EN BANC

G.R. No. 177857–58 – PHILIPPINE COCONUT PRODUCERS FEDERATION, INC. (COCOFED), MANUEL V. DEL ROSARIO, DOMINGO P. ESPINA, SALVADOR P. BALLARES, JOSELITO A. MORALEDA, PAZ M. YASON, VICENTE A. CADIZ, CESARIA DE LUNA TITULAR, and RAYMUNDO C. DE VILLA, Petitioners, **v. REPUBLIC OF THE PHILIPPINES,** Respondent, **WIGBERTO E. TAÑADA, OSCAR F. SANTOS, SURIGAO DEL SUR FEDERATION OF AGRICULTURAL COOPERATIVES (SUFAC), and MORO FARMERS ASSOCIATION OF ZAMBOANGA DEL SUR (MOFAZS), represented by ROMEO C. ROYANDOYAN,** Intervenors. **G.R. No. 178193 – DANILO B. URSUA,** Petitioner v. **REPUBLIC OF THE PHILIPPINES,** Respondent.

Promulgated:
October 5, 2016

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DISSENTING OPINION

LEONEN, *J.*:

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

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

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

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1 394 Phil. 608 (2000) [Per J. Puno, En Banc].
2 679 Phil. 508 (2012) [Per J. Velasco, En Banc] and 694 Phil. 43 (2012) [Per J. Velasco, Jr. En Banc].
3 423 Phil. 735 (2001) [Per J. Panganiban, En Banc].
4 *Rollo*, pp. 4800–4855.
5 *COCOFED, et al. v. Republic, et al.*, 694 Phil. 43 (2012) [Per J. Velasco, Jr., En Banc].

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

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

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

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

The first was the **Coconut Investment Fund**, created under Republic Act No. 6260.[7] This Fund was derived from the levy of ₱0.55 for the first domestic sale of every 100 kilograms of copra or its equivalent coconut product. Fifty centavos (₱0.50) would accrue to the Fund, three centavos (₱0.03) would go to the Philippine Coconut Administration, and two centavos (₱0.02) would be at the disposition of the Philippine Coconut Producers Federation (COCOFED).[8] The Fund was to be "used exclusively to pay the subscription by the Philippine Government for and in behalf of the coconut farmers to the capital stock of [the Coconut Investment Company]."[9]

The Coconut Investment Company would "grant medium and long term loans to Filipino citizens or enterprises"[10] or "invest in shares of stock of corporations"[11] for "the establishment, development and expansion of new and/or existing coconut agricultural, industrial or other productive enterprises with proven profitability or great profit potential."[12] It was also empowered to do acts necessary for the development of the coconut

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

7 Rep. Act No. 6260 (1971), Coconut Investment Act.

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

9 Rep. Act No. 6260 (1971), sec. 8.

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

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

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

industry.[13] The Fund collected from the levy would be used to pay for shares of stock in the Coconut Investment Company, which were held by government on behalf of the coconut farmers, the transfer of which would be upon "full payment of the authorized capital stock . . . or upon termination of a ten-year period from the start of the collection of the levy as provided in section eight hereof, whichever comes first."[14]

The second was the **Coconut Consumer Stabilization Fund**, created by Presidential Decree No. 276.[15] The Fund was derived from the levy of ₱15.00 for every 100 kilograms of copra resecada or its equivalent product in order to "subsidize the sale of coconut-based products at prices set by the Price Control Council."[16] The Fund was supposed to last only one (1) year;[17] however, Presidential Decree No. 414[18] extended its duration indefinitely.

The third was the **Coconut Industry Development Fund**, created by Presidential Decree No. 582.[19] The Fund was derived from the levy of "Twenty centavos (₱0.20) per kilogram of copra resecada or its equivalent out of its current collections of the coconut [consumer] stabilization levy"[20] for the "establishment, operation and maintenance of a hybrid coconut seednut farm."[21]

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

Article III, Section 9[24] of the Revised Coconut Industry Code authorized the use of "the Coconut Consumers Stabilization Fund and/or the

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13 *See* Rep. Act No. 6260 (1971), sec. 5.
14 Rep. Act No. 6260 (1971), sec. 7.
15 Pres. Decree No. 276 (1973), Establishing a Coconut Consumers Stabilization Fund.
16 Pres. Decree No. 276 (1973), sec. 1(b).
17 Pres. Decree No. 276 (1973), sec. 2.
18 Pres. Decree No. 414 (1974), Further Amending Presidential Decree No. 232 As Amended. Pres. Decree No. 232 created the Philippine Coconut Authority.
19 Pres. Decree No. 582 (1974), Further Amending Presidential Decree No. 232, As Amended.
20 Pres. Decree No. 582 (1974), sec. 2.
21 Pres. Decree No. 582 (1974), sec. 2.
22 Pres. Decree No. 961 (1976).
23 Pres. Decree No. 1468 (1978).
24 Pres. Decree No. 1468 (1978), sec. 9 provides:
SECTION 9. Investments For the Benefit of the Coconut Farmers.—Notwithstanding any law to the contrary, the bank acquired for the benefit of the coconut farmers under PD 755 is hereby given full power and authority to make investments in the form of shares of stock in corporations organized, for the purpose of engaging in the establishment and the operation of industries and commercial activities and other allied business undertakings relating to the coconut and other palm oils industry in all its aspects and the establishment of a research into the commercial and industrial uses of coconut and other oil industry. For that purpose, the Authority shall, from time to time, ascertain how much of the collections of the Coconut Consumers Stabilization Fund and/or the Coconut Industry Development

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

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

The levy imposed was ₱50.00 for every 100 kilos copra resecada or its equivalent product.[33] The proceeds of the Fund were to be divided "[t]o finance the cost of the coconut hybrid re-planting program";[34] "[t]o defray the cost of the scholarship program for the deserving and gifted children of the coconut farmers";[35] "[t]o defray the cost of the life and accident insurance on the lives of the coconut farmers";[36] "[t]o defray the operating expenses of the Philippine Coconut Producers Federation";[37] and "the Philippine Coconut Authority"[38]; and "[t]o defray the costs of the coconut industry rationalization program."[39]

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

Fund is not required to finance the replanting program and other purposes herein authorized and such ascertained surplus shall be utilized by the bank for the investments herein authorized.

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

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

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

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

29 Pres. Decree No. 1699 (1980).

30 Pres. Decree No. 1699 (1980).

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

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

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

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

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

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

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

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

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

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

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

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

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

> 1) in 1975, with the active collaboration of his co-defendants, Cojuangco manipulated the purchase by the Philippine Coconut Authority (PCA) of 72.2% of the outstanding capital stock of the First United Bank (FUB) which was subsequently converted into a universal bank named United Coconut Planters Bank (UCPB); this was accomplished by the use of ₱85,773,100.00 initially from the Coconut Consumers Stabilization Fund (CCSF) levy — contrary to law and the specific purposes for which said levy was imposed and collected under PD 276 — and under anomalous circumstances, to wit:
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> > a) he (Cojuangco) used the coconut levy funds to exercise his private option to buy controlling interest in FUB; claiming that the 72.2% of the outstanding capital stock of FUB could only be purchased and transferred through the exercise of his "personal and exclusive option to acquire the 144,000 shares" of said bank, he and the Philippine Coconut Authority (PCA), represented by Maria Clara Lobregat, executed on May 26, 1975, a purchase agreement providing, among others, for the cession to him as compensation thereof 95,383 shares worth ₱1,444,000.00, with the further condition that he shall manage and control the bank as Director and President for a term of five (5) years renewable for another five (5) years, and have authority to name for election three (3) persons of his choice as members of the bank's Board of Directors;
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> > b) he caused the issuance by Pres. Marcos of PD 755 (a) declaring that the coconut levy funds shall not be considered special fiduciary and trust funds and do not form part of the general funds of the National Government — repealing for that purpose PD Nos. 276 and 414 declaring the character of the coconut levy funds as special fiduciary trust and governmental funds: (b) confirming the agreement between him (Cojuangco) and PCA regarding the purchase of FUB, by incorporating that private commercial agreement by reference in PD 755;
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> > c) to consolidate his control of UCPB, he (Cojuangco) imposed as a condition attendant upon his purchase of its stock that

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

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

he should receive and own one out of every nine shares given to PCA; and

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

2) again with the use of coconut levy funds, he (Cojuangco) created and/or funded various corporations such as the Philippine Coconut Producers Federation, Inc. (COCOFED), Coconut Investment Company (CIC), COCOFED Marketing Corporation (COCOMARK), and the United Coconut Planters Life Assurance Corporation (COCOLIFE) with the active collaboration and participation of his co-defendants Juan Ponce Enrile, Maria Clara Lobregat, Rolando de la Cuesta, Jose R. Eleazar, Jr. Jose Reynaldo Morente, Eladio Chatto, Domingo Espina, Anastacio Emano, Sr., Bienvenido Marquez, Jose Gomez, Inaki Mendezona, Manuel del Rosario, Sulpicio Granada, Jose Martinez Jr., Emmanuel Almeda, Danilo Ursua, Herminigildo Zayco and Celestino Zabate, most of whom comprised the interlocking sets of officers and directors of said companies; and he and his co-defendants dissipated, misused and/or misappropriated a substantial part of said coconut levy funds and alloted to themselves excessive salaries, allowances, bonuses and other emoluments, for their own personal benefit, including huge cash advances in millions of pesos which, to date remain unliquidated and unaccounted for; and finally, gained ownership and control of the UCPB by misusing the names and/or identities of the so-called "more than one million coconut farmers;"

3) he misappropriated, misused and dissipated P840 million of the Coconut Industry Development Funds (CIDF) — deposited with the National Industry Development Corporation (NIDC) as administrator-trustee of said shares and later with UCPB of which he (Cojaungco) was the Chief Executive Officer — in connection with the (1) development, improvement, operation and maintenance of the Bugsuk Island Seed Garden ("Bugsuk") with Agricultural Investors, Inc. ("AII") as developer (both Bugsuk and AII being beneficially held and controlled by Cojuangco); (2) payment of liquidated damages in the amount of ₱640,856,878.67 and arbitration fees of ₱150,000.00 pursuant to a decision rendered by a Board of Arbitration against UCPB for alleged breach of contract;

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

5) he established and caused to be funded with coconut levy funds, with the active collaboration of Pres. Marcos (through the issuance of LOI 926) and of defendants Juan Ponce Enrile, Jose R. Eleazar, Jr., Maria Clara Lobregat, Jose C. Concepcion, Inaki Mendoza, Douglas Luym, Teodoro D. Regala, Emmanuel Almeda, Eduardo Escueta, Leo Palma and Rolando de la Cuesta, the United Coconut Oil Mills, Inc. (UNICOM), a corporation beneficially controlled by him (Cojuangco), and bought

> sixteen (16) other competing and/or non-operating oil mills at exorbitant prices in the total amount of ₱184,935 million, to control the prices of copra and other coconut products, and assumed and paid the outstanding loan obligations of seven (7) of those purchased oil mills in the total amount of ₱805,984 million with the express consent and approval of Pres. Marcos, thereby establishing a coconut monopoly for their own benefit;
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> . . . .
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> 8) he misused, dissipated and unlawfully disbursed coconut levy funds with the active collaboration and participation of defendants Maria Clara Lobregat, Juan Ponce Enrile, Jose Eleazar Jr., Rolando de la Cuesta and Herminigildo Zayco for projects of Imelda Marcos, including various donations made by PCA such as the amount of ₱400,000.00 and ₱10 million for social services and Mrs. Marcos' health and medical assistance projects; ₱125,000.00 for the yearly Malang *pasko* project; ₱10 million to the Cultural Center of the Philippines; ₱5 million to the Philippine Youth Health and Special Center; ₱50 million for the construction of the Tahanang Maharlika Building, and ₱6 million to COCOFED; and other donations made by the UCPB of ₱10,000.00 to the Manila International Film Festival; ₱10 million to the UP Faculty Development Fund; ₱50,000.00 to the Manila Symphony Foundation, Inc., a parcel of land located at Baguio City to the University of Life and "other similar unlawful disbursements", which remain unaccounted for to date;
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> 9) he misused coconut levy funds to buy out the majority of the outstanding shares of stock of San Miguel Corporation in order to control the largest agri-business food and beverage company in the country[.][43]

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

On April 1, 1986, Soriano III paid the initial ₱500 million to the United Coconut Planters Bank as the administrator of the Coconut Industry Investment Fund.[45]

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

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43 Id. at 450–453.

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

45 Id. at 621.

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

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

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

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

> 3.1. The sale of the shares covered by and corresponding to the first installment of the 1986 Stock Purchase Agreement consisting of Five Million SMC Shares is hereby recognized by the parties as valid and effective as of 1 April 1986. Accordingly, said shares and all stock and cash dividends declared thereon after 1 April 1986 shall pertain, and are hereby assigned, to SMC. . . .
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> 3.2. The First Installment Shares shall revert to the SMC treasury for dispersal pursuant to the SMC Stock Dispersal Plan attached as Annex "A-1" hereof. The parties are aware that these First Installment Shares shall be sold to raise funds at the soonest possible time for the expansion program of SMC. . . .
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> 3.3. The sale of the shares [co]vered by and corresponding to the second, third and fourth installments of the 1986 Stock Purchase Agreement is hereby rescinded effective 1 April 1986 and deemed null and void, and of no force and effect. Accordingly, all stock and cash dividends declared after 1 April 1986 corresponding to the second, third and fourth installments shall pertain to CIIF Holding Corporations.[51]

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

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

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48 *Soriano III v. Hon. Yuzon, et al.*, 247 Phil. 191 (1988) [Per J. Narvasa, En Banc].
49 Id. at 208.
50 *San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 621 (2000) [Per J. Puno, En Banc].
51 Id. at 621–622.
52 Id. at 622.
53 Id.
54 Id. at 622–623.

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

> 1. As stated in the COMPROMISE, the 5 million SMC shares (now 26,450,000) paid for by the ₱500 million first installment shall be delivered to SMC, kept in treasury, and sold as soon as feasible in accordance with a plan to be agreed upon by the Commission and SMC; provided, that SMC shall not unreasonably withhold its consent to a sales plan approved by PCGG.
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> The ₱500 million paid by SMC as first installment shall be accounted for by UCPB and the CIIF companies to the extent respectively received by them, and any portion thereof in excess of the usual business needs of the possessor shall be delivered by it to the Commission, to be held in escrow for the ultimate owner.
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> 2. On Delivery Date, the stock certificates for the balance of the SHARES in the name of the 14 holding companies shall be delivered to PCGG and deposited with the Central Bank for safekeeping to await their sale in accordance with the plan of dispersal that PCGG and UCPB shall agree to establish for them. As soon as practicable, but with proper account of market conditions, all those shares shall be sold, and the proceeds thereof disposed as provided below. UCPB shall not unreasonably withhold its consent to a sales plan approved by PCGG in accordance with this paragraph.
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> 3. So much of the proceeds of the sale as may be necessary shall be used a) to finance the obligations of the CIIF Companies under the COMPROMISE, and b) to liquidate the obligations of the CIIF Companies to UCPB for the purchase price of the SHARES. The balance shall be kept by the PCGG in escrow to await final judicial determination of the ownership of the various coconut-related companies and of all the other assets involved here. The cash dividends that have been declared on the SHARES may be applied for the above purposes before proceeds from the sale of shares are realized. The balance of such cash dividends shall be held in escrow in the same manner as the sales proceeds.
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> 4. All SHARES shall continue to be sequestered even beyond Delivery Date. Sequestration on them shall be lifted as they are sold consequent to approval of the sale by the Sandiganbayan, and in accordance with the dispersal plan approved by the Commission. All of the SHARES that are unsold will continue to be voted by PCGG while still unsold.
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> 5. ***The consent of PCGG to the transfer of the sequestered shares of stock in accordance with the COMPROMISE, and to the lifting of the sequestration thereon to permit such transfer, shall be effective only when approved by the Sandiganbayan. The Commission makes no***

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55 Id. at 624.

56 Id.

> ***determination of the legal rights of the parties as against each other. The consent it gives here conforms to its duty to care for the sequestered assets, and to its purpose to prevent the repetition of the national plunder. It is not to be construed as indicating any recognition of the legality or sufficiency of any act of any of the parties.***[57] (Emphasis and underscoring supplied)

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

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

> It appearing that the sequestered character of the shares of stock subject of the instant petition for the approval of the compromise agreement, which are shares of stock in the San Miguel Corporation in the name of the CIIF Corporations, is independent of the transaction involving the contracting parties in the Compromise Agreement between what may be labeled as the "SMC Group" and the "UCPB Group," and it appearing further that the said sequestered SMC shares of stock have not been physically seized nor taken over by the PCGG, so much so that the reversions contemplated in said Compromise Agreement are without prejudice to the perpetuation of the sequestration thereon, until such time as a judgment might be rendered on said sequestration (which issue is not before this Court as [sic] this time), and it appearing finally that the PCGG has not interposed any objection to the contractual resolution of the problems confronting the "SMC Group" and the "UCPB Group" to the extent that the sequestered character of the shares in question is not affected, this Court will await the pleasure of the Presidential Commission on Good Government before consideration of the Compromise Agreement is reinstated in the Court's calendar.
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> *While this is, in effect, a denial of the "UCPB Group's" Motion to set consideration of the Compromise Agreement herein, this denial is without prejudice to a reiteration of the motion or any other action by the parties should developments hereafter justify the same.*"[59] (Emphasis supplied)

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

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57 Id. at 625–626.
58 Id. at 627.
59 Id. at 627–628.
60 Id. at 628.

(a) 25,450,000 shares were registered in the name of San Miguel Corporation as treasury;

(b) 144,324,960 shares were registered in the name of 14 CIIF Companies; and

(c) 5,500,000 shares were registered in the name of the PCGG.[61]

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

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

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

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

On December 30, 2001, this Court in *Republic v. COCOFED, et al.*[71] declared that the "coco levy" funds were prima facie public funds; thus, all

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61 Id.
62 Id. at 630.
63 Id.
64 Id.
65 Id.
66 Id. at 631.
67 394 Phil. 608 (2000) [Per J. Puno, En Banc].
68 Id. at 639.
69 Id. at 640.
70 Id. at 645.
71 423 Phil. 735 (2001) [Per J. Panganiban, En Banc].

sequestered shares of stock bought from these levies were also prima facie public funds.

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

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

On September 17, 2009, this Court approved the conversion on the ground that the conversion would guarantee an 8% dividend per annum, which was higher than the dividend rate of a common share.[76] Former Associate Justice Conchita Carpio Morales, however, disagreed with the majority and opined that since the prevailing market price was higher than the issue price, the PCGG would, at the redemption period, be redeeming the shares below its actual market value.[77]

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

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

> Since the CIIF companies and the CIIF block of SMC shares were acquired using coconut levy funds—funds, which have been established to be public in character—it goes without saying that these acquired corporations and assets ought to be regarded and treated as government

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

73 Id. at 614.

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

75 Id.

76 Id. at 140. The common shares were valued at ₱53.50 and ₱54.00 as of June 1, 2009. The conversion would place the issue price at ₱75.00.

77 *See* J. Carpio Morales, Dissenting Opinion in *COCOFED, et al. v. Republic*, 616 Phil. 94, 135–141 (2009) [Per J. Velasco, Jr. En Banc]. The shares were redeemed at ₱75.00, and the proceeds of the redemption were turned over to the Republic. *See rollo*, pp. 5100–5161, in compliance with this Court's Resolution dated September 4, 2012 denying the Motion for Reconsideration of the January 24, 2012 Decision.

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

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

assets. Being government properties, they are accordingly owned by the Government, for the coconut industry pursuant to currently existing laws.[80]

The dispositive portion of the Decision held, in part:

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

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

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

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

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

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

As well as the 14 Holding Companies, namely:

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

[80] Id.

> AND THE CIIF BLOCK OF SAN MIGUEL CORPORATION (SMC) SHARES OF STOCK TOTALING 33,133,266 SHARES AS OF 1983 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID AND ISSUED THEREON AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT TO BE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.
>
> THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.[81]

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

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

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81 Id. at 638–640.

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

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

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

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

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

AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

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

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

THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO

THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES, AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.

SO ORDERED.[83]

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

For its part, San Miguel Corporation insists that the disputed treasury shares already belong to it as a result of the "Compromise Agreement."[87] It posits that the disputed treasury shares should not be lumped together with the San Miguel Corporation shares of stock owned by the CIIF Companies since these shares were segregated by the "Compromise Agreement" as the result of the ₱500 million downpayment paid by Soriano III.[88] It also argues that this Court has no jurisdiction to direct it to deliver the treasury shares since its intervention in Civil Case No. 0033 was denied.[89]

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

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

First, the September 4, 2012 Resolution on the 753,848,312 SMC Series 1 Preferred Shares referred to the shares discussed in the September

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83 Id. at 48–51.
84 *Rollo*, pp. 4800–4827.
85 Id. at 4812–4814, Manifestation and Omnibus Motion.
86 Id.
87 Id. at 5191, Comment on the Manifestation and Omnibus Motion.
88 Id. at 5194–5196.
89 Id. at 5213.

17, 2009 Resolution.[90] It did not include the 25.45 million treasury shares subject of a "Compromise Agreement";[91]

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

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

I

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

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

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

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

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90 Ponencia, p. 19.

91 Id.

92 Id. at 20–23.

93 Id. at 11–17.

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

95 Id. at 621.

96 The sale of ₱500 million shares to San Miguel Corporation was recognized by the parties as valid in view of Soriano III's payment of the first installment. *See San Miguel Corporation v. Sandiganbayan (First Division), et al.*, 394 Phil. 608, 628 (2000) [Per J. Puno, En Banc].

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

It was the 33,133,266 San Miguel Corporation shares of stock (eventually 175,274,960 shares) that were subject of the January 24, 2012 Decision[98] in these cases. These were the shares that this Court declared were government assets held in trust for the coconut industry:

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

However, despite the final Decision of this Court in G.R. No. 104637–38 and the lack of approval of the "Compromise Agreement," the 25.45 million shares were converted to treasury shares per Manifestation of San Miguel Corporation and the CIIF Companies to the Sandiganbayan dated July 16, 1991.[100] These shares, valued by COCOFED in 2000 at nine billion pesos (₱9,000,000,000.00),[101] are now the subject of the present Omnibus Motion.

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

According to footnote 54 of the ponencia, the 144,324,960 CIIF Companies shares increased from 144,324,960 to 725,202,640 from 1991 to 2001.[102] It reached 753,848,312 shares by 2009.[103] These shares were the subject of conversion to preferred shares in this Court's September 19, 2009 Resolution and reconveyance to the Republic in the September 4, 2012 Resolution.

This Court denied the Motion for Reconsideration to its January 24, 2012 Decision dealing with the 33,133,266 shares (which should have become 175,274,960 shares). Inexplicably, however, by changing the nature of the shares and limiting the focus to only the 753,848,312 preferred shares,

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

99 Id. at 621.

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

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

102 Ponencia, p. 18.

103 Id.

the September 4, 2012 Resolution dropped the 25.45 million shares without changing the ponencia.

In other words, nine billion pesos (₱9,000,000,000.00) worth of San Miguel Corporation shares, which was the subject of litigation before the Sandiganbayan and declared by this Court to be owned by government in trust for millions of coconut farmers, was "lost" to them with a change in the numbers in the *fallo*.

Thus, a Manifestation and Omnibus Motion[104] dated October 12, 2012 was timely filed. San Miguel Corporation filed its Comment[105] on December 3, 2013, fully ventilating its position on the issue in a 50-page pleading.

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

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

I dissent.

II

It was erroneous for the ponencia to state that the 753,848,312 SMC 1 Preferred Shares were the only remaining San Miguel Corporation shares that could be declared owned by the Republic[106] since the 25.45 million

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[104] The full title is Manifestation and Omnibus Motion 1) To amend the Resolution promulgated on September 4, 2012 to include the "treasury shares" which are part and parcel of the 33,133,266 Coconut Industry Investment Fund (CIIF) block of San Miguel Corporation (SMC) shares as of 1983 decreed by the Sandiganbayan, and sustained by the Honorable Court, as owned by the government; and 2) to direct San Miguel Corporation (SMC) to comply with the final and executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan which were affirmed by the Honorable Court in G.R. Nos. 104637–38.

[105] *Rollo*, pp. 5185–5237.

[106] Ponencia, p. 19.

treasury shares were already sold to San Miguel Corporation as part of the "Compromise Agreement."

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

In page 18 of the ponencia:

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

In *San Miguel*:

> On August 5, 1991, the Sandiganbayan issued an order requiring SMC to deliver the certificates of stock representing the subject matter of the Compromise Agreement to the PCGG in view of the oral manifestations of Commissioner Maceren seeking clarification of portions of Sandiganbayan's July 23, 1991 Resolution.
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> . . . .
>
> *On October 25, 1991, the Sandiganbayan issued another Resolution requiring SMC to deliver the 25.45 million SMC treasury shares to the PCGG.* On March 18, 1992, it denied petitioners' Motion for Reconsideration and further ordered SMC to pay dividends on the said treasury shares and to deliver them to the PCGG.
>
> . . . .
>
> The order of the Sandiganbayan regarding the subject treasury shares is merely preservative in nature. When the petitioners and UCPB Group filed their Joint Manifestation of Implementation of the Compromise Agreement and of Withdrawal of Petition, the Sandiganbayan cautioned that "the PCGG, the UCPB and the SMC Group shall always act with due regard to the sequestered character of the shares of stock involved as well as the fruits thereof, more particularly to prevent the loss or dissipation of their value." The caution was wisely given in view of the many contested provisions of the Compromise Agreement. For one, the Sandiganbayan observed that the conversion of the SMC shares to treasury shares will result in a change in the status of the sequestered shares in that:

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[107] 394 Phil. 608 (2000) [Per J. Puno, En Banc].
[108] Ponencia, p. 18.

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

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

Sometime in 2003, Former PCGG Chair Haydee B. Yorac wrote to San Miguel Corporation reminding San Miguel of this Court's September 14, 2000 Decision and the order to deliver the treasury shares.[110] On January 20, 2004, San Miguel, through counsel, replied that the shares were already validly sold to it since the "Compromise Agreement" proves that these shares were sold as of April 1, 1986, days before the sequestration on April 7, 1986.[111]

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

It was similarly erroneous for the ponencia to state that:

> More importantly, the PCGG, the government agency empowered to exercise sequestration powers over the 25.45 [million] SMC treasury shares, gave its imprimatur to SMC's ownership and possession of said shares by approving the Compromise Agreement on which SMC predicates its claim and further asserting its ownership and possession of

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

[110] *Rollo*, pp. 3413–3414.

[111] Id. at 3415–3416.

[112] Id. at 3322–3351.

> the so-called "arbitration fees of 5.5 million SMC shares that came out of the Compromise Agreement."[113]

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

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

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

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

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[113] Ponencia, p. 13.

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

[115] Id. at 641–652.

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

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

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

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

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

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

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

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[118] Ponencia, p. 20.

[119] *See* CIVIL CODE, art. 2028, in relation to art. 2032, which provide:
Article 2028. A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced.

. . . .

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

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

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

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

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

A closer look at the Sandiganbayan's October 25, 1991 Resolution reveals that the Sandiganbayan actually ordered that nothing should be done with the treasury shares "which might prejudice their eventual delivery to their lawful owner or owners who will be determined at the close of the judicial proceeding":[121]

> *At this time the Court has not approved any Compromise Agreement between the so-called "UCPB" and the "SMC Group."* As of July 23, 1991, this Court has merely noted the Manifestation of these two groups, as well as the PCGG's and that of the SMC Corporate Secretary, that the contending groups had executed a Compromise Agreement in resolution of their difference.

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

[121] *Rollo*, pp. 3351–3354.

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

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

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[122] Id.

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

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

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

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

III

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

The September 4, 2012 denied with finality the Motion for Reconsideration but sought to clarify the *fallo* of the January 24, 2012 Decision in view of "a certain development that altered the factual situation then obtaining in G.R. Nos. 177857–58,"[127] which was referring to the September 17, 2009 Decision that converted the CIIF Companies' 144,324,960 shares from common to preferred shares. It was, in effect, a *nunc pro tunc* order affirming the January 24, 2012 Decision, but correcting the *fallo* to include a fact previously omitted.

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

[124] *Rollo*, p. 583.

[125] Id. at 598.

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

[127] *COCOFED, et al. v. Republic*, 694 Phil. 43, 46 (2012) [Per J. Velasco, Jr., En Banc].

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

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

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

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

> The object of a judgment *nunc pro tunc* is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply nonaction by the court, however erroneous the judgment may have been.
>
> A *nunc pro tunc* entry in practice is an entry made now of something which was actually previously done, to have effect as of the former date. Its office is not to supply omitted action by the court, but to supply an omission in the record of action really had, but omitted through inadvertence or mistake.
>
> Except as to the rights of third parties, a judgment *nunc pro tunc* is retrospective, and has the same force and effect, to all intents and purposes, as if it had been entered at the time when the judgment was originally rendered.
>
> It is competent for the court to make an entry *nunc pro tunc* after the term at which the transaction occurred, even though the rights of third persons may be affected. But entries *nunc pro tunc* will not be ordered except where this can be done without injustice to either party, and as a *nunc pro tunc* order is to supply on the record something which has actually occurred, it cannot supply omitted action by the court. Record entries *nunc pro tunc* can properly be made only when based on some writing in a cause which directly or by fair inference indicates the purpose of the entry so sought to be made, or on the personal knowledge and recollection of the court; but in a case where a statement of facts was filed after adjournment of the court for the term, but within the time allowed by an order not entered in the minutes on an oral motion made therefore at the trial, the court at a subsequent term was held to have jurisdiction to permit the filing of such order *nunc pro tunc* on the recollection of the judge and other parol testimony that the order had been applied for and granted during the previous term, without any memorandum or other written evidence thereof. A *nunc pro tunc* entry will be treated as a verity where not appealed from.[129] (Citations omitted)

The September 4, 2012 Resolution went beyond the Decision it was trying to correct. If this Court intended to redefine the number of San Miguel Corporation shares of stock bought from the "coco levy" funds, it should have issued a full resolution explaining the modification. It cannot, by way of a *nunc pro tunc* order, overturn a long-decided Decision of this Court.

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[129] Id. at 879–881.

IV

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

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

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

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

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

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

Before the January 24, 2012 Decision was promulgated, the Republic filed an *Urgent Motion to Direct San Miguel Corporation (SMC) to Comply with the Final and Executory Resolutions dated October 24, 1991 and March 18, 1992 of the Sandiganbayan*.[136] This Court directed San Miguel

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130 *Ynot v. Intermediate Appellate Court*, 232 Phil. 615, 631 (1987) [Per J. Cruz, En Banc].
131 Id. at 624.
132 232 Phil. 615 (1987) [Per J. Cruz, En Banc].
133 Id. at 624.
134 *Mutuc v. Court of Appeals*, 268 Phil. 37, 43 (1990) [Per J. Paras, Second Division].
135 Id., *citing Juanita Yap Say v. IAC*, 242 Phil. 802 (1988) [Per J. Sarmiento, Second Division].
136 *Rollo*, pp. 3322–3350.

Corporation to comment on the Urgent Motion.[137] San Miguel Corporation's Comment was noted in the Resolution dated October 4, 2010.[138]

When the Republic filed its Omnibus Motion, San Miguel Corporation was able to file its Comment[139] on December 2, 2013, outlining its argument that these treasury shares were already fully paid by the time the "Compromise Agreement" was implemented. It also attached various documents proving its allegations, from Annex "A" to Annex D-27."[140]

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

V

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

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

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137 Id. at 3423-A – 3423-C.
138 Id. at 598.
139 Id. at 5189–5237.
140 Id. at 5238–5289.
141 *See Dumo and Dumo v. Espinas, et al.*, 515 Phil. 685, 699 (2006) [Per J. Austria-Martinez, First Division], *citing Estares v. Court of Appeals*, 498 Phil. 640, 658–659 (2005) [Per J. Austria-Martinez, Second Division].
142 *See Bough and Bough v. Cantiveros and Hanopol*, 40 Phil. 210, 216 (1919) [Per J. Malcolm, En Banc] and *Rellosa v. Gaw Chee Hun*, 93 Phil. 827, 832–833 (1953) [Per J. Bautista-Angelo, En Banc].
143 *COCOFED, et al. v. Republic*, 679 Phil. 508 (2012) [Per J. Velasco, Jr., En Banc].

ARTICLE VI
Legislative Department

. . . .

SECTION 29. . . . .

. . . .

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

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

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

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

Both the CIIF Companies and San Miguel Corporation were in *pari delicto* when it attempted the sale of 33,133,126 San Miguel Corporation

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144 Id. at 620.
145 Enacted February 28, 1986.
146 Enacted March 12, 1986.
147 *See COCOFED v. PCGG*, 258-A Phil. 1 (1989) [Per J. Narvasa, En Banc].
148 *Bough and Bough v. Cantiveros and Hanopol*, 40 Phil. 210, 216 (1919) [Per J. Malcolm, En Banc]: "[A] party to an illegal contract cannot come into a court of law and ask to have his illegal objects carried out. . . . The law will not aid either party to an illegal agreement; it leaves the parties where it finds them."

shares of stock on March 26, 1986. San Miguel Corporation cannot now claim that it is entitled to the shares equivalent to the ₱500 million it previously paid as a first installment. Parties in *pari delicto* cannot sue for specific performance, recover property previously sold and delivered, or ask for a refund of money previously paid.[149] The law, as well as the courts, will not grant them any affirmative relief.[150] If this Omnibus Motion is denied and the *fallo* of the September 4, 2012 Resolution is allowed to stand, this Court will have legitimized an illegal sale of public property.

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

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

I dissent. I do so emphatically.

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

MARVIC M.V.F. LEONEN
Associate Justice

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CLERK OF COURT, EN BANC
SUPREME COURT

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