

## SECOND DIVISION

[ G.R. No. 190590, July 12, 2017 ]

**ROBERTO V. SAN JOSE AND DELFIN P. ANGCAO, PETITIONERS,  
VS. JOSE MA. OZAMIZ, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court. Petitioners Roberto V. San Jose (San Jose) and Delfin P. Angcao (Angcao) challenge the 25 September 2009 Decision<sup>[1]</sup> and 9 December 2009 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 105543 which reversed and set aside the 10 September 2008 Order<sup>[3]</sup> of the Regional Trial Court (RTC) of Makati City, Branch 149, in Civil Case No. 08-226 which dismissed the complaint for inspection of books<sup>[4]</sup> filed by respondent Jose Ma. Ozamiz (Ozamiz) for lack of jurisdiction.

#### The Facts

On 17 July 1996, San Jose was elected Corporate Secretary of Philcomsat Holdings Corporation (PHC) then known as Liberty Mines, Inc. Thereafter, on 10 January 1997, San Jose was elected as a member of the Board of Directors and was re-elected several times as director and Corporate Secretary in the succeeding years. On 8 October 1999, Angcao was elected as Assistant Corporate Secretary, and was likewise re-elected several times thereafter as such. On 20 February 2007, San Jose resigned as PHC director. On 7 May 2007, he also relinquished his position as Corporate Secretary. With this resignation, Angcao was elected to serve as the Corporate Secretary of PHC. Since then, San Jose ceased to be connected with PHC and has not held any position of office in PHC.

Ozamiz was a stockholder of PHC since 6 January 1997. On 11 May 2007, he wrote petitioners to request for a copy of all the Minutes of the Meetings of the Board of Directors and Executive Committee of PHC from 2000 to 2007 and a certification as to the completeness thereof.<sup>[5]</sup> On 15 May 2007, Angcao received this letter. On 18 May 2007, Ozamiz's secretary inquired from the office of Angcao if the minutes were ready and was informed that the request was referred to the Board of Directors for approval. In a letter to Angcao dated 21 May 2007, Ozamiz demanded for either the copies of the minutes and the issuance of the requested certification of completeness or an explanation in writing for his refusal to do so. From 23 May 2007 to 28 May 2007, Ozamiz and his secretary followed-up with the petitioners to no avail. On 29 May 2007, Ozamiz was told that his request for documents would be taken up at the next Board Meeting. Since 29 May 2007 up to the filing of the complaint, Ozamiz did not hear anything from PHC, its Board of Directors, or any others.

On 20 June 2007, at the meeting of the Board of Directors, the request of Ozamiz was discussed. Considering that a similar case filed by Atty. Victor Africa for the inspection of the books of PHC was still pending in court, and in view of the fact that Ozamiz belonged to the same group as Atty. Africa, the matter was referred by the Board of Directors to the PHC Legal Committee for study and recommendation. Until his resignation in 22 January 2008, Angcao never heard from Ozamiz again.

On 25 March 2008, Ozamiz filed a complaint for inspection of books with the RTC, praying that he be provided a copy of all the minutes of the meetings of directors, the Executive Committee and such other committees constituted by the PHC from 2000 to 2007. On 5 May 2008, petitioners, together with Alma Kristina O. Alobba and Kristine Joy R. Diaz who were also subsequently impleaded by Ozamiz, filed their Answer *Ad Cautelam* where they denied the allegations of Ozamiz for lack of knowledge.<sup>[6]</sup> They also argued that the RTC had no jurisdiction over the complaint as the subject matter thereof is under the exclusive jurisdiction of the Sandiganbayan.

Petitioners asserted that since 80.35% of PHC is owned by Philippine Communications Satellite Corporation (Philcomsat), and Philcomsat is wholly owned by Philippine Overseas Telecommunications Corporation (POTC), and both Philcomsat and POTC are subjects of a standing sequestration order issued by the Presidential Commission on Good Government (PCGG), the case should have been filed before the Sandiganbayan. They prayed that the complaint be dismissed for lack of jurisdiction and for lack of merit.

### **The Ruling of the RTC**

On 10 September 2008, the RTC rendered its Order dismissing the complaint for lack of jurisdiction. The Order provides in part:

Perusal of the complaint shows that the intra-corporate controversy herein involves plaintiff's demand for the production and inspection of 'all the minutes of the meetings of the board of directors, the Executive Committee and such other committees constituted by the PHC from 2000 to 2007. It is noted that Philcomsat has controlling interest in PHC, and that POTC is the beneficial owner of Philcomsat. Both POTC and Philcomsat are sequestered companies being administered by the PCGG.

Jurisprudence tells us that not only principal causes of action involving sequestered companies fall under the Sandiganbayan jurisdiction, but also all incidents arising from, incidental to, or related, to such cases (Del Moral, et al. vs. Republic of the Philippines, 457 SCRA 188 [2005] citing PCGG vs. Peña, 159 SCRA 556 [1998]). It was further cited in Del Moral that Sequestration is taking into custody under PCGG's control or possession any asset, fund or property, as well as relevant records, papers and documents, in order to prevent their concealment, destruction, impairment or dissipation pending determination of the question whether said asset, fund or property is ill-gotten wealth under Executive Order[] Nos. 1 and 2.<sup>[7]</sup>

On 3 October 2008, Ozamiz filed with the CA a petition for review under Rule 43 of the Rules of Court to assail the Order of the RTC. Ozamiz argued that the RTC, and not the Sandiganbayan, had jurisdiction over the case because PHC is an unsequestered corporation and the case is not about a supposed violation of the Anti-Graft and Corrupt Practices Act<sup>[8]</sup> or about the forfeiture of ill-gotten wealth under Republic Act (RA) No. 1379.<sup>[9]</sup> Ozamiz argued that since it is a simple case for inspection of books, it is an intra-corporate controversy under RA No. 8799<sup>[10]</sup> and the Interim Rules of Procedure for Intra-Corporate Controversies.<sup>[11]</sup>

### **The Ruling of the CA**

In a Decision dated 25 September 2009, the CA reversed and set aside the Order of the RTC.<sup>[12]</sup> The CA found that the case filed by Ozamiz was a simple intra-corporate dispute, and thus it was the RTC which had jurisdiction over the case. The CA held:

In the present case, it bears remembering that only POTC and Philcomsat are under sequestration by the PCGG and not PHC itself. True, POTC appears to wholly own Philcomsat, and Philcomsat, in turn, owns a substantial part of PHC (about 80.35%), but the fact remains that **PHC is not under any writ of sequestration issued by the PCGG.**

Moreover, while 80.35% of PHC is owned by Philcomsat, it is important to remember that only the said shares corresponding to such a majority ownership of PHC are considered assets of a sequestered corporation. **Hence, only the shares corresponding to Philcomsat's 80.35% stake over PHC is a sequestered asset.** In fact, as a rule, the PCGG, as a mere conservator of the said shares, does not even automatically exercise acts of dominion over PHC by voting these shares as it is settled that, as a general rule, the registered owner of the shares of a corporation, even if they are sequestered by the government through the PCGG, still exercises the right and the privilege of voting on them (See Cojuangco, Jr. vs. Roxas, G.R. Nos. 91925 & 93005, 16 April 1991, citing Section 24 of the Corporation Code. See also PCGG vs. Cojuangco, Jr., G.R. No. 133197, 27 January 1999).

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Bearing those in mind, therefore, in the Court's considered view, petitioner's request in the present controversy, by virtue of being a stockholder, to be provided with a copy of all the minutes of the meetings of directors, the Executive Committee and such other committees constituted by PHC, is simply an intra-corporate dispute within PHC. Lest it be forgotten, an intra-corporate dispute has been defined as a dispute which arises between the stockholder and the corporation (Philex Mining Corp. vs. Reyes, 118 SCRA 602). In fact, the various allegations by the respondents that the petitioner's motivation in filing the present complaint is part of a concerted effort by the petitioner's group to wrest control over PHC all the more convinces this Court that the same is nothing more but an intra-corporate dispute within PHC. As such, jurisdiction over the question as to whether the petitioner is entitled to

his request pertains to the Regional Trial Court and not the Sandiganbayan.<sup>[13]</sup> (Boldfacing and underscoring in the original)

In a Resolution dated 9 December 2009,<sup>[14]</sup> the CA denied the Motion for Reconsideration filed by petitioners.

Hence, this petition.

### **The Issues**

In this petition, petitioners seek a reversal of the decision of the CA, and raise the following arguments:

THE COURT OF APPEALS DID NOT HAVE JURISDICTION TO ENTERTAIN RESPONDENT'S "PETITION FOR REVIEW" DATED OCTOBER 3, 2008 AS IT RAISED PURE QUESTIONS OF LAW;

PURSUANT TO THIS HONORABLE COURT'S RULING IN DEL MORAL VS. REPUBLIC OF THE PHILIPPINES AND OTHER RELATED JURISPRUDENCE, THE TRIAL COURT DID NOT HAVE JURISDICTION OVER RESPONDENT'S COMPLAINT; and

THIS CASE DOES NOT INVOLVE A MERE INTRACORPORATE DISPUTE BECAUSE IT CONCERNS MATTERS RELATING TO THE ASSETS OF A SEQUESTERED CORPORATION.<sup>[15]</sup>

### **The Ruling of the Court**

This petition is without merit.

*First*, we review whether the CA erred in taking cognizance of the petition for review under Rule 43 of the Rules of Court. Petitioners argue that since the petition for review involved a pure question of law whether the RTC erred in dismissing the complaint filed for lack of jurisdiction - the CA did not have jurisdiction to resolve the petition.

Respondent, however, argues that the appeal to the CA under Rule 43 of the Rules of Court is correct under A.M. No. 04-9-07-SC<sup>[16]</sup> which provides that the proper mode of appeal in cases involving corporate rehabilitation and intra-corporate controversies - which include decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing IntraCorporate Controversies under RA No. 8799 - is a petition for review under Rule 43 of the Rules of Court filed with the CA.

Thus, to determine whether or not the appeal to the CA via a petition for review under Rule 43 of the Rules of Court was proper, we determine whether this case involves an intra-corporate dispute.

To determine whether or not a case involves an intra-corporate dispute, two tests are applied - the relationship test and the nature of the controversy test.

Under the relationship test, there is an intra-corporate controversy when the conflict

is (1) between the corporation, partnership, or association and the public; (2) between the corporation, partnership, or association and the State insofar as its franchise, permit, or license to operate is concerned; (3) between the corporation, partnership, or association and its stockholders, partners, members, or officers; and (4) among the stockholders, partners, or associates themselves.<sup>[17]</sup>

On the other hand, in accordance with the nature of controversy test, an intra-corporate controversy arises when the controversy is not only rooted in the existence of an intra-corporate relationship, but also in the enforcement of the parties' correlative rights and obligations under the Corporation Code and the internal and intra-corporate regulatory rules of the corporation.<sup>[18]</sup>

Based on the foregoing tests, it is clear that this case involves an intracorporate dispute. It is a conflict between a stockholder and the corporation, which satisfies the relationship test, and it involves the enforcement of the right of Ozamiz, as a stockholder, to inspect the books of PHC and the obligation of the latter to allow its stockholder to inspect its books.

More importantly, we also note that in *Abad v. Philippine Communications Satellite Corporation*,<sup>[19]</sup> one of the issues resolved by this Court was whether it was the Sandiganbayan or the RTC which had jurisdiction over a stockholder's suit to enforce its right of inspection under Section 74 of the Corporation Code against PHC, the same corporation involved in this present case. We categorized the concern of its stockholder as an intra-corporate dispute, to wit:

In the case at bar, the complaint concerns PHILCOMSAT's demand to exercise its right of inspection as stockholder of PHC but which petitioners refused on the ground of the ongoing power struggle within POTC and PHILCOMSAT that supposedly prevents PHC from recognizing PHILCOMSAT's representative (Africa) as possessing such right or authority from the legitimate directors and officers. **Clearly, the controversy is intra-corporate in nature as they arose out of intra-corporate relations between and among stockholders, and between stockholders and the corporation.**<sup>[20]</sup> (Boldfacing and underscoring supplied)

In this wise, we find that the dispute at hand, which involves the stockholder, Ozamiz, demanding to inspect the books of PHC and the consequent refusal of the corporation to show its books, is simply an intra-corporate dispute. And because this is an intra-corporate dispute, the matter was properly elevated to the CA. A.M. No. 04-9-07-SC<sup>[21]</sup> provides:

WHEREFORE, the Court Resolves:

1. All decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals **through a petition for review under Rule 43 of the Rules of Court.** (Boldfacing and underscoring supplied)