

SECOND DIVISION

[G.R. No. 112625, March 07, 2002]

CMH AGRICULTURAL CORPORATION, CARLOS M. HOJILLA, CESAR M. HOJILLA, CLAUDIO M. HOJILLA, CORA M. HOJILLA AND CORNELIO M. HOJILLA, PETITIONERS, VS. HON. COURT OF APPEALS AND CRISTOBAL M. HOJILLA, RESPONDENTS.

DECISION

DE LEON, JR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks to review and set aside the Decision^[1] of the Court of Appeals in CA-G.R. SP No. 28893 promulgated on October 25, 1993 holding that the Regional Trial Court (RTC) of Bacolod City, Branch 45, did not commit grave abuse of discretion in reconsidering its Order dated November 22, 1991 dismissing Civil Case No. 6256 for lack of jurisdiction.^[2]

The antecedent facts show that the private respondent, Cristobal M. Hojilla, filed a complaint for "Disregarding and Piercing the Veil of Corporate Fiction, Formal Declaration or Recognition of Successional Rights and Recovery of Title with Damages"^[3] with the RTC of Bacolod City, Branch 45, docketed as Civil Case No. 6256 against his siblings namely: Carlos M. Hojilla, Cesar M. Hojilla, Cornelio M. Hojilla, Claudio M. Hojilla and Corazon M. Hojilla (with the latter two (2) impleaded as unwilling co-plaintiffs), and CMH Agricultural Corporation (CMH for brevity). Cristobal alleged in his complaint that CMH was a dummy corporation created to be the alter-ego of their mother, the late Concepcion Montelibano-Hojilla, who purposely organized the same in 1975 to shield her paraphernal properties from taxes by fictitiously assigning them to CMH, with her children acting as dummy stockholders. Immediately upon its incorporation, the following properties of his mother were assigned to CMH: Hacienda Manayosayao, Hacienda Nangka and a house and lots on 23rd Street, Bacolod City, consisting of Lot Nos. 240, 241, 242, 246, 247 and 248. After their mother's death, Cristobal and his siblings extrajudicially partitioned the properties with Carlos, Cesar and Cornelio taking Hacienda Nangka and the commercial lots of their late father, Mattias J. Hojilla, situated in Silay City, while Corazon, Claudio and Cristobal were apportioned Hacienda Manayaosayao, the house and lots on 23rd Street, Bacolod City, and some lots which were not assigned to CMH. Thereafter, with the promise that the title over the property would be delivered to them, Corazon, Claudio and Cristobal took possession of the subject house and lots. However, Cristobal claimed that the title over the said property had not been turned over to them and on several occasions Carlos, Cesar and Cornelio had, without his and his co-owners' knowledge, mortgaged the said lots comprising the 23rd Street property in Bacolod City to several banking institutions and even leased the same to Pilipinas Shell Petroleum Corporation, which, however, was only curtailed by court action. Thus, Cristobal prayed that the veil of corporate fiction be pierced as CMH was being used to

deprive and defraud him of his successional rights over the house and lots on 23rd Street, Bacolod City.

Carlos, Cesar, Cornelio, Claudio and Corazon, as defendants therein, countered, by way of special and affirmative defenses:^[4] *first*, regular courts had no jurisdiction over the subject matter of the complaint since it involved an intra-corporate controversy - the complaint being instituted by Cristobal who is a stockholder and incorporator of CMH against his siblings, who are likewise stockholders of the same corporation, and as such within the exclusive and original jurisdiction of the Securities and Exchange Commission (SEC for brevity); *second*, the creation of CMH as an alleged dummy corporation was a device or scheme amounting to fraud, thus falling under the original and exclusive jurisdiction of the SEC; *third*, the claim of ownership over the house and lots by Cristobal which was ventilated in the ejectment case filed by the said defendants against Cristobal in the Municipal Trial Court in Cities (MTCC) of Bacolod City, Branch III and docketed therein as Civil Case No. 17698, was resolved in favor of CMH; *fourth*, Cristobal committed forum-shopping since he had previously filed a case against CMH, its incorporators and stockholders before the SEC, docketed as SEC Case No. 03559; *fifth*, Cristobal had no cause of action since the power to sue and be sued was vested alone in the board of directors of the corporation, CMH in particular, and not on a mere stockholder.

Finding the arguments meritorious, the trial court issued on November 22, 1991, an order^[5] dismissing the complaint in Civil Case No. 6256. However, upon filing by Cristobal of a motion for reconsideration^[6] dated December 6, 1991, the court a quo in its order^[7] dated April 20, 1992 reversed itself and set aside its previous order dismissing the complaint. Thereafter, the defendant filed a motion for reconsideration^[8] but it was denied in the order^[9] dated August 17, 1992 of the trial court.

Carlos, Cesar, Cornelio, Claudio and Corazon elevated the case to the Court of Appeals through a petition for certiorari^[10] alleging that the trial court committed grave abuse of discretion amounting to lack of jurisdiction in taking cognizance of Cristobal's motion for reconsideration despite the absence of notice of time and place of hearing in violation of procedural rules and in reconsidering its extensive and exhaustive order dated November 22, 1991 with a minute resolution denying their motion to dismiss.

Finding no abuse of discretion on the part of the court a quo, the appellate court resolved on October 25, 1993 that the filing of the opposition to Cristobal's motion for reconsideration cured the defect of lack of notice and hearing; and that the complaint in Civil Case No. 6256 did not involve an intra-corporate controversy but Cristobal's successional rights which is within the jurisdiction of the court.^[11]

Hence, the instant petition which is anchored on the following grounds:

I

THE HON. COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE IN OBVIOUS DEFIANCE OF THE DECISION OF THE SUPREME COURT, IN NOT DISMISSING A CASE WHICH IS PURELY AN INTRA-

CORPORATE CONTROVERSY AND THEREFORE, FALLS UNDER THE EXCLUSIVE JURISDICTION OF THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO P.D. 902-A;

II

THE HON. COURT OF APPEALS HAS AGAIN DECIDED A QUESTION OF SUBSTANCE, CONTRARY TO THE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE CASE FILED BY THE PRIVATE RESPONDENT WHO PURSUED SIMULTANEOUS REMEDIES IN TWO (2) DIFFERENT FORA, AND IS THEREFORE GUILTY OF FORUM SHOPPING;

III

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE COMPLAINT FILED BY THE PRIVATE RESPONDENT ON THE GROUND OF PENDENCY OF ANOTHER ACTION;

IV

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE COMPLAINT OF A MERE STOCKHOLDER, WITHOUT BEING AUTHORIZED BY THE BOARD OF DIRECTORS;

V

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN TAKING COGNIZANCE OF A "MERE SCRAP OF PAPER", A MOTION FOR RECONSIDERATION, WHICH DOES NOT CONTAIN THE NOTICE OF TIME AND PLACE OF HEARING, IN VIOLATION OF THE MANDATORY REQUIREMENTS OF THE RULES OF COURT.

At the outset, we note that the alleged errors attributed on the part of the Court of Appeals by the petitioners are mere reiteration of those already raised in the court below but which we will nonetheless consider to put an end to this dispute.

First, petitioners argue that the trial court has no jurisdiction over the complaint in Civil Case No. 6256 as it involves a suit filed by a stockholder against other stockholders and the corporation itself; thus, it is an intra-corporate controversy within the jurisdiction of the SEC and not of the regular courts. Likewise, petitioners argue that the allegation of fictitious creation of CMH as an alter-ego of the late Concepcion M. Hojilla and the concomitant prayer to pierce the veil of corporate fiction falls within the category of a device or scheme employed by corporate officers cognizable by the SEC alone.

The relationship of the parties to a suit has formerly been the lone indicia for its classification either as an intra-corporate controversy within the jurisdiction of the SEC or a civil dispute within the jurisdiction of the regular courts. Thus, a dispute arising between a stockholder and the corporation, without distinction, qualification