

EN BANC

[G.R. No. 169914, March 24, 2008]

**ASIA'S EMERGING DRAGON CORPORATION, Petitioner, VS.
DEPARTMENT OF TRANSPORTATION AND COMMUNICATION,
SECRETARY LEANDRO R. MENDOZA and MANILA
INTERNATIONAL AIRPORT AUTHORITY, Respondents.**

[G.R. No. 174166]

**REPUBLIC OF THE PHILIPPINES, Represented by the
DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
and MANILA INTERNATIONAL AIRPORT AUTHORITY, Petitioner,
VS. COURT OF APPEALS (Eighth Division) and SALACNIB
BATERINA, Respondents.**

R E S O L U T I O N

CORONA, J.:

For our resolution are the (1) "motion for leave of court to intervene and to admit the attached answer-in-intervention with prayer for alternative compliance of the December 19, 2005 decision" and (2) "answer-in-intervention" of Manila Hotel Corporation (MHC) filed on February 22, 2008. MHC seeks to intervene in the consolidated cases of G.R. Nos. 169914 and 174166 alleging that it has a legal interest in the matter in litigation. It avers that it purchased 20% of PIATCO's shares from the latter's two stockholders, namely, SB Airport Investments, Inc. and Sojitz Corporation on August 23, 2005 and August 24, 2005, respectively. On August 26, 2005, it also entered into an agreement with Fraport AG Frankfurt Airport Services Worldwide to purchase the latter's 30% direct shareholdings and 31.44% indirect shareholdings^[1] in PIATCO.^[2]

MHC claims that it has a legal interest in the issues raised in G.R. 169914 and the early and complete compliance with the December 19, 2005 decision in G.R. No. 166429 of this Court. Thus it prays that (1) AEDC's petition be dismissed; (2) its (MHC's) proposed alternative manner of implementing the December 19, 2005 decision be approved^[3] and (3) it be allowed to manage and operate the NAIA IPT III for 25 years.^[4]

MHC's motion for intervention is an improper remedy.

Intervention is a remedy by which a third party, not originally impleaded in the proceedings, becomes a litigant therein to enable him, her or it to protect or preserve a right or interest which may be affected by such proceedings. The pertinent rule is Rule 19, Section 1 of the Rules of Court which states:

SEC. 1. Who may intervene. — A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

In outline form, the following are the requisites for intervention of a non-party:

1. Legal interest

- (a) in the matter in controversy; or
- (b) in the success of either of the parties; or
- (c) against both parties; or
- (d) person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof;

2. Intervention will not unduly delay or prejudice the adjudication of rights of original parties;

3. Intervenor's rights may not be fully protected in a separate proceeding.^[5]

MHC asserts that because of its substantial stockholdings in PIATCO, it has a legal interest in the matter in litigation. However, it conveniently fails to state its legal basis for the intervention.

The interest contemplated by law must be actual, substantial, material, direct and immediate, and not simply contingent or expectant. It must be of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.^[6]

The scenario here is similar to the intervention sought in *Magsaysay-Labrador v. CA*.^[7] In that case, Rodriguez-Magsaysay filed an action against Subic Land Corporation (SLC) *et al.* She alleged that her husband, the late Senator Genaro Magsaysay, assigned land (which was part of their conjugal property) to SLC. She prayed that this assignment be annulled. *Magsaysay-Labrador et al.*, the sisters of the late senator, filed a motion for intervention on the ground that their brother had already conveyed to them his shareholdings in SLC amounting to 41% of its total capital. They argued that as transferees of the shares, they had a legal interest in the matter in litigation. The Court disagreed:

Here, the interest, if it exists at all, of petitioners-movants is indirect, contingent, remote, conjectural, consequential and collateral. At the very least, their interest is purely inchoate, or in sheer expectancy of a right in the management of the corporation and to share in the profits thereof and in the properties and assets thereof on dissolution, after payment of the corporate debts and obligations.

While a share of stock represents a proportionate or aliquot interest in