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Moreover, aside from the self-serving claim of petitioner, there was no concrete proof to establish the existence of such agreement. Petitioner cannot validly force respondent to enter into a permanent employment contract with him. Such stance is contrary to the consensuality principle of contracts as well as to the management prerogative of respondent company to choose its employees.

WHEREFORE, the petition is hereby *DENIED***.**

Costs against petitioner.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and *Mendoza, JJ.*, concur.

EN BANC

[G.R. Nos. 177857-58. February 11, 2010]

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, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

JOVITO R. SALONGA, WIGBERTO E. TAÑADA, OSCAR F. SANTOS, ANA THERESIA HONTIVEROS, and TEOFISTO L. GUINGONA III, *oppositors-intervenors.*

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.

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ROYANDOYAN; and PAMBANSANG KILUSAN NG MGA SAMAHAN NG MAGSASAKA (PAKISAMA), represented by VICENTE FABE, *movants-intervenors.*

[G.R. No. 178193. February 11, 2010]

DANILO B. URUSA, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

[G.R. No. 180705. February 11, 2010]

EDUARDO M. COJUANGCO, JR., *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE BODY; PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG); ABSENT A CLEAR SHOWING OF GRAVE ABUSE OF DISCRETION, THE DECISION OF THE EXECUTIVE DEPARTMENT MUST BE RESPECTED. — [I]t would appear that oppositors-intervenors seem unable to accept, in particular, the soundness angle of the conversion. But as we have explained, the conversion of the shares along with the safeguards attached thereto will ensure that the value of the shares will be preserved. In effect, due to the nature of stocks in general and the prevailing business conditions, the government, through the Presidential Commission on Good Government (PCGG), chose not to speculate with the CIIF SMC shares, as *prima facie* public property, in the hope that there would be a brighter economy in the future, and that the value of the shares would increase. We must respect the decision of the executive department, absent a clear showing of grave abuse of discretion.

2. ID.; ID.; ID.; ID.; THE COURT IS NOT EMPOWERED TO REVIEW AND GO INTO THE WISDOM OF THE POLICY DECISION OR CHOICES OF EXECUTIVE AGENCIES OF THE GOVERNMENT. — Apropos the separation of powers doctrine and its relevance to this case, it may well be appropriate to again quote the following excerpts from our decision in *JG Summit Holdings, Inc. v. Court of Appeals*, to wit: The role of the Courts is to

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ascertain whether a branch or instrumentality of the Government has transgressed its constitutional boundaries. But the Courts will not interfere with executive or legislative discretion exercised within those boundaries. Otherwise, it strays into the realm of policy decision-making. xxx. [W]hile it may, in appropriate cases, look into the question of whether or not the PCGG acted in grave abuse of discretion, the Court is not empowered to review and go into the wisdom of the policy decision or choices of PCGG and other executive agencies of the government. This is the limited mandate of this Court. And as we have determined in our Resolution, the PCGG thoroughly studied and considered the effects of conversion and, based upon such study, concluded that it would best serve the purpose of maintaining and preserving the value of the shares of stock to convert the same. It was proved that the PCGG had exercised proper diligence in reviewing the pros and cons of the conversion. The efforts PCGG have taken with respect to the desired stock conversion argue against the notion of grave abuse of discretion.

3. ID.; ID.; ID.; CONTROL OVER ALL MATTERS PERTAINING TO THE DISPOSITION OF GOVERNMENT PROPERTY, PARTICULARLY THE SEQUESTERED ASSETS, BELONGS TO THE EXECUTIVE BRANCH. — The current administration, or any administration for that matter, cannot be detached from the government. In the final analysis, the seat of executive powers is located in the sitting President who heads the government and/or the "administration." Under the government established under the Constitution, it is the executive branch, either pursuant to the residual power of the President or by force of her enumerated powers under the laws, that has control over all matters pertaining to the disposition of government property or, in this case, sequestered assets under the administration of the PCGG. Surely, such control is neither legislative nor judicial. As the Court aptly held in *Springer v. Government of the Philippine Islands*, resolving the issue as to which between the Governor-General, as head of the executive branch, and the Legislature may vote the shares of stock held by the government: It is clear that they are not legislative in character, and still more clear that they are not judicial. The fact that they do not fall within the authority of either of these two constitutes legal ground for concluding that they do fall within that of the remaining one among which the powers of

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the government are divided. The executive branch, through the PCGG, has given its assent to the conversion and such decision may be deemed to be the decision of the government. The notion suggested by oppositors-intervenors that the current administration, thru the PCGG, is without power to decide and act on the conversion on the theory that the head of the current administration is not government, cannot be sustained for lack of legal basis.

4. REMEDIAL LAW; MOTIONS; MOTION FOR RECONSIDERATION; FILING OF ANOTHER MOTION FOR RECONSIDERATION BY WAY OF A SUPPLEMENT TO AN EXISTING MOTION FOR RECONSIDERATION IS A CLEAR DEVIATION FROM THE OMNIBUS MOTION RULE. — [B]efore the Court is the **Motion to Admit Motion for Reconsideration with Motion for Reconsideration [Re: Conversion of SMC Shares]** dated October 16, 2009 filed by movants-intervenors Wigberto E. Tañada; Oscar F. Santos; Surigao del Sur Federation of Agricultural Cooperatives (SUFAC) and Moro Farmers Association of Zamboanga del Sur (MOFAZS); and *Pambansang Kilusan ng mga Samahan ng Magsasaka* (PAKISAMA). xxx Atty. Tañada and Oscar Santos admit having joined oppositors-intervenors Salonga, *et al*. in the latter's October 7, 2009 motion for reconsideration. Accordingly, they should have voiced out all their arguments in the Salonga motion for reconsideration following the Omnibus Motion Rule. The filing of yet another motion for reconsideration by way of supplement to the Salonga motion for reconsideration is a clear deviation from the Omnibus Motion Rule and cannot be countenanced.

5. ID.; INTERVENTION; WHEN ALLOWED; NOT PROPER WHERE MOVANTS FAILED TO DEMONSTRATE THAT NONE OF THE EXISTING PARTIES, THAT ARE SIMILARLY SITUATED AS THEY, WOULD NOT DEFEND THEIR COMMON INTEREST. — Even the joinder of SUFAC, MOFAZS, and PAKISAMA with co-intervenors Tañada and Santos will not cure the flawed motion. In *Heirs of Geronimo Restrivera v. De Guzman*, the Court explained why: Indeed, the right of intervention should be accorded to any one having title to property "which is the subject of litigation, provided that his right will be substantially affected by the direct legal operation and effect of the decision, **and provided also that it is reasonably necessary for him to safeguard an interest of his own which**

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no other party on record is interested in protecting." SUFAC, MOFAZS, and PAKISAMA all failed to demonstrate that none of the existing parties, that are similarly situated as they, would not defend their common interest. In the instant case, COCOFED, the federation of farmers' associations recognized by the Philippine Coconut Authority, has actively participated in the instant case, vigorously defending their rights and those of all the coconut farmers who are supposedly stockholders of SMC.

6. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE BODY; PCGG; RULING IN SAN MIGUEL CORPORATION CASE (G.R. Nos. 104637-38 & 109797), INAPPLICABLE TO CASE AT BAR. —The invocation of *San Miguel Corporation* is quite misplaced, it being inapplicable since it is not on all fours factually with the instant case. xxx An examination of the facts of *San Miguel Corporation* would show the factual dissimilarities of such case to the instant controversy. *First*, in *San Miguel Corporation*, the Court did not even pass upon the validity of the Compromise Agreement, while, in the instant case, the Court approved the conversion. *Second*, in the instant case, court approval was sought before the execution of the conversion, while in *San Miguel Corporation*, no court approval was sought for the Compromise Agreement. And *third*, in *San Miguel Corporation*, both the Republic and COCOFED opposed the Compromise Agreement, while, in the instant case, they both agreed to the conversion. Clearly, *San Miguel Corporation* finds no application to the instant case.

7. ID.; ID.; ID.; ID.; ID.; CONVERSION OF THE SEQUESTERED SAN MIGUEL CORPORATION (SMC) SHARES FROM COMMON TO SERIES I PREFERRED SHARES NOT CONTRARY TO THE RULING IN SAN MIGUEL CORPORATION CASE. — Moreover, our ruling in *San Miguel Corporation* did not per se forbid the conversion of sequestered common shares into preferred/treasury shares. As we held thereat, the changes that are unacceptable are those "of any permanent character that will alter their being sequestered shares and, therefore, in '*custodia legis*,' that is to say, under the control and disposition of this Court." Here, the SMC Series 1 Preferred Shares will also be sequestered in exchange for the common shares originally sequestered. Thus, the approval of the conversion of the subject SMC shares in the instant case

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does not run counter, as movants insist otherwise, to the ruling in *San Miguel Corporation.*

8. ID.; ID.; ID.; ID.; LOSS OF THE VOTING RIGHTS DOES NOT AFFECT THE PCGG'S FUNCTION TO RECOVER ILL-GOTTEN WEALTH OR PREVENT DISSIPATION OF SEQUESTERED ASSETS. — Again, by their very nature, shares of common stock, while giving the stockholder the right to vote, do not guarantee that the vote of the stockholder will prevail. That is *non sequitur*. This we explained in the Resolution subject of reconsideration: The mere presence of four (4) PCGG nominated directors in the SMC Board does not mean it can prevent board actions that are viewed to fritter away the company assets. Even under the status quo, PCGG has no controlling sway in the SMC Board, let alone a veto power at 24% of the stockholdings. In relinquishing the voting rights, the government, through the PCGG, is not in reality ceding control. Moreover, PCGG has ample powers to address alleged strategies to thwart recovery of ill-gotten wealth. Thus, the loss of voting rights has no significant effect on PCGG's function to recover ill-gotten wealth or prevent dissipation of sequestered assets.

9. ID.; ID.; ID.; ID.; SALE OF SEQUESTERED PROPERTIES WITHOUT AN AUCTION SALE, WHEN ALLOWED; CONVERSION OF THE SMC SHARES IN QUESTION NOT COVERED BY COA CIRCULAR NO. 89-296. — Movants-intervenors likewise challenge the legality of the conversion in light of Commission on Audit (COA) Circular No. 89-296, which provides that the divestment or disposal of government property shall be undertaken primarily through public auction. The postulation has no merit, for there is, in the first place, no divestment or disposal of the SMC shares. The CIIF companies shall remain the registered owners of the SMC Series 1 Preferred Shares after conversion, although the shares are still subject of sequestration. To state the obvious, these SMC shares are not yet government assets as ownership thereof are still to be peremptorily determined. Hence, COA Circular No. 89-296, which covers only the disposition of government property, cannot plausibly be made to govern the conversion of the SMC shares in question, assuming for the nonce that the challenged conversion is equivalent to disposition. As explained in the September 17, 2009 Resolution, the sequestered

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assets are akin to property subject of preliminary attachment or receivership. As stated in the assailed resolution, the Court is authorized to allow the conversion of the subject shares under Rule 57, Sec. 11, in relation to Rule 59, Sec. 6 of the Rules of Court. And as may be recalled, the Court, in *Palm Avenue Realty Development Corporation v. PCGG*, allowed the sale of sequestered properties without an auction sale given that, as here, the sequestered assets would not have fetched the correct market price. In the instant case, the same is also true. It is highly doubtful that anyone other than SMC would purchase the sequestered shares at market value.

10. ID.; ID.; ID.; ID.; NEED NOT OBTAIN THE CONSENT OR ACQUIESCENCE OF THE OWNER OF THE SEQUESTERED ASSETS WITH RESPECT TO ANY OF ITS ACTS INTENDED TO PRESERVE THE SAME. — It should be remembered that the SMC shares allegedly owned by the CIIF companies are sequestered assets under the control and supervision of the PCGG pursuant to Executive Order No. 1, Series of 1986. Be that as it may, it is the duty of the PCGG to preserve the sequestered assets and prevent their dissipation. In the exercise of its powers, the PCGG need not seek or obtain the consent or even the acquiescence of the sequestered assets owner with respect to any of its acts intended to preserve such assets. Otherwise, it would be well-nigh impossible for PCGG to perform its duties and exercise its powers under existing laws, for the owner of the sequestered assets will more often than not oppose or resist PCGG's actions if their consent is a condition precedent. The act of PCGG of proposing the conversion of the sequestered SMC shares to Series 1 Preferred Shares was clearly an exercise of its mandate under existing laws, where the consent of the CIIF Companies is rendered unnecessary.

11. ID.; ID.; ID.; ID.; HAS DISCRETION TO DECIDE ON WHERE TO DEPOSIT ON ESCROW THE NET DIVIDEND EARNINGS OF AND/OR REDEMPTION PROCEEDS FROM SERIES 1 PREFERRED SHARES OF SMC. — Concededly, UCPB is the administrator of the CIIF, which invested in the subject Series 1 Preferred Shares of SMC. UCPB's legal authority as such administrator does not, however, include its being made the exclusive depository bank of the proceeds of dividends, interest, or income from the investments solely with UCPB. To be sure,

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the relevant decrees, PD Nos. 775, 961, and 1468, did not constitute UCPB—the bank acquired for the coconut farmers under PD 755—to be the sole depositary of the proceeds of the returns of the investments authorized under Sec. 9, Art. III of PD 1468. Besides, since the subject sequestered SMC shares are under *custodia legis*, the Court has certain control over them and their fruits. Nonetheless, the PCGG, having administrative control over the subject sequestered shares pending resolution of the actual ownership thereof, possesses discretion, taking into account the greater interest of the government and the farmers, to decide on where to deposit on escrow the net dividend earnings of, and/or redemption proceeds from, the Series 1 Preferred Shares of SMC. The depository bank may be the DBP/LBP or the UCPB.

APPEARANCES OF COUNSEL

Angara Abello Concepcion Regala and Cruz for COCOFED, *et al.*

Estelito P. Mendoza for Eduardo M. Cojuangco, Jr. in G.R. No. 180705.

Gregorio S. Diño for Danilo B. Urusa in G.R. No. 178193.

Cesar G. David and *Francisco B.A. Saavedra* for UCPB.

R E S O L U T I O N

VELASCO, JR., *J.*:

Before us is the motion for reconsideration[1] of the Resolution of the Court dated September 17, 2009, interposed by oppositors-intervenors Jovito R. Salonga, Wigberto E. Tañada, Oscar F. Santos, Ana Theresa Hontiveros, and Teofisto L. Guingona III.

As may be recalled, the Court, in its resolution adverted to, approved, upon motion of petitioner Philippine Coconut Producers Federation, Inc. (COCOFED), the conversion of the sequestered 753,848,312 Class "A" and "B" common shares of San Miguel

[1] *Rollo*, pp. 2015-2035, dated October 7, 2009.

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Corporation (SMC), registered in the name of Coconut Industry Investment Fund (CIIF) Holding Companies (hereunder referred to as SMC Common Shares), into 753,848,312 SMC Series 1 Preferred Shares.

Oppositors-intervenors Salonga, *et al*. anchor their plea for reconsideration on the following submission or issues:

1

The conversion of the shares is patently disadvantageous to the government and the coconut farmers, given that SMC's option to redeem ensures that the shares will be bought at less than their market value.

2

The honorable court overlooks the value of the fact that the government, as opposed to the current administration, is the winning party in the case below and thus has no incentive to convert.[2]

The Court is not inclined to reconsider.

The two (2) issues and the arguments and citations in support thereof are, for the most part and with slight variations, clearly replications of oppositors-intervenors' previous position presented in opposition to COCOFED's motion for approval of the conversion in question. They have been amply considered, discussed at length, and found to be bereft of merit.

Oppositors-intervenors harp on the perceived economic disadvantages and harm that the government would likely suffer by the approval of the proposed conversion. Pursuing this point, it is argued that the Court missed the fact that the current value of the shares in question is increasing and the "perceived advantages of pegging the issue price at PhP 75 are dwindling on a daily basis."[3]

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[2] *Id.* at 2018.

[3] *Id.* at 2021.

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Oppositors-intervenors' concerns, encapsulated above, have been adequately addressed in some detail in the resolution subject of this motion. For reference we reproduce what we wrote:

> Salonga, *et al.* also argue that the proposed redemption is a right to buy the preferred shares at less than the market value. **That the market value of the preferred shares may be higher than the issue price of PhP 75 per share at the time of redemption is possible. But then the opposite scenario is also possible**. Again, the Court need not delve into policy decisions of government agencies because of their expertise and special knowledge of these matters. Suffice it to say that all indications show that SMC will redeem said preferred shares in the third year and not later because the dividend rate of 8% it has to pay on said shares is higher than the interest it will pay to the banks in case it simply obtains a loan. When market prices of shares are low, it is possible that interest rate on loans will likewise be low. On the other hand, if SMC has available cash, it would be prudent for it to use such cash to redeem the shares than place it in a regular bank deposit which will earn lower interests. It is plainly expensive and costly for SMC to keep on paying the 8% dividend rate annually in the hope that the market value of the shares will go up before it redeems the shares. Likewise, the conclusion that respondent Republic will suffer a loss corresponding to the difference between a high market value and the issue price does not take into account the dividends to be earned by the preferred shares for the three years prior to redemption. The guaranteed PhP 6 per share dividend multiplied by three years will amount to PhP 18. If one adds PhP 18 to the issue price of PhP 75, then the holders of the preferred shares will have actually attained a price of PhP 93 which hews closely to the speculative PhP 100 per share price indicated by movants-intervenors.[4] (Emphasis added.)

Elaborating on how the value of the sequestered shares will be preserved and conserved, we said:

> Moreover, the conversion may be viewed as a sound business strategy to preserve and conserve the value of the government's interests in CIIF SMC shares. Preservation is attained by fixing the value today at a significant premium over the market price and ensuring that such value is not going to decline despite negative

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[4] *Id.* at 1907-1908.

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market conditions. Conservation is realized thru an improvement in the earnings value via the 8% per annum dividends versus the uncertain and most likely lower dividends on common shares.

In this recourse, it would appear that oppositors-intervenors seem unable to accept, in particular, the soundness angle of the conversion. But as we have explained, the conversion of the shares along with the safeguards attached thereto will ensure that the value of the shares will be preserved. In effect, due to the nature of stocks in general and the prevailing business conditions, the government, through the Presidential Commission on Good Government (PCGG), chose not to speculate with the CIIF SMC shares, as *prima facie* public property, in the hope that there would be a brighter economy in the future, and that the value of the shares would increase. We must respect the decision of the executive department, absent a clear showing of grave abuse of discretion.

Next, oppositors-intervenors argue that:

> The very reason why the PCGG and the OSG [Office of Solicitor General] are before this Honorable Court is precisely because, on their own, they have no authority to alter the nature of the sequestered shares. This fact ought not to be novel to this Honorable Court because it is the Court itself that established such jurisprudence. Thus, the reference to separation of powers is rather gratuitous.[5]

The Court to be sure agrees with the thesis that, under present state of things, the PCGG and the Office of the Solicitor General have no power, by themselves, to convert the sequestered shares of stock. That portion, however, about the reference to the separation of powers being gratuitous does not commend itself for concurrence. As may be noted, the reference to the separation of powers concept was made in the context that the ownership of the subject sequestered shares is the subject of a case before this Court; hence, the need of the Court's approval for the desired conversion is effected.

Apropos the separation of powers doctrine and its relevance to this case, it may well be appropriate to again quote the following

[5] *Id.* at 2026.

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excerpts from our decision in *JG Summit Holdings, Inc. v. Court of Appeals*,[6] to wit:

> The role of the Courts is to ascertain whether a branch or instrumentality of the Government has transgressed its constitutional boundaries. But the Courts will not interfere with executive or legislative discretion exercised within those boundaries. Otherwise, it strays into the realm of policy decision-making.

and our complementary holding in *Ledesma v. Court of Appeals*,[7] thus:

> x x x [A] court is without power to directly decide matters over which full discretionary authority has been delegated to the legislative or executive branch of the government. It is not empowered to substitute its judgment for that of Congress or of the President. It may, however, look into the question of whether such exercise has been made in grave abuse of discretion.

The point, in fine, is: while it may, in appropriate cases, look into the question of whether or not the PCGG acted in grave abuse of discretion, the Court is not empowered to review and go into the wisdom of the policy decision or choices of PCGG and other executive agencies of the government. This is the limited mandate of this Court. And as we have determined in our Resolution, the PCGG thoroughly studied and considered the effects of conversion and, based upon such study, concluded that it would best serve the purpose of maintaining and preserving the value of the shares of stock to convert the same. It was proved that the PCGG had exercised proper diligence in reviewing the pros and cons of the conversion. The efforts PCGG have taken with respect to the desired stock conversion argue against the notion of grave abuse of discretion.

Anent the second issue that it is the government, as opposed to the current administration of President Gloria Macapagal-Arroyo, that is the winning party in the case below and has no incentive to convert, the Court finds that this argument has no merit.

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[6] G.R. No. 124293, January 31, 2005, 450 SCRA 169.

[7] G.R. No. 113216, September 5, 1997, 278 SCRA 656.

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The current administration, or any administration for that matter, cannot be detached from the government. In the final analysis, the seat of executive powers is located in the sitting President who heads the government and/or the "administration." Under the government established under the Constitution, it is the executive branch, either pursuant to the residual power of the President or by force of her enumerated powers under the laws, that has control over all matters pertaining to the disposition of government property or, in this case, sequestered assets under the administration of the PCGG. Surely, such control is neither legislative nor judicial. As the Court aptly held in *Springer v. Government of the Philippine Islands*,[8] resolving the issue as to which between the Governor-General, as head of the executive branch, and the Legislature may vote the shares of stock held by the government:

> It is clear that they are not legislative in character, and still more clear that they are not judicial. The fact that they do not fall within the authority of either of these two constitutes legal ground for concluding that they do fall within that of the remaining one among which the powers of the government are divided.

The executive branch, through the PCGG, has given its assent to the conversion and such decision may be deemed to be the decision of the government. The notion suggested by oppositors-intervenors that the current administration, thru the PCGG, is without power to decide and act on the conversion on the theory that the head of the current administration is not government, cannot be sustained for lack of legal basis.

Likewise, before the Court is the **Motion to Admit Motion for Reconsideration with Motion for Reconsideration [Re: Conversion of SMC Shares]** dated October 16, 2009[9] filed by movants-intervenors Wigberto E. Tañada; Oscar F. Santos; Surigao del Sur Federation of Agricultural Cooperatives (SUFAC) and Moro Farmers Association of Zamboanga del Sur (MOFAZS);

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[8] 277 U.S. 189, 202-203 (1928).

[9] *Rollo*, pp. 2036-2061.

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and *Pambansang Kilusan ng mga Samahan ng Magsasaka* (PAKISAMA).

In filing their motion, movants-intervenors explain that:

> Messrs. Tañada and Santos earlier joined an opposition filed by a group led by former Senate President Jovito R. Salonga, by way of solidarity and without desire or intent of trifling with judicial processes as, in fact, the instant Motion for Reconsideration is filed by herein movants-intervenors, through counsel, Atty. Tañada, and also **by way of supplement and support to the Opposition earlier filed by Salonga, *et al.*,** and the Opposition originally intended to be filed by herein Movants-intervenors.[10] (Emphasis supplied.)

Movants-intervenors argue further that the Court allowed them to intervene in a Resolution in G.R. No. 180702, which also arose from Sandiganbayan Civil Case No. 0033-F and, thus, should similarly be allowed to intervene in the instant case.[11]

This motion of Tañada, *et al*. must fail.

As it were, Atty. Tañada and Oscar Santos admit having joined oppositors-intervenors Salonga, *et al*. in the latter's October 7, 2009 motion for reconsideration. Accordingly, they should have voiced out all their arguments in the Salonga motion for reconsideration following the Omnibus Motion Rule. The filing of yet another motion for reconsideration by way of supplement to the Salonga motion for reconsideration is a clear deviation from the Omnibus Motion Rule and cannot be countenanced.

Even the joinder of SUFAC, MOFAZS, and PAKISAMA with co-intervenors Tañada and Santos will not cure the flawed motion. In *Heirs of Geronimo Restrivera v. De Guzman*,[12] the Court explained why:

> Indeed, the right of intervention should be accorded to any one having title to property "which is the subject of litigation, provided that his right will be substantially affected by the direct legal operation

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[10] *Id.* at 2036.

[11] *Id.* at 2118-2119.

[12] G.R. No. 146540, July 14, 2004, 434 SCRA 456.

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and effect of the decision, **and provided also that it is reasonably necessary for him to safeguard an interest of his own which no other party on record is interested in protecting**." (Emphasis supplied.)

SUFAC, MOFAZS, and PAKISAMA all failed to demonstrate that none of the existing parties, that are similarly situated as they, would not defend their common interest. In the instant case, COCOFED, the federation of farmers' associations recognized by the Philippine Coconut Authority, has actively participated in the instant case, vigorously defending their rights and those of all the coconut farmers who are supposedly stockholders of SMC.

The Court can extend to the instant motion of Tañada, *et al*. the benefit of the liberal application of procedural rules and entertain the motion and resolve the issues therein. Nonetheless, an examination of the issues raised in the Tañada motion for reconsideration would show that the same have been more than adequately addressed in our Resolution of September 19, 2009.

Movants-intervenors contend that the challenged resolution violates the Court's holding in *San Miguel Corporation v. Sandiganbayan*,[13] as the conversion of the sequestered common shares into treasury shares would destroy the character of the shares of stock.

The invocation of *San Miguel Corporation* is quite misplaced, it being inapplicable since it is not on all fours factually with the instant case.

San Miguel Corporation involved the sale by the 14 CIIF Companies, through the United Coconut Planters Bank (UCPB), of 33,133,266 SMC shares, to the SMC. Before the perfection of the sale, however, the said shares were sequestered. Thus, the SMC group suspended payment of the purchase price of the shares, while the UCPB group rescinded the sale. Later, the SMC and UCPB groups entered into a Compromise Agreement and Amicable Settlement, whereby they undertook to continue

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[13] G.R. Nos. 104637-38 & 109797, September 14, 2000, 340 SCRA 289.

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with the sale of the subject shares of stock. The parties, over the opposition of both the Republic and the COCOFED, then moved for the approval of this agreement by the Sandiganbayan where the case was then pending. Later, UCPB and the SMC groups implemented their agreement extra-judicially, withdrawing, at the same time, their petition for the approval of their aforementioned compromise agreement. Thereafter, the Sandiganbayan issued an Order dated August 5, 1991, directing the SMC to deliver to the graft court the sequestered SMC shares that it bought from UCPB. This was followed by another Order dated March 18, 1992, for the delivery to the court of dividends pertaining to the subject SMC shares. It was these two delivery Orders that were submitted for the consideration of the Court.

An examination of the facts of *San Miguel Corporation* would show the factual dissimilarities of such case to the instant controversy. *First*, in *San Miguel Corporation*, the Court did not even pass upon the validity of the Compromise Agreement, while, in the instant case, the Court approved the conversion. *Second*, in the instant case, court approval was sought before the execution of the conversion, while in *San Miguel Corporation*, no court approval was sought for the Compromise Agreement. And *third*, in *San Miguel Corporation*, both the Republic and COCOFED opposed the Compromise Agreement, while, in the instant case, they both agreed to the conversion. Clearly, *San Miguel Corporation* finds no application to the instant case.

Moreover, our ruling in *San Miguel Corporation* did not per se forbid the conversion of sequestered common shares into preferred/treasury shares. As we held thereat, the changes that are unacceptable are those "of any permanent character that will alter their being sequestered shares and, therefore, in '*custodia legis*,' that is to say, under the control and disposition of this Court." Here, the SMC Series 1 Preferred Shares will also be sequestered in exchange for the common shares originally sequestered. Thus, the approval of the conversion of the subject SMC shares in the instant case does not run counter, as movants insist otherwise, to the ruling in *San Miguel Corporation*.

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Movants-intervenors also assail the conversion of the SMC shares from common to preferred on another angle, thus:

> Simply, there is no right to vote: There is no greater alteration of the very nature of a common share. In a very real sense, therefore, a common share with all its rights, is reduced to a mere promissory note; worse, an unsecured and conditional promissory note, the returns on which is dependent on available retained earnings and the overall viability of SMC.[14]

The assault is without merit.

Again, by their very nature, shares of common stock, while giving the stockholder the right to vote, do not guarantee that the vote of the stockholder will prevail. That is *non sequitur*. This we explained in the Resolution subject of reconsideration:

> The mere presence of four (4) PCGG nominated directors in the SMC Board does not mean it can prevent board actions that are viewed to fritter away the company assets. Even under the status quo, PCGG has no controlling sway in the SMC Board, let alone a veto power at 24% of the stockholdings. In relinquishing the voting rights, the government, through the PCGG, is not in reality ceding control.
>
> Moreover, PCGG has ample powers to address alleged strategies to thwart recovery of ill-gotten wealth. Thus, the loss of voting rights has no significant effect on PCGG's function to recover ill-gotten wealth or prevent dissipation of sequestered assets.[15]

Movants-intervenors likewise challenge the legality of the conversion in light of Commission on Audit (COA) Circular No. 89-296, which provides that the divestment or disposal of government property shall be undertaken primarily through public auction.

The postulation has no merit, for there is, in the first place, no divestment or disposal of the SMC shares. The CIIF companies shall remain the registered owners of the SMC Series 1 Preferred Shares after conversion, although the shares are still subject of sequestration. To state the obvious, these SMC shares are not yet government assets as ownership thereof are still to be

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[14] *Rollo*, p. 2044.

[15] *Id.* at 1905.

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peremptorily determined. Hence, COA Circular No. 89-296, which covers only the disposition of government property, cannot plausibly be made to govern the conversion of the SMC shares in question, assuming for the nonce that the challenged conversion is equivalent to disposition. As explained in the September 17, 2009 Resolution, the sequestered assets are akin to property subject of preliminary attachment or receivership. As stated in the assailed resolution, the Court is authorized to allow the conversion of the subject shares under Rule 57, Sec. 11, in relation to Rule 59, Sec. 6 of the Rules of Court. And as may be recalled, the Court, in *Palm Avenue Realty Development Corporation v. PCGG*,[16] allowed the sale of sequestered properties without an auction sale given that, as here, the sequestered assets would not have fetched the correct market price. In the instant case, the same is also true. It is highly doubtful that anyone other than SMC would purchase the sequestered shares at market value.

Finally, Tañada, *et al*. posit the view that the conversion of shares needs the acquiescence of the 14 CIIF companies.

The contention is untenable.

It should be remembered that the SMC shares allegedly owned by the CIIF companies are sequestered assets under the control and supervision of the PCGG pursuant to Executive Order No. 1, Series of 1986. Be that as it may, it is the duty of the PCGG to preserve the sequestered assets and prevent their dissipation. In the exercise of its powers, the PCGG need not seek or obtain the consent or even the acquiescence of the sequestered assets owner with respect to any of its acts intended to preserve such assets. Otherwise, it would be well-nigh impossible for PCGG to perform its duties and exercise its powers under existing laws, for the owner of the sequestered assets will more often than not oppose or resist PCGG's actions if their consent is a condition precedent. The act of PCGG of proposing the conversion of the sequestered SMC shares to Series 1 Preferred Shares

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[16] G.R. No.76296, August 31, 1987, 153 SCRA 579.

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was clearly an exercise of its mandate under existing laws, where the consent of the CIIF Companies is rendered unnecessary.

Additionally, the above contention has been rendered moot with the filing on October 26, 2009 of the Manifestation dated October 23, 2009. Attached to such Manifestation is the Secretary's Certificate of the 14 CIIF companies approving the conversion of the SMC Common Shares into Series 1 Preferred Shares.[17]

As a final consideration, the Court also takes note of the **Motion for Leave to Intervene and to File and Admit Attached Motion for Partial Reconsideration** dated October 5, 2009 and the **Motion for Partial Reconsideration** dated October 6, 2009 filed by movant-intervenor UCPB. UCPB claims to have direct interest in the SMC shares subject of the instant case, being the statutory administrator, pursuant to Presidential Decree No. (PD) 1468, of the Coconut Industry Investment Fund and as an investor in the CIIF companies.

UCPB argues that, as the statutory administrator of the CIIF, the proceeds of the net dividend earnings of, and/or redemption proceeds from, the Series 1 Preferred Shares of SMC should be deposited in escrow with it rather than, as directed by the Court in its September 17, 2009 Resolution, with the Development Bank of the Philippines (DBP) or the Land Bank of the Philippines (LBP).

Concededly, UCPB is the administrator of the CIIF, which invested in the subject Series 1 Preferred Shares of SMC. UCPB's legal authority as such administrator does not, however, include its being made the exclusive depository bank of the proceeds of dividends, interest, or income from the investments solely with UCPB. To be sure, the relevant decrees, PD Nos. 775, 961, and 1468, did not constitute UCPB—the bank acquired for the coconut farmers under PD 755—to be the sole depositary of the proceeds of the returns of the investments authorized under Sec. 9, Art. III of PD 1468.

Besides, since the subject sequestered SMC shares are under *custodia legis*, the Court has certain control over them and

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[17] *Rollo*, pp. 2234-2266.

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their fruits. Nonetheless, the PCGG, having administrative control over the subject sequestered shares pending resolution of the actual ownership thereof, possesses discretion, taking into account the greater interest of the government and the farmers, to decide on where to deposit on escrow the net dividend earnings of, and/or redemption proceeds from, the Series 1 Preferred Shares of SMC. The depository bank may be the DBP/LBP or the UCPB.

WHEREFORE, the Court resolves to *DENY* for lack of merit the: (1) Motion for Reconsideration dated October 7, 2009 filed by oppositors-intervenors Jovito R. Salonga, Wigberto E. Tañada, Oscar F. Santos, Ana Theresa Hontiveros, and Teofisto L. Guingona III; and (2) Motion to Admit Motion for Reconsideration with Motion for Reconsideration [Re: Conversion of SMC Shares] dated October 16, 2009 filed by movants-intervenors Wigberto E. Tañada, Oscar F. Santos, SUFAC, MOFAZS, represented by Romeo C. Royandoyan, and PAKISAMA, represented by Vicente Fabe.

The Court *PARTIALLY GRANTS* the Motion for Leave to Intervene and to File and Admit Attached Motion for Partial Reconsideration dated October 5, 2009, and the Motion for Partial Reconsideration dated October 6, 2009 filed by movant-intervenor UCPB.

The Court *AMENDS* its Resolution dated September 17, 2009 to give to the PCGG the discretion in depositing on escrow the net dividend earnings on, and/or redemption proceeds from, the Series 1 Preferred Shares of SMC, either with the Development Bank of the Philippines/Land Bank of the Philippines or with the United Coconut Planters Bank, having in mind the greater interest of the government and the coconut farmers.

SO ORDERED.

Puno, C.J., Corona, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and *Mendoza, JJ.,* concur.

Carpio Morales, J., dissent remains, hence, she is for a grant of the Motion for Reconsideration.

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Brion, J., joins Justice Morales.

Carpio, J., no part, due to inhibition in related cases.

Nachura, Leonardo-de Castro, and *Peralta, JJ.,* no part.

THIRD DIVISION

[G.R. No. 181409. February 11, 2010]

INTESTATE ESTATE OF MANOLITA GONZALES *VDA. DE* CARUNGCONG, represented by MEDIATRIX CARUNGCONG, as Administratrix, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES and WILLIAM SATO,** *respondents.*

SYLLABUS

1. CRIMINAL LAW; ABSOLUTORY CAUSE; ARTICLE 332 OF THE REVISED PENAL CODE; LIMITS THE RESPONSIBILITY OF THE OFFENDER TO CIVIL LIABILITY AND FREES HIM FROM CRIMINAL LIABILITY BY VIRTUE OF HIS RELATIONSHIP TO THE OFFENDED PARTY. — Article 332 provides for an absolutory cause in the crimes of theft, estafa (or swindling) and malicious mischief. It limits the responsibility of the offender to civil liability and frees him from criminal liability by virtue of his relationship to the offended party. In connection with the relatives mentioned in the first paragraph, it has been held that included in the exemptions are parents-in-law, stepparents and adopted children. By virtue thereof, no criminal liability is incurred by the stepfather who commits malicious mischief against his stepson; by the stepmother who commits theft against her stepson; by the stepfather who steals something from his stepson; by the grandson who steals from his