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SC orders return of P700-M 'loot'

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THE Supreme Court on August 1 ordered the return of an alleged P717.7 million worth of "loot" to the rightful owners of Philippine Overseas Telecommunications Corp. (POTC) and its subsidiaries.

The first division of the Court unanimously "directs the Locsin/Nieto-PCGG Group to render an accounting of all the funds and other assets received from the POTC, Philcomsat Holdings Corp. and Philippine Communications Satellite Corp. since September 1, 2004 and to return such funds to the respective corporations within thirty days from the finality of this decision."

Associate Justice Lucas Bersamin, the ponente, carried the support of the four other members of the first division headed by Chief Justice Maria Lourdes P.A. Sereno, Associate Justices Arturo D. Brion, Martin S. Villarama Jr. and Bienvenido L. Reyes.

The "embezzled" or "looted" amount in the computation of Lin Ilusorio Bildner, who now represents her father's family,

totalled P717.7 million consisting of "unreported, excessive compensation" to PCGG nominees (Benito Araneta, Enrique Locsin, Manuel Andal, J. Jalandoni, Guy de Leon, and Concepcion-Poblador, their relatives (R. Abad) lawyers Luis Lokin, R. San Jose and alleged cohorts Philip Brodett, acting as PHC directors, P279.2 million; "theft of corporate cash" through unliquidated cash advances without disbursement vouchers or authorization, P44.7 million; "fraudulent legal fees" including legal fees billed by non-lawyers, P91 million; "payments and cash gifts to government agencies and judiciary", P17 million; "PR and media funds", P56.1 million; donations/contributions to political, religious, philanthropic causes, P7.2 million; "accounting fraud" in the form of booking operating expenses as 'advances' to affiliates, P122 million, use of a call center that had to be written off after being used as siphon vehicles, P100 million. The case arose from what the complainants—the

Bildner Group that owns 51 per cent of POTC—alleged as the refusal of the Locsin/Nieto-PCGG group to recognize the validity of the election of the board of directors of Philcomsat Holdings held on April 24, 2007.

The election of the board was based on a writ of execution issued by a regional trial court.

However, it turned out that the proxy was recognized in favor of the Nieto Group. As a result, the members of the Nieto group including Manuel Andal and Enrique Locsin were elected to the board.

There was a controversy over the 40 per cent POTC shares surrendered by Jose Y. Campos. The Nieto group contended that they had the majority considering that the 40 percent was to be used by them.

On the other hand, the group of Erlinda Ilusorio Bildner insisted that the shares surrendered totaled only 35 percent because 5 percent of those shares was awarded to Potenciano Ilusorio in a compromise agreement. There is a stock certificate in the name of the Republic of the Philippines saying that the state had shares equivalent to 35 percent.

The complexion of stockholders changed, resulting in the Ilusorio Group (represented by daughter Erlinda Bildner), Africa, Poblador, Benedicto and Ponce Enrile families controlling POTC to the extent of 51.37 percent.

PCGG together with IRC and Mid Pasig own 34.94 percent; Nieto family, 13.12 percent; and Elizalde family, 0.57 percent.

Following the surrender, Potenciano Ilusorio, original founder of POTC entered into a compromise agreement with the government, claiming that his shares were confiscated on orders of Mrs. Imelda Marcos and transferred to the two corporations entrusted to Campos, now deceased.

The compromise agreement gave Ilusorio 5 percent of the 40 percent held by Mid Pasig and IRC. The agreement was approved by then President Ramos and made legal by the Supreme Court in 2005.

The Nieto Group, however, insisted that the government had 40 percent of POTC shares.

Eventually, then President Gloria Arroyo transferred control and supervision of the PCGG from the Office of the President to the Department of Justice. She named new government representative to the company's boards, not as sequestrators but as representatives of the government being a 35 percent stockholder of POTC.

The Nieto group, however, continued to consider POTC and its subsidiaries, particularly Philcomsat Holdings which is 81 percent owned by Philcomsat as under sequestration and effectively run by the Nieto/Locsin-PCGG group.

The records show that the PCGG removal from the companies lasted only three years until 2011. The new PCGG chairman, Andres Bautista, decided to come back to the PCGG and wanted a seat for himself in PHC which is not even sequestered.

In fact, according to Ms. Bildner, only 8 percent of the shares of POTC is sequestered. The sequestration of 40 percent owned by the Marcos family but held by Jose Y. Campos, became equity of the state although under a compromise agreement, 5 percent of the shares was awarded to Potenciano Ilusorio.

In effect, the issue of ill-gotten wealth was resolved in favor of the state.

Ms. Bildner insists that the nominees of government sit as representatives of the state having 35 percent equity.

In the three-year period that management of the companies under the majority headed by Mrs. Bildner, the companies started regaining financial strength although the P800 million capital of PHC advanced by POTC, allegedly began to disappear.

"More importantly," she said, "the cash reserves of PHC (Philcomsat Holdings Corp.) was being rebuilt back to its previous levels through a unified board composed of representatives of the Republic being a 35 cent investor and the private group led by Ms. Bildner."

In spite of its own resolution to relinquish the POTC shares (from sequestration) and the order of Justice Secretary Leila de Lima to lift the sequestration, the PCGG under Bautista was steadfast in maintaining the status quo—that is considering the shares sequestered and seeking a board seat in POTC.

Ms. Bildner contends that Bautista can sit in the board of POTC to represent the state, not as sequestrator since the issue of ill-gotten wealth has been resolved by the surrender of 35 percent of the shares of the two companies to the PCGG.

She explained that the financial records of PHC "are skimpy; their accounting is flawed and inadequate, and, none of PHC's general vouchers for hundreds of millions of pesos in disbursements carry authorized signatures."

She also explained that the 100 or so hectares of real estate in Tanay, Rizal, site of the earth station of POTC, is an asset of PHC. However, she said, the PCGG caused annotation of titles making it impossible to sell the asset although many buyers have expressed interest in buying the land before their titles were annotated and made to appear they are sequestered.

In several occasions, Ms. Bildner dared the PCGG to produce documents showing that PHC is a sequestered company. She claimed she was ignored without any explanation.