

## THIRD DIVISION

[ G.R. No. 184332, February 17, 2016 ]

### ANNA TENG, PETITIONER, VS. SECURITIES AND EXCHANGE COMMISSION (SEC) AND TING PING LAY, RESPONDENTS.

#### DECISION

##### REYES, J.:

This petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeks the reversal of the Decision<sup>[2]</sup> dated April 29, 2008 and the Resolution<sup>[3]</sup> dated August 28, 2008 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 99836. The CA affirmed the orders of the Securities and Exchange Commission (SEC) granting the issuance of an *alias* writ of execution, compelling petitioner Anna Teng (Teng) to register and issue new certificates of stock in favor of respondent Ting Ping Lay (Ting Ping).

#### The Facts

This case has its origin in G.R. No. 129777<sup>[4]</sup> entitled *TCL Sales Corporation and Anna Teng v. Hon. Court of Appeals and Ting Ping Lay*. Herein respondent Ting Ping purchased 480 shares of TCL Sales Corporation (TCL) from Peter Chiu (Chiu) on February 2, 1979; 1,400 shares on September 22, 1985 from his brother Teng Ching Lay (Teng Ching), who was also the president and operations manager of TCL; and 1,440 shares from Ismaelita Maluto (Maluto) on September 2, 1989.<sup>[5]</sup>

Upon Teng Ching's death in 1989, his son Henry Teng (Henry) took over the management of TCL. To protect his shareholdings with TCL, Ting Ping on August 31, 1989 requested TCL's Corporate Secretary, herein petitioner Teng, to enter the transfer in the Stock and Transfer Book of TCL for the proper recording of his acquisition. Lie also demanded the issuance of new certificates of stock in his favor. TCL and Teng, however, refused despite repeated demands. Because of their refusal, Ting Ping filed a petition for *mandamus* with the SEC against TCL and Teng, docketed as SEC Case No. 3900.<sup>[6]</sup>

In its Decision<sup>[7]</sup> dated July 20, 1994, the SEC granted Ting Ping's petition, ordering as follows:

WHEREFORE, in view of all the foregoing facts and circumstances, judgment is hereby rendered.

A. Ordering [TCL and Teng] to record in the Books of the Corporation the following shares:

1. 480 shares acquired by [Ting Ping] from [Chiu] per Deed of Sales [sic] dated February 20, 1979;
2. 1,400 shares acquired by [Ting Ping] from [Teng Ching] per Deed of Sale dated September 22, 1985; and
3. 1,440 shares acquired by [Ting Ping] from [Maluto] per Deed of Assignment dated Sept. 2, 1989 [sic].

B. Ordering [TCL and Teng] to issue corresponding new certificates of stocks (sic) in the name of [Ting Ping].

C. Ordering [TCL and Teng] to pay [Ting Ping] moral damages in the amount of One Hundred Thousand (P 100,000.00) Pesos and Fifty Thousand (P 50,000.00) Pesos for attorney's fees.

SO ORDERED.<sup>[8]</sup>

TCL and Teng appealed to the SEC en bane, which, in its Order<sup>[9]</sup> dated June 11, 1996, affirmed the SEC decision with modification, in that Teng was held solely liable for the payment of moral damages and attorney's fees.

Not contented, TCL and Teng filed a petition for review with the CA, docketed as CA-G.R. SP. No. 42035. On January 31, 1997, the CA, however, dismissed the petition for having been filed out of time and for finding no cogent and justifiable grounds to disturb the findings of the SEC *en banc*.<sup>[10]</sup> This prompted TCL and Teng to come to the Court *via* a petition for review on certiorari under Rule 45.

On January 5, 2001, the Court promulgated its Decision in G.R. No. 129777, the dispositive portion of which states:

**WHEREFORE**, the petition is *DENIED*, and the Decision dated January 31, 1997, as well as the Resolution dated July 3, 1997 of [the CA] are hereby *AFFIRMED*. Costs against [TCL and Teng].

**SO ORDERED.**<sup>[11]</sup>

After the finality of the Court's decision, the SEC issued a writ of execution addressed to the Sheriff of the Regional Trial Court (RTC) of Manila. Teng, however, filed on February 4, 2004 a complaint for interpleader with the RTC of Manila, Branch 46, docketed as Civil Case No. 02-102776, where Teng sought to compel Henry and Ting Ping to interplead and settle the issue of ownership over the 1,400 shares, which were previously owned by Teng Ching. Thus, the deputized sheriff held in abeyance the further implementation of the writ of execution pending outcome of Civil Case No. 02-102776.<sup>[12]</sup>

On March 13, 2003, the RTC of Manila, Branch 46, rendered its Decision<sup>[13]</sup> in Civil Case No. 02-102776, finding Henry to have a better right to the shares of stock

formerly owned by Teng Ching, except as to those covered by Stock Certificate No. 011 covering 262.5 shares, among others.<sup>[14]</sup>

Thereafter, an *Ex Parte* Motion for the Issuance of *Alias Writ* of Execution<sup>[15]</sup> was filed by Ting Ping where he sought the partial satisfaction of SEC *en banc* Order dated June 11, 1996 ordering TCL and Teng to record the 480 shares he acquired from Chiu and the 1,440 shares he acquired from Maluto, and for Teng's payment of the damages awarded in his favor.

Acting upon the motion, the SEC issued an Order<sup>[16]</sup> dated August 9, 2006 granting partial enforcement and satisfaction of the Decision dated July 20, 1994, as modified by the SEC *en banc's* Order dated June 11, 1996.<sup>[17]</sup> On the same date, the SEC issued an alias writ of execution.<sup>[18]</sup>

Teng and TCL filed their respective motions to quash the alias writ of execution,<sup>[19]</sup> which was opposed by Ting Ping,<sup>[20]</sup> who also expressed his willingness to surrender the original stock certificates of Chiu and Maluto to facilitate and expedite the transfer of the shares in his favor. Teng pointed out, however, that the annexes in Ting Ping's opposition did not include the subject certificates of stock, surmising that they could have been lost or destroyed.<sup>[21]</sup> Ting Ping belied this, claiming that his counsel Atty. Simon V. Lao already communicated with TCL's counsel regarding the surrender of the said certificates of stock.<sup>[22]</sup> Teng then filed a counter manifestation where she pointed out a discrepancy between the total shares of Maluto based on the annexes, which is only 1305 shares, as against the 1440 shares acquired by Ting Ping based on the SEC Order dated August 9, 2006.<sup>[23]</sup>

On May 25, 2007, the SEC denied the motions to quash filed by Teng and TCL, and affirmed its Order dated August 9, 2006.<sup>[24]</sup>

Unperturbed, Teng filed a petition for *certiorari* and prohibition under Rule 65 of the Rules of Court, docketed as CA-G.R. SP No. 99836.<sup>[25]</sup> The SEC, through the Office of the Solicitor General (OSG), filed a Comment dated June 30, 2008,<sup>[26]</sup> which, subsequently, Teng moved to expunge.<sup>[27]</sup>

On April 29, 2008, the CA promulgated the assailed decision dismissing the petition and denying the motion to expunge the SEC's comment.<sup>[28]</sup>

Hence, Teng filed the present petition, raising the following grounds:

I. THE RESPONDENT [CA] GRAVELY ERRED IN DECLARING THAT THERE WAS NO NEED TO SURRENDER THE STOCK CERTIFICATES (REPRESENTING THE SHARES CONVEYED BY [MALUTO] TO [TING PING] TO RECORD THE TRANSFER THEREOF IN THE CORPORATE BOOKS AND ISSUE NEW STOCK CERTIFICATES[;]

II. THE RESPONDENT [CA] GRAVELY ERRED IN UPHOLDING THE POSE THAT THERE WAS NEITHER AMENDMENT NOR ALTERATION OF THE FINAL DECISION OF THE SUPREME COURT IN "TCL SALE[S] CORP.,

ET AL. VS. CA, ET AL.", G.R. NO. 129777, DESPITE THE CONTRARY RECORD THERETO[;]

III. THE RESPONDENT [CA] GRAVELY ERRED IN DECLARING THAT THE [OSG] WAS ALREADY REQUIRED TO COMMENT ON [TENG'S] MOTION FOR RECONSIDERATION.<sup>[29]</sup>

The core question before the Court is whether the surrender of the certificates of stock is a requisite before registration of the transfer may be made in the corporate books and for the issuance of new certificates in its stead. Note at this juncture that the present dispute involves the execution of the Court's decision in G.R. No. 129777 but only with regard to Chiu's and Maluto's respective shares. The subject of the orders of execution issued by the SEC pertained only to these shares and the Court's decision will revolve only on these shares.

Teng argues, among others, that the CA erred when it held that the surrender of Maluto's stock certificates is not necessary before their registration in the corporate books and before the issuance of new stock certificates. She contends that prior to registration of stocks in the corporate books, it is mandatory that the stock certificates are first surrendered because a corporation will be liable to a *bona fide* holder of the old certificate if, without demanding the said certificate, it issues a new one. She also claims that the CA's reliance on *Tan v. SEC*<sup>[30]</sup> is misplaced since therein subject stock certificate was allegedly surrendered.<sup>[31]</sup>

On the other hand, Ting Ping contends that Section 63 of the Corporation Code does not require the surrender of the stock certificate to the corporation, nor make such surrender an indispensable condition before any transfer of shares can be registered in the books of the corporation. Ting Ping considers Section 63 as a permissive mode of transferring shares in the corporation. Citing *Rural Bank of Salinas, Inc. v. CA*,<sup>[32]</sup> he claims that the only limitation imposed by Section 63 is when the corporation holds any unpaid claim against the shares intended to be transferred. Thus, for as long as the shares of stock are validly transferred, the corporate secretary has the ministerial duty to register the transfer of such shares in the books of the corporation, especially in this case because no less than this Court has affirmed the validity of the transfer of the shares in favor of Ting Ping.<sup>[33]</sup>

### **Ruling of the Court**

To restate the basics -

A certificate of stock is a written instrument signed by the proper officer of a corporation stating or acknowledging that the person named in the document is the owner of a designated number of shares of its stock. It is *prima facie* evidence that the holder is a shareholder of a corporation.<sup>[34]</sup> A certificate, however, is merely a tangible evidence of ownership of shares of stock.<sup>[35]</sup> It is not a stock in the corporation and merely expresses the contract between the corporation and the stockholder.<sup>[36]</sup> The shares of stock evidenced by said certificates, meanwhile, are regarded as property and the owner of such shares may, as a general rule, dispose of them as he sees fit, unless the corporation has been dissolved, or unless the right

to do so is properly restricted, or the owner's privilege of disposing of his shares has been hampered by his own action.<sup>[37]</sup>

Section 63 of the Corporation Code prescribes the manner by which a share of stock may be transferred. Said provision is essentially the same as Section 35 of the old Corporation Law, which, as held in *Fleisher v. Botica Nolasco Co.*,<sup>[38]</sup> defines the nature, character and transferability of shares of stock. *Fleisher* also stated that the provision on the transfer of shares of stocks contemplates no restriction as to whom they may be transferred or sold. As owner of personal property, a shareholder is at liberty to dispose of them in favor of whomsoever he pleases, without any other limitation in this respect, than the general provisions of law.<sup>[39]</sup>

Section 63 provides:

Sec. 63. *Certificate of stock and transfer of shares.* - The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. **Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer.** No transfer, however, shall be valid, except as between the parties, **until the transfer is recorded in the books of the corporation** showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.

No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation. (Emphasis and underscoring ours)

Under the provision, certain minimum requisites must be complied with for there to be a valid transfer of stocks, to wit: (a) there must be delivery of the stock certificate; (b) the certificate must be endorsed by the owner or his attorney-in-fact or other persons legally authorized to make the transfer; and (c) to be valid against third parties, the transfer must be recorded in the books of the corporation.<sup>[40]</sup>

It is the delivery of the certificate, coupled with the endorsement by the owner or his duly authorized representative that is the operative act of transfer of shares from the original owner to the transferee.<sup>[41]</sup> The Court even emphatically declared in *Fil-Estate Golf and Development, Inc., et al. v. Vertex Sales and Trading, Inc.*<sup>[42]</sup> that in "a sale of shares of stock, physical delivery of a stock certificate is one of the essential requisites for the transfer of ownership of the stocks purchased."<sup>[43]</sup> The delivery contemplated in Section 63, however, pertains to the **delivery of the certificate of shares by the transferor to the transferee**, that is, from the original stockholder named in the certificate to the person or entity the stockholder was transferring the shares to, whether by sale or some other valid form of absolute conveyance of ownership.<sup>[44]</sup> "[S]hares of stock may be transferred by **delivery to**