

SECOND DIVISION

[G.R. No. 170770, January 09, 2013]

**VITALIANO N. AGUIRRE II AND FIDEL N. AGUIRRE,
PETITIONERS, VS. FQB+7, INC., NATHANIEL D. BOCOBO,
PRISCILA BOCOBO AND ANTONIO DE VILLA, RESPONDENTS.**

D E C I S I O N

DEL CASTILLO, J.:

Pursuant to Section 145 of the Corporation Code, an existing intra-corporate dispute, which does not constitute a continuation of corporate business, is not affected by the subsequent dissolution of the corporation.

Before the Court is a Petition for Review on *Certiorari* of the June 29, 2005 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 87293, which nullified the trial court's writ of preliminary injunction and dismissed petitioner Vitaliano N. Aguirre's (Vitaliano) Complaint before the Regional Trial Court (RTC) for lack of jurisdiction. The dispositive portion of the assailed Decision reads:

WHEREFORE, the assailed October 15, 2004 Order, as well as the October 27, 2004 Writ of Preliminary Injunction, are SET ASIDE. With FQB+7, Inc.'s dissolution on September 29, 2003 and Case No. 04111077's ceasing to become an intra-corporate dispute, said case is hereby ordered **DISMISSED** for want of jurisdiction.

SO ORDERED.^[2]

Likewise assailed in this Petition is the appellate court's December 16, 2005 Resolution,^[3] which denied a reconsideration of the assailed Decision.

Factual Antecedents

On October 5, 2004, Vitaliano filed, in his individual capacity and on behalf of FQB+7, Inc. (FQB+7), a Complaint^[4] for intra-corporate dispute, injunction, inspection of corporate books and records, and damages, against respondents Nathaniel D. Bocobo (Nathaniel), Priscila D. Bocobo (Priscila), and Antonio De Villa (Antonio). The Complaint alleged that FQB+7 was established in 1985 with the following directors and subscribers, as reflected in its Articles of Incorporation:

Directors

1. Francisco Q. Bocobo
2. Fidel N. Aguirre
3. Alfredo Torres

Subscribers

1. Francisco Q. Bocobo
2. Fidel N. Aguirre
3. Alfredo Torres

4. Victoriano Santos
5. Victorino Santos^[5]

4. Victoriano Santos
5. Victorino Santos
6. Vitaliano N. Aguirre II
7. Alberto Galang
8. Rolando B. Bechayda^[6]

To Vitaliano's knowledge, except for the death of Francisco Q. Bocobo and Alfredo Torres, there has been no other change in the above listings.

The Complaint further alleged that, sometime in April 2004, Vitaliano discovered a General Information Sheet (GIS) of FQB+7, dated September 6, 2002, in the Securities and Exchange Commission (SEC) records. This GIS was filed by Francisco Q. Bocobo's heirs, Nathaniel and Priscila, as FQB+7's president and secretary/treasurer, respectively. It also stated FQB+7's directors and subscribers, as follows:

Directors

1. Nathaniel D. Bocobo
2. Priscila D. Bocobo
3. Fidel N. Aguirre
4. Victoriano Santos
5. Victorino Santos
6. Consolacion Santos^[8]

Subscribers

1. Nathaniel D. Bocobo
2. Priscila D. Bocobo
3. Fidel N. Aguirre
4. Victorino^[7] Santos
5. Victorino Santos
6. Consolacion Santos^[9]

Further, the GIS reported that FQB+7's stockholders held their annual meeting on September 3, 2002.^[10]

The substantive changes found in the GIS, respecting the composition of directors and subscribers of FQB+7, prompted Vitaliano to write to the "real" Board of Directors (the directors reflected in the Articles of Incorporation), represented by Fidel N. Aguirre (Fidel). In this letter^[11] dated April 29, 2004, Vitaliano questioned the validity and truthfulness of the alleged stockholders meeting held on September 3, 2002. He asked the "real" Board to rectify what he perceived as erroneous entries in the GIS, and to allow him to inspect the corporate books and records. The "real" Board allegedly ignored Vitaliano's request.

On September 27, 2004, Nathaniel, in the exercise of his power as FQB+7's president, appointed Antonio as the corporation's attorney-in-fact, with power of administration over the corporation's farm in Quezon Province.^[12] Pursuant thereto, Antonio attempted to take over the farm, but was allegedly prevented by Fidel and his men.^[13]

Characterizing Nathaniel's, Priscila's, and Antonio's continuous representation of the corporation as a usurpation of the management powers and prerogatives of the "real" Board of Directors, the Complaint asked for an injunction against them and for the nullification of all their previous actions as purported directors, including the GIS they had filed with the SEC. The Complaint also sought damages for the plaintiffs and a declaration of Vitaliano's right to inspect the corporate records.

The case, docketed as SEC Case No. 04-111077, was assigned to Branch 24 of the RTC of Manila (Manila RTC), which was a designated special commercial court, pursuant to A.M. No. 03-03-03-SC.^[14]

The respondents failed, despite notice, to attend the hearing on Vitaliano's application for preliminary injunction.^[15] Thus, in an Order^[16] dated October 15, 2004, the trial court granted the application based only on Vitaliano's testimonial and documentary evidence, consisting of the corporation's articles of incorporation, by-laws, the GIS, demand letter on the "real" Board of Directors, and police blotter of the incident between Fidel's and Antonio's groups. On October 27, 2004, the trial court issued the writ of preliminary injunction^[17] after Vitaliano filed an injunction bond.

The respondents filed a motion for an extension of 10 days to file the "pleadings warranted in response to the complaint," which they received on October 6, 2004.^[18] The trial court denied this motion for being a prohibited pleading under Section 8, Rule 1 of the Interim Rules of Procedure Governing Intra-corporate Controversies under Republic Act (R.A.) No. 8799.^[19]

The respondents filed a Petition for *Certiorari* and Prohibition,^[20] docketed as CA-G.R. SP No. 87293, before the CA. They later amended their Petition by impleading Fidel, who allegedly shares Vitaliano's interest in keeping them out of the corporation, as a private respondent therein.^[21]

The respondents sought, in their *certiorari* petition, the annulment of all the proceedings and issuances in SEC Case No. 04-111077^[22] on the ground that Branch 24 of the Manila RTC has no jurisdiction over the subject matter, which they defined as being an agrarian dispute.^[23] They theorized that Vitaliano's real goal in filing the Complaint was to maintain custody of the corporate farm in Quezon Province. Since this land is agricultural in nature, they claimed that jurisdiction belongs to the Department of Agrarian Reform (DAR), not to the Manila RTC.^[24] They also raised the grounds of improper venue (alleging that the real corporate address is different from that stated in the Articles of Incorporation)^[25] and forum-shopping^[26] (there being a pending case between the parties before the DAR regarding the inclusion of the corporate property in the agrarian reform program).^[27] Respondents also raised their defenses to Vitaliano's suit, particularly the alleged disloyalty and fraud committed by the "real" Board of Directors,^[28] and respondents' "preferential right to possess the corporate property" as the heirs of the majority stockholder Francisco Q. Bocobo.^[29]

The respondents further informed the CA that the SEC had already revoked FQB+7's Certificate of Registration on September 29, 2003 for its failure to comply with the SEC reportorial requirements.^[30] The CA determined that the corporation's dissolution was a conclusive fact after petitioners Vitaliano and Fidel failed to dispute this factual assertion.^[31]

Ruling of the Court of Appeals

The CA determined that the issues of the case are the following: (1) whether the trial court's issuance of the writ of preliminary injunction, in its October 15, 2004 Order, was attended by grave abuse of discretion amounting to lack of jurisdiction; and (2) whether the corporation's dissolution affected the trial court's jurisdiction to hear the intracorporate dispute in SEC Case No. 04-111077.^[32]

On the first issue, the CA determined that the trial court committed a grave abuse of discretion when it issued the writ of preliminary injunction to remove the respondents from their positions in the Board of Directors based only on Vitaliano's self-serving and empty assertions. Such assertions cannot outweigh the entries in the GIS, which are documented facts on record, which state that respondents are stockholders and were duly elected corporate directors and officers of FQB+7, Inc. The CA held that Vitaliano only proved a future right in case he wins the suit. Since an injunction is not a remedy to protect future, contingent or abstract rights, then Vitaliano is not entitled to a writ.^[33]

Further, the CA disapproved the discrepancy between the trial court's October 15, 2004 Order, which granted the application for preliminary injunction, and its writ dated October 27, 2004. The Order enjoined all the respondents "from entering, occupying, or taking over possession of the farm owned **by Atty. Vitaliano Aguirre II,**" while the writ states that the subject farm is "owned by plaintiff corporation located in Mulanay, Quezon Province." The CA held that this discrepancy imbued the October 15, 2004 Order with jurisdictional infirmity.^[34]

On the second issue, the CA postulated that Section 122 of the Corporation Code allows a dissolved corporation to continue as a body corporate for the limited purpose of liquidating the corporate assets and distributing them to its creditors, stockholders, and others in interest. It does not allow the dissolved corporation to continue its business. That being the state of the law, the CA determined that Vitaliano's Complaint, being geared towards the continuation of FQB+7, Inc.'s business, should be dismissed because the corporation has lost its juridical personality.^[35] Moreover, the CA held that the trial court does not have jurisdiction to entertain an intra-corporate dispute when the corporation is already dissolved.^[36]

After dismissing the Complaint, the CA reminded the parties that they should proceed with the liquidation of the dissolved corporation based on the existing GIS, thus:

With SEC's revocation of its certificate of registration on September 29, 2004 [sic], FQB+7, Inc. will be obligated to wind up its affairs. The Corporation will have to be liquidated within the 3-year period mandated by Sec. 122 of the Corporation Code.

Regardless of the method it will opt to liquidate itself, the Corporation will have to reckon with the members of the board as duly listed in the General Information Sheet last filed with SEC. Necessarily, and as admitted in the complaint below, the following as listed in the Corporation's General Information Sheet dated September 6, 2002, will have to continue acting as Members of the Board of FQB+7, Inc. viz:

Herein petitioners filed a Motion for Reconsideration.^[38] They argued that the CA erred in ruling that the October 15, 2004 Order was inconsistent with the writ. They explained that pages 2 and 3 of the said Order were interchanged in the CA's records, which then misled the CA to its erroneous conclusion. They also posited that the original sentence in the correct Order reads: "All defendants are further enjoined from entering, occupying or taking over possession of the farm owned **by plaintiff corporation** located in Mulanay, Quezon." This sentence is in accord with what is ordered in the writ, hence the CA erred in nullifying the Order.

On the second issue, herein petitioners maintained that the CA erred in characterizing the reliefs they sought as a continuance of the dissolved corporation's business, which is prohibited under Section 122 of the Corporation Code. Instead, they argued, the relief they seek is only to determine the real Board of Directors that can represent the dissolved corporation.

The CA denied the Motion for Reconsideration in its December 16, 2005 Resolution.^[39] It determined that the crucial issue is the trial court's jurisdiction over an intra-corporate dispute involving a dissolved corporation.^[40] Based on the prayers in the Complaint, petitioners seek a determination of the real Board that can take over the management of the corporation's farm, not to sit as a liquidation Board. Thus, contrary to petitioners' claims, their Complaint is not geared towards liquidation but a continuance of the corporation's business.

Issues

1. Whether the CA erred in annulling the October 15, 2004 Order based on interchanged pages.
2. Whether the Complaint seeks to continue the dissolved corporation's business.
3. Whether the RTC has jurisdiction over an intra-corporate dispute involving a dissolved corporation.

Our Ruling

The Petition is partly meritorious.

On the nullification of the Order of preliminary injunction.

Petitioners reiterate their argument that the CA was misled by the interchanged pages in the October 15, 2004 Order. They posit that had the CA read the Order in its correct sequence, it would not have nullified the Order on the ground that it was issued with grave abuse of discretion amounting to lack of jurisdiction.^[41]

Petitioners' argument fails to impress. The CA did not nullify the October 15, 2004 Order merely because of the interchanged pages. Instead, the CA determined that