

## FIRST DIVISION

[ G.R. No. 135789, January 31, 2002 ]

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

### DECISION

**PARDO, J.:**

#### The Case

The Case is a petition for certiorari<sup>[1]</sup> to nullify two (2) resolutions of the Sandiganbayan,<sup>[2]</sup> namely:

- (1) Resolution dated April 13, 1998 ordering the lifting of the writ of sequestration over the assets, shares of stocks, property, records and bank deposit of Hans M. Menzi Holdings and Management Inc. (HMHMI); and
- (2) Resolution dated August 21, 1998 denying petitioner's Motion for Reconsideration.

#### The Facts

The facts, as alleged in the petition, are as follows:

On May 5, 1982, Manuel G. Montecillo, Eduardo M. Cojuangco, Jr., Cesar C. Zalamea and Jose Y. Campos organized HMHMI to serve as a holding company for the shares of stocks of Hans M. Menzi, Jose Y. Campos, Cesar C. Zalamea and Eduardo M. Cojuangco, Jr. in Bulletin Publishing Corporation and the shares of stocks of Hans M. Menzi in other companies, namely, Liwayway Publishing, Inc., Menzi and Company, Inc., Menzi Agricultural, Inc., Menzi Development Corporation and M and M Consolidated, Inc.

On June 27, 1984, Hans M. Menzi died. On July 6, 1984, the court appointed Manuel G. Montecillo executor of the Estate of Hans M. Menzi<sup>[3]</sup> and later the president of HMHMI. With the lone exception of Montecillo, Eduardo M. Cojuangco, Jr., Cesar C. Zalamea and Jose Y. Campos, constitute the principal stockholders and incorporators of HMHMI.

On February 12, 1987, the PCGG issued Sequestration Writ No. 87-0206 against all shares of stocks, assets, properties, records and documents of HMHMI.<sup>[4]</sup>

On the same day, the PCGG requested the Governor, Central Bank of the Philippines to instruct commercial banks and non-bank financial institutions to disallow the withdrawal of funds and assets by Liwayway Publishing Incorporated and HMHMI.<sup>[5]</sup>

Forthwith, on February 13, 1987, Central Bank Governor Fernandez instructed commercial banks and non-bank financial institutions to withhold the withdrawal of funds and assets by Liwayway Publishing Corporation and HMHMI.<sup>[6]</sup>

On July 29, 1987, petitioner filed with the Sandiganbayan a complaint for reconveyance, reversion, accounting, restitution and damages<sup>[7]</sup> against the following defendants: Manuel G. Montecillo, Eduardo M. Cojuangco, Jr., Cesar C. Zalamea, Ferdinand E. Marcos and Imelda R. Marcos.

On October 17, 1990, the PCGG filed a Second Amended Complaint naming specifically the estate of Hans M. Menzi as one of the defendants.<sup>[8]</sup>

On November 27, 1992, the estate of Hans M. Menzi, in behalf of HMHMI, filed with the Sandiganbayan a "Motion to Lift Freeze Order" dated February 12, 1987, alleging that:

(1) The stocks, assets, properties, records and documents of HMHMI were sequestered without any judicial action having been filed against it, or without impleading it as a defendant in Civil Case No. 0022; and

(2) Such issuance of a writ of sequestration without filing a corresponding judicial action against HMHMI within the reglementary period established by section 26, Article XVIII of the 1987 Constitution resulted in the automatic lifting of the sequestration order on August 12, 1987.<sup>[9]</sup>

On April 2, 1992, the Sandiganbayan granted the motion.<sup>[10]</sup> On October 2, 1992, the Sandiganbayan denied petitioner's motion for reconsideration.<sup>[11]</sup>

On January 15, 1993, the Republic of the Philippines filed with the Supreme Court a petition for review assailing the resolution of the Sandiganbayan lifting the freeze order.<sup>[12]</sup>

On July 16, 1996, the court set aside the Sandiganbayan's resolution lifting the freeze order and remanded the case back to the Sandiganbayan for resolution of the preliminary question of whether or not there was a *prima facie* factual basis for the PCGG's writ of sequestration dated February 12, 1987.<sup>[13]</sup>

On April 13, 1998, the Sandiganbayan lifted the writ of sequestration dated February 12, 1987, reasoning that there was no *prima facie* factual basis for its issuance.<sup>[14]</sup> The dispositive portion of the resolution reads:

"WHEREFORE, considering the evidence adduced on the subject preliminary question, this court hereby declares that there was no *prima facie* factual basis for the issuance by the PCGG of the Writ of Sequestration dated February 12, 1987.