The Doctrine of Piercing the Corporate Veil as Applied by the Presidential Commission on Good Government (PCGG)

Jean Susan V. Desuasido

38 ATENEO L.J. 181 (1994)

SUBJECT(S): *CORPORATE LAW*
KEYWORD(S): *PIERCING THE CORPORATE VEIL*

The Paper analyzes the use of the Presidential Commission on Good Government (PCGG) of the doctrine of piercing the corporate veil at the administrative level. It also analyzes the Court's appreciation or misappreciation of the use of piercing in terms of factual substantiation for piercing. This stems from the recent action of the PCGG in issuing writs of sequestration over "ill-gotten" corporations on the basis of *prima facie* evidence through an administrative piercing of the corporate veil. The basic claim is that the corporation is merely a creature of the State. The Supreme Court, therefore, may pierce the corporate veil in cases where fraud is involved, or where the corporation is a mere alter ego of another entity, or for equitable reasons in cases involving State concerns or public policy. After considering all factors, the Court, however, will not pierce when the State suffers no substantial loss. Nevertheless, the mere lifting of the writ because of failure to implead the corporations themselves is not the end. Neither does it preclude any judicial action to recover "ill-gotten" corporations. The decision of the Court to lift the writ of sequestration should not, therefore, be understood as an adjudication on the merits of the PCGG's claim that the corporation is "ill-gotten."

The Paper provides an overview of the doctrine of piercing the corporate veil and discusses its applicability in fraud cases, alter ego cases, and equity cases. It also provides a historical and factual background on the creation of the PCGG and a discussion of cases between PCGG and Sandiganbayan. The Author concludes that piercing is only applicable when supported with factual basis. Factual basis, however, need only be presented in fraud or alter ego cases. Furthermore, piercing is a remedy of last resort based on the *Umali* doctrine. The Author recommends that in the future, PCGG should implead the sequestered corporation as party-defendants. This is because of the doctrine of separate juridical personality where the corporation is granted a separate personality from its owners. If the court allows piercing, then any judgment of the court will bind the corporation, even if it is treated merely as the res. Lastly, in a postscript, the Author discusses briefly the case of *Republic of the Philippines v. Sandiganbayan, et al.* because the case adds fresh insight into the Paper's analysis.