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FIRST DIVISION

[G.R. No. 164686, October 22, 2014]

FOREST HILLS GOLF AND COUNTRY CLUB, INC., PETITIONER, VS. GARDPRO, INC., RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

The articles of incorporation and the by-laws of a corporation define and regulate the relations between the corporation and the stockholders. In interpreting them, the literal meaning of their provisions shall control, and such provisions should be construed as a whole and not in isolation.

The Case

This appeal by the corporation seeks to overturn the ruling promulgated on September 26, 2003 by the Court of Appeals (CA) denying its appeal by petition for review, thereby affirming the adverse ruling of the Securities and Exchange Commission (SEC) regarding the refund of membership fees.[1]

Antecedents

Petitioner Forest Hills Golf and Country Club, Inc. (interchangeably Forest Hills or Club), a non-profit stock corporation, was established to promote social, recreational and athletic activities among its members. It constructed and maintained golf courses, tennis courts, swimming pools, and other indoor and outdoor sports and recreational facilities. It was an exclusive and private club organized for the sole benefit of its members. In March 1993, Fil-Estate Properties, Inc., a party to a Project Agreement to develop the Forest Hills Residential Estates and the Forest Hills Golf and Country Club, undertook to market the golf club shares of Forest Hills for a fee. In July 1995, Fil-Estate Properties, Inc. (FEPI) assigned its rights and obligations under the Project Agreement to Fil- Estate Golf and Development, Inc. (FEGDI).[2]

In 1995, FEPI and FEGDI engaged Fil-Estate Marketing Associates Inc., (FEMAI) to market and offer for sale the shares of stocks of Forest Hills. Leandro de Mesa, the President of FEMAI, oriented the sales staff on the information that would usually be inquired about by prospective buyers. He made it clear that membership in the Club was a privilege, such that purchasers of shares of stock would not automatically become members of the Club, but must apply for and comply with all the requirements in order to qualify them for membership, subject to the approval of the Board of Directors.[3]

In 1996, Gardpro, Inc. (Gardpro) bought class "C" common shares of stock, which were special corporate shares that entitled the registered owner to designate two

nominees or representatives for membership in the Club.[4]

In October 1997, Ramon Albert, the General Manager of the Club, notified the shareholders that it was already accepting applications for membership. In that regard, Gardpro designated Fernando R. Martin and Rolando N. Reyes to be its corporate nominees; hence, the two applied for membership in the Club. Forest Hills charged them membership fees of P50,000.00 each, prompting Martin to immediately call up Albert and complain about being thus charged despite having been assured that no such fees would be collected from them. With Albert assuring that the fees were temporary,[5] both nominees of Gardpro paid the fees. At that time, the P45,000.00 membership fees of corporate members were increased to P75,000.00 per nominee by virtue of the August 26, 1997 resolution of the Board of Directors. Any nominee who paid the fees within a specified period was entitled to a discount of P25,000.00. Both nominees of Gardpro were then admitted as members upon approval of their applications by the Board of Directors. Later, Gardpro decided to change its designated nominees, and Forest Hills charged Gardpro new membership fees of P75,000.00 per nominee. When Gardpro refused to pay, the replacement did not take place.

On July 7, 1999, Gardpro filed a complaint in the SEC,[6] which Forest Hills duly answered.[7] Martin and Reyes testified that when the shares of stock were being marketed, nothing about payment of membership fees was explained to them; that upon his inquiry, a certain Ms. Cacho, an agent of FEMAI, had told Martin that if a corporation bought class "C" common shares, its nominees would be automatically entitled to become members of the Club; that all that the corporation would have to do thereafter was to pay the monthly dues;[8] that Albert had assured Martin that the membership fees he had paid would be refunded; and that Martin was not furnished copies of the by-laws of Forest Hills.

On June 30, 2000, SEC Hearing Officer Natividad T. Querijero rendered her decision, disposing as follows:[9]

> WHEREFORE, judgment is hereby rendered (1) restraining defendant from collecting membership fees for the two (2) replacement members; (2) the membership fees already paid shall be applied as membership fees for the two (2) replacement members; and (3) to pay complainant attorney's fees in the amount of Fifty Thousand (P50,000.00) Pesos.
>
> SO ORDERED.

Judgment of the SEC *En Banc*

On June 28, 2001, the SEC *En Banc* affirmed the findings of Hearing Officer Querijero, except the granting of attorney's fees to Gardpro,[10] *viz*:

> The main issue to be resolved in this appeal, therefore, is whether or not under the by-laws of the club, it is authorized to collect new membership fees for replacement nominees of Class "C" members. Nowhere in the by-

laws of respondent-appellant is there a provision that authorizes the collection of membership fees every time a nominee of corporate shareholder is to be replaced. What the by-laws authorizes is the collection of a "transfer fee," in such amount as may be prescribed by the Board, for every change in the designated nominees of a juridical entity (Art. II, Sec. 2.2 Subsection 2.2.2). This should be differentiated from the provision of Art. III, Sec. 13.6 of the By-laws, which authorizes the collection of "transfer fee" of P60,000 for corporate members for each transfer of stock in the club's books. The transfer fee under the former provision refers to the one imposed on the change in the corporate member's designated nominee only while the transfer fee under the latter provision refers to the a transfer of the stock itself from one corporate member to another which necessitates entry in the club's books. As correctly pointed out in the appealed decision, the corporation is the real club member (corporate) although its designated representative can also be a regular member of the Club. Therefore, it should not be assessed membership fees everytime it changes its nominees but only transfer fees as earlier pointed out. While we agree with respondent-appellant that any replacement of a nominee of a corporate shareholder/member must apply for membership and qualify, the By-laws does not require another payment for membership fee.[11]

Decision of the CA

On October 10, 2001, Forest Hills appealed to the CA,[12] which ultimately promulgated its assailed decision on September 26, 2003, denying the petition for review, and affirming the ruling of the SEC,[13] *viz*:

x x x What is at issue is the interpretation of a By-law provision regarding membership in the Club.

The procedure for acquiring membership is outlined in the provisions of the By-laws, where the end result is the approval of the Board of Directors of the application for membership submitted both by the juridical entity holding shares in the Club, and the designated nominee or representative.

Contrary to the claim of the petitioner, the payment of membership fee is not a part of the procedure for the approval of the application for membership. The matter of membership fees is provided under section 13.7 of the By-Laws, and reads as follows:

> Section 13.7 MEMBERSHIP FEES. Unless otherwise determined by the Board of Directors, a membership fee of Thirty Thousand Pesos (P30,000.00) for individual and Forty Five Thousand Pesos (45,000.00) for corporate members must be paid the applicant ***within 30 days from the approval of his application before his share can be register[ed] in the Stock and Transfer Books of the Club*** as provided in

> Section 2.2.6 of these By-laws. Non-payment of the membership fee within the 30 day period shall be deemed a withdrawal of the application. These amount maybe waived, increased or decreased from time to time by a resolution of the Board of Directors. (Emphasis supplied)

From the foregoing, it is clear that the membership is required to be paid within 30 days from approval of the application, and is for the purpose of registering the share of the aspiring member in the Stock and Transfer books of the Club.

We agree with the ruling of the SEC and the Hearing Officer that the real club member is Gardpro, and not its designated nominees/ representatives, considering the following:

1. The corporation (Gardpro) owns the Class "C" share as the by-laws itself provides, the nominees are merely nominees or representatives of the corporation, the latter being the real member. (Section 2.2.2, Section 2.2.4)

2. A regular individual member is entitled to vote; however, in the case of a regular corporate member, only one of the nominees may vote for the corporation they represent. (Section 2.2.2)

3. The corporation, besides the nominees, has to submit its application for membership and has to be screened vis-à-vis the nominees. [Section 2.2.7 par (d)]

4. The corporation is primarily liable for the obligations of the nominees. (Section 13.1)

5. The nature of membership of nominees may rightfully (be) compared to that of an assignee- member. (Section 2.2.8)

When respondent Gardpro decided to replace its designated nominees, it should not be required to pay membership fees again as it has already paid such fees for the original designated nominees. As the real Club members, respondent should not be assessed membership fees every time it changes its nominees. Nowhere in the By-Laws of the petitioner is it provided that it is authorized to collect membership fees every time a nominee of a corporate shareholder is to be replaced.

As correctly held by the Hearing Officer and the SEC, the applicable provision on the matter is section 2.2.2 of the By-Laws, the relevant portion of which states:

> "A juridical entity owning a Class "C" Common Share may, by resolution of its board of directors or trustees, designate two (2) nominees for regular membership to the club for each Class "C" Share registered in its name; provided, however, that only one (1) nominee for each Class "C" Share, as designated in the aforesaid resolution may vote and hold office as such. The said nominee(s) or representative(s), upon approval of the Board of Directors, may be admitted as Regular Member(s). **A transfer fee in such amount as may be prescribed by the Board of Directors, shall be charged for every change in the designated nominee of juridical entity**." (Emphasis supplied)

If at all, respondent Gardpro should only be made to pay the transfer fee mentioned in the aforequoted provision. It should, however, be noted that said transfer fee is different from that provided in section 13.6 of the By-laws, which authorizes the collection of 'transfer fee' of P60,000.00 for corporate members for each transfer of stock in the Club's Books. In this case, there is no transfer of share of ownership to be effected in the Book of the Club. As aptly ruled by the SEC, the transfer fee under the former provision refers to the one imposed on the change in the corporate member's designated nominee only, while the transfer fee under the latter provision refers to a transfer of the stock itself from one corporate member to another which necessitates entry in the Club's Books.

Petitioner's contention that section 2.2.2 is inapplicable because the former nominees had already qualified and were accepted is likewise untenable. It is clear from the provision that the transfer fee is imposable "for every change in the designated nominee of the juridical entity, making no distinction between a nominee who has already qualified and was already accepted and one who is yet to qualify or be accepted. Petitioner contends that had the change occurred before the nominees became members, then section 2.2.2 may apply, and only a transfer fee is chargeable. This, We hold, is hair splitting. By becoming members through the favorable action of the Board of Directors on the (sic) their application for membership, the former nominees did not cease to be the "designated nominees" of the respondent. Therefore, the matter of replacing the designated nominees of the respondent falls squarely under the provision of section 2.2.2, such that only a transfer fee is required to be paid. However, We agree with the petitioner that any replacement of a nominee of a corporate shareholder/member must apply for membership and qualify.

WHEREFORE, premises considered, the instant petition is hereby DENIED. The Order of the Securities and Exchange Commission, dated June 28, 2001, is AFFIRMED *in toto*.

SO ORDERED.[14]