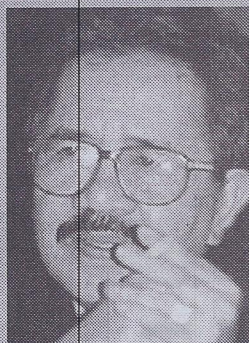


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Usurpation of powers

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'The intolerable part of this abominable situation is the fact that the PCGG never even tried to preserve the assets.'



THE Presidential Commission on Good Government (PCGG) was ordered to transfer to the Department of Finance the stock certificate proving the state owns 35 percent of the shares of Philippine Overseas Telecommunications Corp. (POTC).

It took the good government body three long years to comply.

Now we understand why.

It pretends it has the right to nominate its own representatives to POTC and its subsidiaries which are no longer sequestered on the strength of acting like the beneficial owner of the government shares.

After the shares were turned over to the Department of Finance, the PCGG lost control of the shares. Therefore, it also lost the right to be represented in sequestered firms although POTC and Philcomsat and its subsidiary are no longer sequestered.

After the transfer or surrender of the shares, the DOF nominated two representatives to POTC and Philcomsat.

Just as bad as the naked usurpation of powers of the DOF which now acts as custodian of the 35 percent of POTC is PCGG's false claim that the state owns 40 percent of the shares owned by two firms which Jose Y. Campos surrendered to the PCGG, saying he was keeping them for President Marcos and his family. None of the Marcoses contested the surrender.

The 40 percent went down to 35 percent as a result of a compromise agreement between Potenciano Ilusorio and PCGG. The compromise deal was upheld with finality by the Supreme Court.

The PCGG refused to recognize the fact that since 2007 PCGG nominees were replaced by government representatives to act for and on behalf of the state. There is whole wide world of difference between government representatives and PCGG nominees. PCGG is not a government.

The role of PCGG as "conservators" was abolished. The government nominees are representing the 35 percent interest of the Republic of the Philippines. They sit on the board of POTC and its subsidiaries as proxies of the beneficial stockholders, the government of the Philippines.

Richard Amurao, then PCGG commissioner, said in his letter transferring government's share to the Department of Finance, "Pending final disposition of said POTC shares, the PCGG in order to perform its mandate will continue to be involved on matters of management and representation with respect to government's interest in POTC and its subsidiary corporations."

If that were to be so, he rendered meaningless the transfer of the shares to the finance department. He usurped the functions of the custodian of the shares. In any case, the Department of Finance nominated two of its officers to represent beneficial stockholders holding 35 percent — not 40 percent.

What mandate is Amurao talking about? The mandate I know that is so stated in the Executive Order creating the PCGG is for the body to prevent the encumbrance, sale, or diminution of the assets of sequestered companies.

The intolerable part of this abominable situation is the fact that the PCGG never even tried to preserve the assets. This is shown by the loss by PHC of around P2 billion when the company was being run — meaning looted — by PCGG nominees.

It must have taken Amurao some gall to say that the PCGG cannot leave PHC or have the suspension of trading lifted because the private stockholders have not shown capability to run the corporate affairs in a manner that makes profits. This is a naked lie made as an excuse to justify PCGG's continued presence in POTC and its subsidiaries.

The DOF being a proxy of the government's 35 percent stake in POTC nominated or caused the election of Karen G. Singson and Andres Bautista to the board of POTC. It did not occur to Bautista that he had a duty to disclose the fact that he is already chairman of the PCGG.

How does a chairman of a state agency seek another position courtesy of the government?

This is a question of decency and delicadeza not to mention the fact that there is a law prohibiting a government official from holding two positions in government or in the private sector.

As if to take advantage of unchecked abuses, Richard Amurao came to the annual stockholders meeting armed with a resolution stating he be elected as board member of POTC. In representation of who? Not the state which nominated Ms. Singson and Andres Bautista. Not the sequestered shares since there is not enough of it to elect Amurao.

The resolution asking for the election of Amurao was unanimous. Bautista for his own unexplained reasons did not attend that annual meeting.

By its resolution, the PCGG removed its presence in POTC and its subsidiaries. This is the effect of the transfer of the shares to the DOF. There is a resolution of PCGG saying its presence in POTC and its subsidiaries has been removed.

Amurao's argument cannot be defended in law. Gall, in the case of Amurao, is a good defense. Nobody minds but his victims the six or so families that took the risk to set up POTC.

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