



Republic of the Philippines  
**Supreme Court**  
Manila

EN BANC

REPUBLIC  
PHILIPPINES,

OF THE  
Petitioner,

G.R. No. 183446

- versus -

Present:

SERENO, C. J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,\*  
BRION,\*  
PERALTA,\*  
BERSAMIN,  
DEL CASTILLO,  
ABAD,  
VILLARAMA, JR.,  
PEREZ,  
MENDOZA,  
REYES, and  
PERLAS-BERNABE, JJ.

ESTATE OF HANS MENZI  
(through its Executor, Manuel G.  
Montecillo), SANDIGANBAYAN  
(Fourth Division) and  
SHERIFFS REYNALDO  
MELQUIADES and ALBERT A.  
DELA CRUZ,

Respondents.

Promulgated:

November 13, 2012

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DECISION

PEREZ, J.:

In this petition for *certiorari* filed pursuant to Rule 65 of the 1997 *Rules of Civil Procedure*, petitioner Republic of the Philippines (the Republic) primarily assails the 17 January 2008 Resolution<sup>1</sup> issued by public respondent *Sandiganbayan*, Fourth Division, in Civil Case No. 0022,<sup>2</sup> the dispositive portion of which states:

WHEREFORE, the plaintiff Republic's motion for execution is GRANTED [IN PART]. The Court hereby ORDERS:

(a) PHILTRUST BANK to deliver to plaintiff Republic of the Philippines the proceeds from the sale of the 198,052.5 Bulletin shares sold by defendant HMHMI to Bulletin Publishing Corporation that is now under Philtrust Bank Time Deposit Certificate No. 136301, in the amount of ₱19,390,156.68, plus interest earned;

(b) Defendant Estate of Hans Menzi, through its executor Manuel G. Montecillo, to surrender for cancellation the original eight (8) Bulletin Certificates of Stock in his possession, i.e., Certificates Nos. 312, 292, 314, 131, 132, 293, and 313, which are part of the 212,425.5 Bulletin shares subject of the Supreme Court's Decision in G.R. No. 79126 dated April 15, 1988; and

(c) Plaintiff Republic of the Philippines, with respect to the 46,626 Bulletin shares in the name of Eduardo Cojuangco, Jr. and pursuant to Alternative 'A' provided for in the Resolution of the Supreme Court dated April 15, 1988, in G.R. No. 79126, to execute the necessary documents in order to effect the transfer of the ownership over these shares to the Bulletin Publishing Corporation in accordance with the agreement it entered into with the latter on June 9, 1998.

Defendants Estate of Hans Menzi and HMHMI's motion is GRANTED. The Court hereby ORDERS PHILTRUST BANK:

To pay the Estate of Hans Menzi, through its Executor, Manuel G. Montecillo and Hans Menzi Holdings and Management, Inc., the amount of ONE HUNDRED FIFTY TWO MILLION EIGHT HUNDRED TWENTY SIX THOUSAND NINE HUNDRED THIRTY SEVEN PESOS and 76/100 interests thereon from said date of February 28, 2002, until the whole amount is paid.

SO ORDERED.<sup>3</sup>

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\* Associate Justice Teresita Leonardo-De Castro took part in the Sandiganbayan proceedings.

\* Associate Justice Arturo D. Brion is a former partner of Respondent's Estate's Counsel.

\* Associate Justice Diosdado M. Peralta took part in a closely related action.

<sup>1</sup> Penned by Sandiganbayan Associate Justice Gregory S. Ong and concurred in by Associate Justices Jose R. Hernandez and Samuel R. Martires.

<sup>2</sup> *Rollo*, Sandiganbayan's 17 January 2008 Resolution, pp. 39-49.

<sup>3</sup> *Id.* at 48-49.

### ***The Facts***

On 22 April 1986, the Presidential Commission on Good Government (PCGG) issued a Writ of Sequestration over the shares of former President Ferdinand Marcos, Emilio Yap (Yap) and Eduardo Cojuangco, Jr. (Cojuangco) in the Bulletin Publishing Corporation (*Bulletin*), together with those of their nominees or agents, among them, Ceasar Zalamea (Zalamea) and Jose Campos (Campos). On 12 February 1987, the PCGG also issued a Writ of Sequestration and Freeze Order over the shares of the U.S. Automotive Co., Inc. (*US Automotive*) and its officers in Liwayway Publishing, Inc. (*Liwayway*) as well as the shares of stock, assets, properties, records and documents of Hans Menzi Holdings and Management, Inc. (HMHMI), the corporation organized by Menzi, Campos, Cojuangco, Zalamea and Rolando Gapud, to serve as holding company for their shares of stock in Liwayway, Menzi and Company, Inc., Menzi Agricultural, Inc., Menzi Development Corporation and M and M Consolidated, Inc. The Writs of Sequestration issued against the Liwayway and Bulletin shares as well as the PCGG's then declared intent to vote the sequestered shares in Bulletin were challenged by Liwayway, US Automotive and Bulletin in the petitions for *certiorari*, prohibition and *mandamus* docketed before this Court as G.R. Nos. 77422 and 79126.<sup>4</sup>

Following Campos' lead in waiving his rights over 46,620 Bulletin shares in favor of the Republic, Zalamea also waived his rights over 121,178 Bulletin shares in favor of the Republic on 15 October 1987. PCGG then sold the shares of Zalamea and Campos in favor of Bulletin, which thereafter appears to have offered a cash deposit in the sum of ₱8,174,470.32 for

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<sup>4</sup>

Id. at 81-84.

Cojuangco's remaining 46,626 Bulletin shares.<sup>5</sup> Together with the interests thereon, the amount was proposed to either: (a) standby as full payment of Cojuangco's shares upon a final judgment declaring the Republic the owner of said shares; or, (b) be returned to Bulletin upon a final judgment declaring Cojuangco as true owner thereof. In the 15 April 1988 Decision in G.R. Nos. 77422 and 79126, this Court directed, among others, the PCGG to accept the cash deposit offered by Bulletin for Cojuangco's shares, subject to the foregoing alternative conditions.<sup>6</sup>

On 29 July 1987, in the meantime, the Republic instituted a complaint for reconveyance, reversion, accounting, restitution and damages against President Marcos, Imelda R. Marcos, Yap, Cojuangco, Zalamea and Atty. Manuel Montecillo (Montecillo). Docketed as Civil Case No. 0022 before the Sandiganbayan, the complaint essentially alleged that Yap acted as the Marcos Spouses' dummy, nominee or agent in the appropriation and concealment of shares of stock of domestic corporations like Bulletin. Cojuangco and Zalamea were likewise alleged to have acted as the Marcos Spouses' dummies, nominees or agents in illegally acquiring Bulletin shares to prevent their disclosure and recovery. In the amended complaint the Republic filed on 10 March 1988, Cojuangco was joined as an actor instead of a mere collaborator of Zalamea who was later dropped as defendant from the case in view of his assignment of his 121,178 Bulletin shares in favor of the Republic as aforesaid. The Republic went on to amend its complaint for a second time on 17 October 1990, to implead as defendant respondent Estate of Hans Menzi (the Estate), through its Executor, Montecillo.<sup>7</sup>

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<sup>5</sup> Collectively referred to as the 214 block of Bulletin shares, consisting of Campos' 46,620.5 shares, Zalamea's 121,178 shares and Cojuangco's 46,626 shares, *id.* at 84 .

<sup>6</sup> *Liwayway Publishing, Inc. v. PCGG*, 243 Phil. 864 (1988).

<sup>7</sup> *Republic of the Phils. v. Estate of Hans Menzi*, 512 Phil. 425, 430 (2005).

On 2 April 1992 the Sandiganbayan issued a Resolution<sup>8</sup> lifting the writ of sequestration issued by the PCGG. This was questioned by the Republic through a petition for *certiorari* docketed before this Court as G.R. No. 107377. In a Resolution dated 16 July 1996, the Court reversed and set aside the assailed resolution and referred the case back to the Sandiganbayan “for resolution of the preliminary question of whether there is *prima facie* factual basis for PCGG’s sequestration order.”<sup>9</sup> It was pursuant to the foregoing resolution that the Sandiganbayan went on to conduct hearings on the matter and, later, to issue the Resolution dated 13 April 1998, discounting the factual bases for PCGG’s sequestration order and granting the Estate’s motion to lift the writ of sequestration over the shares of stock, assets, properties, records and documents of HMMHI.<sup>10</sup> Dissatisfied with the Resolution and the Sandiganbayan’s 26 August 1998 denial of its motion for reconsideration,<sup>11</sup> the Republic filed the petition for *certiorari* docketed before this Court as G.R. No. 135789.<sup>12</sup>

On 31 January 2002, the Court rendered a decision in G.R. No. 135789, dismissing the Republic’s petition on the ground that the Sandiganbayan had the authority to resolve all incidents relative to cases involving ill-gotten wealth and that the court’s appellate jurisdiction over the graft court’s decisions or final orders is limited to questions of law.<sup>13</sup> On 4 March 2002, Philtrust Bank (Philtrust) filed a motion to intervene in G.R. No. 135789, alleging that the writ of sequestration, which was the subject matter of the case, covered the following time deposits maintained with it by HMMHI, to wit:

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<sup>8</sup> Records, Civil Case No. 0022, Vol. 7, pp. 2700-2708.

<sup>9</sup> *Rollo*, pp. 768-773.

<sup>10</sup> *Id.* at 774-789.

<sup>11</sup> *Id.* at 790-800.

<sup>12</sup> *Republic of the Philippines v. Sandiganbayan (Fourth Division)*, 426 Phil. 104 (2002).

<sup>13</sup> *Id.* at 109-110.

Time Deposit Certificate	Date of Certificate	Original Deposit
136301	3/03/86	₱19,390,156.68
162828	4/18/88	24,102,443.85
162829	4/18/88	5,826,683.26

In addition to its being allowed to intervene in the case, Philtrust prayed for the consignation of the proceeds and interests of the foregoing TDCs as well as its release from its obligation pertaining thereto.<sup>14</sup> Alongside the Republic’s motion for reconsideration of the 31 January 2002 Decision in G.R. No. 135789, Philtrust’s motions were, however, denied for lack of merit in the 20 November 2002 Resolution the Court issued in the case.<sup>15</sup> The motions subsequently filed by the Republic as well as the Estate and HMHMI for the deposit of the Philtrust-tendered sums with, respectively, a government bank or their own account were noted without action in the Court’s Resolution dated 22 January 2003.<sup>16</sup>

In the meantime, the following issues were identified for resolution at the pre-trial conducted in Civil Case No. 0022, to wit: (a) whether or not Menzi’s sale of his 154,470 Bulletin shares in favor of US Automotive was valid and legal; and, (b) whether or not the Bulletin shares registered in the names of Yap, Cojuangco, Zalamea, Menzi, his Estate or HMHMI were ill-gotten.<sup>17</sup> After a protracted litigation, the Sandiganbayan rendered a Decision dated 14 March 2002,<sup>18</sup> the decretal portion of which states:

**WHEREFORE,** judgment is hereby rendered:

<sup>14</sup> Records, Civil Case No. 0022, Vol. 29, pp. 301-306.  
<sup>15</sup> *Rollo*, pp. 685-686.  
<sup>16</sup> Id. at 687-688.  
<sup>17</sup> Id. at 595.  
<sup>18</sup> Though dated 5 March 2002, the Decision was actually promulgated on 14 March 2002. Records, Civil Case No. 0022, Vol. 27, pp. 25-65.

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

A. The 46,626 Bulletin shares [part of the 214 block] 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 [198 block] in the names of:

	<u>No. of Shares</u>
Jose Y. Campos	90,866.5
Eduardo M. Cojuangco, Jr.	90,877
Cesar C. Zalamea	<u>16,309</u>
Total	<u>198,052.5</u>

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 ₱19,390,156.68 plus interest earned, in the amount of ₱104,967,112.62 as of February 28, 2002, per Philtrust Bank's Motion for Leave to Intervene and to Consign the Proceeds of Time Deposits of HMMHI, 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 1 to 3 and 21 to 25 (Certificate Nos. 312, 292, 314, 131, 132, 291, 293, 313, respectively), which are part of the 214,424.5 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 [154 block] 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.**<sup>19</sup>

Dissatisfied with the foregoing decision, the Republic, Cojuangco and the Estate filed the petitions for review on *certiorari* which were respectively docketed and consolidated before this Court as G.R. Nos. 152578, 154487 and 154518. In the 23 November 2005 Decision rendered in said consolidated cases, however, the Court affirmed the Sandiganbayan's 14 March 2002 Decision, upon the following findings and conclusions: (a) as the proven owner thereof, the Estate validly sold the 154 block of Bulletin shares to US Automotive, with the indorsement and delivery of the stock certificate covering the same; and, (b) the evidence on record shows that the 198 block of Bulletin shares as well as the 46,626 shares registered in the name of Cojuangco which formed part of the 214 block of Bulletin shares were ill-gotten.<sup>20</sup> Subsequent to the 24 January 2006 denial of its motion for partial reconsideration of the foregoing decision,<sup>21</sup> the Estate, alongside HMMI, filed a Joint Manifestation dated 28 February 2006. The Joint Manifestation called the Court's attention to the fact, among others, that the

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<sup>19</sup> Id. at 62-64.

<sup>20</sup> *Republic of the Phils. v. Estate of Hans Menzi*, supra note 7 at 455-461; 439-441.

<sup>21</sup> Records, Civil Case No. 0022, Vol. 29, p. 178.

motion for the release of the proceeds of the TDCs they filed in G.R. No. 135789 was merely noted without action, on the ground that the matter would be better ventilated and addressed in the consolidated cases. In view of the fact that the issues pertaining to the TDCs were not addressed in the Court's 23 November 2005 Decision,<sup>22</sup> the Estate and HMHMI sought the grant of the following reliefs:

WHEREFORE, it is respectfully prayed that:

1. The Clerk of Court be instructed to cause the delivery of the three (3) Certificates of Time Deposit with the attached allonge, on file with the docket of G.R. No. 135789 to the Philtrust Bank or to its counsel of record;

2. An order be issued requiring the Philtrust Bank to pay to herein Joint Movants the proceeds of the sale in 1984 of 154,472 Bulletin shares to the U.S. Automotive Co., Inc. deposited with the Philtrust Bank admitted to be due as of February 28, 2002 and the proceeds of the sale of Menzi shares in the Liwayway Publishing, Inc. to the Bulletin Publishing Corporation, both covered by Certificates of Time Deposits admitted to be due as of February 28, 2002, plus legal interest thereon from March 1, 2002 until paid.

3. It is further prayed that such other reliefs be granted as to this Honorable Court may seem just and equitable.<sup>23</sup> (Underscoring supplied)

The Joint Manifestation filed by the Estate and HMHMI was not, however, acted upon by this Court which went on to issue an Entry of Judgment certifying the finality of the 23 November 2005 Decision in G.R. Nos. 152578, 154487 and 154518.<sup>24</sup> On 29 November 2006, the Republic filed its motion for the execution of the Sandiganbayan's 14 March 2002 Decision and prayed for Philtrust's delivery of the sums covered by the decision as well as the PCGG's 12 February 1987 Freeze Order which included the sums covered by TDC Nos. 162828 and 162829.<sup>25</sup> Claiming that only the proceeds of TDC No. 136301 were declared forfeited in favor

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<sup>22</sup> Joint Manifestation dated 28 February 2006 filed by the Estate and HMHMI in G.R. Nos. 152578, 154487, 154518, id. at 421-426.

<sup>23</sup> Id. at 424-425.

<sup>24</sup> *Rollo*, 9 December 2005 Entry of Judgment, pp. 165-166.

<sup>25</sup> Id. at 167-173.

of the Republic in the decision sought to be executed, the Estate and HMHMI also filed their motion for execution dated 5 December 2006, praying that Philtrust be ordered to render an accounting of TDC Nos. 162828 and 162829 and, thereafter, to deliver in their favor the principal thereof, together with the stipulated and legal interests they have, in the meantime, earned.<sup>26</sup>

On 16 January 2007, the Republic filed its Comment on the motion for execution filed by the Estate and HMHMI, arguing that said movants' claim of entitlement to the proceeds of TDC Nos. 162828 and 162829 was bereft of any basis. Calling attention to the 28 February 2006 Joint Manifestation that the Estate and HMHMI filed in G.R. No. 135789, the Republic maintained that said TDCs could not have covered the proceeds of the sale of 154,472 Bulletin shares to US Automotive since the same had been already received by the Estate and, per the testimony elicited from Montecillo, were deposited with the Equitable Bank and used to pay estate taxes due the Estate.<sup>27</sup> On 25 January 2007, the Estate and HMHMI also filed their Manifestation with Comment, asserting that only the proceeds of TDC No. 136301 were declared ill-gotten in the decision sought to be executed; hence, it necessarily followed that all the other sequestered HMHMI assets – including the proceeds of TDC Nos. 162828 and 162829 – were not ill-gotten.<sup>28</sup>

On 26 January 2007, Yap filed his comment on the motions for execution filed by the Republic as well as the Estate and HMHMI. Maintaining that the Republic had yet to effect the transfer of ownership of the 46,626 shares in favor of Bulletin pursuant to the 14 March 2002 Decision in Civil Case No. 0022, Yap also averred that the Estate had not

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<sup>26</sup> Id. at 174-179.

<sup>27</sup> Records, Civil Case No. 0022, Vol. 29, Republic's 3 January 2007 Comment, pp. 412-420.

<sup>28</sup> The Estate and HMHMI's 18 January 2007 Manifestation with Comment, id. at 449-451.

yet surrendered for cancellation the original Bulletin certificates of stock in its possession which formed part of the 214 block of Bulletin shares subject of this Court's 15 April 1988 Decision in G.R. Nos. 77422 and 79126. Likewise claiming that TDC Nos. 162828 and 162829 were not covered by the decision sought to be executed, Yap insisted that the Estate had already received the proceeds of TDC No. 130052 covering the sale of the 154 block of Bulletin shares to US Automotive.<sup>29</sup> In support of this assertion, Yap submitted copies of TDC No. 130052 in the sum of ₱24,969,200.09, Montecillo's offer of surrender of said TDC in exchange for full payment of said principal and the interests thereon, as well as the manager checks and vouchers purportedly evidencing Philtrust's payment thereof in April 1989.<sup>30</sup>

In its 21 February 2007 Reply to Yap's Comment on its Motion for Execution, on the other hand, the Estate disavowed receiving payment of the proceeds of TDC No. 130052 on the ground that, at the time of the supposed payment in April 1989, the assets of HMHMI which consisted of TDC Nos. 136301, 162828 and 162829 had already been frozen. Contending that its continued possession of the original of TDC No. 130052 was ineluctable proof of the non-payment of the proceeds thereof, the Estate argued that Philtrust's attempt to consign the proceeds of TDC Nos. 136301, 162828 and 162829 with this Court in G.R. No. 135789 was an admission that its liability therefor remained valid, subsisting and enforceable. While conceding that the delivery of the proceeds of TDC Nos. 162828 and 162829 was not covered in the decision sought to be executed, the Estate asserted that the Sandiganbayan's 18 April 1995 Resolution invalidating the PCGG's Freeze Order of HMHMI's assets was affirmed by this Court in the 31 January 2002 Decision in G.R. No. 135789.<sup>31</sup>

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<sup>29</sup> Yap's 19 January 2007 Comment on Motions for Execution, id. at 521-526.

<sup>30</sup> Id. at 527-530.

<sup>31</sup> The Estate's 21 February 2007 Reply to Comment, id. at 557-565.

On 17 January 2008, the Sandiganbayan issued the first assailed resolution, partially granting the Republic's motion for execution by ordering Philtrust's delivery of the proceeds of TDC No. 136301 and the Estate's surrender of the original 8 Bulletin certificates of stock which were part of the 212,425.5 shares subject of this Court's 15 April 1988 Decision in G.R. Nos. 77422 and 79126. In accordance with the same decision, the Republic was additionally ordered to effect the transfer of Cojuangco's 46,626 shares in favor of Bulletin, subject to Alternative "A" stated therein. Likewise granting the motion for execution filed by the Estate and HMMHI, the Sandiganbayan directed Philtrust to pay in their favor the proceeds of TDC Nos. 162828 and 162829. Brushing aside the documents attached to Yap's comment for lack of proper authentication and non-presentation at the trial of the case on the merits,<sup>32</sup> the Sandiganbayan ruled as follows:

x x x. While it is appropriate to order Philtrust Bank to deliver all amounts covered by this Court's March 14, 2002 [D]ecision, the same cannot be said of those covered by the February 12, 1987 sequestration order of the PCGG. The records of this case reveal that the said sequestration was already lifted by this Court on April 13, 1998. This was affirmed by the Supreme Court on January 31, 2002. Plaintiff Republic's motion for reconsideration was denied on the ground that it had been mooted by the Sandiganbayan's decision of March 14, 2002 that declared certain shares as ill-gotten wealth of the Marcoses.

As correctly argued by defendants Estate and HMMHI, the issue of the propriety of the sequestration order was already subsumed in the said Sandiganbayan decision. While it is true that neither the Sandiganbayan decision nor the Supreme Court's of November 23, 2005, affirming this Court's verdict categorically declared the proceeds of CTD Nos. 162828 and 162829 as *not* ill-gotten, the only logical and, to stress, legal conclusion is that said assets came to exist as a result of a legitimate activity or enterprise and, therefore, not ill-gotten at all. Putting it differently, the lifting of the sequestration or freeze order confirmed the legitimacy of these assets.

The presumption of law, albeit disputable, include[s] regularity and fairness of private transactions; adherence to the ordinary course of business; and compliance with pertinent laws. The prosecution had the burden to introduce evidence to overturn said legal presumptions and to prove that the assets under consideration originated from some illicit

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<sup>32</sup>Sandiganbayan's 17 January 2008 Resolution, *id.* at 587-597.

source if only to sustain the government's claim therefor. This Court and the Supreme Court found the prosecution miserably failed to do so, and their respective rulings, having attained final and executory status, are now, under well-established jurisprudence, "immutable and unalterable." Hence, the assets could not possibly be legally awarded to the State. It is but just then that the funds covered by CTD Nos. 162828 and 162829 be returned to HMMHI under whose name they were deposited. There subsists no rational, legal or equitable basis to further withhold said assets from the evident owner thereof.<sup>33</sup>

Dissatisfied with the foregoing disposition, the Republic filed its motion for partial reconsideration, insisting that the sums covered by TDC Nos. 162828 and 162829 could not have referred to the proceeds of the sale of the 154 block of Bulletin shares which, at the trial of the case on the merits, Montecillo admitted to have deposited with the Equitable Bank and used to pay the estate taxes due from the Estate. The Republic argued that this Court's affirmance of the lifting of the writ of sequestration ordered by the Sandiganbayan was not fatal to its cause and could not be construed as justification for the release of the proceeds of the TDCs to the Estate and HMMHI.<sup>34</sup> Maintaining that the Republic's motion for partial reconsideration was pro-forma, the Estate and HMMHI also filed their opposition, on the ground that a forfeiture of the proceeds of the subject TDCs in favor of the former would be tantamount to an alteration of a decision that has long attained finality.<sup>35</sup>

In compliance with the Sandiganbayan's 17 January 2008 Resolution, on the other hand, Philtrust filed a manifestation, alleging that, upon the Republic's surrender of the original of TDC No. 136301, it was ready to release three manager's checks in the aggregate sum of ₱162,245,963.71 representing the principal and interests for said TDC.<sup>36</sup> With respect to the proceeds of TDC Nos. 162828 and 162829, however, Philtrust invoked

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<sup>33</sup> Id. at 594-595.

<sup>34</sup> The Republic's 30 January 2008 Partial Motion for Reconsideration, id. at 606-618.

<sup>35</sup> The Estate and HMMHI's 21 February 2008 Opposition, id. at 623-629.

<sup>36</sup> Philtrust's 17 March 2008 Manifestation, id. at 634-637.

Article 1256 of the *Civil Code of the Philippines* and filed a motion to consign the six manager's checks it issued to cover said TDCs' principals and interests in the aggregate sum of ₱199,391,416.51. Against Philtrust's allegation that it had the original copies of TDC No. 130052, Montecillo's letter and the check vouchers evidencing the payment Yap earlier asserted in his comment on their motion for execution,<sup>37</sup> the Estate and HMHMI filed their comment, contending that said documents were irrelevant and inappropriate to the resolution of the pending motions and incidents. Aside from the fact that Philtrust was not a party to the action, the Estate and HMHMI argued that the bank had already recognized them as the payees of the subject TDCs in the motion to intervene it earlier filed in G.R. No. 135789.<sup>38</sup>

While the Republic interposed no objection thereto,<sup>39</sup> Philtrust's motion for consignment was opposed by Montecillo, in view of the fact that the Sandiganbayan's 17 January 2008 Resolution had already directed the payment of the proceeds of TDC Nos. 162828 and 162829 in favor of the Estate and HMHMI.<sup>40</sup> On 22 May 2008, the Sandiganbayan issued the second assailed Resolution, denying the Republic's motion for partial reconsideration for lack of merit, on the ground that the argument raised in support thereof had already been weighed and passed upon in its Resolution of 17 January 2008. Absent any finding that the proceeds of the subject TDCs were ill-gotten, the Sandiganbayan ruled that the lifting of the sequestration or freeze order over the same confirmed the legality of the provenance thereof.<sup>41</sup>

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<sup>37</sup> Philtrust's 17 March 2008 Motion to Consign Proceeds of Time Deposit Certificates, id. at 641-648.

<sup>38</sup> The Estate and HMHMI's 8 April 2008 Comment, id. at 668-672.

<sup>39</sup> The Republic's 17 April 2008 Comment, id. at 688-691.

<sup>40</sup> Montecillo's 28 April 2008 Opposition, id. at 698-702.

<sup>41</sup> Resolution dated 22 May 2008, id. at 704-708.

### *The Issue*

On 21 July 2008, the Republic filed the petition at bench<sup>42</sup> which it subsequently amended, in view of Philtrust's 9 July 2009 release of the proceeds of TDC Nos. 162828 and 162829 in favor of the Estate and HMHMI at the instance of respondents Sandiganbayan Sheriffs Reynaldo Melquiades and Albert dela Cruz. In urging the nullification of the assailed Resolutions dated 17 January 2008 and 22 May 2008,<sup>43</sup> the Republic argues that:

**THE SANDIGANBAYAN (FOURTH DIVISION) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ORDERING PHILTRUST BANK TO PAY THE ESTATE OF HANS MENZI, THROUGH ITS EXECUTOR[,] MANUEL G. MONTECILLO[,] AND HANS MENZI HOLDINGS AND MANAGEMENT, INC., THE AMOUNT OF ONE HUNDRED FIFTY TWO MILLION EIGHT HUNDRED TWENTY SIX THOUSAND NINE HUNDRED THIRTY SEVEN AND 76/100 (P156,826,937.76) PESOS, REPRESENTING THE PROCEEDS OF THE TIME DEPOSIT CERTIFICATE NOS. 162828 AND 162829 AND ALL ACCRUED LEGAL INTEREST THEREON.<sup>44</sup>**

On 2 September 2008, this Court issued a Resolution, requiring the Estate and HMHMI as well as the Sandiganbayan and respondent Sheriffs to file their comment on the amended petition. In said resolution, the Court also granted the Republic's application for a writ of preliminary mandatory

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<sup>42</sup> *Rollo*, pp. 5-38.

<sup>43</sup> *Id.* at 417-451.

<sup>44</sup> *Id.* at 427.

injunction for the return and re-deposit of the proceeds of TDC Nos. 162828 and 162829 which had, in the meantime, been released by Philtrust to the Estate and HMHMI.<sup>45</sup>

### ***The Court's Ruling***

We find the petition bereft of merit.

In seeking the reversal of the assailed resolutions, the Republic argues that the Estate and HMHMI's claim of entitlement to the proceeds of TDC Nos. 162828 and 162829 is bereft of factual and legal bases. In support thereof, the Republic once again calls attention to the 28 February 2006 Joint Manifestation filed in G.R. Nos. 152578, 154487 and 154518 in which the Estate and HMHMI supposedly asserted that the proceeds of the subject TDCs were those of "the sale in 1984 of 154,472 Bulletin shares to the U.S. Automotive Co., Inc. deposited with the Philtrust Bank admitted to be due as of February 28, 2002." It is argued that the falsity of this claim is evident from: (a) Montecillo's testimony on record that the proceeds of said sale were deposited with Equitable Bank and used to pay the estate taxes due from the Estate; and (b) Yap's 19 January 2007 Comment on the motions for execution filed *a quo* which showed that the proceeds of the same sale were deposited with Philtrust under TDC No. 130052 which had, in turn, been already paid in April 1989. The Republic ultimately argues that the lifting of the writ of sequestration over HMHMI's assets does not automatically mean that the Estate and HMHMI are entitled to the proceeds of TDC Nos. 162828 and 162829 since the provenance thereof has yet to be actually litigated before and submitted for judgment by the Sandiganbayan.<sup>46</sup>

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<sup>45</sup> Id. at 627.

<sup>46</sup> Id. at 427-447.

At the outset, it bears pointing out that the 28 February 2006 Joint Manifestation the Estate and HMMHI filed in G.R. Nos. 152578, 154487 and 154518 prayed that Philtrust be required to pay them not only the proceeds of the sale of 154,472 Bulletin shares to the US Automotive but also “the proceeds of the sale of Menzi shares in the Liwayway Publishing, Inc. to the Bulletin Publishing Corporation, both covered by the Certificates of Time Deposits admitted to be due as of February 28, 2002, plus legal interest thereon from March 1, 2002 until paid.”<sup>47</sup> This Court’s 23 November 2005 Decision in G.R. Nos. 152578, 154487 and 154518 affirmed the validity of the sale of said 154,472 Bulletin shares to US Automotive in the following wise:

x x x. Atty. Montecillo’s authority to negotiate the transfer and execute the necessary documents for the sale of the 154 block is found in the General Power of Attorney executed by Menzi on May 23, 1984 which specifically authorizes Atty. Montecillo “[T]o sell, assign, transfer, convey and set over upon such consideration and under such terms and conditions as he may deem proper, any and all stocks or shares of stock, now standing or which may thereafter stand in my name on the books of any and all company or corporation, and for that purpose to make, sign and execute all necessary instruments, contracts, documents or acts of assignment or transfer.”

Atty. Montecillo’s authority to accept payment of the purchase price for the 154 block sold to US Automotive after Menzi’s death springs from the latter’s Last will and Testament and the Order of the probate court confirming the sale and authorizing Atty. Montecillo to accept payment therefor. Hence, before and after Menzi’s death, Atty. Montecillo was vested with ample authority to effect the sale of the 154 block to US Automotive.

That the 154 block was not included in the inventory is plausibly explained by the fact that at the time the inventory of the assets of Menzi’s estate was taken, the sale of the 154 block had already been consummated. Besides, the non-inclusion of the proceeds of the sale in the inventory does not affect the validity of the legality of the sale itself.<sup>48</sup>

Despite the validity of the sale, however, the Republic correctly argues that the funds deposited under TDC Nos. 162828 and 162829 could

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<sup>47</sup> Records, Civil Case No. 0022, Vol. 29, pp. 424-425.  
<sup>48</sup> Id. at 79-80.

not have been sourced from the 1984 sale of 154,472 Bulletin shares to US Automotive, considering that the evidence on record indicates that the proceeds thereof had not been deposited with Philtrust and had already been expended for the estate taxes due from the Estate. No less than its Executor, Montecillo, made the following admissions during the trial of the case on the merits:

ATTY. JASO:

- q. And also Atty. Montecillo you sold to U.S. Automotive the 154,472 shares of the Bulletin am I correct?
- a. Of the Bulletin, it is owned by Hans M. Menzi and registered in his name.
- q. Showing to you a document which is a Re[ceipt] dated May 15, 1985, can you tell the Honorable Court if you had issued that document before?
- a. Yes is this Exhibit 1, Yap in the preliminary hearing dated May 15, 1985 I signed for the estate as its executor.

AJ DE LEON:

x x x x

- q. W[ere] the proceeds of that also deposited in the Phil[t]rust account you just mentioned?
- a. No Your Honor that is an estate.
- q. No the proceed[s] of the sale of 154,000?
- a. No Your Honor that was sold in 1985. The account with Phil[t]rust was opened in 1986.
- q. The purchase price of 154,476 shares of Hans Menzi sold to U.S. Automotive where was it deposited?
- a. As I remember correctly, it was deposited to Equitable Bank Corporation because that was the depository bank of the [E]state, Your Honor.

x x x x

AJ DE LEON:

You are saying that the deposit of this purchase price of 154,476 shares of Hans Menzi to U.S. Automotive was deposited at Equitable Bank and was also subject of sequestration?

- a. No sir, it was use[d] to pay the estate tax.<sup>49</sup>

Having been made by their executor during the trial of the case on the merits, these declarations are binding, at least insofar as the Estate is concerned. Pursuant to Section 4, Rule 129 of the *Revised Rules on Evidence*, an admission, verbal or written, made by a party in the course of the proceedings in the same case does not require proof. It may be made: (a) in the pleadings filed by the parties; (b) in the course of the trial either by verbal or written manifestations or stipulations; or (c) in other stages of judicial proceedings, as in the pre-trial of the case.<sup>50</sup> When made in the same case in which it is offered,<sup>51</sup> “no evidence is needed to prove the same and it cannot be contradicted unless it is shown to have been made through palpable mistake or when no such admission was made.”<sup>52</sup> The admission becomes conclusive on him, and all proofs submitted contrary thereto or inconsistent therewith should be ignored, whether an objection is interposed by the adverse party or not.<sup>53</sup> Absent any showing in the record that the above-quoted declarations were made by Montecillo through palpable mistake, the Republic correctly argues that they are binding upon the Estate which, for said reason, is precluded from claiming that the funds deposited under TDC Nos. 162828 and 162829 came from the 1984 sale of Bulletin shares to US Automotive.

At any rate, it further appears that part of the proceeds of the sale of the subject Bulletin shares to US Automotive which had been deposited with

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<sup>49</sup> TSN, 9 February 1999, pp. 21-23.

<sup>50</sup> *Republic of the Phils v. Sandiganbayan*, 453 Phil. 1059, 1129 (2003).

<sup>51</sup> *Republic Glass Corporation v. Qua*, 479 Phil. 393, 407 (2004).

<sup>52</sup> *Arroyo, Jr. v. Taduran*, 466 Phil. 173, 180 (2004).

<sup>53</sup> *Canada v. All Commodities Marketing Corporation*, G.R. No. 146141, 17 October 2008, 569 SCRA 321, 327.

Philtrust, had also been maintained by the Estate under TDC No. 130052 and not TDC Nos. 162828 and 162829. In his Comment on the motions for execution filed *a quo* by the Republic as well as the Estate and HMHMI, Yap claimed as much and submitted copies of: (a) TDC No. 130052; (b) Montecillo's 6 March 1989 letter offering the surrender of said TDC in exchange for the full payment of its principal and interest; and (c) the 7 April 1989 manager's checks issued by Philtrust in payment of the TDC's ₱24,969,200.09 principal and ₱1,776,788.90 interest, the receipt of which was duly acknowledged by Montecillo.<sup>54</sup> Yap's claim, as well as the existence of the foregoing documents was significantly affirmed by Philtrust in its 17 March 2008 motion to consign the proceeds of TDC Nos. 162828 and 162829.<sup>55</sup> Considering that TDC No. 130052 was issued in its name,<sup>56</sup> the Estate was clearly out on a limb in claiming that the payment of the proceeds thereof in 1989 was not possible since supposedly, at the time, HMHMI's assets had already been frozen pursuant to the writ of sequestration issued by the PCGG.<sup>57</sup>

While they could not have come from the proceeds of the 1984 sale of 154,472 Bulletin shares to US Automotive, there is, on the other hand, ample showing in the record that the deposits under TDC Nos. 162828 and 162829 were sourced from sale by the Estate and HMHMI of their Liwayway shares. In the amended petition at bench, the Republic very distinctly asserted that the funds covered by the subject TDCs are actually the proceeds from the sale of shares of stock of Liwayway and not of Bulletin.<sup>58</sup> Aside from the proceeds of the sale of 154,472 Bulletin shares to US Automotive, as earlier noted, the Estate and HMHMI had, in turn, prayed for the payment of the proceeds of the Estate's sale of Menzi's shares

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<sup>54</sup> Records, Civil Case No. 0022, Vol. 29, pp. 521-526.

<sup>55</sup> Id. at 641-647.

<sup>56</sup> Id. at 649.

<sup>57</sup> Id. at 559.

<sup>58</sup> *Rollo*, p. 428.

in Liwayway in the Joint Manifestation they filed in G.R. Nos. 152578, 154487 and 154518.<sup>59</sup> In his 17 July 2006 Comment on the foregoing Joint Manifestation, Yap likewise maintained that TDC No. 162828 covers the proceeds of the sale by HMHMI of its shares in Liwayway in favor of US Automotive and that TDC No. 162829 covers about half of the proceeds of the Estate's sale of its Liwayway shares in favor of Liwayway itself.<sup>60</sup> With Menzi's sale of his Bulletin shares to US Automotive already discounted as the origin of the funds deposited under the subject TDCs, this confluence of the parties' assertions and/or admissions lends credence to the Republic's position that they were sourced from the sale by the Estate and HMHMI of their Liwayway shares.

The foregoing disquisition notwithstanding, we find that no grave abuse of discretion is imputable against the Sandiganbayan for denying the Republic's motion for execution, insofar as it related to the delivery in its favor of the proceeds of TDC Nos. 162828 and 162829. By the Republic's own admission, after all, the validity of the transfer and/or legality of ownership of Liwayway shares was not litigated in Civil Case No. 0022<sup>61</sup> since the issues identified for resolution at the pre-trial of the case only included the ownership and transfer of the Bulletin shares therein identified.<sup>62</sup> Not having been litigated upon, factual and legal issues concerning said Liwayway shares were, therefore, understandably not determined in the 14 March 2002 Decision subsequently rendered in the case by the Sandiganbayan and, for that matter, in the 23 November 2005

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<sup>59</sup> Records, Civil Case No. 0022, Vol. 29, pp. 424-425.

<sup>60</sup> *Rollo*, p. 605.

<sup>61</sup> Id. at 428; 436

<sup>62</sup> The 11 November 1991 Pre-Trial Order issued in Civil Case No. 0022 identified the main issues as follows:

- (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 Menzi (and/or his estate and/or his holding company, HM Holding & Investment Corp.), are ill-gotten wealth of the defendant Marcos spouses. Id. at 428-429.

Decision this Court rendered in G.R. Nos. 152578, 154487 and 154518. Unsuccessful in seeking the release of said funds in G.R. No. 135789 after this Court rendered the 31 January 2002 Decision affirming the Sandiganbayan's dissolution of the writ of sequestration issued by the PCGG,<sup>63</sup> the Estate and HMHMI had, in fact, revived the issue of their entitlement to the proceeds of the subject TDCs when they filed their 28 February 2006 Joint Manifestation in said consolidated cases.

Considering the finality of this Court's 23 November 2005 Decision affirming the Sandiganbayan's 14 March 2002 Decision in Civil Case No. 0022, we find that the Estate and HMHMI correctly argue against the disposition of the proceeds of TDC Nos. 162828 and 162829 in favor of the Republic by means of the writ of execution the latter sought *a quo*. Having been sourced from the disposition of said Liwayway shares, the proceeds of the subject TDCs cannot be released in favor of the Republic without varying the decision sought to be executed which, as admitted, did not make any determination regarding the validity of the ownership of the same shares and/or the legality of the transfer thereof. It is a matter of settled legal principle that a writ of execution must adhere to every essential particular of the judgment sought to be executed.<sup>64</sup> The writ cannot vary or go beyond the terms of the judgment and must conform to the dispositive portion thereof.<sup>65</sup> Time and again, it has been ruled that an order of execution which varies the tenor of the judgment or, for that matter, exceeds the terms thereof is a nullity.<sup>66</sup>

Even more fundamentally, the award of the proceeds of TDC Nos. 162828 and 162829 sought by the Republic would be tantamount to an

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<sup>63</sup> Records, Civil Case No. 0022, Vol. 28, pp. 74-75.

<sup>64</sup> *Cabang v. Basay*, G.R. No. 180587, 20 March 2009, 582 SCRA 172, 182.

<sup>65</sup> *Suyat v. Gonzales-Tesoro*, 513 Phil. 85, 95 (2005)

<sup>66</sup> *General Milling Corporation-Independent Labor Union (GMC-ILU) v. General Milling Corporation*, G.R. Nos. 183122 & 183889, 15 June 2011, 652 SCRA 235, 253.

alteration of the decisions rendered by the Sandiganbayan and this Court, which have already attained finality. Except for clerical errors and in cases of void judgments and *nunc pro tunc* entries which cause no prejudice to any party,<sup>67</sup> nothing is more settled in law than that when a judgment becomes final and executory, it becomes immutable and unalterable.<sup>68</sup> It cannot, therefore, be gainsaid that such a judgment may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land.<sup>69</sup> The reason is grounded on the fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments or orders of courts must be final at some definite date fixed by law.<sup>70</sup> “Otherwise, there will be no end to litigations, thus negating the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.”<sup>71</sup>

Gauged from the procedural antecedents of the case, however, the above-discussed principles do not apply to the Sandiganbayan’s grant of the release of the proceeds of TDC Nos. 162828 and 162829 in favor of the Estate and HMHMI. While it is true that the latter filed a motion for execution ostensibly seeking the enforcement of the 14 March 2002 Decision rendered in the case, the release of the proceeds of the subject TDCs in their favor is clearly justified by the earlier lifting of the writ of sequestration issued by the PCGG over the shares of stock, assets, properties, records and documents of HMHMI. In compliance with this

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<sup>67</sup> *Filipinas Palmoil Processing, Inc. v. Dejapa*, G.R. No. 167332, 7 February 2011, 641 SCRA 572, 581.

<sup>68</sup> *Estarija v. People*, G.R. No. 173990, 27 October 2009, 604 SCRA 464, 469.

<sup>69</sup> *Manotok Realty, Inc. v. CLT Realty Development Corporation*, 512 Phil. 679, 708 (2005).

<sup>70</sup> *Eastland Construction & Development Corporation v. Mortel*, 520 Phil. 76, 91 (2006).

<sup>71</sup> *Dacanay v. Yrastorza, Sr.*, G.R. No. 150664, 3 September 2009, 598 SCRA 20, 25-26.

Court's 16 July 1996 Resolution in G.R. No. 107377 requiring the determination of the factual basis for the same writ of sequestration,<sup>72</sup> the record shows that the Sandiganbayan conducted hearings on the matter and, based on the evidence presented, issued a Resolution dated 13 April 1998, lifting the writ of sequestration thus issued for lack of factual basis.<sup>73</sup> Together with the 21 August 1998 Resolution denying the Republic's motion for reconsideration thereof, the lifting of the writ of sequestration ordered by the Sandiganbayan was affirmed in the 31 January 2002 Decision rendered by this Court in G.R. No. 135789.<sup>74</sup>

Over the years, the Estate and HMHMI had, of course, unsuccessfully prayed for the release of the proceeds of the subject TDCs in their favor. Pursuant to the 24 March 2003 Resolution issued in G.R. No. 135789, HMHMI's motion for the release of the checks Philtrust issued for the principals of and interests on TDC Nos. 162828 and 162829 was noted without action on the ground that the matter "should be ventilated and addressed in G.R. Nos. 152578, 154487 and 154518."<sup>75</sup> Acting on the Urgent Motion and Manifestation to the same effect filed by the Estate and HMHMI in the same case, the Court issued an extended Resolution dated 6 October 2003, reiterating its earlier action on the ground that the resolution of said consolidated cases was "intimately related to the propriety of any disbursement of the funds in the hands of Philtrust Bank."<sup>76</sup> The 3 November 2003 Motion for Issuance of Writ of Execution/Delivery of Properties Subject of Sequestration which the Estate filed with the Sandiganbayan<sup>77</sup> was, on the other hand, noted without action in said court's

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<sup>72</sup> *Rollo*, pp. 768-773.

<sup>73</sup> *Id.* at 774-789.

<sup>74</sup> *Republic of the Philippines v. Sandiganbayan (Fourth Division)*, *Supra* note 11 at 106.

<sup>75</sup> Records, Civil Case No. 0022, Vol. 28, p. 45.

<sup>76</sup> *Id.* at 74-75.

<sup>77</sup> *Id.* at 81-86.

Resolution dated 9 March 2004 on the ground of loss of jurisdiction, in view of the pendency of said appeal before this Court.<sup>78</sup>

Despite this Court's 31 January 2002 affirmance of the lifting of the writ of execution of the PCGG's sequestration order, the record shows that the Republic made no move towards the inclusion in Civil Case No. 0022 of the issues pertaining to the legality of the ownership of the Liwayway shares and/or the validity of the transfers thereof. Not having been addressed in the 14 March 2002 Decision rendered in the case, said issues were, consequently, not likewise tackled when said decision was affirmed in the 23 November 2005 Decision this Court subsequently rendered in G.R. Nos. 152578, 154487 and 154518. With the issuance of an entry of judgment in said consolidated cases,<sup>79</sup> it further appears that the Court no longer acted on the 28 February 2006 Joint Manifestation filed by the Estate and HMMHI, for the purpose of seeking the release of the proceeds of, among others, TDC Nos. 162828 and 162829.<sup>80</sup> Be that as it may, however, it cannot be gainsaid that, by the time the Republic commenced the petition at bench on 21 July 2008, more than five years had already elapsed since the decision in G.R. No. 135789 attained finality on 13 December 2002.<sup>81</sup>

Given the finality of the lifting of the writ of sequestration issued by the PCGG and the long-standing failure of the Republic to allege and prove the illegality of the ownership of the Liwayway shares and the invalidity of the transfers thereof, we find and so hold that the Sandiganbayan cannot be faulted for ordering the release of TDC Nos. 162828 and 162829 in favor of the Estate and HMMHI. An extraordinary measure in the form of a provisional remedy, sequestration is merely "intended to prevent the

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<sup>78</sup> Id. at 169-172.

<sup>79</sup> *Rollo*, pp. 165-166

<sup>80</sup> Records, Civil Case No. 0022, Vol. 29, pp. 421-426.

<sup>81</sup> Records, Civil Case No. 0022, Vol. 28, pp. 17-19.

destruction, concealment or dissipation of sequestered properties and, thereby, to conserve and preserve them, pending the judicial determination in the appropriate proceeding of whether the property was in truth ill-gotten.”<sup>82</sup> While it is true that the lifting of a writ of sequestration will not necessarily be fatal to the main case, as it does not *ipso facto* mean that the sequestered property is *not* ill-gotten,<sup>83</sup> it cannot be over-emphasized that there has never been a main case against the Liwayway shares as would justify the Republic’s continued claim on the subject TDCs and, for that matter, the prolonged withholding of the proceeds thereof from the Estate and HMHMI. Although jurisprudence recognizes the possibility of a resort to other ancillary remedies since the Sandiganbayan’s jurisdiction over sequestration cases demands that it should also have the authority to preserve the subject matter of the cases or put the same in *custodia legis*,<sup>84</sup> this is unavailing to the Republic since, by its own admission, the Liwayway shares were not litigated in Civil Case No. 0022.

Like the remedies of “freeze order” and “provisional takeover” with which the PCGG has been equipped, sequestration is not meant to deprive the owner or possessor of his title or any right to his property and vest the same in the sequestering agency, the Government or any other person, as these can be done only for the causes and by the processes laid down by law.<sup>85</sup> These remedies “are severe, radical measures taken against apparent, ostensible owners of property, or parties against whom, at the worst, there are merely *prima facie* indications of having amassed ‘ill-gotten wealth,’ indications which must still be shown to lead towards actual facts in accordance with the judicial procedures of the land.”<sup>86</sup> Considering that sequestration is not meant to create a permanent situation as regards the

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<sup>82</sup> *Trans Middle East (Phils.) v. Sandiganbayan*, 524 Phil. 1, 22 (2006).

<sup>83</sup> *Presidential Commission on Good Government v. Sandiganbayan*, 418 Phil. 8, 20 (2001).

<sup>84</sup> *Republic of the Philippines v. Sandiganbayan*, 355 Phil. 181, 207 (1998).

<sup>85</sup> *Bataan Shipyard & Engineering Co., Inc. (BASECO) v. PCGG*, 234 Phil. 180, 209 (1987).

<sup>86</sup> *Republic of the Philippines v. Sandiganbayan (First Division)*, 310 Phil. 401, 503 (1995).


property subject thereof and subsists only until ownership is finally judicially determined,<sup>87</sup> it stands to reason that, upon its dissolution, the property sequestered should likewise be returned to its owner/s. Indeed, sequestration cannot be allowed interminably and forever, if it is to adhere to constitutional due process.<sup>88</sup>

**WHEREFORE**, the petition is **DENIED** for lack of merit and the Sandiganbayan's assailed Resolutions dated 17 January 2008 and 22 May 2008 are, accordingly, **AFFIRMED in toto**. The 2 September 2008 writ of preliminary mandatory injunction issued in the case is likewise **DISSOLVED**.

**SO ORDERED.**

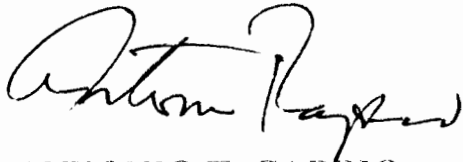
  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

<sup>87</sup> *Republic of the Philippines v. Sandiganbayan (Second Division)*, G.R. No. 89425, 25 February 1992, 206 SCRA 506, 518.

<sup>88</sup> *Republic v. Sandiganbayan*, 334 Phil. 472, 486 (1997).



**ANTONIO T. CARPIO**  
Associate Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice

( No Part )

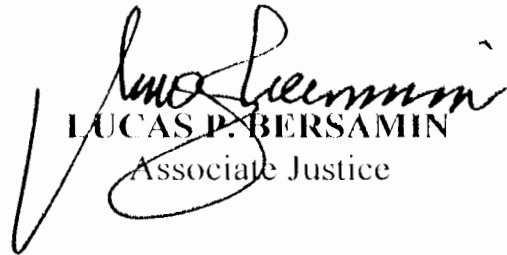
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

( No Part )

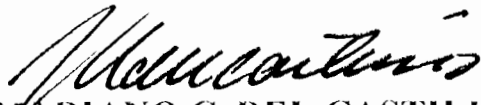
**ARTURO D. BRION**  
Associate Justice

( No Part )


**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**ROBERTO A. ABAD**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice




**BIENVENIDO L. REYES**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



**MARIA LOURDES P. A. SERENO**  
Chief Justice