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THIRD DIVISION

[G.R. No. 185664, April 08, 2015]

ANGELES P. BALINGHASAY, RENATO M. BERNABE, ALODIA L. DEL ROSARIO, CATALINA T. FUNTILA, TERESITA L. GAYANILO, RUSTICO A. JIMENEZ, ARCELI P. JO, ESMERALDA D. MEDINA, CECILIA S. MONTALBAN, VIRGILIO R. OBLEPIAS, CARMENCITA R. PARREÑO, EMMA L. REYES, REYNALDO L. SAVET, SERAPIO P. TACCAD, VICENTE I. VALDEZ, SALVACION F. VILLAMORA, AND DIONISIA M. VILLAREAL, PETITIONERS, VS. CECILIA CASTILLO, OSCAR DEL ROSARIO, ARTURO S. FLORES, XERXES NAVARRO, MARIA ANTONIA A. TEMPLO AND MEDICAL CENTER PARAÑAQUE, INC., RESPONDENTS.

D E C I S I O N

REYES, J.:

The instant Petition for Review on *Certiorari*[1] assails the Decision[2] dated May 23, 2008 and Resolution[3] dated December 12, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 89279. The CA reversed and set aside the Decision dated March 22, 2005 of the Regional Trial Court (RTC) of Parañaque City, Branch 258, in Civil Case No. 01-0140, which dismissed the amended complaint for injunction, accounting and damages filed by Cecilia Castillo (Castillo), Oscar del Rosario (Oscar), Arturo Flores (Flores), Xerxes Navarro (Navarro), Maria Antonia Templo (Templo) and Medical Center Parañaque, Inc. (MCPI) (respondents) against Angeles Balinghasay (Balinghasay), Renato Bernabe (Bernabe), Alodia Del Rosario (Alodia), Catalina Funtila, Teresita Gayanilo, Rustico Jimenez (Jimenez), Arceli Jo, Esmeralda Medina, Cecilia Montalban, Virgilio Oblepias (Oblepias), Carmencita Parreño, Emma Reyes, Reynaldo Savet (Savet), Commodore Serapio Taccad, Vicente Valdez (Valdez), Salvacion Villamora (Villamora) and Dionisia Villareal[4] (Villareal) (petitioners).

Antecedents

The MCPI, a domestic corporation organized in 1977, operates the Medical Center Parañaque (MCP) located in Dr. A. Santos Avenue, Sucat, Parañaque City. Castillo, Oscar, Flores, Navarro, and Templo are minority stockholders of MCPI. Each of them holds 25 Class B shares. On the other hand, nine of the herein petitioners, namely, Balinghasay, Bernabe, Alodia, Jimenez, Oblepias, Savet, Villamora, Valdez and Villareal, are holders of Class A shares and were Board Directors of MCPI. The other eight petitioners are holders of Class B shares. The petitioners are part of a group who invested in the purchase of ultrasound equipment, the operation of and earnings from which gave rise to the instant controversy.

Before 1997, the laboratory, physical therapy, pulmonary and ultrasound services in MCP were provided to patients by way of concessions granted to independent entities. When the concessions expired in 1997, MCPI decided that it would provide

on its own the said services, except ultrasound.[5]

In 1997, the MCPI's Board of Directors awarded the operation of the ultrasound unit to a group of investors (ultrasound investors) composed mostly of Obstetrics-Gynecology (Ob-gyne) doctors. The ultrasound investors held either Class A or Class B shares of MCPI. Among them were nine of the herein petitioners, who were then, likewise, MCPI Board Directors. The group purchased a Hitachi model EUB-200 C ultrasound equipment costing P850,000.00 and operated the same. Albeit awarded by the Board of Directors, the operation was not yet covered by a written contract. [6]

In the meeting of the MCPI's Board of Directors held on August 14, 1998, seven (7) of the twelve (12) Directors present were part of the ultrasound investors. The Board Directors made a counter offer anent the operation of the ultrasound unit. Hence, essentially then, the award of the ultrasound operation still bore no formal stamp of approval.[7]

On February 5, 1999, twelve (12) Board Directors attended the Board meeting and eight (8) of them were among the ultrasound investors. A Memorandum of Agreement (MOA) was entered into by and between MCPI, represented by its President then, Bernabe, and the ultrasound investors, represented by Oblepias. Per MOA, the gross income to be derived from the operation of the ultrasound unit, minus the sonologists' professional fees, shall be divided between the ultrasound investors and MCPI, in the proportion of 60% and 40%, respectively. Come April 1, 1999, MCPI's share would be 45%, while the ultrasound investors would receive 55%. Further, the ownership of the ultrasound machine would eventually be transferred to MCPI.[8]

On October 6, 1999, Flores wrote MCPI's counsel a letter challenging the Board of Directors' approval of the MOA for being prejudicial to MCPI's interest. Thereafter, on February 7, 2000, Flores manifested to MCPI's Board of Directors and President his view regarding the illegality of the MOA, which, therefore, cannot be validly ratified. [9]

On March 22, 2001, the herein respondents filed with the RTC a derivative suit[10] against the petitioners for violation of Section 31[11] of the Corporation Code. Among the prayers in the Complaint were: (a) the annulment of the MOA and the accounting of and refund by the petitioners of all profits, income and benefits derived from the said agreement; and (b) payment of damages and attorney's fees. [12]

In their Answer with Counterclaim, the petitioners argued that the derivative suit must be dismissed for non-joinder of MCPI, an indispensable party. The petitioners likewise claimed that under Section 32[13] of the Corporation Code, the MOA was merely voidable. Since there was no proof that the subsequent Board of Directors of MCPI moved to annul the MOA, the same should be considered as having been ratified. Further, in the Annual Stockholders Meeting held on February 11, 2000, the MOA had already been discussed and passed upon.[14]

To implead MCPI as a party-plaintiff, the individual respondents filed an Amended

Complaint dated September 11, 2001.[15] The RTC admitted the said amended complaint on October 12, 2001.

Rulings of the RTC and the CA

On March 22, 2005, the RTC rendered a Decision dismissing the respondents' amended complaint. The RTC found that MCPI had, in effect, impliedly ratified the MOA by accepting or retaining benefits flowing therefrom. Moreover, the elected MCPI's Board Directors for the years 1998 to 2000 did not institute legal actions against the petitioners. MCPI slept on its rights for almost four years, and estoppel had already set in before the derivative suit was filed in 2001. The RTC likewise stressed that the sharing agreement, per MOA provisions, was fair, just and reasonable. From the ultrasound unit's operations for the years 1997 to 1999, MCPI received a net share of P1,567,699.78, while the ultrasound investors only got P803,723.00. Further, under the "business judgment rule," the trial court cannot undertake to control the discretion of the corporation's board as long as good faith attends its exercise.[16]

The petitioners challenged the RTC's judgment before the CA.

On May 23, 2008, the CA rendered the herein assailed decision, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the Petition for Review is **GRANTED**. The Decision dated 22 March 2005 of the [RTC] of Parañaque City, Branch 258 in *Civil Case No. 01-0140* is **REVERSED** and **SET ASIDE** and a new one entered declaring the [MOA] (ultrasound contract) as invalid. Further, [petitioners] **Angeles Balinghasay, Dr. Renato Bernabe, Dr. Alodia del Rosario, Dr. Rustico Jimenez, Dr. Virgilio Oblepias, Dr. Reynaldo Savet, Dr. Salvacion Villamora and Dr. Humberto Villareal** are hereby ordered to fully account to [respondent **MCPI**] all the profits from said ultrasound contract which otherwise would have accrued to **[MCPI]** and to jointly and severally pay the amount of P200,000.00 as attorney's fees in favor of the [respondents]. Costs against said named [petitioners].
>
> **SO ORDERED**.[17]

The CA, however, denied the respondents' claims for moral and exemplary damages. The appellate court explained that moral damages cannot be awarded in favor of a corporation, which in this case is MCPI, the real party-in-interest. Further, there is no ample evidence to prove that the petitioners acted wantonly, recklessly and oppressively.[18]

In declaring the invalidity of the MOA, the CA explained that:

> "Quorum" is defined as that number of members of a body which, when legally assembled in their proper places, will enable the body to transact its proper business. "Majority," when required to constitute a quorum,

means the greater number than half or more than half of any total.

In the case at bar, the majority of the number of directors, if it is indeed thirteen (13), is seven (7), while if it is eleven (11), the majority is six (6). During the meetings held by the MCPI Board of Directors i.e. 1) 14 August 1998 meeting x x x, twelve (12) directors were present, and of said number, seven (7) of them belong to the ultrasound investors x x x, and at which meeting, the Board decided to make a counter-offer x x x to the ultrasound group and; 2) 05 February 1999 meeting x x x, twelve (12) directors were present, and of said number, eight (8) of them belong to the ultrasound investors x x x, and at which meeting, the Board decided to proceed with the signing of the [MOA] x x x. As can be gleaned from the Minutes of said Board meetings, without the presence of the [petitioners] directors/ultrasound investors, there can be no quorum. At any rate, during the Board meeting on 14 August 1998, the [MOA] was not approved as only a counter-offer was agreed upon. As to the 05 February 1999 Board meeting, without considering the votes of the [petitioners] directors/ultrasound investors, in connection with the signing of the [MOA], no valid decision can be made. It further appears that x x x [Oblepias], who signed the [MOA] on behalf of the ultrasound/Ob-Gyne group as OWNER of the ultrasound equipment, and x x x President Dr. Bernabe, who signed the same on behalf of MCPI x x x, are both ultrasound investors. Thus, We find that the [MOA] was not validly approved by the MCPI Board. Plainly, [the petitioners/directors] x x x, in acquiring an interest adverse to the corporation, are liable as trustees for the corporation and must account for the profits under the [MOA] which otherwise would have accrued to MCPI.

x x x x

x x x [T]he presence of the [petitioners] directors/ultrasound investors who approved the signing of the [MOA] was necessary to constitute a quorum for such meeting on 05 February 1999 and the votes of [the petitioners] directors/ultrasound investors were necessary in connection with the decision to proceed with the signing of the [MOA]. Further, there is no clear and convincing evidence that the [MOA] was ratified by the vote of 2/3 of the outstanding capital stock of MCPI in a meeting called for the purpose and that a full disclosure of the interest of the [petitioners] directors/ultrasound investors, was made at such meeting. At any rate, if the ultrasound contract has indeed been impliedly ratified[,] there would have been no need to submit the matter repeatedly to the stockholders of MCPI in a vain attempt to have the same ratified.

The [RTC's] observation that [the respondents'] silence and acquiescence to the [MOA] impliedly ratified the same is also belied by the fact that [the respondents] did not stop questioning the validity of the [MOA]. x x x.

Further, under the Corporation Code, where a corporation is an injured party, its power to sue is lodged with its board of directors or trustees. But an individual stockholder may be permitted to institute a derivative

suit in behalf of the corporation in order to protect or vindicate corporate rights whenever the officials of the corporation refuse to sue, or when a demand upon them to file the necessary action would be futile because they are the ones to be sued, or because they hold control of the corporation. In such actions, the corporation is the real party-in-interest while the suing stockholder, in behalf of the corporation, is only a nominal party.

x x x x

In the instant case, [the respondents] filed an Amended Complaint dated 11 September 2001. Paragraphs 1a, 3 and 17-24 thereof sufficiently allege their derivative action. There was compliance with Section 1, Rule 8 of the Interim Rules of Procedure for Intra-Corporate Controversies. x x x It is undisputed that [the respondents] are stockholders of MCPI x x x; [the respondents] exerted all reasonable efforts to exhaust all remedies available to them x x x; there are no appraisal rights available to [the respondents] for the act complained of; and the case is clearly not a nuisance or harassment suit. x x x

x x x x

It is clear that under the "business judgment rule", the courts are barred from intruding into the business judgments of the corporation, when the same are made in good faith.

x x x x

[The petitioners] MCPI directors, who are ultrasound investors, in violation of their duty as such directors, acquired an interest adverse to the corporation when they entered into the ultrasound contract. By doing so, they have unjustly profited from the transaction which otherwise would have accrued to MCPI. In fact, as reflected in the ultrasound income x x x for the year 1997 to 2001, the ultrasound investors earned a net share of P4,417,573.81. [The petitioners] directors/ultrasound investors failed to inhibit themselves from participating in the meeting and from voting with respect to the decision to proceed with the signing of the [MOA]. Certainly, said [petitioners] directors/ultrasound investors have dealt in their behalf and took an interest adverse to MCPI.

Moreover, based on the audited financial statements of MCPI x x x for the year 1996-2000, it appears that the corporation has available cash to purchase its own ultrasound unit. It was testified to by Dr. Villamora that the cost of the ultrasound unit is P850,000.00, while the cash and cash equivalents of MCPI for the year 1996 is P5,479,242.00; for the year 1997, P5,509,058.51; and for the year 1998, P8,662,909.00.[19] (Citations omitted)

In the now assailed Resolution[20] issued on December 12, 2008, the CA denied the Motion for Reconsideration filed by the herein petitioners.