

EN BANC

[G.R. No. 152578, November 23, 2005]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT,
PETITIONER, VS. ESTATE OF HANS MENZI (THROUGH ITS
EXECUTOR, MANUEL G. MONTECILLO), EMILIO T. YAP, EDUARDO
M. COJUANGCO, JR., ESTATE OF FERDINAND MARCOS, SR., AND
IMELDA R. MARCOS, RESPONDENTS.**

[G.R. NO. 154487]

**EDUARDO M. COJUANGCO, JR., PETITIONER, VS. REPUBLIC OF
THE PHILIPPINES, RESPONDENT.**

[G.R. NO. 154518]

**ESTATE OF HANS M. MENZI (THROUGH ITS EXECUTOR, MANUEL
G. MONTECILLO), AND HANS M. MENZI HOLDINGS AND
MANAGEMENT, INC. (HMHMI), PETITIONERS, VS. REPUBLIC OF
THE PHILIPPINES, (REPRESENTED BY THE PRESIDENTIAL
COMMISSION ON GOOD GOVERNMENT), RESPONDENTS.**

D E C I S I O N

TINGA, J.:

In the hope-filled but problem-laden aftermath of the EDSA Revolution, President Corazon C. Aquino issued Executive Order (EO) No. 1, creating the Presidential Commission on Good Government (PCGG) tasked with, among others, the recovery of all ill-gotten wealth accumulated by former President Ferdinand Marcos, his immediate family, relatives, subordinates and close associates. This was followed by EO Nos. 2 and 14, respectively freezing all assets and properties in the Philippines in which the former President, his wife, their close relatives, subordinates, business associates, dummies, agents or nominees have any interest or participation, and defining the jurisdiction over cases involving the ill-gotten wealth. Pursuant to the executive orders, several writs of sequestration were issued by the PCGG in pursuit of the reputedly vast Marcos fortune.

Following a lead that Marcos had substantial holdings in Bulletin Publishing Corporation (Bulletin), the PCGG issued a Writ of Sequestration dated April 22, 1986, sequestering the shares of Marcos, Emilio T. Yap (Yap), Eduardo M. Cojuangco, Jr. (Cojuangco), and their nominees and agents in Bulletin.

This was followed by another Writ of Sequestration issued on February 12, 1987, this time sequestering the shares of stock, assets, properties, records and documents of Hans Menzi Holdings and Management, Inc. (HMHMI).

The Republic then instituted before the Sandiganbayan on July 29, 1987, a complaint for reconveyance, reversion, accounting, restitution and damages entitled "*Republic of the Philippines v. Emilio T. Yap, Manuel G. Montecillo, Eduardo M. Cojuangco, Jr., Cesar C. Zalamea, Ferdinand E. Marcos and Imelda R. Marcos*" and docketed as Civil Case No. 0022. The complaint substantially averred that Yap knowingly and willingly acted as the dummy, nominee or agent of the Marcos spouses in appropriating shares of stock in domestic corporations such as the Bulletin, and for the purpose of preventing disclosure and recovery of illegally obtained assets. It also averred that Cesar Zalamea (Zalamea) acted, together with Cojuangco, as dummies, nominees and/or agents of the Marcos spouses in acquiring substantial shares in Bulletin in order to prevent disclosure and recovery of illegally obtained assets, and that Zalamea established, together with third persons, HMHMI which acquired Bulletin.

On March 10, 1988, the complaint was amended joining Cojuangco as Zalamea's co-actor instead of mere collaborator. The complaint was amended for the second time on October 17, 1990. The amendment consisted of dropping Zalamea as defendant in view of the Deed of Assignment dated October 15, 1987 which he executed, assigning, transferring and ceding to the Government the 121,178 Bulletin shares registered in his name. These shares, as will be explained forthwith, formed part of the 214,424.5 shares (214 block) which became the subject of a case^[1] that reached this Court.

The Second Amended Complaint also included the Estate of Hans M. Menzi (Estate of Menzi), through its executor, Atty. Manuel G. Montecillo (Atty. Montecillo), as one of the defendants.

The issues presented for resolution as stated in the Sandiganbayan's Pre-Trial Order dated November 11, 1991 were:

- 1) Whether or not the sale of 154,470 shares of stock of Bulletin Publishing Co., Inc., subject of this case by the late Hans M. Menzi to the U.S. Automotive Co. Inc. is valid and legal; and
- 2) Whether or not the shares of stock of Bulletin Publishing Co. Inc. registered and/or issued in the name of defendants Emilio T. Yap, Eduardo Cojuangco, Jr., Cesar Zalamea and the late Hans M. Menzi (and/or his estate and/or his holding company, HM Holding & Investment Corp.) are ill-gotten wealth of the defendants Marcos spouses.

Make of record the oral manifestation of Atty. Estelito Mendoza, counsel for defendant Eduardo Cojuangco. That: (a) whether or not the said 154,470 shares of stock of Bulletin Publishing Co. Inc. legally belonged to the late Hans Menzi before he sold the same to U.S. Automotive Co. Inc. and (b) whether or not plaintiff Republic is entitled to the same, should also be threshed out during the trial on the merits.^[2]

After protracted proceedings which spawned a number of cases^[3] that went up to this Court, the Sandiganbayan rendered a *Decision*^[4] dated March 14, 2002,^[5] the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered:

1. Declaring that the following Bulletin shares are the ill-gotten wealth of the defendant Marcos spouses:

A. The 46,626 Bulletin shares in the name of defendant Eduardo M. Cojuangco, Jr., subject of the Resolution of the Supreme Court dated April 15, 1988 in G.R. No. 79126.

Pursuant to alternative "A" mentioned therein, plaintiff Republic of the Philippines through the PCGG is hereby declared the legal owner of these shares, and is further directed to execute, in accordance with the Agreement which is entered into with Bulletin Publishing Corporation on June 9, 1988, the necessary documents in order to effect transfer of ownership over these shares to the Bulletin Publishing Corporation.

B. The 198,052.5 Bulletin shares in the names of:

No. of Shares

Jose Y. Campos	90,866.5
Eduardo M. Cojuangco, Jr.	90,877
Cesar C. Zalamea	<u>16,309</u>
Total	198,052.5

which they transferred to HM Holdings and Management, Inc. on August 17, 1983, and which the latter sold to Bulletin Publishing Corporation on February 21, 1986. The proceeds from this sale are frozen pursuant to PCGG's Writ of Sequestration dated February 12, 1987, and this writ is the subject of the Decision of the Supreme Court dated January 31, 2002 in G.R. No. 135789.

Accordingly, the proceeds from the sale of these 198,052.5 Bulletin shares, under Philtrust Bank Time Deposit Certificate No. 136301 dated March 3, 1986 in the amount of P19,390,156.68 plus interest earned, in the amount of P104,967,112.62 as of February 28, 2002, per Philtrust Bank's Motion for Leave to Intervene and to consign the Proceeds of Time Deposits of HMHMI, filed on February 28, 2002 with the Supreme Court in G.R. No. 135789, are hereby declared forfeited in favor of the plaintiff Republic of the Philippines.

2. Ordering the defendant Estate of Hans M. Menzi through its Executor, Manuel G. Montecillo, to surrender for cancellation the

original eight Bulletin certificates of stock in its possession, which were presented in court as Exhibits ..., which are part of the 212,424.5 Bulletin shares subject of the Resolution of the Supreme Court dated April 15, 1988 in G.R. No. 79126.

3. Declaring that the following Bulletin shares are **not** the ill-gotten wealth of the defendant Marcos spouses:

- a. The 154,472 Bulletin shares sold by the late Hans M. Menzi to U.S. Automotive Co., Inc., the sale thereof being valid and legal;
- b. The 2,617 Bulletin shares in the name of defendant Emilio T. Yap which he owns in his own right; and
- c. The 1 Bulletin share in the name of the Estate of Hans M. Menzi which it owns in its own right.

4. Dismissing, for lack of sufficient evidence, plaintiff's claim for damages, and defendants' respective counterclaims.

SO ORDERED.^[6]

In the present consolidated petitions, the foregoing Sandiganbayan *Decision* is assailed on different grounds.

The Republic, in **G.R. No. 152758**, assails the afore-quoted *Decision* insofar as it declared as not ill-gotten wealth of the Marcos spouses the 154,472 shares (154 block) sold by Menzi to U.S. Automotive Co., Inc. (US Automotive) and dismissed the Republic's claim for damages.

In **G.R. No. 154487**, Cojuangco questions paragraphs 1 and 2 of the Sandiganbayan *Decision*.

In **G.R. No. 154518**, on the other hand, the Estate of Menzi imputes grave error and misinterpretation of facts and evidence against the Sandiganbayan in declaring that the 46,626 Bulletin shares in the name of Cojuangco, and the 198,052.5 shares (198 block) in the names of Jose Campos (Campos), Cojuangco and Zalamea are ill-gotten wealth of the Marcoses.

The three blocks of Bulletin shares of stock subject of these consolidated petitions are:

1. 154,472 shares (154 block) sold by the late Menzi and/or Atty. Montecillo to US Automotive on May 15, 1985 for P24,969,200.09;
2. 198,052.50 (198 block) issued and registered in the names of Campos, Cojuangco, and Zalamea which were transferred to HMHMI and subsequently sold by HMHMI (through Atty. Montecillo) to Bulletin on February 21, 1986 for P23,675,195.85; and

3. 214,424.5 shares (214 block) issued and registered in the names of Campos, Cojuangco, and Zalamea which were the subject of the unanimous Resolution of this Court, through Mr. Chief Justice Claudio Teehankee, in *Bulletin v. PCGG*^[7] (Teehankee Resolution) dated April 15, 1988 and the Sandiganbayan Resolutions dated January 2, 1995 and April 25, 1996 in Civil Case No. 0022.

For clarity of presentation, the 154 block, which is the subject of the Republic's petition in G.R. No. 152578, is treated separately from the 198 and 214 blocks, which are the subjects of the petitions in G.R. No. 154487 and G.R. No. 154518.

154 Block

In 1957, Menzi purchased the entire interest in Bulletin from its founder and owner, Mr. Carson Taylor. In 1961, Yap, owner of US Automotive, purchased Bulletin shares from Menzi and became one of the corporation's major stockholders.

On April 2, 1968, a stock option was executed by and between Menzi and Menzi and Co. on the one hand, and Yap and US Automotive on the other, whereby the parties gave the each other preferential right to buy the other's Bulletin shares.

On April 22, 1968, the stockholders of Bulletin approved certain amendments to Bulletin's Articles of Incorporation, consisting of some restrictions on the transfer of Bulletin shares to non-stockholders.^[8] The amendments were approved by the Board of Directors of Bulletin and by the Securities and Exchange Commission (SEC).

Several years later, on June 5, 1984, Atty. Amorsolo V. Mendoza (Atty. Mendoza), Vice President of US Automotive, executed a promissory note with his personal guarantee in favor of Menzi, promising to pay the latter the sum of P21,304,921.16 with interest at 18% per annum as consideration for Menzi's sale of his 154 block on or before December 31, 1984.

One day after Menzi's death on June 27, 1984, a petition for the probate of his last will and testament was filed in the Regional Trial Court (RTC) of Manila, Branch 29, by the named executor, Atty. Montecillo, and docketed as Special Proceeding No. 84-25244.

On January 10, 1985, Atty. Montecillo filed a motion praying for the confirmation of the sale to US Automotive of Menzi's 154 block. The probate court confirmed the sale in its Order dated February 1, 1985.

Accordingly, on May 15, 1985, Atty. Montecillo received from US Automotive two (2) checks in the amounts of P21,304,778.24 and P3,664,421.85 in full payment of the agreed purchase price and interest for the sale of the 154 block. On the same day, Atty. Montecillo signed a company voucher acknowledging receipt of the payment for the shares, indicating on the dorsal portion thereof the certificate numbers of the 12 stock certificates covering the 154 block, the number of shares covered by each certificate and the date of issuance thereof.

Atty. Montecillo also wrote on the lower portion of the promissory note executed by Atty. Mendoza the words "Paid May 15, 1985 (signed) M.G. Montecillo, Executor of the Estate of Hans M. Menzi."