REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA SCA CASE NO. 0030

SAN MIGUEL CORPORATION,
Petitioner,

- versus -

THE HON. ROMEO D. LUMAGUI, JR., AS COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. LARA NICOLE T. GONZALES
Room 703, Litigation Division, BIR National Office Building
Senator Miriam Defensor Santiago Avenue
Diliman, Quezon City

POBLADOR BAUTISTA & REYES
34th Floor, Tower 1, The Enterprise Center
6766 Ayala Avenue corner Paseo de Roxas
1226 Makati City

GREETINGS:

You are hereby notified by these presents that on **August 14, 2025,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **August 14, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SAN MIGUEL CORPORATION, *Petitioner,*	**CTA SCA CASE NO. 0030** *Members:*
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
THE HON. ROMEO D. LUMAGUI, JR., AS COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: AUG 14 2025 3:32 p.m.

x- - - -

Respondent is the Commissioner of the Bureau of Internal Revenue (**BIR**), vested by law to enforce and implement the provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, as well as related statutes and their implementing rules and regulations. Respondent holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.[2]

THE FACTS

I. Origin of the Dispute: The 1991 Estate Tax Assessment.

This case traces its origin to an estate tax assessment issued against the Marcos Estate, under Assessment No. FAC-2-89-91-002464 (**1991 Estate Tax Assessment**).[3]

As narrated by the Supreme Court in *Marcos II v. Court of Appeals* (***1997 Marcos II* case**),[4] which quoted the November 29, 1994 *Decision* of the Court of Appeals, *viz.*:

> On September 29, 1989, former President Ferdinand Marcos died in Honolulu, Hawaii, USA.
>
> On June 27, 1990, a Special Tax Audit Team was created to conduct investigations and examinations of the tax liabilities and obligations of the late president, as well as that of his family, associates and "cronies". Said audit team concluded its investigation with a Memorandum dated July 26, 1991. The investigation disclosed that the Marcoses failed to file a written notice of the death of the decedent, an estate tax returns [sic], as well as several income tax returns covering the years 1982 to 1986, — all in violation of the National Internal Revenue Code (NIRC).
>
> Subsequently, criminal charges were filed against Mrs. Imelda R. Marcos before the Regional Trial of Quezon City for violations of Sections 82, 83, and 84 (as penalized under Sections 253 and 254 in relation to Section 252-a & b) of the National Internal Revenue Code (NIRC).
>
> The Commissioner of Internal Revenue thereby caused the preparation and filing of the Estate Tax Return for the estate of the late president, the Income Tax Returns of the Spouses Marcos for the years 1985 to 1986, and the Income

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2 Docket, p. 249, Order dated April 24, 2025, Stipulation of Facts, par. (22).
3 Exhibit "R-1", BIR Records, p. 158.
4 G.R. No. 120880, June 5, 1997 [Per J. Torres, Jr., Second Division].

Tax Returns of petitioner Ferdinand 'Bongbong' Marcos II for the years 1982 to 1985.

On July 26, 1991, the BIR issued the following: (1) Deficiency estate tax assessment no. FAC-2-89-91-002464 (against the estate of the late president Ferdinand Marcos in the amount of P23,293,607,638.00 Pesos); (2) Deficiency income tax assessment no. FAC-1-85-91-002452 and Deficiency income tax assessment no. FAC-1-86-91-002451 (against the Spouses Ferdinand and Imelda Marcos in the amounts of P149,551.70 and P184,009,737.40 representing deficiency income tax for the years 1985 and 1986); (3) Deficiency income tax assessment nos. FAC-1-82-91-002460 to FAC-1-85-91-002463 (against petitioner Ferdinand 'Bongbong' Marcos II in the amounts of P258.70 pesos; P9,386.40 Pesos; P4,388.30 Pesos; and P6,376.60 Pesos representing his deficiency income taxes for the years 1982 to 1985).

The 1991 Estate Tax Assessment levied against the Marcos Estate totaled **₱23,293,607,638**, inclusive of interest and surcharges, and was computed as follows:

Gross Estate (Domestic and Global)			**36,172,266,373.00**
Gross Conjugal Properties			36,172,266,373.00
	Funeral Expenses	50,000.00	
	Claims against the Estate		
	Deficiency Income Tax	184,258,856.00	
	Properties surrendered by cronies	2,710,000,000.00	2,894,308,856.00
Net Conjugal Properties			33,277,957,517.00
Less: Share of Surviving Spouse			16,638,978,759.00
Net Estate from Conjugal Properties			**16,638,978,758.00**
Amount subject to Estate Tax			16,638,978,758.00
Estate Tax Due			**9,982,974,705.00**
Add: Surcharge			7,487,231,028.00
Interest			5,823,401,905.00
Balance due and collectible			**23,293,607,638.00**

The composition of the gross estate of **₱36,172,266,373** is shown below:

Domestic Assests	
Properties imputable to FM & Family	34,580,000.00
	2,061,409,354.00
Shares of Stocks	
PLDT	1,600,000,000.00
San Miguel Corp	**8,610,464,000.00**
Security Bank & Trust Company	233,323,843.00
Shareholdings, Inc.	76,707,500.00
U.S. Automotive Co., Inc.	114,641,668.00
Properties offered by Roberto S. Benedicto	2,127,503,723.00
Paid-up subscriptions under Romualdez Group of Companies	37,844,882.00
Real Estate under the name of Romualdez and other unnamed and unidentified properties	210,041,783.00
Properties surrendered by Marcos cronies	
Jose Y. Campos	2,500,000,000.00
Antonio Floirendo	210,000,000.00
Total Domestic	**17,816,516,753.00**
Global / Foreign Assets	
Cash	17,060,896,398.00
Imputable to FM and Family	1,294,853,222.00
Total Global	**18,355,749,620.00**
Gross Estate:	
Total Domestic	17,816,516,753.00
Total Global	18,355,749,620.00
Total	**36,172,266,373.00**

Included in the gross estate of **₱36,172,266,373** are shares of stocks in SMC amounting to **₱8,610,464,000.** These SMC shares are now at the center of the present controversy.

The Supreme Court's narration of facts in the *1997 Marcos II* case continues, *viz.*:

> The Commissioner of Internal Revenue avers that copies of the deficiency estate and income tax assessments were all personally and constructively served on August 26, 1991 and September 12, 1991 upon Mrs. Imelda Marcos (through her caretaker Mr. Martinez) at her last known address at No. 204 Ortega St., San Juan, M.M. (Annexes 'D' and 'E' of the Petition). Likewise, copies of the deficiency tax assessments issued against petitioner Ferdinand 'Bongbong' Marcos II were also personally and constructively served upon him (through his caretaker) on September 12, 1991, at his last known address at Don Mariano Marcos St. corner P. Guevarra St., San Juan, M.M. (Annexes 'J' and 'J-1' of the Petition). Thereafter, Formal Assessment notices were served on October 20, 1992, upon Mrs. Marcos c/o petitioner, at his office, House of Representatives, Batasan Pambansa, Quezon City. Moreover, a notice to Taxpayer inviting Mrs. Marcos (or her duly authorized representative to counsel), to a conference, was furnished the counsel of Mrs. Marcos, Dean Antonio Coronel — but to no avail.

> The deficiency tax assessments were not protested administratively, by Mrs. Marcos and the other heirs of the late president, within 30 days from service of said assessments.
>
> On February 22, 1993, the BIR Commissioner issued twenty-two notices of levy on real property against certain parcels of land owned by the Marcoses — to satisfy the alleged estate tax and deficiency income taxes of Spouses Marcos.
>
> On May 20, 1993, four more Notices of Levy on real property were issued for the purpose of satisfying the deficiency income taxes.
>
> On May 26, 1993, additional four (4) notices of Levy on real property were again issued. The foregoing tax remedies were resorted to pursuant to Sections 205 and 213 of the National Internal Revenue Code (NIRC).
>
> In response to a letter dated March 12, 1993 sent by Atty. Loreto Ata (counsel of herein petitioner) calling the attention of the BIR and requesting that they be duly notified of any action taken by the BIR affecting the interest of their client Ferdinand 'Bongbong' Marcos II, as well as the interest of the late president — copies of the aforesaid notices were served on April 7, 1993 and on June 10, 1993, upon Mrs. Imelda Marcos, the petitioner, and their counsel of record, 'De Borja, Medialdea, Ata, Bello, Guevarra and Serapio Law Office'.
>
> Notices of sale at public auction were posted on May 26, 1993, at the lobby of the City Hall of Tacloban City. The public auction for the sale of the eleven (11) parcels of land took place on July 5, 1993. There being no bidder, the lots were declared forfeited in favor of the government.
>
> On June 25, 1993, petitioner Ferdinand 'Bongbong' Marcos II filed the instant petition for certiorari and prohibition under Rule 65 of the Rules of Court, with prayer for temporary restraining order and/or writ of preliminary injunction.

The Supreme Court further held in the *1997 Marcos II* case that "the other heirs of [President Marcos Sr.] never questioned the assessments served upon them, allowing the same to lapse into finality" and that the Notices of Levy issued therein "were issued within the prescriptive period and in accordance with the provisions of the present Tax Code." Categorically, the Supreme Court ruled that "**the subject tax assessments having become final, executory and enforceable, the same can no longer be contested by means of a disguised protest**."

Notably, petitioner SMC was not a party to the proceedings leading to the issuance or finality of the 1991 Estate Tax Assessment.[5]

II. Ownership of the SMC Shares and the 2011 Republic case.

On April 12, 2011, the Supreme Court rendered its Decision in *Republic v. Sandiganbayan*[6] (***2011 Republic* case**), ruling that the SMC shares registered in the name of Eduardo M. Cojuangco, Jr. (**Cojuangco**), *et al.*, are their (*i.e.*, Cojuangco, *et al.)* exclusive properties.

Accordingly, the Supreme Court lifted and set aside the Writs of Sequestration earlier issued by the Presidential Commission on Good Government (**PCGG**) over these shares, *i.e.*, the **Cojuangco SMC Shares**. The dispositive portion of the *Decision* reads:

> **WHEREFORE**, the Court dismisses the petitions for certiorari in G.R. Nos. 166859 and 169023; denies the petition for review on certiorari in G.R. No. 180702; and, accordingly, affirms the decision promulgated by the Sandiganbayan on November 28, 2007 in Civil Case No. 0033-F.
>
> The Court declares that the block of shares in San Miguel Corporation in the names of respondents Cojuangco, et al. subject of Civil Case No. 0033-F is the exclusive property of Cojuangco, et al. as registered owners.
>
> Accordingly, the lifting and setting aside of the Writs of Sequestration affecting said block of shares (namely: Writ of Sequestration No. 86-0062 dated April 21, 1986; Writ of Sequestration No. 86-0069 dated April 22, 1986; Writ of Sequestration No. 86-0085 dated May 9, 1986; Writ of Sequestration No. 86-0095 dated May 16, 1986; Writ of Sequestration No. 86-0096 dated May 16, 1986; Writ of Sequestration No. 86-0097 dated May 16, 1986; Writ of Sequestration No. 86-0098 dated May 16, 1986; Writ of Sequestration No. 86-0042 dated April 8, 1986; and Writ of Sequestration No. 87-0218 dated May 27, 1987) are affirmed; and the annotation of the conditions prescribed in the Resolutions promulgated on October 8, 2003 and June 24, 2005 is cancelled.

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5 Docket, p. 248, Order dated April 24, 2025, Stipulation of Facts, par. (11).
6 G.R. Nos. 166859, 169203 & 180702, April 12, 2011 [Per J. Bersamin, *En Banc*].

SO ORDERED.

The present collection efforts of the BIR

On November 5, 2024, SMC received respondent's *Letter* dated October 2, 2024, which expressed that respondent "would like to hear SMC's position on these *various shares of stock,*" in relation to his "duty to collect the taxes under the [1991 Estate Tax Assessment]."[7]

However, the October 2, 2024 *Letter* did not specify which shares of stock were being referred to, and did not enclose a copy of the 1991 Estate Tax Assessment.[8] It was only during the Preliminary Conference held on April 24, 2025 that respondent clarified that these shares purportedly included in the estate tax assessment are the "Cojuangco SMC Shares."[9]

These "Cojuangco SMC Shares," numbering 16,276,879 shares, are the same shares of stock that were claimed by the late Cojuangco and several corporations in Civil Case No. 0033-F before the Sandiganbayan, and which were the subject of the *2011 Republic* case.[10]

On November 14, 2024, SMC responded to the October 2, 2024 *Letter*, stating the following:[11]

> a. SMC's corporate records show that no SMC share of stock has ever been registered in the name of the late President Marcos. Thus, his estate does not own any shares in SMC;
>
> b. Respondent's October 2, 2024 letter did not identify the SMC shares of stock supposedly included in the Estate Tax Assessment. Neither was a copy of the Estate Tax Assessment attached to the October 2, 2024 letter. Thus, SMC was "not given a fair and full opportunity to be heard on the alleged inclusion of SMC shares in the Estate Tax Assessment;"

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7 Petition for Review, par. 10; Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par. (2); Exhibit "P-1", Docket, p. 53.
8 Docket, p. 248, Order dated April 24, 2025, Stipulation of Facts, par. (12).
9 *Id.* at 247, Order dated April 24, 2025, Stipulation of Facts, par. (7).
10 *Id.* at 247, Order dated April 24, 2025, Stipulation of Facts, par. (8).
11 Petition for Review, par. 25; Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par. (3); Exhibit "P-5", Docket, pp. 62–71.

c. The [Cojuangco SMC Shares] are owned by Cojuangco, et al., the CIIF Block of SMC Shares is owned by (and has already been conveyed to) the Government, and the Treasury Shares are owned by SMC;

d. Therefore, these SMC shares of stock were never owned by the late President Marcos and, thus, could not have been properly included in the Estate Tax Assessment;

e. The Estate Tax Assessment can never be considered final as against SMC, which is not bound thereby, as SMC "was never a party to proceedings relating to the Estate Tax Assessment, including the related proceedings before the Supreme Court (in Marcos II vs. Court of Appeals), and thus, "jurisdiction was never acquired over SMC in relation to the Estate Tax Assessment;"

f. Therefore, the Estate Tax Assessment "cannot be enforced by levy, distraint, or otherwise against shares in SMC," and "(n)either SMC nor any owner of shares in SMC should in any way be prejudiced by (the BIR's) efforts to collect taxes;" and

g. Under the Estate Tax Assessment, for, as the Supreme Court stressed in its October 5, 2016 Resolution, 'no man shall be affected by any proceeding to which he is a stranger, and strangers to a case are not bound by a judgment rendered by the court."

Subsequently, on November 19, 2024, respondent replied, emphasizing the following:

a. The 1991 Estate Tax Assessment had already become final and unappealable;
b. The Supreme Court, in the *1997 Marcos II* case, declared that the deficiency tax assessment can now be collected through summary remedies such as distraint or levy;[12]
c. The subject SMC shares are included in the 1991 Estate Tax Assessment; and
d. The letter serves as respondent's Final Decision on the matter.

Again, no copy of the 1991 Estate Tax Assessment was attached.[13]

On December 17, 2024, SMC requested a copy of the 1991 Estate Tax Assessment from respondent.[14] Petitioner alleges that respondent did not respond to the request.[15]

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[12] Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par. (4).
[13] Docket, p. 248, Order dated April 24, 2025, Stipulation of Facts, par. (18); Exhibit "P-6", Docket, p. 72.
[14] Docket, p. 248, Order dated April 24, 2025, Stipulation of Facts, par. (14); Exhibit "P-7", Docket, pp. 73–74.
[15] Petition for Review, par. 10.3.

PROCEEDINGS BEFORE THE COURT

On December 19, 2024, petitioner filed the instant *Petition for Review.*[16]

On January 6, 2025, petitioner filed an *Urgent Motion for Reassessment of Filing Fees,*[17] which the Court granted in its *Resolution* dated January 24, 2025.[18] In the same *Resolution,* the Court also determined that what petitioner filed is a Petition for Prohibition under Section 2, Rule 65 of the Rules of Court, over which the Court has jurisdiction.

Pursuant to the reassessment, petitioner filed its *Compliance* on February 6, 2025.[19]

On March 3, 2025, respondent filed his *Comment/Opposition.*[20]

In a *Resolution* dated April 7, 2025,[21] the Court set the case for preliminary conference on April 24, 2025, upon finding that the case likewise involves questions of fact. Prior thereto, *Respondent's Preliminary Conference Brief* was filed on April 23, 2025,[22] while petitioner filed its *Preliminary Conference Brief* on April 24, 2025.[23]

During the preliminary conference, the parties stipulated on facts and issues.[24] The Court likewise noted that there was no dispute as to the attendant facts and the existence, genuineness, and due execution of the documents listed in the parties' respective *Preliminary Conference Briefs.* Therefore, the Court dispensed with the reception of testimonial evidence.[25]

On May 5, 2025, respondent elevated the BIR Records of the case, consisting of 189 pages in one folder.[26]

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16 Docket, pp. 5–47.
17 *Id.* at 129–136.
18 *Id.* at 145–158, Resolution dated January 24, 2025.
19 *Id.* at 159–161.
20 *Id.* at 178–201.
21 *Id.* at 206–211.
22 *Id.* at 212–216.
23 *Id.* at 222–243.
24 *Id.* at 246–251, Order dated April 24, 2025.
25 *Id.* at 246–251; Order dated April 24, 2025.
26 *Id.* at 254–256, Compliance dated April 30, 2025.

Respondent filed his *Memorandum* on May 28, 2025[27] while petitioner filed its *Memorandum* on June 3, 2025.[28]

The case was deemed submitted for decision on June 11, 2025.[29]

THE ISSUES

The parties have stipulated the following issues for the Court's resolution, *viz.*:[30]

> WHETHER RESPONDENT IS ACTING WITHOUT JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, BY PROCEEDING AGAINST "VARIOUS SHARES OF STOCKS IN SAN MIGUEL CORPORATION" INCLUDING THE COJUANGCO, ET AL. SMC SHARES TO COLLECT TAXES DUE UNDER THE SUBJECT ESTATE TAX ASSESSMENT
>
> - and -
>
> WHETHER THE ESTATE TAX ASSESSMENT WITH ASSESSMENT NO. FAC-2-89-91-002464 IS VOID

PETITIONER'S ARGUMENTS

In its *Petition for Review* and *Memorandum*, petitioner alleges that the CIR acted without or in excess of jurisdiction and with grave abuse of discretion when, in computing the estate tax, he included in the gross estate properties not owned by the decedent. Petitioner adds that if respondent enforces the collection of the estate tax against properties owned by third parties, he likewise acts without or in excess of his jurisdiction and with grave abuse of discretion.

Petitioner underscores that the Cojuangco SMC Shares, along with other properties included in the gross estate of President Marcos, Sr., were never owned by the decedent. It also states that it was neither notified of, nor given the opportunity to be heard in, proceedings related to the 1991 Estate Tax Assessment. Accordingly, it is petitioner's argument that the Estate Tax Assessment cannot be enforced against SMC and

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27 *Id.* at 286–313.
28 *Id.* at 319–343.
29 *Id.* at unpaged.
30 *Id.* at 249, Order dated April 24, 2025.

Cojuangco, *et al.*, without violating their respective constitutional rights to due process.

Petitioner also assails the validity of the estate tax assessment, citing exceptions to the doctrine of finality or immutability of judgments. It asserts that the 1991 Estate Tax Assessment is void or "fraught with fatal infirmity". It points out that the assessment was conducted without a valid Letter of Authority (**LOA**) and that the assessment included properties in the gross estate even if these were not owned by President Marcos, Sr. It states that a decision "rendered in violation of a party's fundamental right to due process" is considered "void for lack of jurisdiction." It also argues that "it stands to be affected by the [1991 Estate Tax Assessment] because of the obligations it is required to assume and the actions it must undertake in respect of the notice of distraint and levy," and therefore has standing to invoke the nullity of the said assessment.

RESPONDENT'S ARGUMENTS

In his *Comment* and *Memorandum*, respondent asserts that the collection of deficiency estate tax based on the final estate tax assessment is lawful and in accordance with the NIRC. According to respondent, given the finality of the assessment as affirmed in the *1997 Marcos II* case, "all that is left is the execution of judgment in accordance with Rule 39 of the Rules of Court."

Anent petitioner's allegation of denial of due process, respondent counter-argues that no such denial of petitioner's due process right occurred, as a tax lien has already been imposed on the Cojuangco SMC Shares.

Respondent also maintains the validity of the 1991 Estate Tax Assessment, asserting that it has become final, executory, and demandable as declared in the *1997 Marcos II* case due to the "failure to protest and question the validity of the assessment at the very first instance."

Regarding his collection efforts, respondent contends that proceeding against Cojuangco SMC Shares included in the gross estate is proper, citing the lifeblood doctrine and the presumption of regularity in the performance of duties afforded to revenue officers and the CIR.

THE COURT'S RULING

The instant *Petition for Review* is partly meritorious.

The Court has jurisdiction over the instant case.

At the outset, the Court must first resolve the threshold issue of jurisdiction.

In its *Resolution* dated January 24, 2025, the Court categorically ruled that *first*, the pleading filed by petitioner is, in substance, a Petition for Prohibition under Section 2, Rule 65 of the Rules of Court; *second*, the CTA has jurisdiction over special civil actions filed under Rule 65; and *third*, a Petition for Prohibition is proper under the factual circumstances of this case. All requisites being present, the Court finds that it has jurisdiction over the instant Petition pursuant to its special and appellate jurisdiction under Section 7 of Republic Act No. 1125, as amended by Republic Act Nos. 9282 and 9503.

As explained in the January 24, 2025 Resolution:

> It is a settled rule that what determines the nature of the action and which court has jurisdiction over it are the allegations of the petition and the character of the relief sought. The cause of action in a petition is not determined by the designation given to it by the parties. The allegations in the body of the petition define or describe it. The designation or caption is not controlling more than the allegations in the petition. It is not even an indispensable part of the petition.
>
> In this case, while the petition is captioned as "Petition for Review," an examination of petitioner's allegations, arguments, and relief sought reveals that it is actually a "Petition for Prohibition," to wit:
>
> ...
>
> **II.**
> **NATURE OF THE PETITION**
>
> 3. This is a Petition for Review under Sections 7(a)(1) and 11 of Republic Act No. 1125 (as amended by R.A. Nos. 9282 and 9503), in relation to Section 3(a)(1), Rule 4, and Section 2, Rule 6 of the 2005 Revised Rules of the Court of Tax Appeals, which seeks: (a) to **annul, reverse, and set aside the proceeding which**

> **Respondent suddenly initiated against SMC this year in relation to his enforcement of the Estate Tax Assessment**; and (b) that **judgment be rendered commanding the Respondent to cease and desist from further enforcing the Estate Tax Assessment against SMC**, including but not limited to, Respondent's threatened distraint of unspecified SMC's shares of stock.
>
> 4. Originals bearing the official seal and sticker of the Bureau of Internal Revenue of the 2 October 2024 and 19 November 2024 letters which Respondent wrote to SMC in relation to the enforcement of the Estate Tax Assessment and which (as regards the 19 November 2024 letter) Respondent characterized as a so-called **"Final Decision"** which SMC could appeal to this Honorable Court within thirty (30) days, are attached hereto as Exhibits **"P-1"** and **"P-6"**.
>
> 5. **The enforcement of the Estate Tax Assessment as against SMC is being done in disregard of the law, without jurisdiction and with grave abuse of discretion amounting to lack or excess of jurisdiction**, because the late President Marcos never owned any shares of stock in SMC and therefore, "shares of stock in San Miguel Corporation ('SMC')" could not legally be included in his estate, and the Estate Tax Assessment cannot be enforced, by way of the "summary remedy" of "distraint of personal property," against any shares of stock in SMC. Moreover, **enforcing the Estate Tax Assessment against SMC violates its right not to be deprived of its property without due process of law**, as SMC was never a party to proceedings relating to the issuance of the Estate Tax Assessment.
>
> 6. In cases within its appellate jurisdiction, this Honorable Court has the power to **determine whether the Respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction**.

The core issue revolves around petitioner's direct challenge to the validity of respondent's assailed Decision, which declares it as respondent's "final decision" to collect the taxes due under the Estate Tax Assessment against the Marcos Estate.

A perusal of the assailed Decision reveals that it reflects respondent's interpretation of the Supreme Court's ruling in *Marcos II*, specifically asserting that the Estate Tax Assessment has become final and unappealable, and that the SMC shares of stock are included in the Estate Tax Assessment and subject to collection through the summary remedy of distraint under Section 207(A) of the NIRC of 1997, as amended, *viz*:

...

Gentlemen:

> We received your letter dated November 14, 2024 written on behalf of your client, San Miguel Corporation ("SMC"), explaining your client's position on "various shares of stock in (SMC) which were the subject of writs of sequestration issued by the Presidential Commission on Good Government ['PCGG'] in 1986," in relation to the efforts of this Office to collect the taxes due under Assessment Notice No. FAC-2-89-91-002464 (the "Estate Tax Assessment") against the estate of the late President Ferdinand E. Marcos in the amount of Twenty-Three Billion Two Hundred Ninety-Three Million Six Hundred Seven Thousand Six Hundred Thirty-Eight Pesos (PH[P] 23,293,607,638.00).
>
> As we previously pointed out, pursuant to the Supreme Court's decision in *Marcos II v. Court of Appeals*, **the Estate Tax Assessment has already become final and unappealable**. Moreover, **it was the Supreme Court itself which declared without any qualification that "the deficiency tax assessment can now be collected through the summary remedy for distraint or levy pursuant to Section 205 of the NIRC."**
>
> It is simply beyond the power of this Office to disobey the Supreme Court or to refuse to **proceed against assets which are clearly included in an Estate Tax Assessment which has attained finality**. The law compels the undersigned to avail himself of all remedies, summary or otherwise, to collect taxes due to the Government under the Estate Tax Assessment which has remained unpaid for decades already. **The SMC Shares are undoubtedly included in the final Estate Tax Assessment, not exempt from applicable provisions of the National**

> **Internal Revenue Code (Section 207 [A]), and the power of this Office to pursue all means to legally collect internal revenue taxes.** In this regard, and in consonance with the aforestated pronouncement of the Supreme Court, **this is my Final Decision on the matter**. If you disagree, you may appeal this Final Decision with the Court of Tax Appeals within thirty days from receipt hereof, otherwise, the subject SMC shares shall be distrained following the procedure laid down in Section 208 of the National Internal Revenue Code of 1997, as amended.
>
> ...

From the foregoing, the assailed Decision can be likened to a Bureau of Internal Revenue (**BIR**) Ruling, which is considered as the official position of the BIR to queries raised by taxpayers and other stakeholders relative to clarification and interpretation of tax laws. The primary purpose of a BIR Ruling is simply to determine whether a certain transaction, under the law, is taxable or not based on the circumstances provided by the taxpayer.

As held in *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation* (**PSPC**), what sets apart BIR Rulings from other issuances of the BIR is that it relates to a particular taxpayer's set of facts and circumstances and a consequent determination of taxability or tax exemption, when applicable. In this regard, it is readily apparent that the tenor and wording of respondent's assailed Decision qualify it as a BIR Ruling. Although the question on whether the SMC shares of stock are included in the Estate Tax Assessment and therefore, the proper subject of the remedy of distraint, originated from the CIR himself and not the taxpayer in this case, the clarificatory or interpretative nature of the assailed Decision concerning the enforcement of the Estate Tax Assessment and related proceedings against petitioner and its shares of stock allegedly included in the Marcos Estate remains. Consequently, the assailed Decision effectively constitutes a BIR ruling issued against petitioner.

It is worth noting that in *Banco De Oro, et al. v. Republic of the Philippines, et al.* (**Banco De Oro**), the Supreme Court definitively settled that the CTA has jurisdiction over challenges to the validity of tax issuances, such as a BIR Ruling. To recount, in *Banco De Oro*, the Court held that the CTA's power to issue writs of *certiorari* in order to strike down tax issuances is inherent in the exercise of its appellate jurisdiction as derived from the CTA Law, which — being the

special and later law — should take precedence over the general provisions of Batas Pambansa (**BP**) Bilang 129, *viz*:

> ...
>
> This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases **directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings)**.
>
> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.
>
> In other words, within the judicial system, **the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.**
>
> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, **actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals**.
>
> ...

Here, petitioner, in its Petition for Review, directly challenged the validity of respondent's assailed Decision, alleging, among others, that respondent acted unlawfully, in violation of its constitutional right not to be deprived of property without due process of law, without jurisdiction, and with grave abuse of discretion when he decided to proceed against unspecified SMC shares of stock to collect taxes due under the Estate Tax Assessment. Thus, following the rule that jurisdiction is determined by the allegations of the

initiatory pleading[31], this necessarily falls within the ambit of this Court's *certiorari* jurisdiction as pronounced in the *Banco De Oro* ruling.

Ordinarily, in matters concerning tax issuances, such as BIR Rulings, the power of CIR to interpret provisions of the NIRC of 1997, as amended, and other tax laws is subject to the administrative remedy of direct review by the Secretary of Finance (**SOF**). Failure to elevate the matter to the SOF constitutes a violation of the doctrine of exhaustion of administrative remedies. However, as similarly held in *PSPC*, exceptions to this doctrine include instances where the issue involved is purely legal and there is an urgent need for judicial intervention, to wit:

> ...
>
> "Under the doctrine of exhaustion of administrative remedies, recourse through court action cannot prosper until after all such administrative remedies have first been exhausted. If remedy is available within the administrative machinery, this should be resorted to before resort can be made to courts. It is settled that non-observance of the doctrine of exhaustion of administrative remedies results in lack of cause of action, which is one of the grounds in the Rules of Court justifying the dismissal of the complaint." As case law illumines, the rule on exhaustion of administrative remedies emanates from the policy of allowing administrative agencies to tackle matters within the specialized areas of their respective competence, which, in turn, is based on comity and convenience.
>
> In the matter of tax issuances, such as BIR Rulings, the power of the CIR to interpret the provisions of the Tax Code and other tax laws is subject to the administrative remedy of a direct review of the Secretary of Finance (SOF). Failure to raise the matter to the SOF constitutes a violation of the exhaustion doctrine.
>
> The doctrine of exhaustion of administrative remedies, however, admits of certain exceptions. With respect to challenges against tax issuances, *Banco De Oro* recognized the following exceptions: "[the] question involved is **purely legal**; the **urgency of judicial**

[31] "[J]urisdiction is conferred by law and determined from the nature of action pleaded as appearing from the material averments in the complaint and the character of the relief sought." (*Teresa R. Ignacio, represented by her Attorney-in-Fact, Roberto R. Ignacio v. Office of the City Treasurer of Quezon City, et al.*, G.R. No. 221620, 11 September 2017).

> **intervention** ...; and the futility of an appeal to the Secretary of Finance as the latter appeared to have adopted the challenged Bureau of Internal Revenue rulings." This was reiterated more recently by the Court in *Association of Non-Profit Clubs, Inc. v. Bureau of Internal Revenue*, when it allowed a direct challenge to the tax issuance assailed therein on the ground that "the issue involved is purely a legal question ..., or when there are circumstances indicating the urgency of judicial intervention."
>
> Indeed, the validity of Document No. M-059-2012 is clearly a legal question that is best left for the courts to resolve. Furthermore, the necessity of judicial intervention was shown when the CTA granted the Suspension Orders through its October 22, 2012 and July 15, 2013 Resolutions. In fact, this Court itself recognized the urgency of judicial intervention when it issued its July 7, 2014 TRO. As such, the above-exceptions to the exhaustion doctrine similarly attend in this case.
>
> ...

Similar to *PSPC*, the issue on the validity of respondent's assailed Decision, *i.e.*, whether respondent has the authority to collect the final and executory Estate Tax Assessment against petitioner, presents a purely legal question best suited for this Court's resolution. Furthermore, as petitioner alleges grave abuse of discretion on respondent's part in issuing the assailed Decision, the relief sought is to prohibit respondent from initiating actions or pursuing remedies to enforce the Estate Tax Assessment referenced therein against petitioner and its shares of stock allegedly included in the Marcos Estate. The essence of this petition, therefore, properly falls within the scope of a Petition for Prohibition.

Section 2, Rule 65 of the ROC defines a "Petition for Prohibition" as follows:

SECTION 2. *Petition for Prohibition.* — **When the proceedings** of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, **are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty

> and **praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require**.
>
> Clearly from the foregoing definition, it is evident that petitioner's allegations fall squarely within the parameters of a Petition for Prohibition as outlined under Section 2, Rule 65 of the ROC. Petitioner claims that respondent acted without jurisdiction, in excess of jurisdiction, and with grave abuse of discretion amounting to lack or excess of jurisdiction in proceeding against the unspecified SMC shares of stock for the satisfaction of the Estate Tax Assessment.
>
> The Petition for Prohibition is appropriate in cases where a tribunal, board, officer, or person has acted without or in excess of jurisdiction, or with grave abuse of discretion, and when there is no other plain, speedy, and adequate remedy available in the ordinary course of law. In the case at bar, petitioner has demonstrated that the matter involves a purely legal question concerning the legality of enforcing the Estate Tax Assessment against unspecified SMC shares of stock allegedly included in the Marcos Estate. The urgency of judicial intervention is further underscored by petitioner's assertion that enforcement efforts would unduly violate its constitutional right not to be deprived of property without due process of law.
>
> Moreover, the unavailability of any other adequate administrative remedy strengthens the propriety of the instant Petition for Prohibition. The circumstances reveal that direct recourse to this Court is justified under the recognized exceptions to the doctrine of exhaustion of administrative remedies, as the issues involved are purely legal, and judicial intervention is necessary to prevent further irreparable harm. (*Citations omitted*)

As discussed in the above *Resolution*, petitioner's allegations fall squarely within the purview of a Petition for Prohibition. Petitioner contends that respondent is acting without or in excess of jurisdiction, and with grave abuse of discretion, in attempting to enforce the Estate Tax Assessment against SMC shares. Further, petitioner has no plain, speedy, or adequate remedy in the ordinary course of law.

Petitioner's counsel confirmed this characterization during the Preliminary Conference held on April 24, 2025:[32]

[32] Transcript of Stenographic Notes (TSN) of the Preliminary Conference dated April 24, 2025, pp. 22–23.

JUSTICE VILLENA:

Atty. Mendoza, also from your end, what is your comment to the manifestations earlier made by Atty. Velasco, as to the issues to be resolved?

ATTY.MENDOZA:

Yes, your Honor, as we stated in our Petition, our prayer has to do with preventing the implementation of the Estate Tax Assessment with respect to the alleged various shares of stock in San Miguel Corporation, which are claimed to have been included in the Estate Tax Assessment. That's why, as correctly ruled by the Honorable Court, it is in the nature of a prohibition.

Having established that the present action is a Petition for Prohibition, the Court now determines its timeliness.

Under Section 4, Rule 65 of the Rules of Court, a petition must be filed within sixty (60) days from notice of the judgment or final action assailed, *viz.*:

> Section 4. When and where to file the petition. – **The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution.** In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.

Petitioner received respondent's *Letter* dated November 19, 2024, on the same date.[33] Notably, respondent explicitly mentioned that it is his final decision on the matter, appealable to the CTA. The instant petition was filed on **December 19, 2024,** well within the 60-day period. Thus, it is timely.

Having established the jurisdiction of the Court on the instant *Petition*, the Court now proceeds to resolve the merits judiciously.

[33] Order dated April 24, 2025, Stipulation of Facts, par (4), Docket, p. 247.

The 1991 Estate Tax Assessment has become final and executory.

The deficiency estate tax assessment issued in 1991, imposing a total estate tax liability of **₱23,293,607,638** upon the Marcos Estate, has long attained finality.

A. The doctrine of immutability of judgments applies.

Petitioner now seeks to challenge the validity of the 1991 Estate Tax Assessment, invoking exceptions to the doctrine of finality or immutability of judgments. Petitioner argues that the assessment is void or "fraught with fatal infirmities," citing the absence of a valid LOA and the inclusion of properties allegedly not owned by the late President Ferdinand Marcos, Sr. Petitioner states that a decision "rendered in violation of a party's fundamental right to due process" is considered "void for lack of jurisdiction."

Respondent, however, maintains that the assessment has long become final pursuant to the *1997 Marcos II* case, and "all that is left is the execution of judgment in accordance with Rule 39 of the Rules of Court."

Notably, respondent's oral statements in open court, particularly during the Preliminary Conference, appear inconsistent with their categorical position in the pleadings. Despite asserting that the *1997 Marcos II* case has become final and executory, respondent and his counsels conceded in open court that the Court may still rule on the validity of the 1991 Estate Tax Assessment, *viz.*:[34]

> JUSTICE DEL ROSARIO:
>
> Do you think it is fair to include in the estate properties not in the name of the decedent?
>
> ATTY. VELASCO:
>
> No, your Honors.

[34] *Id.* at 33–35.

JUSTICE DEL ROSARIO:

It's not fair, right? Now, if we exclude properties not in the name of the decedent, would it not by itself result in the nullification of the Assessment itself?

ATTY. VELASCO:

It is highly likely, your Honors. That's why we included it as an issue.

... ...

JUSTICE DEL ROSARIO:

How about the total computation? Is it not that when you exclude properties of third parties, the computation of the Assessment would necessarily be altered because according to the Marcos doctrine, "An Assessment involving an estate is an imminent proceedings". You're familiar with that also? This is an imminent proceedings, it is an action against the estate, and not against any particular person. Do you agree with that?

ATTY. VELASCO:

Yes, your Honors.

JUSTICE DEL ROSARIO:

Going back to that point, if we exclude all these properties not in the name of the decedent, would it not result in a substantial reduction also of the computation of the tax?

ATTY. VELASCO:

Yes, your Honors. And again, **it highlights or it questions the inherent validity of the Assessment**.

JUSTICE DEL ROSARIO:

Yes, it touches into the inherent validity of the Assessment.

ATTY. VELASCO:

Yes, your Honors. (*Emphasis and underscoring supplied*)

Of even greater consequence are the statements made by the CIR himself, who personally appeared during the Preliminary Conference, *viz.*:[35]

> JUSTICE DEL ROSARIO:
>
> By the way, this is a very rare instance that the Commissioner himself appears in proceeding like this. May I know from the Commissioner, if he would like to say anything for the consideration of the Court in today's hearing? Since I assume my post, there has been no instance yet. So, we welcome or acknowledge the presence of the Commissioner.
>
> HON. LUMAGUI:
>
> Thank you, your Honors.
>
> Well again, as mentioned by the Presiding Justice, this case is of public interest. That's why we're also very much interested in the proper resolution of this case. And since there is, as mentioned a while ago, there is already a final assessment that has been issued. And we're now duty bound to execute, that's why we're executing a proceeding against the assets enumerated in the Assessment. **Now, whether or not that's proper or not, I think the ultimate issue is whether or not the Assessment is valid or void because if the Assessment is valid, then, even the San Miguel shares, even if they're not in the name of late Marcos, we have the right to collect those shares because it's listed there. And, it cannot be piecemeal, like we declare it void insofar as these assets [are concerned] because I think we should, it is our position that as long as the Assessment is ruled to be valid, then regardless of any error indicated in the Assessment will stand**. Like for example, we issue an Assessment, the taxpayer fails to appeal, and there are certain items income, VAT, withholding. No matter how erroneous the Assessment is with respect to a particular item in the Assessment, as long as the Court declares that the validity stands, and the finality of the Assessments stands, still we have to collect regardless of whether or not the Assessment is erroneous. **That's why the ultimate issue is we have to really know whether the Assessment is valid or not before we can even talk about excluding a particular item in the Assessment, so that is our position.** Again, the issue of the petitioner, whether or not there's grave abuse of discretion on our part will ultimately depend on the resolution of the validity of the Assessment because, if again, the Assessment is ruled to be valid, then there's no grave abuse of discretion on our part in levying on the San Miguel shares. So, that is our position, and I think last matter, your Honors, I think there's

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[35] *Id.* at 52–54.

yet to be discussed if there's a need to present witnesses. I think I don't know if that has been dispensed already. (*Emphasis and underscoring supplied*)

In open court, the CIR declared that the Court "still has jurisdiction to make a determination, as to whether [the 1991 Estate Tax Assessment] is intrinsically void, *viz.*:[36]

JUSTICE DEL ROSARIO:

As of the moment, there has already been an admission. The petitioner has admitted already, the existence, genuineness, and due execution of the Assessment.

By the way, you were talking about with the Assessment case is valid, do you have to collect? And since I understand the Commissioner were even among the Bar Topnotchers when you took the Bar, would you confirm that the Court still has jurisdiction to make a determination, the stage of execution of a final executory judgement as to whether an Assessment is intrinsically void?

HON. LUMAGUI:

Yes, your Honors. Two points, your Honors, with respect to that issue. First, is an Assessment. **If it's inherently void can be attacked that, even collaterally, or any, if it's declared to be void. Number 2, on the Marcos estate Supreme Court decision, the issue there was collection. The validity of the Assessment was just a, well, for me it's really an obiter dictum because it was never part of the issue that was resolved in that proceeding because the issue there was whether or not the BIR can collect on the estate. And, if you look at the Supreme Court decision, there's even a statement there that the petitioner then, the Marcos estate did not question the validity of the Assessment.** That's why, again, proceeding from that argument or scenario, if the Assessment is not attacked, definitely, we have the right to collect. That's what happened in the Supreme Court decision. Thus, the Supreme Court affirmed the BIR's right to collect because the Assessment or the validity of the Assessment was never put to issue in that case. So, any statement made by the Supreme Court there as regards the validity of the Assessment or finality of the Assessment is an obiter because it was not an issue. If you look at the, your Honors, respectfully the statement of the issues there, it was not part of the issue. But again, even if it's not obiter, the main issue there was collection. And in this case, we're trying to collect and we're going to see whether the Assessment is valid or void. Then,

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[36] *Id.* at 52–54.

definitely this Court has jurisdiction, still rule on that particular issue, your Honors.

JUSTICE DEL ROSARIO:

The matter of evaluating whether the Assessment is valid or void is based on jurisprudence. Only to the effect that, there can be no execution of a final and executory assessment if it is fraught with fatal infirmity. The determination of the Court is only to the extent that the Court would examine whether the Assessment itself is inherently void. And thus, admitted by your co-counsel, there was no Letter of Authority involving this case, and there are third party properties that was included in the Assessment. And according to your counsel, situations like this may result in a finding that the Assessment itself is inherently void. I think there is no question to that, we just have to evaluate again the respective positions of the parties.

Thank you so much, Commissioner.

HON. LUMAGUI:

Yes, your Honors. Thank you, your Honors. (*Emphasis and underscoring supplied*)

Respondent and his counsel appeared amenable to the notion that the 1991 Estate Tax Assessment might be void, thereby effectively allowing petitioner to belatedly assail its validity. This posture runs counter to the Supreme Court's own edict in the *1997 Marcos II* case.[37] Accordingly, despite the foregoing statements, the Court rules that the validity of the 1991 Estate Tax Assessment stands.

It is a well-established rule that a judgment, once it has attained finality, can never be altered, amended, or modified, even if the alteration, amendment, or modification is to correct an erroneous of judgment. This is the principle of immutability of judgments — to put an end to what would be an endless litigation. *Interest reipublicae ut sit finis litium.* In the interest of society as a whole, litigation must come to an end.[38]

The Supreme Court exhaustively explained this doctrine in *Spouses Tabalno v. Dingal, Sr.* (*Spouses Tabalno*),[39] *viz.*:

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37 *Id.* at 33–35.

38 *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66*, G.R. No. 161282, February 23, 2011 [Per J. Mendoza, Second Division], cited in *Republic v. Heirs of Gotengco*, G.R. No. 226355, January 24, 2018 [Per J. Gesmundo, Third Division].

39 G.R. No. 191526, October 5, 2015 [Per J. Brion, Second Division].

> The principle of immutability of a final judgment stands as one of the pillars supporting a strong, credible, and effective court. The principle prohibits any alteration, modification, or correction of final and executory judgments as what remains to be done is the purely ministerial enforcement or execution of the judgment.
>
> On this point, the Court has repeatedly declared:
>
> > It is a hornbook rule that once a judgment has become final and executory, it may no longer be modified in any respect, even if the modification is meant to correct 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, as what remains to be done is the purely ministerial enforcement or execution of the judgment.
> >
> > The doctrine of finality of judgment is grounded on fundamental considerations of public policy and sound practice that at the risk of occasional errors, the judgment of adjudicating bodies must become final and executory on some definite date fixed by law. [. . .], the Supreme Court reiterated that the doctrine of immutability of judgment is adhered to by necessity notwithstanding occasional errors that may result thereby, since litigations must somehow come to an end for otherwise, it would be even more intolerable than the wrong and injustice it is designed to protect.
>
> Once a judgment is issued by the court in a case, and that judgment becomes final and executory, the principle of immutability of judgments automatically operates to bar any modification of the judgment. The modification of a judgment requires the exercise of the court's discretion. At that stage — when the judgment has become final and executory — the court is barred from exercising discretion on the case; the bar exists even if the modification is only meant to correct an erroneous conclusion of fact or law as these are discretionary acts that rest outside of the court's purely ministerial jurisdiction. (*Citations omitted*)

The doctrine of immutability of judgments exists to: (1) avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business, and (2) put an end to judicial controversies, at the risk of

occasional errors, which is precisely why courts exist.[40] Indeed, to rule otherwise would trivialize the time-honored principle of procedural law.[41]

As held in *Spouses Tabalno* case, the doctrine presupposes the existence of **a final and executory judgment**. Where no such final and executory judgment exists — because the case is still under review by the appellate or higher court or there still are incidental matters under consideration by the court — the doctrine does not apply. In such cases, the court retains its plenary power not only to modify its judgment, but also to address all matters incidental to the case.

In this case, respondent invokes the *1997 Marcos II Decision*, promulgated on June 5, 1997, which affirmed the Court of Appeals' *Decision* dated November 29, 1994. The dispositive portion of the Supreme Court *Decision* reads:

> IN VIEW WHEREOF, the Court RESOLVED to DENY the present petition. The Decision of the Court of Appeals dated November 29, 1994 is hereby AFFIRMED in all respects.
>
> SO ORDERED.

On March 9, 1999, the *Decision* became final and executory upon the *Entry of Judgment* by the Supreme Court, which expressly stated that it was "hereby recorded in the Book of Entries and Judgments."

With the finality of the *1997 Marcos II* case, the Supreme Court's pronouncements regarding the validity of the estate tax assessment have likewise become **final, conclusive, and binding**. Accordingly, the doctrine of immutability of judgments fully applies, and execution follows as a necessary consequence.

However, the doctrine of immutability of judgments admits certain exceptions: (1) the correction of clerical errors; (2) the so-called *nunc pro tunc* entries, which cause no prejudice to any party; (3) void judgments; and (4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.[42]

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[40] *Apo Fruits Corporation, et al. v. Land Bank of the Philippines*, G.R. No. 164195 (Resolution), April 5, 2011 [Per J. Brion, *En Banc*].
[41] *Republic v. Heirs of Gotengco*, G.R. No. 226355, January 24, 2018 [Per J. Gesmundo, Third Division].
[42] *Commissioner of Internal Revenue v. Script2010, Inc.*, G.R. No. 266641, February 17, 2025 [Per J. Caguioa, Third Division]; *Republic v. Heirs of Gotengco*, G.R. No. 226355, January 24, 2018 [Per J. Gesmundo, Third Division]

Petitioner invokes the third exception, arguing that the 1991 Estate Tax Assessment is void, having been issued without a valid LOA and including properties allegedly not owned by President Marcos, Sr. Petitioner contends that a decision rendered in violation of due process is void for lack of jurisdiction.

The Court finds this argument insufficient to override the doctrine of immutability. As held in *Mendoza v. Fil-Homes Realty Development Corporation*,[43] "under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law."

Although petitioner does not expressly invoke the fourth exception, the Court finds it relevant to briefly address the same. Petitioner may argue that the *2011 Republic* case, which ruled that the SMC Shares are the exclusive property of Cojuangco, et al., constitutes a **supervening event** that renders execution unjust and inequitable. The argument follows that, since the shares were erroneously included in the gross estate, it would be unjust for the Marcos Estate to pay tax on properties not forming part of the estate.

This argument, however, is likewise unavailing. While the exclusion of the Cojuangco SMC Shares may indeed have legal basis following the subsequent ruling of the Supreme Court in the *2011 Republic* case, the Court notes that petitioner is neither a party to the 1991 Estate Tax Assessment nor possesses legal standing to question the validity of the estate tax assessment or the inclusion of the shares in the gross estate. **It is neither the taxpayer (Marcos Estate), its duly authorized representative as contemplated under the law, nor the owner of the subject shares (Cojuangco, et al.)**.

Thus, even assuming that the Supreme Court erred in its ruling in the *1997 Marcos II* case, particularly with respect to the computation of the estate tax liability, this Court is without authority to modify or reverse the high court's determination on the validity of the estate tax assessment, in view of the doctrine of immutability of judgments. If any, the supervening event of

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citing *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66, et al.*, G.R. No. 161282, February 23, 2011 [Per J. Mendoza, Second Division].

[43] G.R. No. 194653, February 8, 2012 [Per J. Reyes, Second Division], cited in *Re: Adoption of Karen Herico Licerio*, G.R. No. 208005, November 21, 2018 [Per J. A. Reyes, Jr., Second Division].

the *2011 Republic* decision may only affect, **upon proper action by a party with legal standing,** the computation of the gross estate and, consequently, the amount of the estate tax liability, but not the validity of the original estate tax assessment.

Moreover, the statements of respondent and his counsel in open court, that the Court still has the authority to determine the validity of the 1991 Estate Tax Assessment, are legally untenable. Their legal opinions are not binding on this Court and cannot override settled doctrine.

With this, the following pronouncements of the Supreme Court in the *1997 Marcos II* case stand, *viz.*:

> If there is any issue as to the validity of the BIR's decision to assess the estate taxes, this should have been pursued through the proper administrative and judicial avenues provided for by law.
>
> Section 229 of the NIRC tells us how:
>
> ... ...
>
> Apart from failing to file the required estate tax return within the time required for the filing of the same, **petitioner, and the other heirs never questioned the assessments served upon them, allowing the same to lapse into finality, and prompting the BIR to collect the said taxes by levying upon the properties left by President Marcos.**
>
> ... ...
>
> The omission to file an estate tax return, and the subsequent failure to contest or appeal the assessment made by the BIR is fatal to the petitioner's cause, as under the above-cited provision, in case of failure to file a return, the tax may be assessed at any time within ten years after the omission, and any tax so assessed may be collected by levy upon real property within three years following the assessment of the tax. **Since the estate tax assessment had become final and unappealable by the petitioner's default as regards protesting the validity of the said assessment, there is now no reason why the BIR cannot continue with the collection of the said tax**. Any objection against the assessment should have been pursued following the avenue paved in Section 229 of the NIRC on protests on assessments of internal revenue taxes.
>
> **Moreover, these objections to the assessments should have been raised, considering the ample remedies**

afforded the taxpayer by the Tax Code, with the Bureau of Internal Revenue and the Court of Tax Appeals, as described earlier, and cannot be raised now via Petition for Certiorari, under the pretext of grave abuse of discretion. The course of action taken by the petitioner reflects his disregard or even repugnance of the established institutions for governance in the scheme of a well-ordered society. The subject tax assessments having become final, executory and enforceable, the same can no longer be contested by means of a disguised protest. In the main, Certiorari may not be used as a substitute for a lost appeal or remedy. This judicial policy becomes more pronounced in view of the absence of sufficient attack against the actuation of government.

On the matter of **sufficiency of service of Notices of Assessment to the petitioner**, we find the respondent appellate court's pronouncements sound and resilient to petitioner's attacks.

> "Anent grounds 3(b) and (B) — both alleging/claiming lack of notice — We find, after considering the facts and circumstances, as well as evidences, that there was sufficient, constructive and/or actual notice of assessments, levy and sale, sent to herein petitioner Ferdinand "Bongbong" Marcos as well as to his mother Mrs. Imelda Marcos.
>
> Even if we are to rule out the notices of assessments personally given to the caretaker of Mrs. Marcos at the latter's last known address, on August 26, 1991 and September 12, 1991, as well as the notices of assessment personally given to the caretaker of petitioner also at his last known address on September 12, 1991 — the subsequent notices given thereafter could no longer be ignored as they were sent at a time when petitioner was already here in the Philippines, and at a place where said notices would surely be called to petitioner's attention, and received by responsible persons of sufficient age and discretion.
>
> Thus, on October 20, 1992, formal assessment notices were served upon Mrs. Marcos c/o the petitioner, at his office, House of Representatives, Batasan Pambansa, Q.C. (Annexes "A", "A-1", "A-2", "A-3"; pp. 207-210, Comment/Memorandum of OSG). Moreover, a notice to taxpayer dated October 8, 1992 inviting Mrs. Marcos to a conference relative to her tax liabilities, was furnished the counsel of Mrs.

> Marcos — Dean Antonio Coronel (Annex "B", p. 211, ibid). Thereafter, copies of Notices were also served upon Mrs. Imelda Marcos, the petitioner and their counsel "De Borja, Medialdea, Ata, Bello, Guevarra and Serapio Law Office", on April 7, 1993. Despite all of these Notices, petitioner never lifted a finger to protest the assessments, (upon which the Levy and sale of properties were based), nor appealed the same to the Court of Tax Appeals.
>
> Their being sufficient service of Notices to herein petitioner (and his mother) and it appearing that petitioner continuously ignored said Notices despite several opportunities given him to file a protest and to thereafter appeal to the Court of Tax Appeals, — **the tax assessments subject of this case, upon which the levy and sale of properties were based, could no longer be contested (directly or indirectly) via this instant petition for certiorari.**" (*Emphasis and underscoring supplied*)

If the heirs of President Marcos, Sr. were barred from questioning the 1991 Estate Tax Assessment as early as 1997, then petitioner SMC—and even respondent—are all the more barred from challenging it nearly three decades later. SMC cannot now belatedly assail the validity of the estate tax assessment.

B. The Supreme Court ruling on the finality of the 1991 Estate Tax Assessment is not obiter dictum.

During the Preliminary Conference, respondent contended that the Supreme Court's pronouncement on the finality of the 1991 Estate Tax Assessment in the *1997 Marcos II* case constitutes a mere *obiter dictum.* While not raised in the pleadings, the Court deems it appropriate to address this statement.

The Supreme Court, in *Land Bank of the Philippines v. Suntay,*[44] defined the concept of *obiter dictum* and clarified its binding effect, *viz.*:

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[44] G.R. No. 188376, December 14, 2011 [Per J. Bersamin, First Division], as cited in *Land Bank of the Philippines v. Santos*, G.R. Nos. 213863 & 214021, January 27, 2016 [Per J. Perlas-Bernabe, First Division] and *Dee v. Harvest All Investment Limited*, G.R. Nos. 224834 & 224871, March 15, 2017, [Per J. Perlas-Bernabe, First Division].

> An *obiter dictum* has been defined as an opinion expressed by a court upon some question of law that is **not necessary in the determination of the case before the court**. It is a remark made, or opinion expressed, by a judge, in his decision upon a cause by the way, that is, incidentally or collaterally, and **not directly upon the question before him**, or upon a point not necessarily involved in the determination of the cause, or introduced by way of illustration, or analogy or argument. It does not embody the resolution or determination of the court, and is made without argument, or full consideration of the point. (*Emphasis and underscoring supplied*)

An *obiter dictum* lacks the force of adjudication, being a mere expression of an opinion with no binding force for purposes of *res judicata.*[45]

In resolving the issues in the *1997 Marcos II* case, the Supreme Court made extensive and categorical findings. It held that petitioner and the other heirs "never questioned the assessments served upon them, allowing the same to lapse into finality"; that "the estate tax assessment had become final and unappealable by the petitioner's default as regards protesting the validity of the said assessment;" that "the tax assessments subject of this case, upon which the levy and sale of properties were based, could no longer be contested (directly or indirectly) via this instant petition for certiorari;" and that "there is now no reason why the BIR cannot continue with the collection of the said tax."

Although the issue raised in the *1997 Marcos II* case concerned the validity and propriety of the BIR's collection efforts, the Supreme Court first addressed the finality of the 1991 Estate Tax Assessment. It considered this determination a necessary predicate to resolving the collection issue. Thus, the Court's ruling on the finality of the assessment was not incidental, but integral to its judgment.

Given how interwoven and crucial the finding of finality was to the resolution of the case, the Supreme Court's pronouncements on the matter cannot be considered as mere *obiter dicta.* They form part of the *ratio decidendi* and are therefore binding upon this Court.

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[45] *City of Manila v. Entote*, G.R. No. L-24776, June 28, 1974 [Per J. Muñoz-Palma, First Division], as cited in *Land Bank of the Philippines v. Suntay*, [Per J. Bersamin, First Division].

C. Sound judicial policy mandates adherence to the Decision of the Supreme Court.

It is axiomatic that the lower court, such as the CTA, cannot vary the mandate of the superior court or reexamine it for any other purpose other than execution; much less may it review the same upon any matter decided on appeal or error apparent; nor intermeddle with it further than to settle so much as has been demanded.[46]

In the Philippine judicial system, there exists a hierarchy of courts. The Supreme Court sits atop the hierarchy, being the only court established by the Constitution.[47] It has appellate jurisdiction to review decisions and resolutions issued by all other courts, all of which are deemed subordinate to the judicial power of the Supreme Court.

In fact, even in mere doctrinal pronouncements and interpretations of law of the Supreme Court, notwithstanding the fact that cases may involve different parties, lower courts are still bound in accordance with the principle of *stare decisis*. The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by this Court in its final decisions. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.[48]

Thus, for petitioner and respondent to suggest, whether in pleadings or open court, that this Court may declare the *1997 Marcos II* ruling void or reverse its conclusion regarding the finality of the 1991Estate Tax Assessment is to invite this Court to violate the long-standing doctrine of judicial supremacy. **Only the Supreme Court may reverse or modify its own decisions.**

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[46] *Tropical Homes, Inc. v. Fortun, et al.*, G.R. No. 51554, January 13, 1989 [Per J. Regalado, Second Division], cited in *FGU Insurance Corporation v. Regional Trial Court of Makati City, Branch 66, et al.*, G.R. No. 161282, February 23, 2011 [Per J. Mendoza, Second Division].

[47] Article VIII, Section 1 of the Constitution provides:
The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

[48] *Ting v. Velez-Ting*, G.R. No. 166562, March 31, 2009 [Per J. Nachura, Third Division].

The reason for this respect accorded to the decisions of the Supreme Court is founded on sound judicial policy. This is necessary for two simple reasons: economy and stability. The supremacy of the Supreme Court is intended for the expediency in rendering justice, in that lower courts may be guided regarding the proper interpretation of provisions of law, and for stability, that lower courts may avoid issuing decisions and resolutions that are conflicting with one another and with that of the entire judiciary.

In light of the foregoing, the Court upholds the finality and immutability of the 1991 Estate Tax Assessment.

D. SMC's right to due process was not violated when it was not made a party to the 1991 Estate Tax Assessment case.

Petitioner alleges a denial of due process, claiming that it was neither notified of, nor given the opportunity to be heard in proceedings relating to the 1991 Estate Tax Assessment.

The Court finds this assertion unmeritorious.

Section 319-A of the NIRC of 1977, as amended by Section 33 of Presidential Decree (**PD**) No. 1773, the law in force at the time of the 1991 Estate Tax Assessment, requires that notice be given to the **taxpayer**, or by extension under the NIRC of 1997 and its implementing rules and regulations, to the **taxpayer's duly authorized representative**, *viz.*:

> Sec. 319-A. Protesting of assessment. — When the Commissioner of Internal Revenue or his duly authorized representative finds that proper taxes should be assessed, he shall first **notify the taxpayer** of his findings. Within a period to be prescribed by implementing regulations, **the taxpayer** shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation in such form and manner as may be prescribed by implementing regulations within thirty (30) days from receipt of the assessment; otherwise, the assessment shall become final and unappealable.

> If the protest is denied in whole or in part, the individual, association or corporation adversely affected by the decision on the protest may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision; otherwise, the decision shall become final, executory and demandable.

In the instant case, SMC is neither the taxpayer nor the taxpayer's duly authorized representative.

Section 107(a) of the NIRC of 1977, as amended by Section 19 of PD No. 1773, provides:

> (a) Time of payment. — The estate tax imposed by Section 99 shall be paid at the time the return is filed **by the executor, administrator or the heirs**. *(Emphasis supplied)*

The term '**taxpayer**' means any person subject to tax.[49] As already passed upon, the instant case involves the 1991 Estate Tax Assessment against the Marcos Estate. In line with Section 107(a) of the NIRC of 1977, as amended, the taxpayer contemplated herein is **the Marcos Estate**, represented by the executor, administrator, or the heirs of the decedent. SMC is not among them. As such, SMC had no legal right to receive any assessment notice from the BIR in relation to the 1991 Estate Tax Assessment.

SMC nevertheless argues that "it stands to be affected by the [1991 Estate Tax Assessment] because of the obligations it is required to assume and the actions it must undertake in respect of the notice of distraint and levy," and may therefore invoke the nullity of the said assessment.

This argument is specious.

What the BIR seeks to distraint are shares of stock owned by shareholders of SMC, not SMC's own property. Under Section 62 of the Revised Corporation Code, shares of stock are personal property owned by the shareholders, not the corporation.

Section 62 provides:

> SECTION 62. *Certificate of Stock and Transfer of Shares.* — The capital stock of corporations shall be divided into shares for which certificates signed by the president or vice

[49] Section 22(N), NIRC of 1997, as amended.

> president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the bylaws. **Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner, his attorney-in-fact, or any other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates, and the number of shares transferred.** The Commission may require corporations whose securities are traded in trading markets and which can reasonably demonstrate their capability to do so to issue their securities or shares of stocks in uncertificated or scripless form in accordance with the rules of the Commission.
>
> No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation. (*Emphasis and underscoring supplied)*

Clearly, the Revised Corporation Code recognizes the shareholders as the "owners" of the shares of a corporation, and not the corporation itself. In fact, the Supreme Court recognizes this concept repeatedly.

In *Rural Bank of Salinas, Inc. v. Court of Appeals*,[50] the Supreme Court ruled that the right of a transferee/assignee to have stocks transferred to his name is an inherent right flowing from **his ownership of the stocks**.

In *Fleisher v. Botica Nolasco*,[51] the Supreme Court ruled that as owner of the shares, a shareholder may transfer shares to anyone as the Corporation Code contemplates no restriction as to whom the stocks may be transferred.

In *Teng v. Securities and Exchange Commission*,[52] the Supreme Court ruled that as owner of personal property, a shareholder is at liberty to dispose of them in favor of whomsoever he pleases, without any other limitation in this respect, than the general provisions of law.

From these jurisprudential pronouncements, SMC is not at risk of deprivation of life, liberty, or property to warrant the

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50 G.R. No. 96674, June 26, 1992 [Per J. Paras, Second Division].
51 G.R. No. 23241, March 14, 1925 [Per J. Johnson, Second Division].
52 G.R. No. 184332, February 17, 2016 [Per J. Reyes, Third Division].

invocation of constitutional due process. If any party may raise such a claim, it would be the shareholders themselves.

In sum, **the Court rules that the 1991 Estate Tax Assessment has become final and executory**. This Court is duty-bound to uphold the principle of immutability of judgments and cannot entertain challenges to the assessment's validity.

Any remaining issue pertains solely to the validity of the BIR's **collection** efforts, which is distinct from the validity of the **assessment** that has already been settled by the Supreme Court in the *1997 Marcos II* case.

Respondent cannot collect on the 1991 Estate Tax Assessment through the distraint of the Cojuangco SMC Shares.

To underscore, the validity of the assessment is one thing; the propriety of the BIR's collection efforts is another. While the finality of the assessment may affect the legitimacy of collection proceedings, the reverse does not hold true. That is, even if the collection efforts are found to be improper, such finding does not invalidate an assessment that has already attained finality. Thus, the Court must now address whether respondent may lawfully pursue the Cojuangco SMC Shares to satisfy the estate tax liability of the Marcos Estate.

Petitioner contends that enforcing the collection of the estate tax assessment against properties owned by third parties constitutes an act done without or in excess of jurisdiction, amounting to grave abuse of discretion. Petitioner underscores that the Cojuangco SMC Shares, along with other properties included in the gross estate of President Marcos, Sr., **were never owned by the decedent**.

On the other hand, respondent maintains that the collection against the Cojuangco SMC Shares included in the gross estate is proper, citing the lifeblood doctrine and the presumption of regularity in the performance of official duties afforded to revenue officers and the CIR.

The Court rules in favor of petitioner.

1. The Cojuangco SMC Shares are not properties of the Marcos Estate.

To recall, the 1991 Estate Tax Assessment issued against the estate of President Marcos Sr. reflected a total estate tax liability of **₱23,293,607,638**, inclusive of interest and surcharges. The assessment also indicated a gross estate valued **₱36,172,266,373,** which included SMC shares of stock in the amount of **₱8,610,464,000.**

On November 5, 2024, petitioner received respondent's *Letter* dated October 2, 2024, stating that respondent "would like to hear SMC's position on these *various shares of stock*" in relation to respondent's "duty to collect the taxes under the [1991 Estate Tax Assessment]."[53] During the Preliminary Conference, it was clarified that the shares referred to in the letter as included in the estate tax assessment are the "**Cojuangco SMC Shares**."[54]

Both parties acknowledge that these shares are the same 16,276,879 shares of stock claimed by the late Eduardo Cojuangco, Jr. and several corporations in Civil Case No. 0033-F before the Sandiganbayan, and which were the subject of the *2011 Republic* case.[55]

To properly characterize the origin of these shares, the Court quotes the Supreme Court's ruling in the *2011 Republic* case, *viz.*:

> In Civil Case No. 0033-F, the individual defendants were Cojuangco, President Marcos and First Lady Imelda R. Marcos, the ACCRA lawyers, and Ursua. Impleaded as corporate defendants were Southern Luzon Oil Mills, Cagayan de Oro Oil Company, Incorporated, Iligan Coconut Industries, Incorporated, San Pablo Manufacturing Corporation, Granexport Manufacturing Corporation, Legaspi Oil Company, Incorporated, collectively referred to herein as the CIIF Oil Mills, and their 14 holding companies, namely: Soriano Shares, Incorporated, Roxas Shares, Incorporated, Arc Investments, Incorporated, Toda Holdings, Incorporated,

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[53] Petition for Review, par. 10; Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par. (2); Exhibit "P-1", p. 53.
[54] Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par. (7).
[55] *Id.* at 247, Order dated April 24, 2025, Stipulation of Facts, par. (8).

> ASC Investments, Incorporated, Randy Allied Ventures, Incorporated, AP Holdings, Incorporated, San Miguel Corporation Officers, Incorporated, Te Deum Resources, Incorporated, Anglo Ventures, Incorporated, Rock Steel Resources, Incorporated, Valhalla Properties, Incorporated, and First Meridian Development, Incorporated.
>
> Allegedly, **Cojuangco purchased a block of 33,000,000 shares of SMC stock through the 14 holding companies owned by the CIIF Oil Mills**. For this reason, the block of 33,133,266 shares of SMC stock shall be referred to as the CIIF block of shares.
>
> Also impleaded as defendants in Civil Case No. 0033-F were **several corporations alleged to have been under Cojuangco's control and used by him to acquire the block of shares of SMC stock totaling 16,276,879 at the time of acquisition (representing approximately 20% percent of the capital stock of SMC).** These corporations are referred to as Cojuangco corporations or companies, to distinguish them from the CIIF Oil Mills. Reference hereafter to Cojuangco and the Cojuangco corporations or companies shall be as Cojuangco, et al., unless the context requires individualization. (*Emphasis and underscoring supplied)*

The Court also quotes the material averments of the Republic's *Third Amended Complaint (Subdivided)* in Civil Case No. 0033-F before the Sandiganbayan, as the Supreme Court did in the *2011 Republic* case, *viz.*:

> 12. Defendant Eduardo Cojuangco, Jr., served as a public officer during the Marcos administration. During the period of his incumbency as a public officer, he acquired assets, funds, and other property grossly and manifestly disproportionate to his salaries, lawful income and income from legitimately acquired property.
>
> 13. Having fully established himself as the undisputed "coconut king" with unlimited powers to deal with the coconut levy funds, the stage was now set for Defendant Eduardo M. Cojuangco, Jr. to launch his predatory forays into almost all aspects of Philippine economic activity namely: softdrinks, agribusiness, oil mills, shipping, cement manufacturing, textile, as more fully described below.
>
> 14. Defendant Eduardo Cojuangco, Jr. taking undue advantage of his association, influence and connection, acting in unlawful concert with Defendants Ferdinand E. Marcos and Imelda R. Marcos, and the individual defendants, embarked upon devices, schemes and stratagems, including the use of defendant corporations as fronts, to unjustly enrich

themselves at the expense of Plaintiff and the Filipino people, such as when he — misused coconut levy funds to buy out majority of the outstanding shares of stock of San Miguel Corporation in order to control the largest agri-business, foods and beverage company in the Philippines, more particularly described as follows:

> (a) Having control over the coconut levy, Defendant Eduardo M. Cojuangco invested the funds in diverse activities, such as the various businesses SMC was engaged in (e.g. large beer, food, packaging, and livestock);
>
> (b) He entered SMC in early 1983 when he bought most of the 20 million shares Enrique Zobel owned in the Company. The shares, worth $49 million, represented 20% of SMC;
>
> (c) Later that year, Cojuangco also acquired the Soriano stocks through a series of complicated and secret agreements, a key feature of which was a "voting trust agreement" that stipulated that Andres, Jr. or his heir would proxy over the vote of the shares owned by Soriano and Cojuangco. This agreement, which accounted for 30% of the outstanding shares of SMC and which lasted for five (5) years, enabled the Sorianos to retain management control of SMC for the same period;
>
> (d) Furthermore, in exchange for an SMC investment of $45 million in non-voting preferred shares in UCPB, Soriano served as the vice-chairman of the supposed bank of the coconut farmers, UCPB, and in return, Cojuangco, for investing funds from the coconut levy, was named vice-chairman of SMC;
>
> (e) Consequently, Cojuangco enjoyed the privilege of appointing his nominees to the SMC Board, to which he appointed key members of the ACCRA Law Firm (herein Defendants) instead of coconut farmers whose money really funded the sale;
>
> (f) The scheme of Cojuangco to use the lawyers of the said Firm was revealed in a document which he signed on 19 February 1983 entitled "Principles and Framework of Mutual Cooperation and Assistance" which governed the rules for the conduct of management of SMC and the disposition of the shares which he bought.

(g) All together, Cojuangco purchased 33 million shares of the SMC through the following 14 holding companies:

Soriano Shares, Inc.	1,249,163
ASC Investors, Inc.	1,562,449
Roxas Shares, Inc.	2,190,860
ARC Investors, Inc.	4,431,798
Toda Holdings, Inc.	3,424,618
AP Holdings, Inc.	1,580,997
Fernandez Holdings., Inc.	838,837
SMC Officers Corps., Inc.	2,385,987
Te Deum Resources., Inc.	2,674,899
Anglo Ventures Corp.	1,000,000
Randy Allied Ventures., Inc.	1,000,000
Rock Steel Resources., Inc.	2,432,625
Valhalla Properties Ltd., Inc.	1,361,033
First Meridian Development, Inc.	1,000,000
Total	**33,133,266**

The same fourteen companies were in turn owned by the following six (6) so-called CIIF Companies which were:

San Pablo Manufacturing Corp.	19%
Southern Luzon Coconut Oil Mills, Inc.	11%
Granexport Manufacturing Corporation	19%
Legaspi Oil Company, Inc.	18%
Cagayan de Oro Oil Company, Inc.	18%
Iligan Coconut Industries, Inc.	15%
Total	**100%**

(h) Defendant Corporations are but "shell" corporations owned by interlocking shareholders ho have previously admitted that they are just "nominee stockholders" who do not have any proprietary interest over the shares in their names. The respective affidavits of the following, namely: Jose C. Concepcion, Florentino M. Herrera III, Teresita J. Herbosa, Teodoro D. Regala, Victoria C. de los Reyes, Manuel R. Roxas, Rogelio A. Vinluan, Eduardo U. Escuete and Franklin M. Drilon, who were all, at the time they became such stockholders, lawyers of the Angara Abello Concepcion Regala & Cruz (ACCRA) Law Offices, the previous counsel who incorporated said corporations, prove that they were merely nominee stockholders thereof.

(i) **Mr. Eduardo M. Cojuangco, Jr., acquired a total of 16,276,879 shares of San Miguel Corporation from the Ayala group**: of said

> shares, a total of 8,138,440 (broken into 7,128,227 Class A and 1,010,213 Class B shares) were placed in the names of Meadowlark Plantations, Inc. (2,034,610) and Primavera Farms, Inc. (4,069,220). The Articles of Incorporation of these three companies show that Atty. Jose C. Concepcion of ACCRA owns 99.6% of the entire outstanding stock. The same shareholder executed three (3) separate "Declaration of Trust and Assignment of Subscription:" in favor of a BLANK assignee pertaining to his shareholdings in Primavera Farms, Inc., Silver Leaf Plantations, Inc. and Meadowlark Plantations, Inc.

In the *2011 Republic* case, what was assailed was the November 28, 2007 *Decision* of the Sandiganbayan dismissing the *Third Amended Complaint,* as quoted above. The dispositive portion of the said *Decision* of the Sandiganbayan reads:

> WHEREFORE, in view of all the foregoing, the Court is constrained to DISMISS, as it hereby DISMISSES, the Third Amended Complaint in subdivided Civil Case No. 0033-F for failure of plaintiff to prove by preponderance of evidence its causes of action against defendants with respect to the **twenty percent (20%) outstanding shares of stock of San Miguel Corporation registered in defendants' names, denominated herein as the "Cojuangco, et al. block" of SMC shares**. For lack of satisfactory warrant, the counterclaims in defendants' Answers are likewise ordered dismissed.
>
> SO ORDERED. *(Emphasis and underscoring supplied)*

The Supreme Court affirmed the dismissal of the *Third Amended Complaint.* The dispositive portion of the *2011 Republic* case reads:

> **WHEREFORE**, the Court dismisses the petitions for certiorari in G.R. Nos. 166859 and 169023; denies the petition for review on certiorari in G.R. No. 180702; and, accordingly, affirms the decision promulgated by the Sandiganbayan on November 28, 2007 in Civil Case No. 0033-F.
>
> **The Court declares that the block of shares in San Miguel Corporation in the names of respondents Cojuangco, et al. subject of Civil Case No. 0033-F is the exclusive property of Cojuangco, et al. as registered owners**.

> Accordingly, the lifting and setting aside of the Writs of Sequestration affecting said block of shares (namely: Writ of Sequestration No. 86-0062 dated April 21, 1986; Writ of Sequestration No. 86-0069 dated April 22, 1986; Writ of Sequestration No. 86-0085 dated May 9, 1986; Writ of Sequestration No. 86-0095 dated May 16, 1986; Writ of Sequestration No. 86-0096 dated May 16, 1986; Writ of Sequestration No. 86-0097 dated May 16, 1986; Writ of Sequestration No. 86-0098 dated May 16, 1986; Writ of Sequestration No. 86-0042 dated April 8, 1986; and Writ of Sequestration No. 87-0218 dated May 27, 1987) are affirmed; and the annotation of the conditions prescribed in the Resolutions promulgated on October 8, 2003 and June 24, 2005 is cancelled.
>
> **SO ORDERED**. *(Emphasis and underscoring supplied)*

In ruling that the SMC shares are the exclusive property of Cojuangco, *et al.,* the Supreme Court held that the Republic failed to present sufficient evidence to prove its allegations that: (1) Cojuangco used the coconut levy funds, which are public funds, to acquire 20% of SMC shares, and (2) Cojuangco used his positions in United Coconut Planters Bank (**UCPB**) and the Philippine Coconut Authority (**PCA**) to improperly benefit from the public funds. Thus, according to the Supreme Court, no constructive trust was established over the SMC shares, and they remained the exclusive property of Cojuangco, *et al.*

To recall, "the block of shares in [SMC] in the names of respondents Cojuangco, *et al.* subject of Civil Case No. 0033-F" pertain to the 16,276,879 shares acquired by Cojuangco from the Ayala Group, then representing 20% of the shares of SMC.

Again, this Court is bound by the Supreme Court's ruling that this block of shares is the **exclusive property of Cojuangco, *et al.*** as registered owners.

Notably, respondent himself acknowledged this fact in his *Memorandum.* He states:

> More than a decade after the finality of the Marcos case, the Supreme Court decided in *Republic v. Sandiganbayan* that the block of shares in San Miguel Corporation in the name of Cojuanco, et. al. to be the exclusive property of its registered owners. This includes the Php8.610B shares of stock that was part of the final, executory and demandable estate tax assessment against the estate of the late President Marcos.

The Court further notes the admission of the parties during the Preliminary Conference that the shares referred to in respondent's October 2, 2024 Letter are indeed the 16,276,879 Cojuangco SMC Shares. Accordingly, by respondent's own admission, the present case does not involve other SMC shares that may form part of President Marcos, Sr.'s or his cronies' alleged ill-gotten wealth.

In *Philippine Coconut Producers Federation, Inc. v. Republic (COCOFED* case),[56] the Supreme Court ruled on the status of the CIIF Block of SMC Shares, which consists of 33,133,266 shares and was mentioned in the *2011 Republic* case:

> It may be conceded hypothetically, as COCOFED et al. urge, that the 14 CIIF holding companies acquired the SMC shares in question using advances from the CIIF companies and from UCPB loans. But there can be no gainsaying that the same advances and UCPB loans are public in character, constituting as they do assets of the 14 holding companies, which in turn are wholly-owned subsidiaries of the 6 CIIF Oil Mills. And these oil mills were organized, capitalized and/or financed using coconut levy funds. In net effect, the CIIF block of SMC shares are simply the fruits of the coconut levy funds acquired at the expense of the coconut industry. In *Republic v. COCOFED*, the *en banc* Court, speaking through Justice (later Chief Justice) Artemio Panganiban, stated: "Because the subject UCPB shares were acquired with government funds, the government becomes their prima facie beneficial and true owner." By parity of reasoning, the adverted block of SMC shares, acquired as they were with government funds, belong to the government as, at the very least, their beneficial and true owner.
>
> We thus affirm the decision of the Sandiganbayan on this point. But as We have earlier discussed, reiterating our holding in *Republic v. COCOFED*, the State's avowed policy or purpose in creating the coconut levy fund is for the development of the entire coconut industry, which is one of the major industries that promotes sustained economic stability, and not merely the livelihood of a significant segment of the population. Accordingly, **We sustain the ruling of the Sandiganbayan in CC No. 0033-F that the CIIF companies and the CIIF block of SMC shares are public funds necessary owned by the Government. We, however, modify the same in the following wise: These shares shall belong to the Government, which shall be used only for the benefit of the coconut farmers and for the development of the coconut industry**. (*Emphasis and underscoring supplied*)

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[56] G.R. Nos. 177857–58 & 178193, January 24, 2012 [Per J. Velasco, Jr., *En Banc*].

The CIIF shares are distinct from the Cojuangco SMC Shares at issue in this case. Petitioner alleges in its *Petition for Review* that the CIIF Block of SMC Shares has already been reconveyed to the government pursuant to the *COCOFED* ruling, but notes that the CIIF companies had exercised their right of redemption.

Further, during the Preliminary Conference, respondent's counsel, Atty. Velasco, made a crucial admission in open court: that the SMC shares are not registered in the name of President Marcos, Sr. or in the name of his estate:[57]

> JUSTICE DEL ROSARIO:
>
> Like the San Miguel Corporation here, shares of stocks. You confirm that the San Miguel Corporation shares of stocks which are the subject of the present case are not in the name of the decedent?
>
> ATTY. VELASCO:
>
> They're not, your Honors.
>
> JUSTICE DEL ROSARIO:
>
> They're not in the name of the decedent also. What the Court is trying to confirm is the inclusion of properties belonging to third parties.

A similar admission was made by Atty. Gonzales:[58]

> JUSTICE VILLENA:
>
> But you are running after the shares, supposedly, because in the pleading itself, it says, "supposedly in the name of the late President."
>
> ATTY. GONZALES:
>
> Your Honors, when we traced back the compromise agreement between UCPB and SMC, **we noted that under the names registered are from different, not really under the registered name of the former President Marcos**. [*Emphasis and underscoring supplied.*]
>
> ... ...

[57] TSN of the Preliminary Conference dated April 24, 2025, pp. 30–31.
[58] *Id.* at 46.

JUSTICE DAVID:

And, do you confirm that based on BIR records, there are no San Miguel Corporation shares of stocks registered under the name of the decedent, the late President Ferdinand Marcos or under the name of his estate?

ATTY. GONZALES:

There is nothing in the BIR records, your Honors.

JUSTICE DAVID:

Okay. Now, in relation to what is said earlier regarding the shares of stocks of Mr. Eduardo Cojuangco with SMC, have you encountered or seen any documents, such as, a Deed of Sale, a Deed of Transfer, a Deed of Assignment or similar instrument, evidencing that Mr. Cojuangco's shares were transferred to the late President Marcos or his estate?

ATTY. GONZALES:

We didn't see any in the records, your Honors.

JUSTICE DAVID:

No document, any document to that effect?

ATTY. GONZALES:

We didn't see any document in the records, your Honors. (*Emphasis and underscoring supplied)*

All told, there is no showing that the Marcos Estate owns the Cojuangco SMC Shares, or any shares in SMC for that matter. This is further bolstered by the fact that SMC's corporate records show that no SMC share has ever been registered under the name of President Marcos, Sr.

2. An assessment notice, despite attaining finality, is not conclusive as to the ownership of the properties included therein.

Respondent relies on the inclusion of the Cojuangco SMC Shares in the gross estate reflected in the 1991 Estate Tax Assessment, arguing that since the assessment has become

final and executory, the BIR may now resort to summary remedies to collect from any asset listed therein. This reasoning is flawed.

Section 85 of the NIRC of 1997, as amended, provides:

> SEC. 85. Gross Estate. - the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated: Provided, however, that in the case of a nonresident decedent who at the time of his death was not a citizen of the Philippines, only that part of the entire gross estate which is situated in the Philippines shall be included in his taxable estate.

This is similar to Section 100 of the NIRC of 1977, the law in effect at the time of President Marcos, Sr.'s death, *viz.*:

> SECTION 100. Gross estate. — The value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated, except real property situated outside the Philippines.

From the above provisions, it can be inferred that for a property to be included in the gross estate, the decedent must have had an ownership interest in it at the time of death. Thus, items in the gross estate of the decedent are deemed owned by the decedent as of the time of his death.

Now, this Court is confronted with a novel question: **Does the inclusion of a property in the gross estate of a decedent in a final and executory tax assessment constitute conclusive proof of the decedent's ownership of such property?**

This Court answers in the negative.

The NIRC does not govern issues of ownership of property. Rather, it primarily addresses the **taxability** of transactions, properties, and persons. It does not define ownership, possession, property relations, or modifications thereof. In this jurisdiction, the question of property ownership is primarily governed by the Civil Code, and, in the case of shares of stock, by the Revised Corporation Code, not the NIRC.

Thus, what may serve as conclusive evidence in taxation may only be indicative or persuasive in property law, such as the well-settled doctrine that "tax declarations are not conclusive proof of ownership," but are merely indicative of such.[59]

In the same vein, the inclusion of a property in the gross estate under a final and executory estate tax assessment is not conclusive proof of ownership. The finality of the assessment does not transform the presumption of ownership into a legal determination thereof.

An assessment is a written notice and demand made by the BIR on the taxpayer for the settlement of a due tax liability that is there definitely set and fixed.[60] Accordingly, its main purpose is to determine the amount that a taxpayer is liable to pay.[61]

Assessment alone is of little value as proof of title.[62] In fact, the Supreme Court went as far as to state that **a tax assessment is no proof of ownership**.[63] While this doctrine is primarily applied to assessments for purposes of real property taxation, the same holds true in the instant case: **mere inclusion in the gross estate is not proof of ownership**.

Accordingly, while ownership is a requisite for inclusion in the gross estate under Section 100 of the NIRC of 1977, later echoed in Section 85 of the NIRC of 1997, as amended, the inclusion of a property in an estate tax assessment **neither proves nor confers ownership** over the assets listed therein. This is because, *first*, the NIRC does not deal with the civil laws on property, and *second*, the purpose of a tax assessment is to demand the settlement of a tax liability, not to confer ownership over property.

At most, inclusion of a property in the gross estate may serve as corroborative or presumptive evidence of ownership, but such presumption is disputable and does not rise to the level of legal proof.

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59 *Heirs of Alido v. Campano, et al.*, G.R. No. 226065, July 29, 2019 [Per J. J. Reyes, Jr., Second Division].

60 *Adamson, et al. v. Court of Appeals, et al.*, G.R. Nos. 120935 & 124557, May 21, 2009 [Per C.J. Puno, First Division].

61 *Tupaz v. Ulep*, G.R. No. 127777, October 1, 1999 [Per J. Pardo, First Division], cited in *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016 [Per J. Leonen, Second Division].

62 *Rizal Cement Co., Inc. v. Villareal, et al.*, G.R. No. L-30272, February 28, 1985 [Per J. Cuevas, Second Division].

63 *Tan v. Republic*, G.R. No. L-22077, February 18, 1967 [Per J. J. B. L. Reyes, *En Banc*].

This is precisely what transpired in the present case. Petitioner has **effectively rebutted** any presumption of ownership over the Cojuangco SMC Shares. As extensively discussed above, the following arguments were advanced by petitioner and are well taken by the Court, *viz.*:

1. The *2001 Republic* case has ruled with finality that the Cojuangco SMC Shares are exclusive properties of Cojuangco, *et al.*

2. The *COCOFED* case likewise ruled with finality that the CIIF Block of SMC Shares belongs to the Government, and that SMC had already reconveyed these shares.

3. SMC's corporate records show that no SMC share has ever been registered in the name of President Marcos, Sr.

Thus, the Court finds that respondent cannot rely solely on the inclusion of the Cojuangco SMC Shares in the gross estate under the 1991 Estate Tax Assessment to establish ownership by the Marcos Estate.

Accordingly, in line with the Supreme Court's definitive ruling in the 2001 *Republic* case, this Court likewise holds that the Cojuangco SMC Shares are the exclusive properties of Cojuangco, *et al.*

3. Respondent cannot levy or distraint properties that do not form part of the estate of the decedent.

Respondent's reliance on the summary remedy of distraint is anchored on Section 207(A) of the NIRC of 1997, as amended, which provides:

> SEC. 207. Summary Remedies. –
>
> (A) Distraint of Personal Property. - Upon the failure of the person owing any delinquent tax or delinquent revenue to pay the same at the time required, the Commissioner or his duly authorized representative, if the amount involved is in excess of One million pesos (P1,000,000), or the Revenue District Officer, if the amount involved is One million pesos (P1,000,000) or less, **shall seize and distraint any goods, chattels or effects, and the personal property, including**

> **stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons** in sufficient quantity to satisfy the tax, or charge, together with any increment thereto incident to delinquency, and the expenses of the distraint and the cost of the subsequent sale.
>
> A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the distraining officer to the Revenue District Officer, and to the Revenue Regional Director: Provided, That the Commissioner or his duly authorized representative shall, subject to rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, have the power to lift such order of distraint: Provided, further, That a consolidated report by the Revenue Regional Director may be required by the Commissioner as often as necessary. (*Emphasis and underscoring supplied)*

From the foregoing, it is clear that the power of the BIR to enforce collection through distraint is limited to properties that undisputedly belong to the taxpayer, *i.e.*, "the person owing any delinquent tax or delinquent revenue" as described under Section 207(A) of the NIRC of 1997, as amended.

By analogy, in *Francisco v. Spouses Gonzales*, [64] the Supreme Court had the opportunity to rule that execution of judgment may only proceed against properties actually owned by the judgment debtor.

Applying the same logic, the BIR may only issue warrants of distraint and levy against properties that are demonstrably owned by the Marcos Estate. Respondent himself recognized this principle during the Preliminary Conference, when his counsel made the following admission:[65]

> JUSTICE DEL ROSARIO:
>
> Now, can you enlighten the Court, is it not that the determination of Estate Tax Liability is tied up with the estate of the decedent?
>
> ATTY. VELASCO:
>
> Yes, your Honors.

[64] G.R. No. 177667, September 17, 2008 [Per J. Austria-Martinez, Third Division].
[65] TSN of the Preliminary Conference dated April 24, 2025, pp. 27–28.

JUSTICE DEL ROSARIO:

With the properties that form part of the estate of the decedent?

ATTY. VELASCO:

Yes, your Honors.

JUSTICE DEL ROSARIO:

Is it your position that the BIR will have jurisdiction to include in the decedent's estate properties that ultimately have been found to be not in the name of the decedent? Will BIR have the jurisdiction to include properties not in the name of the decedent?

ATTY. VELASCO:

No, your Honors.

JUSTICE DEL ROSARIO:

In the event that properties not in the name of the decedent have been included in the estate, will that itself result into the nullity of the assessment because there is this premise earlier that, whether or not the assessment is void.

Let's say decedent A, the BIR includes several properties including the properties of everyone here in Court and just saying that, I noted in the Comment, the properties are couched in general terms. Just so called in general terms. Will that result in the actual nullification of the Assessment?

ATTY. VELASCO:

Given that example, your Honor, yes. **An Estate Tax Assessment that has attained, finality should not in any way prejudice a third party, who have no involvement whatsoever in the estate of today's hearing**. (*Emphasis and underscoring supplied)*

The Court affirms respondent's counsel statement that "an estate tax assessment that has attained finality should not in any way prejudice a third party who has no involvement whatsoever in the estate." However, contrary to counsel's assertion that the final assessment thereby becomes void, the Court clarifies that **such circumstance does not nullify the assessment itself; it merely restricts the scope of the BIR's collection remedies.**

As this Court has exhaustively and judiciously discussed above, neither the Cojuangco SMC Shares nor the CIIF Block of SMC Shares forms part of the Marcos Estate and, therefore, may not be used to satisfy its deficiency estate tax liability.

First, the Cojuangco SMC Shares have been adjudged as the exclusive properties of Cojuangco, et al., in the *2001 Republic* case. Thus, they cannot be subjected to distraint to satisfy the Marcos Estate's tax deficiency.

Second, the CIIF Block of SMC Shares constitutes public property. The Supreme Court, in multiple cases, including *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan v. Executive Secretary*,[66] *COCOFED v. Republic*,[67] and *Republic v. COCOFED*,[68] has consistently ruled that the coconut levy funds are public in nature, with the coconut levy bearing the character of a tax, *viz.*:

> ***The coconut levy funds are in the nature of taxes and can only be used for public purpose. Consequently, they cannot be used to purchase shares of stocks to be given for free to private individuals.***
>
> ...
>
> We have ruled time and again that taxes are imposed only for a public purpose. "They cannot be used for purely private purposes or for the exclusive benefit of private persons." When a law imposes taxes or levies from the public, with the intent to give undue benefit or advantage to private persons, or the promotion of private enterprises, that law cannot be said to satisfy the requirement of public purpose. In *Gaston v. Republic Planters Bank*, the petitioning sugar producers, sugarcane planters and millers sought the distribution of the shares of stock of the Republic Planters Bank, alleging that they are the true beneficial owners thereof. In that case, the investment, i.e., the purchase of the said bank, was funded by the deduction of PhP1.00 per picul from the sugar proceeds of the sugar producers pursuant to P.D. No. 388. In ruling against the petitioners, the Court held that to rule in their favor would contravene the general principle that revenues received from the imposition of taxes or levies "cannot be used for purely private purposes or for the exclusive benefit of

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[66] G.R. Nos. 147036–37 & 147811, April 10, 2012 [Per J. Abad, *En Banc*].
[67] G.R. Nos. 177857–58 & 178193, January 24, 2012 [Per J. Velasco, Jr., *En Banc*].
[68] G.R. Nos. 147062–64, December 14, 2001 [Per J. Panganiban, *En Banc*].

private persons." The Court amply reasoned that the Stabilization Fund must "be utilized for the benefit of the entire sugar industry, and all its components, stabilization of the domestic market including foreign market, the industry being of vital importance to the country's economy and to national interest."

Similarly in this case, the coconut levy funds were sourced from forced exactions decreed under P.D. Nos. 232, 276 and 582, among others, with the end-goal of developing the entire coconut industry. Clearly, to hold therefore, even by law, that the revenues received from the imposition of the coconut levies be used purely for private purposes to be owned by private individuals in their private capacity and for their benefit, would contravene the rationale behind the imposition of taxes or levies.

...

The coconut levy funds can only be used for the special purpose and the balance thereof should revert back to the general fund. Consequently, their subsequent reclassification as a private fund to be owned by private individuals in their private capacities under P.D. Nos. 755, 961 and 1468 are unconstitutional.

To recapitulate, Article VI, Section 29 (3) of the 1987 Constitution, restating a general principle on taxation, enjoins the disbursement of a special fund in accordance with the special purpose for which it was collected, the balance, if there be any, after the purpose has been fulfilled or is no longer forthcoming, to be transferred to the general funds of the government, thus:

> Section 29(3). . . .
>
> (3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government.

Accordingly, as it has been established that the CIIF Block of SMC Shares is public property, it cannot be used to satisfy the deficiency tax liabilities of a private person, in this case, the Marcos Estate.

Respondent failed to comply with the procedural requirements for distraint.

Section 208 of the NIRC of 1997, as amended, provides:

> SEC. 208. Procedure for Distraint and Garnishment. -
> ...
>
> Stocks and other securities shall be distrained by serving a copy of the warrant of distraint **upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the corporation, company or association, which issued the said stocks or securities**. ... *(Emphasis and underscoring supplied)*

The NIRC explicitly requires that a warrant of distraint be served not only upon the president, manager, treasurer, or other responsible officer of the corporation, company, or association that issued the stocks or securities, but also upon the taxpayer.

In the instant case, the records are bereft of any indication that the Warrant of Distraint—or any correspondence relating to respondent's collection efforts involving the Cojuangco, *et al.*, shares—was served either upon the heirs of President Marcos, Sr., as legal representatives of the estate, or upon Cojuangco, *et al.*, as the registered owners of the subject shares.

Without this indispensable proof of service, the Court cannot permit the distraint of these shares. To do so without proper notice to both the taxpayer and the registered owner of the shares would constitute a clear deprivation of property without due process of law.

The Supreme Court has repeatedly emphasized that strict adherence to the statutes governing tax sales is imperative not only for the protection of the taxpayers, but also to allay any possible suspicion of collusion between the buyer and the public officials called upon to enforce the laws.[69] The same reason holds true in this case, for in the event that the Cojuangco shares will be distrained by the government, the registered owner and the taxpayer must be notified to ensure that the shares will be sold at a price set in a proper public

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[69] *Corporate Strategies Development Corporation, et al., v. Agojo*, G.R. No. 208740, November 19, 2014 [Per J. Mendoza, Second Division], cited in *Solco v. Megaworld Corporation*, G.R. No. 213669, March 5, 2018 [Per J. Tijam, First Division].

bidding. Without the necessary notice, both the registered owner (Cojuangco, *et al.*) and the taxpayer (the heirs of Marcos, Sr.) will be at risk of obtaining an unsatisfactorily deficient price as the purported highest bid.

For these reasons, the Court faults respondent for not presenting sufficient proof of service to the registered owner of the Cojuangco shares and the taxpayer involved herein.

Respondent's attempt to collect deficiency estate taxes from the Cojuangco SMC Shares constitutes grave abuse of discretion.

Grave abuse of discretion refers to the capricious or whimsical exercise of judgment, which is equivalent to a lack of jurisdiction. In *Yu v. Reyes-Carpio,* [70] the Supreme Court explained:

> The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for *certiorari* is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void."

In the instant case, the Court finds that respondent committed grave abuse of discretion.

As discussed above, it was patently erroneous for respondent to distraint properties not belonging to the delinquent taxpayer.

Further glaring is the fact that respondent is well aware of this factual circumstance, as he has admitted so during the Preliminary Conference and in his *Memorandum.*

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[70] G.R. No. 189207, June 15, 2011 [Per J. Velasco, Jr., J, First Division].

To recall, in the Order dated April 24, 2025, the parties stipulated:[71]

> 8) The "Cojuangco, et al. SMC Shares" are the very same 16,276,879 shares of stock (then representing approximately 20% of SMC's outstanding shares) which were claimed by the late Mr. Eduardo M. Cojuangco, Jr. (Mr. Cojuangco) and several corporations (collectively, Cojuangco, et al.) in Civil Case No. 0033-F (re: Acquisition of SMC Shares of Stock) before the Sandiganbayan and which were subject of *Republic vs. Sandiganbayan*;

Further, in his *Memorandum*, respondent admitted:

> More than a decade after the finality of the Marcos case, the Supreme Court decided in *Republic v. Sandiganbayan* that the block of shares in San Miguel Corporation in the name of Cojuanco, et. al. to be the exclusive property of its registered owners. This includes the Php8.610B shares of stock that was part of the final, executory and demandable estate tax assessment against the estate of the late President Marcos.

Despite respondent's knowledge and express admissions regarding the ownership of the Cojuangco SMC Shares, he nevertheless proceeded with efforts to distraint said shares, an act done in disregard of both applicable law and factual findings he himself acknowledged.

Respondent's unfounded persistence in pursuing collection against the Cojuangco SMC shares, despite their exclusion from the decedent's estate, shows arbitrariness, capriciousness, and whimsicality, amounting to grave abuse of discretion. The Court is constrained to intervene, as respondent's actions place individuals who are not parties to the tax assessment, such as Cojuangco and other shareholders, at risk of being held liable for a deficiency estate tax owed by a different taxpayer.

Such conduct not only exceeds the bounds of lawful authority but also constitutes a blatant violation of the constitutional guarantee of due process. The attempted distraint of property belonging to third parties, without proper notice or legal basis, deprives them of their property without the opportunity to be heard—an affront to the most basic tenets of fairness and justice.

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[71] Docket, p. 247, Order dated April 24, 2025, Stipulation of Facts, par (8).

All told, despite the finality of the 1991 Estate Tax Assessment, the Court finds that respondent's act of distraining "various shares of stock" of SMC was without legal authority and indeed constitutes a grave abuse of discretion.

Final note

Taxes are the lifeblood of government and should be collected without hindrance.[72] While the Court recognizes that this case has spanned decades, and that the BIR, as the government agency tasked with the assessment and collection of taxes, has made earnest efforts to collect the deficiency estate tax liability, the Court cannot give its imprimatur to the manner in which the BIR, at least in the instant case, seeks to bring closure to this case.

It is axiomatic that the collection of taxes should be exercised "reasonably and in accordance with the prescribed procedure." [73] Collection must be made directed at the delinquent taxpayer; third parties who are not subject to the assessment should not be made to bear its burden.

Indeed, the prompt and certain availability of taxes is an imperious need, but this promptitude should be observed with respect to private property ownership, especially of people and entities who are not involved in the assessment case. As this case is arguably a part of Philippine history, the Court implores tax compliance: from the estate and its representatives on one hand, and from the BIR and other government agencies on the other.

Finally, the Court calls upon the CIR to act in the best interest of the State. As the chief of the BIR,[74] the agency with the powers and duties comprehending the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in tax cases,[75] the CIR, within the bounds of law and propriety, should advocate for the collection of taxes, especially when

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72 *Commissioner of Internal Revenue v. Algue, Inc.*, G.R. No. L-28896, February 17, 1988, [Per J. Cruz, First Division].

73 *Commissioner of Internal Revenue v. Fitness by Design, Inc.*, G.R. No. 215957, November 9, 2016 [Per J. Leonen, Second Division].

74 Section 3 of the NIRC of 1997, as amended, provides:
SEC. 3. Chief Officials of the Bureau of Internal Revenue. - The Bureau of Internal Revenue shall have a chief to be known as Commissioner of Internal Revenue, hereinafter referred to as the Commissioner, and four (4) assistant chiefs to be known as Deputy Commissioners.

75 See Section 2 of the NIRC of 1997, as amended.

supported by a final and executory assessment. To renege on this obligation by arguing against the finality of the assessment already adjudged to be final and executory, and at the same time, sit at the helm of the collecting agency is patently inconsistent and antithetical.

WHEREFORE, premises considered, the *Petition for Review (with Urgent Application for a Temporary Restraining Order and Writ of Preliminary Injunction)* filed by petitioner San Miguel Corporation is hereby **PARTIALLY GRANTED**.

Accordingly, the *Letter* dated November 19, 2024, issued by respondent Commissioner of Internal Revenue, constituting his Final Decision on the matter, is hereby **REVERSED** and **SET ASIDE**. Respondent, or any person acting on his behalf, is **ENJOINED** and **PROHIBITED** from further enforcing the Estate Tax Assessment covered by Assessment Notice No. FAC-2-89-91-0024 against petitioner and the Cojuangco, *et al.*, SMC Shares, through the issuance of a Warrant of Distraint or by any other summary remedy.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

(Separate Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

(Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
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 PHILIPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SAN MIGUEL CORPORATION, Petitioner,	**CTA SCA CASE NO. 0030**
	Members:
- versus -	DEL ROSARIO, P.J., Chairperson, BACORRO-VILLENA, and CUI-DAVID, *JJ.*
THE HON. ROMEO D. LUMAGUI, JR., AS COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 14 2025 3:32 p.m.

SEPARATE OPINION

DEL ROSARIO, P.J.:

I concur that respondent cannot collect the estate tax assessment issued against the estate of the late former President Ferdinand E. Marcos, Sr. (1991 Estate Tax Assessment) by levying or distraining various shares of stock in San Miguel Corporation [SMC] ("Cojuangco, et al, SMC Shares"). The Cojuangco, et al. SMC Shares do not belong to former President Marcos, Sr.; hence, the same should not have been included as part of his gross estate for purposes of computing the deficiency estate tax as contained in the 1991 Estate Tax Assessment.

In prohibiting respondent from enforcing the 1991 Estate Tax Assessment through levy or distraint of the Cojuangco, et al. SMC shares, the *ponencia* does not expound on the implications of such pronouncement on the validity and integrity of the 1991 Estate Tax Assessment itself.

Nonetheless, I cannot, in good conscience, disregard my duty as a magistrate to underscore the legal implications of the Court's finding—that the Cojuangco, et al. SMC shares are to be excluded

from the gross estate of former President Marcos, Sr.—on the integrity of the 1991 Estate Tax Assessment.

The exclusion of these shares *per se* would already have a substantial impact on the computation of the estate tax; *a fortiori*, the effect would be far greater should other properties—many of which, as the records clearly show, do not in fact belong to the former President—be likewise excluded from the gross estate.

Considering the political climate prevailing at the time the 1991 Estate Tax Assessment was made, it appears that the Bureau of Internal Revenue (BIR) engaged in a veritable fishing expedition, indiscriminately including in the alleged gross estate numerous properties with no demonstrated ownership by the former President.

These findings undeniably and materially affect the amount of estate tax sought to be collected against his estate. In other words, they expose the 1991 Estate Tax Assessment as erroneous. For this reason, I find it imperative to set forth my position in this Separate Opinion.

To be candid, the exclusion of the Cojuangco, et al. SMC shares—together with all other assets not belonging to former President Marcos, Sr.—from his gross estate would effectively nullify the 1991 Estate Tax Assessment. It would, therefore, necessitate the issuance of a new assessment, confined strictly to properties and assets actually owned by the former President at the time of his death.

I am not unaware that in *Marcos II vs. Court of Appeals*[1] the Supreme Court declared that **"apart from failing to file the required estate tax return within the time required for the filing of the same, petitioner, and the other heirs never questioned the assessments served upon them, allowing the same to lapse into finality, and prompting the BIR to collect the said taxes by levying upon the properties left by President Marcos;"** and, that **"[t]he deficiency tax assessment, having already become final, executory, and demandable, the same can now be collected through the summary remedy of distraint or levy pursuant to Section 205 of the NIRC."**

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[1] G.R. No. 120880, June 5, 1997.

There is, however, nothing in *Marcos II* which touched upon the validity (or "intrinsic invalidity") of the 1991 Estate Tax Assessment as the same was never raised as an issue or addressed by the Supreme Court. In truth, *Marcos II* was categorical in defining the issue subject thereof and resolved therein, *viz.*:

> "The **pivotal question the court is tasked to resolve** refers to the authority of the Bureau of Internal Revenue **to collect by the summary remedy of levying upon, and sale of real properties of the decedent, estate tax deficiencies**, without the cognition and authority of the court sitting in probate over the supposed will of the deceased." *(Boldfacing supplied)*

Even if the matter on the finality of the 1991 Estate Tax Assessment constitutes the *lis mota* of the case, the same may nevertheless be revisited by the court in view of a **supervening event**, which serves as an established exception to the doctrine of **immutability of final judgments** as will be expounded later.

While assessments generally become final if unprotested, finality cannot breathe life into an invalid or void assessment. Execution presupposes a valid obligation, which a void assessment cannot provide. Truth to tell, in *Commissioner of Internal Revenue vs. Metro Star Superama, Inc.*,[2] **the Supreme Court invalidated an assessment albeit the taxpayer failed to file its protest**. The Supreme Court held that it need not belabor to discuss the matter of Metro Star's failure to file its protest, for it is well-settled that a void assessment bears no fruit.

Tax authorities cannot heedlessly pursue tax collection without first establishing the existence of a valid assessment; to do so would constitute a violation of the taxpayer's sacred right to due process.[3]

The Bureau of Internal Revenue (BIR) Investigation Records[4] submitted by respondent, the parties' stipulations and judicial admissions during the preliminary conference, respondent's representations made in his Comment, and the parties' positions in their respective Memoranda, all lead to the inescapable conclusion that the 1991 Estate Tax Assessment is void.

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[2] G.R. No. 185371, December 8, 2010.
[3] *Id.*
[4] Exhibit "R-4."

Inclusion of assets not belonging to former President Marcos, Sr. in the 1991 Estate Tax Assessment

Section 84 of the National Internal Revenue Code (NIRC) of 1997, as amended, imposes estate tax on the net estate of the decedent. The computation or assessment of estate tax must be grounded on the actual **estate of the decedent**, which encompasses all **properties owned by or registered in the name of the decedent at the time of death**. Accordingly, where respondent, as in this case, includes in the computation of estate tax properties that do not belong to the decedent, such act constitutes an *ultra vires* exercise of authority—one done without jurisdiction—which necessarily renders the entire assessment void ab initio.

Records of the present case, including the parties' stipulation, clearly confirm the inclusion of assets not owned by former President Marcos, Sr., in the computation of the 1991 Estate Tax Assessment.

In *Republic vs. Sandiganbayan*[5] [promulgated in 2011, or after Marcos II, which was promulgated in 1997], the Supreme Court declared with finality, that the subject Cojuangco, et al. SMC Shares are the exclusive properties of Cojuangco, et al. as "registered owners," *viz.*:

> "The Court declares that **the block shares in San Miguel Corporation in the names of respondents Cojuangco, *et al.,*** subject of Civil Case No. 0033-F is the **exclusive property of Cojuangco, *et al.* as registered owners**." *(Boldfacing supplied)*

Both parties stipulated that the block shares in SMC in the names of respondents Cojuangco, et al., subject of Civil Case No. 0033-F before the Sandiganbayan, and which were subject of *Republic vs. Sandiganbayan*, *supra*, include the Cojuangco, et al. SMC Shares which are subject of the present case.[6] The parties also stipulated that per SMC's corporate records, former President Marcos, Sr. never owned any shares of stock in SMC, and none of SMC's shares of stock has ever been registered in his name.[7]

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[5] G.R. No. 166859, April 12, 2011.
[6] Nos. 7 and 8, Page 2, Order dated April 24, 2025.
[7] No. 10, Page 3, Order dated April 24, 2025.

Also, a painstaking scrutiny of the BIR Investigation Records[8] reveals that the BIR cast an unduly wide net, sweeping into the alleged gross estate a miscellany of properties without the requisite proof of ownership by the former President.

The arbitrary inclusion of certain properties as part of former President Marcos, Sr.'s gross estate, albeit the same do not belong to him, was candidly admitted by respondent's counsel during the Preliminary Conference on April 24, 2025, *viz.*:

> "[PRESIDING] JUSTICE DEL ROSARIO:
>
> Now, can you enlighten the Court, is it not that the determination of Estate Tax Liability is tied up with the estate of the decedent?
>
> ATTY. VELASCO:
>
> Yes, your Honors.
>
> [PRESIDING] JUSTICE DEL ROSARIO:
>
> With the properties that form part of the estate of the decedent?
>
> ATTY. VELASCO:
>
> Yes, your Honors.
>
> [PRESIDING] JUSTICE DEL ROSARIO:
>
> Is it your position that the BIR will have jurisdiction to include in the decedent's estate properties that ultimately have been found to be not in the name of the decedent? Will BIR have the jurisdiction to include properties not in the name of the decedent?
>
> ATTY. VELASCO:
>
> No, your Honors.
>
> [PRESIDING] JUSTICE DEL ROSARIO:
>
> In the event that properties not in the name of the decedent have been included in the estate, will that itself result into the nullity of the assessment because there is this premise earlier that, whether or not the assessment is void.
>
> Let's say decedent A, the BIR includes several properties including the properties of everyone here in Court and just saying

[8] Exhibit "R-4."

that, I noted in the Comment, the properties are couched in general terms. Just so called in general terms. Will that result in the actual nullification of the Assessment?

ATTY. VELASCO:

Given that example, your Honor, **yes. An Estate Tax Assessment that has attained, finality should not in any way prejudice a third party, who have no involvement whatsoever in the estate of today's hearing.**

[PRESIDING] JUSTICE DEL ROSARIO:

Now, in your Comment. Do you have a copy of your Comment, so that you can follow, that is on page 9. You stated here, the gross estate computed as follows: First, let's say, domestic assets, properties imputable to FM and family, and there is amount. Other than this entry here, properties imputed to FM and family, what documents support this inclusion of domestic assets, properties imputable to FM and family?

ATTY. VELASCO:

As far as gisted, your Honors, as an Officer of the Court, after examining the records, I have only seen certain annexes which, to be candid, **some of them are the listings, has some vagueness to it.**

[PRESIDING] JUSTICE DEL ROSARIO:

They are vague. And you have actually not seen? Let's say specific documents confirming the ownership of FM and family, amounting to 34 Million, etc.

ATTY. VELASCO:

Let me confer, your Honors, with the custodian.

Some items, your Honors, in the list have titles.

[PRESIDING] JUSTICE DEL ROSARIO:

They have?

ATTY. VELASCO:

Titles, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Titles. In the name of FM?

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Of the 34 Million, is the value of the properties imputable to FM and family? Is there a breakdown? How much of these properties are in the name of FM and family?

ATTY. VELASCO:

There is a breakdown, your Honors. As to the segregation, as to the names between the family.

[PRESIDING] JUSTICE DEL ROSARIO:

Yes. Insofar as the (interrupted)

ATTY. VELASCO:

We could furnish the Court.

[PRESIDING] JUSTICE DEL ROSARIO:

Yes. Now, never mind. The point is that, the Court would like to ascertain whether there are indeed, other than the SMC shares, **there are indeed properties included in the estate which are not in the name of the decedent. Do you confirm that?**

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Let's say, the shares of stocks, PLDT 1.6 Billion, could you confirm whether this 1.6 Billion shares of stocks are in the name of the decedent?

ATTY. VELASCO:

You Honors, if you will allow, I need to confer with the custodian.

We have no record whether it is titled in the name of decedent, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Nothing in the BIR record?

ATTY. VELASCO:

It only indicates that it was lifted from the sequestered property by the PCGG, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Sequestered only?

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

And you did not actually see the actual shares of stocks in the name of the decedent?

ATTY. VELASCO:

None, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

As of now, you cannot confirm?

ATTY. VELASCO:

I cannot, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Like the San Miguel Corporation here, shares of stocks. You confirm that the San Miguel Corporation shares of stocks which are the subject of the present case are **not in the name of the decedent**?

ATTY. VELASCO:

They're not, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

They're not in the name of the decedent also. What the Court is trying to confirm is the inclusion of properties belonging to third parties.

ATTY. VELASCO:

Your Honors, can I go back to the PLDT shares?

[PRESIDING] JUSTICE DEL ROSARIO:

PLDT shares, yes.

ATTY. VELASCO:

It was titled **under the name PDIC, your Honors**.

[PRESIDING] JUSTICE DEL ROSARIO:

So, not in the name of FM?

ATTY. VELASCO:

Not in the name of the decedent, your Honors.[9]

XXX XXX XXX

[PRESIDING] JUSTICE DEL ROSARIO:

I was wondering, why this happens including in the estate properties not in the name of the decedent. How about the **Security Bank and Trust company shares of stock? Are they in the name of the decedent?**

ATTY. VELASCO:

No, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Not also.

ATTY. VELASCO:

Not also.

[PRESIDING] JUSTICE DEL ROSARIO:

Now that you are in the BIR.

ATTY. VELASCO:

Yes, your Honors. [10] *(Boldfacing supplied)*

The foregoing admissions are supported by the documents found in the BIR Investigation Records, confirming that certain properties, such as residential land, agricultural lands, real properties under the name of other persons, properties offered or surrendered by cronies, were included as part of former President Marcos, Sr.'s gross

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[9] Transcript of Stenographic Notes of the April 24, 2025 Preliminary Conference, pp. 24 – 29.
[10] Transcript of Stenographic Notes of the April 24, 2025 Preliminary Conference, p. 30.

estate. One of those schedules/documents is reproduced hereunder,[11] *viz.*:

Properties attributable to FM & Family (Titles under their name) - With Comparative Amount

RECAPITULATION			
DOMESTIC ASSETS			
a. Properties directly attributable to FM and Family			
Cash in Banks-SBTC and TRB (Annex A)			
Security Banks & Trust Company	976,000,000.00		
Tinders Royal Bank	711,000,000.00		
Jewelries, paintings, antiques and other personal properties (Annex B)			
Assorted jewelries sought to be transferred to 3rd country intercepted at the airport	236,000,000.00		
Suitcases and boxes (24) filled with jewelries coins and medallions	14,000,000.00		
Winter wardrobe	288,000.00		
Real Estates (Annex C)			
Properties attributable to FM & Family (Titles under their name)			
Schedule 1	9,066,662.00		
Schedule 2	1,860,092.00		
Schedule 3	62,194,600.00		
	73,121,354.00	43,944,771.00	Income tax discrepancy
Hacienda Luisita Land (33 parcels)	18,000,000.00		
Agricultural Lands in Leyte 21,700 hectares	33,000,000.00		
GLOBAL/FOREIGN ASSETS			
A. Cash (Annex J)			
Cash and negotiable instruments brought to Hawaii			
Deposits in foreign banks (Civil Case-PCGG)	69,214,192.00		
($292,000 x P21.948)			
	6,408,816,000.00		
Deposits in foreign banks (Swiss $380 M)			
($380,000 x P21.948)	8,340,240,000.00		
Interest in banks, financial homes (Annex K)			
($98,560,000 x P21.948) 1989 FX	2,150,904,000.00		
			with available details but not included in the list per Sandiganbayan
Jewelries brought to Hawaii (Annex L)			
($4,179,069 x P21.948) 1989 FX	91,722,206.00		
DOMESTICS ASSETS			
b. Properties imputable to FM & Family			
Cronies, dummies, nominees & agents:			
Cash 38% of deposits of Tourist Duty	34,560,000.00		
Free Shop, Inc. ($1,000,000.00)			
Shares of Stocks			
55-58 PLDT (2,400,000 shares)	1,800,000,000.00		
72-74 San Miguel Corp. (66,108,640 shares)	8,610,464,000.00		
81-82 Security Bank and Trust Company	233,323,843.00		
51% of SBTC (Php457,497,731- 1980)			
Shareholdings, Inc	76,707,500.00		
60% of Shareholdings, Inc (Paid-up Php125,750,000-1981)			
U.S. Automotive Co. Inc	114,641,668.00		
100% of U.S. Automotive Co. Inc.			
Properties offered by Roberto S. Benedicto as compromise settlement and his remaining shares in Eastern Telecommunications (Annex F)			
Properties under control of Roberto S. Benedicto subject to compromise agreement	2,008,773,598.00		
Eastern Telecommunication Phil., Inc			
(Php123,576,253/515xP242,200,378.43-Php123,576,255.00)	118,730,125.00		
112-143 Paid-up subscription under Romualdez Group of Companies (Annex G)	37,344,882.00		
Real Estates under the name of the Romualdezes and other persons (Annex H)	210,041,783.00		
Properties surrendered by Marcos Cronies (ANNEX I)			
Jose Y. Campos	2,500,000,000.00		
Antonio Fiorendo	210,000,000.00		
GLOBAL / FOREIGN ASSETS			
B. Imputable to FM and Family through cronies, dummies, nominees and agents:			
Investment in Benguet consolidated (inC) (ANNEX M)	51,295,472.00		
(Php21.948 1989 exchange rate)			
Samuels Collection - Antiques (ANNEX N)	47,391,750.00		
Real Estates and Buildings (ANNEX O)			
326-340 200 Madison Avenue, New York, New York			
(21.948 FX 1989 * $50,500,000.00)	1,108,374,000.00		
341-368 2332 Makiki Honolulu, Hawai.			
(21.948 FX 1989 *$ 4,000,000.00)	87,797,000.00		
TOTAL	36,172,266,373.00	43,944,771.00	

[11] Page 144, BIR Investigation Records.

Undeniably, the BIR Investigation Records is replete with evidence demonstrating the **haphazard and arbitrary manner** by which the estate tax assessment was conducted. At the time of the assessment, the Marcos family was in **exile**, and as such, they were **not in a position to participate** in the audit process or to **meaningfully dispute** the inclusion of properties that allegedly did not belong to former President Marcos, Sr. The lack of due process in the conduct of the assessment proceedings, particularly the inclusion of assets not belonging to former President Marcos, Sr., casts serious doubt on the validity and fairness of the resulting tax liability.

On this point, I find the principle applied in *Dizon vs. Court of Tax Appeals*[12] instructive. In *Dizon*, the Supreme Court **nullified** the BIR's deficiency estate tax assessment against the estate of Jose P. Fernandez. The Supreme Court found that the BIR erroneously disallowed valid creditor claims as deductions, which, if properly considered, would have significantly reduced the gross estate and consequently, the estate tax due. **This wrongful exclusion by the BIR of lawful deductions rendered the assessment fundamentally flawed. As adjudged in the *fallo* of Dizon, the estate tax assessment therein should be nullified**, *viz.*:

> Verily, the second issue in this case involves the construction of Section 79 of the National Internal Revenue Code (Tax Code) which provides for the allowable deductions from the gross estate of the decedent. The specific question is whether the actual claims of the aforementioned creditors may be fully allowed as deductions from the gross estate of Jose despite the fact that the said claims were reduced or condoned through compromise agreements entered into by the Estate with its creditors.
>
> 'Claims against the estate,' as allowable deductions from the gross estate under Section 79 of the Tax Code, are basically a reproduction of the deductions allowed under Section 89 (a) (1) (C) and (E) of Commonwealth Act No. 466 (CA 466), otherwise known as the National Internal Revenue Code of 1939, and which was the first codification of Philippine tax laws. Philippine tax laws were, in turn, based on the federal tax laws of the United States. Thus, pursuant to established rules of statutory construction, the decisions of American courts construing the federal tax code are entitled to great weight in the interpretation of our own tax laws.
>
> It is noteworthy that even in the United States, there is some dispute as to whether the deductible amount for a claim against the estate is fixed as of the decedent's death which is the general rule, or the same should be adjusted to reflect post-death developments,

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[12] G.R. No. 140944, April 30, 2008.

such as where a settlement between the parties results in the reduction of the amount actually paid. On one hand, the U.S. court ruled that the appropriate deduction is the "value" that the claim had at the **date of the decedent's death**. Also, as held in *Propstra v. U.S.*, where a lien claimed against the estate was certain and **enforceable on the date of the decedent's death**, the fact that the claimant subsequently settled for lesser amount did not preclude the estate from deducting the entire amount of the claim for estate tax purposes. These pronouncements essentially confirm the general principle that post-death developments are not material in determining the amount of the deduction.

On the other hand, the Internal Revenue Service (Service) opines that post-death settlement should be taken into consideration and the claim should be allowed as a deduction only to the extent of the amount actually paid. Recognizing the dispute, the Service released Proposed Regulations in 2007 mandating that the deduction would be limited to the actual amount paid.

In announcing its agreement with *Propstra*, the U.S. 5th Circuit Court of Appeals held:

> We are persuaded that the Ninth Circuit's decision...in *Propstra* correctly apply the *Ithaca Trust* date-of-death valuation principle to enforceable claims against the estate. As we interpret *Ithaca Trust*, when the Supreme Court announced the date-of-death valuation principle, it was making a judgment about the nature of the federal estate tax specifically, that it is a tax imposed on the act of transferring property by will or intestacy and, because the act on which the tax is levied occurs at a discrete time, *i.e.*, the instance of death, the net value of the property transferred should be ascertained, as nearly as possible, as of that time. This analysis supports broad application of the date-of-death valuation rule.

We express our agreement with the date-of-death valuation rule, made pursuant to the ruling of the U.S. Supreme Court in *Ithaca Trust Co. v. United States*. *First*. There is no law, nor do we discern any legislative intent in our tax laws, which disregards the date-of-death valuation principle and particularly provides that post-death developments must be considered in determining the net value of the estate. It bears emphasis that tax burdens are not to be imposed, nor presumed to be imposed, beyond what the statute expressly and clearly imports, tax statutes being construed *strictissimi juris* against the government. Any doubt on whether a person, article or activity is taxable is generally resolved against taxation. *Second*. Such construction finds relevance and consistency in our Rules on Special Proceedings wherein the term 'claims' required to be presented against a decedent's estate is generally construed to mean debts or demands of a pecuniary nature which could have been enforced against the deceased in his lifetime, or liability contracted by the deceased before his death. Therefore, the claims existing at the time

> of death are significant to, and should be made the basis of, the determination of allowable deductions.
>
> **WHEREFORE**, the instant Petition is **GRANTED**. Accordingly, the assailed Decision dated April 30, 1999 and the Resolution dated November 3, 1999 of the Court of Appeals in CA-G.R. S.P. No. 46947 are **REVERSED** and **SET ASIDE**. **The Bureau of Internal Revenue's deficiency estate tax assessment against the Estate of Jose P. Fernandez is hereby NULLIFIED**. No costs.
>
> **SO ORDERED**." *(Boldfacing and underscoring supplied)*

As applied to the present case, respondent's inclusion of assets not owned by former President Marcos, Sr. —**such as the Cojuangco, et al., SMC shares and several other properties of third parties**— in the gross estate rendered the computation of the estate tax fundamentally defective. Consequently, the resulting assessment was inherently flawed and must be declared void.

The inescapable legal repercussions of erroneously including properties not owned by the decedent in the determination of the estate tax liability was readily conceded by respondent's counsel, viz.:

> "[PRESIDING] JUSTICE DEL ROSARIO:
>
> **Do you think it is fair to include in the estate properties not in the name of the decedent?**
>
> ATTY. VELASCO:
>
> **No, your Honors.**
>
> [PRESIDING] JUSTICE DEL ROSARIO:
>
> It's not fair, right? Now, if we exclude properties not in the name of the decedent, would it not by itself result in the nullification of the Assessment itself?
>
> ATTY. VELASCO:
>
> **It is highly likely, your Honors**. That's why we included it as an issue.
>
> [PRESIDING] JUSTICE DEL ROSARIO:
>
> In fact, the decision of the Supreme Court was way back in 1997, were you able to collect any properties subject of this Assessment?

ATTY. VELASCO:

Were we able to collect?

[PRESIDING] JUSTICE DEL ROSARIO:

To collect, yes.

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Only those with respect to properties that are in the name of the decedent?

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

But, how about the (interrupted)

ATTY. VELASCO:

There are others, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

How about the total computation? Is it not that when you exclude properties of third parties, the computation of the Assessment would necessarily be altered because according to the Marcos doctrine, "An Assessment involving an estate is an *in rem* proceedings". You're familiar with that also? This is an *in rem* proceedings, it is an action against the estate, and not against any particular person. Do you agree with that?

ATTY. VELASCO:

Yes, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

Going back to that point, if we exclude all these properties not in the name of the decedent, would it not result in a substantial reduction also of the computation of the tax?

ATTY. VELASCO:

Yes, your Honors. And again, it highlights or it questions the inherent validity of the Assessment.

[PRESIDING] JUSTICE DEL ROSARIO:

Yes, it touches into the inherent validity of the Assessment.

ATTY. VELASCO:

Yes, your Honors.[13] *(Boldfacing supplied)*

It is a settled principle that **tax assessments must be based on facts and supported by law**. An assessment that arbitrarily attributes properties to the decedent without clear evidence of ownership, particularly when such assets evidently belong to third parties, **lacks any factual basis** and is therefore **void**. In *Commissioner of Internal Revenue v. Spouses Magaan,*[14] the Supreme Court categorically held that an assessment which fails to present a sufficient factual foundation constitutes a **denial of due process** and must be struck down. Citing *Commissioner of Internal Revenue vs. Hontex Trading Co., Inc.*,[15] the Supreme Court emphasized in *Spouses Magaan* that the BIR's determination contained in the deficiency notice effectively **"disappears"** when it is found that the assessment is without factual basis, *viz.*:

> While we agree that respondents did not present evidence disputing the existence of the loan and check payments, they have no *prima facie* liability for the deficiency assessments. The presumption of the correctness of the assessment does not apply when it is arbitrarily issued, without foundation [and] rational basis:
>
> > We agree with the contention of the petitioner that, as a general rule, tax assessments by tax examiners are presumed correct and made in good faith. All presumptions are in favor of the correctness of a tax assessment. It is to be presumed, however, that such assessment was based on sufficient evidence. Upon the introduction of the assessment in evidence, a *prima facie* case of liability on the part of the taxpayer is made. If a taxpayer files a petition for review in the CTA and assails the assessment, the *prima facie* presumption is that the assessment made by the BIR is correct, and that in preparing the same, the BIR personnel regularly performed their duties. This rule for tax initiated suits is premised on several factors other than the normal evidentiary rule imposing proof obligation on the petitioner-taxpayer: the presumption of administrative regularity; the likelihood that the

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[13] Transcript of Stenographic Notes of the April 24, 2025 Preliminary Conference, pp. 30 – 32.
[14] G.R. No. 232663, May 3, 2021.
[15] Commissioner of Internal Revenue vs. Hontex Trading Co., Inc., 494 Phil. 306, 335-336 (2005) [Per J. Callejo, Second Division].

> taxpayer will have access to the relevant information; and the desirability of bolstering the record-keeping requirements of the NIRC.
>
> However, **the *prima facie* correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation**, meaning it is arbitrary and capricious. **Where the BIR has come out with a "naked assessment," *i.e.*, without any foundation character, the determination of the tax due is without rational basis**. In such a situation, the U.S. Court of Appeals ruled that **the determination of the Commissioner contained in a deficiency notice disappears**." (Boldfacing supplied)

In this light, the inclusion of third-party assets in the estate—without substantiating evidence or a clear legal basis—renders the assessment **null and void**, having been issued in excess of authority and in clear contravention of constitutional guarantees.

Lack of a valid Letter of Authority

Second, the lack of a valid Letter of Authority duly served upon the administrator of the estate, authorizing the Revenue Officers to conduct the audit of former President Marcos, Sr.'s estate, renders the assessment void. A tax collection effort that stems from an invalid assessment holds no legal weight.[16]

Perusal of the BIR Investigation Records of this case reveals that no such Letter of Authority is found therein, a fact which respondent's counsel forthrightly acknowledged at the April 25, 2024 Preliminary Conference, *viz.*:

> [PRESIDING] JUSTICE DEL ROSARIO:
>
> > We have handled several cases involving Assessment declared as void. One of which, is the absence of a Letter of Authority. Just for the record may I know if this particular Assessment was done pursuant to a Letter of Authority, do you have the records with you?
>
> ATTY. GONZALES:
>
> > Yes, your Honors.

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[16] Commissioner of Internal Revenue vs. Stradcom Corporation, G.R. No. 255520, April 21, 2025.

[PRESIDING] JUSTICE DEL ROSARIO:

> Are you familiar with the record or not yet?

ATTY. VELASCO:

> We have tried to establish as much familiarity as we can, your Honors. However, we have yet to compile everything and (interrupted)

[PRESIDING] JUSTICE DEL ROSARIO:

> So, we cannot have a stipulation on that?

ATTY. VELASCO:

> Let me confer with the custodian, your Honor's. It's not found in the records, your Honors.

[PRESIDING] JUSTICE DEL ROSARIO:

> **Can we put on record that there is actually no Letter of Authority that was issued which resulted in the deficiency Estate Tax Assessment? There is nothing on record to that effect, Atty. Velasco?**

ATTY. VELASCO:

> **Nothing on record**, your Honors.[17] *(Boldfacing supplied)*

The BIR Investigation Records contain a Memorandum dated June 27, 1990 signed by then Commissioner of Internal Revenue (CIR) Jose U. Ong,[18] constituting the Special Tax Audit Team for the purpose of ascertaining *"principally the income and estate tax liabilities of former President Marcos, Sr. and correlatively based on justifiable grounds, the internal revenue tax liabilities of the immediate members of his family and a number of identified associates or cronies."* The Memorandum states that the "tax audit work in this project shall cover taxable years **1986 and 1987 only**" and went on to further state that *"subsequent years may be included if such inclusion is deemed necessary and justifiable."*

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[17] Transcript of Stenographic Notes of the April 24, 2025 Preliminary Conference, pp. 19 – 20.
[18] Pages 7-8, BIR Investigation Records.

It is a matter of public knowledge and historical record that former President Marcos, Sr. died on **September 28, 1989**, in Honolulu, Hawaii. The Supreme Court acknowledged this fact in *Marcos vs. Manglapus*.[19]

When Memorandum dated June 27, 1990 was signed by then CIR Ong constituting the Special Tax Audit Team, Revenue Memorandum Order (RMO) No. 10-89 was the prevailing guidelines anent the examination, audit jurisdiction and issuance of letters of authority to audit. Under RMO No. 10-89, a Letter of Authority should cover a taxable period not exceeding one taxable year. RMO No. 10-89 explicitly states that "**the practice of issuing LAs covering audit of "unverified prior years" is hereby prohibited.**" It prescribes that if the audit includes more than one taxable period, the other periods or years must be specified.[20]

In *Commissioner of Internal Revenue vs. De La Salle University, Inc.*,[21] the Supreme Court invalidated the assessments issued for fiscal years which were not specified in the Letter of Authority. The Letter of Authority in said case was for *fiscal year ending 2003 and unverified prior years*. The corresponding assessments for fiscal years 2001 and 2002 were void for having been *unspecified* in a Letter of Authority. The Supreme Court declared:

> "Xxx, **the requirement to specify the taxable period covered by the [Letter of Authority (LOA)] is simply to inform the taxpayer of the extent of the audit and the scope of the revenue officer's authority**. Without this rule, **a revenue officer can unduly burden the taxpayer by demanding random accounting records from random *unverified years***, which may include documents from as far back as ten years in cases of *fraud* audit.
>
> In the present case, the LOA issued to DLSU is for *Fiscal Year Ending 2003 and Unverified Prior Years*. The LOA does not strictly comply with RMO 43-90 because it includes unverified prior years. This does not mean, however, that the entire LOA is void.
>
> As the CTA correctly held, the assessment for taxable year 2003 is valid because this taxable period is specified in the LOA. DLSU was fully apprised that it was being audited for taxable year 2003. Corollarily, **the assessments for taxable years 2001 and**

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[19] G.R. No. 88211. October 27, 1989.
[20] Commissioner of Internal Revenue vs. De La Salle University, Inc., G.R. No. 196596, November 9, 2016.
[21] *Id.*

> **2002 are void for having been *unspecified* on separate LOAs** xxx." *(Boldfacing supplied)*

Even if the aforesaid Memorandum dated June 27, 1990 is regarded as the source of authority of the Revenue Officers named therein to conduct the audit of the estate of former President Marcos, Sr., the same cannot be a source of legitimate estate tax audit of former President Marcos, Sr.'s estate. Said Memorandum must have at the very least, **specified the taxable year 1989**, which is the legally determinative year for assessing the value of the gross estate and computing the corresponding tax due. The Memorandum's limitation of the specified audit period to **1986 and 1987**—years **prior** to his death— did not justify a valid and lawful audit of the estate of the decedent for the year 1989.

Any audit or examination that has been conducted by the Special Audit Team covering a taxable period not specified in the Letter of Authority or Memorandum signed by the CIR is unauthorized and consequently, any assessment issued after said audit is likewise invalid. As oft-repeated, a void assessment can never ripen into finality, albeit unprotested.

In *Commissioner of Internal Revenue vs. Alvez*,[22] where the Supreme Court ruled that the CTA *En Banc* correctly affirmed[23] the Court in Division's decision,[24] denying the collection case filed by the CIR against the taxpayer therein upon a **finding that the supposed final, executory and demandable assessment sought to be collected by the CIR was void, being a result of an unauthorized assessment conducted by a Revenue Officer without the requisite Letter of Authority**. The Supreme Court explained:

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[22] G.R. No. 256743, November 25, 2024 (Notice of Resolution).
[23] *Commissioner of Internal Revenue vs. Alvez,* CTA EB No. 2076, October 8, 2020, penned by Associate Justice Maria Rowena Modesto-San Pedro and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Ma. Belen M. Ringpis-Liban. Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Catherine T. Manahan dissented; *Commissioner of Internal Revenue vs. Alvez,* CTA EB No. 2076, June 8, 2021, penned by Associate Justice Maria Rowena Modesto-San Pedro and concurred in by Presiding Justice Roman G. Del Rosario and Associate Justices, Erlinda P. Uy, Ma. Belen M. Ringpis-Liban and Catherine T. Manahan. Associate Justices Jean Marie A. Bacorro-Villena and Juanito C. Castañeda, Jr. dissented.
[24] *Commissioner of Internal Revenue vs. Alvez*, CTA OC No. 020, Decision dated November 8, 2018 and Resolution dated May 17, 2019, penned by Presiding Justice Roman G. Del Rosario and concurred in by Associate Justices Erlinda P. Uy and Cielito M. Mindaro-Grulla.

"The Court resolves to DENY the instant Petition for Review on *Certiorari* (Petition) dated July 26, 2021 filed by Petitioner Commissioner of Internal Revenue (CIR), which assails the Decision dated October 8, 2020 and the Resolution dated June 8, 2021 of the court of Tax Appeals (CTA) *En Banc* in CTA EB No. 2076. The CTA *En Banc* correctly affirmed the Decision dated November 8, 2018 and the Resolution dated May 17, 2019 of the CTA Special First Division in CTA OC No. 020, which denied the collection case that was filed by the CIR against Neil Ryan Erasmo Alvez (respondent) for deficiency income tax, value added tax, and expanded withholding tax for the taxable year 2009.

Time and again, the Court has held that a void judgment or order can never attain finality. In *Gomez v. Concepcion*, the Court explained that:

> ... [a] void judgment is in legal effect no judgment. By it no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars any one. All acts performed under it and all claims flowing out of it are void.

In *Mercury Drug Corp. v. Spouses Huang*, the Court held that **a void judgement may be directly or collateral[l]y attacked**, *viz.*:

> A void judgment never acquires the status of a final and executory judgment. Parties may, therefore, challenge them without running afoul of the doctrine of immutability of judgment. A direct attack may be brought either through a petition for annulment of judgment under Rule 47 of the Rules of Court or through a petition for certiorari under Rule 65 of the Rules of Court. A void judgment may also be challenged collaterally "by assailing its validity in another action where it is invoked."

Void assessments are no different. After all, a tax assessment is in the nature of a judgment. It "contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. Akin to a judgment, due process requires that tax assessments must also be served on and received by the taxpayer, to enable him or her to determine the remedies available.

Accordingly, **the CTA *En Banc* correctly ruled that** even if no protest was timely filed by respondent, **a void assessment**, like void judgments, **can never ripen into finality and, consequently, may be collaterally challenged in the subsequently ensuing collection case**.xxx" *(Boldfacing and underscoring supplied)*

To reiterate, for the BIR to successfully pursue the collection of taxes through any of the available legal remedies, it is imperative that such tax collection must be preceded by a valid assessment.

Mannasoft Technology Corporation vs. Commissioner of Internal Revenue,[25] is emphatic that an assessment that fails to strictly comply with the due process requirements in the issuance of an assessment is void and produces no effect, to wit:

> **"Well-settled is the rule that an assessment that fails to strictly comply with the due process requirements set forth in Section 228 of the Tax Code and Revenue Regulations No. 12-99 is void and produces no effect**. Consequently, given that the assessment notices were void, the resulting WDL is likewise invalid and without effect." *(Boldfacing supplied)*

Exception to the doctrine of immutability of judgment

Marcos II appears to have declared that the 1991 Estate Tax Assessment has attained finality. As earlier mentioned, *Marcos II* did not actually settle the validity (or "intrinsic invalidity") of the 1991 Estate Tax Assessment as the same was never raised as an issue or addressed by the Supreme Court. As confirmed by respondent,[26] the issue in *Marcos II* pertain to the authority of respondent to collect the deficiency estate tax, without cognition and authority of the probate court.

Even if the finality of the 1991 Estate Tax Assessment may have been the *lis mota* in *Marcos II*, the Court is not precluded from revisiting the issue in view of a supervening event—an established and compelling exception to the doctrine of immutability of final judgments.

As aforementioned, in *Republic vs. Sandiganbayan*[27] [promulgated in 2011, or after Marcos II, which was promulgated in 1997], the Supreme Court declared with finality, that the subject Cojuangco, et al. SMC Shares are the exclusive properties of Cojuangco, et al. as "registered owners". The parties stipulated that the block shares in SMC in the names of respondents Cojuangco, et al., subject of Civil Case No. 0033-F before the Sandiganbayan, and which were subject of *Republic vs. Sandiganbayan*, *supra*, include the Cojuangco, et al. SMC Shares which are subject of the present case.[28] **They stipulated that per SMC's corporate records, former**

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[25] G.R. No. 244202, July 10, 2023.
[26] Transcript of Stenographic Notes of the April 24, 2025 Preliminary Conference, p. 51.
[27] G.R. No. 166859, April 12, 2011.
[28] Nos. 7 and 8, Page 2, Order dated April 24, 2025.

President Marcos, Sr. never owned any shares of stock in SMC, and none of SMC's shares of stock has ever been registered in his name.[29]

The finality of the 1991 Estate Tax Assessment per *Marcos II* cannot shield the assessment from judicial reevaluation when a **supervening event** arises—namely, a subsequent judgment affirming that the disputed property belongs to another. Jurisprudence recognizes that the doctrine of immutability of final judgments—anchored in considerations of public policy and judicial efficiency—is **not absolute**. The Supreme Court has long held that it may be **relaxed in the interest of justice** when circumstances transpire after the finality of the decision rendering its execution unjust and inequitable. A supervening event is an exception to the execution as a matter of right of a final and immutable judgment rule, only if it directly affects the matter already litigated and settled or substantially changes the rights or relations of the parties therein as to render the execution unjust, impossible or inequitable.[30]

The Supreme Court's **later ruling conclusively affirming that the contested** Cojuangco, et al. SMC Shares **are the property of the Cojuangcos must take precedence over the enforcement of the 1991 Estate Tax Assessment**, even if that assessment was previously declared final. This is because the subsequent judgment constitutes a **supervening event**—a recognized exception to the immutability of final judgments. It is settled that immutability may be relaxed in the interest of justice when **new circumstances arise after finality**—circumstances that **substantially alter the rights or relations of the parties**, rendering enforcement of the earlier judgment unjust, inequitable, or impossible. The later ruling strikes at the substance of the 1991 Estate Tax Assessment, displacing its operative force and entitling the Court, wherever said 1991 Estate Tax Assessment exhibits itself, to declare it **null and void.**

In fine, I submit that a seemingly "final" and "executory" assessment that is intrinsically void can neither be given the status of finality nor any binding effect. As the 1991 Estate Tax Assessment is undisputedly fraught with fatal infirmities, the Court should not allow the government to benefit therefrom. For being void, the 1991 Estate Tax Assessment never attained finality and - akin to an outlaw - it

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[29] No. 10, Page 3, Order dated April 24, 2025.
[30] Heirs of Maravilla vs. Tupas, G.R. No. 192132, September 14, 2016, citing Javier vs. Court of Appeals, G.R. No. 96086, July 21, 1993.

should be slain whenever or wherever it exhibits its head.[31] Stated differently, no collection of a tax deficiency can validly proceed on the basis of an assessment that is intrinsically void. Such action is legally untenable. *Ex turpi causa non oritur actio ("No action can arise from an illegal act").*

All told, I **VOTE** to (1) **ENJOIN** respondent Commissioner of Internal Revenue from collecting from petitioner San Miguel Corporation the estate tax assessment issued against the estate of the former President Ferdinand E. Marcos, Sr. through levy or distraint of the Cojuangco, et al, SMC Shares; and, (2) **NULLIFY** the 1991 Estate Tax Assessment issued against the estate of former President Ferdinand E. Marcos, Sr. **for being intrinsically void**, **without prejudice** to the issuance of a new estate tax assessment that includes only the properties or assets belonging to former President Ferdinand E. Marcos, Sr. at the time of his death.

ROMAN G. DEL ROSARIO
Presiding Justice

[31] Imperial vs. Armes, G.R. Nos. 178842 and 195509, January 30, 2017.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

SAN MIGUEL CORPORATION, Petitioner,	**CTA SCA Case No. 0030**
- versus -	Members: **DEL ROSARIO**, *P.J.*, *Chairperson*, **BACORRO-VILLENA**, *and* **CUI-DAVID**, *JJ.*
THE HON. ROMEO D. LUMAGUI, JR., AS COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 14 2025 3:32 p.m.

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In particular, I concur with the *ponencia* insofar as it decisively declares the quoted portion below which, to my mind, carry directives that are firmly anchored on both the facts and the applicable law. These directives appropriately address the immediate controversies brought before this Court and ensure that the reliefs granted are consistent with the final and binding pronouncements in prior jurisprudence:

> (1) **PARTIALLY GRANT** petitioner San Miguel Corporation's (**petitioner**'s/**SMC**'s) "Petition for Review (With Urgent Applications for a Temporary Restraining Order [**TRO**] and Writ of Preliminary Injunction [**WPI**])"[1] (**Petition for Review**), which is treated as a special civil action for Prohibition;
>
> (2) **REITERATE** the final and executory status of the Assessment Notice (**AN**) No. FAC-2-89-91-002464[2] (the "**1991 Estate Tax Assessment**"), issued on 26 July 1991 against the estate of the late President Ferdinand E. Marcos (**former President Marcos**), in the amount of **₱23,293,607,638.00**[3], inclusive of surcharge and interest, as adjudged in the 1997 case of *Ferdinand R. Marcos II v. Court of Appeals, et al.*[4] (**1997 Marcos II case**); and
>
> (3) **ENJOIN AND PROHIBIT** respondent Hon. Romeo D. Lumagui, Jr., as the Commissioner of Internal Revenue (**respondent/Commissioner Lumagui**), or any person acting on his behalf, from proceeding with the collection of the 1991 Estate Tax Assessment by distraining or otherwise involving the SMC shares of stock that formed part of, and

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1 Filed on 19 December 2024; Division Docket, pp. 5-126, with attached exhibits and judicial affidavits.

2 Exhibit "R-1", BIR Records, p. 158.

3 See Computation of Tax *per* Estate Tax Return of the Estate of the late President Ferdinand E. Marcos, Exhibit "R-2", id., p. 157.

COMPUTATION OF TAX	
GROSS CONJUGAL ESTATE	**₱36,172,266,373.00**
LESS: DEDUCTIONS	2,894,308,856.00
NET CONJUGAL ESTATE	33,277,957,517.00
LESS: SHARE OF SURVIVING SPOUSE	16,638,978,759.00
NET SHARE IN CONJUGAL ESTATE/NET TAXABLE ESTATE	16,638,978,758.00
ESTATE TAX DUE	**₱9,982,974,705.00**
ADD: SURCHARGE	7,487,231,028.00
ADD: INTEREST	5,823,401,905.00
TOTAL AMOUNT DUE AND PAYABLE	**₱23,293,607,638.00**

4 G.R. No. 120880, 05 June 1997 [Per J. Torres, Jr., Second Division].

SEPARATE CONCURRING OPINION
CTA SCA Case No. 0030
San Miguel Corporation **v.** The Hon. Romeo D. Lumagui, Jr., as Commissioner of Internal Revenue
Page 3 of 16
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well as the rate; (2) **assessment and collection**, which involve the determination of the amount of tax to be paid and the means, process, and method of implementing the tax law to satisfy the tax obligation, essentially the actual effort to obtain payment of the tax due; and (3) **payment**, which is the taxpayer's compliance with tax laws, including the availment of remedies allowed under the law.[7]

As to the ***second stage***, Section 2 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, vests in the Bureau of Internal Revenue (**BIR**) the power and duty over "the assessment and **collection of all national internal revenue taxes [such as estate tax]**, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, **including the execution of judgments** in all cases decided in its favor by the Court of Tax Appeals [**CTA**] and the ordinary courts."

In the normal course of tax administration and enforcement, the BIR must first make an **assessment** then enforce the **collection** of the amounts so assessed. An assessment is not an action or proceeding for the collection of taxes. It is **a step preliminary, but essential** to warrant distraint, if still feasible; and, also, to establish a cause for judicial action. The BIR may summarily enforce collection only when it has accorded the taxpayer administrative due process, which vitally includes the issuance of a valid assessment. A valid assessment sufficiently informs the taxpayer in writing of the legal and factual bases of the said assessment, thereby allowing the taxpayer to effectively protest the assessment and adduce supporting evidence in its behalf.[8]

The aforesaid general principle of taxation, read together with the NIRC provision and jurisprudence, makes clear that tax administration and enforcement consists of two (2) distinct stages: ***first*, the assessment stage**, and ***second*, the collection stage**. The execution of a final judgment, such as the *1997 Marcos II case*, squarely falls within the collection stage of tax administration and enforcement. While the assessment stage precedes — and is necessarily linked to — the collection stage, the issues that arise in each are separate and must not be conflated. Therefore, it is imperative to clearly delineate these stages and to evaluate the present controversy strictly within the parameters of the collection stage, where the decisive inquiry is **whether a property — such as the SMC shares of stock in this case — may be subjected to distraint**, and not the validity of the assessment itself.

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7 See Justice Japar B. Dimaampao, Tax Principles and Remedies, pp. 16-23 (5th ed., 2015).

8 *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. Nos. 197945 & 204119-20, 09 July 2018 [Per J. Leonardo-De Castro, First Division].

In the *1997 Marcos II case*, the Supreme Court ruled that the BIR's Notices of Levy on real properties of former President Marcos were issued within the prescriptive period and in accordance with the NIRC of 1997. The High Court expressly stated that the heirs of former President Marcos allowed the 1991 Estate Tax Assessment to lapse into finality by never questioning it, which prompted the BIR to collect the taxes by levying upon the properties left by the late President. Thus, having already become final, executory and demandable, the Supreme Court categorically declared that "**the [said 1991 Estate Tax Assessment] can no longer be contested by means of a disguised protest**" and "[it] **can now be collected through the summary remedy of distraint or levy pursuant to Section 205**[9] **of the NIRC [of 1997].**"

Notably, as the parties stipulated[10], and the BIR Records[11] so confirmed, the tax base — *i.e.*, Net Taxable Estate of ₱16,638,978,758.00, computed as the Gross Conjugal Estate of ₱36,172,266,373.00 less the Share of the Surviving Spouse of ₱16,638,978,759.00 — of the final and executory 1991 Estate Tax Assessment includes the SMC shares of stock, then valued at ₱8,610,464,000.00, which are the subject of this case.

On 09 March 1999, the Supreme Court issued an Entry of Judgment, thereby rendering its ruling on the final and executory status of the 1991 Estate Tax Assessment final and unappealable. As the *ponencia* underscores, **from that point onward, the pronouncements in the *1997 Marcos II case* became final, conclusive, and binding; thus, under the doctrine of immutability of judgments, execution follows as a necessary consequence.**

The time honored doctrine of immutability of judgments states that except for correction of clerical errors, final and executory judgments can neither be amended nor altered. Nothing is more settled in law than that once a judgment attains finality it thereby becomes immutable and unalterable. It may no longer be modified in any respect, except to correct clerical errors or mistakes, 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

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9 **SEC. 205.** *Remedies for the Collection of Delinquent Taxes.* — The civil remedies for the collection of internal revenue taxes, fees, or charges, and any increment thereto resulting from delinquency shall be:

(a) **By distraint of goods, chattels, or effects, and other personal property of whatever character,** including stocks and other securities, debts, credits, bank accounts, and interest in and rights to personal property, **and by levy upon real property and interest in or rights to real property**[.] (Emphasis supplied)

10 See Order dated 24 April 2025, Division Docket, pp. 246-251.

11 See Computation of FEM Estate and Estate Tax Due, supra at note 5.

rendering it or by the highest court of the land. Otherwise, there would be no end to litigation and would set to naught 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. **Any amendment or alteration which substantially affects a final and executory judgment, is null and void for lack of jurisdiction.**[12]

It bears stressing that since the BIR's collection efforts were timely initiated within the applicable prescriptive period, it may continue pursuing them until full satisfaction or settlement of the 1991 Estate Tax Assessment. In other words, from 09 March 1999 up to the present, the BIR retains the authority to employ all lawful measures to collect the estate tax due or to enforce the 1991 Estate Tax Assessment against the estate of former President Marcos or any of his heirs upon or after such distribution of his estate.

Evidently, the present controversy is well past the assessment stage and firmly within the collection stage, as it has long been incumbent upon the BIR to cause the satisfaction of the 1991 Estate Tax Assessment through any lawful means — such as the summary remedies of distraint and/or levy — against properties owned by the estate of former President Marcos prior to the distribution of the estate, or by any of his heirs upon or after such distribution, as the case may be.

Here lies respondent's pitfall.

In determining which properties may be distrained and/or levied upon in satisfaction of the 1991 Estate Tax Assessment, I am of the considered view that it was remiss for the BIR to simply rely on the properties listed in the estate tax computation attached to the Estate Tax Return[13] of the estate of former President Marcos filed on 26 July 1991. On this score, it must be stressed that the BIR's exercise of power during the collection stage requires not only strict observance of due process in the pursuit of summary remedies but also the diligent ascertainment of ownership of the properties it seeks to take from a delinquent taxpayer. For this purpose, it is incumbent upon the BIR to identify, verify, and pursue the levy or distraint of properties *currently* registered either in the name of the estate of former President Marcos or in the name of any of his heirs, should it be confirmed that the estate has already been distributed.

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12 *Swire Agricultural Products Inc. v. Hyundai Corporation*, G.R. No. 163934, 09 June 2005 [Per J. Ynares-Santiago, First Division].

13 Exhibit "R-2", supra at note 3.

This necessarily presupposes that the BIR has either previously confirmed ownership of the properties it seeks to levy or distrain, or has served the corresponding warrant upon the third party holding said properties, subject to that third party's confirmation of the delinquent taxpayer's ownership thereof. Petitioner, in this case, is the third party in custody of the Stock and Transfer Book (**STB**), the primary basis for determining the shareholders of a corporation or the registered owners of the shares of stock of a corporation.[14]

In this case before Us, respondent, in issuing the Letter dated 02 October 2024[15] addressed to petitioner through its President, and the Letter 19 November 2024[16], addressed to petitioner's legal counsel, Poblador Bautista & Reyes Law Office, failed to discharge his duty as head of the BIR to first identify, verify, and pursue the distraint of shares of stock currently registered in the name of the estate of former President Marcos or in the name of any of his heirs, should it have been confirmed that the estate had already been distributed. This omission is evident from the lack of specificity in the said letters as to which SMC shares of stock were included in the 1991 Estate Tax Assessment and were being subjected to collection. Respondent's belated clarification during the 24 April 2025 Preliminary Conference[17] — that the subject of collection are the SMC shares of stock included in the 1991 Estate Tax Assessment and pertaining to Cojuangco, *et al.* (*i.e.*, the 16,276,879 SMC shares then representing approximately 20% of SMC's outstanding shares, which were claimed by Cojuangco, *et al.* in Civil Case No. 0033-F re: Acquisition of SMC Shares of Stock before the Sandiganbayan) — does not cure this glaring lapse, especially in view of the Supreme Court's ultimate declaration in the *2011 Republic case* that Cojuangco, *et al.* are the registered owners of this particular block of SMC shares.

Moreover, respondent's failure to determine the actual ownership of the SMC shares of stock in question before initiating collection efforts directly against petitioner — without even issuing any corresponding and concurrent notice to the legal representatives of the estate of former President Marcos or to his heirs — underscores the BIR's misstep in the present controversy. It proceeded with collection without first establishing that the property — effectively subjected to distraint in concept, since no Warrant of Distraint has yet been issued — falls within the lawful scope of execution. This approach blurs the clear boundary between the assessment stage, which concerns the

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14 See *Lily C. Lopez v. Lolito S. Lopez, et al.*, G.R. Nos. 254957-58 (Resolution), 21 April 2025 [Per J. Hernando, First Division], citing *Vicente C. Ponce v. Alsons Cement Corporation, and Francisco M. Giron, Jr.*, G.R. No. 139802, 10 December 2002 [Per J. Quisumbing, Second Division].

15 Exhibit "P-1", Division Docket, p. 53.

16 Exhibit "P-6", id., p. 72.

17 See Order dated 24 April 2025, supra at note 10.

determination of the amount of estate tax to be paid based on the properties included in the gross estate of former President Marcos, and the collection stage, which involves the actual effort to obtain payment of the estate tax due from properties that are in fact part of the estate of former President Marcos. This distinction is one that this Court must very carefully draw and preserve.

It goes without saying that respondent could have avoided the present controversy had he endeavoured to ascertain, as a matter of fact, whether the estate of former President Marcos or his heirs — upon or after the distribution of the estate — owned the SMC shares of stock in question. As pointed out in the *ponencia*, the inclusion of a property in the gross estate of a decedent in a final and executory tax assessment does not constitute conclusive proof of the decedent's ownership of such property. Indeed, respondent cannot rely solely on the inclusion of the SMC shares of stock registered under the names of Cojuangco, *et al.* in the 1991 Estate Tax Assessment to establish ownership on the part of the estate of former President Marcos or his heirs upon or after the distribution of the estate.

Clearly, based on the attendant facts, respondent committed grave abuse of discretion in the manner by which he attempted to collect the estate tax due or to enforce the 1991 Estate Tax Assessment against petitioner — particularly, in failing to enforce it against the taxpayer actually liable therefor, *i.e.*, the estate of former President Marcos or any and all of his heirs upon or after estate distribution, and instead directing the collection of a portion of the assessment against petitioner, which is not only a stranger to the assessment proceedings but also merely the issuer of the SMC shares of stock in question.

The perceived and imminent risk of loss or deprivation of property on the part of petitioner is palpable, given that respondent did not even specify which SMC shares of stock will be distrained in due course, coupled with the fact that petitioner itself owns treasury shares that could have been included in the Estate Tax Assessment respondent referred to in his letters. Recognizing this clear transgression of petitioner's due process rights, this Court cannot shirk from its constitutional duty to intervene and resolve this controversy to afford ample protection to petitioner, who stands at risk of being unjustly and improperly made liable for an estate tax owed by a different taxpayer.

However, as to the nature and extent of the reliefs that can and should be granted to petitioner under the circumstances of this case, I wish to clarify that this Court should only enjoin and prohibit respondent, or any person

acting on his behalf, from proceeding with the collection of the 1991 Estate Tax Assessment by distraining or otherwise involving the SMC shares of stock that formed part of, and were then valued at ₱8,610,464,000.00 in, the gross estate[18] of former President Marcos, but were subsequently declared by the Supreme Court in the *2011 Republic case* as the exclusive property of Cojuangco, *et al.*, as the registered owners.

The foregoing declaration necessarily means that respondent cannot compel petitioner's corporate secretary to perform the ministerial act of recording the distraint of the SMC shares of stock or the transfer of ownership thereof in favor of the government in satisfaction of the 1991 Estate Tax Assessment.[19] Simply put, respondent is prohibited from appropriating these SMC shares over which the government's title has no *prima facie* validity or is uncertain.

Now, regarding petitioner's prayer to annul, reverse and set aside the 1991 Estate Tax Assessment proceedings insofar as they relate to or cover petitioner and its shares of stock supposedly included in the estate of former President Marcos, I am of the considered view that petitioner has no legal standing to obtain such relief. For one, petitioner was not a party or a stranger to those proceedings; and for another, the present Petition for Review — treated as a special civil action for Prohibition — is not the proper vehicle to relitigate the underlying tax liability or to mount a collateral attack on a final judgment issued by no less than the Supreme Court in the *1997 Marcos II case*.

Again, as clarified during the 24 April 2025 Preliminary Conference, the subject of collection consists of the SMC shares of stock included in the 1991 Estate Tax Assessment and pertaining to Cojuangco, *et al.* Consequently, petitioner's stake in the subject matter of, and its participation in, this case has been reduced from that of a registered owner of SMC shares (with respect to its treasury shares) to that of a mere issuer of SMC shares (pertaining to Cojuangco, *et al.*). Not being the registered owner of the SMC shares of stock in question, petitioner does not qualify either as a real party-in-interest, who stands to be benefited or injured by the judgment in the suit, or an indispensable party, whose interest is so necessary that no final judgment can be rendered without affecting their rights, for purposes of excluding from the gross estate properties not belonging to the estate of former President Marcos

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18 See Computation of Ferdinand E. Marcos (**FEM**) Estate and Estate Tax Due, supra at note 5.
19 See *Lim Tay v. Court of Appeals, et al.*, G.R. No. 126891, 05 August 1998 [Per J. Panganiban, First Division].

— such as the SMC shares of stock — much less for invalidating the entire assessment.

Under Section 2[20], Rule 3 of the Rules of Court (**ROC**), as amended, a real party-in-interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. **"Interest" within the meaning of the rule means material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.** One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action. **To qualify a person to be a real party-in-interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced.**[21]

On the other hand, **Section 7[22], Rule 3 of the ROC, as amended, mandates that all indispensable parties should be joined in a suit.** Case law defines **an indispensable party as one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had.** The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties' that his legal presence as a party to the proceeding is an absolute necessity. In his absence, there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable. **Thus, the absence of an indispensable party renders all subsequent actions of the court null and void, for want of authority to act, not only as to the absent parties but even as to those present.**[23]

In *Heirs of Faustino Mesina and Genoveva S. Mesina, rep. by Norman Mesina v. Heirs of Domingo Fian, Sr., rep. by Theresa Fian Yray, et al.*[24], citing *Pamplona Plantation Company, Inc. and/or Jose Luis Bondoc v. Rodel Tinghil, et al.*[25], the Supreme Court definitively explained that in instances of non-joinder of indispensable parties, the proper remedy is to implead them and not to dismiss the case:

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20 SEC. 2. *Parties in Interest.* — **A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.** Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest. (Emphasis supplied)

21 *BPI Family Bank v. Edgardo Buenaventura, et al.*, G.R. Nos. 148196 & 148259, 30 September 2005 [Per J. Austria-Martinez, Second Division].

22 SEC. 7. *Compulsory Joinder of Indispensable Parties.* — **Parties in interest without whom no final determination can be had of an action** shall be joined either as plaintiffs or defendants. (Emphasis supplied)

23 *Land Bank of the Philippines v. Eduardo M. Cacayuran*, G.R. No. 191667, 22 April 2015 [Per J. Perlas-Bernabe, Special Second Division].

24 G.R. No. 201816, 08 April 2013 [Per J. Velasco, Jr., Third Division]; Citation omitted, emphasis and italics in the original text.

25 G.R. No. 159121, 03 February 2005 [Per J. Panganiban, Third Division].

...

Our pronouncement in *Pamplona Plantation Company, Inc. v. Tinghil* is instructive as regards the proper course of action on the part of the courts in cases of non-joinder of indispensable parties, *viz*:

> **The non-joinder of indispensable parties is not a ground for the dismissal of an action**. At any stage of a judicial proceeding and/or at such times as are just, parties may be added on the motion of a party or on the initiative of the tribunal concerned. If the plaintiff refuses to implead an indispensable party despite the order of the court, that court may dismiss the complaint for the plaintiff's failure to comply with the order. **The remedy is to implead the non-party claimed to be indispensable**. . . .
>
> Thus, the dismissal of the case for failure to state a cause of action is improper. What the trial court should have done is to direct petitioner Norman Mesina to implead all the heirs of Domingo Fian, Sr. as defendants within a reasonable time from notice with a warning that his failure to do so shall mean dismissal of the complaint.

...

Considering that petitioner's interest in the SMC shares at issue is confined to that of a mere issuer — the corporation that issued the shares — it stands as a third party positioned between the delinquent taxpayer (the estate of former President Marcos) and the BIR (the agency seeking to collect the estate tax due) during the collection stage of this tax proceeding. As to the relief sought — whether to nullify the assessment insofar as it covers the SMC shares included in the 1991 Estate Tax Assessment (as a necessary consequence of excluding properties not belonging to the estate of former President Marcos) or to invalidate the entire assessment, a relief that emerged only after the 24 April 2025 Preliminary Conference — petitioner falls under neither the category of a real party-in-interest nor that of an indispensable party.

To put matters in proper perspective, petitioner, as the issuer of the SMC shares in question, is in a position analogous to that of a bank which, upon receipt of a warrant of garnishment, must turn over to the CIR sufficient funds from a delinquent taxpayer's bank account to satisfy the outstanding tax obligation.[26] In such a case, **the proper party to challenge the validity**

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26 See Section 208 of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

> **SEC. 208.** *Procedure for Distraint and Garnishment.* — The officer serving the warrant of distraint shall make or cause to be made an account of the goods, chattels, effects or other personal property distrained, a copy of which, signed by himself, shall be left either with the owner or person from whose possession such goods, chattels, or effects or other personal property were taken, or at the dwelling or place of business of such person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and note of the time and place of sale.

of the underlying tax liability (*i.e.*, the assessment forming the basis of the warrant of garnishment) is not the bank or garnishee, but the taxpayer who is directly liable for the tax obligation. The remedy of filing a petition for review before this Court to assail the BIR's issuance of a warrant of garnishment belongs exclusively to the delinquent taxpayer. Any interest the bank may have by reason of its fiduciary duty to the delinquent taxpayer in safeguarding the funds on deposit is merely incidental and does not vest in it a material interest sufficient to confer the status of a real party-in-interest if it were to file such a petition.

Following the same logic, petitioner lacks sufficient interest in this case to seek, *on its own*, the nullification of the whole or any portion of the 1991 Estate Tax Assessment — whether by invoking any recognized exception to the doctrine of immutability of judgments or otherwise — for want of a cause of action. Furthermore, because respondent has yet to issue and serve a copy of a Warrant of Distraint upon the legal representatives of the estate of former President Marcos and/or his heirs, as well as upon petitioner's president, manager, treasurer, or other responsible officer, in accordance with Section 208[27] of the NIRC of 1997, as amended, it would be premature for this Court to direct petitioner to implead as indispensable parties the legal representatives of the estate of former President Marcos and/or his heirs. Their participation is essential for a court to render an effective, complete, and equitable determination on the validity of the 1991 Estate Tax Assessment. Accordingly, this Court must deny this portion of the petition, as any judgment on that particular relief rendered without such indispensable parties would be void.

While it is true that jurisprudence recognizes certain exceptions to the doctrine of immutability of judgments, such as (1) the correction of clerical errors, (2) the so-called *nunc pro tunc* entries which cause no prejudice to any party, (3) void judgments (*e.g.*, a judgment upholding an assessment despite the absence of a valid Letter of Authority [**LOA**] authorizing the audit), and

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> Stocks and other securities shall be distrained by serving a copy of the warrant of distraint upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the corporation, company or association, which issued the said stocks or securities.
>
> Debts and credits shall be distrained by leaving with the person owing the debts or having in his possession or under his control such credits, or with his agent, a copy of the warrant of distraint. The warrant of distraint shall be sufficient authority to the person owning the debts or having in his possession or under his control any credits belonging to the taxpayer to pay to the Commissioner the amount of such debts or credits.
>
> **Bank accounts shall be garnished by serving a warrant of garnishment upon the taxpayer and upon the president, manager, treasurer or other responsible officer of the bank. Upon receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the Government.** (Emphasis and underscoring supplied)

27 Supra at note 26.

(4) whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable[28] (*e.g.*, the Supreme Court's determination in the *2011 Republic case* that the block of shares in SMC in the names of Cojuangco, *et al.* subject of Civil Case No. 0033-F before the Sandiganbayan is the exclusive property of Cojuangco, *et al.* as registered owners), I respectfully reiterate that the instant petition is *not* the proper vehicle to relitigate the underlying tax liability or to mount a collateral attack on the final judgment in the *1997 Marcos II case* upholding the validity of the 1991 Estate Tax Assessment.

Under Section 2[29], Rule 65 of the ROC, as amended, a **writ of prohibition** is issued only when: (1) a tribunal, officer, or body is *about to act* in excess of jurisdiction *or commits* grave abuse of discretion; and (2) there is **no appeal, nor a plain, speedy, and adequate remedy** in the ordinary course of law. The function of prohibition is to prevent the unlawful and oppressive exercise of legal authority and to provide for a fair and orderly administration of justice.[30]

The case of *Maria Carolina P. Araullo, et al. v. Benigno Simeon C. Araullo III*[31], citing *Holy Spirit Homeowners Association, Inc. and Nestorio F. Apolinario v. Secretary Michael Defensor, et al.*[32], sums up the nature and function of prohibition (as distinguished from *certiorari*), *viz*:

> ...
>
> Although similar to prohibition in that it will lie for want or excess of jurisdiction, *certiorari* is to be distinguished from prohibition by the fact that it is a corrective remedy used for the re-examination of some action of an inferior tribunal, and is directed to the cause or proceeding in the lower court and not to the court itself, while **prohibition is a preventative remedy issuing to restrain future action, and is directed to the court itself**. The

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28 *Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) v. Heirs of Cirilo Gotengco*, G.R. No. 226355, 24 January 2018 [Per J. Gesmundo, Third Division], citing *FGU Insurance Corporation (now BPI/MS Insurance Corporation) v. Regional Trial Court of Makati City, Branch 66, G.P. Sarmiento Trucking Corporation*, G.R. No. 161282, 23 February 2011 [Per J. Mendoza, Second Division].

29 SEC. 2. *Petition for Prohibition.* — **When the proceedings** of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, **are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law**, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and **praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.** (Emphasis and underscoring supplied)

30 *Spouses Antonio and Fe Yusay v. Court of Appeals, et al.*, G.R. No. 156684 (Resolution), 06 April 2011 [Per J. Bersamin, Third Division].

31 G.R. Nos. 209287, 209135, 209136, 209155, 209164, 209260, 209442, 209517 & 209569, 01 July 2014 [Per J. Bersamin, *En Banc*]; Citations omitted, italics in the original text, emphasis and underscoring supplied.

32 G.R. No. 163980, 03 August 2006 [Per J. Tinga, *En Banc*].

Court expounded on the nature and function of the writ of prohibition in *Holy Spirit Homeowners Association, Inc. v. Defensor*:

> A petition for prohibition is also not the proper remedy to assail an IRR issued in the exercise of a quasi-legislative function. **Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law.** Prohibition lies against judicial or ministerial functions, but not against legislative or quasi-legislative functions. **Generally, the purpose of a writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels. Prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained.** Where the principal relief sought is to invalidate an IRR, petitioners' remedy is an ordinary action for its nullification, an action which properly falls under the jurisdiction of the Regional Trial Court. **In any case, petitioners' allegation that "respondents are performing or threatening to perform functions without or in excess of their jurisdiction" may appropriately be enjoined by the trial court through a writ of injunction or a temporary restraining order.**

With respect to the Court, however, the remedies of *certiorari* and **prohibition** are **necessarily broader in scope and reach**, and the **writ of** *certiorari* or **prohibition may be issued** to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also **to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government**, *even if the latter does not exercise judicial, quasi-judicial or ministerial functions*. This application is expressly authorized by the text of the second paragraph of Section 1, [Article VIII of the 1987 Constitution].

Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.

Necessarily, in discharging its duty under Section 1, [Article VIII of the 1987 Constitution], to set right and undo any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, **the Court is not at all precluded from making the inquiry provided the challenge was properly brought by interested or affected parties**. The Court has been thereby entrusted expressly or by necessary implication with both the duty and the obligation

> of determining, in appropriate cases, the validity of any assailed legislative or executive action. This entrustment is consistent with the republican system of checks and balances.
>
> ...

The principal purpose for the writ of prohibition is to prevent an encroachment, excess, usurpation or assumption of jurisdiction on the part of an inferior court or quasi-judicial tribunal.[33] It is granted when it is necessary for the orderly administration of justice, or prevent the use of the strong arm of the law in an oppressive or vindictive manner, or multiplicity of actions.[34] The writ of prohibition commands the tribunal, board or officer concerned to desist from committing an act threatened to be done without jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction.[35] As a preventive remedy, the writ will not lie to enjoin acts already done.[36]

It is thus evident that the remedy of prohibition is not designed to undo acts already performed; such matters fall within the remedies of *certiorari*, annulment, or appeal. Guided by this principle, **a Rule 65 petition for prohibition is not the proper vehicle to question the validity of underlying tax liabilities or to assail final judgments, including those affirming the validity of tax assessments**. Applied to the present case, it would therefore be highly irregular for this Court to revisit the validity of the *1997 Marcos II case* or to pass upon the merits of the assessment therein, considering that the petition before this Court is one for prohibition — not *certiorari* or any other form of special civil action — and is not intended to overturn a judgment that has long attained finality and executory status.

Essentially, since petitioner is neither a real party-in-interest nor an indispensable party in relation to the cause of action to declare invalid the inclusion, in the gross estate of the late former President Marcos, of SMC shares of stock pertaining to Cojuangco, *et al.*, it is both premature and improper for petitioner to assume the right to seek the nullification of the 1991 Estate Tax Assessment through the present special civil action for Prohibition.

In light of the foregoing disquisitions, I am firmly of the view that petitioner has no legal standing to assail, whether directly or collaterally, the

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33 *Esperanza S. Longino v. Atty. Lina A. General, et al.*, G.R. No. 147956, 16 February 2005 [Per J. Callejo, Sr., Second Division].

34 Id.

35 *Arturo M. Tolentino and Arturo C. Mojica v. Commission on Elections, et al.*, G.R. No. 148334, (21 January 2004 [Per J. Carpio, *En Banc*].

36 Id.

validity of the 1991 Estate Tax Assessment in this petition, treated as a special civil action for Prohibition. The authority of this Court in the premises is confined to determining whether respondent, in enforcing collection pursuant to said assessment, is acting without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. While the Court finds that respondent committed grave abuse of discretion in improperly directing the enforcement process against petitioner — who is not only a stranger to the assessment proceedings but also merely the issuer of the SMC shares in question — petitioner's lack of material interest in the underlying tax liability precludes the grant of any relief beyond the limited scope warranted by such finding.

All told, I vote to: (**i**) **PARTIALLY GRANT** the "Petition for Review (With Urgent Applications for a Temporary Restraining Order and Writ of Preliminary Injunction)" filed by petitioner San Miguel Corporation on 19 December 2024; and (**ii**) **ENJOIN** and **PROHIBIT** respondent, or any person acting on his behalf, from further enforcing the 1991 Estate Tax Assessment, covered by Assessment Notice No. FAC-2-89-91-002464, against the SMC shares of stock finally adjudged as the exclusive property of Eduardo M. Cojuangco, Jr. and several corporations, as the registered owners, through the issuance of a Warrant of Distraint or by any other summary remedy.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice