

Recovered wealth lifts sequestration

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THE main objective of sequestering firms suspected to have been acquired with ill-gotten wealth in the regime of Ferdinand Marcos is to return the assets to the state.

When that purpose is accomplished, the sequestration is deemed lifted. But not in the case of Philippine Overseas Telecommunications Corp. and its subsidiaries, Philippine Telecommunications Satellite Corp. and Philcomsat Holdings Corp.

The story is the late Jose Y. Campos surrendered two companies - Mid Pasig Land Development Corp. and Independent Realty - to the PCGG claiming that he was holding them on behalf of Ferdinand Marcos and his family.

The late Potenciano Ilusorio believed that the 40 percent shares of these two companies in POTC were forcibly taken away from him by the Marcoses. He questioned the "theft".

After 18 long years a compromise agreement was arrived at. The government of Fidel Ramos approved the settlement and gave 5 percent of the 40 percent to Potenciano Ilusorio.

Finally, the Supreme Court ordered that the remaining 34.9 percent be taken by the state and a stock certificate in the name of the Republic of Philippines was written out covering the 34.9 percent.

Why should the Supreme Court approve the settlement and give Ilusorio 5 percent under a compromise settlement if there was no belief and knowledge that the shares - all of 40 percent - did belong to him.

Ilusorio accepted the settlement agreement under duress. He was tagged as a Marcos crony although Mrs. Marcos hated him with a passion.

In any case, the main point is the government recovered the so-called ill-gotten wealth surrendered by Jose Y. Campos. It must be presumed that the rest of the shares belonged to the beneficial stockholders.

Since the PCGG had recovered the ill-gotten wealth, the purpose of sequestration was completely accomplished.

It is not a small source of wonder that up to this day, the PCGG considers the rest of the shares still under sequestration. Which means that the good government body continues to suspect that these shares may be ill-gotten but it does not have a shred of evidence to prove the claim.

Strangely, the government itself removed the basis for such suspicion.

In PCGG Resolution No. 2008-012, the PCGG states "the commission, after careful evaluation agreed that in as much as the government-owned and sequestered shares constitute a minority of the shareholdings of POTC, and considering that the Republic of the Philippines is represented in the board of directors of POTC and Philcomsat, there

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is no further need to appoint, assign or designate or maintain the authority of the PCGG controllers in said corporations.

"Moreover, the PCGG cannot claim sequestration of 7.9 percent or 1,067 shares of POTC and Philcomsat. This is because the bulk of such shares or 968 POTC shares belong to Polygon Investors & Managers Corp. whose sequestration has been nullified by the Supreme Court in at least two decisions."

These resolutions were cited by Lorna Kapunan, chief legal counsel of POTC group in a letter to Andres Bautista, new PCGG chairman, asking the latter for the authority that authorizes the good government body to allow nominees in sequestered corporations to choose their replacements, in compliance with Executive Order No. 42 issued recently by Executive Secretary Paquito Ochoa.

The letter had not been answered as of Aug. 23.

To further strengthen the fact of POTC and Philcomsat being no longer under sequestration, Justice Secretary Leila de Lima wrote Bautista on Nov. 4, 2010 telling him "you are hereby directed to immediately implement PCGG Resolution No. 2007-024 by immediately transferring to the DOF, for its proper disposition, POTC Stock Certificate No. 131 (representing the shares that the Supreme Court ruled belongs to the Republic of the Philippines). Corollary to this is the lifting of the sequestration orders, if any that cover the 4,727 shares of stock of the Republic in POTC."

The letter of Kapunan to Bautista asks for authority under which the PCGG wants to nominate its representatives to POTC, Philcomsat and Philcomsat Holdings. The letter written on July 15, 2011, has not been answered.

On the contrary, Bautista wrote the companies sometime back, after Ochoa issued Executive Order No. 42, asking how the PCGG can cooperate in smoothly running or operating the three companies with its representatives.

Bautista does not seem to understand the fact that the government has already recovered what it suspects as ill-gotten wealth in the PCGG. In fact, it may even be said that the beneficial owners of POTC principally Potenciano Ilusorio were the aggrieved parties in the sequestration orders issued as early as 1986.

The letter of Kapunan was answered on July 26, 2011 by Richard T. Amurao, PCGG Commissioner. The letter is a mumbo jumbo we cannot make head or tail of.

Kapunan was talking peaches. Amurao was talking apples. This space will write about the Amurao letter in a separate piece.

Meanwhile, Bautista seems to be hell bent on complying with Executive Order No. 42 issued by Executive Secretary Paquito Ochoa. As if Ochoa himself did not have the proper background of the case, his executive order failed to nullify (if he has authority to do so) the previous resolutions of the PCGG practically lifting or nullifying the sequestrations precisely because the government has recovered what is suspected as ill gotten wealth.

In fact, the recovered shares covered by a stock certificate has been turned over to the Department of Finance, presumably for privatization. Yet, Bautista lumps together sequestered shares with surrendered shares. The PCGG has no authority or control over them as far as the POTC group is concerned.