REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

***EN BANC***

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| **PEOPLE OF THE PHILIPPINES, AND BUREAU OF INTERNAL REVENUE, as represented by the Commissioner of Internal Revenue,**<br>Petitioners,<br><br>- versus -<br><br>**RAPPLER HOLDINGS CORPORATION and MARIA A. RESSA,**<br>Respondent. | **CTA EB CRIM. NO. 126**<br>(CTA Crim. Case Nos. O-679, O-680, O-681 and O-682) |
| **PEOPLE OF THE PHILIPPINES,**<br>Petitioner,<br><br>- versus -<br><br>**COURT OF TAX APPEALS FIRST DIVISION, RAPPLER HOLDINGS CORPORATION and MARIA A. RESSA,**<br>Respondents. | **CTA EB SCA NO. 0001**<br><br>*Present:*<br><br>**DEL ROSARIO, *P.J.*,<br>RINGPIS-LIBAN,<br>MANAHAN,<br>BACORRO-VILLENA,<br>MODESTO-SAN PEDRO,<br>REYES-FAJARDO,<br>CUI-DAVID,<br>FERRER-FLORES,** *and*<br>**ANGELES, *JJ.***<br><br>Promulgated:<br>OCT 02 2025 4:28 |

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# RESOLUTION

***FERRER-FLORES, J.:***

For resolution is the **Motion for Reconsideration** filed by **petitioners People of the Philippines and Bureau of Internal Revenue (BIR)**, as represented by the Commissioner of Internal Revenue (CIR) on March 13, 2025,[1] with **Comment/Opposition to the Motion for Reconsideration dated 12 March 2025** filed by **Rappler Holdings Corporation (RHC) and Maria A. Ressa** (collectively known as **private respondents**) on March 28, 2025.[2]

Petitioners seek the reversal of this Court's Decision dated February 21, 2025 (assailed Decision), which denied the *Verified Petition for Review (of the Resolution dated May 18, 2023, on the Civil Aspect)* and the *Verified Petition for Certiorari*, which reads as follows:

> **WHEREFORE,** premises considered, the instant **Verified Petition for Review (of the Resolution dated May 18, 2023, on the Civil Aspect)** and **Verified Petition for Certiorari** are **DENIED** for lack of merit. The assailed Decision dated January 18, 2023 and the assailed Resolution dated May 18, 2023 rendered by the First Division of this Court in CTA Crim. Case Nos. O-679, O-680, O-681 and O-682 are **AFFIRMED.**
>
> **SO ORDERED.**

In its *Motion for Reconsideration*, petitioners reiterate the arguments they raised in their *Verified Petition for Review* in EB Crim No. 126.

Petitioners contend that this Court erred in sustaining the findings of the Court in Division, which held that **Rappler Holdings Corporation (RHC)** is not a dealer in securities. Petitioners claim that while RHC's primary purpose as outlined in its Articles of Incorporation shows clear limitation that it shall not act as a stockbroker or as a dealer in securities, the proviso cannot prevail over the actual performance of dealing in securities. They maintain that RHC sold Philippine Depositary Receipts (PDRs) to NBM Rappler, L.P. (NBM) and Omidyar Network Fund, L.L.C. (ON), which have Rappler, Inc. (RI) shares as underlying shares, a year after RHC's incorporation. Thus, petitioners still insist that RHC's issuance of the PDRs to NBM and ON were taxable as the former gained profit from the said issuances.

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[1] *Rollo* (EB Crim. No. 126) – Vol. 5.
[2] *Id.*

Petitioners also argue that this Court erred in ruling that there was no transfer of beneficial ownership in the issuance of the PDRs. Petitioners submit that since ON was given the right to vote, it has beneficial ownership and "not a true PDR in the spirit".

Finally, petitioners claim that this Court erred in ruling that there can be no civil liability against respondents. Petitioners assert that PDRs gave the holder economic benefit such as financial returns through a pass-through arrangement, whereby any amount RHC receives from RI would pass-through entirely to the holders of the PDR; hence, RHC must be subject to tax on the profit it realized from the issuance of the said PDRs and subject to the corresponding income tax and value-added tax (VAT).

In their *Comment/Opposition*, private respondents submit that this Court should deny the *Motion* outright because it violates the constitutional rights against double jeopardy in adherence to the "finality-of-acquittal doctrine" that is, judgment of acquittal is final and unappealable. Private respondents also manifest that petitioners merely reiterated the same arguments which have already been extensively addressed by the Court in Division and the Court *En Banc*. They also posit that this Court correctly found that RHC is not a dealer in securities; hence, there is no sale of securities which could be the basis of any civil liability. Lastly, private respondents oppose petitioners' claim that there was transfer of economic rights or beneficial ownership of RI shares subject of a taxable event and maintain that RHC retained "full beneficial ownership" over the shares.

Petitioners' *Motion for Reconsideration* is bereft of merit.

A reading of petitioners' *Motion* shows that the arguments therein have already been considered by this Court in the assailed Decision.

As aptly discussed in the assailed Decision, this Court agreed with the ruling of the Court in Division in finding that RHC is a holding company and not a dealer in securities. Evidence on record further shows that RHC is not involved in any habitual or regular purchase or resale of securities as issuance of the PDRs by RHC was done pursuant to a legitimate business purpose, i.e. to raise capital for its subsidiary RI, which is consistent with one of the purposes of RHC as a holding company.

This Court already held in the assailed Decision:

> We sustain the findings of the Court in Division that the issuance of PDRs to NBM and ON is not a sale of stock but an investment transaction.

> Nothing in the PDR Investment Agreement and PDR Subscription Agreements would show that the foreign entities will become owners of the shares of stock of RI upon the issuance of PDRs. The PDR holders only retain the option to purchase the underlying shares of RI subject to certain conditions i.e.., that there is no law restricting foreign ownership in the business of the operating entity. This is consistent with RHC's Articles of Incorporation (AOI), which limits its purpose and does not include RHC to act as a dealer of securities or stockbroker.
>
> Finally, the PDRs were issued by RHC and were not purchased from RI and resold to NBM and ON; thus, its subscription is not considered dealing in securities as defined under NIRC of 1997, as amended, SRC and RR No. 6-2008.
>
> Accordingly, the Court *En Banc* finds no grave abuse of discretion when the Court in Division found that RHC is not a dealer in securities.

Here, petitioners failed to indicate the specific transactions that would point to the fact that the issuance of PDRs by RHC to NBM and ON are considered purchase and sale of securities and not an investment, as fittingly found by the Court in Division and this Court; thus, there is no reason to rule otherwise.

As regards petitioners' asseveration that this Court erred in ruling that there is no transfer of beneficial ownership in the issuance of the PDRs to ON, petitioners contend that this Court failed to consider the undertakings provided in the Investment Agreement granting ON the power to vote, which clearly demonstrates beneficial ownership, and that its waiver of the right does not alter the fact that it has beneficial ownership.

Aside from the fact that ON waived the alleged right to vote, it has already been amply discussed in the assailed Decision that the Court in Division, citing Philippine Stock Exchange (PSE) Circular for Brokers No. 2375-99 dated September 22, 1999, correctly held that for as long as the PDR remains unexercised by its holder, the holder has no right of ownership over the underlying shares and all such ownership rights pertain and belong to the issuer. Only when the PDR holder exercises the option to have the underlying shares delivered to him/her that he/she becomes a shareholder.

Finally, the Court finds no merit in petitioners' assertion that respondents remain to be civilly liable in view of RHC's issuance of the PDR to NBM and ON. For petitioners, the alleged profit realized by RHC should be subject to tax in the total amount of ₱192,238,755.92, including interests and surcharges.

This Court already found that no civil liability attached to the case in view of the findings that the PDRs issued by RHC to NBM and ON are not one of a sale but an investment. Since RHC is not a dealer in securities and no beneficial ownership was transferred to the NBM and ON, there was no taxable event to speak of that could give rise to liability for income tax and VAT. Petitioners, thus, failed to establish that respondents are required to report any income in its returns, nor are they required to pay VAT or income tax for the issuance of the PDRs.

All told, there is no reason to modify or reverse the disposition in the assailed Decision.

**WHEREFORE**, premises considered, the instant **Motion for Reconsideration** is **DENIED** for lack of merit.

**SO ORDERED.**

**CORAZON G. FERRER-FLORES**
Associate Justice

**WE CONCUR:**

*No part*
**ROMAN G. DEL ROSARIO**
Presiding Justice

*On leave*
**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

*(Inhibited)*
**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

Marian Ivy F. Reyes-Fajardo
*(I reiterate Separate Concurring Opinion in the assailed Decision in CTA Crim Case Nos. O-679 to O-682)*
**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice

*(Inhibited)*
**HENRY S. ANGELES**
Associate Justice