

06-1204 PHILIPPINES V. PIMENTEL

DECISION BELOW: 464 F.3d 885

LOWER COURT CASE NUMBER: 04-16401, 04-16503, 04-16538

QUESTION PRESENTED:

This interpleader action was brought to settle ownership of assets misappropriated by Ferdinand Marcos when he was President of the Republic of the Philippines. The assets are claimed both by the Republic, which under Philippine law is the owner of property acquired through the misuse of public office by Philippine officials, and by a class of private judgment creditors of the Marcos estate. The Republic was dismissed from the action on sovereign immunity grounds. In the Republic's absence, however, the district court held that the Republic is not an indispensable party to the action under Fed. R. Civ. P. 19(b), proceeded to resolve the interpleader action, and awarded the disputed assets to the class of private claimants. The Ninth Circuit affirmed. The case presents the following question:

Whether a foreign government that is a "necessary" party to a lawsuit under Rule 19(a) and has successfully asserted sovereign immunity is, under Rule 19(b), an "indispensable" party to an action brought in the courts of the United States to settle ownership of assets claimed by that government.

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE ON THE FOLLOWING QUESTION: WHETHER THE REPUBLIC OF THE PHILIPPINES (REPUBLIC) AND ITS PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT (PCGG), HAVING BEEN DISMISSED FROM THE INTERPLEADER ACTION BASED ON THEIR SUCCESSFUL ASSERTION OF SOVEREIGN IMMUNITY, HAD THE RIGHT TO APPEAL THE DISTRICT COURT'S DETERMINATION THAT THEY WERE NOT INDISPENSABLE PARTIES UNDER FEDERAL RULE OF CIVIL PROCEDURE 19(b); AND WHETHER THE REPUBLIC AND ITS PCGG HAVE THE RIGHT TO SEEK THIS COURT'S REVIEW OF THE COURT OF APPEALS'S OPINION AFFIRMING THE DISTRICT COURT.

CERT. GRANTED 12/3/2007