

## SECOND DIVISION

[ G.R. No. 172948, October 05, 2016 ]

**PHILIPPINE ASSOCIATED SMELTING AND REFINING CORPORATION, PETITIONER, VS. PABLITO O. LIM, MANUEL A. AGCAOILI, AND CONSUELO M. PADILLA, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

An action for injunction filed by a corporation generally does not lie to prevent the enforcement by a stockholder of his or her right to inspection.<sup>[1]</sup>

Philippine Associated Smelting and Refining Corporation filed a Petition for Review on Certiorari<sup>[2]</sup> to assail the Court of Appeals Decision<sup>[3]</sup> dated January 243 2006 and Resolution<sup>[4]</sup> dated May 18, 2006, The Court of Appeals lifted and cancelled the writ of preliminary injunction issued by the Regional Trial Court,<sup>[5]</sup> which enjoined respondents Pablito O. Lim (Lim), Manuel A. Agcaoili (Agcaoili), and Consuelo M. Padilla (Padilla), or their representatives, from gaining access to the records of Philippine Associated Smelting and Refining Corporation.: The records were then classified as either confidential or inexistent until further orders from the court.<sup>[6]</sup>

As summarized by the Court of Appeals, the facts are as follows:

Philippine Associated Smelting and Refining Corporation (hereafter PASAR) is a corporation duly organized and existing under the laws of the Philippines and is engaged in copper smelting and refining.

On the other hand, Pablito Lim, Manuel Agcaoili and Consuelo Padilla (collectively referred to as petitioners) were former senior officers and presently shareholders of PASAR holding 500 shares each.

An Amended Petition for Injunction and Damages with prayer for Preliminary Injunction and/or Temporary Restraining Order, dated February 4, 2004 was filed by PASAR seeking to restrain petitioners from demanding inspection of its confidential and inexistent records.

On February 23, 2004, petitioners moved for the dismissal of the petition on the following grounds: 1) the petition states no cause of action; 2) the petition should be dismissed on account of *litis pendentia*; 3) the petition is a nuisance or harassment suit; and 4) the petition should be dismissed on account of improper venue.

On April 14, 2004, the RTC issued an Order granting PASAR's prayer for a writ of preliminary injunction. The RTC held that the right to inspect book

should not be denied to the stockholders, however, the same may be restricted. The right to inspect should be limited to the ordinary records as identified and classified by PASAR. Thus, pending the determination of which records are confidential or inexistent, the petitioners should be enjoined from inspecting the books. The dispositive portion of said Order states:

"WHEREFORE, let a writ of preliminary injunction be issued enjoining respondents Pablito Lim, Manuel A. Agcaoili and Consuelo N. Padilla or their representatives from gaining access to records of Philippine Associated Smelting and Refining Corporation which are presently classified as either confidential or inexistent, until further orders from this Court.

Petitioner is required to execute a bond in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) in favor of herein respondents to answer for all damages which the latter may sustain by reason of the injunction should this Court, finally decide that petitioner is not entitled thereto.

SO ORDERED."

On May 26, 2004, petitioners filed a Motion for Dissolution of the Writ of Preliminary Injunction on the ground that the petition is insufficient. Petitioners claim that the enforcement of the right to inspect book should be on the stockholders and not on PASAR. Petitioners further claim that no irreparable injury is caused to PASAR which justifies the issuance of the writ of preliminary injunction.

On January 10, 2005, the RTC issued the assailed Order, denying the Motion to Dismiss filed by petitioners on the ground that it is a prohibited pleading under *Section 8, Rule 1 of the Interim Rules on Intra-Corporate Controversies* under the Securities Regulation Code (RA 8799). The Motion for Dissolution of the Writ of Preliminary Injunction was likewise denied on the ground that the writ does not completely result in unjust denial of petitioners' right to inspect the books of the corporation. The RTC further stated that if no preliminary injunction is issued, petitioners may, before final judgment, do the act which PASAR is seeking the Court to restrain which will make ineffectual the final judgment that it may afterward render.<sup>[7]</sup> (Emphasis in the original)

Aggrieved, Lim, Agcaoili, and Padilla filed before the Court of Appeals a Petition for Certiorari<sup>[8]</sup> questioning the propriety of the writ of preliminary injunction. The Court of Appeals held that there was no basis to issue an injunctive writ, thus:

We agree. The act of PASAR in filing a petition for injunction with prayer for writ of preliminary injunction is uncalled for. The petition is a pre-

emptive action unjustly intended to impede and restrain the stockholders' rights. If a stockholder demands the inspection of corporate books, the corporation could refuse to heed to such demand. When the corporation, through its officers, denies the stockholders of such right, the latter could then go to court and enforce their rights. It is then that the corporation could set up its defenses and the reasons for the denial of such right. Thus, the proper remedy available for the enforcement of the right of inspection is undoubtedly the writ of mandamus to be filed by the stockholders and not a petition for injunction filed by the corporation.

The Order of the RTC shows that indeed there is no basis for the issuance not only of the temporary but also of the permanent injunctive writ. The Order dated April 14, 2004 states:

"In the present case, PASAR failed to present sufficient evidence to show that respondents' (petitioners') demand to inspect the corporate records was not made in good faith nor for a lawful purpose. . . . PASAR is reminded that it is its burden to prove that respondents' action in seeking examination of the corporate records was moved by unlawful or ill-motivated designs which could appropriately call for a judicial protection against the exercise of such right[.]"<sup>[9]</sup>

Hence, Philippine Associated Smelting and Refining Corporation filed this Petition praying that this Court render judgment:

(a) reversing and setting aside the Decision dated 24 January 2006 and Resolution dated 18 May 2006 rendered by the Court of Appeals;

(b) reinstating the writ of preliminary injunction granted by the RTC in its Order dated 14 April 2004, and consequently ordering respondents to desist from further harassing, vexing, or annoying petitioner with threats of filing criminal complaints against its President, Bruce Anderson, and other appropriate parties, as embodied in the letters dated 25 and 27 February 2006 and 31 March 2006;

(c) reinstating the main action for injunction and ordering the RTC to continue hearing SEC Case No. 04-33;

(d) meanwhile, it is respectfully prayed that a temporary restraining order or status quo order be issued by this Honorable Court to urgently restrain respondents from further committing acts which are bases for the application of the writ of preliminary injunction.<sup>[10]</sup>

In the Resolution<sup>[11]</sup> dated July 19, 2006, this Court denied petitioner's prayer for the issuance of a temporary restraining order and required respondents Lim,

Agcaoili, and Padilla to comment on the Petition.

Respondents filed their Comment<sup>[12]</sup> on October 16, 2006 through counsel Cayetano Sebastian Ata Dado & Cruz. On October 20, 2006, they filed a second Comment<sup>[13]</sup> through counsel Siguion Reyna Montecillo & Ongsiako. Petitioner filed a Motion for Leave to Admit Attached Reply,<sup>[14]</sup> together with its Reply,<sup>[15]</sup> on December 12, 2006.

In the Resolution<sup>[16]</sup> dated January 24, 2007, this Court noted respondents' separate Comments and petitioner's Reply. The parties were also directed to submit their respective memoranda within 30 days from notice.<sup>[17]</sup> Respondents filed their Memorandum<sup>[18]</sup> on March 26, 2007, and petitioner filed its Memorandum<sup>[19]</sup> on April 2, 2007.

Petitioner argues that the right of a stockholder to inspect corporate books and records is limited in that any demand must be made in good faith or for a legitimate purpose.<sup>[20]</sup> Respondents, however, have no legitimate purpose in this case.<sup>[21]</sup> If respondents gain access to petitioner's confidential records, petitioner's trade secrets and other confidential information will be used by its former officers to give undue commercial advantage to third parties.<sup>[22]</sup> Petitioner insists that to hold that objections to the right of inspection can only be raised in an action for mandamus brought by the stockholder, would leave a corporation helpless and without an adequate legal remedy.<sup>[23]</sup> To leave the corporation helpless negates the doctrine that where there is a right, there is a remedy for its violation.<sup>[24]</sup>

Petitioner argues that it has the right to protect itself against all forms of embarrassment or harassment against its officers, including the filing of criminal cases against them.<sup>[25]</sup> Moreover, respondents' request for inspection of confidential corporate records and documents violates and breaches petitioner's right to peaceful and continuous possession of its confidential records and documents.<sup>[26]</sup>

Petitioner further argues that respondents' Motion for Dissolution before the Court of Appeals did not comply with Rule 58, Section 6 of the Rules of Court. Therefore, the Motion should not have been granted.<sup>[27]</sup> Likewise, respondents' Motion to Dismiss is a prohibited pleading under Rule 1, Section 8 of the Interim Rules of Procedure Governing Intra-Corporate Controversies<sup>[28]</sup> and should not have been granted.<sup>[29]</sup> In any case, the Court of Appeals should have remanded the case to the trial court for further disposition.<sup>[30]</sup>

We are asked to resolve whether injunction properly lies to prevent respondents from invoking their right to inspect.

We deny the Petition.

## I

The Petition asks this Court to enjoin acts **beyond** what was enjoined by the Regional Trial Court in its April 14, 2004 Order.<sup>[31]</sup> The Regional Trial Court Order

did not specify the particular acts it enjoined respondents from doing:

The question as to what records should be deemed confidential and inexistent, however, cannot be passed upon at this time, since neither were admissions made nor sufficient evidence presented to categorically determine which corporate records are to be considered confidential and inexistent. In the meantime, then, and in order to prevent grave and irreparable injury on the part of PASAR should otherwise be allowed [sic], respondents' right to inspect is limited to the ordinary records as identified and classified by PASAR. Subsequent hearings shall be set to determine which among the corporate records demanded to be inspected by the respondents are indeed confidential or inexistent, and to further determine whether or not the issuance of a writ of final injunction is in order.

WHEREFORE, let a writ of preliminary injunction be issued enjoining respondents Pablito Lim, Manuel A. Agcaoili and Consuelo N. Padilla or their *representatives from gaining access to records* of Philippine Associated Smelting & Refining Corporation which are presently classified as either confidential or inexistent, until further orders from this Court.

[32] (Emphasis supplied)

What precisely is contemplated by the phrase "gaming access to records" is not clear.

Taking advantage of this ambiguity, petitioner prays that the injunction be reinstated and that this Court enjoin respondents from "harassing, vexing, or annoying petitioner with threats of filing criminal complaints" and from "further committing acts which are bases for the application of the writ of preliminary injunction":

(b) reinstating the writ of preliminary injunction granted by the RTC in its Order dated 14 April 2004, and consequently ordering respondents to desist from further harassing, vexing, or annoying petitioner with threats of filing criminal complaints against its President, Bruce Anderson, and other appropriate parties, as embodied in the letters dated 25 and 27 February 2006 and 31 March 2006;

.....

(d) meanwhile, it is respectfully prayed that a temporary restraining order or status quo order be issued by this Honorable Court to urgently restrain respondents from further committing acts which are bases for the application of the writ of preliminary injunction.<sup>[33]</sup>

Petitioner claims that respondents are materially and substantially invading its right to protect itself by demanding to inspect petitioner's purportedly confidential records. Respondents wrote petitioner and demanded to inspect its corporate books