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IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, I vote to dismiss the petitions in G.R. No. 178158 and G.R. No. 180428; to disallow the intervention of Asiavest Merchant Bankers Berhad; to affirm the decision dated January 25, 2007, the resolution dated May 31, 2007 promulgated in C.A.-G.R. CV No. 87971, and the resolution dated June 12, 2007 promulgated in C.A.-G.R. SP No. 97982.

THIRD DIVISION

[G.R. No. 179505. December 4, 2009]

FIRST PHILIPPINE HOLDINGS CORPORATION, *petitioner, vs.* **TRANS MIDDLE EAST (PHILS.) EQUITIES, INC.,** *respondent.*

SYLLABUS

1. **CIVIL LAW; CONTRACTS; ESSENTIAL REQUISITES. —** A contract is void if one of the essential requisites of contracts under Article 1318 of the New Civil Code is lacking. Article 1318 provides: Art. 1318. There is no contract unless the following requisites concur: (1) Consent of the contracting parties; (2) Object certain which is the subject matter of the contract; (3) Cause of the obligation which is established. All these elements must be present to constitute a valid contract. Consent is essential to the existence of a contract; and where it is wanting, the contract is non-existent.

2. **ID.; ID.; SALE; REQUISITES; EXPLAINED. —** In a contract of sale, its perfection is consummated at the moment there is a meeting of the minds upon the thing that is the object of the contract and upon the price. Consent is manifested by the meeting of the offer and the acceptance of the thing and the cause, which are to constitute the contract. To enter into a valid contract of sale, the parties must have the capacity to do

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so. Every person is presumed to be capacitated to enter into a contract until satisfactory proof to the contrary is presented. The burden of proof is on the individual asserting a lack of capacity to contract, and this burden has been characterized as requiring for its satisfaction clear and convincing evidence.

3. ID.; ID.; VOIDABLE CONTRACTS; CONSTRUED. — These circumstances surrounding the questioned transaction fit in with what Article 1390 of the Civil Code contemplates as voidable contracts, *viz*: Art. 1390. The following contracts are voidable or annullable, even though there may have been no damage to the contracting parties: x x x (2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence, or **fraud**. Thus, contracts where consent is given through fraud, are voidable or annullable. These are not void *ab initio* since voidable or anullable contracts are existent, valid, and binding, although they can be annulled because of want of capacity or the vitiated consent of one of the parties. However, before such annulment, they are considered effective and obligatory between parties.

4. ID.; ID.; ID.; ACTION FOR ANNULMENT THEREOF SHALL BE FILED WITHIN FOUR YEARS FROM THE DISCOVERY OF FRAUD; SUSTAINED. — Under Article 1391 of the Civil Code, a suit for the annulment of a voidable contract on account of fraud shall be filed within four years from the discovery of the same, thus: Article 1391. An action for annulment shall be brought within four years. This period shall begin: In case of intimidation, violence or undue influence, from the time the defect of the consent ceases. In case of mistake or **fraud, from the time of the discovery of the same**.

5. COMMERCIAL LAW; CORPORATION CODE; CORPORATIONS; ALL CORPORATE POWERS SHALL BE EXERCISED AND ALL CORPORATE BUSINESS SHALL BE CONDUCTED BY THE BOARD OF DIRECTORS; CLARIFIED. — While a corporation is a juridical person, it cannot act except through its board of directors as a collective body, which is vested with the power and responsibility to decide whether the corporation should enter into a contract that will bind the corporation, subject to the articles of incorporation, by-laws, or relevant provisions of law. This grant to the board of all corporate powers is explicit under Section 23 of the Corporation Code, stating: "*All corporate powers shall be*

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exercised, and all corporate business shall be conducted by the board of directors."

6. REMEDIAL LAW; CIVIL PROCEDURE; ACTIONS; DISMISSAL OF ACTION; PRESCRIPTION AS A GROUND; WHEN PROPER. — A complaint may be dismissed when the facts establishing prescription are apparent in the complaint or from the records. In *Gicano v. Gegato,* this Court held that: **[T]rial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred;** and it may do so on the basis of a motion to dismiss, or an answer which sets up such ground as an affirmative defense; or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration; or even if the defense has not been asserted at all, as where no statement thereof is found in the pleadings; or where a defendant has been declared in default. What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period be otherwise sufficiently and satisfactorily apparent on the record; either in the averments of the plaintiff's complaint, or otherwise established by the evidence.

APPEARANCES OF COUNSEL

Migallos & Luna Law Offices for petitioner.

Andrea Rigonan Dela Cueva & Otilia Dimayuga-Molo for respondent.

D E C I S I O N

CHICO-NAZARIO, *J.*:

This Petition for Review under Rule 45 of the Rules of Court seeks to reverse and set aside the 22 February 2007 Resolution[1] of the Sandiganbayan, Fifth Division in Civil Case No. 0035 granting respondent Trans Middle East (Phils.) Equities Inc.'s

[1] Penned by Associate Justice Teresita V. Diaz-Baldos with Associate Justices Ma. Cristina G. Cortes-Estrada and Roland B. Jurado, concurring. *Rollo,* pp. 41-52.

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(TMEE's) Motion to Dismiss on the ground of prescription, petitioner First Philippine Holdings Corporation's (FPHC's) Complaint-in-Intervention, and its 6 September 2007 Resolution denying petitioner's motion for reconsideration.

FPHC, formerly known as Meralco Securities Corporation, which was incorporated in 30 June 1961 by Filipino entrepreneurs led by Eugenio Lopez, Sr., is a holding company engaged in power generation and distribution, property development and manufacturing.[2] FPHC's controlling interest is owned by the Lopez family. TMEE, on the other hand, is also a domestic corporation, allegedly owned by Benjamin (Kokoy) Romualdez.

On 24 May 1984, FPHC allegedly sold its 6,299,179 shares of common stock in Philippine Commercial International Bank (PCIB), now Equitable-PCI Bank, to TMEE.

The 6,299,179 shares of common stock in PCIB are part of the sequestered properties that were allegedly illegally amassed by Benjamin Romualdez during the twenty-year reign of former President Ferdinand E. Marcos, and are among the purported ill-gotten wealth sought to be recovered by the Presidential Commission on Good Government (PCGG) *via* a civil case docketed as Civil Case No. 0035 before the Sandiganbayan.

According to FPHC, said shares were obtained by TMEE through fraud and acts contrary to law, morals, good customs and public policy.[3] Such being the case, their acquisition is either voidable or void or unenforceable.

On 28 December 1988, claiming ownership of said shares as well as the corresponding rights appurtenant to ownership, FPHC filed before the Sandiganbayan its "Motion for Leave to Intervene and to Admit Complaint in Intervention" in Civil Case No. 0035. Although the Sandiganbayan denied FPHC's motion for intervention, this Court on 1 February 1996, in *First Philippine Holdings Corporation v. Sandiganbayan*,[4] reversed the

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[2] http://www.fphc.com/AboutFphc.php?ArticleID=12, 23 September 2009.

[3] *Rollo*, p. 17, FPHC's Petition For Review.

[4] 323 Phil. 36 (1996).

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Sandiganbayan and ruled that FPHC had the legal right to intervene in Civil Case No. 0035 and directed the said court to admit the proposed Complaint- in-Intervention of FPHC.

On 27 June 2006, TMEE filed a Motion to Dismiss the Complaint-in-Intervention of FPHC on the ground, among other things, that the action of FPHC had already prescribed. TMEE argued that under Article 1391 of the Civil Code, FPHC only had four years from 24 May 1984, the date of the sale or until 24 May 1988 within which to annul the validity of the sale transaction on the ground of fraud. Since FPHC filed the Complaint-in-Intervention only on 28 December 1988, it meant that the action was seven months late from the prescriptive period.

FPHC disagreed. It maintained that the counting of four (4) years should commence from the time the intimidation or the defect of consent ceased, *i.e.*, when former President Ferdinand E. Marcos was deposed and left the country on 24 February 1986, and not from 24 May 1984. It argued that before 24 February 1986, the Lopez family could not have asserted their ownership over the contested shares. FPHC then concluded that when it assailed the questioned sale on 24 May 1988, the same was filed within the four-year prescriptive period.

On 22 February 2007, the Sandiganbayan ruled in TMEE's favor by granting its motion to dismiss. The Sandiganbayan, citing *Philippine Free Press, Inc. v. Court of Appeals,*[5] found no credible reason why FPHC could not institute the complaint to annul the sale of the disputed shares of stock, simply for the alleged fear engendered by the Marcos rule since, in 1984 when the sale was consummated, martial rule was already lifted; and that, in the same year, protests against the then president were already mounting and boisterous. The Sandiganbayan opined that since FPHC's effort to recover the PCIB shares would have to be addressed by the court, the element of fear would have been neutralized since the judiciary did not lack gallant magistrates who refused to be cowed into silence by the dictator.

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[5] G.R. No. 132864, 24 October 2005, 473 SCRA 639.

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The Sandiganbayan likewise found suspect FPHC's late pursuit of the recovery of the subject shares taking, in fact, two years after the late dictator was deposed.

FPHC filed a motion for reconsideration. In support thereof, FPHC maintained that the sale of the PCIB shares was void *ab initio,* since the said transaction was allegedly approved by the dummy board and signed by the dummy officers of FPHC. Since the subject sale contract was null and void, the action for the declaration of its nullity was imprescriptible.

FPHC alternatively argued that even if the case were dismissible on the ground of prescription, the rule was that the facts demonstrating the lapse of the prescriptive period must be apparent in the complaint. Since its complaint-in-intervention did not show that there were averments that would demonstrate the lapse of the prescriptive period, FPHC insisted that trial should be had before the resolution of the issue of prescription and whether the governing board of FPHC was so circumstanced that it was impossible for it to successfully institute an action during the Marcos regime.

According to FPHC, even assuming that Article 1391 of the Civil Code applied, the four-year prescriptive period should be reckoned from 26 February 1986, when former President Ferdinand E. Marcos was deposed from power and left the country, for it was only from that date onwards that the cause of vitiation of consent, *i.e.*, intimidation, violence and threats, ceased.

In its Resolution dated 6 September 2007, the Sandiganbayan denied FPHC's motion for reconsideration stressing anew that the subject sale was not void *ab initio,* but merely voidable.

Hence, the instant petition.

A contract is void if one of the essential requisites of contracts under Article 1318 of the New Civil Code is lacking. Article 1318 provides:

Art. 1318. There is no contract unless the following requisites concur:

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(1) Consent of the contracting parties;

(2) Object certain which is the subject matter of the contract;

(3) Cause of the obligation which is established.

All these elements must be present to constitute a valid contract. Consent is essential to the existence of a contract; and where it is wanting, the contract is non-existent. In a contract of sale, its perfection is consummated at the moment there is a meeting of the minds upon the thing that is the object of the contract and upon the price. Consent is manifested by the meeting of the offer and the acceptance of the thing and the cause, which are to constitute the contract. To enter into a valid contract of sale, the parties must have the capacity to do so. Every person is presumed to be capacitated to enter into a contract until satisfactory proof to the contrary is presented.[6] The burden of proof is on the individual asserting a lack of capacity to contract, and this burden has been characterized as requiring for its satisfaction clear and convincing evidence.

While a corporation is a juridical person, it cannot act except through its board of directors as a collective body, which is vested with the power and responsibility to decide whether the corporation should enter into a contract that will bind the corporation, subject to the articles of incorporation, by-laws, or relevant provisions of law.[7] This grant to the board of all corporate powers is explicit under Section 23 of the Corporation Code, stating: "*All corporate powers shall be exercised, and all corporate business shall be conducted by the board of directors*."

In the case under consideration, the dispute centers on the element of consent, which FPHC claimed to be lacking since the supposed board of directors that composed the FPHC was allegedly a "dummy board" of Benjamin Romualdez, the members of which were allegedly installed after the management and control of FPHC were supposedly fraudulently wrested from

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[6] *Vitalista v. Perez*, G.R. No. 164147, 16 June 2006, 491 SCRA 127, 143.

[7] *Associated Bank v. Pronstroller*, G.R. No. 148444, 14 July 2008, 558 SCRA 113, 128.

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its true owners. The Sandiganbayan, however, differed. It stood pat in its ruling that the consent by the board of directors, who had the legal capacity to enter into said contract with a third person, was duly obtained. This Court finds no reason to diverge from the disquisition of the anti-graft court on this matter:

> With respect to the insistence of FPHC that the Sale of Shares of Stock and Escrow Agreement executed on May 24, 1984 is void since it was approved by a dummy board that had no capacity to give consent, it must be stressed that one of the requisites of a valid contract under Article 1318 of the Civil Code is consent and the capacity of the parties to give consent. The legal capacity of the parties is an essential element for the existence of consent. There is no effective consent in law without the capacity to give such consent. In other words, legal consent presupposes capacity. Thus, there is said to be no consent, and consequently, no contract when the agreement is entered into by one in behalf of another who has never given him authorization therefore unless he has by law a right to represent the latter.
>
> Under Section 23 of B.P. 68, otherwise known as the Corporation Code of the Philippines, a corporation can act only through its board of directors. The law is settled that contracts between a corporation and third persons must be made by or under the authority of its board of directors and not by its stockholders. FPHC, for its part, was represented by its board that had the legal right to act on behalf of the corporation and gave its approval and consent to the Sale of Shares of Stock and Escrow Agreement entered into on May 24, 1984. From that standpoint therefore it is clear that the essential element of consent for the existence of a valid contract was complied with in the transaction in question.
>
> The mere allegation of FPHC that the persons who composed the Board of Directors of FPHC that approved the contract were mere dummies of the Marcos and Romualdez group does not make the said contract void. If that allegation of vitiated consent be true so as to incapacitate the Board from giving its consent freely, the defect if at all only renders the contract voidable.[8]

Indeed, a reading of the allegations of FPHC's Complaint-in-Intervention and Petition for Review unveils the recurrent

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[8] *Rollo*, pp. 57-59.

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and persistent asseveration that fraud or devious financial schemes and techniques attended the change of control and management of the corporation. It can be seen therefore that the supposed fraud employed by Benjamin Romualdez and alleged cohorts on the Lopezes constitutes the root cause of the alleged nullity of the sale of the PCIB shares, thus:

15. Defendants Benjamin (Kokoy) Romualdez and his wife Juliette Gomez Romualdez, acting by themselves and/or in unlawful concert with defendants Ferdinand E. Marcos and Imelda R. Marcos, and taking undue advantage of their relationship, influence and connection with the latter defendant spouse, **engaged in devices, schemes and stategems** to unjustly enrich themselves at the expense either of plaintiff and the Filipino people or their private individual victims. Thus –

They obtained, with the active collaboration of defendants Senen J. Gabaldon, Mario D. Camacho, Mamerto Nepomuceno, Carlos J. Valdez, Delia S. Tantuico, Cesar Zalamea, and Atty. Jose F. S. Benzon, Jr. and his law partners, namely: Edilberto S. Narciso, jr. and Leonardo C. Cruz; Jose S. Sandejas and his fellow senior managers of FMMC/ FNI Holdings groups such as Leonardo Gamboa, Vicente T. Mills, jr., Jose M. Mantecon, Abelardo S. Termulo, Rex C. Drillon II and Kurt Bachmann, jr. — control of the Manila Electric Company (Meralco), Pilipinas Shell Corporation and the Philippine Commercial International Bank (PCI Bank) (formerly Philippine Commercial and Industrial Bank) by **employing devious financial schemes and techniques** (See Part V, par. 14(a) Second Amended Complaint); formed the Meralco Froundation, Inc. (MFI) to gain control of the Meralco group of companies upon the **false commitment**, among others, to free Eugenio Lopez, Jr. from detention. (Part V, par. 14(d) Second Amended Complaint); effected, with the active collaboration of, among others, defendants Edilberto S. Narciso, Jr., Jose F. S. Bengzon, Jr., Jose Vicente E. Jimenez, Amando V. Faustino, Jr. and Leonardo C. Cruz, the sale of share holdings of the First Philippine Holdings Corporation in the Philippine Commercial and Industrial Bank (PCIB) to Trans Middle East Philippine Equities, Inc., a front organization of defendant Benjamin (Kokoy) Romualdez, in order to gain control of PCIB with minimum, or negligible "cash-out" from said defendant. The manner by which PCIB in effect funded the purchase of shares of its own capital stock was done in violation of banking laws, rules and regulations (Part V, par. 14(j) Second

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Amended Complaint); and at the onset of the present administration and/or within the week following the February 1986 People's revolution, with the support, assistance and collaboration of the aforenamed lawyers of the Bengzon Law Offices, cleverly hid behind the veil of corporation entity, the ill-gotten wealth of defendant Benjamin (Kokoy) Romualdez, including, among others, the 6,299,177 shares in PCIB registered in the names of Trans Middle East Philippines, Equities, Inc. and defendant Edilberto S. Narciso, Jr. which they refused to surrender to the PCGG (Part V, par. 14-q Second Amended Complaint) despite defendant E. S. Narciso Jr.'s admission/disclosure that the beneficial owner of said shares is defendant Benjamin (Kokoy) Romualdez (Part V, par. 17-a Second Amended Complaint).[9]

31. The PCGG discovered and the plaintiff Republic of the Philippines alleged that the sale of the PCIB shares of plaintiff-intervenor First Philippine Holdings Corporation in the Philippine Commercial and Industrial Bank (PCIB) to defendant-intervenor Trans Middle East (Phils.) Equities, Inc. and defendant Edilberto S. Narciso, Jr. was packaged and financed by PCIB and the Philippine Commercial Capital, Inc. thru loans extended to Southern Leyte Oil Mills, Inc. (SOLOIL, INC.) for and in behalf of Trans Middle East (Phils.) Equities, Inc., in violation of banking laws, rules and regulations; and was effected with the active collaboration of, among others, defendants Edilberto S. Narciso, Jr., Jose F. S. Bengzon, Jr., Jose Vicente E. Jimenez, Armando Faustino, Jr., and Leonardo C. Cruz, by reason of which later discovery plaintiff had to amend and accordingly filed its Second Amended Complaint dated November 4, 1987 with this Court. **Said sale**, is therefore, void or voidable on said ground, in addition to **having been obtained fraudulently** with the connivance of defendant Kokoy Romualdez's dummy directors and officers in plaintiff-intervenors' Board and Executive Committee, in breach of their fiduciary obligations to plaintiff-intervenor and its stockholders under the Corporation Code. x x x.[10]

Undoubtedly, the entirety of the allegations in the complaint-in-intervention makes up a case of a voidable contract of sale — not a void one.

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[9] Records, pp. 5161-5163.

[10] Records, p. 5174.

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These circumstances surrounding the questioned transaction fit in with what Article 1390 of the Civil Code contemplates as voidable contracts, *viz*:

> Art. 1390. The following contracts are voidable or annullable, even though there may have been no damage to the contracting parties:
>
> x x x x x x x x x
>
> (2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence, or **fraud**.

Thus, contracts where consent is given through fraud, are voidable or annullable. These are not void *ab initio* since voidable or anullable contracts are existent, valid, and binding, although they can be annulled because of want of capacity or the vitiated consent of one of the parties. However, before such annulment, they are considered effective and obligatory between parties.[11]

While FPHC's complaint prayed for the declaration of nullity of the disputed sale transaction, such prayer does not determine the nature of the action at hand. It is the material allegations of fact in the complaint, not the legal conclusion made therein or the prayer that determines the nature of the case.[12] As ruled by this Court, it is the body and not the caption or the prayer of the complaint that determines the nature of the action.[13]

As the complaint-in-intervention substantially alleged that the contract was voidable, the four-year prescriptive period under Art. 1391 of the New Civil Code will apply.

Unyielding, FPHC invites this Court's attention to the applicability of the *Islamic Directorate of the Philippines v. Court of Appeals*[14] to the instant controversy.

In *Islamic Directorate*, there were several groups claiming to be the legitimate board of trustees of Islamic Directorate of

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[11] *Metropolitan Waterworks and Sewerage System v. Court of Appeals*, 357 Phil. 966, 978 (1998).

[12] *Sandel v. Court of Appeals*, 330 Phil. 653, 660-661 (1996).

[13] *Id.*

[14] 338 Phil. 970 (1997).

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the Philippines (IDP). Two groups, the Carpizo Group and the Abbas Group, separately contended that they were the lawful board of trustees of IDP. This dispute reached the Securities and Exchange Commission (SEC). The SEC, however, ruled that the election of both groups as IDP board members was null and void. This declaration became final since none of them bothered to question the SEC ruling. Subsequently, despite its lack of authority, the Carpizo Group sold two parcels of land belonging to IDP. This sale was assailed by the Tamano Group as null and void. This Court sustained the stance of the Tamano Group and went on to explain that the questioned transaction was null and void because the Carpizo Group was bereft of any authority to bind IDP in any kind of transaction including the sale of the IDP property. The sale was therefore null and void *ab initio,* because the consent of IDP was absolutely absent.

The pivotal fact that separates the instant case from *Islamic Directorate* is that in the latter, the properties were alienated by an unauthorized body, the Carpizo Group, whose election was previously voided by the SEC; while in the former, the disposition of the disputed shares were sold by a legitimate and authorized corporate officers, absent any declaration by the SEC or by any court or tribunal against its legitimacy. Not a single stockholder even bothered to question the election of the then board of directors of FPHC, much less objected to the disputed sale. This being the situation, *Islamic Directorate* finds no application in the instant case.

Also unavailing is FPHC's insistence that the issue of prescription cannot be resolved on the basis of its complaint as the facts establishing prescription do not appear on the face thereof.

A complaint may be dismissed when the facts establishing prescription are apparent in the complaint or from the records.[15] In *Gicano v. Gegato,*[16] this Court held that:

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[15] *Gicano v. Gegato*, G.R. No. 63575, 20 January 1988, 157 SCRA 140.

[16] *Id.* at 145-146.

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[T]rial courts have authority and discretion to dismiss an action on the ground of prescription when the parties' pleadings or other facts on record show it to be indeed time-barred; (*Francisco v. Robles*, Feb. 15, 1954; *Sison v. McQuaid*, 50 O.G. 97; *Bambao v. Lednicky*, Jan. 28, 1961; *Cordova v. Cordova*, Jan. 14, 1958; *Convets, Inc. v. NDC*, Feb. 28, 1958; 32 SCRA 529; *Sinaon v. Sorongan*, 136 SCRA 408); and it may do so on the basis of a motion to dismiss, or an answer which sets up such ground as an affirmative defense; or even if the ground is alleged after judgment on the merits, as in a motion for reconsideration; or even if the defense has not been asserted at all, as where no statement thereof is found in the pleadings; or where a defendant has been declared in default. What is essential only, to repeat, is that the facts demonstrating the lapse of the prescriptive period be otherwise sufficiently and satisfactorily apparent on the record; either in the averments of the plaintiff's complaint, or otherwise established by the evidence.

Here, the pleadings filed before the anti-graft court are replete with averments and proof that PCIB shares of stock were sold on 24 May 1984, and that FPHC filed its complaint-in-intervention on 28 December 1988. From the execution of the sale to the filing of the complaint, it is readily apparent that four years and seven months had lapsed. Certainly the complaint was filed beyond the four-year prescriptive period.

FPHC, however, contends that the four-year prescriptive period should be reckoned from 24 February 1986, the date when former President Marcos left the country, as it was only then that the threat and intimidation against the Lopezes ceased.

This argument is unconvincing. Based on FPHC's Petition for Review and its Complaint-in-Intervention, the ground relied upon by petitioner is fraud. FPHC's petition partly reads:

PCIBank shares were obtained x x x by means of fraud and acts contrary to law, morals and public policy x x x.[17]

In its Complaint-in-Intervention, it is alleged:

32. **Said sale**, is therefore, void or voidable on said ground, in addition to **having been obtained fraudulently** with the connivance

[17] *Rollo*, p. 17.

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of defendant Kokoy Romualdez's dummy directors and officers in plaintiff-intervenors' Board and Executive Committee, in breach of their fiduciary obligations to plaintiff-intervenor and its stockholders under the Corporation Code. x x x.[18]

Under Article 1391 of the Civil Code, a suit for the annulment of a voidable contract on account of fraud shall be filed within four years from the discovery of the same, thus:

Article 1391. An action for annulment shall be brought within four years.

This period shall begin: In case of intimidation, violence or undue influence, from the time the defect of the consent ceases.

In case of mistake or **fraud, from the time of the discovery of the same**.

Here, from the time the questioned sale transaction on 24 May 1984 took place, FPHC did not deny that it had actual knowledge of the same. Simply, petitioner was fully aware of the sale of the PCIB shares to TMEE. Despite all this knowledge, petitioner did not question the said sale from its inception and some time thereafter. It was only after four years and seven months had lapsed following the knowledge or discovery of the alleged fraudulent sale that petitioner assailed the same. By then, it was too late for petitioner to beset the same transaction, since the prescriptive period had already come into play. As ruled in *Philippppine Free Press, Inc. v. Court of Appeals*[19] —

Be that as it may, the Locsin's mistrust of the courts and of judicial processes is **no excuse for their non-observance of the prescriptive period set down by law.**

If indeed the subject transaction was, to Lopezes' point of view, questionable, the Lopezes would have at least exerted a token effort to assail the validity of the transaction, which they did not. Instead of immediately availing themselves of the courts to retrieve said shares, the Lopezes gave them up without a fight

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[18] Records, p. 5174.

[19] G.R. No. 132864, 24 October 2005, 473 SCRA 639, 652.

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and discounted judicial recourse, as they looked upon the judiciary with indifference and distrust. This attitude is certainly inconsistent with that of a person who strongly believes in the veracity of his proprietary rights.

Based on the foregoing, the Sandiganbayan need not go through trial on the merits to determine whether the fact of prescription has set in. As already said earlier, the Sandiganbayan has the authority and discretion to dismiss an action on the ground of prescription on the basis of a motion to dismiss alone. Moreover, FPHC cannot successfully claim that it was denied due process, since the motion to dismiss was set for hearing; and the parties, including FPHC, were given all the opportunities to be heard through their numerous pleadings and counter-pleadings filed before the Sandiganbayan.

In fine, this Court, defers to the findings of the Sandiganbayan, there being no cogent reason to veer away from such findings.

WHEREFORE, the instant petition is *DENIED*. The Resolutions of the Sandiganbayan dated 22 February 2007 and 6 September 2007 dismissing FPHC's Complaint-in-Intervention, are hereby *AFFIRMED*. Costs against petitioner.

SO ORDERED.

Corona (Chairperson), Velasco, Jr., Nachura, and *Peralta, JJ.,* concur.

FIRST DIVISION

[G.R. No. 179952. December 4, 2009]

METROPOLITAN BANK AND TRUST COMPANY (formerly ASIANBANK CORPORATION), *petitioner, vs.* **BA FINANCE CORPORATION and MALAYAN INSURANCE CO., INC.,** *respondents.*