

FIRST DIVISION

[G.R. No. 148152, November 18, 2005]

**INTERNATIONAL BROADCASTING CORPORATION, PETITIONER,
VS. JOSE T. JALANDOON, RESPONDENT,**

[G.R. NO. 149450]

**SECURITIES AND EXCHANGE COMMISSION, PETITIONER, VS.
JOSE T. JALANDOON, RESPONDENT.**

D E C I S I O N

AZCUNA, J.:

Before us are two consolidated petitions for review on *certiorari* of the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 62027 promulgated on May 9, 2001, and its Resolution promulgated on July 20, 2001 denying the Motion for Reconsideration of petitioner Securities and Exchange Commission (SEC). The Decision of the Court of Appeals reversed and set aside the Order of the SEC dated October 5, 2000 and directed SEC to decide SEC Case No. 12-96-5505, entitled *Jose T. Jalandoon v. International Broadcasting Corporation, et al.*

The antecedents^[2] of the case are as follows:

On April 3, 1996, Julius Raboca, the corporate secretary of International Broadcasting Corporation (IBC), caused the publication in the newspapers of a Notice, which, among others, enjoined all persons having any claim against IBC to present them to the Office of the Corporate Secretary within five days from date of publication, after which, no claim would be entertained.

Respondent Jose T. Jalandoon, after reading the Notice, wrote a letter to Raboca to make his claim of twenty percent (20%) of the shareholdings of IBC. Raboca allegedly did nothing on the claim.

In December 1996, Jalandoon filed with SEC an Amended Petition^[3] for Accounting, Reconstitution of Records, Mandamus, Nullification of Directors' Election, Calling of Stockholders' Meeting, and Damages against IBC and the members^[4] of its Board of Directors.

On February 10, 1997, IBC, *et al.*, filed its Answer with Counterclaims and, at the same time, moved for the dismissal of the case through its counsel, Cruz Enverga & Raboca.

On June 2, 1997, the Office of the Government Corporate Counsel (OGCC) made a verbal manifestation that it had known of the filing of the case "a few days ago and requested for extension of time to enter into preliminary conference." Cruz Enverga

& Raboca withdrew as counsel for IBC.

During the preliminary conference on June 25, 1997, IBC, *et al.* were declared in default due to the failure of the OGCC's lawyers to produce a Board Resolution authorizing them to appear in behalf of IBC, *et. al.*

On July 2, 1997, the Presidential Commission on Good Government (PCGG), filed a Special Appearance and Motion to Dismiss assailing SEC's jurisdiction over the case on the ground that it is the Sandiganbayan that has sole and exclusive jurisdiction over the case involving IBC, as an acquired asset of the Republic of the Philippines.

On July 3, 1997, the OGCC, in behalf of IBC, filed an Omnibus Motion, namely, a Motion for Reconsideration and/or To Lift Order of Default; a Motion to Nullify All Proceedings Taken after Declaration of Default; and a Motion to Dismiss.

On July 28, 1997, the SEC Hearing Officer issued an Omnibus Order lifting the Order declaring IBC in default, denying the motion to nullify all proceedings after declaring IBC in default, and denying the motion to dismiss for lack of merit.

On the motion to dismiss, the SEC Hearing Officer ruled:

The motion to dismiss cannot be sustained on the allegation that IBC was ceded to the government by Roberto S. Benedicto, over the claim of petitioner that he is owner of some shares of stocks in IBC. Whether said shares of stock are subject to sequestration or were sequestered shares, is best determined after trial on the merits.

Also it cannot be argued that the real party in interest is the PCGG.

IBC is an entity separate and distinct from the PCGG. If ever, the PCGG (or the) government owns shares of stocks in IBC, it does so [in] its proprietary character, stepping down from the pedestal of its sovereign power, and engages into private ownership and contracts like an ordinary citizen, thus shedding off its sovereign immunity from suit.^[5]

IBC, *et al.* filed a motion for reconsideration of the Omnibus Order insofar as it denied their motion to dismiss and to nullify the proceedings after declaration of default. The SEC Hearing Officer denied it in an Order dated June 22, 1998.^[6]

Pre-trial and trial ensued. Thereafter, the parties presented their respective evidence. The SEC Hearing Officer admitted the exhibits formally offered in evidence by Jalandoni in an Order dated March 9, 2000.

In an Order dated July 25, 2000, the SEC Hearing Officer admitted the exhibits formally offered in evidence by IBC, *et al.* and the case was considered submitted for decision. The parties were directed to submit their respective memoranda not later than 15 days from receipt of the Order.

On August 9, 2000, Republic Act No. 8799, otherwise known as the Securities Regulation Code, took effect. The Act transferred jurisdiction over intra-corporate disputes from SEC to the Regional Trial Courts.

Anticipating the Code's effectivity, the SEC earlier issued, on August 1, 2000, the *Guidelines on Intra-Corporate Cases Pending Before the SICD and the Commission En Banc of the Securities and Exchange Commission*.

On October 5, 2000, the SEC en banc issued an Order,^[7] the pertinent portions of which read:

. . .

The Commission now holds that the Republic, as the registered owner of 100% of the shares of IBC -13, is a real party in interest, because it stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.

. . .

. . . The petition failed to implead the Republic and is therefore defective in form. Nonetheless, the substantiality being plainly evident, such defect in form can and must be cured, otherwise, no final determination of the case can be had. The impleading of the Republic as party-respondent is thus in order. And in accordance with the constitutional provisions and jurisprudential declarations, the Republic must be accorded due process and given its day in court.

In view of the foregoing determination by the Commission, there is still much left to be done before the case can reach the final disposition stage. Considering the effectivity of the new Securities Regulation Code on August [9], 2000 and the Guidelines of the Commission, and further considering that the case is not yet ripe for final adjudication, the Commission no longer has any jurisdiction to continue to hear the case, receive pertinent pleadings thereto nor render a final judgment therein.

Despite the loss of its jurisdiction and because the Commission **cannot render a final decision** based on the foregoing discussions on the defect of non-joinder of an indispensable party, the Commission is of the opinion that it must issue this last order, so that "the actual merits of the controversy may speedily be determined." To do otherwise would leave the case in limbo, a situation which the Commission, in the [interest] of justice, cannot allow.

WHEREFORE, foregoing premises considered, and under the circumstances of the present case, the Republic of the Philippines, as represented by PCGG, is hereby ordered impleaded as party-respondent, copy of this decision shall be furnished the Office of the Solicitor General as counsel for the government. The parties are directed to furnish the Solicitor General with copies of all the pertinent pleadings they have filed in the instant case within fifteen (15) days from their receipt hereof. The Solicitor General is hereby directed to file its Comments and Answer to the petitioner's claims within fifteen (15) days from its receipt of said pleadings. And the petitioner is given a like period of time to file his response thereto. Any and all pleadings required to be submitted after this Order is issued shall be filed before the court of proper jurisdiction as

may be designated by the Supreme Court.

SO ORDERED. [8]

Respondent appealed the SEC Order to the Court of Appeals by filing a Petition for *Certiorari* and Mandamus With Very Urgent Application for the Issuance of a Writ of Preliminary Injunction and/or Temporary Restraining Order.

In its Decision promulgated on May 9, 2001, the Court of Appeals stated the main issue as: Did the Securities and Exchange Commission gravely abuse its discretion in refusing to decide the instant case and instead transferring the same to the regular courts?

The Court of Appeals held that SEC should decide the instant case, thus:

It is undisputed that per order dated July 28, 2000, (p. 382, *rollo*), petitioner's (Jalandoon) case before the Commission was "now submitted for decision". Both parties therein, per records, duly submitted the required memorandum within fifteen (15) days from receipt of the order. Clearly, therefore, at the time petitioner's case was being heard and up to the time the same was submitted for decision, it was still governed by the **REVISED RULES OF PROCEDURE IN THE SECURITIES AND EXCHANGE COMMISSION** adopted on August 1, 1989 as amended, on April 26, 1993.

It must also be pointed out that the GUIDELINES which the Commission issued pursuant to par. 5.2, Sec. 5, of R.A. 8799, specifically Sec. 2 thereof provides thus: "**The COMMISSION SHALL RETAIN JURISDICTION OVER PENDING INTRA-CORPORATE DISPUTES SUBMITTED FOR FINAL RESOLUTION [PRIOR TO THE EFFECTIVITY OF THE ACT]** which shall be resolved within one (1) year from July 19, 2000." Since petitioner's case was submitted for final resolution on July 28, 2000 and since R.A. 8799 took effect only on August 9, 2000, petitioner's case should have remained within the jurisdiction of public respondent Commission and decided by it pursuant to the August 1, 1989 Rules of the Commission, as amended . . . [9]

The dispositive portion of the Decision of the Court of Appeals reads:

Wherefore, foregoing premises considered, the petition is hereby **GIVEN DUE COURSE**, and the challenged order of public respondent Commission hereby **REVERSED and SET ASIDE**, and it is hereby **DIRECTED to decide the case** of petitioner in accordance with its August 1, 1989 Rules, as amended, and based on the evidence duly offered and admitted. No costs.

SO ORDERED. [10]

SEC filed a Motion for Reconsideration of the Decision of the Court of Appeals, which was denied in a Resolution promulgated on July 20, 2001.

Both SEC and IBC filed before this Court their respective petitions for review on *certiorari* of the Decision of the Court of Appeals. SEC also sought a review of the