

FIRST DIVISION

[G.R. Nos. 119609-10, September 21, 2001]

PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, OCEANIC WIRELESS NETWORK, INC., DAVID M. CASTRO, MAXIMO A. MACEREN, CAESAR PARLADE, MELQUIADES C. GUTIERREZ, EDUARDO M. VILLANUEVA, AND EDILBERTO S. ALEJANDRO, PETITIONERS, VS. HONORABLE SANDIGANBAYAN (THIRD DIVISION), JOSE L. AFRICA⁺, MANUEL H. NIETO, JR., ANDRES L. AFRICA, AEROCOM INVESTORS AND MANAGERS INC., POLYGON INVESTORS AND MANAGERS, INC., AND BELGOR INVESTMENT CORPORATION, RESPONDENTS.

[G.R. Nos. 119623-25]

OCEANIC WIRELESS NETWORK, INC., MELQUIADES C. GUTIERREZ, MAXIMO A. MACEREN, AND CAESAR O. V. PARLADE, PETITIONERS, VS. HONORABLE SANDIGANBAYAN (THIRD DIVISION), AND JOSE L. AFRICA⁺, MANUEL H. NIETO, JR., ANDRES L. AFRICA, AEROCOM INVESTORS & MANAGERS, INC., POLYGON INVESTORS & MANAGERS, INC., SILANGAN INVESTORS & MANAGERS INC., AND BELGOR INVESTMENT CORPORATION, RESPONDENTS.

D E C I S I O N

PARDO, J.:

What is before the Court is a joint petition^[1] to annul and set aside the decision^[2] of the Sandiganbayan dismissing petitioners' complaint for injunction with damages against Victor A. Africa, Jose L. Africa,⁺ Manuel H. Nieto, Jr. and Juan de Ocampo^[3] and the resolution^[4] denying petitioners' motion for reconsideration.

The Facts

On August 28, 1990, the Presidential Commission on Good Government (PCGG) sent Corporate Secretary Victor A. Africa of Oceanic Wireless Network, Inc. (OWNI), a letter dated August 3, 1990, directing him to send notices to all stockholders of record of OWNI for special stockholders' meeting to be held on September 17, 1990. He was required to issue one qualifying share each to PCGG Commissioners Maximo A. Maceren and David M. Castro from the unissued shares and to record the transfer in the stock and transfer book of OWNI. Failure to comply within five (5) days from receipt thereof, Assistant Solicitor General Ramon S. Desuasido would be designated as acting corporate secretary.

On September 17, 1990, during the special stockholders' meeting of OWNI, PCGG

voted all the Class "A" shares in the election of directors and elected to the board of directors Commissioners Maximo A. Maceren, Cesar O. V. Parlade and Melquiades C. Gutierrez representing the Class "A" shares and Colin Brooker and Terry Miller representing Class "B" and "C" shares. The new board of directors then elected Commissioner Maximo A. Maceren as Chairman of the Board, Melquiades C. Gutierrez as President, Assistant Solicitor General Ramon S. Desuasido as Acting Corporate Secretary and Almario P. Velasco as Acting Treasurer. None of the registered Class "A" shareholders of OWNI was present in that special stockholders meeting.

PCGG sequestered the Class "A" shareholding in OWNI amounting to 63,573 shares out of the total 105,955 outstanding capital stock, or about 60% of the outstanding capital stock, and PCGG voted all the Class "A" shares by virtue of the following writs of sequestration, to wit:

(a) The order of sequestration, dated April 11, 1986, which covers shares of Jose L. Africa,⁺ Roberto S. Benedicto,⁺ Andres L. Africa and Victor A. Africa in OWNI. PCGG Commissioner Mary Concepcion Bautista signed the sequestration order.

(b) The writs of sequestration, dated June 15, 1988, were issued by the PCGG against Aerocom, Polygon on August 3, 1988 or one day after the constitutional deadline as provided in Section 26, Article XVIII of the 1987 Constitution. Furthermore, no court case has been filed against Aerocom, Polygon, Belgor Investment Corp., Silangan Investors & Manages, Inc. and OWNI.

On October 9, 1990, Corporate Secretary Victor A. Africa wrote the Securities Exchange Commission questioning the election of PCGG nominees as directors of the OWNI board on the ground that they were not stockholders of OWNI.

Upon instruction of the Africa group, Atty. Victor A. Africa sent notices to all stockholders of OWNI advising them of a special stockholders' meeting of OWNI to be held on January 27, 1991, at the Holiday Inn, Manila, for the purpose of the election of directors and other matters.

On January 27, 1991, the special stockholders' meeting of OWNI took place. Stockholders owning 63,573 Class "A" shares were represented. Atty. Juan de Ocampo was designated as acting secretary to record the minutes of the meeting. An election of directors for Class "A" shares was held. Manuel H. Nieto, Jr., Jose L. Africa⁺ and Andres L. Africa were elected as directors for Class "A" shares for 1991 until their successors are elected and qualified. Class "B" and "C" shareholders did not attend the meeting. No new directors for them were elected.

The stockholders directed the new officers to dig deeper to the reported OWNI-Digitel deal. Atty. Victor A. Africa, as corporate secretary, was directed to furnish all the banks with said resolution. The board formed an executive committee and appointed Manuel H. Nieto, Jr. as chairman, Jose L. Africa⁺ as member and the incumbent directors representing Class "B" and "C" shares.

On July 8, 1991, Manuel H. Nieto, Jr., in his capacity as OWNI president, wrote the National Telecommunications Commission (NTC), requesting the NTC to hold in

abeyance the application, or if granted, to withdraw and recall OWNI's permit and frequency allocations as the same were made by an unauthorized board.

On July 10, 1991, Manuel H. Nieto, Jr. wrote Melquiades C. Gutierrez informing him of the new set of directors and requested for the turnover of the management of OWNI, including all corporate records to the new set of directors. Atty. Victor A. Africa, in compliance with the directive of the OWNI board, wrote Traders Royal Bank informing it of the new bank signatories.

On July 30, 1991, Manuel H. Nieto, Jr. and Jose L. Africa⁺ circularized a letter to the staff and employees of OWNI informing them of the new set of board of directors.

On July 29, 1991, PCGG, acting for itself and in behalf of OWNI, filed with the Sandiganbayan a complaint for injunction with damages against Victor A. Africa, Jose L. Africa,⁺ Manuel H. Nieto, Jr. and Juan de Ocampo.^[5] PCGG sought to enjoin the defendants from interfering with PCGG's management of OWNI and/or representing themselves as directors.

On August 1, 1991, Jose L. Africa,⁺ Manuel H. Nieto, Jr., Andres L. Africa, Aerocom, Polygon, Belgor, and Silangan, including OWNI itself, filed with the Sandiganbayan a separate petition for certiorari and prohibition, with prayer for temporary restraining order (TRO) and preliminary injunction, against the PCGG.^[6]

By agreement of the parties, the Sandiganbayan jointly heard Civil Cases Nos. 0126 and 0127.

On April 25, 1994, the Sandiganbayan promulgated a decision, the dispositive portion of which reads:

" declaring as null and void the PCGG writs of sequestration,
(1) dated June 15, 1988 against Aerocom Investors & Managers Inc., Polygon Investors & Managers, Inc., Silangan Investors & Managers, Inc. and Belgor Investments, Inc. for the reason that the said writs of sequestration were deemed automatically lifted for failure of the PCGG to commence the necessary judicial action against the said corporations within the required six-month period pursuant to Section 26 of Article XVIII of the 1987 Constitution.

" declaring as null and void the order of sequestration, dated
(2) April 11, 1986, relative to the OWNI shares owned by Jose L. Africa and Victor A. Africa on the ground that the said order of sequestration was signed only by PCGG Commissioner Mary Concepcion Bautista in violation of Section 3 of the Rules & Regulations of the PCGG requiring the signatures of at least two Commissioners on such order of sequestration.

" declaring as null and void the acts and conduct of PCGG, its
(3) agents, nominees and representatives in reorganizing and taking over the Board of Directors and management of OWNI, including the acts of calling and holding a special stockholders' meeting of OWNI on September 17, 1990, the election therein

of OWNI chairman and directors, president, acting secretary and acting treasurer and the appointment of PCGG nominees as corporate officers of OWNI;

" ordering all the PCGG nominees and representatives in the
(4) present Board of Directors and management of OWNI including but not limited to respondents Maximo A. Maceren, David M. Castro, Cesar Parlade, Melquiades C. Gutierrez, Eduardo M. Villanueva and Edilberto S. Alejandro as well as their replacements, if any, to vacate their positions in OWNI; and considering the interest of justice, respondents in Civil Case No. 0127 are hereby ordered to REFRAIN and DESIST;

(a) from further implementing /acting on the basis of the Writs of Sequestration such as operating, administering and managing the affairs and business of OWNI, or representing themselves as directors and officers of OWNI;

(b) from disbursing, utilizing, disposing and committing the funds and assets of OWNI and/or entering into any transactions for the benefit of Digitel;

(c) from excluding petitioners Jose L. Africa, Manuel H. Nieto, Jr. and Andres L. Africa as Chairman of the Board, President and Treasurer, respectively, of OWNI;

(d) from making any expenditures for the use and benefit of Digitel and pursuing any and all papers/communications filed by OWNI with the National Telecommunications Commission relative to the requirements of Digitel to comply with Digitel's franchise;

" ordering the respondents in Civil Case No. 0127 their officers,
(5) agents, representatives and other persons acting under their orders/instructions: (a) to vacate OWNI's office premises at the Electra House, Esteban St., Legaspi Village, Makati; (b) to turn over all the corporate records of OWNI to petitioner Jose L. Africa, et al.; and (c) render an accounting of all transactions undertaken by them in the name or in behalf of OWNI, including disbursement of corporate funds;

" dismissing the complaint as well as the compulsory
(6) counterclaims in Civil Case No. 0126, with costs against the petitioners therein, PCGG."

On May 6, 1994, petitioners filed with the Sandiganbayan a motion for reconsideration^[7] of the decision; however, on March 30, 1995, the Sandiganbayan denied the motion.^[8]

Hence, this joint petition with prayer for consolidation.^[9]

On August 21, 1995, we granted the consolidation.^[10]