

MALACAÑANG
MANILA

RFN 4066
PLS. RETURN TO SPO

EXECUTIVE ORDER NO. 286

CREATING THE SEQUESTERED ASSETS DISPOSITION AUTHORITY
(SADA) AND FOR OTHER PURPOSES

WHEREAS, it is the policy of the state to recover ill-gotten wealth amassed by the leaders and close associates of the previous regime and to protect the interest of the people through orders of sequestration;

WHEREAS, by virtue of Executive Order No. 1, the Presidential Commission on Good Government (PCGG) was created, to assist the Philippine government in the recovery of the said ill-gotten wealth;

WHEREAS, Executive Order No. 1 further provides that the PCGG shall provisionally takeover the business or corporations, enterprises and properties amassed by the leaders and close associates of the previous regime until the transactions leading to such acquisition by the latter, are declared to be illegal by a court of law with competent jurisdiction;

WHEREAS, there is an urgent need for an entity to oversee the disposition of assets and properties recovered by the Government, by virtue of a decision of a court of law, pursuant to Section 26, Article XVIII of the 1987 Constitution and those voluntarily surrendered to the PCGG

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by the sovereign will of the Filipino people and the Constitution do hereby order;

Section 1. Creation of Authority. There is hereby created a Sequestered Assets Disposition Authority, hereinafter referred to as the Authority, composed of one (1) Chairman and four (4) members, who are of good moral character and unquestionable integrity, to be appointed by the President.

The Authority shall be under the administrative supervision of the Office of the President.

In view of the limited life of the Authority, the emoluments and other benefits of the Chairman, members, and its support staff, as well as its staffing pattern, shall be fixed by, and submitted to, the President for approval by the Chairman and members and shall be exempt from the OCPC and other eligibility requirements of the Civil Service Commission.

Section 2. Coverage. -The Authority shall formulate and implement a program for the disposition of assets, business enterprises or corporations transferred to the Authority by the PCGG or pursuant to a decision of a court of law with competent jurisdiction involving sequestered assets prescribed by Section 26, Article XVIII of the 1987 Constitution.

Section 3. Powers and Functions. -The Authority shall have the following powers and functions:

- a) To dispose of or authorize, subject to the approval of the President, the disposition of such assets transferred to the Authority to any party and on such terms as are in the best interest of the National Government; for such purpose to execute and deliver on behalf and in the name of the National Government such deeds of sale, contracts, and other instruments as may be necessary or appropriate to convey title to such assets;
- b) To take title to, and possession of, and to take such steps as may be necessary to conserve assets transferred to the Authority by the PCGG or by a court of law, including, without limitation, to oversee the management and operation of corporations or businesses constituting such assets, and to file suits and institute proceedings on behalf and in the name of the National Government for the recovery and protection of such assets;
- c) Subject to the prior approval of the President, to undertake the rehabilitation of such assets in instances where such rehabilitation is necessary, to conserve the value of such assets or permit their sale;
- d) To engage such external expertise as may be necessary to fulfill its task;
- e) To lease or own real and personal property to the extent required or entailed by its functions; to borrow money and incur such liabilities as may be reasonably necessary to permit it to carry out the responsibilities imposed upon it under this Order; to receive and collect interest, rent and other income from the corporations and assets held by it and to exercise in behalf of the National Government and to the extent authorized by the President, in respect of such corporations and assets, all rights, powers and privileges of ownership including the ability to compromise and release claims or settle liabilities, and otherwise to do and perform any and all acts that may be necessary or proper to carry out the purposes of this order; Provided, however, that any borrowing of the Authority shall be subject to the prior approval of the President; and

f. To issue such policies, guidelines, rules and regulations to implement the objectives of this Order, subject to the approval of the President.

Section 4. Staff Support. The Authority shall have a technical staff support, the organization and structure of which, shall be subject to the approval of the Office of the President (OP), Civil Service Commission (CSC) and the Department of Budget and Management (DBM).

Section 5. Exemption from Taxes, Fees and Other Charges. The provisions of any law to the contrary notwithstanding, the Authority as well as the sequestered corporations and assets transferred to it, shall be exempt from all taxes, fees, charges, imposts, and assessments arising from or occasioned by the passing of title over such corporations or assets from the said corporations to the Authority and/or from the National Government to a private acquirer or buyer imposed by the National Government or any subdivision thereof: Provided, that in cases where government institutions acquired the said assets by foreclosure, the non-payment of similar taxes, fees, charges, imposts, and assessments shall not be a bar to the consolidation of title in the foreclosing institutions and the subsequent passing of title to the Authority.

The sale or transfer of such corporations or assets shall not be enjoined or hindered by the existence of any liens by way of taxes, charges or other assessments in favor of the government at the time of sale or transfer; Provided, that the proceeds from such sale or transfer shall be subject to the tax lien and shall first be applied to satisfy such obligations secured by such liens.

Section 6. Audit. Generally-accepted accounting and auditing rules and regulations shall be observed in the recording of the transactions of the Authority.

Section 7. No Injunction. The provisions of any law to the contrary notwithstanding, no restraining order, temporary or permanent injunction shall be issued by any court, agency or body for the purpose of preventing the Authority, its agents or employees:

- a) from taking possession of, consolidating title to, or disposing of, assets transferred to the Authority under terms of this Order, or
- b) from foreclosing upon security or exercising any other right or remedy available to the Authority under law or contract, to enforce the payment of obligations acquired by the Authority hereunder.

No restraining order, temporary or permanent injunction shall be issued by any court, agency or body to prevent any purchaser of assets sold by the Authority pursuant to this Order

from taking possession of, taking or consolidating title to or disposing of such assets except where the restraining order, temporary or permanent injunction is sought by the Authority ~~itself~~ on the grounds of fraud, breach or material ~~misrepresentation on the part of the purchaser.~~

Section 8 . Immunity and Indemnity Provision for Members of the Authority.

1) No civil action shall lie against the Authority and no civil or criminal action shall prosper against any member of the Authority in its or his discharge of the tasks and functions contemplated by this Order, unless: (a) the act or omission complained of clearly relates to a mandatory provision of this Order, the performance of which is expressly devolved or delegated to the concerned defendant as a ministerial duty rather than a discretionary or judgmental function, and (b) the act or omission is attended by fraud, bad faith, gross negligence, or violation of the provisions of the Anti-Graft law;

2) In the event that any member of the Authority or any member of his respective staff during or after his incumbency is called upon to defend his actions, related to the performance or non-performance of an act, or the execution of a transaction contemplated by this Order, before any administrative, judicial or legislative proceeding, the government shall provide him with counsel without cost; or shall shoulder and pay the cost of the counsel of his choice as well as other costs of litigation for which he may be held liable: Provided, that where the civil or criminal action is based on (a) and (b) of the preceding paragraph, and the member of the Authority or of his respective staff is found guilty of the acts complained of, such member shall be fully liable to and reimburse the government for all sums advanced by the government in accordance with the provisions of this Section to cover cost of counsel and and other costs of litigation.

Section 9. Reporting Requirements. The Authority shall at least on a quarterly basis submit to the President a report on the status of its assets disposition program, which report shall include a description of the individual assets disposed of, the purchases thereof, the consideration received therefrom, and the agreed terms of payment and such other conditions related to the sale.

The technical staff shall report on a quarterly basis its performance and financial condition to the Authority; and within three (3) months from the closure of books at the end of each fiscal year, submit a comprehensive annual report through the Authority to the President on the status of its assets

disposition program, which report shall include a description of the individual corporations and assets disposed of, the purchasers thereof, the consideration received therefrom, and the agreed terms of payment and such other conditions related to the sale.

Section 10. Proceeds and Income. The proceeds and income to be derived from the sale or disposition of all assets under this Order shall immediately accrue to the National Treasury, consistent with the provisions of Proclamation No. 131 and Executive Order No. 229, both dated July 22, 1987.

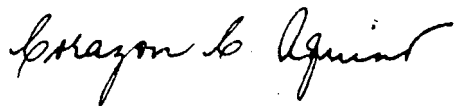
Section 11. Funding. Funds necessary for the implementation of this Order is hereby authorized to be released from the National Treasury from any fund not otherwise appropriated and thereafter, such amount necessary for the operations of the Authority, shall be included in the General Appropriations Act.

Section 12. Separability Clause. Any portion or provision of this Order that may be declared unconstitutional shall not have the effect of nullifying the other provisions thereof; provided, however, that such remaining portions can still stand and be given effect in their entirety to accomplish the objectives of this Order.

Section 13. Repealing Clause. All laws, ordinances, orders, proclamations, rules, regulations, issuances or parts thereof, which are inconsistent with any of the provisions of this Executive Order are hereby repealed or modified accordingly.

Section 14. Effectivity. This Executive Order shall take effect immediately.

DONE in the City of Manila, Philippines, this 25th day of J u l y, in the Year of our Lord, Nineteen Hundred and Eighty-Seven.



the President:



JOKER P. ARROYO
Executive Secretary