

The Control Test in Determining Corporate Nationality: Drawing the Line Between Economic Areas Nationalized by the Constitution and Statutes

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40 ATENEO L.J. 162 (1996)

SUBJECT(S): COMMERCIAL LAW, CORPORATION LAW

KEYWORD(S): CONTROL TEST, CORPORATE NATIONALITY

The Paper addresses the issue of the application of the Control Test — that its adoption by the Securities and Exchange Commission and the Department of Justice cannot and must not be equally applied in determining corporate nationality insofar as economic areas nationalized under the fundamental law and those under ordinary enactments. The Paper also establishes why the relaxation of the Grandfather Rule is a patent violation of the express wordings of the Philippine Constitution and abortive of the intent of the fundamental law. It also aims to discuss concepts of stock ownership to emphasize the necessity of strict adherence to the spirit of the Constitution and to analyze the rationale behind the Constitutional and statutory provisions on nationalization.

The Paper concludes that the Control Test adopted in the country was never intended to be the rule in economic areas nationalized by the Constitution. Its application is therefore a violation of the wordings of the Constitution and is deemed to be abortive of the intent of the fundamental law.