the case for pre-trial under Section 1,⁴⁵ Rule 18 of the Rules and A.M. No. 03-1-09-SC;⁴⁶ and that it is only upon plaintiff's failure to do so within the given period when the clerk of court intervenes and issues a notice of

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⁴² *Roasters Philippines, Inc. v. Gaviola*, 768 Phil. 309 (2015).

⁴³ *Malayan Insurance Co., Inc. v. Ipil International Inc.*, 532 Phil. 70 (2006).

⁴⁴ *Id.*

⁴⁵ SEC. 1. *When conducted.* – After the last pleading has been served and filed, **it shall be the duty of the plaintiff to promptly move ex parte that the case be set for pre-trial.** (Emphasis supplied)

⁴⁶ Entitled "GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES," dated July 13, 2004. "Within five (5) days from the date of filing the reply, **the plaintiff must promptly move ex parte that the case be set for pre-trial conference.** If the plaintiff fails to file said motion within the given period, the Branch [Clerk of Court] shall issue a notice of pre-trial." (Emphasis supplied)

pre-trial for the efficient and prompt disposition of the case.⁴⁷ From the given circumstances, however, we find the Republic's omission to set the case for pre-trial insufficient to warrant the summary dismissal.

Foremost, the series of motions filed by the Republic and its consistent compliance with the Sandiganbayan orders to ensure the service of summons to all defendants is a clear indication of the Republic's earnest efforts and determination to pursue its case and to have it properly resolved. Its failure to set the case for pre-trial after completion of the service of summons by publication is not unfounded. The Republic had legitimate reasons to believe that it was premature to proceed to pre-trial. Under Section 1, Rule 18 of the Rules, as well as A.M. No. 03-1-09-SC, the setting of the case for pre-trial presupposes that the defendant/s had already filed a responsive pleading:

Section 1, Rule 18 of the Rules:

SEC. 1. *When conducted.* – **After the last pleading has been served and filed**, it shall be the duty of the plaintiff to promptly move *ex parte* that the case be set for pre-trial. (Emphasis supplied)

A.M. No. 03-1-09-SC:

Within five (5) days **from the date of filing the reply**, the plaintiff must promptly move *ex parte* that the case be set for pre-trial conference. If the plaintiff fails to file said motion within the given period, the Branch [Clerk of Court] shall issue a notice of pre-trial. (Citations omitted and emphasis supplied)

Here, it is undisputed that only five (5) out of at least 40 defendants have filed their Answers.⁴⁸ In the assailed Resolution dated October 18, 2016, the Sandiganbayan merely assumed that all defendants had already filed their Answers given that five (5) months had passed since the Republic's manifestation that all defendants were already served with summons by publication. It was an error on the part of the Sandiganbayan to expect defendants, who were served with summons by publication, to have already filed their Answers because such service was still incomplete and defective due to the lack of

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⁴⁷ Note that Section 1, Rule 18 of the Rules of Court, as amended by A.M. No. 19-10-20-SC dated October 15, 2019, which imposes upon the clerk of court the duty to set the case for pre-trial, was not yet in force during the occurrences in this case. See *Allied Banking Corporation v. Spouses Madriaga*, G.R. No. 196670, October 12, 2016; and *Roasters Philippines, Inc. v. Gaviola*, *supra* note 42.

⁴⁸ *Rollo*, pp. 577-594; 665-683; 1747-1763.

complementary service.⁴⁹ Under the Rules,⁵⁰ service of summons by publication must be complemented by its service through registered mail to the defendant's last known address.⁵¹ There is no showing that such complementary service was done in this case, rendering the service of summons by publication incomplete and defective.⁵² Hence, it was indeed premature to proceed to pre-trial. The failure to accomplish the complementary service cannot be entirely attributed to the Republic when the Sandiganbayan merely required it to submit 'proof of publication,'⁵³ which the Republic had promptly complied. Verily, it would have been more prudent for the Sandiganbayan to have required the Republic to comply with the complementary service of summons, and thereafter, to submit proof of such compliance instead of hastily dismissing the case altogether as '[i]t is [actually] the duty of the court to require the fullest compliance with all the requirements of the statute permitting service by publication.'⁵⁴

Neither can the prolonged service of summons be wholly taken against the Republic since the Sandiganbayan itself had repeatedly permitted the deferment of the proceedings by granting several of the Republic's motion to complete the service of summons.

All told, there is no showing that the Republic's failure to set the case for pre-trial was due to an apparent scheme to delay the

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⁴⁹ See *Sahagun v. Court of Appeals*, 275 Phil. 51 (1991).

⁵⁰ 1997 RULES OF CIVIL PROCEDURE, RULE 14, SEC. 15. *Extraterritorial service*. — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent, or in which the relief demanded consists, wholly or in part, in excluding the defendant from any interest therein, or the property of the defendant has been attached within the Philippines, service may, by leave of court, be effected out of the Philippines by personal service as under section 6; or by publication in a newspaper of general circulation in such places and for such time as the court may order, **in which case a copy of the summons and order of the court shall be sent by registered mail to the last known address of the defendant, or in any other manner the court may deem sufficient.** Any order granting such leave shall specify a reasonable time, which shall not be less than sixty (60) days after notice, within which the defendant must answer. (Emphasis supplied)

RULE 14, SEC. 19. *Proof of service by publication*. — **If the service has been made by publication, service may be proved by the affidavit of the printer, his foreman or principal clerk, or of the editor, business or advertising manager, to which affidavit a copy of the publication shall be attached and by an affidavit showing the deposit of a copy of the summons and order for publication in the post office, postage prepaid, directed to the defendant by registered mail to his last known address.** (Emphasis supplied)

⁵¹ See *Santos, Jr. v. PNOC Exploration Corporation*, 587 Phil. 713 (2008); and *Sahagun v. Court of Appeals*, *supra* note 49.

⁵² *Id.*

⁵³ *Rollo*, pp. 487-489.

⁵⁴ *Sahagun v. Court of Appeals*, *supra* note 49 citing *Dulap v. Court of Appeals*, 149 Phil. 636 (1971), citing *Bachrach Garage and Taxicab Co. v. Hotchkiss & Co.*, 34 Phil. 506 (1916).

proceedings or to flagrantly transgress the rules.⁵⁵ As well, the protracted process cannot be entirely attributed to the Republic. The given circumstances impel this Court to rule that the Sandiganbayan should have exercised its discretion differently from how it acted. Time and again, we have reminded courts to exercise its power to summarily dismiss cases with caution:

The power of the trial court to dismiss an action for *non-prosequitur* is not without its limits. **If a pattern or scheme to delay the disposition of the case or a wanton failure to observe the mandatory requirement of the rules on the part of the plaintiff is not present, as in this case, courts should not wield their authority to dismiss.** Indeed, while the dismissal rests on the prerogative of the trial court, it must soundly be exercised not be abused, as there must be sufficient reason to justify its extinctive effect on the plaintiff's cause of action. Deferment of proceedings may be tolerated so that the court, aimed at a just and inexpensive determination of the action, may adjudge cases only after a full and free presentation of all the evidence by both parties. In this regard, **courts are reminded to exert earnest efforts to resolve the matters before them on the merits, and adjudicate the case in accord with the relief sought by the parties so that appeals may be discouraged; otherwise, in hastening the proceedings, they further delay the final settlement of the case.**⁵⁶ (Emphases supplied)

Such precaution is especially true in cases involving ill-gotten wealth as we have held in *Republic v. Sandiganbayan*:⁵⁷

In all cases involving ill-gotten wealth brought by or against the [PCGG], it is the policy of this Court to set aside technicalities and formalities that serve merely to delay impede their judicious resolution. This Court prefers to have such cases resolved on the merits before the Sandiganbayan. Substantial justice to all parties, not mere legalisms or perfection of form, should now be relentlessly pursued. x x x The definitive resolution of such cases on the merits is x x x long overdue. If there is adequate proof of illegal acquisition, accumulation, misappropriation, fraud or illicit conduct, let it be brought out now. Let the titles over these properties be finally determined and quieted down with all reasonable speed, free of delaying technicalities and annoying procedural sidetracks. (Emphasis supplied)

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⁵⁵ *Acance v. Court of Appeals*, 493 Phil. 676 (2005).

⁵⁶ *Malayan Insurance Co., Inc. v. Ipil International Inc.*, *supra* note 43 citing *Belonio v. Rodriguez*, 504 Phil. 126 (2005).


⁵⁷ 336 Phil. 304 (1997).

FOR THESE REASONS, the Petition for Review on *Certiorari* is **GRANTED**. The assailed Resolutions dated October 18, 2016 and July 17, 2017 of the Sandiganbayan's First Division are **REVERSED**. Civil Case No. 0173 is **REMANDED** to the Sandiganbayan's First Division, which is **DIRECTED** to order compliance with the rules on the complementary service of summons, and thereafter, to proceed accordingly with reasonable dispatch.

The letter dated April 29, 2021 of Atty. Augusto Leon A. Macatangay of Siguion Reyna Montecillo & Ongsiako, stating that their firm represents the Heirs of Ramon Palanca, Francisca Aguinaldo-Jacinto, Rodrigo O. Aguinaldo, and Regina O. Aguinaldo in the instant case and requesting information as to which Division and/or *ponente* said consolidated cases were assigned is **NOTED**.

SO ORDERED." *Gesmundo, C.J., no part; Hernando, J., designated additional Member per Raffle dated February 15, 2021.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *m4/21*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
210-A

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

PRESIDENTIAL COMMISSION ON
GOOD GOVERNANCE
2nd Floor, IRC Building
82 EDSA, 1550 Mandaluyong City

SANDIGANBAYAN
Centennial Building
Commonwealth Avenue
1126 Quezon City
(Civil Case No. 0173)

1stdiv.sb@judiciary.gov.ph
sbjrd2020@gmail.com

CORPUZ EJERCITO MACASAET
RIVERA LAW OFFICES
Counsel for Resp. Petrochemical
Investment Corp.
Unit 1404, 14/F Centerpoint Building
Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

BENGZON NARCISO CUDALA
JIMENEZ GONZALES & LIWANG
LAW FIRM
Counsel for Resps. Del Morales
6th Floor, SOL Building, Amorsolo Street
Legaspi Village, 1229 Makati City

Nieves C. Primicias
Respondent
#27 10th Street, New Manila
1100 Quezon City

Amparo Roldan Osorio & Doris Murallon
Respondents
c/o Heirs of Natividad Osorio
506 Ayala Alabang
1780 Muntinlupa City

Constancia C. Silan
Respondent
Brgy. Kaybagal, 4120 Tagaytay City

Joel F. Macabata & Quintin N. Mendoza
Respondents
Brgy. Maharlika, 4120 Tagaytay City

ESPINA & YUMUL-ESPINA
Counsel for Resp. T. Agrimano
Unit 908, Entrata Urban Tower 1
2609 Civic Drive, Filinvest Corporate City
Alabang, 1780 Muntinlupa City

Atty. Reynaldo Dimayacyac
Counsel for Resp. F. Panganiban
G/F, Rizalina 2 Building, 1675 Quezon
Avenue, 1100 Quezon City

Irene Osorio
Respondent – Heir of Antonio Osorio
No. 52 Ubay Street, Sta. Mesa Heights
1102 Quezon City

Leonarda Palanca-Aranas, Severina
Palanca & Antonio Palanca
Respondents – Heirs of Rosa Gonzales
No. 2674 Taft Avenue, Malate
1004 Manila

Carlos Palanca, Jr.
Respondent – Heir of Rosa Gonzales
No. 1227 Acacia Road, Dasmariñas
Village, 1221 Makati City

Macario Palanca
Respondent – Heir of Rosa Gonzales
No. 1238 Acacia Road, Dasmariñas
Village, 1221 Makati City

SIGUION REYNA MONTECILLO
& ONGSIAKO
Counsel for Resps. Heirs of Roman
Palanca & Resps. Heirs of N. Osorio
namely; Francisca Aguinaldo-Jacinto,
Rodrigo Aguinaldo & Regina Aguinaldo
4th & 6th Floors, Citibank Center
8741 Paseo de Roxas, 1226 Makati City

YORAC⁺ SARMIENTO ARROYO
CHUA⁺ CORONEL & REYES
LAW FIRM
Counsel for Resps. SM Investment
& Tagaytay Resort
Unit 3103 –A West Tower, Philippine
Stock Exchange Centre, Exchange Road
Ortigas Center, 1605 Pasig City

CRUZ ENVERGA & LUCERO
Counsel for Resps. Heirs of M. Maglabe
25th Floor, Cityland 10 Tower I
6815 Ayala Avenue North
1226 Makati City

Atty. Florencio A. Bron
Counsel for Resp. C. Aribal
Suiote 303, A.P. Acuesta Building
819 Aurora Boulevard cor. Lantan Street
Cubao, 1109 Quezon City

Atty. Gerardo I. Payno, Jr.
Co-Counsel for Resp. C. Aribal
52 R. Lagmay Street, 1500 San Juan City

Atty. Christopher B. Arpon
Counsel for Resp. Manila Electric
Company
8th Floor, Lopez Building
Ortigas Avenue, 1600 Pasig City

Atty. Jose E. Elegir, Teresa Osorio
& Jacobe Mabanag
Respondents
c/o Atty. Jose E. Elegir
182 Prudencio Extension, Sampaloc
1008 Manila

RFR Corporation
Respondent
7849 Ventures I Building, Gen. Luna
1200 Makati City

Milagros Palanca-Furer
Respondent – Heir of Rosa Gonzales
Apt. 71-A, Rue Robert de Traz
No. 7, 1206 Geneva, Switzerland

Gladys Palanca-Lenon
Respondent – Heir of Justo Palanca
No. 7225 Marcelo Avenue
Marcelo Green Village
1700 Parañaque City

Angelita (a.k.a. Amelita) Palanca,
Rosemarie Palanca &
Elesita Palanca-Lim
Respondents – Heirs of Justo Palanca
2656 Taft Avenue, Malate, 1004 Manila

Lily Palanca - Periquet
Respondent – Heir of Justo Palanca
No. 3227 Tinalo Street, United Parañaque
1700 Parañaque City

Lulu Palanca-Castano
Respondent – Heir of Justo Palanca
No. 1038 Bulacan Street, Gagalangin
Tondo 1012 Manila

Hilarion R. Maglabe
Respondent
(Deceased)

LAW FIRM OF SAN JOSE ENRIQUEZ
LACAS SANTOS & BORJA
Counsel for Resps. Heirs of Emilia Reyes,
Heirs of Leopoldo Aguinaldo, Atty.
Sergio D. Vendero & the Law Firm
No. 730 Pablo Ocampo Street, Malate
1004 Manila

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