G.R. Nos. 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 Cooperation (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

SERENO, CJ:

The matter before the Court in these cases is the correctness of the modification made in the Resolution dated 4 September 2012, to wit:

> **WHEREFORE**, the Court resolves to **DENY** with **FINALITY** the instant Motion for Reconsideration dated February 14, 2012 for lack of merit.
>
> The Court further resolves to **CLARIFY** that the 753,848,312 SMC Series 1 preferred shares of the CIIF companies converted from the CIIF block of SMC shares, with all the dividend earnings as well as all increments arising from, but not limited to, the exercise of preemptive rights subject of the September 17, 2009 Resolution, shall now be the subject matter of the January 24, 2012 Decision and shall be declared owned by the Government and be used only for the benefit of all coconut farmers and for the development of the coconut industry.[1]

According to the Republic,[2] this Court ended up substantially modifying or altering the Decision dated 24 January 2012, which equated the 753,848,312 SMC Series 1 Preferred Shares with the 33,133,266 CIIF block of San Miguel Corporation (SMC) shares as of 1983 and the stock dividends accruing thereafter.[3] This Court affirmed the Sandiganbayan resolutions directing the SMC to deliver the treasury shares to the Presidential Commission on Good Government (PCGG) in *San Miguel*

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[1] *Philippine Coconut Producers Federation, Inc. v. Republic*, 694 Phil. 43, 47-48 (2012).

[2] *Rollo,* pp. 4800-4822; 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 dated 12 October 2012.

[3] Id. at 4810-4811.

Corporation v. Sandiganbayan.[4] The Republic alleged that despite this ruling, which had long become final and executory, SMC obstinately refused and continued to refuse to deliver the treasury shares and all the dividends therefrom.[5]

The Manifestation and Omnibus Motion of the Republic compelled me, as one of those who concurred in the Resolution dated 4 September 2012, to reflect on whether this Court indeed made a mistake in making the questioned modification. I humbly submit that it did.

The modification in the Resolution dated 4 September 2012 stemmed from that which was dated 17 September 2009, approving the conversion of the 753,848,312 SMC Common Shares registered in the name of CIIF companies to the SMC Series 1 Preferred Shares of 753,848,312. It also ordered that the preferred shares remain in *custodia legis,* and that their ownership be subject to a final ownership determination by the Court.

Notably, a thorough reading of the Resolution dated 17 September 2009 shows nowhere was there any reference to the amount "33,133,266."

What is clear, however, is the following statement in the Resolution dated 17 September 2009:

> As records show, **PCGG sequestered the 753,848,312 SMC common shares registered in the name of CIIF companies on April 7, 1986**. From that time on, these sequestered shares became subject to the management, supervision, and control of PCGG, pursuant to Executive Order No. (EO) 1, Series of 1986, creating that commission x x x[6] (Emphasis supplied)

The first sentence above has for its reference *Republic v. Sandiganbayan,*[7] the pertinent portion of which reads:

> **On April 7, 1986, the PCGG sequestered the subject 33.1 Million SMC shares**, the PCGG noting in its letter to Soriano III that said shares came "from the shareholdings of Mr. Eduardo Cojuangco, Jr. which are listed [as owned by the 14 CIIF Holding Companies]."[8] (Emphasis supplied)

The date "7 April 1986" is crucial here, because in *San Miguel Corporation v. Sandiganbayan,*[9] that was the date when the PCGG sequestered the 33,133,266 shares. To be precise, this Court ruled:

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[4] 394 Phil. 608 (2000).
[5] *Rollo*, p. 4818.
[6] *Philippine Coconut Producers Federation, Inc. v. Republic*, 616 Phil. 94, 108 (2009).
[7] 541 Phil. 24 (2007).
[8] Id. at 36.
[9] Supra note 4.

> It appears that on March 26, 1986, **the Coconut Industry Investment Fund Holding Companies ("CIIF" for brevity) sold 33,133,266 shares of the outstanding capital stock of San Miguel Corporation** to Andres Soriano III of the SMC Group payable in four (4) installments.
>
> On April 1, 1986, Andres Soriano III paid the initial P500 million to the UCPB as administrator of the CIIF. The sale was transacted through the stock exchange and the shares were registered in the name of Anscor-Hagedorn Securities, Inc. (AHSI).
>
> **On April 7, 1986, the Presidential Commission on Good Government (PCGG) then led by the former President of the Senate, the Honorable Jovito R. Salonga, sequestered the shares of stock subject of the sale.**[10] (Emphases supplied)

From the foregoing, the Resolution dated 17 September 2009 created equivalence between the 33,133,266 shares of the outstanding capital stock of SMC that were sold by the CIIF companies to Andres Soriano III and eventually sequestered by the PCGG on 7 April 1986, on the one hand, and the converted 753,848,312 SMC Series 1 Preferred Shares that were registered in the name of the CIIF companies and ordered to remain in *custodia legis*, on the other.

This supposed equivalence was repeated in the Resolution dated 4 September 2012, to wit:

> As of 1983, the Class A and B San Miguel Corporation (SMC) **common shares in the names of the 14 CIIF Holding Companies are 33,133,266 shares**. From 1983 to November 19, 2009 when the Republic of the Philippines representing the Presidential Commission on Good Government (PCGG) filed the "Motion to Approve Sale of CIIF SMC Series I Preferred Shares," **the common shares of the CIIF Holding companies increased to 753,848,312** Class A and B SMC common shares.[11] (Emphases supplied)

The use of the word "increased" connotes that by the mere passage of time and appreciation of value, the former 33,133,266 shares became 753,848,312.

In fact, even the *ponente* cited[12] this portion of the Resolution dated 4 September 2012 showing that the 33,133,266 common shares in the names of the 14 CIIF companies "increased" to 753,848,312 Class A and B SMC common shares. Notably, there was no mention of any deduction involving the 25.45 million treasury shares.

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[10] Id. at 620-621.
[11] *Philippine Coconut Producers Federation, Inc. v. Republic*, supra note 1 at 46.
[12] Resolution dated 5 October 2016, p. 8.

It thus became a matter of concern for me when, later in the Resolution, it was ruled that the 753,848,312 SMC Series 1 Preferred Shares as reflected in the *fallo* of the Resolution dated 4 September 2012 "**are the only remaining shares in the name of the CIIF companies that can be, and were in fact, declared as owned by the Government,**"[13] due to the deduction of the 25.45 million SMC treasury shares and the 5.5 million shares in the form of arbitration fees for the PCGG.

If the Court made a mistake in the modification of the Resolution dated 4 September 2012, it seems the most opportune time to correct that inadvertence. The Court has always proceeded under the assumption of equivalence between the 33,133,266 common shares and the 753,848,312 SMC Series 1 Preferred Shares. If it is now apparent that there is no such equivalence, then this Court may want to revisit the modification made in the Resolution dated 4 September 2012. Our Decision dated 24 January 2012 should stand, in that the entire 33,133,266 common shares as of 1983 are declared owned by the government and, as such, are to be used only for the benefit of all coconut farmers and for the development of the coconut industry. Hence, the entire 33,133,266 common shares as of 1983 – in whatever form they may now be – should be ordered reconveyed to the government.

Approval of the Compromise Agreement

We note the provisions of the Compromise Agreement and Amicable Settlement[14] (Compromise Agreement) forged between SMC, Neptunia Corporation Limited, Andres Soriano III, and ANSCOR Hagedorn Securities, Inc. (SMC Group); and United Coconut Planters Bank, the 14 corporations collectively referred to as the CIIF Holding Corporations, and the 10 corporations collectively referred to as the CIIF Copra Trading Companies (UCPB Group). The pertinent provisions of the agreement are quoted as follows:

> 1. **All the terms of this 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. **This Agreement and the PCGG approval thereof shall be submitted to the Sandiganbayan.**
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> x x x x
>
> 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. x x x

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[13] Id. at 18-19.
[14] *Rollo*, pp. 1658-1667.

> 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. x x x
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> 3.3. The sale of the shares covered 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.
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> x x x x
>
> 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.[15] (Emphases supplied)

The parties submitted the Compromise Agreement to the Sandiganbayan for approval on 23 March 1990.[16] While the Republic opposed, the PCGG interposed no objection to the implementation thereof, subject to certain conditions.[17] Foremost among the conditions imposed by

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[15] Id. at 1659 and 1664; Compromise Agreement and Amicable Settlement, pp. 2 and 7.

[16] *San Miguel Corporation v. Sandiganbayan*, 394 Phil. 608, 621 (2000).

[17] PCGG interposed no objection to the implementation of the Compromise Agreement subject to the incorporation of the following provisions:

1. As stated in the COMPROMISE, the 5 million SMC shares (now 26,450,000) paid for by the P500 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.
   The P500 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.
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.
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.
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

the PCGG is that its consent to the transfer of the sequestered shares of stock and to the lifting of the sequestration to permit the transfer shall be effective only when the Compromise Agreement is approved by the Sandiganbayan.

The SMC and UCPB Group filed a Joint Manifestation that they had implemented the Compromise Agreement in accordance with the conditions set by the PCGG.[18] On 5 July 1991, the Sandiganbayan noted the implementation "with the observation that the PCGG, the UCPB Group and the SMC Group shall always act with due regard to the sequestered character of the shares of stock involved herein as well as the fruits thereof, more particularly to prevent the loss or dissipation of their value"[19] and "without prejudice to whatever might be the resolution of this Court on the Motion to Nullify the Compromise Agreement filed by Eduardo Cojuangco, Jr."[20]

On 25 October 1991, the Sandiganbayan ordered SMC to deliver to the PCGG the 25.45 million treasury shares, subject of the Compromise Agreement.[21] On 18 March 1992, after denying the motion for reconsideration filed by the SMC Group, the Sandiganbayan further ordered it to pay dividends on the said treasury shares and to deliver these to the PCGG.[22]

When a contract is subject to a suspensive condition, its birth or effectivity can take place only if and when the condition happens or is fulfilled.[23] In this case, the Sandiganbayan has not approved the Compromise Agreement or made any ruling thereon. Thus, without the fulfillment of the condition that the *imprimatur* of the Sandiganbayan be obtained, the Compromise Agreement can neither be considered effective nor the source of rights on the treasury shares as invoked by SMC.

When the Sandiganbayan Resolutions dated 25 October 1991 and 18 March 1992 were assailed in a petition for certiorari, the Court – speaking through then Associate Justice, later Chief Justice, Reynato S. Puno – ruled that there was no grave abuse of discretion on the part of the Sandiganbayan when the latter ordered the SMC Group to deliver the treasury shares and pay the corresponding dividends thereon to the PCGG.[24]

The Court ruled that the Compromise Agreement involved sequestered shares of stock, the ownership of which was still under litigation. Because it is not yet known whether the sequestered shares are

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construed as indicating any recognition of the legality or sufficiency of any act of any of the parties. (Id. at 624-626.)

[18] *San Miguel Corporation v. Sandiganbayan*, 394 Phil. 608, 628 (2000).

[19] Id. at 629.

[20] Id.

[21] Id. at 631.

[22] Id.

[23] *Coronel v. CA*, 263 SCRA 15, 7 October 1996.

[24] Supra note 17 at 631.

part of the alleged ill-gotten wealth of former President Marcos and his "cronies," any disposition concerning these shares falls within the unquestionable jurisdiction of the Sandiganbayan and is subject to its approval. Furthermore, its order regarding the treasury shares is merely preservative in nature.

The Court quoted with approval the Sandiganbayan ruling with regard to the contention of the SMC Group that the latter could no longer turn over the certificates of stock for the 25.25 million sequestered shares, because they had become treasury shares.[25] The Sandiganbayan ruled that these sequestered shares can only become SMC's treasury shares or reacquired property if the sale between the UCPB Group and the SMC Group is allowed. Moreover, SMC cannot be deemed to have reacquired the shares, because it is only one among several buyers thereof. Even assuming that these have indeed become treasury shares, the Sandiganbayan ruled that they remain sequestered and cannot be subject to acts that would remove them from *custodia legis*.

Considering the foregoing, the following pronouncements in the Resolution appears to be not in order:

1. "[T]he Compromise Agreement partook of the nature of a bonafide proprietary business transaction of the government."[26]

2. "[T]he PCGG, the government's primary representative in sequestration proceedings, virtually gave its consent to the SMC's continuous possession of the 25.45 million shares by approving the Compromise Agreement on which SMC predicates its claim over the shares *and* continuing its possession of the so-called 'arbitration fee' shares that came out of the same Compromise Agreement."[27]

3. "[T]he Republic had a hand in the transactions that eventually led to the designation of the more than 25.45 million shares as SMC treasury shares."[28]

The Compromise Agreement requires the Sandiganbayan's approval for two things: (1) the consent of the PCGG and (2) the effectivity of the agreement in general. The SMC and UCPB Group needed that approval in a form that was unequivocal, and not merely implied from a lack of disapproval. Absent such approval, there is no Compromise Agreement to speak of. No rights can emanate from that transaction, because its existence depends on the fulfillment of a condition voluntarily imposed by the parties.

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[25] Id. at 639-642.
[26] Resolution dated 5 October 2016, p. 25.
[27] Id. at 21.
[28] Id. at 22.

For the Court to require the Republic to return the ₱500 million to SMC at this time would be tantamount to saying that the Compromise Agreement has been disapproved by the Sandiganbayan. Again, there has been no pronouncement regarding the approval or disapproval of the Compromise Agreement. Thus, the declaration that the Republic had been unjustly enriched or was estopped from claiming ownership over the 25.45 million treasury shares may prove to be too early if not unfair.

There seems to be no basis for the Court to conclude that "the Republic plans to keep the 500 million along with the 25.45 million shares."[29] Likewise without apparent basis is the statement of the Court that to "resolve the incident at bar [would be] to benefit the Republic at the expense of SMC."[30] These statements may be properly juxtaposed with the averment of the Republic that the present value of the shares is "17.65 billion pesos"[31] had they not been reverted to the SMC treasury pursuant to the implementation of the Compromise Agreement without the *imprimatur* of the Sandiganbayan.

There should be an effort to distinguish between the government ownership of the CIIF companies and the entire CIIF block of SMC shares on the one hand and the validity of the Compromise Agreement on the other. The first has been unequivocally declared by this Court in the Decision dated 24 January 2012. The second is still pending before the Sandiganbayan. The correctness of the modification made in the Resolution dated 4 September 2012 bears heavily on the first, while the question regarding the 5.5 million shares in the form of arbitration fees for the PCGG and the 25.45 million SMC treasury shares is dependent on the second. The first is our concern at the moment; the second is not.

The Resolution has correctly stated that the issues regarding SMC's right over the 25.45 million treasury shares remain unresolved.[32] As such, it is not proper for the Court to declare that the 753,848,312 SMC SMC Series 1 Preferred Shares are the only ones that remained of the 33,133,266 CIIF block of SMC shares, because the 5.5 million shares in the form of arbitration fees for the PCGG and the 25.45 million SMC treasury shares should no longer be included therein. The appropriate course of action is to order all 33,133,266 CIIF block of SMC shares to be reconveyed to the government and then thresh out in a separate proceeding whether SMC had a right over the 25.45 million shares allegedly bought under the Compromise Agreement. This Resolution may even be utilized by SMC to invoke the principle of *res judicata* in that envisioned separate action or proceeding to be instituted by the Republic.[33]

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[29] Id. at 23.
[30] Id.
[31] *Rollo*, p. 813.
[32] Resolution dated 5 October 2016, p. 25.
[33] Id.

It is inconsistent for the Resolution to claim that "the manner of SMC's acquisition of the shares was arms-length and not made through public funds,"[34] and yet point out that the SMC board was dominated by PCGG nominees and other government representatives at the time the Compromise Agreement was signed.[35] That kind of influence, as illustrated by the Resolution, negates the meaning of an arms-length transaction.

Furthermore, the circumstances surrounding the acquisition of the shares make it suspect. The sale of the 33,133,266 common shares took place a month after the EDSA Revolution.[36] On 1 April 1986 or six days before the PCGG sequestered the shares of stock subject of the sale, the initial installment of ₱500 million was paid.[37] The timing practically shows that the sale was made in order to avoid scrutiny by the succeeding administration.

The Right of SMC to be Heard

I find myself unable to agree with the pronouncement in the Resolution that SMC "was not given a chance to justify, let alone ventilate, its claim over the 25.45 million shares it has in its possession."[38]

Despite the denial by the Sandiganbayan of the Motion for Intervention filed by SMC in Civil Case No. 0033-F, the latter was given many opportunities to air its side, albeit many chances also to demonstrate its obstinate refusal to comply with the Sandiganbayan directives.

When SMC and UCPB filed a Joint Manifestation informing the anti-graft court that they had implemented the Compromise Agreement; that the certificates of stocks were surrendered to the SMC Corporate Secretary; and that the certificates for the 25.45 million shares were registered in the name of the SMC as treasury shares, the anti-graft court issued the Resolution dated 23 July 1991 requiring that all the certificates of stock representing all of the sequestered shares be physically deposited with the PCGG.

Rather than comply with the directive, SMC instead filed yet another Manifestation and Motion dated 21 August 1991 praying that it be allowed to keep the certificates of stock representing the sequestered shares.

This eventually led to the issuance of Resolutions dated 24 October 1991 and 18 March 1992 by the Sandiganbayan, the dispositive portions of which provide:

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[34] Id. at 15.
[35] Id. at 21.
[36] Supra note 4 at 620.
[37] Id. at 621.
[38] Resolution dated 5 October 2016, p. 13.

WHEREFORE, the Manifestation and Motion of the "SMC Group" dated August 21, 1991, which in effect, seeks a reconsideration of this Court's resolution of July 23, 1991 requiring that all Certificates of Stock representing the sequestered shares in the SMC be physically deposited with the Presidential Commission on Good Government is denied.

Additionally, the San Miguel Corporation is now ordered:

1) To inform this Court of the amount of the cash dividends due to or actually earned by the 25,450,000 shares of stock represented by the Stock Certificates No. A0004129 for 15,274,484 class "A" shares and No. B00015556 for 10,175,516 calls "B" shares; and

2) To deliver the check representing that amount to the Presidential Commission on Good Government for the latter to deposit in or place with government bank offering at the best terms and conditions.

This deposit or placement shall be made in the name of the Presidential Commission on Good Government in trust for whomever said shares of stock may eventually be adjudicated.

Future dividends, whether of cash and/or of stock, which may hereafter be declared on the shares represented by the above stock certificates shall be similarly treated by the Presidential Commission on Good Government until further orders from this Court.

Compliance hereon shall be reported to this Court

a. By the San Miguel Corporation within ten (10) days from receipt hereof; and

b. By the Presidential Commission on Good Government, with regard to its receipt and custody of the two certificates of stock above-mentioned as well as with regard to its placement or deposit of the cash dividends thereon, within twenty (20) days from receipt hereof.

The individual Commissioners of the Presidential Commission on Good Government shall be responsible to this Court for the care, custody and disposition of the dividends, subject matter hereof.

SO ORDERED.[39]

x x x x

WHEREFORE, the San Miguel Corporation's Motion for Reconsideration [of the Resolution dated] October 24, 1991 is DENIED.

The San Miguel Corporation through its President and Corporate Secretary are now ordered:

1. To deliver to PCGG the 25.45 million shares represented by the following certificates of stock:

A 0004129 15,274,484 shares

[39] *Rollo*, pp. 802-803.

B 0015556 10,175,516

and the other 1 million shares of stock forming part of the so-called First Installment Shares;

2. To deliver to PCGG the cash and/or stock dividends which have accrued to the above shares of stock from March 26, 1986 to dates and which might have further accrued thereto had not said shares of stock been declared Treasury Shares;

3. To report compliance therewith within fifteen (15) days from receipt hereof.

SO ORDERED.[40]

These Resolutions were later affirmed by this Court in *San Miguel Corporation v. Sandiganbayan,* which in turn became final and executory on 27 June 2001.

Yet again, when the Republic filed its Urgent Motion[41] before this Court to direct SMC to comply with the abovementioned Sandiganbayan Resolutions, SMC once more ventilated its position as it filed its Comment.[42] It prayed that the Urgent Motion be denied for lack of merit and reasoned that this Court has no jurisdiction to act on the motion since this Court never acquired jurisdiction over case SB No. 0102;[43] the Resolutions are merely interlocutory and have no life independent of SB No. 0102 where no final judgment has been made rendering the said resolutions *functus officio*;[44] and in any case, the SMC treasury shares are not part of the shares adjudicated in Civil Case No. 0033-F and have been validly transferred from the CIIF Companies to the SMC on the basis of a perfected contract of sale and an effective compromise.[45]

SMC also filed a Comment[46] on the Republic's Manifestation and Omnibus Motion opposing the relief demanded by the Republic. Certainly, these pleadings and the reliefs SMC asked through these pleadings cannot be overlooked.

More importantly, in that Comment, SMC in fact reiterated the following allegations it had made in its Motion to Intervene in Civil Case No. 0033:

1.28. On top of all of the above, SMC filed before the Sandiganbayan in Civil Case No. 0033-F a "Motion to Intervene" dated February 2, 2004 through a "Complaint-in-Intervention" of even date in which it alleged, as follows:

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[40] Id. at 803-804.
[41] Id. at 794-820.
[42] Id. at 4583-4628.
[43] Id. at 4596.
[44] Id. at 4605.
[45] Id. at 4606.
[46] Id. at 5180-5234.

> 2. SMC has an interest in the matter in dispute between plaintiff and defendants CIIF companies, being the owner by purchase of **a portion of the so-called "CIIF block of SMC shares of stock"** which plaintiff seeks to recover in this case as alleged ill-gotten wealth.[47] (Emphasis supplied)

To my mind, SMC made a judicial admission, which has been elucidated by this Court in this wise:

> A party who judicially admits a fact cannot later challenge that fact as judicial admissions are a waiver of proof; production of evidence is dispensed with. A judicial admission also removes an admitted fact from the field of controversy. Consequently, an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to such party, and all proofs to the contrary or inconsistent therewith should be ignored, whether objection is interposed by the party or not. The allegations, statements or admissions contained in a pleading are conclusive as against the pleader. A party cannot subsequently take a position contrary of or inconsistent with what was pleaded.[48]

SMC had its chances to be heard, asked for reliefs, and as discussed above, even admitted that the treasury shares were part of the entire 33,133,266 SMC common shares that were sequestered and kept under legal custody in Civil Case No. 0033.

On this score, I must point out that in the Decision dated 24 January 2012, the Court has already made a pronouncement on the nature of the CIIF companies and the CIIF block of SMC shares as follows:

> 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.
>
> It may be conceded hypothetically, as COCOFED *et al.* urge, that the 14 CIIF holding companies acquired the SMC shares in question using advances from the CIIF companies and from UCPB loans. But there can be no gainsaying that the same advances and UCPB loans are public in character, constituting as they do assets of the 14 holding companies, which in turn are wholly-owned subsidiaries of the 6 CIIF Oil Mills. And these oil mills were organized, capitalized and/or financed using coconut levy funds. In net effect, the CIIF block of SMC shares are simply the fruits of the coconut levy funds acquired at the expense of the coconut industry. In *Republic v. COCOFED*, the *en banc* Court, speaking through Justice (later Chief Justice) Artemio Panganiban, stated: "*Because the subject UCPB shares were acquired with government funds, the government becomes their prima facie beneficial and true owner.*" By parity of reasoning, the adverted block of SMC shares, acquired as they

[47] Id. at 5228; Comment of San Miguel Corporation on the Manifestation and Omnibus Motion, p. 44.
[48] *Alfelor v. Halasan*, 520 Phil. 982, 991 (2006).

> were with government funds, belong to the government as, at the very least, their beneficial and true owner.
>
> We thus affirm the decision of the Sandiganbayan on this point. But as We have earlier discussed, reiterating our holding in *Republic v. COCOFED,* the States avowed policy or purpose in creating the coconut levy fund is for the development of the entire coconut industry, which is one of the major industries that promotes sustained economic stability, and not merely the livelihood of a significant segment of the population. Accordingly, We sustain the ruling of the Sandiganbayan in CC No. 0033-F that the CIIF companies and the CIIF block of SMC shares are public funds necessary owned by the Government. We, however, modify the same in the following wise: These shares shall belong to the Government, which shall be used only for the benefit of the coconut farmers and for the development of the coconut industry.[49]

It was only because of the obstinate refusal of SMC to heed the Sandiganbayan's directives to deliver the shares, and its stark circumvention of the sequestration proceedings that the Compromise Agreement was brazenly implemented despite the absence of the Sandiganbayan's approval. This Court cannot countenance these acts of SMC by holding it blameless and putting the Republic in estoppel through the delayed action of its agents.

I therefore vote to **GRANT** the Republic's motion.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:
FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT

[49] *Philippine Coconut Producers Federation, Inc. v. Republic*, 679 Phil. 508, 621-622 (2012).