

ARMED FORCES OF THE PHILIPPINES (AFP) GENERAL

CASE STUDY ON ASSET RECOVERY



Background



The 2011 Armed Forces of the Philippines corruption scandal was a political scandal involving alleged misuse of military funds by high-ranking AFP members.

Former Budger Officer testified in a Senate Blue Ribbon Committee.

An estimated Php1.5B in AFP funds were allegedly placed anomalously in an unaudited pool of discretionary resources.



Background



The scandal led to the recommendation of filing plunder charges against 6 retired generals and 5 other officers.



Two generals, who were the AFP's comptrollers, were detained.

One of the accused general committed suicide as he was compelled by Congress to testify.

Case Study – AFP General



Targets: Retired Lt. Gen. - Deputy Chief of Staff (Comptrollership) of the AFP from 1999 to March 2011 and his spouse

General retired from military service last August 17, 2004.

PI was prompted by expose of whistle blower about corruption practices in Philippine military in his testimony during joint Senate hearings

Case Study – AFP General



Joint Senate Hearings – Blue Ribbon Committee (Accountability of Public Officers & Investigators) and Committee on Justice & Human Rights were conducted in 2011

Findings: Frequent travel abroad of spouse who is reported as housewife in General's SALN and acquisitions of properties in USA, condo units and other properties in PH and several bank accounts of both spouses are disproportionate to income reported



Philippine Daily Inquirer



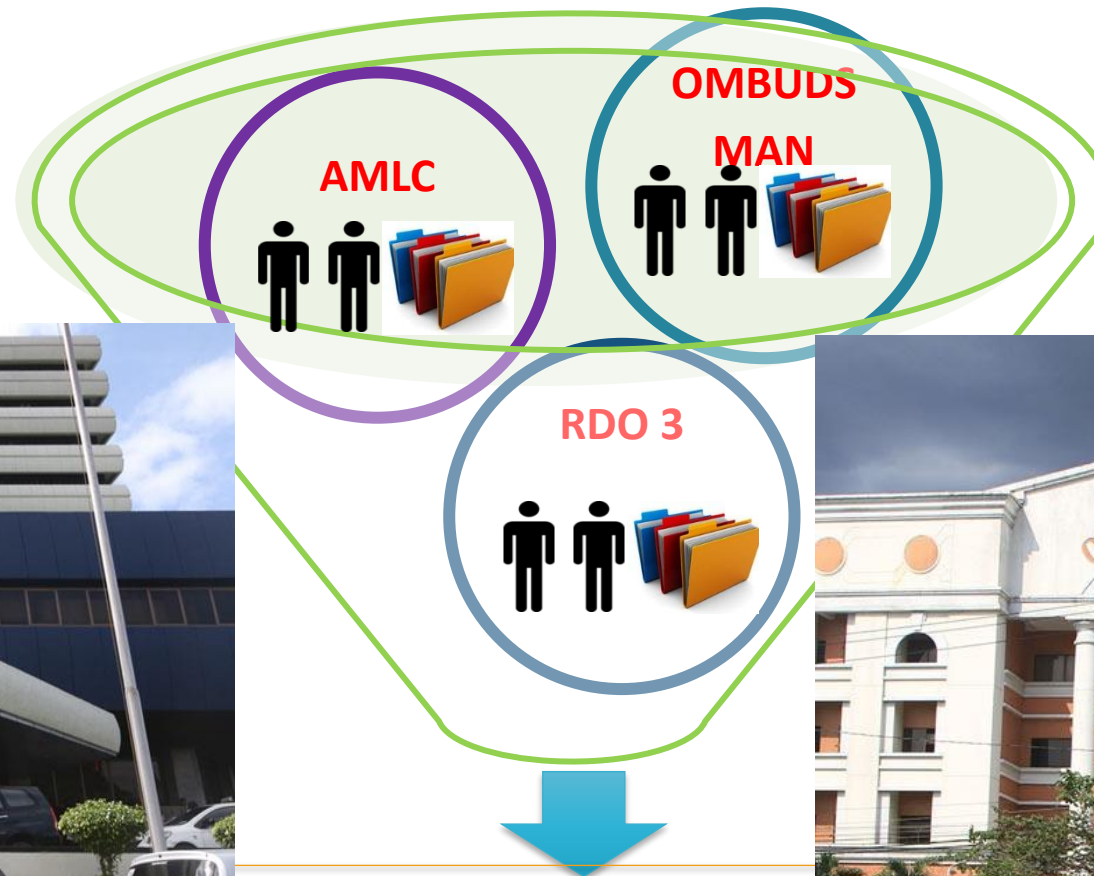
Manila Standard Today

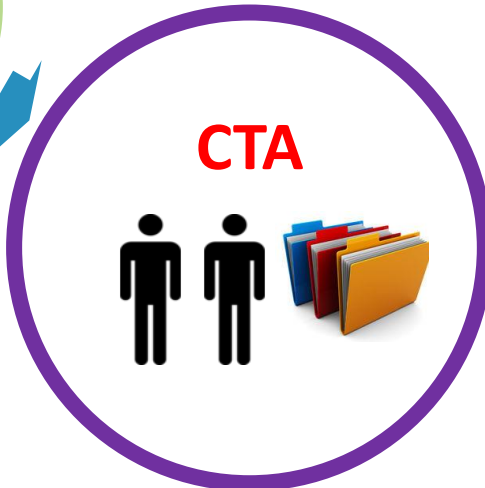
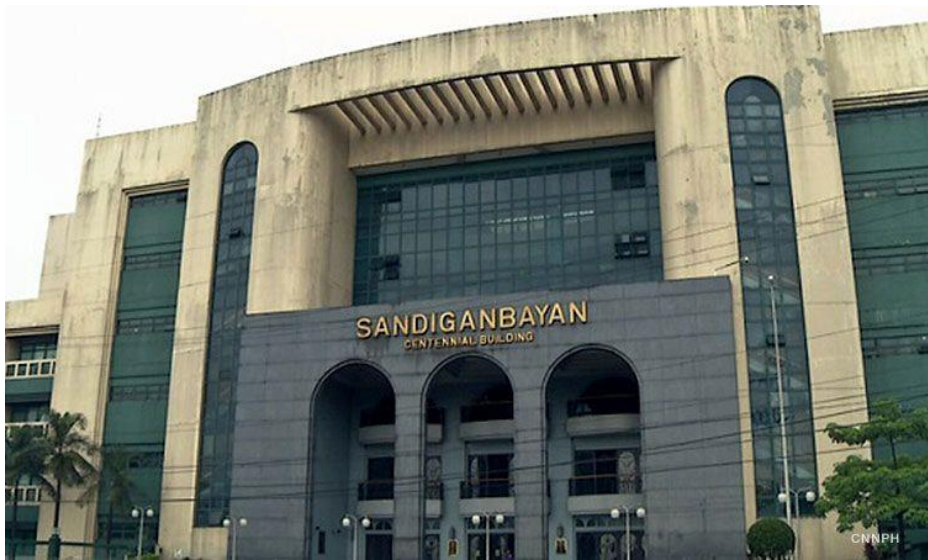




How it all started?

Senate/Congressional Investigation





Case Study – AFP General



- Tax investigators used networth method of proof in filing tax evasion cases in 2011 for the years 2001 to 2004

- In Sept 28, Oct 4 and 25, 2011, CTA issued warrants of arrest to both spouses

- Spouses posted bail at Php20,000 each on Nov 2, 2011

Case Study – AFP General



Hold Departure Orders were issued on Nov 2, 2011 ordering BI to include them in its Hold Departure List

All criminal cases were consolidated by CTA in Feb and March 2012

In August 20, 2012, CTA granted the request for Waiver of Appearance of spouses during trial with the condition that his lawyers should present them in court if required

Case Study – AFP General



• Tax investigators forwarded the cases to Collection Service for collection enforcement actions on April 8, 2013

• Warrants of Distraint/Levy and Warrants of Garnishments were issued on June 18, 2013

• Simultaneously, trial ensued until CTA Resolution was issued last January 8, 2019

• The court issued an ACQUITTAL on criminal cases but ordered BIR to collect Php446.42M (US\$9.30M)

Case Study – AFP General



Accused spouses were **ACQUITTED** on criminal cases but ordered BIR to collect tax liabilities

Prosecution's Theory: Crimes were committed because the accused accumulated bank deposits, properties and investments not commensurate to declared income

Asset Recovery Task Force was created and became operational beginning 4th qtr 2018

Case Study – AFP General



Court cited the following reasons for failure of prosecution to establish the guilt of accused spouses beyond reasonable doubt:

- 1. Failure of the prosecution to prove ownership of properties;**
- 2. Failure to prove the accused spouses source of income used to finance alleged purchases;**
- 3. Reliance on hearsay evidence;**

Case Study – AFP General



- 4. Some documentary evidence gathered by tax investigators were not offered formally by the prosecution, only certified true copies were presented without the original documents even if there's testimonial evidence, etc.

MAJOR SETBACK:
Bank Secrecy Laws

Case Study – AFP General



CTA disallowed all evidence – testimonial or documentary – relating to the spouses' bank accounts because RA 1405 (Bank Secrecy Law) granted bank deposits absolute confidentiality

MAJOR SETBACK:
Bank Secrecy Laws

General Ligot Tax Case

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PHILIPPINES

Ex-general in military corruption scandal cleared in P428M tax case

The Court of Tax Appeals acquits former military comptroller Jacinto Ligot of tax crimes, but says the deficiency assessment of the Bureau of Internal Revenue stands



Lian Buan
@lianbuan
Published 8:14 PM, January 16, 2019
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ACQUITTED. Retired general Jacinto Ligot and wife Erlina are acquitted of 4 counts of tax violation. File photo from Newsbreak

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PHILIPPINES BANK SECURITY LAW



Who is Really Protected?

**Republic Act (RA) 1405 – The Law on
Secrecy of Bank Deposits**

**RA 6426 – Foreign Currency Deposit
Act**

**RA 8367 – The Revised Non-stock
Savings and Loan Association Act of
1997**

PHILIPPINES BANK SECRECY LAW



Who is Really Protected?

Sec 2 – “All deposits of whatever nature with banks or banking institutions in the Philippines are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office xxx”

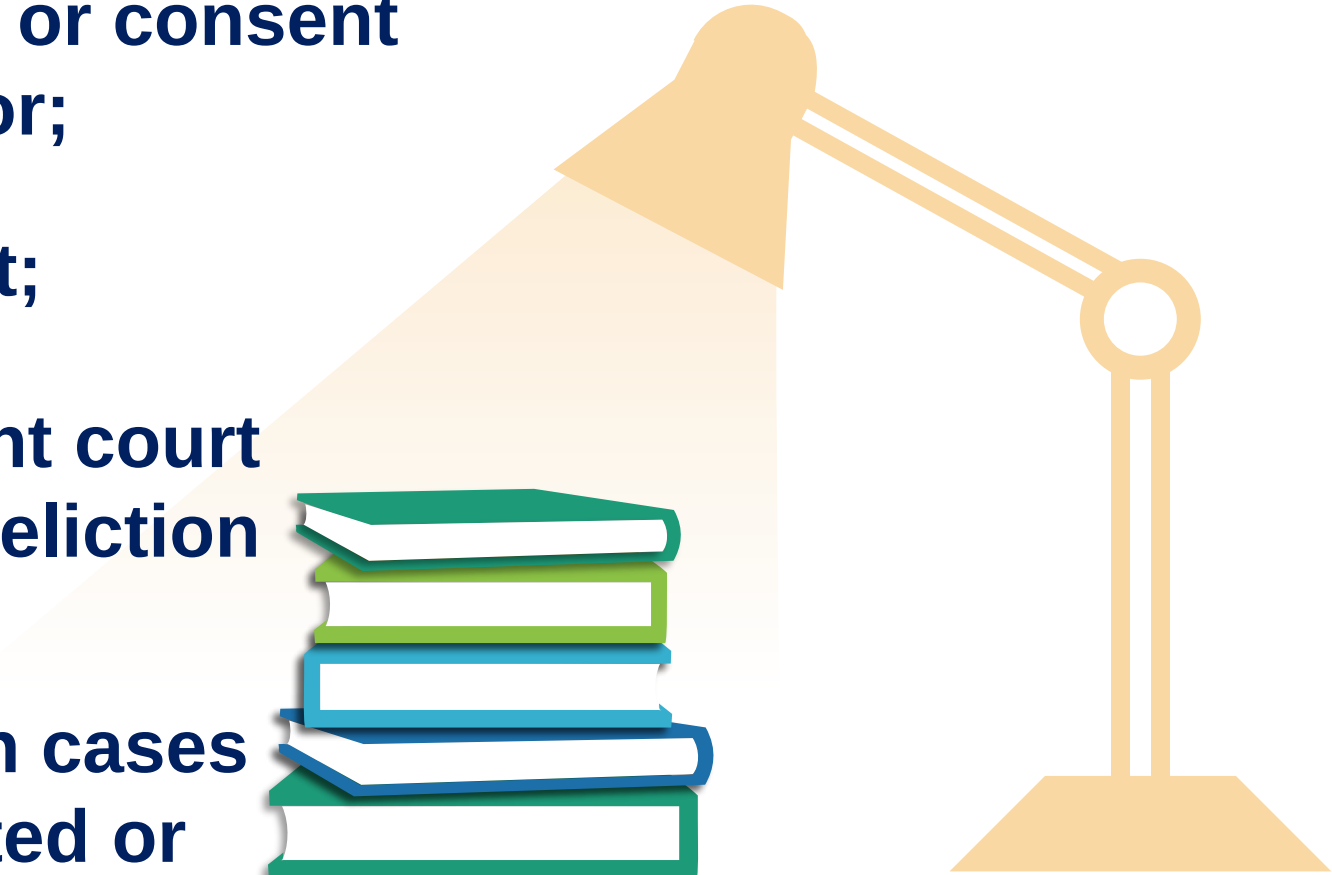
PHILIPPINES BANK SECRECY LAW

Who is Really Protected?

Sec 3 – “It shall be unlawful for any official or employee of a banking institution to disclose to any person other than those mentioned in Section 2 hereof any information concerning said deposits”

Exceptions to Bank Secrecy Laws

-  upon written permission or consent in writing of the depositor;
-  in cases of impeachment;
-  upon order of a competent court in cases of bribery or dereliction of duty;
-  upon order of the court in cases where the money deposited or invested is the subject matter of the litigation



Exceptions to Bank Secrecy Laws



upon subpoena issued by the Ombudsman concerning an investigation it is conducting, provided that there must already be a case pending in court, the account clearly identified, inspection be limited to subject matter of a pending case, and bank personnel and depositor must be notified to be present during the inspection



BIR can inquire into bank deposits in an application for compromise of tax liabilities or determination of decedent's gross estate



Exceptions to Bank Secrecy Laws



AMLC can examine bank accounts pursuant to a court order, when there is probable cause that the deposits are related to an unlawful activity or money laundering offense



AMLC can examine bank accounts without a court order, where there is probable cause that the deposits are related to certain crimes such as kidnapping for ransom, violations of the Dangerous Drugs Act, hijacking, destructive arson, murder and violations of RA 6235 (acts inimical to civil aviation)



Limited Powers

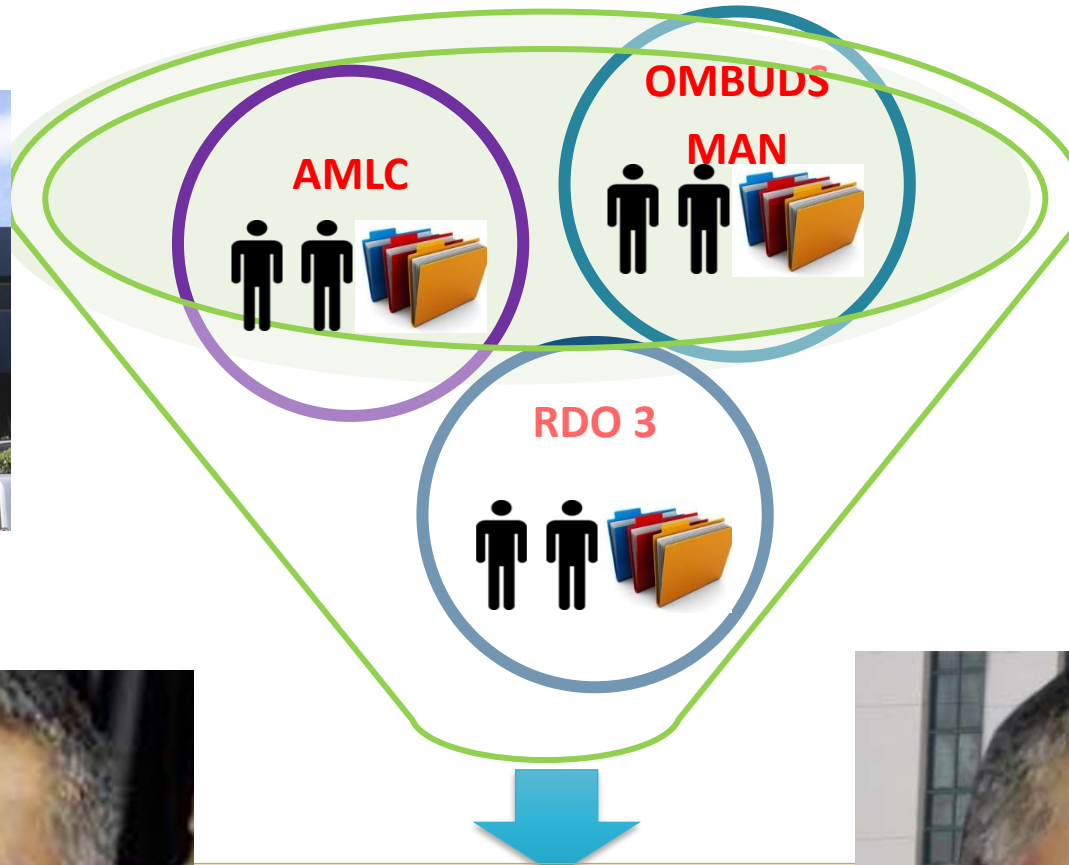
The BIR can inquire into bank deposits in the following instances:

- 1. To determine the gross estate of decedent**
- 2. In acceding to compromise of tax liabilities due to financial incapacity/inability to pay the tax assessments**
- 3. When information is requested by foreign tax authority pursuant to an international agreement**





Court Decisions



Case Study – AFP General



- He may have won the tax case but he had to present evidence in the related forfeiture case in the Sandiganbayan (Anti-graft Court)

- The Office of the Ombudsman worked on the forfeiture case in unlawfully acquired assets.

- The General and his wife were accused of amassing unexplained wealth in the military corruption scandal

- In April 2019, he was convicted of 6 counts of perjury over misdeclarations in his SALN

Case Study 1 – AFP General



The anti-graft court sentenced him to imprisonment of at least 6 years. He posted bail pending appeal on his conviction.

The forfeiture case stemmed from the lifestyle investigation conducted by the Field Investigation Office of the Office of the Ombudsman

Beginning Feb 2021, Sandiganbayan ordered the forfeiture of his assets worth US\$2.2M (Php105M)

Sandiganbayan ruled that the properties have been unlawfully acquired and hence forfeited in favor of the state

Sandiganbayan Court Decision



2 CALIFORNIA HOUSES WORTH P51M ORDERED SEIZED FROM LIGOT

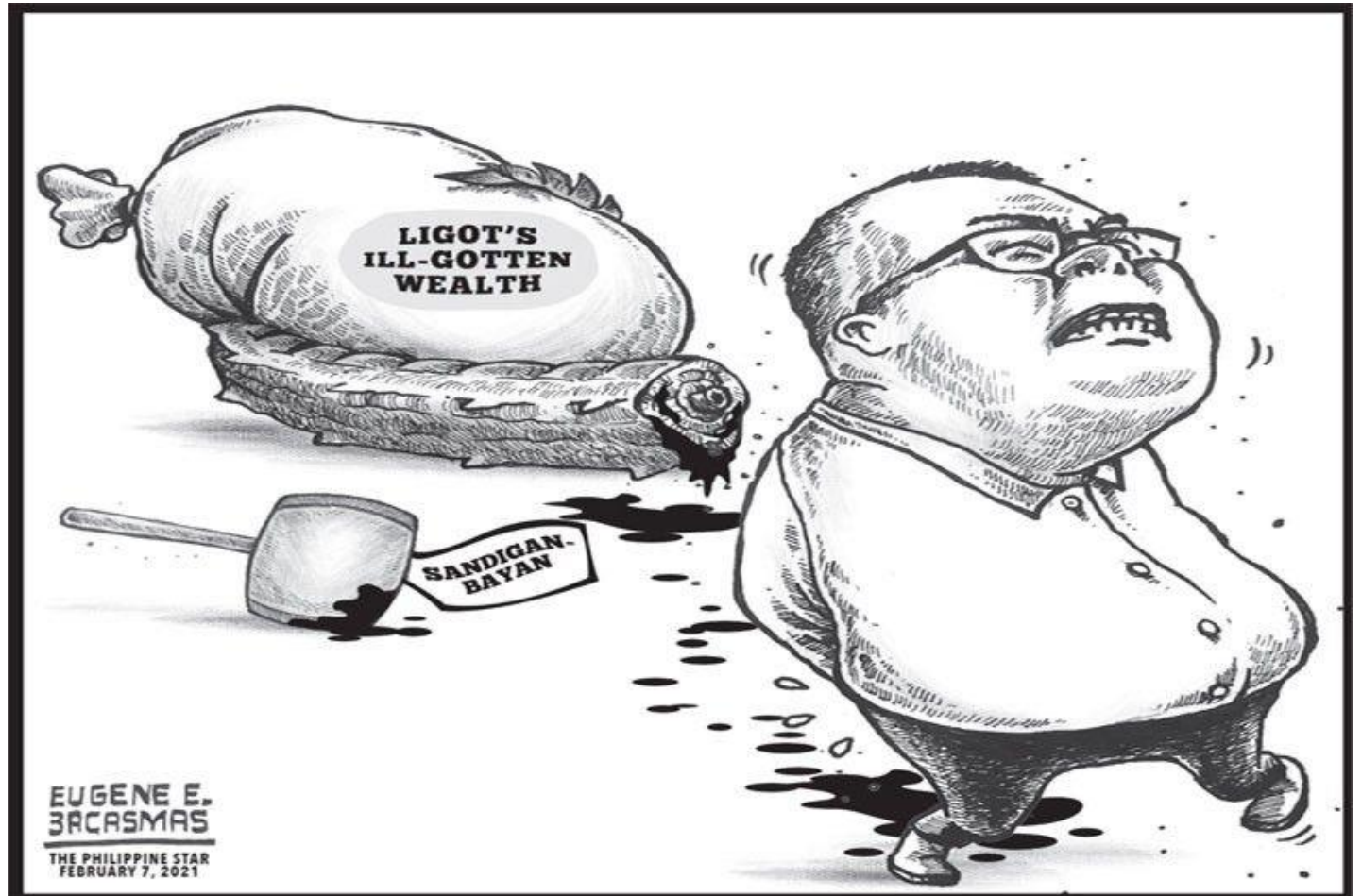
A recent Sandiganbayan ruling ordering the forfeiture of some P102 million worth of properties unlawfully acquired by former military comptroller Jacinto Ligot included two houses in California worth P51.6 million.

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Some of the ill-gotten wealth assets include:

- **cornland in Bukidnon, Mindanao worth P180,000**
- **paid up shares in Parmil Farms, Inc. worth P575,000**
- **land in Morong, Rizal worth P2 million**
- **guardhouse, quarantine house and bodega in Imbayao, Malaybalay, Bukidnon worth P568,350**
- **condominium unit in Rizal province worth P22 million**
- **condominium unit in Bel-Air, Makati City worth P2.3 million**
- **house in Stanton, California, United States worth P17.9 million**
- **deposits and investments in Armed Forces and Police Savings and Loan Association worth P9.2 million**
- **house in Anaheim, California, United States worth P33.7 million**
- **poultry building, rest house and covered terrace in Malaybalay, Bukidnon worth P4.5 million**
- **a building in Malaybalay, Bukidnon worth P6.7 million,**
- **2001 Toyota Hilux worth P1.078 million, among others.**

Editorial on forfeiture case



**EUGENE E.
BACASMAS**
THE PHILIPPINE STAR
SUNDAY, APRIL 16, 2011



Thank you for your attention!

