

Postscript

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SC finally settles Philcomsat feud

LEGITIMACY: The long-awaited Supreme Court decision on the legitimacy of the board of Philcomsat Holdings Corp. (PHC), a Philcomsat subsidiary listed in the Philippine Stock Exchange, is in.

Since 2004, two factions have battled for recognition as the legitimate board controlling the Philcomsat companies.

The unanimous ruling — affirming an earlier Court of Appeals decision — was handed down July 3 by the SC first division composed of Chief Justice Maria Lourdes P. A. Sereno and Associate Justices Lucas P. Bersamin (*ponente*), Arturo D. Brion, Martin S. Villarama Jr. and Bienvenido L. Reyes.



RIVAL GROUPS: One camp was led by nominees of the Presidential Commission on Good Government, namely Enrique Locsin and Benito Araneta, latching on to private shareholder Manuel H. Nieto.

Former ambassador Nieto owns 13 percent of Philippine Overseas Telecommunications Corp. (POTC), the mother company of Philcomsat, which owns 81 percent of PHC.

The other group, whose legitimacy has now been upheld by the High Court, is composed of several prominent families holding the majority shares of POTC.

MAJORITY OWNERS: The ownership structure of the Philcomsat group is such that whoever controls POTC necessarily holds 100-percent control of Philcomsat. In turn, whoever controls Philcomsat wields 81-percent majority control of PHC.

The government's 35-percent ownership in POTC, combined with Nieto's 13-percent, totals 48 percent, a minority position.

The SC upheld the Court of Appeals' decision declaring that the 52-percent collective ownership of Ilusorio-Bildner, Poblador, Africa, Benedicto and Ponce Enrile constitutes the majority block in POTC, and thus in Philcomsat, and by cascading effect, in PHC.

The ruling negated the claimed control of the Locsin/Nieto-PCGG faction.

FAKE CONTROL: Central to the fiasco is PCGG, which, despite the government's 35-percent stake in POTC, persisted in a fictional "sequestered 40-percent" interest which, when combined with Nieto's 13 percent, gave the Locsin/Nieto-PCGG faction a questionable 53-percent "majority."

With this, they asserted "control," duping the banks, the Securities and Exchange Commission, various courts and the media, while ransacking the Philcomsat companies, particularly PHC.

In fairness to incumbent PCGG Chairman Andres Bautista, the looting happened before he was appointed to the commission.

BANKWISE/PVB CASE: The Bankwise case illustrates the costly side effects of the impunity. Before the PCGG-led group entrenched itself in PHC, the once cash-rich firm had P900 million in money market placements.

In addition to paying exorbitant sums to themselves, their lawyers, public relations-media handlers, etc., the group deposited over half a billion pesos in then-failing Bankwise which was taken over in 2005 by Philippine Veterans Bank.

When Bankwise was padlocked in 2008, the PHC account had only P14 million left.

The Bangko Sentral ng Pilipinas is investigating the mess. The ongoing board shake-up at PVB is intended to prevent a run on the bank owned by the families of some 300,000 veterans. But that's another story.

TOO LATE?: In its ruling, the SC also "directed the Locsin/Nieto-PCGG group to render an accounting of the funds and other assets received from POTC, Philcomsat and PHC since September 2004, and to return such funds to the respective corporations within 30 days."

The problem is the money has been spent, the records are scanty, the accounting is shady, and none of PHC's general vouchers for hundreds of millions of pesos in disbursements carry authorized signatures.

So scandalous was the raiding of PHC coffers that the Senate committees investigating the Philcomsat companies found "overwhelming mismanagement by the PCGG and its nominees" and their "lack of transparency and accountability" resulting in "fraud, abuse and wastage."

WIDESPREAD DAMAGE: The collateral damage has been astounding.

The PHC's external auditor, Virgilio Santos, lost his SEC accreditation. The transfer agent Emerald Securities was stripped of its license. Trading of PHC shares was stopped by the PSE because of its failure to submit audited financials. The chair of PHC's "legal committee," lawyer Luis Lokin, was suspended by the Supreme Court, convicted by Sandiganbayan, and now faces a one-year suspension by the Integrated Bar of the Philippines. The ex-CEO of another PHC bank, BPI, is being investigated by Bangko Sentral for alleged violations of the Banking Act. Several other ex-PHC directors, including Philip Brodett and Concepcion Poblador, are facing criminal complaints.

The group of Ilusorio-Bildner, Ponce Enrile *et al.* filed 15 complaints with former Ombudsman Merceditas Gutierrez, but these were dismissed, delayed or deep-sixed. The sanction imposed by the now defunct Presidential Anti-Graft Commission (PAGC) on then PCGG chair Camilo Sabio was overturned by Executive Secretary Eduardo Ermita.

MORE DIRT: The pillage was so brazen that, at the height of the Senate inquiry, PCGG Commissioner Ricardo Abcede still ordered a brand-new 2006 Toyota Camry, charging its P1.6-million cost to PHC.

Found guilty of this and other transgressions, Abcede was ordered removed from office. But the decision lay buried for two years, by which time Abcede, already removed from PCGG, had died.

Graft complaints on two PCGG nominees were dismissed, but the decision remained hidden until the new Ombudsman Conchita Carpio Morales unearthed the files. She indicted Enrique Locsin and Manuel Andal in the Sandiganbayan, while administratively sanctioning them, imposing fines and banning each from public office for life.

BANTAY-SALAKAY: Ironically, while the pre-Bautista PCGG was supposedly pursuing "ill-gotten wealth," its commissioners and nominees were decimating the Philcomsat companies under a charade of control.

Among PHC's fraudulent disbursements under the old PCGG were P2 million cash "for Sandiganbayan TRO" and another P2 million cash as "PR for Supreme Court injunction."

Due to the sluggish investigation by the courts named in the alleged pay-offs, it is still uncertain whether or not the SC and Sandiganbayan benefitted from such PHC-recorded bribes.

The SC order to account for and return the plundered PHC funds may put the matter to rest, as well as clear the name of the High Court.

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