

FIRST DIVISION

[G.R. No. 123552, February 27, 2003]

**TWIN TOWERS CONDOMINIUM CORPORATION, PETITIONER, VS.
THE COURT OF APPEALS, ALS MANAGEMENT & DEVELOPMENT
CORPORATION, ANTONIO LITONJUA AND SECURITIES AND
EXCHANGE COMMISSION, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

Before us is a petition for review on certiorari^[1] to nullify the Decision^[2] dated August 31, 1995 of the Court of Appeals and its Resolution^[3] dated January 16, 1996 denying petitioner's motion for reconsideration. The Court of Appeals dismissed petitioner's appeal from the Decision en banc^[4] of the Securities and Exchange Commission, which reversed the order of the SEC Hearing Officer.^[5] The Court of Appeals dismissed the appeal for lack of merit and for non-compliance with the requirement on certification of non-forum shopping.^[6]

The Antecedent Facts

On June 30, 1988, petitioner Twin Towers Condominium Corporation ("petitioner" for brevity) filed a complaint^[7] with the Securities and Exchange Commission ("SEC" for brevity) against respondents ALS Management & Development Corporation ("ALS" for brevity) and Antonio Litonjua ("Litonjua" for brevity). The complaint prayed that ALS and Litonjua be ordered to pay solidarily the unpaid condominium assessments and dues with interests and penalties covering the four quarters of 1986 and 1987 and the first quarter of 1988.

The complaint alleged, among others, that petitioner, a non-stock corporation, is organized for the sole purpose of holding title to and managing the common areas of Twin Towers Condominium ("Condominium" for brevity). Membership in petitioner corporation is compulsory and limited to all registered owners of units in the Condominium. ALS, as registered owner of Unit No. 4-A ("Unit" for brevity) of the Condominium, is a member of petitioner. Litonjua, who is the corporate president of ALS, occupies the Unit.

Petitioner collects from all its members quarterly assessments and dues as authorized by its Master Deed and Declaration of Restrictions ("Master Deed" for brevity) and its By-Laws. As of the filing of the complaint with the SEC, petitioner's records of account show that ALS failed to pay assessments and dues starting 1986 up to the first quarter of 1988. Petitioner claimed against both ALS and Litonjua P118,923.20 as unpaid assessments and dues. This amount includes accrued

interests of P30,808.33 and penalty charges of P7,793.34, plus P 1,500.00 as unpaid contingency fund assessment for 1987.^[8]

In their joint Answer with Counterclaim, ALS and Litonjua asserted that petitioner failed to state a cause of action against Litonjua. ALS and Litonjua argued that petitioner's admission that ALS and not Litonjua is the registered owner of the Unit and member of petitioner exonerates Litonjua from any liability to petitioner. While ALS is a juridical person that cannot by itself physically occupy the Unit, the natural person who physically occupies the Unit does not assume the liability of ALS to petitioner. Neither does the agent who acts for the corporation become personally liable for the corporation's obligation.

As counterclaim, ALS claimed damages against petitioner arising from petitioner's act of repeatedly preventing ALS, its agents and guests from using the parking space, swimming pool, gym, and other facilities of the Condominium. In addition, Litonjua claimed damages against petitioner for the latter's act of including Litonjua's name in the list of delinquent unit owners which was posted on petitioner's bulletin board.^[9]

On December 11, 1991, the SEC Hearing Officer ordered petitioner to pay Litonjua moral and exemplary damages for maliciously including Litonjua's name in the list of delinquent unit owners and for impleading him as a respondent. On the other hand, the SEC Hearing Officer ordered ALS to pay the assessments and dues to petitioner.^[10] However, the Hearing Officer did not determine the exact amount to be paid by ALS because petitioner failed to lay down the basis for computing the unpaid assessments and dues.^[11] The dispositive portion of the decision reads thus:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering respondent ALS to pay the legal assessments/dues due the complainant within thirty (30) days from finality of this Decision; and
2. Ordering the complainant to pay respondent Antonio Litonjua the sum of THREE HUNDRED THOUSAND PESOS (P300,000.00) as moral damages, FIFTY THOUSAND PESOS (P50,000.00) as exemplary damages, and TWO HUNDRED THOUSAND PESOS (P200,000.00) as and by way of attorney's fees.

SO ORDERED."^[12]

Not satisfied with the SEC Hearing Officer's decision, both parties filed their respective appeals to the SEC *en banc*.^[13] Petitioner assailed the award of moral and exemplary damages as well as attorney's fees in favor of Litonjua. On the other hand, ALS appealed that portion of the decision ordering it to pay to petitioner the assessments and dues.

In a decision dated July 30, 1993, the SEC *en banc* nullified the award of damages and attorney's fees to Litonjua on the ground that the SEC had no jurisdiction over Litonjua. The SEC *en banc* held that there is no intra-corporate relationship between petitioner and Litonjua who is not the registered owner of the Unit and thus, not a

member of petitioner. The SEC *en banc* stated that petitioner could not invoke the doctrine of piercing the veil of ALS' corporate fiction since disregarding the corporate entity is a function of the regular courts.

Furthermore, the SEC *en banc* remanded the case to the Hearing Officer to determine the value of the services petitioner failed to render to ALS because of the latter's non-use of the Condominium facilities. The SEC *en banc* ruled that the value of these services could be deducted from the unpaid assessments and dues that ALS owes petitioner.

Thus, the SEC *en banc* declared:

"WHEREFORE, in view of the foregoing, the order appealed from is hereby reversed insofar as it awards moral and exemplary damages and attorney's fees to respondent Litonjua as the same is null and void for lack of jurisdiction of this Commission over the said party.^[14]

As regards that portion of the appealed Order directing respondent ALS to pay the legal assessment/dues to the complainant TTC within thirty (30) [days] from finality of the said decision, the same is hereby modified by remanding the case to the hearing officer for **determination of the value of the services withheld** by the complainant TTC from respondent ALS in order that the same may be deducted from the amount of legal assessments and dues which the respondent corporation shall pay to the complainant.

SO ORDERED."^[15] (Emphasis supplied)

Petitioner appealed the SEC *en banc* Decision to the Court of Appeals contending grave error or grave abuse of discretion by the SEC *en banc*.

The Ruling of the Court of Appeals

The Court of Appeals dismissed petitioner's appeal on both procedural and substantive grounds. Procedurally, the Court of Appeals found the petition defective for failure to contain a sworn certification of non-forum shopping as required by Section 6 of Administrative Circular No. 1-95 and Section 2 of Revised Circular No. 28-91.

On the merits, the Court of Appeals substantially affirmed the decision of the SEC *en banc* that there is no ground to pierce the veil of ALS' corporate fiction. The Court of Appeals held that there is nothing in the records to show that ALS is engaged in unlawful, business or that Litonjua is using ALS to defraud third parties. The fact alone that ALS is in arrears in paying its assessments and dues does not make ALS or Litonjua guilty of fraud which would warrant piercing the corporate veil of ALS. Thus, it was improper for petitioner to post Litonjua's name instead of ALS' in the list of delinquent unit owners since Litonjua is not a member of petitioner.

The Court of Appeals also sustained the claim of petitioner against ALS for unpaid assessments and dues but found that petitioner failed to substantiate by preponderance of evidence the basis for computing the unpaid assessments and dues. Thus, the Court of Appeals remanded the case to the SEC Hearing Officer for

further reception of evidence and for determination of the exact amount of ALS' liability to petitioner. The Court of Appeals, however, directed the SEC Hearing Officer to deduct from ALS' unpaid assessments and dues the value of the services denied to ALS because of the latter's non-use of the Condominium facilities. In allowing the deduction, the Court of Appeals declared the Condominium's House Rule 26.3 as *ultra vires*. House Rule 26.3, which petitioner claims as its basis for denying the use of the Condominium facilities to ALS, authorizes withholding of the use of the Condominium facilities from delinquent unit owners. The Court of Appeals, however, ruled that petitioner is not expressly authorized by its Master Deed and By-Laws to prohibit delinquent members from using the facilities of the Condominium.

The Court of Appeals went further and declared the interest and penalty charges prescribed by House Rule 26.5^[16] on delinquent accounts as exorbitant or grossly excessive, although this was not raised as an issue. While in its complaint, petitioner sought to recover P118,923.20 as unpaid assessments and dues, in its amended petition for review, petitioner sought P994,529.75, more than eight times the amount it originally claimed from ALS.^[17]

In the dispositive portion of its assailed decision, the Court of Appeals declared:

"WHEREFORE, the instant petition is hereby DENIED and is accordingly DISMISSED."^[18]

Hence, this petition.

The Issues

In its Memorandum, petitioner assigns the following errors in the decision of the Court of Appeals:

1. "IN DISMISSING THE PETITION ALLEGEDLY BECAUSE OF PETITIONER'S FAILURE TO COMPLY WITH THE PERTINENT PROVISIONS OF SUPREME COURT CIRCULAR NOS. 1-95 AND 28-91 ON THE CERTIFICATION AGAINST FORUM SHOPPING;"
2. "IN ORDERING A REMAND OF THE CASE BACK TO THE HEARING OFFICER FOR THE RECEPTION OF EVIDENCE FOR SERVICES SUPPOSEDLY NOT RENDERED BY PETITIONER;"
3. "IN DECLARING HOUSE RULE NO. 26.3 AS ULTRA VIRES;"
4. "IN FINDING THE PENALTIES AND INTERESTS PRESCRIBED IN HOUSE RULE 26.5^[19] AS EXORBITANT AND GROSSLY EXCESSIVE;"
5. "IN REFUSING TO RECOGNIZE THE FACT THAT RESPONDENT LITONJUA AND NOT ALS IS THE REAL OWNER OF APARTMENT UNIT 4-A;" and
6. "IN FAILING TO FIND THAT THERE IS ON RECORD OVERWHELMING EVIDENCE TO SHOW THE BASIS OF THE DUES AND ASSESSMENTS BEING COLLECTED FROM THE PRIVATE RESPONDENTS."^[20]

The Ruling of the Court

The petition is partly meritorious.

A perusal of the foregoing issues readily reveals that petitioner raises two aspects of the case for consideration - the procedural aspect and the substantive aspect.

We will discuss the procedural aspect first.

Non-compliance with Supreme Court Circular No. 1-95 and Revised Circular No. 28-91.

Petitioner submits that the Court of Appeals erred in dismissing its appeal for non-compliance with Supreme Court Circular No. 1-95 and Revised Circular No. 28-91. Petitioner asserts that when it filed its petition, both circulars were not yet in full force.

Petitioner filed its petition for review with the Court of Appeals on August 18, 1993 and its amended petition on September 3, 1993. Both the original and amended petitions were filed before the effectivity of Revised Administrative Circular No. 1-95 on June 1, 1995. However, contrary to petitioner's claim, before the issuance of Revised Administrative Circular No. 1-95, there was already an existing circular requiring a sworn certification of non-forum shopping from a party filing a petition for review with the Court of Appeals.

Circular No. 28-91, which took effect on January 1, 1992, required a sworn certification of non-forum shopping in cases filed with the Court of Appeals and the Supreme Court. Circular No. 28-91 specifically provides for summary dismissal of petitions which do not contain a sworn certification of non-forum shopping. Sections 2 and 3 of Circular No. 28-91 state:

"2. *Certification* – The party must certify under oath that he has not commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, and that to the best of his knowledge, no such action or proceeding is pending in the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency. If there is any action pending, he must state the status of the same. If he should learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different Divisions thereof, or any other tribunal or agency, he should notify the court, tribunal or agency within five (5) days from such notice.

3. *Penalties* –

a. Any violation of this Circular shall be a cause for the summary dismissal of the multiple petition or complaint.

x x x."

Clearly, petitioner cannot claim that at the time of the filing of its petitions with the Court of Appeals, it was not required under any existing Supreme Court Circular to