

SECOND DIVISION

[G.R. No. 241905, March 11, 2020]

**CARLOS S. PALANCA IV AND COGNATIO HOLDINGS, INC.,
PETITIONERS, VS. RCBC SECURITIES, INC., RESPONDENT.**

DECISION

REYES, A., JR., J.:

The present Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court assails the Decision^[1] dated October 27, 2017 and the Resolution^[2] dated September 5, 2018 of the Court of Appeals (CA) in CA G.R. SP No. 148920, which reversed the *en banc* Decision dated December 6, 2016 of the Securities and Exchange Commission (SEC), and reinstated the Letter-Decision dated December 4, 2014 and the Resolution dated June 1, 2015 of the Capital Markets Integrity Corporation (CMIC), which denied the Requests for Assistance filed by petitioners Carlos S. Palanca IV (Palanca) and Cognatio Holdings, Inc. (Cognato), in connection with the release of certain information concerning alleged fraudulent transactions and other irregularities in their trading accounts with respondent RCBC Securities, Inc. (RSI).

Factual Antecedents

RSI is a Philippine corporation engaged in the business of securities brokerage and trading. Among its clients are Palanca and Cognatio. Sometime in December 2011, RSI discovered that one of its sales agents, one Mary Grace Valbuena (Valbuena), was involved in questionable securities trading transactions. RSI opened its own investigation into the matter, which led to Valbuena's termination from RSI. In turn, on March 12, 2012, the Market Regulation Department of the Philippine Stock Exchange (PSE-MRD) imposed a penalty of P5,000,000.00 on RSI for violation of securities laws and rules^[3] relative to the transactions involving Valbuena.

As a result, RSI filed several criminal and civil cases against Valbuena. RSI also processed the claims of its clients who were prejudiced by Valbuena's questionable dealings. Among those clients who claimed to have been defrauded by Valbuena were petitioners. However, petitioners' claim was rejected as baseless by RSI.

Aggrieved by the rejection of their claim, on June 5, 2012, petitioners sent RSI demand letters demanding the return of their remaining cash balances and stock positions. RSI responded by reiterating its earlier finding that it has no outstanding liabilities and/or unpaid claims in favor of the petitioners. RSI further argued that Palanca, as a seasoned trader and president of Cognatio, abetted Valbuena's deviations from the normal trading procedure in the handling of petitioners' accounts; and that as such, Palanca should have been more vigilant in dealing with Valbuena.^[4] Undaunted, petitioners each filed separate cases^[5] for Specific Performance with Damages against RSI with the Regional Trial Court (RTC) of Makati

City. The Makati City RTC dismissed both cases in orders dated August 1, 2013 and April 30, 2014, respectively. Palanca and Cognatio filed their respective motions for reconsideration, but these were denied. They then elevated the matter before this Court *via* petitions for review on *certiorari*, which were respectively docketed as G.R. No. 210107 and G.R. No. 212600. G.R. No. 210107 was denied for violating the hierarchy of courts,^[6] and entry of judgment was issued therein on March 5, 2015,^[7] after the denial of Palanca's motion for reconsideration on August 18, 2014.^[8] G.R. No. 212600 was likewise denied, for being a wrong mode of appeal;^[9] this denial became final and executory on February 12, 2015,^[10] after the Court denied Cognatio's motion for reconsideration on December 10, 2014.^[11]

Meanwhile, on December 20, 2013, Cognatio filed with the SEC a complaint for revocation or suspension of license and registration against Valbuena and RSI. On August 14, 2014, Palanca and Cognatio sent Requests for Assistance to the PSE, seeking the PSE's assistance to direct RSI to furnish them with copies of the following documents: a) confirmation slips of alleged transactions as appearing in the Statement of Account (SOA) provided by RSI, with information as to who received the same; b) application or utilization of deposits made by petitioners to RSI's bank account for their buying transactions which do not appear in the SOA provided by RSI; c) sources of deposits to petitioners' accounts as appearing in the SOA provided by RSI, which are alleged not to have come from petitioners; and d) the identity of the persons who received the monies withdrawn from petitioners' trading accounts based on the SOA provided by RSI, and the identity of the persons who gave instructions for such withdrawals.^[12] The PSE referred the requests to the CMIC, as the bourse's independent and self-regulatory audit, surveillance, and compliance arm.^[13]

Upon Order of the CMIC, RSI submitted its letter-comment dated September 26, 2014 opposing the petitioners' requests for assistance. RSI argued that the requests for assistance filed by petitioners were actually written complaints which should have been filed within the six-month reglementary period provided for under the CMIC Rules. RSI also asserted that petitioners were guilty of deliberate forum shopping because the reliefs sought by their requests for assistance were similar to the reliefs sought by petitioners in the specific performance cases before the Makati City RTC which were still pending with that court at that time. In their letter-reply dated October 17, 2014, petitioners reiterated their stand that they are simply seeking assistance before the Makati City RTC for the release of the requested documents, and that such relief is different from the reliefs sought in their pending cases for specific performance.

Ruling of the CMIC

After a further exchange of pleadings, on December 4, 2014, the CMIC rendered its Decision^[14] denying petitioners' requests for assistance. On the issue of forum shopping, the CMIC held that the Requests for Assistance did not constitute forum shopping. According to the CMIC, the Requests for Assistance are separate and distinct from the specific performance cases and the earlier SEC complaint filed by Palanca and Cognatio, because petitioners sought different reliefs in each case; and that neither in the specific performance cases nor in the SEC complaint did petitioners seek assistance from CMIC to compel RSI to deliver the requested

documents and information. According to the CMIC, it cannot see how the grant of the relief sought by the Requests would interfere with, or amount to *res judicata* in, the specific performance cases.

On the issue of prescription, the CMIC held that the Requests were filed beyond the six-month reglementary period for filing a written complaint with the CMIC as prescribed under its Rules, and that these had therefore, prescribed. It characterized the Requests as written complaints that fall under Section 4, Article II of the CMIC Rules, and not just requests for assistance, since a careful reading thereof showed that they are in the nature of written complaints filed directly with the CMIC by a customer, trading participant, or aggrieved party for an alleged violation of the Securities Laws or the CMIC Rules. The CMIC further said that petitioners' requests for assistance are precisely grounded on the alleged violations by RSI of pertinent securities laws which cannot be made separate from the requests for assistance, which are resultant reliefs from the purported violations.

On the issue of *res judicata*, the CMIC ruled that the Requests were barred by *res judicata*, considering that the allegations contained therein have already been resolved in the 2012 PSE-MRD ruling. Specifically, the CMIC noted that "(a) the resolution issued by then PSE-MRD^[15] is already final and, as a matter of fact, was already executed against RSI; (b) the PSEMRD had the authority to penalize RSI for its violation of the abovementioned rules; (c) the resolution was on the merits of the case; and (d) there is a *substantial* similarity in the issues presented, the parties involved, and the reliefs sought *vis-a-vis* the resolution previously issued by the PSEMRD and the instant requests for assistance."^[16]

Petitioners sought reconsideration of the foregoing in a letter dated December 15, 2014.^[17] But on June 1, 2015, the CMIC denied petitioners' motion through its Resolution No. 11, series of 2015.^[18] Petitioners thus appealed to the SEC, in accordance with SEC Memorandum Circular No. 10, series of 2010.^[19]

Ruling of the SEC

On December 6, 2016, the SEC *en banc* rendered its Decision^[20] on the case. The SEC reversed the CMIC and directed RSI to produce the documents sought by petitioners in their Requests. Subsuming the issues to whether or not Palanca and Cognatio are entitled to the requested records, the SEC *en banc* ruled in the affirmative and held that the Requests are not covered by the six-month prescriptive period under Article II, Section 4 of the CMIC Rules because said Requests cannot come within the purview of the term "investigation," as contemplated in the aforementioned provision; and that the Requests filed by petitioners are plain requests meant to access particular records and did not include a prayer for RSI to conduct a search or inquiry into any "trading-related irregularities or other violations of the securities laws;" and that the allegations of trading irregularities made therein were only made to provide factual context.

The SEC *en banc* moreover ruled that instead of treating the Requests as complaints under Article II, Section 4, the CMIC should have treated them as requests under Article IX, Section 1 of the CMIC Rules, which requires trading participants to "promptly and readily provide a comprehensible and certified true printed and/or electronic copy of the books and records or any part thereof" upon request by the

CMIC or by any other party who may be legally entitled or authorized to access such books or records; that given that CMIC has the power to order RSI to produce the requested records, CMIC should have exercised such power instead of denying petitioners' requests on the grounds of prescription and *res judicata*, in view of the CMIC's role of reinforcing investor confidence in the equity securities market; and that petitioners are legally entitled to access the requested records in view of their brokerage relationship with RSI. Citing jurisprudence, the SEC explained that a brokerage relationship is essentially a contract of agency; and that therefore, under the law, RSI was obligated to make a full disclosure of all transactions and material facts relevant to the agency, *i.e.*, the securities trading agreement it had with petitioners.

The SEC furthermore held that the disclosure requirement under Article IX, Section 1 of the CMIC Rules is substantially reproduced in Rule 52.1.1.13 of the 2015 Implementing Rules and Regulations (IRR) of the Securities Regulation Code (SRC); that under that provision, the parties entitled to request information are the SEC, the PSE, and "any other party who may be legally entitled or authorized to access such books or records;" and that the SEC has authority, independent of the CMIC, to direct brokers and dealers to promptly and readily produce their books and records, under pain of suspension of registration; hence the SEC may order RSI to produce the information requested by petitioners.

Ruling of the Court of Appeals

On January 12, 2017, RSI filed a petition for review with the CA. After an exchange of pleadings, the CA rendered the assailed Decision in favor of RSI. Essentially concurring with the position of the CMIC, the appellate court disposed of the prescription issue in this manner:

A careful reading of the [Requests] discloses that the same are in the nature or written complaints as defined in Section 2, Article I of the CMIC Rules which is any written statement of a customer or any other interested party *alleging a grievance involving the business of a Trading Participant or issuer or a violation of the Securities Laws by a Trading Participant or Issuer*. The contents of the [Requests] clearly show that they do not merely operate as mere requests, but are, in fact, their supposed causes of action to compel [RSI] to produce certain documents which may be the subject of the alleged violation of the Securities Laws. Allegations in a pleading determine the nature or an action and not the designation thereof by the parties. Even [petitioners'] Letter-Replies filed with the CMIC show that their principal inducement in filing their [Requests] is to compel the CMIC to investigate [RSI] for supposed violations of the CMIC Rules and Securities laws, alleging, among others, that petitioner is supposedly involved in a "*systemic anomaly that has adversely affected many individuals,*" and supposed settlements that were purportedly the "*direct consequences violations of the Securities Regulations [sic] Code.*"

In fact, the CMIC found [petitioners'] Requests are grounded on or in view of - the alleged violations by [RSI] or pertinent securities laws. As such, the alleged securities laws violations cannot be made separate from the requests for assistance, which are resultant reliefs from the

purported violations. Stated otherwise, these [Requests] are in the nature of written complaints, as intended by the CMIC Rules, not as mere requests for assistance.

In their [Requests], [petitioners] specifically alleged the following: (a) most of the purported transactions reflected in [RSI]'s SOAs were not authorized; (b) no trade confirmation slips for the supposed genuine transactions were received; (c) the alleged transactions are questionable, considering that most, if not all of them, were made at a loss; (d) most of the buying trades made through Ms. Valbuena, which were paid by deposits to [RSI]'s account did not appear in its SOAs; (e) [RSI]'s SOA's did not tally with their actual stock and cash positions; and (f) most of the deposits for credit to its trading account do not appear in [RSI]'s SOA.

The foregoing is a litany or the alleged irregularities committed by the [RSI] which [petitioners] would like to be investigated by CMIC. True, the letters do not actually asked [sic] for an investigation to be conducted by CMIC for any trading-related complaints or any violation of Securities Laws. However, the tenor or the letters is actually towards the process of obtaining information or collecting facts regarding trading-related irregularities covering securities laws violation which in effect is already a part and parcel of investigation. Obviously, the purpose is to build a case against [RSI] for alleged trading-related irregularity under the guise of a letter [for] assistance. Thus, the [Requests] are viewed as a whole, a complaint for investigation.

Since these [Requests] are then Letter-Complaints within the meaning of Section 2, Article I of the CMIC Rules, they are governed by Section 4, Article II of the CMIC Rules which expressly limits the period within which to file a complaint with the CMIC to six (6) months from knowledge of the commission or the alleged trading irregularity or alleged violation or the Securities Laws. Thus, given that [petitioners] admittedly discovered the alleged anomalies involving their trading accounts as early as December 28, 2011, they only had six (6) months therefrom, or until June 28, 2012, within which to file a written complaint with the CMIC. But [petitioners] failed to seasonably exercise this remedy and instead opted to file the requests for assistance on August 14, 2014, or more than two (2) years beyond the prescriptive period under the CMIC Rules.

[21]

As regards the issue on the existence of *res judicata*, the CA again adopted the position of the CMIC, *viz.*:

Again, We subscribe to CMIC's finding that the issues in the Letter-Complaints have already been ruled upon by its predecessor, the PSE-MRD, as such the claim of the respondents are barred by *res judicata*.

It must be recalled that, on March 12, 2012, the then Market Regulation Department of the PSE (PSE-MRD) imposed a penalty amounting to PHP5,000,000.00 against [RSI] for its violation of a number of securities