603 Phil. 219

SECOND DIVISION

[G.R. No. 158805, April 16, 2009]

VALLEY GOLF & COUNTRY CLUB, INC., PETITIONER, VS. ROSA O. VDA. DE CARAM, RESPONDENT.

D E C I S I O N

TINGA, J.:

May a non-stock corporation seize and dispose of the membership share of a fully-paid member on account of its unpaid debts to the corporation when it is authorized to do so under the corporate by-laws but not by the Articles of Incorporation? Such is the central issue raised in this petition, which arose after petitioner Valley Golf & Country Club (Valley Golf) sold the membership share of a member who had been delinquent in the payment of his monthly dues.

I.

The facts that preceded this petition are simple. Valley Golf & Country Club (Valley Golf) is a duly constituted non-stock, non-profit corporation which operates a golf course. The members and their guests are entitled to play golf on the said course and otherwise avail of the facilities and privileges provided by Valley Golf.[1] The shareholders are likewise assessed monthly membership dues.

In 1961, the late Congressman Fermin Z. Caram, Jr. (Caram),[2] the husband of the present respondent, subscribed to purchased and paid for in full one share (Golf Share) in the capital stock of Valley Golf. He was issued Stock Certificate No. 389 dated 26 January 1961 for the Golf Share.[3] The Stock Certificate likewise indicates a par value of P9,000.00.

Valley Golf would subsequently allege that beginning 25 January 1980, Caram stopped paying his monthly dues, which were continually assessed until 31 June 1987. Valley Golf claims to have sent five (5) letters to Caram concerning his delinquent account within the period from 27 January 1986 until 3 May 1987, all forwarded to

P.O. Box No. 1566, Makati Commercial Center Post Office, the mailing address which Caram allegedly furnished Valley Golf.[4] The first letter informed Caram that his account as of 31 December 1985 was delinquent and that his club privileges were suspended pursuant to Section 3, Article VII of the by-laws of Valley Golf.[5] Despite such notice of delinquency, the second letter, dated 26 August 1986, stated that should Caram's account remain unpaid for 45 days, his name would be "included in the delinquent list to be posted on the club's bulletin board."[6] The third letter, dated 25 January 1987, again informed Caram of his delinquent account and the suspension of his club privileges.[7] The fourth letter, dated 7 March 1987, informed

Caram that should he fail to settle his delinquencies, then totaling P7,525.45, within ten (10) days from receipt thereof Valley Golf would exercise its right to sell the Golf Share to satisfy the outstanding amount, again pursuant to the provisions of the by-laws.[8] The final letter, dated 3 May 1987, issued a final deadline until 31 May 1987 for Caram to settle his account, or otherwise face the sale of the Golf Share to satisfy the claims of Valley Golf.[9]

The Golf Share was sold at public auction on 11 June 1987 for P25,000.00 after the Board of Directors had authorized the sale in a meeting on 11 April 1987, and the Notice of Auction Sale was published in the 6 June 1987 edition of the *Philippine Daily Inquirer*.[10]

As it turned out, Caram had died on 6 October 1986. Respondent initiated intestate proceedings before the Regional Trial Court (RTC) of Iloilo City, Branch 35, to settle her husband's estate.[11] Unaware of the pending controversy over the Golf Share, the Caram family and the RTC included the same as part of Caram's estate. The RTC approved a project of partition of Caram's estate on 29 August 1989. The Golf Share was adjudicated to respondent, who paid the corresponding estate tax due, including that on the Golf Share.

It was only through a letter dated 15 May 1990 that the heirs of Caram learned of the sale of the Golf Share following their inquiry with Valley Golf about the share. After a series of correspondence, the Caram heirs were subsequently informed, in a letter dated 15 October 1990, that they were entitled to the refund of P11,066.52 out of the proceeds of the sale of the Golf Share, which amount had been in the custody of Valley Golf since 11 June 1987.[12]

Respondent filed an action for reconveyance of the share with damages before the Securities and Exchange Commission (SEC) against Valley Golf.[13] On 15 November 1996, SEC Hearing Officer Elpidio S. Salgado rendered a decision in favor of respondent, ordering Valley Golf to convey ownership of the Golf Share or in the alternative to issue one fully paid share of stock of Valley Golf the same class as the Golf Share to respondent. Damages totaling P90,000.00 were also awarded to respondent.[14]

The SEC hearing officer noted that under Section 67, paragraph 2 of the Corporation Code, a share stock could only be deemed delinquent and sold in an extrajudicial sale at public auction only upon the failure of the stockholder to pay the unpaid subscription or balance for the share. The section could not have applied in Caram's case since he had fully paid for the Golf Share and he had been assessed not for the share itself but for his delinquent club dues. Proceeding from the foregoing premises, the SEC hearing officer concluded that the auction sale had no basis in law and was thus a nullity.

The SEC hearing officer did entertain Valley Golf's argument that the sale of the Golf Share was authorized under the by-laws. However, it was ruled that pursuant to Section 6 of the Corporation Code, "a provision creating a lien upon shares of stock for unpaid debts, liabilities, or assessments of stockholders to the corporation, should be embodied in the Articles of Incorporation, and not merely in the by-laws, because Section 6 (par.1) prescribes that the shares of stock of a corporation may

have such rights, privileges and restrictions as may be stated in the articles of incorporation."[15] It was observed that the Articles of Incorporation of Valley Golf did not impose any lien, liability or restriction on the Golf Share or, for that matter, even any conditionality that the Golf Share would be subject to assessment of monthly dues or a lien on the share for non-payment of such dues.[16] In the same vein, it was opined that since Section 98 of the Corporation Code provides that restrictions on transfer of shares should appear in the articles of incorporation, by-laws and the certificate of stock to be valid and binding on any purchaser in good faith, there was more reason to apply the said rule to club delinquencies to constitute a lien on golf shares.[17]

The SEC hearing officer further held that the delinquency in monthly club dues was merely an ordinary debt enforceable by judicial action in a civil case. The decision generally affirmed respondent's assertion that Caram was not properly notified of the delinquencies, citing Caram's letter dated 7 July 1978 to Valley Golf about the change in his mailing address. He also noted that Valley Golf had sent most of the letters after Caram's death. In all, the decision concluded that the sale of the Golf Share was effectively a deprivation of property without due process of law.

On appeal to the SEC *en banc*,[18] said body promulgated a decision[19] on 9 May 2000, affirming the hearing officer's decision *in toto*. Again, the SEC found that Section 67 of the Corporation Code could not justify the sale of the Golf Share since it applies only to unpaid subscriptions and not to delinquent membership dues. The SEC also cited a general rule, formulated in American jurisprudence, that a corporation has no right to dispose of shares of stock for delinquent assessments, dues, service fees and other unliquidated charges unless there is an express grant to do so, either by the statute itself or by the charter of a corporation.[20] Said rule, taken in conjunction with Section 6 of the Corporation Code, militated against the validity of the sale of the Golf Share, the SEC stressed. In view of these premises, which according to the SEC entailed the nullity of the sale, the body found it unnecessary to rule on whether there was valid notice of the sale at public auction.

Valley Golf elevated the SEC's decision to the Court of Appeals by way of a petition for review.[21] On 4 April 2003, the appellate court rendered a decision[22] affirming the decisions of the SEC and the hearing officer, with modification consisting of the deletion of the award of attorney's fees. This time, Valley Golf's central argument was that its by-laws, rather than Section 67 of the Corporation Code, authorized the auction sale of the Golf Share. Nonetheless, the Court of Appeals found that the by-law provisions cited by Valley Golf are "of doubtful validity," as they purportedly conflict with Section 6 of the Code, which mandates that "rights privileges or restrictions attached to a share of stock should be stated in the articles of incorporation.[23] It noted that what or who had become delinquent was "was Mr. Caram himself and not his golf share," and such being the case, the unpaid account "should have been filed as a money claim in the proceedings for the settlement of his estate, instead of the petitioner selling his golf share to satisfy the account."[24]

The Court of Appeals also adopted the findings of the hearing officer that the notices had not been properly served on Caram or his heirs, thus effectively depriving respondent of property without due process of law. While it upheld the award of damages, the appellate court struck down the award of attorney's fees since there

was no discussion on the basis of such award in the body of the decisions of both the hearing officer and the SEC.[25]

There is one other fact of note, mentioned in passing by the SEC hearing officer[26] but ignored by the SEC *en banc* and the Court of Appeals. Valley Golf's third and fourth demand letters dated 25 January 1987 and 7 March 1987, respectively, were both addressed to "Est. of Fermin Z. Caram, Jr." The abbreviation "Est." can only be taken to refer to "Estate." Unlike the first two demand letters, the third and fourth letters were sent after Caram had died on 6 October 1986. However, the fifth and final demand letter, dated 3 May 1987 or twenty-eight (28) days before the sale, was again addressed to Fermin Caram himself and not to his estate, as if he were still alive. The foregoing particular facts are especially significant to our disposition of this case.

II.

In its petition before this Court, Valley Golf concedes that Section 67 of the Corporation Code, which authorizes the auction sale of shares with delinquent subscriptions, is not applicable in this case. Nonetheless, it argues that the by-laws of Valley Golf authorizes the sale of delinquent shares and that the by-laws constitute a valid law or contractual agreement between the corporation and its stockholders or their respective successors. Caram, by becoming a member of Valley Golf, bound himself to observe its by-laws which constitutes "the rules and regulations or private laws enacted by the corporation to regulate, govern and control its own actions, affairs and concerns and its stockholders or members and directors and officers with relation thereto and among themselves in their relation to it."[27] It also points out that the by-laws itself had duly passed the SEC's scrutiny and approval.

Valley Golf further argues that it was error on the part of the Court of Appeals to rely, as it did, upon Section 6 of the Corporation Code "to nullify the subject provisions of the By-Laws."[28] Section 6 referrs to "restrictions" on the shares of stock which should be stated in the articles of incorporation, as differentiated from "liens" which under the by-laws would serve as basis for the auction sale of the share. Since Section 6 refers to restrictions and not to liens, Valley Golf submits that "liens" are excluded from the ambit of the provision. It further proffers that assuming that liens and restrictions are synonymous, Section 6 itself utilizes the permissive word "may," thus evincing the non-mandatory character of the requirement that restrictions or liens be stated in the articles of incorporation.

Valley Golf also argues that the Court of Appeals erred in relying on the factual findings of the hearing officer, which are allegedly replete with errors and contradictions. Finally, it assails the award of moral and exemplary damages.

III.

As found by the SEC and the Court of Appeals, the Articles of Incorporation of Valley Golf does not contain any provision authorizing the corporation to create any lien on a member's Golf Share as a consequence of the member's unpaid assessments or dues to Valley Golf. Before this Court, Valley Golf asserts that such a provision is contained in its by-laws. We required the parties to submit a certified copy of the

by-laws of Valley Golf in effect as of 11 June 1987.[29] In compliance, Valley Golf submitted a copy of its by-laws, originally adopted on 6 June 1958[30] and amended on 26 November 1986.[31] The amendments bear no relevance to the issue of delinquent membership dues. The relevant provisions, found in Article VIII entitled "Club Accounts," are reproduced below:

> Section 1. *Lien*.--The Club has the first lien on the share of the stockholder who has, in his/her/its name, or in the name of an assignee, outstanding accounts and liabilities in favor of the Club to secure the payment thereof.
>
> xxx
>
> Section 3. The account of any member shall be presented to such member every month. If any statement of accounts remains unpaid for a period forty-five (45) days after cut-off date, said member maybe (*sic*) posted as deliqnuent (*sic*). No delinquent member shall be entitled to enjoy the privileges of such membership for the duration of the deliquency (*sic*). After the member shall have been posted as delinquent, the Board may order his/her/its share sold to satisfy the claims of the club; after which the member loses his/her/its rights and privileges permanently. No member can be indebted to the Club at any time any amount in excess of the credit limit set by the Board of Directors from time to time. The unpaid account referred to here includes non-payment of dues, charges and other assessments and non-payment for subscriptions.[32]

To bolster its cause, Valley Golf proffers the proposition that by virtue of the by-law provisions a lien is created on the shares of its members to ensure payment of dues, charges and other assessments on the members. Both the SEC and the Court of Appeals debunked the tenability or applicability of the proposition through two common thrusts.

Firstly, they correctly noted that the procedure under Section 67 of the Corporation Code for the stock corporation's recourse on unpaid subscriptions is inapt to a non-stock corporation *vis-à-vis* a member's outstanding dues. The basic factual backdrops in the two situations are disperate. In the latter, the member has fully paid for his membership share, while in the former, the stockholder has not yet fully paid for the share or shares of stock he subscribed to, thereby authorizing the stock corporation to call on the unpaid subscription, declare the shares delinquent and subject the delinquent shares to a sale at public auction.[33]

Secondly, the two bodies below concluded that following Section 6 of the Corporation Code, which provides:

> The shares of stock of stock corporation may be divided into classes or series of shares, or both, any of which classes or series of shares may have such rights, privileges or restrictions as may be stated in the articles of incorporation x x x [34]

the lien on the Golf Share in favor of Valley Golf is not valid, as the power to constitute such a lien should be provided in the articles of incorporation, and not