

## THIRD DIVISION

[ G.R. No. 182738, February 24, 2014 ]

**CAPITOL HILLS GOLF & COUNTRY CLUB, INC. AND PABLO B. ROMAN, JR., PETITIONERS, VS. MANUEL O. SANCHEZ, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before Us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the March 13, 2008 Decision<sup>[1]</sup> and April 28, 2008 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 100911, which affirmed the September 3, 2007 Resolution<sup>[3]</sup> of the Quezon City Regional Trial Court (RTC), Branch 226.

The relevant facts are as follows:

On July 1, 2002, respondent Manuel O. Sanchez (*respondent*), a stockholder of petitioner Capitol Hills Golf & Country Club, Inc. (*Corporation*) filed a petition for the nullification of the annual meeting of stockholders of May 21, 2002 and the special meeting of stockholders of April 23, 2002.<sup>[4]</sup> Petitioners, along with their co-defendants, filed an Answer with Counterclaims<sup>[5]</sup> and, thereafter, a Motion for Preliminary Hearing of Defendants' Affirmative Defenses,<sup>[6]</sup> which was denied on August 9, 2002<sup>[7]</sup> by Hon. Apolinario D. Bruselas, Jr., then Presiding Judge of the RTC of Quezon City, Branch 93, now a member of the Court of Appeals.

On August 12, 2002, respondent filed a Motion for Production and Inspection of Documents, which the court granted in an Order dated September 10, 2002 directing, thus:

On motion of the plaintiff, without objection from the defendants, and pursuant to Rule 3 of the Interim Rules of Procedure Governing Intra-Corporate Controversies, in relation to Rule 27 of the 1997 Rules of Civil Procedure, the defendants are ordered to produce and make available for inspection and photocopying by the plaintiff the following documents:

1. The list of stockholders of record as of March 2002;
2. All proxies, whether validated or not, which have been received by the defendants;
3. The specimen signatures of all stockholders as contained in the Stock and Transfer Book or on the stub of the stock certificate; and

4. The tape recording of the stockholders' meeting on April 23, 2002 and May 21, 2002.

The production, inspection and photocopying must be undertaken in the office premises of defendant corporation within reasonable business hours of a business day before the pre-trial with costs to be shouldered by the plaintiff.

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

Petitioners filed a motion for reconsideration<sup>[9]</sup> (MR) of the August 9, 2002 Order, which denied their motion for preliminary hearing. Subsequently, they filed a Supplement to Defendants' Motion for Reconsideration,<sup>[10]</sup> attaching therewith an alleged certification issued by the National Printing Office to support their contention of lack of cause of action on the grounds, among others, that the Securities and Exchange Commission (SEC) Memorandum Circular No. 5, Series of 1996, as amended, has not been duly published in accordance with law and jurisprudence. Pending resolution of the MR, petitioners filed on January 21, 2003 a Motion for Deferment of Implementation of the September 10, 2002 Order.<sup>[11]</sup>

For his part, respondent, on October 7, 2002, filed an Omnibus Motion to immediately allow him to inspect and photocopy the documents and to compel petitioners to deposit with the court the documents subject of the September 10, 2002 Order.

On December 9, 2002, then Presiding Judge Bruselas issued an Order<sup>[12]</sup> denying petitioners' MR of the Order dated August 9, 2002 and considered respondent's omnibus motion as a reiteration of his earlier motion for inspection and production of documents; thus, the immediate implementation of the September 10, 2002 Order was simultaneously ordered.

Petitioners elevated the case to the CA via a petition for *certiorari* assailing the Orders dated August 9, 2002 and December 9, 2002. However, the CA denied the same in its Decision dated June 29, 2004. Petitioners' MR was likewise denied on November 3, 2004. A petition for review was filed before this Court, but We denied it per Resolution dated January 10, 2005.

In the meantime, respondent sought to enforce the September 10, 2002 Order. The supposed inspection on September 30, 2002 was not held per the trial court's Order dated September 27, 2002.<sup>[13]</sup> The January 22, 2003 inspection also did not push through after petitioners and their co-defendants again moved for its deferment.<sup>[14]</sup> When the court eventually denied their motion on June 16, 2003, respondent set the inspection to August 1, 2003.<sup>[15]</sup> On said date, however, Atty. Matias V. Defensor, then Corporate Secretary of the Corporation, was alleged to be out of town and petitioner Pablo B. Roman, Jr. (*Roman*) purported to have shown no willingness to comply with the directive.<sup>[16]</sup> The matter was reported to the trial court, which merely noted respondent's Report and Manifestation.<sup>[17]</sup> On November 3, 2003, respondent moved for the issuance of an order for immediate implementation of the September 10, 2002 Order, as reiterated in the Order dated June 16, 2003, but the court denied the same in its May 24, 2004 Order.<sup>[18]</sup> Respondent's motion for

issuance of writ of execution suffered the same fate when the trial court denied it on February 10, 2005.<sup>[19]</sup>

When this Court settled petitioners' challenge to the Orders dated August 9, 2002 and December 9, 2002, respondent filed a Manifestation with Omnibus Motion for Clarification and to Resolve Plaintiff's Pending Motion for the Issuance of a Writ of Execution and to Set the Case for Pre-Trial Conference.<sup>[20]</sup> Acting thereon, Judge Ramon Paul L. Hernando, likewise now a member of the Court of Appeals, who took over Branch 93 after the appointment of Judge Bruselas to the CA, issued the July 10, 2006 Order,<sup>[21]</sup> which directed the immediate execution of the September 10, 2002 Order, and set the case for pre-trial.

On February 9, 2007, Judge Hernando issued an Order<sup>[22]</sup> inhibiting himself from handling the case in view of his "close friendship relation" with petitioners' counsel and ordering the transmittal of the records of the case to the Office of the Clerk of Court for re-raffle to another sala. The case was subsequently re-raffled to RTC Branch 90 presided by Judge Reynaldo B. Daway, who likewise voluntarily recused himself from the case per Order<sup>[23]</sup> dated July 13, 2007. Finally, on July 30, 2007, the case was re-raffled to RTC Branch 226 presided by Judge Leah S. Domingo Regala.<sup>[24]</sup>

On November 28, 2006, the parties agreed to defer the pre-trial conference until the actual conduct of the inspection of records/documents on December 12, 2006.<sup>[25]</sup> Before said date, however, petitioners and their co-defendants moved to hold the inspection to January 11, 2007, which the court granted.<sup>[26]</sup>

During the January 11, 2007 inspection, the only document produced by the Acting Corporate Secretary, Atty. Antonio V. Meriz, and one of the staff, Malou Santos, was the Stock and Transfer Book of the Corporation. They alleged that they could not find from the corporate records the copies of the proxies submitted by the stockholders, including the tape recordings taken during the stockholders' meetings, and that they needed more time to locate and find the list of stockholders as of March 2002, which was in the *bodega* of the Corporation.<sup>[27]</sup> This prompted respondent to file a Manifestation with Omnibus Motion praying that an order be issued in accordance with Section 3, Paragraphs (a) to (d) of Rule 29 of the Rules of Court (*Rules*), in relation to Section 4, Rule 3 of the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 (*Interim Rules*).

On September 3, 2007, the trial court issued a Resolution, the concluding portion of which ordered:

In order to give both the plaintiff and defendants one last chance to comply with the order dated September 10, 2002, this Court reiterates the said order:

"On motion of the plaintiff, without objection from the defendants, and pursuant to Rule 3 of the Interim Rules of Procedure Governing Intra-Corporate Controversies[,] in relation to Rule 27 of the 1997 Rule[s] of Civil Procedure, the defendants are ordered to produce and make

available for inspection and photocopying by the plaintiff the following documents:

1. The list of stockholders of record as of March 2002;
2. All proxies, whether validated or not, which have been received by the defendants;
3. The specimen signatures of all stockholders as contained in the Stock and Transfer Book or on the stub of the stock certificate; and
4. The tape recording of the stockholders' meeting on April 23, 2002 and May 21, 2002.

The production, inspection and photocopying must be undertaken in the office premises of defendant corporation within reasonable business hours of a business day before the pre-trial with costs to be shouldered by the plaintiff.

SO ORDERED."

This Court orders the defendants to strictly comply with this order. Failure of the defendants to comply with all the requirements of the order dated September 10, 2002 will result in this court citing all the defendants in contempt of court. This Court shall order defendants solidarily to pay a fine of P10,000.00 for every day of delay to comply with the order of September 10, 2002 until the defendants shall have fully and completely complied with the said order.

Further sanctions shall be meted upon defendants should the Court find that defendants have been in bad faith in complying with the order of September 10, 2002 despite the order of this Court.

Both plaintiff and counsel, as well as defendants and counsel, are therefore ordered to meet on November 13, 2007 at the corporate offices of defendant firm between 9:00 a.m. to 4:00 p.m. so that faithful compliance with the order of September 10, 2002 may be done, otherwise, this Court shall allow the plaintiff to present evidence to prove their prayer in their Manifestation with Omnibus Motion filed on January 31, 2007 and issue a resolution based on the same accordingly.

SO ORDERED.<sup>[28]</sup>

Petitioners questioned the aforesaid Resolution via Petition for *Certiorari* (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction).

<sup>[29]</sup> In resolving the petition, the CA ruled that there is no indication that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction. According to the appellate court, the September 3, 2007 Resolution was issued pursuant to Section 3,<sup>[30]</sup> Rule 3 of the Interim Rules, with the suppletory application of Section 1,<sup>[31]</sup> Rule 27 of the Rules. It noted that, except for the sanctions contained therein, the assailed Resolution merely reiterated the

September 10, 2002 Order of Judge Bruselas, which petitioners did not dispute in accordance with Section 2,<sup>[32]</sup> Rule 3 of the Interim Rules or via petition for *certiorari*. The CA further held that petitioners were not denied due process as they were able to move for a reconsideration of the September 10, 2002 Order, but not opted to file the same with respect to the September 3, 2007 Resolution.

Anent the argument against the threatened imposition of sanction for contempt of court and the possible payment of a hefty fine, the CA opined that the case of *Dee v. Securities and Exchange Commission*<sup>[33]</sup> cited by petitioners is inapplicable, since the September 3, 2007 Resolution merely warned petitioners that they would be cited for contempt and be fined if they fail to comply with the court's directive. Moreover, it said that the penalty contained in the September 3, 2007 Resolution is in accord with Section 4,<sup>[34]</sup> Rule 3 of the Interim Rules, in relation to Section 3,<sup>[35]</sup> Rule 29 of the Rules.

Petitioners moved to reconsider the CA Decision, but it was denied.<sup>[36]</sup>

Before Us, petitioners contend that the "threatened imminent action" by the RTC to penalize them *sua sponte* or without regard to the guideline laid down by the Court in *Engr. Torcende v. Judge Sardido*<sup>[37]</sup> is not proper and calls for the exercise of Our power of supervision over the lower courts. Likewise, citing *Panaligan v. Judge Ibay*,<sup>[38]</sup> among others, they claim that the threatened citation for contempt is not in line with the policy that there should be wilfulness or that the contumacious act be done deliberately in disregard of the authority of the court.

We deny.

A person guilty of disobedience of or resistance to a lawful order of a court<sup>[39]</sup> or commits any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice<sup>[40]</sup> may be punished for indirect contempt. In particular, Section 4, Rule 3 of the Interim Rules states that, in addition to a possible treatment of a party as non-suited or as in default, the sanctions prescribed in the Rules for failure to avail of, or refusal to comply with, the modes of discovery shall apply. Under Section 3, Rule 29 of the Rules, if a party or an officer or managing agent of a party refuses to obey an order to produce any document or other things for inspection, copying, or photographing or to permit it to be done, the court may make such orders as are just. The enumeration of options given to the court under Section 3, Rule 29 of the Rules is not exclusive, as shown by the phrase "*among others*." Thus, in *Republic v. Sandiganbayan*,<sup>[41]</sup> We said:

To ensure that availment of the modes of discovery is otherwise untrammelled and efficacious, the law imposes serious sanctions on the party who refuses to make discovery, such as dismissing the action or proceeding or part thereof, or rendering judgment by default against the disobedient party; contempt of court, or arrest of the party or agent of the party; payment of the amount of reasonable expenses incurred in obtaining a court order to compel discovery; taking the matters inquired into as established in accordance with the claim of the party seeking discovery; refusal to allow the disobedient party support or oppose