422 Phil. 860

FIRST DIVISION

[G.R. No. 142924, December 05, 2001]

TEODORO B. VESAGAS, AND WILFRED D. ASIS, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND DELFINO RANIEL AND HELENDA RANIEL, RESPONDENTS.

D E C I S I O N

PUNO, J.:

Before us is the instant Petition for Review on Certiorari assailing the Decision, dated July 30, 1999, of the Court of Appeals in CA-G.R. SP No. 51189, as well as its Resolution, dated March 16, 2000, which denied petitioners' Motion for Reconsideration.

The respondent spouses Delfino and Helenda Raniel are members in good standing of the Luz Village Tennis Club, Inc. (club). They alleged that petitioner Teodoro B. Vesagas, who claims to be the club's duly elected president, in conspiracy with petitioner Wilfred D. Asis, who, in turn, claims to be its duly elected vice-president and legal counsel, summarily stripped them of their lawful membership, without due process of law. Thereafter, respondent spouses filed a Complaint with the Securities and Exchange Commission (SEC) on March 26, 1997 against the petitioners. It was docketed as SEC Case No. 03-97-5598.[1] In this case, respondents asked the Commission to declare as illegal their expulsion from the club as it was allegedly done in utter disregard of the provisions of its by-laws as well as the requirements of due process. They likewise sought the annulment of the amendments to the by-laws made on December 8, 1996, changing the annual meeting of the club from the last Sunday of January to November and increasing the number of trustees from nine to fifteen. Finally, they prayed for the issuance of a Temporary Restraining Order and Writ of Preliminary Injunction. The application for TRO was denied by SEC Hearing Officer Soller in an Order dated April 29, 1997.

Before the hearing officer could start proceeding with the case, however, petitioners filed a motion to dismiss on the ground that the SEC lacks jurisdiction over the subject matter of the case. The motion was denied on August 5, 1997. Their subsequent move to have the ruling reconsidered was likewise denied. Unperturbed, they filed a petition for certiorari with the SEC En Banc seeking a review of the hearing officer's orders. The petition was again denied for lack of merit, and so was the motion for its reconsideration in separate orders, dated July 14, 1998 and November 17, 1998, respectively. Dissatisfied with the verdict, petitioners promptly sought relief with the Court of Appeals contesting the ruling of the Commission *en banc*. The appellate court, however, dismissed the petition for lack of merit in a Decision promulgated on July 30, 1999. Then, in a resolution rendered on March 16, 2000, it similarly denied their motion for reconsideration.

Hence, the present course of action where the petitioners raise the following grounds:

> "C.1. The respondent Court of Appeals committed a reversible error when it determined that the SEC has jurisdiction in 03-97-5598."[2]

> "C.2. The respondent Court of Appeals committed a reversible error when it merely upheld the theoretical power of the SEC Hearing Officer to issue a subpoena and to cite a person in contempt (actually a non-issue of the petition) while it shunted away the issue of whether that hearing officer may hold a person in contempt for not obeying a subpoena where his residence is beyond fifty (50) kilometers from the place of hearing and no transportation expense was tendered to him."[3]

In support of their first assignment of error, petitioners contend that since its inception in the 1970's, the club in practice has not been a corporation. They add that it was only the respondent spouses, motivated by their own personal agenda to make money from the club, who surreptitiously caused its registration with the SEC. They then assert that, at any rate, the club has already ceased to be a corporate body. Therefore, no intra-corporate relations can arise as between the respondent spouses and the club or any of its members. Stretching their argument further, petitioners insist that since the club, by their reckoning is not a corporation, the SEC does not have the power or authority to inquire into the validity of the expulsion of the respondent spouses. Consequently, it is not the correct forum to review the challenged act. In conclusion, petitioners put respondent spouses to task for their failure to implead the club as a necessary or indispensable party to the case.

These arguments cannot pass judicial muster.

Petitioners' attempt to impress upon this court that the club has never been a corporation is devoid of merit. It must fail in the face of the Commission's explicit finding that the club was duly registered and a certificate of incorporation was issued in its favor, thus:

> "We agree with the hearing officer that the grounds raised by petitioner in their motion to dismiss are factual issues, the veracity of which can only be ascertained in a full blown hearing. **Records show that the association is duly registered with the association and a certificate of incorporation was issued. Clearly, the Commission has jurisdiction over the said association.** As to petitioner's allegation that the registration of the club was done without the knowledge of the members, this is a circumstance which was not duly proven by the petitioner (*sic*) in his (*sic*) motion to dismiss."[4]

It ought to be remembered that the question of whether the club was indeed registered and issued a certification or not is one which necessitates a factual inquiry. On this score, the finding of the Commission, as the administrative agency tasked with among others the function of registering and administering corporations, is given great weight and accorded high respect. We therefore have no reason to disturb this factual finding relating to the club's registration and incorporation.

Moreover, by their own admission contained in the various pleadings which they have filed in the different stages of this case, petitioners themselves have considered the club as a corporation. This admission, under the rules of evidence, binds them and may be taken or used against them.[5] Since the admission was made in the course of the proceedings in the same case, it does not require proof, and actually may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.[6] Noteworthy is the "Minute of the First Board Meeting"[7] held on January 5, 1997, which contained the following pertinent portions:

> "11. **Unanimously approved by the Board a Resolution to Dissolve the corporate structure of LVTC which is filed with the SEC.** Such resolution will be formulated by Atty. Fred Asis to be ready on or before the third week of January 1997. Meanwhile, the operational structure of the LVTC will henceforth be reverted to its former status as an ordinary club/Association."[8]

Similarly, petitioners' Motion to Dismiss[9] alleged:

> "1. This Commission has no jurisdiction over the Luz Village Tennis Club not only because it was not impleaded but **because since 5 January 1997, it had already rid itself, as it had to in order to maintain respect and decency among its members, of the unfortunate experience of being a corporate body. Thus at the time of the filing of the complaint, the club had already dissolved its corporate existence** and has functioned as a mere association of respectable and respecting individual members who have associated themselves since the 1970's x x x"[10]

The necessary implication of all these is that petitioners recognized and acknowledged the corporate personality of the club. Otherwise, there is no cogency in spearheading the move for its dissolution. Petitioners were therefore well aware of the incorporation of the club and even agreed to get elected and serve as its responsible officers before they reconsidered dissolving its corporate form.

This brings us to petitioners' next point. They claim in *gratia argumenti* that while the club may have been considered a corporation during a brief spell, still, at the time of the institution of this case with the SEC, the club was already dissolved by virtue of a Board resolution.

Again, the argument will not carry the day for the petitioner. The Corporation Code establishes the procedure and other formal requirements a corporation needs to follow in case it elects to dissolve and terminate its structure voluntarily and where no rights of creditors may possibly be prejudiced, thus:

> "Sec. 118. *Voluntary dissolution where no creditors are affected*. - If dissolution of a corporation does not prejudice the rights of any creditor having a claim against it, the dissolution may be effected by majority vote of the board of directors or trustees and by a resolution duly adopted by the affirmative vote of the stockholders owning at least two-thirds (2/3) of the outstanding capital stock or at least two-thirds (2/3) of the members at a meeting to be held upon call of the directors or

> trustees after publication of the notice of time, place and object of the meeting for three (3) consecutive weeks in a newspaper published in the place where the principal office of said corporation is located; and if no newspaper is published in such place, then in a newspaper of general circulation in the Philippines, after sending such notice to each stockholder or member either by registered mail or by personal delivery at least 30 days prior to said meeting. A copy of the resolution authorizing the dissolution shall be certified by a majority of the board of directors or trustees and countersigned by the secretary of the corporation. The Securities and Exchange Commission shall thereupon issue the certificate of dissolution."[11]

We note that to substantiate their claim of dissolution, petitioners submitted only two relevant documents: the Minutes of the First Board Meeting held on January 5, 1997, and the board resolution issued on April 14, 1997 which declared "to continue to consider the club as a non-registered or a non-corporate entity and just a social association of respectable and respecting individual members who have associated themselves, since the 1970's, for the purpose of playing the sports of tennis x x x." [12] Obviously, these two documents will not suffice. The requirements mandated by the Corporation Code should have been strictly complied with by the members of the club. The records reveal that no proof was offered by the petitioners with regard to the notice and publication requirements. Similarly wanting is the proof of the board members' certification. Lastly, and most important of all, the SEC Order of Dissolution was never submitted as evidence.

We now resolve whether the dispute between the respondents and petitioners is a corporate matter within the exclusive competence of the SEC to decide. In order that the commission can take cognizance of a case, the controversy must pertain to any of the following relationships: a) between the corporation, partnership or association and the public; b) between the corporation, partnership or association and its stockholders, partners, members, or officers; c) between the corporation, partnership, or association and the state as far as its franchise, permit or license to operate is concerned; and d) among the stockholders, partners or associates themselves.[13] The fact that the parties involved in the controversy are all stockholders or that the parties involved are the stockholders and the corporation, does not necessarily place the dispute within the loop of jurisdiction of the SEC.[14] Jurisdiction should be determined by considering not only the status or relationship of the parties but also the nature of the question that is the subject of their controversy.[15]

We rule that the present dispute is intra-corporate in character. In the first place, the parties here involved are officers and members of the club. Respondents claim to be members of good standing of the club until they were purportedly stripped of their membership in illegal fashion. Petitioners, on the other hand, are its President and Vice-President, respectively. More significantly, the present conflict relates to, and in fact arose from, this relation between the parties. The subject of the complaint, namely, the legality of the expulsion from membership of the respondents and the validity of the amendments in the club's by-laws are, furthermore, within the Commission's jurisdiction.

Well to underscore is the date when the original complaint was filed at the SEC,