

SECOND DIVISION

[G.R. NO. 157671, June 20, 2006]

DANILO G. PUNONGBAYAN, PETITIONER, VS. PERFECTO G. PUNONGBAYAN, JR., MARILOU P. VISITACION, AND SOTERO A. PUNONGBAYAN, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari assailing the Decision^[1] dated March 17, 2003 of the Court of Appeals in CA-G.R. SP No. 65420, entitled "*Perfecto G. Punongbayan, Jr. and Marilou P. Visitacion vs. Hon. Maximo Magno-Libre (in his official capacity as Presiding Judge of the Regional Trial Court of Lanao Del Norte, Branch 5 of Iligan City), Danilo Punongbayan, Rico Quilab, Luis Lacar and Adelfa Silor (in their official capacity as members of the management committee of St. Peter's College).*"

The facts are:

St. Peter's College is a non-stock, non-profit educational corporation in Iligan City. It is administered by its Board of Trustees composed of five members. As of 1995, the members of the Board were Leonila, Leonora, Danilo, Perfecto, Jr., sisters and brothers, all surnamed Punongbayan, and Sotero Punongbayan, their uncle.

In 1995, Leonila and Leonora died, leaving as members of the Board Danilo, petitioner, Perfecto, Jr., respondent, and Sotero, respondent-intervenor.

Danilo was then the President, while Perfecto, Jr. acted as Treasurer. Marilou Visitacion, another respondent, acted as the Corporate Secretary. However, there has been no Board meeting.

In 1998, Sotero filed with the Securities and Exchange Commission (SEC) a Petition for Disqualification of Members/Trustees/Officers; Production of Corporate and Financial Records; Examination and Accounting of Corporate Assets; and Damages with Prayer for a Temporary Restraining Order and/or Writ of Preliminary Injunction against Danilo, Perfecto, Jr., and Marilou, docketed as SEC Case No. 10-96-5471. The petition prays for the immediate creation of a management committee on the ground of lack of quorum among the members of the Board resulting in an impending halt of the school's operation.

In an Order^[2] dated November 10, 1998, the SEC granted the prayer for the creation of a management committee.

On February 24, 1999, the SEC appointed the following as members of the management committee: Carmen V. Dormitorio, as chairperson, representing the

Commission on Higher Education; Jose L. Zalsos, representing the Faculty Club of St. Peter's College, Inc.; Henie Natuel Punongbayan, representing Sotero; Carmelita Punzalan-Punongbayan, representing Danilo; and Perfecto, Jr.^[3]

Subsequently, Carmen Dormitorio inhibited herself as a member and chairperson of the committee. This resulted in a deadlock among the remaining members.

Meanwhile, SEC Case No. 10-96-5471 was transferred to the Regional Trial Court (RTC), Branch 5, Iligan City, pursuant to Republic Act No. 8799.^[4] The case was docketed therein as Corporation Case No. 006.

Sotero then filed with the RTC a Motion to Abolish the Management Committee, assailing the Orders of the SEC creating and appointing the members of the management committee. He prayed that the original members of the Board (himself, Danilo, and Perfecto, Jr.) be required to reconvene and run the affairs of the school.

On June 5, 2001, the RTC issued an Order^[5] denying Sotero's motion, thus:

WHEREFORE, premises considered, the instant motion to abolish the management committee is ordered denied. Instead, the Mancom will have to be revamped to be composed only of three members as mandated by the aforequoted interim rules of procedure, but before the three members to be appointed by the court to constitute the new Mancom will be made, the parties-movants are directed to jointly nominate three members they wish to be appointed to the Mancom, and the oppositor to do likewise.

x x x.

On June 20, 2001, the RTC issued an Order appointing Luis Lacar, Adelfa Silor, and Rico Quilab as members of the new management committee. Lacar and Silor were the nominees of Danilo, while Quilab was the nominee of Perfecto, Jr.^[6]

Sotero filed a Motion for Reconsideration but the same was not acted upon being a prohibited pleading under the Interim Rules of Procedure for Intra-Corporate Controversies.

On June 23, 2001, Perfecto, Jr. and Marilou Visitacion, Acting Corporate Secretary, filed with the Court of Appeals a Petition for Certiorari with Application for the Issuance of a Writ of Preliminary Injunction against RTC Presiding Judge Maximo Magno-Libre, the members of the new management committee, and Danilo. Petitioners therein alleged that in issuing his June 5 and 20, 2001 Orders, respondent Judge gravely abused his discretion. In a Resolution dated July 9, 2001, the Court of Appeals dismissed the petition for petitioners' failure to comply with the Rule against forum shopping.

On July 17, 2001, Perfecto, Jr. and Visitacion filed a Motion for Reconsideration. Later, on July 20, 2001, they filed a Motion to Amend Petition.

In the meantime, Sotero filed with the Appellate Court his petition-in-intervention.

On July 26, 2001, the Court of Appeals issued a Resolution reconsidering its previous Resolution dismissing the petition and admitting the amended petition as well as the petition-in-intervention.

In a Resolution dated March 13, 2002, the Appellate Court issued a writ of preliminary injunction enjoining the implementation of the Orders dated June 5, 2001 and June 20, 2001 issued by the RTC.

Danilo filed a Motion for Reconsideration but the same was denied in a Resolution dated October 8, 2002.

On March 17, 2003, the Court of Appeals promulgated its Decision setting aside the RTC Orders dated June 5 and 20, 2001, holding that:

The Decision of the SEC that created MANCOM 1 was contained in the Order of November 10, 1998 (Rollo, pp. 523-528), while the appointment of intervenor's representative, Henie N. Punongbayan, and petitioner Perfecto Punongbayan, Jr. to MANCOM 1 was set forth in the Order of February 24, 1999 (Rollo, pp. 532-533). There was no appeal taken from both Orders of the SEC, thus, the said Orders had become final and executory and they could no longer be amended, altered, or set aside. In fact, they were already implemented before the respondent Court assumed jurisdiction over the case. Intervenor's representative and petitioner Perfecto Punongbayan, Jr. had already assumed their office as members of MANCOM 1 and commenced to discharge their duties long before the case was transferred to respondent Judge's court.

It is a well-established rule that a judgment which had become final and executory can no longer be amended or modified by the courts (Cardoza vs. Singson, 181 SCRA 53) as it thereby becomes immutable and unalterable (Mining International Corp. vs. NLRC, 195 SCRA 155). x x x Clearly, then, the respondent Judge acted capriciously, arbitrarily and with grave abuse of discretion amounting to lack or excess of jurisdiction when he issued the assailed Orders on June 5, 2001 abolishing MANCOM 1 and creating MANCOM 2, and on June 20, 2001 appointing the members of MANCOM 2. Public respondent had no legal authority to abolish MANCOM 1 which was formed, duly constituted, and its members chosen by SEC, which is the government agency tasked with the supervision of corporations.

x x x what public respondent should have done was to convene the Board of Trustees of the corporation composed of Sotero, Danilo, and Perfecto, Jr., which, under its Charter and By-Laws, is tasked with its management and operation, and only after there shall have been no quorum should he have ordered the revamp of the old MANCOM. There appeared to be no legal impediment to the exercise by the Board of Trustees of the School of its corporate powers. Under the By-Laws of the School, a majority of the trustees shall constitute a quorum for the transaction of the corporate business. Since there were only three surviving members, then at least two of the surviving members could constitute a quorum.

The situation now obtaining being different from that prevailing during

the filing of the instant petition in that the Board of Trustees had convened on July 4, 2001 and new members in the persons of Henie N. Punongbayan, Marilou P. Visitacion and Restituto Punongbayan had been elected to the Board, and a new By-Laws of the School had been adopted and approved by the SEC on August 21, 2001, the necessity of creating a MANCOM is rendered already moot and academic. x x x

WHEREFORE, premises considered, the petition is given DUE COURSE. The assailed Orders of public respondent Judge dated June 5, 2001 and June 20, 2001 in Corporation Case No. 006 of Branch 5 of the Regional Trial Court in Iligan City, Lanao del Norte, are hereby REVERSED and SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and another one is issued convening the Board of Trustees of St. Peter's College, Inc. in Iligan City, Lanao del Norte, and making permanent the injunction issued by this Court in this case.

SO ORDERED.

Hence, the instant petition for review on certiorari raising the following issues:

1. WHETHER OR NOT THE APPELLATE COURT COMMITTED AN ERROR THROUGH GROSS MISAPPREHENSION OF FACTS AS IT RULED THAT THE LOWER COURT REVOKED, VACATED, AMENDED OR MODIFIED THE ORDER CREATING A MANAGEMENT COMMITTEE WHEN IT ISSUED THE ORDER OF JUNE 5, 2001.
2. WHETHER OR NOT THE APPELLATE COURT COMMITTED AN ERROR THROUGH GRAVE MISAPPREHENSION OF FACTS WHEN IT RULED THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION BY APPOINTING CARMELITA P. PUNONGBAYAN AS CHIEF EXECUTIVE OFFICER OF THE CORPORATION, WHEN THERE IS NO SUCH ORDER OF APPOINTMENT.
3. WHETHER OR NOT THE APPELLATE COURT ERRED IN RULING TO THE EFFECT THAT 'UNDER THE BY-LAWS OF THE SCHOOL, A MAJORITY OF THE TRUSTEES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF THE CORPORATE BUSINESS. SINCE THERE WERE ONLY THREE SURVIVING MEMBERS, THAT AT LEAST TWO OF THE SURVIVING MEMBERS COULD CONSTITUTE A QUORUM.' THE APPELLATE COURT HAS THUS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISION OF THE SUPREME COURT.
4. WHETHER OR NOT THE APPELLATE COURT ERRED IN MAKING A FINDING THAT THERE IS NOW A FUNCTIONING BOARD OF TRUSTEES AND IT MUST BE ALLOWED TO FUNCTION AND TO EXERCISE ITS POWER AND DUTIES, AS IN DOING SO THE APPELLATE COURT WENT BEYOND THE ISSUES OF THE CASE.
5. A QUESTION OF LAW IS ALSO BEING POSED AS TO WHETHER THE APPELLATE COURT CAN RULE THAT THERE IS NOW A FUNCTIONING