

## SECOND DIVISION

[ G.R. No. 180416, June 02, 2014 ]

**ADERITO Z. YUJUICO AND BONIFACIO C. SUMBILLA,  
PETITIONERS, VS. CEZAR T. QUIAMBAO AND ERIC C. PILAPIL,  
RESPONDENTS.**

### DECISION

**PEREZ, J.:**

This case is a Petition for Review on *Certiorari*<sup>[1]</sup> from the *Order*<sup>[2]</sup> dated 4 June 2007 and 5 November 2007 of the Regional Trial Court (RTC), Branch 154, of Pasig City in S.C.A. No. 3047.

The facts:

#### Background

Strategic Alliance Development Corporation (STRADEC) is a domestic corporation operating as a business development and investment company.

On 1 March 2004, during the annual stockholder's meeting of STRADEC, petitioner Aderito Z. Yujuico (Yujuico) was elected as president and chairman of the company.<sup>[3]</sup> Yujuico replaced respondent Cezar T. Quiambao (Quiambao), who had been the president and chairman of STRADEC since 1994.<sup>[4]</sup>

With Yujuico at the helm, STRADEC appointed petitioner Bonifacio C. Sumbilla (Sumbilla) as treasurer and one Joselito John G. Blando (Blando) as corporate secretary.<sup>[5]</sup> Blando replaced respondent Eric C. Pilapil (Pilapil), the previous corporate secretary of STRADEC.<sup>[6]</sup>

#### The Criminal Complaint

On 12 August 2005, petitioners filed a criminal complaint<sup>[7]</sup> against respondents and one Giovanni T. Casanova (Casanova) before the Office of the City Prosecutor (OCP) of Pasig City. The complaint was docketed in the OCP as I.S. No. PSG 05-08-07465.

The complaint accuses respondents and Casanova of violating Section 74 in relation to Section 144 of Batas Pambansa Blg. 68 or the Corporation Code. The petitioners premise such accusation on the following factual allegations:<sup>[8]</sup>

1. During the stockholders' meeting on 1 March 2004, Yujuico--as newly elected president and chairman of STRADEC--demanded Quiambao for the turnover of the corporate records of the company, particularly the accounting files, ledgers, journals and other records of the corporation's business. Quiambao

refused.

2. As it turns out, the corporate records of STRADEC were in the possession of Casanova-the accountant of STRADEC. Casanova was keeping custody of the said records on behalf of Quiambao, who allegedly needed the same as part of his defense in a pending case in court.
3. After the 1 March 2004 stockholders' meeting, Quiambao and Casanova caused the removal of the corporate records of STRADEC from the company's offices in Pasig City.
4. Upon his appointment as corporate secretary on 21 June 2004, Blando likewise demanded Pilapil for the turnover of the stock and transfer book of STRADEC. Pilapil refused.
5. Instead, on 25 June 2004, Pilapil proposed to Blando to have the stock and transfer book deposited in a safety deposit box with Equitable Pel Bank, Kamias Road, Quezon City. Blando acceded to the proposal and the stock and transfer book was deposited in a safety deposit box with the bank identified. It was agreed that the safety deposit box may only be opened in the presence of both Quiambao and Blando.
6. On 30 June 2004, however, Quiambao and Pilapil withdrew the stock and transfer book from the safety deposit box and brought it to the offices of the Stradcom Corporation (STRADCOM) in Quezon City. Quiambao thereafter asked Blando to proceed to the STRADCOM offices. Upon arriving thereat, Quiambao pressured Blando to make certain entries in the stock and transfer books. After making such entries, Blando again demanded that he be given possession of the stock and transfer book. Quiambao refused.
7. On 1 July 2004, Blando received an order dated 30 June 2004 issued by the RTC, Branch 71, of Pasig City in Civil Case No. 70027, which directed him to cancel the entries he made in the stock and transfer book. Hence, on even date, Blando wrote letters to Quiambao and Pilapil once again demanding for the turnover of the stock and transfer book. Pilapil replied thru a letter dated 2 July 2004 where he appeared to agree to Blando's demand.
8. However, upon meeting with Pilapil and Quiambao, the latter still refused to turnover the stock and transfer book to Blando. Instead, Blando was once again constrained to agree to a proposal by Pilapil to have the stock and transfer book deposited with the RTC, Branch 155, of Pasig City. The said court, however, refused to accept such deposit on the ground that it had no place for safekeeping.
9. Since Quiambao and Pilapil still refused to turnover the stock and transfer book, Blando again acceded to have the book deposited in a safety deposit box, this time, with the Export and Industry Bank in San Miguel Avenue, Pasig City.

Petitioners theorize that the refusal by the respondents and Casanova to turnover STRADEC's corporate records and stock and transfer book violates their right, as stockholders, directors and officers of the corporation, to inspect such records and

book under Section 74 of the Corporation Code. For such violation, petitioners conclude, respondents may be held criminally liable pursuant to Section 144 of the Corporation Code.

Preliminary investigation thereafter ensued.

*Resolution of the OCP and the Informations*

After receiving the counter-affidavits of the respondents and Casanova, as well as the other documentary submissions<sup>[9]</sup> by the parties, the OCP issued a Resolution<sup>[10]</sup> dated 6 January 2006 in I.S. No. PSG 05-08-07465. In the said resolution, the OCP absolved Casanova but found probable cause to hail respondents to court on two (2) offenses: (1) for removing the stock and transfer book of STRADEC from its principal office, and (2) for refusing access to, and examination of, the corporate records and the stock and transfer book of STRADEC at its principal office.

Pursuant to the resolution, two (2) informations<sup>[11]</sup> were filed against the respondents before the Metropolitan Trial Court (MeTC) of Pasig City. The informations were docketed as Criminal Case No. 89723 and Criminal Case No. 89724 and were raffled to Branch 69.

Criminal Case No. 89723 is for the offense of removing the stock and transfer book of STRADEC from its principal office. The information reads:<sup>[12]</sup>

On and/or about the period between March 1 and June 25, 2004, inclusive, in Pasig City and within the jurisdiction of this Honorable Court, the above accused, being then members of the Board of Directors and/or officers, as the case maybe, of Strategic Alliance Development Corporation (STRADEC, for short), conspiring and confederating together and mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously, remove the stock and transfer book of the said STRADEC at its principal office at the 24<sup>th</sup> Floor, One Magnificent Mile-CITRA City Bldg., San Miguel Avenue, Ortigas Center, Pasig City, where they should all be kept, in violation of the aforesaid law, and to the prejudice of the said complainants.

Criminal Case No. 89724, on the other hand, covers the offense of refusing access to, and examination of, the corporate records and the stock and transfer book of STRADEC at its principal office. The information reads:<sup>[13]</sup>

On and/or about the period between March 1 and June 25, 2004, inclusive, in Pasig City, and within the jurisdiction of this Honorable Court, the above accused, being then members of the Board of Directors and/or officers, as the case maybe, of Strategic Alliance Development Corporation (STRADEC, for short), conspiring and confederating together and mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously, refuse to allow complainants Bonifacio C. Sumbilla and Aderito Z. Yujuico, being then stockholders and/or directors of STRADEC, access to, and examination of, the corporate records, including the stock and transfer book, of STRADEC at its principal office

at the 24<sup>th</sup> Floor, One Magnificent Mile-CITRA Bldg., San Miguel Avenue, Ortigas Center, Pasig City, where they should all be kept, in violation of the aforesaid law, and to the prejudice of the said complainants.

*Urgent Omnibus Motion and the Dismissal of Criminal Case No. 89723*

On 18 January 2006, respondents filed before the MeTC an *Urgent Omnibus Motion for Judicial Determination of Probable Cause and To Defer Issuance of Warrants of Arrest* (Urgent Omnibus Motion).<sup>[14]</sup>

On 8 May 2006, the MeTC issued an order<sup>[15]</sup> partially granting the Urgent Omnibus Motion. The MeTC dismissed Criminal Case No. 89723 but ordered the issuance of a warrant of arrest against respondents in Criminal Case No. 89724.

In dismissing Criminal Case No. 89723, the MeTC held that Section 74, in relation to Section 144, of the Corporation Code only penalizes the act of "*refus[ing] to allow any director, trustee, stockholder or member of the corporation to examine and copy excerpts from the records or minutes of the corporation*"<sup>[16]</sup> and that act is already the subject matter of Criminal Case No. 89724. Hence, the MeTC opined, Criminal Case No. 89723-which seeks to try respondents for merely removing the stock and transfer book of STRADEC from its principal office-actually charges no offense and, therefore, cannot be sustained.<sup>[17]</sup>

Anent directing the issuance of a warrant of arrest in Criminal Case No. 89724, the MeTC found probable cause to do so; given the failure of the respondents to present any evidence during the preliminary investigation showing that they do not have possession of the corporate records of STRADEC or that they allowed petitioners to inspect the corporate records and the stock and transfer book of STRADEC.<sup>[18]</sup>

Unsatisfied, the respondents filed a motion for partial reconsideration<sup>[19]</sup> of the 8 May 2006 order of the MeTC insofar as the disposition in Criminal Case No. 89724 is concerned. The MeTC, however, denied such motion on 16 August 2006.<sup>[20]</sup>

*Certiorari Petition and the Dismissal of Criminal Case No. 89724*

After their motion for partial reconsideration was denied, respondents filed a *certiorari* petition<sup>[21]</sup> with prayer for the issuance of a temporary restraining order (TRO), before the RTC of Pasig City on 27 September 2006. The petition was docketed as S.C.A. No. 3047.

On 16 November 2006, the RTC issued a TRO enjoining the MeTC from conducting further proceedings in Criminal Case No. 89724 for twenty (20) days.<sup>[22]</sup>

On 4 June 2007, the RTC issued an *Order*<sup>[23]</sup> granting respondents' *certiorari* petition and directing the dismissal of Criminal Case No. 89724. According to the RTC, the MeTC committed grave abuse of discretion in issuing a warrant of arrest against respondents in Criminal Case No. 89724.

The RTC found that the finding of probable cause against the respondents in

Criminal Case No. 89724 was not supported by the evidence presented during the preliminary investigation but was, in fact, contradicted by them:[24]

1. The RTC noted that, aside from the complaint itself, no evidence was ever submitted by petitioners to prove that they demanded and was refused access to the corporate records of STRADEC between 1 March to 25 June 2004. What petitioners merely submitted is their letter dated 6 September 2004 demanding from respondents access to the corporate records of STRADEC.
2. The allegations of petitioners in their complaint, as well as 6 September 2004 letter above-mentioned, however, are contradicted by the sworn statement dated 1 July 2004 of Blando[25] wherein he attested that as early as 25 June 2004, Pilapil already turned over to him "*two binders containing the minutes, board resolutions, articles of incorporation, copies of contracts, correspondences and other papers of the corporation, except the stock certificate book and the stock and transfer book.*"
3. The RTC also took exception to the reason provided by the MeTC in supporting its finding of probable cause against the respondents. The RTC held that it was not incumbent upon the respondents to provide evidence proving their innocence. Hence, the failure of the respondents to submit evidence showing that they do not have possession of the corporate records of STRADEC or that they have allowed inspection of the same cannot be taken against them much less support a finding of probable cause against them.

The RTC further pointed out that, at most, the evidence on record only supports probable cause that the respondents were withholding the *stock and transfer book* of STRADEC. The RTC, however, opined that refusing to allow inspection of the stock and transfer book, as opposed to refusing examination of *other* corporate records, is not punishable as an offense under the Corporation Code.[26] Hence, the directive of the RTC dismissing Criminal Case No. 89724.

The petitioners moved for reconsideration,[27] but the RTC remained steadfast.[28]

Hence, this petition by petitioners.

### *The Instant Petition*

In their petition, petitioners claim that Criminal Case No. 89724 may still be sustained against the respondents insofar as the charge of refusing to allow access to the stock and transfer book of STRADEC is concerned. They argue that the RTC made a legal blunder when it held that the refusal to allow inspection of the stock and transfer book of a corporation is not a punishable offense under the Corporation Code. Petitioners contend that such a refusal still amounts to a violation of Section 74 of the Corporation Code, for which Section 144 of the same code prescribes a penalty.

### **OUR RULING**

The RTC indeed made an inaccurate pronouncement when it held that the act of refusing to allow inspection of the stock and transfer book of a corporation *is not* a punishable offense under the Corporation Code. Such refusal, when done in violation