REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

TRANS-ASIA OIL AND ENERGY DEVELOPMENT CORPORATION,
Respondent.

CTA EB NO. 2009
(CTA Case No. 9078)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:

JUL 21 2020
4:10 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

This Petition for Review seeks to reconsider and set aside the Decision[1] dated September 28, 2018 and the Resolution[2] dated January 18, 2019, respectively, of the CTA Special Third (3rd) Division.

For easy reference, the dispositive portion of the assailed Decision reads:

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[1] Penned by Associate Justice Ma. Belen M. Ringpis-Liban, with Associate Justice Esperanza R. Fabon-Victorino concurring, *Rollo*, pp. 66-83.
[2] *Rollo*, pp. 85-89.

"**WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. Accordingly, the Formal Letter of Demand and Assessment No. DN-2013-00001 dated October 22, 2014 are **CANCELLED** and **WITHDRAWN**.

SO ORDERED."[3]

On the other hand, the dispositive portion of the assailed Resolution reads:

"**WHEREFORE**, premises considered, respondent's **Motion for Reconsideration Re: Decision dated 28 September 2018** is **DENIED** for lack of merit.

SO ORDERED."[4]

THE FACTS

The following are the facts as found by the Court in Division:

"Petitioner Trans-Asia Oil and Energy Development Corporation is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office located at 11 Phinma Plaza, 39 Plaza Drive, Rockwell Center, Makati City.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR) who has the power to rule on disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City."[5]

"On July 22, 2013, petitioner's Board of Directors approved a declaration of dividend composed of shares of stock in Trans-Asia Petroleum Corporation (TAPC) at the rate of 2.55 TAPC shares for every 100 petitioner's shares held, and cash in the amount of P0.013 per share to petitioner's shareholders of record as of August 5, 2013, with shareholders residing in the United States receiving cash of P0.0385 per petitioner's share in lieu of TAP shares and the P0.013 cash dividend; 30 and petitioner made such declaration public by filing a Letter dated July 22, 2013 before the

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[3] September 28, 2018 Decision, *Rollo*, pp. 27-49.
[4] January 18, 2019 Resolution, *Rollo*, pp. 85-89.
[5] September 28, 2018 Decision, *Rollo*, pp. 27-28.

Securities and Exchange Commission (SEC) and Philippine Stock Exchange (PSE).

On August 27, 2013, petitioner requested with the SEC for exemptive relief from the 18-day payment date requirement under Section 6 of the Amended Rules, 32 which the latter approved on September 13, 2013.

As such, petitioner was able to secure from the SEC a Certificate of Filing the Notice of Property Dividend Declaration, a Certificate Authorizing Registration No. 201100364018 dated March 27, 2014, an Order of Registration, and a Stock Transfer Service, Inc. (STSI) Certification dated August 20, 2014.

On September 2, 2013, petitioner requested for computation of taxes due on the cash and property dividends with respondent.

On September 11, 2013, petitioner paid final taxes in the amount of P22,406,458.41."

"Pursuant to Letter of Authority (LOA) No. 121-2014-00000004 dated March 27, 2014, respondent conducted a tax investigation on petitioner's donor's tax liabilities in relation to its property dividend declaration in 2013.

On July 2, 2014, respondent issued a Preliminary Assessment Notice (PAN), assessing petitioner for alleged deficiency donor's tax in the total amount of ₱150,184,763.90, inclusive of interest and compromise penalty, which the latter received on July 3, 2014. Petitioner protested the PAN on July 18, 2014.

Subsequently, respondent issued a Formal Letter of Demand (FLD) and Assessment No. DN-2013-00001 on October 22, 2014, assessing petitioner for purported deficiency donor's tax in the amount of ₱157,751,612.58, inclusive of interest and compromise penalty. Petitioner received the said documents on October 23, 2014.

On November 21, 2014, petitioner disputed the FLD and Assessment No. DN-2013-00001.

On May 27, 2015, petitioner received the Final Decision on Disputed Assessment (FDDA) that denied its administrative protest and upheld the deficiency donor's tax assessment in the amount of P174,936,138.07."[6]

"In the FDDA, respondent assessed petitioner for deficiency donor's tax in the amount of ₱174,936,138.07, inclusive of interest and compromise penalty, computed as follows: ℊℓ

[6] *Id., Rollo*, at p. 67.

Fair Market value per share of TA Petroleum based on Adjusted Net Asset Value (pursuant to RR 6-2013)		₱ 4,493
Less: Book Value/Par Value per share of TA Petroleum declared as property dividend		₱ 1.00
Excess of FMV over BV		₱ 3,493
TA Petroleum # of shares declared/distributed as property dividend		123,161,310 shares
Total amount subject to Donor's Tax (RR 6-2008)		₱ 430,202,455.83
Donor's Tax Rate		30%
Basic Tax Due		₱ 129,060,736.75
Add: Penalties		
20% interest (Aug. 21, 2013 to May 31, 2015)	₱45,825,401.32	
Compromise Penalty	50,000.00	45,875,401.32
Total Donor's Tax Due		₱ 174,936,138.07

Based on the said FDDA, the amount of P430,202,455.83 subject to donor's tax was derived from the difference between the fair market value per TAPC share of stock based on adjusted net asset value in accordance with RR No. 6-2008, as amended by RR No. 6-2013, and the book value/par value per share. Respondent presumed that petitioner had gained from the declaration and distribution of its TAPC shares of stock to its shareholders. Respondent also assumed that the declaration and distribution of the said stocks were tantamount to a disposal of shares of stock not traded through a local stock exchange."[7]

"As a result, petitioner filed the instant Petition for Review before this Court on June 26, 2015.

Meanwhile, petitioner received a Letter from the BIR dated July 26, 2015 stating that an immediate issuance of a Warrant of Distraint and/or Levy and Warrants of Garnishment would be made against petitioner for the collection of its deficiency donor's tax. Consequently, on July 29, 2015, petitioner filed before this Court, an 'Urgent Motion to Suspend Collection of Taxes and for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction.'

In the Answer filed on September 8, 2015, respondent raised the following defenses: that the Property dividend distribution is covered by Revenue Regulations (RR) No. 6-2008 and Revenue Regulations No. 6-2013; that a dividend payable in stock is not synonymous with, and is not always or necessarily, a stock dividend, as where the dividend consist in treasury stocks or in stocks of another corporation; that what the board of directors of petitioner declared was the distribution of shares in its wholly-owned corporation to petitioner's shareholders; that the dividends payable in stock were considered as property dividends, not stock dividends, because such dividends consist of stock of another corporation; that while it is true that in Sections 24(C), 25(A)(3), 25(B), 27(D)(2), 28(A)(7)(c), 28(B)(5)(c) of the 1997 National Internal Revenue Code (Tax Code), capital

[7] *Id., Rollo*, at pp. 73-74.

gains from sale of shares of stock not traded in the Stock Exchange are perceived and shall be taxed. However, with respect to 25(A)(3), 25(B), 27(D)(2), 28(A)(7)(c), 28(B)(5)(c) of the Tax Code which are also within the scope of RR No. 6-2008, these Sections pertain to dispositions of capital assets in general, whether or not there is realization of net capital gains; that the realization of net capital gains as a result of the distribution of shares of stock by petitioner is immaterial; that RR No. 6-2008 and RR No. 6-2013 also contemplate any other disposition of shares of stock held capital assets, hence, such disposition also covers distribution of shares of stock as property dividend by petitioner; that the stocks distributed by petitioner to its stockholders as property dividend are classified as capital assets because such stocks were held by petitioner, who is not a dealer in securities; that the difference between the total fair market value and the book value of the property dividend should be deemed a gift which is subject to donor's tax; that the difference between the total FMV and the book value of the property dividend should be deemed a gift which is subject to donor's tax imposed under Sections 98 and 99 of the Tax Code, as amended, in relation to Section 7 (c.1.4) of Revenue Regulation No. 6-2008; that contrary to the contention of petitioner that the amount it paid or remitted by way of final tax should be offset against any donor's tax assessed, it is submitted that no such offsetting should be done because there is no double taxation to speak of in this case; that the declaration date should be the reckoning period in calculating the interest as the right of ownership of the shareholders arises on the dividend declaration date; that the assessed deficiency donor's tax has bases in fact and law, hence the same should not be cancelled or withdrawn; that assessments are presumed correct and made in good faith; that the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but the taxpayer is right; that petitioner has the burden of proving that the assessment of deficiency donor's tax has no factual and legal basis, failure to do so entitles respondent's assessment within presumption of regularity, thus legal and valid.

Petitioner posted a Reply to respondent's Answer on September 21, 2015, which the Court received on October 1, 2015.

In support of its motion to suspend collection of taxes, petitioner presented Ms. Mariejo P. Bautista as its sole witness, and formally offered Exhibits 'P-1' to 'P-15-1'. In a Resolution dated September 22, 2015, the Court admitted the said exhibits, except for Exhibit 'P-6' for failure to present the original copy thereof.

On October 12, 2015, the Court granted petitioner's motion to suspend the collection of taxes subject to the posting of a surety bond equivalent to one and one-half times of the amount sought to be collected. Upon compliance with the posting of a surety bond by petitioner, the Court enjoined respondent from enforcing the collection of the assessed donor's tax until final resolution of the case.

Both parties filed their Pre-Trial Briefs on January 14, 2016. Afterwards, the parties submitted their Joint Stipulation of Facts and Issues on January 29, 2016. On March 7, 2016, the Court issued a Pre-Trial Order and terminated the pre-trial.

During trial, petitioner presented Ms. Mariejo P. Bautista and Atty. Salvador Paolo A. Panelo, Jr. as its witnesses. Subsequently, petitioner

> formally offered its documentary and testimonial evidence, which were all admitted by the Court on August 12, 2016.
>
> On the other hand, respondent presented as his sole witness, Revenue Officer Teresita Villamor. Thereafter, respondent formally offered his documentary and testimonial evidence, and the Court admitted the same on November 21, 2016.
>
> On rebuttal, petitioner presented Ms. Teresita Socorro Zuñiga-Dimaculangan and Ms. Yolanda Añonuevo as its witnesses. Afterwards, petitioner formally offered supplemental evidence which were all admitted by the Court on July 21, 2017.
>
> On September 15, 2017 petitioner filed its Memorandum. On the other hand, the Judicial Records Division of this Court issued a Records Verification Report of the dated September 19, 2017, stating that respondent failed to file his Memorandum. In the Resolution dated October 2, 2017 the Court declared the case submitted for decision."[8]

On September 28, 2018 and January 18, 2019, the Court in Division issued the assailed Decision and Resolution, respectively.

On February 22, 2019, petitioner filed through registered mail the instant Petition for Review.[9] On August 2, 2019, respondent filed its Comment/Opposition (Re: Petition for Review dated February 22, 2019).[10]

On July 10, 2019,[11] the Court *En Banc* issued a Resolution submitting the case for decision. Hence, this Decision.

THE ISSUE

The main issue to be resolved by the Court is whether respondent is liable for deficiency donor's tax.

THE RULING

It will be recalled that based on the said FDDA, the amount of ₱430,202,455.83 subject to donor's tax was the difference between the fair market value of the shares of stock of respondent's subsidiary (TAPC) based on adjusted net asset value in accordance with RR No. 6-2008, as amended by RR No. 6-2013, and the book value/par value per TAPC share. Petitioner

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[8] *Id.*, *Rollo*, pp. 67-70.
[9] *Rollo*, pp. 50-60.
[10] *Rollo*, pp. 94-121.
[11] Resolution, *Rollo*, pp. 132-133.

presumed that respondent taxpayer recognized gain from the declaration and distribution to its shareholders of its TAPC shares of stock. Petitioner also assumed that the declaration and distribution of the said stocks were tantamount to a disposal of shares of stock not traded through a local stock exchange

In this case, petitioner argues that the Court in Division erred in ruling that respondent's declaration and distribution is not within the ambit of the term "other disposition of shares of stock" that would recognize gain or loss from such disposal, as contemplated in Section 7 (c.1.4) of RR No. 6-2008, as amended by RR No. 6-2013.[12]

On the other hand, respondent taxpayer counters that the above provision does not apply to all types of dispositions, but only to those which can give rise to net capital gains.[13]

After careful consideration of the merits, the Court *En Banc* resolves to deny the petition.

Section 73 of the National Internal Revenue Code of 1997 (1997 NIRC) defines the term dividends, thus:

> "**SEC. 73.** *Distribution of dividends or Assets by Corporations.* -
>
> (A) *Definition of Dividends.* - <u>The term *"dividends"* when used in this Title means any distribution made by a corporation to its shareholders out of its earnings or profits and payable to its shareholders, whether in money or in other property</u>.
>
> Where a corporation distributes all of its assets in complete liquidation or dissolution, the gain realized or loss sustained by the stockholder, whether individual or corporate, is a taxable income or a deductible loss, as the case may be."

Furthermore, in *Frederick C. Fisher v. Wenceslao Trinidad, Collector of Internal Revenue,*[14] the Supreme Court *En Banc* also defined dividend in this wise:

> "In the case of DeKoven vs. Alsop (205 Ill., 309; 63 L. R. A., 587) Mr. Justice Wilkin said: '<u>A dividend is defined as 'a corporate profit set aside, declared, and ordered by the directors to be paid to the stockholders on demand or at a fixed time.</u> Until the dividend is declared, these corporate

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[12] Ground, Petition for Review, Discussion, *Rollo*, p. 12.
[13] Par. 13, Discussion, Comment/Opposition (Re: Petition for Review dated February 22, 2019), *Rollo*, p. 98.
[14] G.R. No. L-17518, October 30, 1922.

> profits belong to the corporation, not to the stockholders, and are liable for corporate indebtedness.'
>
> There is a clear distinction between an extraordinary cash dividend, no matter when earned, and stock dividends declared. The one is a disbursement to the stockholders of accumulated earning, and the corporation at once parts irrevocably with all interest therein. The other involves no disbursement by the corporation. It parts with nothing to the stockholders. The latter receives, not an actual dividend, but certificates of stock which evidence in a new proportion his interest in the entire capital. When a cash dividend is declared and paid to the stock holders, such cash dividend is declared and paid to the stockholder, such cash becomes the absolute property of the stockholder and cannot be reached by the creditors of the corporation in the absence of fraud. A stock dividend, however, still being the property of the corporation, and not of the stockholder, it may be reached by an execution against the corporation, and sold as a part of the property of the corporation. In such a case, if all of the property of the corporation is sold, then the stockholder certainly could not be charged with having received an income by virtue of the issuance of the stock dividend. Until the dividend is declared and paid, the corporate profits still belong to the corporation, not to the stockholders, and are liable for corporate indebtedness. The rule is well established that cash dividends, whether large or small, are regarded as "income" and all stock dividends, as capital or assets. (*Cook on Corporations, Chapter 32, secs. 534, 536; Davis vs. Jackson, 152 Mass., 58; Mills vs. Britton, 64 Conn., 4;5 Am. and Eng. Encycl. of Law, 2d ed., p. 738.*)" (*Underscoring supplied*)

On the other hand, a donation, as defined by the Civil Code in Art. 725 "is an act of liberality whereby a person disposes gratuitously of a thing or right in favor of another, who accepts it." It is the "act by which the owner of the thing voluntarily transfers the title and possession of the same from himself to another person without consideration."[15]

Unlike a donation, the Court agrees with the court *a quo* in holding that the term "dividend" both in the technical sense and its ordinary acceptation, is that part or portion of the profits of the enterprise which the corporation, by its governing agents, sets apart for ratable division among the holders of the capital stock. It means the fund actually set aside, and declared by the directors of the corporation as dividends and duly ordered by the director, or by the stockholders at a corporate meeting, to be divided or distributed among the stockholders according to their respective interests.[16]

Clearly, in property dividend distribution, the taxpayer or distributing corporation does not receive any consideration in exchange for the dividends. Property dividends are unilateral distributions taken from the company's unrestricted retained earnings.[17] gr

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[15] 13 Words & Phrases, Permanent Edition, p. 315.

[16] *Nielson & Company, Inc. v. Lepanto Consolidated Mining Company*, G.R. No. L-21601, December 28, 1968.

[17] Section 43, Corporation Code of the Philippines.

Based on the cited authorities above, the Court *En Banc* finds no reversible error when the Court in Division ruled that respondent taxpayer's declaration and distribution of property dividend consisting of TAPC shares is *not* contemplated by the term "other disposition of shares of stock" subject to *donor's tax* under RR 6-2008, as amended by RR 6-2013.

Moreover, the Court *En Banc* upholds the actual finding that the distribution of property dividends by the respondent is a non-reciprocal transfer since there was no consideration exchanged for the dividends:

> "Additionally, distribution of property dividends is a non-reciprocal transfer. In other words, there was no consideration given nor received during the transfer. The pertinent portion of the Transcript of Stenographic Notes of the testimony of Ms. Zuñiga-Dimaculangan during her re-direct examination reads:
>
> 'ATTY. MATA-PEREZ
>
> You said that this is not a reciprocal transfer, do you mean, did the corporation receive to your knowledge any consideration into the distribution of dividends.
>
> xxx xxx xxx
>
> MS. DIMACULANGAN
>
> None, because in a non-reciprocal transfer, the company or the entity does not sacrifice any resource at all from their end to pay off something, so there is no exchange.
>
> ATTY. MATA-PEREZ
>
> Q Are you saying that the company or the petitioner in this case did not receive any wealth, money or asset from the stockholders to whom the dividends were distributed for this particular transaction?
>
> MS. DIMACULANGAN
>
> None at all.
>
> In fact, respondent's witness, Revenue Officer (RO) Teresita Villamor confirmed that petitioner did not receive any consideration for the distribution of its property dividends. The pertinent portion of the Transcript of Stenographic Notes of the testimony of RO Villamor on cross-examination reads: Jr

ATTY. PATAWARAN

Ms. Witness, from your understanding as a BIR Revenue Officer, does a corporation receive consideration when dividends are issued?

MS. VILLAMOR

Pardon?

ATTY. PATAWARAN

Does a corporation, the issuing corporation does it receive consideration, when it issues dividends to its shareholders? Does it receive something in return from its investors?

MS. VILLAMOR

No, it dispose shares of stocks.

ATTY. PATAWARAN

Thank you Ms. Witness."

More importantly, Paragraph 23 of the International Financial Reporting Standards (IFRS) 10 provides that changes in a parent's ownership in a subsidiary that do not result in the parent losing control of subsidiary are equity transactions (i.e., transactions with owners in their capacity as owners).'

Records show that petitioner wholly owned TAPC in 2013. When petitioner declared its TAPC shares of stock to its stockholder as property dividends in 2013, it performed reassessment of control in all of its subsidiaries in accordance with the provisions of PFRS 10, to wit:

'PFRS 10, Consolidated Financial Statements

PFRS 10 replaces the portion of PAS 27, Consolidated and Separate Financial Statements, that addresses the accounting for consolidated financial statements. x x x. The changes introduced by PFRS 10 will require management to exercise significant judgment to determine which entities are controlled, and therefore, are required to be consolidated by a parent, compared with the requirements that were in PAS 27.

A reassessment of control was performed by the Company on all its subsidiaries in accordance with the provisions of PFRS 10. Following the reassessment, the Company determined that it still controls all of its subsidiaries and that there is no change in the manner of accounting for its associates.' 9e

> Records likewise reveal that after the distribution of petitioner's property dividends to its stockholders, petitioner has still retained majority ownership and control over its subsidiary TAPC from 100% to 50.74%. (*Underscoring supplied; citations omitted*)

Since the respondent as distributing company does not receive any consideration from its shareholders, Section 100 of the 1997 NIRC clearly does not apply.

The property dividend distribution by the respondent is *not* a donation and is *not* made out of its liberality. Dividends are returns or income from the invested capital of its stockholders. They are part of the profits of the enterprise which the corporation, by its governing agents, sets apart for ratable division among the holders of the capital stock, in accordance with their respective interests.[18] Dividends are that "portion of profits and surplus funds of corporation which has actually been set apart by valid resolution of the board of directors, or by stockholders at corporate meeting, for distribution among stockholders according to their respective interests in such as sense as to become segregated from the property of the corporation, and to become property of shareholders distributively."[19]

Accordingly, the distribution of property dividends is a realization of income on the part of the respondent's stockholders, by virtue of their capital investment in the corporation. Since dividends are distributions from unrestricted earnings arising from the capital invested in the corporation, they cannot be considered donations made out of the liberality of the corporation.

Petitioner failed to raise meritorious arguments to overturn the assailed Decision and Resolution. Hence, the denial of the instant petition is in order.

WHEREFORE, the instant Petition for Review is **DENIED**, for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

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[18] Agbayani, Commentaries and Jurisprudence on Commercial Laws of the Philippines (1980 Edition), Vol. 3, p. 367.
[19] 13 Words & Phrases, Permanent Edition, p. 75.

WE CONCUR:

(See Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified 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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
QUEZON CITY
COURT OF TAX APPEALS

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2009 (CTA CASE NO. 9078)**
	PRESENT:
-versus-	DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORIO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and, MODESTO-SAN PEDRO, JJ.
TRANS-ASIA OIL & ENERGY DEVELOPMENT CORPORATION, Respondent.	PROMULGATED: JUL 21 2020 4:10 p.m.

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CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur in the cancellation of the donor's tax assessment imposed on the difference between the fair market value and book value of the shares of stock declared as property dividends by respondent.

Under Section 5 of RR No. 2-2003,[1] for purposes of donor's tax imposition, the fair market value of unlisted common shares, as in this case, is based on their book value. In determining the book value of common shares, appraisal surplus shall not be considered as well as the value assigned to preferred shares, if there are any.[2]

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[1] Consolidated Revenue Regulations on Estate Tax and Donor's Tax Incorporating the Amendments Introduced by Republic Act No. 8424, the Tax Reform Act of 1997.
[2] RR No. 2-2003 Re: Consolidated Revenue Regulations on Estate Tax and Donor's Tax Incorporating the Amendments Introduced by Republic Act No. 8424, the Tax Reform Act of 1997.

As borne by the records, since the **total book value** of the Trans-Asia Petroleum Corporation (TAPC) shares of stock distributed by respondent as property dividends is **equivalent** to the **total amount of retained earnings earmarked and eventually declared for distribution as property dividends**, there is no "gift" or "donation" to speak of. Hence, there is no basis to impose donor's tax pursuant to Section 100 of the National Internal Revenue Code (NIRC) of 1997, as amended.

In fine, I VOTE to DENY the Petition for Review filed by the Commissioner of Internal Revenue and AFFIRM the assailed Decision and Resolution of the Court in Division.

ROMAN G. DEL ROSARIO
Presiding Justice