



## APPENDIX 2.4

### *YUCHENGCO v. SANDIGANBAYAN, G.R. No. 149802*

This case—which the Marcoses categorically lost—details a scheme by which the Marcoses set up a foundation through which they held stocks of PLDT. As of this writing, the shares of PLDT reconveyed to the republic via this case are still owned by the republic; efforts to sell to private entities have thus far failed.

#### DECISION

**CARPIO MORALES, J.:**

These five consolidated petitions pray for the nullification of certain issuances of the Sandiganbayan in Civil Case No. 0002, Republic of the Philippines v. Estate of Ferdinand E. Marcos, et al.

The complaint in Civil Case No. 0002 (or the case) was filed before the Sandiganbayan on July 16, 1987 by the Republic of the Philippines (the Republic) through the Presidential Commission on Good Government (PCGG) against former President and Mrs. Marcos, their three children, and some other individuals. The complaint was later amended to implead additional defendants.

The case is for the recovery of alleged ill-gotten wealth of the Marcoses, among which are shares of stock in the Philippine Telecommunications Investment Corporation (PTIC): 76,779 shares in the name of Ramon U. Cojuangco, 21,525 shares in the name of Imelda O. Cojuangco, and 111,415 shares in the name of Prime Holdings Incorporated (PHI). PTIC is the biggest stockholder of PLDT, it owning some 28% of the outstanding shares in PLDT at the time Civil Case No. 0002 was filed.<sup>[1]</sup>

In the course of the proceedings in Civil Case No. 0002, the first three petitions assailing interlocutory orders of the Sandiganbayan were filed before this Court.

Thus, the petitions in **G.R. Nos. 149802 and 150320**, filed by **Alfonso Yuchengco and Y Realty Corporation**, complainants-in-intervention in Civil Case No. 0002, assail via petition for certiorari orders and resolutions of the Sandiganbayan denying their motions to suspend trial pending discovery proceedings and to re-set trial dates (with alternative prayer for a change in the order of trial), and declaring them as having waived their right to present evidence.

The petition in **G.R. No. 150367**, filed by the Republic, assails via petition for certiorari the Sandiganbayan Orders denying its Respectful Motion for Additional Time to Complete the Presentation of Evidence and directing it to submit its offer of evidence within 30 days.

During the pendency of these first three petitions, the Sandiganbayan continued with the proceedings in Civil Case No. 0002, no restraining order enjoining the same having been issued by this Court.

The Sandiganbayan, still during the pendency of the first three petitions, promulgated in Civil Case No. 0002 a Partial Decision on May 6, 2002 the dispositive portion of which reads:

WHEREFORE, premises considered, the complaint of plaintiff Republic of the Philippines on the PLDT shares subject of separate trial is hereby DISMISSED for lack of merit. The Motion for Summary Judgment [filed by Imelda Cojuangco, et al] is hereby GRANTED, and the Complaint-in-Intervention [filed by the Yuchengcos] DISMISSED.

SO ORDERED. (Underscoring supplied)

The last two of the five petitions at bar, both for review on certiorari, were thereupon filed. The petition in **G.R. No. 153207** filed by the complainants-in-intervention Yuchengcos, and that in **G.R. No. 153459** filed by the Republic, both challenge the Partial Decision.

Figure 1. A copy of the case.

Source: Supreme Court of the Philippines. 2006. "Yuchengco v. Sandiganbayan, G.R. No. 149802." Republic of the Philippines.

<http://sc.judiciary.gov.ph/jurisprudence/2006/jan2006/149802.htm>.

Alfonso T. Yuchengco and Y Realty Corporation, Petitioners, versus The Honorable Sandiganbayan, Fourth Division, Republic of the Philippines, Presidential Commission on Good Government, Estate of Ferdinand E. Marcos, Imelda R. Marcos, Prime Holdings, Inc., Estate of Ramon U. Cojuangco, Represented by Imelda O. Cojuangco, and Imelda O. Cojuangco, Respondents.

G.R. No. 149802

Present: Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, Jj.

X ----- X

Alfonso T. Yuchengco and Y Realty Corporation, Petitioners, versus The Honorable Sandiganbayan, Fourth Division, Republic of the Philippines, Presidential Commission on Good Government, Estate of Ferdinand E. Marcos, Imelda R. Marcos, Prime Holdings, Inc., Estate of Ramon U. Cojuangco Represented by Imelda O. Cojuangco, and Imelda O. Cojuangco, Respondents.

G.R. No. 150320

X ----- X

Republic of the Philippines, Petitioner, versus Hon. Sandiganbayan (Fourth Division), Estate of Ferdinand E. Marcos (Represented by Its Administrator, The Bureau of Internal Revenue), Imelda R. Marcos, Prime Holdings, Inc., Estate of Ramon U. Cojuangco (Represented by Its Administratrix, Imelda O. Cojuangco), Imelda O. Cojuangco, Alfonso T. Yuchengco, and Y Realty Corporation, Respondents.

G.R. No. 150367

X ----- X

Alfonso T. Yuchengco and Y Realty Corporation, Petitioners, versus Republic of the Philippines, Presidential Commission on Good Government, Estate of Ferdinand E. Marcos, Imelda R. Marcos, Prime Holdings, Inc., Estate of Ramon U. Cojuangco Represented by Imelda O Cojuangco, and Imelda O. Cojuangco, Respondents.

G.R. No. 153207

X ----- X

Republic of the Philippines, Represented by the Presidential Commission on Good Government, Petitioner, versus Estate of Ferdinand E. Marcos, Imelda R. Marcos, Imelda (Imee) R. Marcos-Manotoc, Tomas Manotoc, Irene R. Marcos-Araneta, Gregorio Ma. Araneta, III, Ferdinand R. Marcos, Jr., Imelda Cojuangco, Estate of Ramon Cojuangco (Represented by the Administratrix, Imelda

Cojuangco), Prime Holdings, Inc., Alfonso T. Yuchengco, and Y. Realty Corporation, Respondents.

G.R. No. 153459

Promulgated: January 20, 2006

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## DECISION

CARPIO MORALES, J.:

These five consolidated petitions pray for the nullification of certain issuances of the Sandiganbayan in Civil Case No. 0002, Republic of the Philippines v. Estate of Ferdinand E. Marcos, et al.

The complaint in Civil Case No. 0002 (or the case) was filed before the Sandiganbayan on July 16, 1987 by the Republic of the Philippines (the Republic) through the Presidential Commission on Good Government (PCGG) against former President and Mrs. Marcos, their three children, and some other individuals. The complaint was later amended to implead additional defendants.

The case is for the recovery of alleged ill-gotten wealth of the Marcoses, among which are shares of stock in the Philippine Telecommunications Investment Corporation (PTIC): 76,779 shares in the name of Ramon U. Cojuangco, 21,525 shares in the name of Imelda O. Cojuangco, and 111,415 shares in the name of Prime Holdings Incorporated (PHI). PTIC is the biggest stockholder of PLDT, it owning some 28% of the outstanding shares in PLDT at the time Civil Case No. 0002 was filed.<sup>11</sup>

In the course of the proceedings in Civil Case No. 0002, the first three petitions assailing interlocutory orders of the Sandiganbayan were filed before this Court.

Thus, the petitions in **G.R. Nos. 149802 and 150320**, filed by Alfonso Yuchengco and Y Realty Corporation, complainants-in-intervention in Civil Case No. 0002, assail via petition for certiorari orders and resolutions of the Sandiganbayan denying their motions to suspend trial pending discovery proceedings and to re-set trial dates (with alternative prayer for a change in the order of trial), and declaring them as having waived their right to present evidence.

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Motion for Additional Time to Complete the Presentation of Evidence and directing it to submit its offer of evidence within 30 days.

During the pendency of these first three petitions, the Sandiganbayan continued with the proceedings in Civil Case No. 0002, no restraining order enjoining the same having been issued by this Court.

The Sandiganbayan, still during the pendency of the first three petitions, promulgated in Civil Case No. 0002 a Partial Decision on May 6, 2002 the dispositive portion of which reads:

WHEREFORE, premises considered, the complaint of plaintiff Republic of the Philippines on the PLDT shares subject of separate trial is hereby DISMISSED for lack of merit. The Motion for Summary Judgment [filed by Imelda Cojuangco, et al] is hereby GRANTED, and the Complaint-in-Intervention [filed by the Yuchengcos] DISMISSED.

SO ORDERED. (Underscoring supplied)

The last two of the five petitions at bar, both for review on certiorari, were thereupon filed. The petition in G.R. No. 153207 filed by the complainants-in-intervention Yuchengcos, and that in G.R. No. 153459 filed by the Republic, both challenge the Partial Decision.

The incidents that gave rise to the filing of the petitions are stated in the minority's dissenting opinion penned by Justice Cancio Garcia which immediately follows this majority opinion. The dissenting opinion substantially reiterates the draft that Justice Garcia prepared which was used by this Court as a working basis for its deliberations.

In issue in these petitions are:

1. Whether petitioners in G.R. Nos. 149802, 150320 and 150367 were denied due process when the Sandiganbayan in effect directed them to terminate the presentation of their respective evidence; and
2. Whether the Partial Decision being assailed via petition for review in G.R. Nos. 153207 and 153459, conforms to the evidence presented, the law and/or settled jurisprudence.

There is no disagreement with respect to the disposition-dismissal by the minority of the first three petitions the first having become moot, and the second and third for lack of grave abuse of discretion on the part of the Sandiganbayan.<sup>121</sup> There is also no disagreement with respect to the disposition-denial by the minority of the fourth petition

(G.R. No. 153207) in the absence of reversible error on the part of the Sandiganbayan.

It is with respect to the disposition-denial by the minority of the fifth petition (G.R. No. 153459) insofar as it denied the prayer of the Republic for a judgment ordering the Estate of Ramon U. Cojuangco (Cojuangco), Imelda O. Cojuangco, PHI, their assigns, nominees and agents to reconvey to the Republic 111,415 PTIC shares registered in the name of PHI that the majority does not agree, in light of the immediately following discussions.

The Sandiganbayan having held in its 73-page Partial Decision<sup>[3]</sup> that the Republic has failed to prove that the PLDT shares sought to be recovered are ill-gotten, thus:

... the Republic has failed to provide such proof of authenticity or reliability of the documents offered by it in evidence. Thus almost all the documents offered by the Republic are photocopies, and no effort was undertaken... to submit the originals of said documents, or to have them properly identified, or to otherwise justify the admission of mere photocopies. Not surprisingly, defendants... objected to the admission of the Republic['s] documentary exhibits, citing violation of the Best Evidence Rule (Section 3, Rule 130 of the Revised Rules of Civil Procedure [Rules], the Rules of Presentation of Documentary Evidence (Section 20, Rule 132 of the Rules). The Hearsay Evidence Rule, and the rule as to Purpose/s of Documentary Evidence (Section 34, Rule 132 of the Rules).<sup>[4]</sup> (Underscoring supplied),

a discussion of the evidence presented in the case is in order.

## **FACTUAL BACKGROUND OF PHI AND ITS DEALINGS WITH PTIC**

PHI was registered on October 5, 1977 with the following five (5) incorporators: **Jose D. Campos, Jr. (son of Jose Yao Campos), Rolando Gapud (Gapud), Renato Lirio (Lirio), Ernesto Abalos (Abalos), and Gervacio Gaviola (Gaviola)**, with 400 shares each, with a par value of ₱100 per share. The total amount of capital stock subscribed was thus ₱200,000.00, ₱50,000.00 of which was actually paid.<sup>[5]</sup> Its place of business was at 66 United Street, Mandaluyong, Metro Manila.<sup>[6]</sup>

The five PHI incorporators, in their capacity as stockholders, elected themselves as directors on October 10, 1977. On even date, they elected the following as officers of the corporation:

Rolando C. Gapud – President  
Jose D. Campos, Jr. – Vice-President  
Gervasio T. Gaviola – Treasurer  
Francisco G. De Guzman – Secretary  
Rodolfo R. Dimaano – Assistant Secretary

Meanwhile, 54,349 shares in another corporation, PTIC, were contributed to and/or abandoned by one of its stockholders, General Telephone and Electronics (GTE), an American corporation, in favor of PTIC.

On December 20, 1977, the PTIC Board of Directors resolved to sell such 54,349 shares to its stockholders in proportion to their holdings.<sup>121</sup> No stockholder, apart from Cojuangco, PTIC President and member of its Board of Directors, expressed interest in purchasing the shares.<sup>121</sup> All the 54,349 shares were then transferred to his name.

Cojuangco and Luis Tirso Rivilla (Rivilla), another stockholder of PTIC, together with PHI President Gapud, forged an agreement dated January 27, 1978 referring to the various discussions during which [Cojuangco and Rivilla] offered to sell and [PHI] agreed to purchase partially paid subscriptions and common shares of [PTIC].<sup>121</sup> The agreement which indicated the basic terms and conditions of the transaction states that the number of PTIC shares which Cojuangco and Rivilla were prepared to sell to PHI was 111,415 common shares representing 46.1250% of the subscribed and outstanding shares of PTIC.

On April 20, 1978, the PTIC Board of Directors granted Cojuangco and Rivilla authorization to transfer their PTIC shares to PHI.<sup>121</sup>

Cojuangco thereafter ceded to PHI 77,719 PTIC shares registered in his name via two separate deeds of assignment both dated May 2, 1978, one for 44,023 shares and the other for 33,696 shares.<sup>121</sup> Rivilla likewise conveyed PTIC 33,696 shares registered in his name to PHI via a deed of assignment also dated May 2, 1978.<sup>122</sup> Thus, **a total of 111,415 PTIC shares was transferred to PHI on May 2, 1978.**

Gapud and Jose D. Campos, Jr. later assigned all their shares in PHI (400 shares each) to Cojuangco and PTIC Director Oscar Africa (Africa), respectively, via two separate deeds of assignment dated February 18, 1981.<sup>123</sup>

On May 9, 1981, Cojuangco and Africa were elected directors of PHI, replacing Gapud and Jose D. Campos, Jr., while the other directors Lirio, Abalos, and Gaviola remained as such.<sup>124</sup> On even date, Cojuangco and Africa were elected by the PHI Board of Directors as

President and Vice-President, respectively, while de Guzman and Gaviola remained as Secretary and Treasurer, respectively.<sup>1151</sup>

Subsequently, by Deed of Assignment<sup>1161</sup> dated June 1983 (the day is not indicated), Africa transferred all his 400 PHI shares 240 to Antonio Cojuangco and 160 to Trinidad Cojuangco Yulo. On even date, the remaining incorporators on the board of directors Lirio, Abalos, and Gaviola each executed a deed of assignment transferring their PHI shares to members of the Cojuangco family. Thus Lirio transferred 240 shares to Antonio Cojuangco and 160 to Trinidad C. Yulo;<sup>1171</sup> Abalos transferred 320 shares to Ramon O. Cojuangco, Jr. and 80 to Miguel O. Cojuangco,<sup>1181</sup> and Gaviola transferred 320 shares to Ma. Victoria O. Cojuangco Yulo and 80 also to Antonio Cojuangco.<sup>1191</sup>

## BENEFICIAL OWNERSHIP OF PHI

Significantly, respondents in G.R. No. 153459, namely: Estate of Ramon Cojuangco, Imelda O. Cojuangco, PHI, and Imelda R. Marcos all agree with petitioner Republic that PHI has an undisclosed beneficial owner, their only disagreement being who this owner is.

The Cojuangcos and PHI in their Comment proffer that the beneficial owners are the Cojuangcos, arguing as follows:

x x x The unsupported allegation that President Marcos owned the disputed shares in PLDT, PTIC and PHI may perhaps explain the circumstances surrounding PHIs incorporation, why PTICs stockholders were disinterested in purchasing PLDTs shares in 1977, why PTICs stockholders waived their right of first refusal in 1978, why there are no proper entries in PHIs Stock and Transfer Book, or why the subject shareholdings were not included in Ramon U. Cojuangcos Estate inventory. However, the converse syllogism is not true the details of PHIs incorporation, or the fact that PTICs stockholders were disinterested in purchasing PLDTs shares in 1977, or that PTICs stockholders waived their right of first refusal in 1978, or that there are no proper entries in PHIs Stock and Transfer Book, or that 400 PHI shares were not included in Ramon U. Cojuangcos Estate inventory do not necessarily establish that President Marcos owned the subject shares in PHI, PTIC and PLDT.

**These circumstances show that PHI had an undisclosed principal and beneficial owner. Subsequent events, i.e. the assignment of shares in 1981 and 1983, reveal and confirm that Mr. Ramon U. Cojuangco and his family were the principal and beneficial owners of PHI, and, corollarily,**

the subject PHI, PTIC and PLDT shares, not President Marcos.<sup>[20]</sup>  
(Emphasis, italics and underscoring supplied)

Imelda Marcos, on the other hand, consistent with the theory of petitioner Republic, claims that she, her late husband President Marcos, and their family were the beneficial owners of PHI, alleging in her Cross-claim filed before the Sandiganbayan as follows:

**6.1 PHI was incorporated to serve as the holding company of all the PTIC shares owned by Mr. and Mrs. Marcos and family**, in addition to those being held by trustees/nominees like defendants Ramon and Imelda Cojuangco. For this purpose, PHI was organized with the following as incorporators, all of whom were the trustees/nominees of the Marcoses:

Jose D. Campos – 400 shares  
 Rolando C. Gapud – 400 "  
 Renato E. Lirio – 400 "  
 Gervaso T. Gaviola – 400 "  
Ernesto S. Abalos – 400 "  
 Total – 2,000

x x x x

7. Considering that the incorporators of PHI admittedly held the PHI shares registered in their respective name[s] for and in behalf of Mr. and Mrs. Marcos and family, which trust relationship continued even with respect to the incorporators nominees, no third party, including defendants Ramon and Imelda Cojuangco, could have lawfully and rightfully acquired any right over of (sic) said shares in their own right.<sup>[21]</sup> (Emphasis and underscoring supplied)

<sup>[1]</sup> Rollo (G.R. No. 153459), p. 14.

<sup>[2]</sup> The majority takes exception, however, to the minority observation in its discussion of **G.R. No. 150367** that the Republic's bid to have Imelda Marcos on the witness stand seems to imply that it cannot prove its case without such testimony, and other statements of similar import.

<sup>[3]</sup> Rollo (G.R. No. 153459) Vol. I, pp. 9-81.

<sup>[4]</sup> *Id.* at 39.

<sup>[5]</sup> Rollo (G.R. No. 153459), Vol. IV, p. 2594 and 2600.

<sup>[6]</sup> *Id.* at 2606.

<sup>[7]</sup> *Id.* at 2623-2624.

<sup>1181</sup> *Rollo* (G.R. No. 153459), Vol. III, p. 1730.

<sup>1191</sup> *Id.* at 1734.

<sup>1101</sup> *Id.* at 1738-1739.

<sup>1111</sup> *Id.* at 1434-1437.

<sup>1121</sup> *Id.* at 1438-1439.

<sup>1131</sup> *Id.* at 2320-21.

<sup>1141</sup> *Rollo* (G.R. No. 153459), Vol. IV, p. 2564.

<sup>1151</sup> *Rollo* (G.R. No. 153459), Vol. IV, p. 2564.

<sup>1161</sup> *Rollo* (G.R. No. 153459), Vol. III, p. 2325.

<sup>1171</sup> *Id.* at 2322.

<sup>1181</sup> *Id.* at 2324.

<sup>1191</sup> *Id.* at 2323.

<sup>1201</sup> *Rollo* (G.R. No. 153459), Vol. IV, p. 2876.

<sup>1211</sup> *Rollo* (G.R. No. 153459), Vol. I, p. 432-433.

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## PREPONDERANCE OF EVIDENCE LIES WITH THE REPUBLIC

Clearly, the Republics thesis that President Marcos is the beneficial owner of PHI is deduced from established facts which, weighed by common experience, engender the inference as a very strong probability.<sup>1531</sup> Only a Marcos ownership can make sense of the circumstances surrounding the origins of PHI, especially its close ties with UNILAB and the Camposes.

Only a Marcos ownership of PHI can plausibly account for the substantially corroborated admissions of Campos and Gapud that they organized PHI in behalf of Marcos. Indeed, even the minority had to acknowledge that Gapud was a mere nominee, merely denying that his principal was Marcos, contrary to Gapuds['] own admission. However, perhaps unable to account for the undeniable fact that all the incorporators of PHI are Campos associates, the minority implies that the true owner was neither Marcos nor Cojuangco, but Campos himself contrary to the Cojuangcos['] submission that *Ramon Cojuangco* was the beneficial owner, and to Campos['] admission that he organized PHI for *President Marcos*.

Moreover, the thesis that Marcos owned PHI is able to make more sense of the undisputed assignment of PTIC shares to PHI by Cojuangco. If PHI were beneficially owned by Cojuangco, then the transfer of these PTIC shares to PHI would merely have been a transfer to himself. On the other hand, on the thesis that PHI is beneficially owned by Marcos, the assignment thereof to PHI was a transfer from Cojuangco to President Marcos.

**On the basis of the evidence, therefore, President Marcos owned PHI and all the incorporators thereof acted under his direction.** Once this is acknowledged, the following conclusions inevitably follow:

1. Cojuangco was elected President and took over the management of PHI in 1981 with the cooperation of the Marcos nominees who, it must be emphasized, still held the majority stockholding as of that date;
2. As the remaining incorporators on the Board divested their shares only in 1983, Cojuangco managed a Marcos-controlled corporation for at least two years;
3. The simultaneous divestment of shares by the three remaining incorporators on the Board to Cojuangco's close relatives in 1983 were with the knowledge and authorization of their principal President Marcos.

Clearly, all these circumstances mark out Cojuangco either as a nominee of Marcos as was Gapud whom he replaced as President of PHI or, at the very least, a close associate of Marcos. As such, the PCGG which is charged, under E.O. No. 1<sup>[54]</sup> issued by President Aquino pursuant to her legislative powers under the Provisional Constitution, with assisting the President in regard to, *inter alia*,

The recovery of all ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, whether located in the Philippines or abroad, including the takeover or sequestration of all business enterprises and entities owned or controlled by them, during his administration, directly or through nominees, by taking undue advantage of their public office and/or using their powers, authority, influence, connections or relationship<sup>[55]</sup> (Underscoring supplied),

can and must recover for the Republic the 111,415 PTIC shares being held by PHI, they bearing the character of ill-gotten wealth whether they be in the hands of Marcos or those of Cojuangco.

On the other hand, respecting the thesis that PHI was, from its inception, beneficially owned by Ramon Cojuangco, the Cojuangcos can only point to the deeds of assignment of PHI shares to members of their family as confirming the same. The Sandiganbayan considered these deeds as competent evidence, as opposed to the purported lack of such evidence on the part of the Republic. The most these deeds could show, however, is that the Cojuangcos acquired PHI shares in

the years 1981 and 1983, long after the 111,415 PTIC shares were acquired in 1978 by PHI. **On the decisive question of whether the incorporators who organized PHI in 1977 acted as Marcos (or Cojuangco) nominees, these deeds are absolutely silent.**

In marked contrast, the testimonies of Campos, Gapud, and de Guzman, persons who actually participated in the formation and early years of operation of PHI, constitute evidence that directly addresses the critical issue.

Indubitably, the preponderance of evidence lies with the Republic.

<sup>1531</sup> *Joaquin v. Navarro, supra.*

<sup>1541</sup> CREATING THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, promulgated February 28, 1986.

<sup>1551</sup> Section 2.

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## EPILOGUE

In *PCGG v. Pea*, this Court, describing the rule of Marcos as a well-entrenched plundering regime of twenty years,<sup>1591</sup> noted the magnitude of the past regimes organized pillage and the ingenuity of the plunderers and pillagers with the assistance of the experts and best legal minds available in the market.<sup>1601</sup> The evidence presented in this case reveals one more instance of this grand scheme. This Court guardian of the high standards and noble traditions of the legal profession has thus before it an opportunity to undo, even if only to a certain extent, the damage that has been done.

**WHEREFORE**, the petition of the Republic of the Philippines in G.R. No. 153459 is **GRANTED** to the extent that it prays for the reconveyance to the Republic of 111,415 PTIC shares registered in the name of PHI. The petitions in G.R. Nos. 149802, 150320, 150367, and 153207 are **DENIED** for lack of merit.

**SO ORDERED.**

<sup>1591</sup> No. L-77663, April 12, 1988, 159 SCRA 556, 574 (1988).

<sup>1601</sup> *Id.* at 566.

