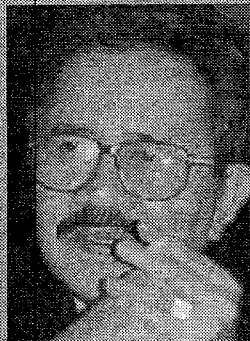


# Go on and looting; ignore the law

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*'If the Philcomsat Holding Corp. shares are worthless, who made them so?'*



**B**EFORE the Supreme Court ruled on who between the warring groups in Philcomsat Holding Corp., the company had around P200 million deposited with the Bank of the Philippine Islands. The group later declared as illegal, withdrew the money over the objections of the genuine board.

The Ilusorio-Enrile faction wanted BPI to file what lawyers call an inter pleader. I take this to mean the bank should ask the court to rule on which between the two groups is legal and which one is not.

The bank allowed the withdrawal. The Court ruled later the legitimate base is that of the Ilusorio-Enrile group. But the money has been withdrawn and spent by the Locsin-Nieto faction.

May BPI be held liable for the withdrawal? Does it have the obligation to return to the money to the legitimate board as declared by the Court? Or can the legal group demand from the ousted group that the money be returned to the company?

The ticklish issue is pending with the courts.

In a separate ruling the Supreme Court declared "The Court DIRECTS the Nieto/Locsin-PCGGG Group to render an accounting of all the funds and other assets received from the Philippine Overseas Telecommunications Satellite Corporation since Sept. 1, 2004 and to return such funds to the respective corporations within thirty days from the finality of this decision."

I know the Locsin/Nieto-PCGG group has not rendered an accounting. It has not returned the money. Part of the funds may well be the amount withdrawn from the BPI by the illegal group.

Yet Richard Amurao, then PCGG commissioner, told the Securities and Exchange Commission trading of PHC shares should remain suspended. He averred the legal group of Ilusorio-Enrile has not show corporate ability to make PHC a profitable operation. That being the case, the public may be buying worthless shares.

Not for the last time, I again ask the question: if the shares are worthless who made them so? The legitimate group or Locsin/Nieto-PCGG faction declared illegal? The legal group claims the P800 million Philcomsat used to capitalize PHC is gone for all intents and purposes. The funds "disappeared" without a trace in the incumbency of the illegal group.

I think the Ilusorio-Enrile group has a mind to file with the Supreme Court a motion for a writ of execution to force the illegal group to return the funds to the legitimate owners.

In fact, the lawyers of the group should consider the possibility of filing civil or criminal case or cases against PCGG commissioners, notably Amurao, for violating the mandate of preserving, not dissipating, the assets of POTC and its subsidiaries notably Philcomsat Holdings Corp. (PHC).

The abuse becomes worse because the companies, particularly PHC have been removed from sequestration but the PCGG commissioners for reasons known only to them chose to keep their undeserved seats in the boards of the companies.

If, as claimed by Amurao, the PHC is also sequestered by cascade since the mother company POTC was at one time under illegal sequestration (the order of sequestration must have the signature of two of three commissioners but the one served on POTFC had only one), is the loss of the firm's huge sums of money including those paid by public stockholders for the shares they bought in the open market part of the mandate of preserving the assets?

The records show that from the time the Supreme Court declared the Ilusorio/Enrile Group as the legal board, PHC started turning itself around. It could have done better if the PCGG had not caused the annotation of the titles of 700 hectares of land along the highway in barrio Pinugay in Tanay, Rizal.

I have seen the place myself. A good part of it looks ideal for high-end homes.

The hilly part could be developed for weekend homes for the rich.

But the PCGG refused to ask for the lifting or the annotation of the titles.

Therefore, PHC has assets that may be worth many billions of pesos but could not monetize because of the *lis pendens* on the land titles. The assets are in the freezer.

The executive order creating the PCGG demands the agency prevent the encumbrance or dissipation of the assets of a sequestered firm. (As repeatedly asserted here, PHC is not a sequestered company.) The annotation at the back of the titles of the land of PHC prevents dissipation or encumbrance.

Unfortunately, it also prevents the owner from selling or developing the property. In other words, the PCGG effectively stopped the company from growing although it has no reason to cause the annotation of the titles.

When he was PCGG commissioner, Richard Amurao objected to the lifting of the suspension of PHC shares telling the Securities and Exchange Commission the public may be buying worthless investment instruments. That 700-hectare land has big value if it can be sold or developed.

Effectively, Amurao caused the freezing of two assets: his objection to the lifting of trading of PHC shares and the annotation of the titles of the land.

Indeed Amurao was right when he said the shares of PHC could be useless. Absolutely useless because the 1,400 stockholders who brought the shares in an open competitive market as PHC is listed in the Philippine Stock Exchange could not sell their shares for a gain or loss. If that land can be sold or developed, the value of the shares will definitely go up will not be worthless as Amurao mindlessly claims they could be.

What good will sale or development do if the shares cannot be traded because Amurao objects to the lifting of suspension of trading of the shares?

This case needs to be examined closely by government regulators. Amurao may also want to examine his actions and see for himself who benefits from them. Definitely not the stockholders of PHC. I am one of them.

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