

EN BANC

[G.R. No. 104768. July 21, 2003.]

REPUBLIC OF THE PHILIPPINES, *petitioner*, **vs. SANDIGANBAYAN,**
MAJOR GENERAL JOSEPHUS Q. RAMAS and **ELIZABETH DIMAANO**,
respondents.

The Solicitor General for petitioner.

Luisito G. Baluyut for respondent Ramas.

Armando S. Banaag for respondent Dimaano.

DECISION

CARPIO, J :

The Case

Before this Court is a petition for review on *certiorari* seeking to set aside the Resolutions of the Sandiganbayan (First Division) ¹ dated 18 November 1991 and 25 March 1992 in Civil Case No. 0037. The first Resolution dismissed petitioner's Amended Complaint and ordered the return of the confiscated items to respondent Elizabeth Dimaano, while the second Resolution denied petitioner's Motion for Reconsideration. Petitioner prays for the grant of the reliefs sought in its Amended Complaint, or in the alternative, for the remand of this case to the Sandiganbayan (First Division) for further proceedings allowing petitioner to complete the presentation of its evidence.

Antecedent Facts

Immediately upon her assumption to office following the successful EDSA Revolution, then President Corazon C. Aquino issued Executive Order No. 1 ("EO No. 1") creating the Presidential Commission on Good Government ("PCGG"). EO No. 1 primarily tasked the PCGG to recover all ill-gotten wealth of former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates. EO No. 1 vested the PCGG with the power "(a) to conduct investigation as may be necessary in order to accomplish and carry out the purposes of this order" and the power "(h) to promulgate such rules and regulations as may be necessary to carry out the purpose of this order." Accordingly, the PCGG, through its then Chairman Jovito R. Salonga, created an AFP Anti-Graft Board ("AFP Board") tasked to investigate reports of unexplained wealth and corrupt practices by AFP personnel, whether in the active service or retired. ²

Based on its mandate, the AFP Board investigated various reports of alleged unexplained wealth of respondent Major General Josephus Q. Ramas ("Ramas"). On 27 July 1987, the AFP Board issued a Resolution on its findings and recommendation on the reported unexplained wealth of Ramas. The relevant part of the Resolution reads:

III. FINDINGS and EVALUATION:

Evidence in the record showed that respondent is the owner of a house and lot located at 15-Yakan St., La Vista, Quezon City. He is also the owner of a house and lot located in Cebu City. The lot has an area of 3,327 square meters.

The value of the property located in Quezon City may be estimated modestly at P700,000.00.

The equipment/items and communication facilities which were found in the premises of Elizabeth Dimaano and were confiscated by elements of the PC Command of Batangas were all covered by invoice receipt in the name of CAPT. EFREN SALIDO, RSO Command Coy, MSC, PA. These items could not have been in the possession of Elizabeth Dimaano if not given for her use by respondent Commanding General of the Philippine Army.

Aside from the military equipment/items and communications equipment, the raiding team was also able to confiscate money in the amount of P2,870,000.00 and \$50,000 US Dollars in the house of Elizabeth Dimaano on 3 March 1986.

Affidavits of members of the Military Security Unit, Military Security Command, Philippine Army, stationed at Camp Eldridge, Los Baños, Laguna, disclosed that Elizabeth Dimaano is the mistress of respondent. That respondent usually goes and stays and sleeps in the alleged house of Elizabeth Dimaano in Barangay Tengga, Itaas, Batangas City and when he arrives, Elizabeth Dimaano embraces and kisses respondent. That on February 25, 1986, a person who rode in a car went to the residence of Elizabeth Dimaano with four (4) attaché cases filled with money and owned by MGen Ramas.

Sworn statement in the record disclosed also that Elizabeth Dimaano had no visible means of income and is supported by respondent for she was formerly a mere secretary.

Taking *in toto* the evidence, Elizabeth Dimaano could not have used the military equipment/items seized in her house on March 3, 1986 without the consent of respondent, he being the Commanding General of the Philippine Army. It is also impossible for Elizabeth Dimaano to claim that she owns the P2,870,000.00 and \$50,000 US Dollars for she had no visible source of income.

This money was never declared in the Statement of Assets and Liabilities of respondent. There was an intention to cover the existence of these money because these are all ill-gotten and unexplained wealth. Were it not for the affidavits of the members of the Military Security Unit assigned at Camp Eldridge, Los Baños, Laguna, the existence and ownership of these money would have never been known.

The Statement of Assets and Liabilities of respondent were also submitted for scrutiny and analysis by the Board's consultant. Although the amount of P2,870,000.00 and \$50,000 US Dollars were not included, still it was disclosed that respondent has an unexplained wealth of P104,134.60.

IV. CONCLUSION:

In view of the foregoing, the Board finds that *prima facie* case exists against respondent for ill-gotten and unexplained wealth in the amount of

P2,974,134.00 and \$50,000 US Dollars.

V. RECOMMENDATION:

Wherefore it is recommended that Maj. Gen. Josephus Q. Ramas (ret.) be prosecuted and tried for violation of RA 3019, as amended, otherwise known as "Anti-Graft and Corrupt Practices Act" and RA 1379, as amended, otherwise known as "The Act for the Forfeiture of Unlawfully Acquired Property." ³

Thus, on 1 August 1987, the PCGG filed a petition for forfeiture under Republic Act No. 1379 ("RA No. 1379") ⁴ against Ramas.

Before Ramas could answer the petition, then Solicitor General Francisco I. Chavez filed an Amended Complaint naming the Republic of the Philippines ("petitioner"), represented by the PCGG, as plaintiff and Ramas as defendant. The Amended Complaint also impleaded Elizabeth Dimaano ("Dimaano") as co-defendant.

The Amended Complaint alleged that Ramas was the Commanding General of the Philippine Army until 1986. On the other hand, Dimaano was a confidential agent of the Military Security Unit, Philippine Army, assigned as a clerk-typist at the office of Ramas from 1 January 1978 to February 1979. The Amended Complaint further alleged that Ramas "acquired funds, assets and properties manifestly out of proportion to his salary as an army officer and his other income from legitimately acquired property by taking undue advantage of his public office and/or using his power, authority and influence as such officer of the Armed Forces of the Philippines and as a subordinate and close associate of the deposed President Ferdinand Marcos." ⁵

The Amended Complaint also alleged that the AFP Board, after a previous inquiry, found reasonable ground to believe that respondents have violated RA No. 1379. ⁶ The Amended Complaint prayed for, among others, the forfeiture of respondents' properties, funds and equipment in favor of the State.

Ramas filed an Answer with Special and/or Affirmative Defenses and Compulsory Counterclaim to the Amended Complaint. In his Answer, Ramas contended that his property consisted only of a residential house at La Vista Subdivision, Quezon City, valued at P700,000, which was not out of proportion to his salary and other legitimate income. He denied ownership of any mansion in Cebu City and the cash, communications equipment and other items confiscated from the house of Dimaano.

Dimaano filed her own Answer to the Amended Complaint. Admitting her employment as a clerk-typist in the office of Ramas from January–November 1978 only, Dimaano claimed ownership of the monies, communications equipment, jewelry and land titles taken from her house by the Philippine Constabulary raiding team.

After termination of the pre-trial, ⁷ the court set the case for trial on the merits on 9-11 November 1988.

On 9 November 1988, petitioner asked for a deferment of the hearing due to its lack of preparation for trial and the absence of witnesses and vital documents to support its case. The court reset the hearing to 17 and 18 April 1989.

On 13 April 1989, petitioner filed a motion for leave to amend the complaint in order "to charge the delinquent properties with being subject to forfeiture as having been unlawfully acquired by defendant Dimaano alone" ⁸

Nevertheless, in an order dated 17 April 1989, the Sandiganbayan proceeded with petitioner's presentation of evidence on the ground that the motion for leave to

amend complaint did not state when petitioner would file the amended complaint. The Sandiganbayan further stated that the subject matter of the amended complaint was on its face vague and not related to the existing complaint. The Sandiganbayan also held that due to the time that the case had been pending in court, petitioner should proceed to present its evidence.

After presenting only three witnesses, petitioner asked for a postponement of the trial.

On 28 September 1989, during the continuation of the trial, petitioner manifested its inability to proceed to trial because of the absence of other witnesses or lack of further evidence to present. Instead, petitioner reiterated its motion to amend the complaint to conform to the evidence already presented or to change the averments to show that Dimaano alone unlawfully acquired the monies or properties subject of the forfeiture.

The Sandiganbayan noted that petitioner had already delayed the case for over a year mainly because of its many postponements. Moreover, petitioner would want the case to revert to its preliminary stage when in fact the case had long been ready for trial. The Sandiganbayan ordered petitioner to prepare for presentation of its additional evidence, if any.

During the trial on 23 March 1990, petitioner again admitted its inability to present further evidence. Giving petitioner one more chance to present further evidence or to amend the complaint to conform to its evidence, the Sandiganbayan reset the trial to 18 May 1990. The Sandiganbayan, however, hinted that the re-setting was without prejudice to any action that private respondents might take under the circumstances.

However, on 18 May 1990, petitioner again expressed its inability to proceed to trial because it had no further evidence to present. Again, in the interest of justice, the Sandiganbayan granted petitioner 60 days within which to file an appropriate pleading. The Sandiganbayan, however, warned petitioner that failure to act would constrain the court to take drastic action.

Private respondents then filed their motions to dismiss based on *Republic v. Migrino*.⁹ The Court held in *Migrino* that the PCGG does not have jurisdiction to investigate and prosecute military officers by reason of mere position held without a showing that they are "subordinates" of former President Marcos.

On 18 November 1991, the Sandiganbayan rendered a resolution, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered dismissing the Amended Complaint, without pronouncement as to costs. The counterclaims are likewise dismissed for lack of merit, but the confiscated sum of money, communications equipment, jewelry and land titles are ordered returned to Elizabeth Dimaano.

The records of this case are hereby remanded and referred to the Hon. Ombudsman, who has primary jurisdiction over the forfeiture cases under R.A. No. 1379, for such appropriate action as the evidence warrants. This case is also referred to the Commissioner of the Bureau of Internal Revenue for a determination of any tax liability of respondent Elizabeth Dimaano in connection herewith.

SO ORDERED.

On 4 December 1991, petitioner filed its Motion for Reconsideration.

In answer to the Motion for Reconsideration, private respondents filed a Joint Comment/Opposition to which petitioner filed its Reply on 10 January 1992.

On 25 March 1992, the Sandiganbayan rendered a Resolution denying the Motion for Reconsideration.

Ruling of the Sandiganbayan

The Sandiganbayan dismissed the Amended Complaint on the following grounds:

- (1.) The actions taken by the PCGG are not in accordance with the rulings of the Supreme Court in *Cruz, Jr. v. Sandiganbayan* ¹⁰ and *Republic v. Migrino* ¹¹ which involve the same issues.
- (2.) No previous inquiry similar to preliminary investigations in criminal cases was conducted against Ramas and Dimaano.
- (3.) The evidence adduced against Ramas does not constitute a *prima facie* case against him.
- (4.) There was an illegal search and seizure of the items confiscated.

The Issues

Petitioner raises the following issues:

- A. RESPONDENT COURT SERIOUSLY ERRED IN CONCLUDING THAT PETITIONER'S EVIDENCE CANNOT MAKE A CASE FOR FORFEITURE AND THAT THERE WAS NO SHOWING OF CONSPIRACY, COLLUSION OR RELATIONSHIP BY CONSANGUINITY OR AFFINITY BY AND BETWEEN RESPONDENT RAMAS AND RESPONDENT DIMAANO NOTWITHSTANDING THE FACT THAT SUCH CONCLUSIONS WERE CLEARLY UNFOUNDED AND PREMATURE, HAVING BEEN RENDERED PRIOR TO THE COMPLETION OF THE PRESENTATION OF THE EVIDENCE OF THE PETITIONER.
- B. RESPONDENT COURT SERIOUSLY ERRED IN HOLDING THAT THE ACTIONS TAKEN BY THE PETITIONER, INCLUDING THE FILING OF THE ORIGINAL COMPLAINT AND THE AMENDED COMPLAINT, SHOULD BE STRUCK OUT IN LINE WITH THE RULINGS OF THE SUPREME COURT IN *CRUZ, JR. v. SANDIGANBAYAN*, 194 SCRA 474 AND *REPUBLIC v. MIGRINO*, 189 SCRA 289, NOTWITHSTANDING THE FACT THAT:
 1. The cases of *Cruz, Jr. v. Sandiganbayan*, *supra*, and *Republic v. Migrino, supra*, are clearly not applicable to this case;
 2. Any procedural defect in the institution of the complaint in Civil Case No. 0037 was cured and/or waived by respondents with the filing of their respective answers with counterclaim; and
 3. The separate motions to dismiss were evidently improper considering that they were filed after commencement of the presentation of the evidence of the petitioner and even before the latter was allowed to formally offer its evidence and rest its

case;

C. RESPONDENT COURT SERIOUSLY ERRED IN HOLDING THAT THE ARTICLES AND THINGS SUCH AS SUMS OF MONEY, COMMUNICATIONS EQUIPMENT, JEWELRY AND LAND TITLES CONFISCATED FROM THE HOUSE OF RESPONDENT DIMAANO WERE ILLEGALLY SEIZED AND THEREFORE EXCLUDED AS EVIDENCE. ¹²

The Court's Ruling

First Issue: PCGG's Jurisdiction to Investigate Private Respondents

This case involves a revisiting of an old issue already decided by this Court in *Cruz, Jr. v. Sandiganbayan* ¹³ and *Republic v. Migrino*. ¹⁴

The primary issue for resolution is whether the PCGG has the jurisdiction to investigate and cause the filing of a forfeiture petition against Ramas and Dimaano for unexplained wealth under RA No. 1379.

We hold that PCGG has no such jurisdiction.

The PCGG created the AFP Board to investigate the unexplained wealth and corrupt practices of AFP personnel, whether in the active service or retired. ¹⁵ The PCGG tasked the AFP Board to make the necessary recommendations to appropriate government agencies on the action to be taken based on its findings. ¹⁶ The PCGG gave this task to the AFP Board pursuant to the PCGG's power under Section 3 of EO No. 1 "to conduct investigation as may be necessary in order to accomplish and to carry out the purposes of this order." EO No. 1 gave the PCGG specific responsibilities, to wit:

SEC. 2. The Commission shall be charged with the task of assisting the President in regard to the following matters:

- (a) The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover and sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship.
- (b) The investigation of such cases of graft and corruption as the President may assign to the Commission from time to time.

xxx xxx xxx.

The PCGG, through the AFP Board, can only investigate the unexplained wealth and corrupt practices of AFP personnel who fall under either of the two categories mentioned in Section 2 of EO No. 1. These are: (1) AFP personnel who have accumulated ill-gotten wealth during the administration of former President Marcos by being the latter's immediate family, relative, subordinate or close associate, taking undue advantage of their public office or using their powers, influence . . . ; ¹⁷ or (2) AFP personnel involved in other cases of graft and corruption provided the President assigns their cases to the PCGG. ¹⁸

Petitioner, however, does not claim that the President assigned Ramas' case to

the PCGG. Therefore, Ramas' case should fall under the first category of AFP personnel before the PCGG could exercise its jurisdiction over him. Petitioner argues that Ramas was undoubtedly a subordinate of former President Marcos because of his position as the Commanding General of the Philippine Army. Petitioner claims that Ramas' position enabled him to receive orders directly from his commander-in-chief, undeniably making him a subordinate of former President Marcos.

We hold that Ramas was not a "subordinate" of former President Marcos in the sense contemplated under EO No. 1 and its amendments.

Mere position held by a military officer does not automatically make him a "subordinate" as this term is used in EO Nos. 1, 2, 14 and 14-A absent a showing that he enjoyed close association with former President Marcos. *Migrino* discussed this issue in this wise:

A close reading of EO No. 1 and related executive orders will readily show what is contemplated within the term 'subordinate.' The Whereas Clauses of EO No. 1 express the urgent need to recover the ill gotten wealth amassed by former President Ferdinand E. Marcos, his immediate family, relatives, and close associates both here and abroad.

EO No. 2 freezes 'all assets and properties in the Philippines in which former President Marcos and/or his wife, Mrs. Imelda Marcos, their close relatives, subordinates, business associates, dummies, agents, or nominees have any interest or participation.'

Applying the rule in statutory construction known *asejusdem generis* that is —

'[W]here general words follow an enumeration of persons or things by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned [*Smith, Bell & Co., Ltd. vs. Register of Deeds of Davao* 96 Phil. 53, 58, citing Black on Interpretation of Laws, 2nd Ed., 203].'

[T]he term "subordinate" as used in EO Nos. 1 & 2 refers to one who enjoys a close association with former President Marcos and/or his wife, *similar to the immediate family member, relative, and close associate in EO No. 1 and the close relative, business associate, dummy, agent, or nominee in EO No. 2.*

xxx xxx xxx

It does not suffice, as in this case, that the respondent is or was a government official or employee during the administration of former President Marcos. *There must be a prima facie showing that the respondent unlawfully accumulated wealth by virtue of his close association or relation with former Pres. Marcos and/or his wife.* (Emphasis supplied)

Ramas' position alone as Commanding General of the Philippine Army with the rank of Major General **19** does not suffice to make him a "subordinate" of former President Marcos for purposes of EO No. 1 and its amendments. The PCGG has to provide a *prima facie* showing that Ramas was a close associate of former President Marcos, in the same manner that business associates, dummies, agents or nominees of former President Marcos were close to him. Such close association is manifested either

by Ramas' complicity with former President Marcos in the accumulation of ill-gotten wealth by the deposed President or by former President Marcos' acquiescence in Ramas' own accumulation of ill-gotten wealth if any.

This, the PCGG failed to do.

Petitioner's attempt to differentiate the instant case from *Migrino* does not convince us. Petitioner argues that unlike in *Migrino*, the AFP Board Resolution in the instant case states that the AFP Board conducted the investigation pursuant to EO Nos. 1, 2, 14 and 14-A in relation to RA No. 1379. Petitioner asserts that there is a presumption that the PCGG was acting within its jurisdiction of investigating crony-related cases of graft and corruption and that Ramas was truly a subordinate of the former President. However, the same AFP Board Resolution belies this contention. Although the Resolution begins with such statement, it ends with the following recommendation:

V. RECOMMENDATION:

Wherefore it is recommended that Maj. Gen. Josephus Q. Ramas (ret.) be prosecuted and tried for violation of RA 3019, as amended, otherwise known as "Anti-Graft and Corrupt Practices Act" and RA 1379, as amended, otherwise known as "The Act for the Forfeiture of Unlawfully Acquired Property." **20**

Thus, although the PCGG sought to investigate and prosecute private respondents under EO Nos. 1, 2, 14 and 14-A, the result yielded a finding of violation of Republic Acts Nos. 3019 and 1379 without any relation to EO Nos. 1, 2, 14 and 14-A. This absence of relation to EO No. 1 and its amendments proves fatal to petitioner's case. EO No. 1 created the PCGG for a specific and limited purpose, and necessarily its powers must be construed to address such specific and limited purpose.

Moreover, the resolution of the AFP Board and even the Amended Complaint do not show that the properties Ramas allegedly owned were accumulated by him in his capacity as a "subordinate" of his commander-in chief. Petitioner merely enumerated the properties Ramas allegedly owned and suggested that these properties were disproportionate to his salary and other legitimate income without showing that Ramas amassed them because of his close association with former President Marcos. Petitioner, in fact, *admits* that the AFP Board resolution does not contain a finding that Ramas accumulated his wealth because of his close association with former President Marcos, thus:

10. While it is true that *the resolution of the Anti-Graft Board of the New Armed Forces of the Philippines did not categorically find a prima facie evidence showing that respondent Ramas unlawfully accumulated wealth by virtue of his close association or relation with former President Marcos and/or his wife, it is submitted that such omission was not fatal.* The resolution of the Anti-Graft Board should be read in the context of the law creating the same and the objective of the investigation which was, as stated in the above, pursuant to Republic Act Nos. 3019 and 1379 in relation to Executive Order Nos. 1, 2, 14 and 14-a; **21** (Italics supplied)

Such omission is fatal. Petitioner forgets that it is precisely a *prima facie* showing that the ill-gotten wealth was accumulated by a "subordinate" of former President Marcos that vests jurisdiction on PCGG. EO No. 1 **22** clearly premises the creation of the PCGG on the urgent need to recover all ill-gotten wealth amassed by former

President Marcos, his immediate family, relatives, subordinates and close associates. Therefore, to say that such omission was not fatal is clearly contrary to the intent behind the creation of the PCGG.

In *Cruz, Jr. v. Sandiganbayan*, ²³ the Court outlined the cases that fall under the jurisdiction of the PCGG pursuant to EO Nos. 1, 2, ²⁴ 14, ²⁵ 14-A: ²⁶

A careful reading of Sections 2(a) and 3 of Executive Order No. 1 in relation with Sections 1, 2 and 3 of Executive Order No. 14, shows what the authority of the respondent PCGG to investigate and prosecute covers:

- (a) the investigation and prosecution of the civil action for the recovery of ill-gotten wealth under Republic Act No. 1379, *accumulated by former President Marcos, his immediate family, relatives, subordinates and close associates*, whether located in the Philippines or abroad, including the take-over or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through his nominees, *by taking undue advantage of their public office and/or using their powers, authority and influence, connections or relationships*; and
- (b) the investigation and prosecution of such offenses committed in the acquisition of said ill-gotten wealth as contemplated under Section 2(a) of Executive Order No. 1.

However, *other violations of the Anti-Graft and Corrupt Practices Act not otherwise falling under the foregoing categories, require a previous authority of the President for the respondent PCGG to investigate and prosecute in accordance with Section 2 (b) of Executive Order No. 1. Otherwise, jurisdiction over such cases is vested in the Ombudsman and other duly authorized investigating agencies such as the provincial and city prosecutors, their assistants, the Chief State Prosecutor and his assistants and the state prosecutors.* (Emphasis supplied)

The proper government agencies, and not the PCGG, should investigate and prosecute forfeiture petitions not falling under EO No. 1 and its amendments. The preliminary investigation of unexplained wealth amassed on or before 25 February 1986 falls under the jurisdiction of the Ombudsman, while the authority to file the corresponding forfeiture petition rests with the Solicitor General. ²⁷ The Ombudsman Act or Republic Act No. 6770 ("RA No. 6770") vests in the Ombudsman the power to conduct preliminary investigation and to file forfeiture proceedings involving unexplained wealth amassed after 25 February 1986. ²⁸

After the pronouncements of the Court in *Cruz*, the PCGG still pursued this case despite the absence of a *prima facie* finding that Ramas was a "subordinate" of former President Marcos. The petition for forfeiture filed with the Sandiganbayan should be dismissed for lack of authority by the PCGG to investigate respondents since there is no *prima facie* showing that EO No. 1 and its amendments apply to respondents. The AFP Board Resolution and even the Amended Complaint state that there are violations of RA Nos. 3019 and 1379. Thus, the PCGG should have recommended Ramas' case to the Ombudsman who has jurisdiction to conduct the preliminary investigation of ordinary unexplained wealth and graft cases. As stated in *Migrino*:

[But] in view of the patent lack of authority of the PCGG to investigate and cause the prosecution of private respondent for violation of Rep. Acts Nos. 3019 and 1379, the PCGG must also be enjoined from proceeding with the case, without prejudice to any action that may be taken by the proper prosecutory agency. The rule of law mandates that an agency of government be allowed to exercise only the powers granted to it.

Petitioner's argument that private respondents have waived any defect in the filing of the forfeiture petition by submitting their respective Answers with counterclaim deserves no merit as well.

Petitioner has no jurisdiction over private respondents. Thus, there is no jurisdiction to waive in the first place. The PCGG cannot exercise investigative or prosecutorial powers never granted to it. PCGG's powers are specific and limited. Unless given additional assignment by the President, PCGG's sole task is only to recover the ill-gotten wealth of the Marcoses, their relatives and cronies. ²⁹ Without these elements, the PCGG cannot claim jurisdiction over a case.

Private respondents questioned the authority and jurisdiction of the PCGG to investigate and prosecute their cases by filing their Motion to Dismiss as soon as they learned of the pronouncement of the Court in *Migrino*. This case was decided on 30 August 1990, which explains why private respondents only filed their Motion to Dismiss on 8 October 1990. Nevertheless, we have held that the parties may raise lack of jurisdiction at any stage of the proceeding. ³⁰ Thus, we hold that there was no waiver of jurisdiction in this case. Jurisdiction is vested by law and not by the parties to an action. ³¹

Consequently, the petition should be dismissed for lack of jurisdiction by the PCGG to conduct the preliminary investigation. The Ombudsman may still conduct the proper preliminary investigation for violation of RA No. 1379, and if warranted, the Solicitor General may file the forfeiture petition with the Sandiganbayan. ³² The right of the State to forfeit unexplained wealth under RA No. 1379 is not subject to prescription, laches or estoppel. ³³

*Second Issue: Propriety of Dismissal of Case
Before Completion of Presentation of Evidence*

Petitioner also contends that the Sandiganbayan erred in dismissing the case before completion of the presentation of petitioner's evidence.

We disagree.

Based on the findings of the Sandiganbayan and the records of this case, we find that petitioner has only itself to blame for non-completion of the presentation of its evidence. First, this case has been pending for four years before the Sandiganbayan dismissed it. Petitioner filed its Amended Complaint on 11 August 1987, and only began to present its evidence on 17 April 1989. Petitioner had almost two years to prepare its evidence. However, despite this sufficient time, petitioner still delayed the presentation of the rest of its evidence by filing numerous motions for postponements and extensions. Even before the date set for the presentation of its evidence, petitioner filed, on 13 April 1989, a Motion for Leave to Amend the Complaint. ³⁴ The motion sought "to charge the delinquent properties (which comprise most of petitioner's evidence) with being subject to forfeiture as having been unlawfully acquired by defendant Dimaano alone"

The Sandiganbayan, however, refused to defer the presentation of petitioner's

evidence since petitioner did not state when it would file the amended complaint. On 18 April 1989, the Sandiganbayan set the continuation of the presentation of evidence on 28-29 September and 9-11 October 1989, giving petitioner ample time to prepare its evidence. Still, on 28 September 1989, petitioner manifested its inability to proceed with the presentation of its evidence. The Sandiganbayan issued an Order expressing its view on the matter, to wit:

The Court has gone through extended inquiry and a narration of the above events because this case has been ready for trial for over a year and much of the delay hereon has been due to the inability of the government to produce on scheduled dates for pre-trial and for trial documents and witnesses, allegedly upon the failure of the military to supply them for the preparation of the presentation of evidence thereon. Of equal interest is the fact that this Court has been held to task in public about its alleged failure to move cases such as this one beyond the preliminary stage, when, in view of the developments such as those of today, this Court is now faced with a situation where a case already in progress will revert back to the preliminary stage, despite a five-month pause where appropriate action could have been undertaken by the plaintiff Republic. ³⁵

On 9 October 1989, the PCGG manifested in court that it was conducting a preliminary investigation on the unexplained wealth of private respondents as mandated by RA No. 1379. ³⁶ The PCGG prayed for an additional four months to conduct the preliminary investigation. The Sandiganbayan granted this request and scheduled the presentation of evidence on 26-29 March 1990. However, on the scheduled date, petitioner failed to inform the court of the result of the preliminary investigation the PCGG supposedly conducted. Again, the Sandiganbayan gave petitioner until 18 May 1990 to continue with the presentation of its evidence and to inform the court of "what lies ahead insofar as the status of the case is concerned" ³⁷ Still on the date set, petitioner failed to present its evidence. Finally, on 11 July 1990, petitioner filed its Re-Amended Complaint. ³⁸ The Sandiganbayan correctly observed that a case already pending for years would revert to its preliminary stage if the court were to accept the Re-Amended Complaint.

Based on these circumstances, obviously petitioner has only itself to blame for failure to complete the presentation of its evidence. The Sandiganbayan gave petitioner more than sufficient time to finish the presentation of its evidence. The Sandiganbayan overlooked petitioner's delays and yet petitioner ended the long-string of delays with the filing of a Re-Amended Complaint, which would only prolong even more the disposition of the case.

Moreover, the pronouncements of the Court in *Migrino* and *Cruz* prompted the Sandiganbayan to dismiss the case since the PCGG has no jurisdiction to investigate and prosecute the case against private respondents. This alone would have been sufficient legal basis for the Sandiganbayan to dismiss the forfeiture case against private respondents.

Thus, we hold that the Sandiganbayan did not err in dismissing the case before completion of the presentation of petitioner's evidence.

Third Issue: Legality of the Search and Seizure

Petitioner claims that the Sandiganbayan erred in declaring the properties confiscated from Dimaano's house as illegally seized and therefore inadmissible in evidence. This issue bears a significant effect on petitioner's case since these properties comprise most of petitioner's evidence against private respondents.

Petitioner will not have much evidence to support its case against private respondents if these properties are inadmissible in evidence.

On 3 March 1986, the Constabulary raiding team served at Dimaano's residence a search warrant captioned "Illegal Possession of Firearms and Ammunition." Dimaano was not present during the raid but Dimaano's cousins witnessed the raid. The raiding team seized the items detailed in the seizure receipt together with other items *not* included in the search warrant. The raiding team seized these items: once baby armalite rifle with two magazines; 40 rounds of 5.56 ammunition; one pistol, caliber .45; communications equipment, cash consisting of P2,870,000 and US\$50,000, jewelry, and land titles.

Petitioner wants the Court to take judicial notice that the raiding team conducted the search and seizure "on March 3, 1986 or five days after the successful EDSA revolution. ³⁹ Petitioner argues that a revolutionary government was operative at that time by virtue of Proclamation No. 1 announcing that President Aquino and Vice President Laurel were "taking power in the name and by the will of the Filipino people." ⁴⁰ Petitioner asserts that the revolutionary government effectively withheld the operation of the 1973 Constitution which guaranteed private respondents' exclusionary right.

Moreover, petitioner argues that the exclusionary right arising from an illegal search applies only beginning 2 February 1987, the date of ratification of the 1987 Constitution. Petitioner contends that all rights under the Bill of Rights had already reverted to its embryonic stage at the time of the search. Therefore, the government may confiscate the monies and items taken from Dimaano and use the same in evidence against her since at the time of their seizure, private respondents did not enjoy any constitutional right.

Petitioner is partly right in its arguments.

The EDSA Revolution took place on 23-25 February 1986. As succinctly stated in President Aquino's Proclamation No. 3 dated 25 March 1986, the EDSA Revolution was "*done in defiance of the provisions of the 1973 Constitution.*" ⁴¹ The resulting government was indisputably a revolutionary government bound by no constitution or legal limitations except treaty obligations that the revolutionary government, as the *de jure* government in the Philippines, assumed under international law.

The correct issues are: (1) whether the revolutionary government was bound by the Bill of Rights of the 1973 Constitution during the *interregnum*, that is, *after* the actual and effective take-over of power by the revolutionary government following the cessation of resistance by loyalist forces *up to* 24 March 1986 (immediately before the adoption of the Provisional Constitution); and (2) whether the protection accorded to individuals under the International Covenant on Civil and Political Rights ("Covenant") and the Universal Declaration of Human Rights ("Declaration") remained in effect during the *interregnum*.

We hold that the Bill of Rights under the 1973 Constitution was not operative during the *interregnum*. However, we rule that the protection accorded to individuals under the Covenant and the Declaration remained in effect during the *interregnum*.

During the *interregnum*, the directives and orders of the revolutionary government were the supreme law because no constitution limited the extent and scope of such directives and orders. With the abrogation of the 1973 Constitution by the successful revolution, there was no municipal law higher than the directives and orders of the

revolutionary government. Thus, during the *interregnum*, a person could not invoke any exclusionary right under a Bill of Rights because there was neither a constitution nor a Bill of Rights during the *interregnum*. As the Court explained in *Letter of Associate Justice Reynato S. Puno*: ⁴²

A revolution has been defined as "the complete overthrow of the established government in any country or state by those who were previously subject to it" or as "a sudden, radical and fundamental change in the government or political system, usually effected with violence or at least some acts of violence." In Kelsen's book, *General Theory of Law and State*, it is defined as that which "occurs whenever the legal order of a community is nullified and replaced by a new order . . . a way not prescribed by the first order itself."

It was through the February 1986 revolution, a relatively peaceful one, and more popularly known as the "people power revolution" that the Filipino people tore themselves away from an existing regime. This revolution also saw the unprecedented rise to power of the Aquino government.

From the natural law point of view, the right of revolution has been defined as "an inherent right of a people to cast out their rulers, change their policy or effect radical reforms in their system of government or institutions by force or a general uprising when the legal and constitutional methods of making such change have proved inadequate or are so obstructed as to be unavailable." It has been said that "the locus of positive law-making power lies with the people of the state" and from there is derived "the right of the people to abolish, to reform and to alter any existing form of government without regard to the existing constitution."

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It is widely known that Mrs. Aquino's rise to the presidency was not due to constitutional processes; in fact, it was achieved in violation of the provisions of the 1973 Constitution as a Batasang Pambansa resolution had earlier declared Mr. Marcos as the winner in the 1986 presidential election. Thus it can be said that the organization of Mrs. Aquino's Government which was met by little resistance and her control of the state evidenced by the appointment of the Cabinet and other key officers of the administration, the departure of the Marcos Cabinet officials, revamp of the Judiciary and the Military signaled the point where the legal system then in effect, had ceased to be obeyed by the Filipino (Emphasis supplied)

To hold that the Bill of Rights under the 1973 Constitution remained operative during the *interregnum* would render void all sequestration orders issued by the Philippine Commission on Good Government ("PCGG") before the adoption of the Freedom Constitution. The sequestration orders, which direct the freezing and even the take-over of private property by mere executive issuance without judicial action, would violate the due process and search and seizure clauses of the Bill of Rights.

During the *interregnum*, the government in power was concededly a revolutionary government bound by no constitution. No one could validly question the sequestration orders as violative of the Bill of Rights because there was no Bill of Rights during the *interregnum*. However, upon the adoption of the Freedom Constitution, the sequestered companies assailed the sequestration orders as contrary to the Bill of Rights of the

Freedom Constitution.

In *Bataan Shipyard & Engineering Co. Inc. vs. Presidential Commission on Good Government*, ⁴³ petitioner Baseco, while conceding there was no Bill of Rights during the *interregnum*, questioned the continued validity of the sequestration orders upon adoption of the Freedom Constitution in view of the due process clause in its Bill of Rights. The Court ruled that the Freedom Constitution, and later the 1987 Constitution, *expressly recognized* the validity of sequestration orders, thus:

If any doubt should still persist in the face of the foregoing considerations as to the validity and propriety of sequestration, freeze and takeover orders, it should be dispelled by the fact that these particular remedies and the authority of the PCGG to issue them have received constitutional approbation and sanction. As already mentioned, the Provisional or "Freedom" Constitution recognizes the power and duty of the President to enact "measures to achieve the mandate of the people to . . . (r)ecover ill-gotten properties amassed by the leaders and supporters of the previous regime and protect the interest of the people through orders of sequestration or freezing of assets or accounts." And as also already adverted to, Section 26, Article XVIII of the 1987 Constitution treats of, and ratifies the "authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986."

The framers of both the Freedom Constitution and the 1987 Constitution were fully aware that the sequestration orders would clash with the Bill of Rights. Thus, the framers of both constitutions had to include specific language recognizing the validity of the sequestration orders. The following discourse by Commissioner Joaquin G. Bernas during the deliberations of the Constitutional Commission is instructive:

FR. BERNAS: Madam President, there is something schizophrenic about the arguments in defense of the present amendment.

For instance, I have carefully studied Minister Salonga's lecture in the Gregorio Araneta University Foundation, of which all of us have been given a copy. On the one hand, he argues that everything the Commission is doing is traditionally legal. This is repeated by Commissioner Romulo also. Minister Salonga spends a major portion of his lecture developing that argument. On the other hand, almost as an afterthought, he says that in the end what matters are the results and not the legal niceties, thus suggesting that the PCGG should be allowed to make some legal shortcuts, another word for niceties or exceptions.

Now, if everything the PCGG is doing is legal, why is it asking the CONCOM for special protection? The answer is clear. *What they are doing will not stand the test of ordinary due process, hence they are asking for protection, for exceptions. Grandes malos, grandes remedios*, fine, as the saying stands, but let us not say *grandes malos, grande y malos remedios*. That is not an allowable extrapolation. Hence, we should not give the exceptions asked for, and let me elaborate and give three reasons:

First, the whole point of the February Revolution and of the work of the CONCOM is to hasten constitutional normalization. Very much at the heart of the constitutional normalization is the full effectivity of the Bill of Rights. We cannot, in one breath, ask for constitutional normalization and at the same time ask for a temporary halt to the full functioning of what is at the heart of constitutionalism. That would be hypocritical; that would be a repetition of Marcosian protestation of

due process and rule of law. The New Society word for that is "backsliding." It is tragic when we begin to backslide even before we get there.

Second, this is really a corollary of the first. Habits tend to become ingrained. The committee report asks for extraordinary exceptions from the Bill of Rights for six months after the convening of Congress, and Congress may even extend this longer.

Good deeds repeated ripen into virtue; bad deeds repeated become vice. What the committee report is asking for is that we should allow the new government to acquire the vice of disregarding the Bill of Rights.

Vices, once they become ingrained, become difficult to shed. The practitioners of the vice begin to think that they have a vested right to its practice, and they will fight tooth and nail to keep the franchise. That would be an unhealthy way of consolidating the gains of a democratic revolution.

Third, the argument that what matters are the results and not the legal niceties is an argument that is very disturbing. When it comes from a staunch Christian like Commissioner Salonga, a Minister, and repeated verbatim by another staunch Christian like Commissioner Tingson, it becomes doubly disturbing and even discombobulating. The argument makes the PCGG an auctioneer, placing the Bill of Rights on the auction block. If the price is right, the search and seizure clause will be sold. "Open your Swiss bank account to us and we will award you the search and seizure clause. You can keep it in your private safe."

Alternatively, the argument looks on the present government as hostage to the hoarders of hidden wealth. The hoarders will release the hidden health if the ransom price is paid and the ransom price is the Bill of Rights, specifically the due process in the search and seizure clauses. So, there is something positively revolving about either argument. The Bill of Rights is not for sale to the highest bidder nor can it be used to ransom captive dollars. This nation will survive and grow strong, only if it would become convinced of the values enshrined in the Constitution of a price that is beyond monetary estimation.

For these reasons, the honorable course for the Constitutional Commission is to delete all of Section 8 of the committee report and allow the new Constitution to take effect in full vigor. If Section 8 is deleted, the PCGG has two options. First, it can pursue the Salonga and the Romulo argument — that what the PCGG has been doing has been completely within the pale of the law. If sustained, the PCGG can go on and should be able to go on, even without the support of Section 8. If not sustained, however, the PCGG has only one honorable option, it must bow to the majesty of the Bill of Rights.

The PCGG extrapolation of the law is defended by staunch Christians. Let me conclude with what another Christian replied when asked to toy around with the law. From his prison cell, Thomas More said, "I'll give the devil benefit of law for my nation's safety sake." I ask the Commission to give the devil benefit of law for our nation's sake. And we should delete Section 8.

Thank you, Madam President. (Emphasis supplied)

Despite the impassioned plea by Commissioner Bernas against the amendment excepting sequestration orders from the Bill of Rights, the Constitutional Commission still adopted the amendment as Section 26, 44 Article XVIII of the 1987 Constitution. The

framers of the Constitution were fully aware that absent Section 26, sequestration orders would not stand the test of due process under the Bill of Rights.

Thus, to rule that the Bill of Rights of the 1973 Constitution remained in force during the *interregnum*, absent a constitutional provision excepting sequestration orders from such Bill of Rights, would clearly render all sequestration orders void during the *interregnum*. Nevertheless, even during the *interregnum* the Filipino people continued to enjoy, under the Covenant and the Declaration, almost the same rights found in the Bill of Rights of the 1973 Constitution.

The revolutionary government, after installing itself as the *de jure* government, assumed responsibility for the State's good faith compliance with the Covenant to which the Philippines is a signatory. Article 2(1) of the Covenant requires each signatory State "to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights ⁴⁵ recognized in the present Covenant." Under Article 17(1) of the Covenant, the revolutionary government had the duty to insure that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence."

The Declaration, to which the Philippines is also a signatory, provides in its Article 17(2) that "[n]o one shall be arbitrarily deprived of his property." Although the signatories to the Declaration did not intend it as a legally binding document, being only a declaration, the Court has interpreted the Declaration as part of the generally accepted principles of international law and binding on the State. ⁴⁶ Thus, the revolutionary government was also obligated under international law to observe the rights ⁴⁷ of individuals under the Declaration.

The revolutionary government did not repudiate the Covenant or the Declaration during the *interregnum*. Whether the revolutionary government could have repudiated all its obligations under the Covenant or the Declaration is another matter and is not the issue here. Suffice it to say that the Court considers the Declaration as part of customary international law, and that Filipinos as human beings are proper subjects of the rules of international law laid down in the Covenant. The fact is the revolutionary government did not repudiate the Covenant or the Declaration in the same way it repudiated the 1973 Constitution. As the *de jure* government, the revolutionary government could not escape responsibility for the State's good faith compliance with its treaty obligations under international law.

It was only upon the adoption of the Provisional Constitution on 25 March 1986 that the directives and orders of the revolutionary government became subject to a higher municipal law that, if contravened, rendered such directives and orders void. The Provisional Constitution adopted verbatim the Bill of Rights of the 1973 Constitution. ⁴⁸ The Provisional Constitution served as a self-limitation by the revolutionary government to avoid abuses of the absolute powers entrusted to it by the people.

During the *interregnum* when no constitution or Bill of Rights existed, directives and orders issued by government officers were valid so long as these officers did not exceed the authority granted them by the revolutionary government. The directives and orders should not have also violated the Covenant or the Declaration. In this case, the revolutionary government presumptively sanctioned the warrant since the revolutionary government did not repudiate it. The warrant, issued by a judge upon proper application, specified the items to be searched and seized. The warrant is thus valid with respect to the items specifically described in the warrant.

However, the Constabulary raiding team seized items not included in the warrant. As admitted by petitioner's witnesses, the raiding team confiscated items not included in the warrant, thus:

Direct Examination of Capt. Rodolfo Sebastian

AJ AMORES

Q. According to the search warrant, you are supposed to seize only for weapons. What else, aside from the weapons, were seized from the house of Miss Elizabeth Dimaano?

A. The communications equipment, money in Philippine currency and US dollars, some jewelries, land titles, sir.

Q. Now, the search warrant speaks only of weapons to be seized from the house of Elizabeth Dimaano. Do you know the reason why your team also seized other properties not mentioned in said search warrant?

A. During the conversation right after the conduct of said raid, I was informed that the reason why they also brought the other items not included in the search warrant was because the money and other jewelries were contained in attaché cases and cartons with markings "Sony Trinitron," and I think three (3) vaults or steel safes. Believing that the attaché cases and the steel safes were containing firearms, they forced open these containers only to find out that they contained money.

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Q. You said you found money instead of weapons, do you know the reason why your team seized this money instead of weapons?

A I think the overall team leader and the other two officers assisting him decided to bring along also the money because at that time it was already dark and they felt most secured if they will bring that because they might be suspected also of taking money out of those items, your Honor. 49

Cross-examination

Atty. Banaag

Q. Were you present when the search warrant in connection with this case was applied before the Municipal Trial Court of Batangas, Branch 1?

A. Yes, sir.

Q. And the search warrant applied for by you was for the search and seizure of five (5) baby armalite rifles M-16 and five (5) boxes of ammunition?

A. Yes, sir.

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AJ AMORES

Q. Before you applied for a search warrant, did you conduct surveillance in the house of Miss Elizabeth Dimaano?

A. The Intelligence Operatives conducted surveillance together with the MSU

elements, your Honor.

Q. And this party believed there were weapons deposited in the house of Miss Elizabeth Dimaano?

A. Yes, your Honor.

Q. And they so swore before the Municipal Trial Judge?

A. Yes, your Honor.

Q. But they did not mention to you, the applicant for the search warrant, any other properties or contraband which could be found in the residence of Miss Elizabeth Dimaano?

A. They just gave us still unconfirmed report about some hidden items, for instance, the communications equipment and money. However, I did not include that in the application for search warrant considering that we have not established concrete evidence about that. So when . . .

Q. So that when you applied for search warrant, you had reason to believe that only weapons were in the house of Miss Elizabeth Dimaano?

A. Yes, your Honor. 50

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Q. You stated that a .45 caliber pistol was seized along with one armalite rifle M-16 and how many ammunition?

A. Forty, sir.

Q. And this became the subject of your complaint with the issuing Court, with the fiscal's office who charged Elizabeth Dimaano for Illegal Possession of Firearms and Ammunition?

A. Yes, sir.

Q. Do you know what happened to that case?

A. I think it was dismissed, sir.

Q. In the fiscal's office?

A. Yes, sir.

Q. Because the armalite rifle you seized, as well as the .45 caliber pistol had a Memorandum Receipt in the name of Felino Melegrito, is that not correct?

A. I think that was the reason, sir.

Q. There were other articles seized which were not included in the search warrant, like for instance, jewelries. Why did you seize the jewelries?

A. I think it was the decision of the overall team leader and his assistant to bring along also the jewelries and other items, sir. I do not really know where it was taken but they brought along also these articles. I do not really know their reason for bringing the same, but I just learned that these were taken because they might get lost if they will just leave this behind.

Q. How about the money seized by your raiding team, they were not also included in the search warrant?

A. Yes sir; but I believe they were also taken considering that the money was discovered to be contained in attaché cases. These attaché cases were suspected to be containing pistols or other high powered firearms, but in the course of the search the contents turned out to be money. So the team leader also decided to take this considering that they believed that if they will just leave the money behind, it might get lost also.

Q. That holds true also with respect to the other articles that were seized by your raiding team, like Transfer Certificates of Title of lands?

A. Yes, sir. I think they were contained in one of the vaults that were opened.⁵¹

It is obvious from the testimony of Captain Sebastian that the warrant did not include the monies, communications equipment, jewelry and land titles that the raiding team confiscated. The search warrant did not particularly describe these items and the raiding team confiscated them on its own authority. The raiding team had no legal basis to seize these items without showing that these items could be the subject of warrantless search and seizure.⁵² Clearly, the raiding team exceeded its authority when it seized these items.

The seizure of these items was therefore void, and unless these items are contraband *per se*,⁵³ and they are not, they must be returned to the person from whom the raiding seized them. However, we do not declare that such person is the lawful owner of these items, merely that the search and seizure warrant could not be used as basis to seize and withhold these items from the possessor. We thus hold that these items should be returned immediately to Dimaano.

WHEREFORE, the petition for *certiorari* is DISMISSED. The questioned Resolutions of the Sandiganbayan dated 18 November 1991 and 25 March 1992 in Civil Case No. 0037, remanding the records of this case to the Ombudsman for such appropriate action as the evidence may warrant, and referring this case to the Commissioner of the Bureau of Internal Revenue for a determination of any tax liability of respondent Elizabeth Dimaano, are AFFIRMED.

SO ORDERED.

Bellosillo, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr. and Azcuna, JJ., concur.

Davide, Jr., C.J., Panganiban and Ynares-Santiago, JJ., concur in the result.

Quisumbing and Sandoval-Gutierrez, JJ., are on official leave.

Footnotes

1. Composed of Justices Regino Hermosisima, Jr., Francis Garchitorena and Cipriano del Rosario.
2. *Republic v. Migrino*, G.R. No. 89483, 30 August 1990, 189 SCRA 289.
3. Records of the Sandiganbayan [hereinafter Records], pp. 53-55.

4. "An Act Declaring Forfeiture in Favor of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Proceedings Therefor."
5. Records, p. 14.
6. *Ibid.*, p. 16.
7. *Ibid.*, p. 166.
8. *Ibid.*, p. 286.
9. *Supra*, note 2.
10. G.R. No. 94595, 26 February 1991, 194 SCRA 474.
11. *Supra*, note 2.
12. *Rollo*, p. 21.
13. *Supra*, note 10.
14. *Supra*, note 2.
15. *Republic v. Migrino, supra*, note 2.
16. *Supra*, note 2.
17. *Republic v. Migrino, supra*, note 2.
18. *Republic v. Sandiganbayan*, G.R. No. 115906, 29 September 1994, 237 SCRA 242.
19. Presidential Decree No. 1769 "Amending PD 360 dated December 30, 1973 adjusting the authorized grades in the command and staff structure of the AFP" dated 12 January 1981. The ranking is as follows:

Chief of Staff, AFP General (0–10)

Vice Chief of Staff, AFPLt. General (0–9)

Commander of Major Services, AFP Maj. General (0–8)

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20. Records, pp. 54-55.
21. *Rollo*, p. 27.
22. "WHEREAS, vast resources of the government have been amassed by former President Ferdinand E. Marcos, his immediate family, relatives and close associates both here and abroad;

WHEREAS, there is an urgent need to recover all ill-gotten wealth;

xxx xxx xxx"
23. *Supra*, note 10.
24. "Regarding the Funds, Moneys, Assets, and Properties Illegally Acquired or

Misappropriated by Former President Marcos, Mrs. Imelda Marcos, their Close Relatives, Subordinates, Business Associates, Dummies, Agents or Nominees" dated 12 March 1986.

25. "Defining the Jurisdiction over Cases Involving the Ill-gotten Wealth of Former President Ferdinand E. Marcos, Mrs. Imelda R. Marcos, Members of their Immediate Family, Close Relatives, Subordinates, and/or Business Associates, Dummies, Agents and Nominees" dated 7 May 1986.
26. "Amending Executive Order No. 14" dated 18 August 1986.
27. *Republic v. Sandiganbayan*, G.R. No. 90529, 16 August 1991, 200 SCRA 667.
28. Section 15 (11), RA No. 6770.
29. *Republic v. Migrino, supra*, note 2.
30. *Cudia v. CA*, 348 Phil. 190 (1998).
31. *Monsanto v. Zerna*, G.R. No. 142501, 7 December 2001, 371 SCRA 664; *Republic v. Estipular*, G.R. No. 136588, 20 July 2000, 336 SCRA 333.
32. *Republic v. Migrino, supra*, note 2.
33. *Cojuangco, Jr. v. Presidential Commission on Good Gov't*, G.R. Nos. 92319-20, 2 October 1990, 190 SCRA 226.
34. Records, p. 285.
35. Records, p. 347.
36. *Ibid.*, p, 346.
37. *Ibid.*, p. 395.
38. *Ibid.*, p. 422.
39. *Rollo*, p. 34.
40. *Ibid.*
41. Proclamation No. 3, "Provisional Constitution of the Republic of the Philippines," provides:

WHEREAS, the new government under President Corazon C. Aquino was installed through a direct exercise of the power of the Filipino people assisted by units of the New Armed Forces of the Philippines;

WHEREAS, the heroic action of the people was done *in defiance of the provisions of the 1973 Constitution*, as amended;

xxx xxx xxx. (Emphasis supplied)

See also *Estrada v. Desierto*, G.R. No. 146710-15 and G.R. No. 146738, 3 April 2001, 356 SCRA 108; *Mun. of San Juan, Metro Manila v. Court of Appeals* 345 Phil. 220 (1997).
42. A.M. No. 90-11-2697-CA, 29 June 1992, 210 SCRA 589.

43. No. L-75885, 27 May 1987, 150 SCRA 181.

44. Section 26, Article XVIII of the 1987 Constitution provides:

Sec. 26. The authority to issue sequestration or freeze orders under Proclamation No. 3 dated March 25, 1986 in relation to the recovery of ill-gotten wealth shall remain operative for not more than eighteen months after the ratification of this Constitution. However, in the national interest, as certified by the President, the Congress may extend said period.

A sequestration or freeze order shall be issued only upon showing of *prima facie* case. The order and the list of the sequestered or frozen properties shall forthwith be registered with the proper court. For orders issued before the ratification of this Constitution, the corresponding judicial action or proceeding shall be filed within six months from its ratification. For those issued after such ratification, the judicial action or proceeding shall be commenced within six months from the issuance thereof.

The sequestration or freeze order is deemed automatically lifted if no judicial action or proceeding is commenced as herein provided.

45. Among the rights of individuals recognized in the Covenant are: (1) No one shall be arbitrarily deprived of his life [Article 6(1)]; (2) No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. [Article 7]; (3) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release [Article 9(1 & 3)]; (4) Anyone who is arrested shall be informed, at the time of the arrest, of the reasons for his arrest and shall be promptly informed of the charges against him [Article 9(2)]; (5) Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. Everyone shall be free to leave any country, including his own. No one shall be arbitrarily deprived of the right to enter his own country [Article 12(1, 2 & 3)]; (6) Everyone charged with a criminal offense shall have the right to be presumed innocent until proved guilty according to law [Article 14(2)]; (7) Everyone shall have the right of freedom of thought, conscience and religion [Article 18(1)]; (8) Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression [Article 19(1 & 2)]; (9) The right of peaceful assembly shall be recognized [Article 21]; (10) Everyone shall have the right of freedom of association with others [Article 22(1)]; (11) All persons are equal before the law and are entitled without any discrimination to the equal protection of the law [Article 26].

46. *Andreu v. Commissioner of Immigration*, 90 Phil. 347 (1951); *Chirskoff v. Commissioner of Immigration*, 90 Phil. 256 (1951); *Borovsky v. Commissioner of Immigration*, 90 Phil. 107 (1951); *Mejoff v. Director of Prisons*, 90 Phil. 70 (1951).

47. Among the rights enshrined in the Declaration are: (1) Everyone has the right to own property alone or in association with others [Article 17(1)]; (2) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives [Article 21(1)]; (3) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment [Article 23(1)].

48. Section 1, Article I of the Provisional Constitution provides: "The provisions of . . . *ARTICLE*

IV (Bill of Rights) . . . of the 1973 Constitution, as amended, remain in force and effect and are hereby adopted in toto as part of this provisional Constitution." (Italics supplied)

49. TSN, 18 April 1989, pp. 115-117.

50. *Ibid.*, pp. 136-138.

51. *Ibid.*, pp. 144-146.

52. Five generally accepted exceptions to the rule against warrantless search and seizure have been judicially formulated as follows: (1) search incidental to a lawful arrest, (2) search of moving vehicles, (3) seizure of evidence in plain view, (4) customs searches, and (5) waiver by the accused themselves of their right against unreasonable search and seizure. (*People v. Que Ming Kha*, G.R. No. 133265, 31 May 2002; *Caballes v. Court of Appeals*, G.R. No. 136292, 15 January 2002; *People v. Lacerna*, G.R. No. 109250, 5 September 1997, 278 SCRA 561).

53. *People v. Lim*, G.R. No. 141699, 7 August 2002; *Del Rosario v. People*, G.R. No. 142295, 31 May 2001, 358 SCRA 373.