

SECOND DIVISION

[G.R. No. 96551, November 04, 1996]

PREMIUM MARBLE RESOURCES, INC., PETITIONER, VS. THE COURT OF APPEALS AND INTERNATIONAL CORPORATE BANK, RESPONDENTS. PRINTLINE CORPORATION, PETITIONER, VS. THE COURT OF APPEALS AND INTERNATIONAL CORPORATE BANK, RESPONDENTS.

D E C I S I O N

TORRES, JR., J.:

Assailed in the instant petition for review is the decision^[1] of the Court of Appeals in CA-G.R. CV No. 16810 dated September 28, 1990 which affirmed the trial court's dismissal of petitioners' complaint for damages.

The antecedents:

On July 18, 1986, Premium Marble Resources, Inc. (Premium for brevity), assisted by Atty. Arnulfo Dumadag as counsel, filed an action for damages against International Corporate Bank which was docketed as Civil Case No. 14413. The complaint states, inter alia:

"3. Sometime in August to October 1982, Ayala Investment and Development Corporation issued three (3) checks [Nos. 097088, 097414 & 27884] in the aggregate amount of P31,663.88 payable to the plaintiff and drawn against Citibank;

x x x

"5. On or about August to October 1982, former officers of the plaintiff corporation headed by Saturnino G. Belen, Jr., without any authority whatsoever from the plaintiff deposited the above-mentioned checks to the current account of his conduit corporation, Intervest Merchant Finance (Intervest, for brevity) which the latter maintained with the defendant bank under account No. 0200-02027-8;

"6. Although the checks were clearly payable to the plaintiff corporation and crossed on their face and for payee's account only, defendant bank accepted the checks to be deposited to the current account of Intervest and thereafter presented the same for collection from the drawee bank which subsequently cleared the same thus allowing Intervest to make use of the funds to the prejudice of the plaintiff;

x x x

"14. The plaintiff has demanded upon the defendant to retribute the amount representing the value of the checks but defendant refused and continue to refuse to honor plaintiff's demands up to the present;

"15. As a result of the illegal and irregular acts perpetrated by the defendant bank, the plaintiff was damaged to the extent of the amount of P31,663.88."

Premium prayed that judgment be rendered ordering defendant bank to pay the amount of P31,663.88 representing the value of the checks plus interest, P100,000.00 as exemplary damages; and P30,000.00 as attorney's fees.

In its Answer International Corporate Bank alleged, inter alia, that Premium has no capacity/personality/authority to sue in this instance and the complaint should, therefore, be dismissed for failure to state a cause of action.

A few days after Premium filed the said case, Printline Corporation, a sister company of Premium also filed an action for damages against International Corporate Bank docketed as Civil Case No. 14444. Thereafter, both civil cases were consolidated.

Meantime, the same corporation, i.e., Premium, but this time represented by Siguion Reyna, Montecillio and Ongsiako Law Office as counsel, filed a motion to dismiss on the ground that the filing of the case was without authority from its duly constituted board of directors as shown by the excerpt of the minutes of the Premium's board of directors' meeting.^[2]

In its opposition to the motion to dismiss, Premium thru Atty. Dumadag contended that the persons who signed the board resolution namely Belen, Jr., Nograles & Reyes, are not directors of the corporation and were allegedly former officers and stockholders of Premium who were dismissed for various irregularities and fraudulent acts; that Siguion Reyna Law office is the lawyer of Belen and Nograles and not of Premium and that the Articles of Incorporation of Premium shows that Belen, Nograles and Reyes are not majority stockholders.

On the other hand, Siguion Reyna Law firm as counsel of Premium in a rejoinder, asserted that it is the general information sheet filed with the Securities and Exchange Commission, among others, that is the best evidence that would show who are the stockholders of a corporation and not the Articles of Incorporation since the latter does not keep track of the many changes that take place after new stockholders subscribe to corporate shares of stocks.

In the *interim*, defendant bank filed a manifestation that it is adopting *in toto* Premium's motion to dismiss and, therefore, joins it in praying for the dismissal of the present case on the ground that Premium lacks authority from its duly constituted board of directors to institute the action.

In its Order, the lower court concluded that:

"Considering that the officers (directors) of plaintiff corporation enumerated in the Articles of Incorporation, filed on November 9, 1979, were 'to serve until their successors are elected and qualified' and considering further that as of March 4, 1981, the officers of the plaintiff

corporation were Alberto Nograles, Fernando Hilario, Augusto Galace, Jose L.R. Reyes, Pido Aguilar and Saturnino Belen, Jr., who presumably are the officers represented by the Siguion Reyna Law Firm, and that together with the defendants, they are moving for the dismissal of the above-entitled case, the Court finds that the officers represented by Atty. Dumadag do not as yet have the legal capacity to sue for and in behalf of the plaintiff corporation and/or the filing of the present action (Civil Case 14413) by them before Case No. 2688 of the SEC could be decided is a premature exercise of authority or assumption of legal capacity for and in behalf of plaintiff corporation.

"The issues raised in Civil Case No. 14444 are similar to those raised in Civil Case No. 14413. This Court is of the opinion that before SEC Case No. 2688 could be decided, neither the set of officers represented by Atty. Dumadag nor that set represented by the Siguion Reyna, Montecillo and Ongsiako Law Office, may prosecute cases in the name of the plaintiff corporation.

"It is clear from the pleadings filed by the parties in these two cases that the existence of a cause of action against the defendants is dependent upon the resolution of the case involving intra-corporate controversy still pending before the SEC."^[3]

On appeal, the Court of Appeals affirmed the trial court's Order^[4] which dismissed the consolidated cases. Hence, this petition.

Petitioner submits the following assignment of errors:

I

"The Court of Appeals erred in giving due course to the motion to dismiss filed by the Siguion Reyna Law Office when the said motion is clearly filed not in behalf of the petitioner but in behalf of the group of Belen who are the clients of the said law office.

II

"The Court of Appeals erred in giving due course to the motion to dismiss filed by the Siguion Reyna Law Office in behalf of petitioner when the said law office had already appeared in other cases wherein the petitioner is the adverse party.

III

"The Court of Appeals erred when it ruled that undersigned counsel was not authorized by the Board of Directors to file Civil Case Nos. 14413 and 14444.

IV

"The Court of Appeals erred in concluding that under SEC Case No. 2688