

SECOND DIVISION

[G.R. No. 160641, June 20, 2012]

**RAFAEL J. ROXAS AND THE HEIRS OF EUGENIA V. ROXAS, INC.,
PETITIONERS, VS. HON. ARTEMIO S. TIPON, IN HIS CAPACITY
AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF
MANILA, BRANCH 46, F. U. JUAN CORPORATION, AND
FERNANDO U. JUAN, RESPONDENTS.**

[G.R. NO. 160642]

**RAFAEL J. ROXAS, GUILLERMO ROXAS AND MA. EUGENIA
VALLARTA, PETITIONERS, VS. HON. ARTEMIO S. TIPON, IN HIS
CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL
COURT OF MANILA, BRANCH 46, F. U. JUAN CORPORATION AND
FERNANDO U. JUAN, RESPONDENTS.**

R E S O L U T I O N

PEREZ, J.:

The subject of this petition for review on *certiorari* is the Decision^[1] dated 14 August 2003 of the Court of Appeals in CA-G.R. SP No. 67384 and CA-G.R. SP No. 73187 which affirmed the orders of Judge Artemio S. Tipon of the Regional Trial Court (RTC) of Manila, Branch 46 in Civil Case No. 01-99671 relating to an audit of corporate books and declaration of contempt of court.

Heirs of Eugenia V. Roxas, Inc. (HEVRI) is a registered corporation which operates Hidden Valley Springs Resort. F. U. Juan Corporation (FUJC) and Fernando U. Juan (Juan) are two of its stockholders who held 439,604 shares and one share, respectively.^[2] On 10 November 1998, FUJC and Juan filed an Amended Petition^[3] with prayer for temporary restraining order (TRO) and writ of preliminary injunction and appointment of a receiver, for HEVRI's dissolution before the Securities and Exchange Commission (SEC) on the following grounds:

1. That HEVRI, through its then President Rafael Roxas (Roxas) refused to furnish them copies of the minutes of the regular and special meetings of the Board of Directors and stockholders;
2. That they were not allowed to inspect the accounts of HEVRI despite demand;
3. That HEVRI failed to comply with the reportorial requirements of the Securities and Exchange Commission;

4. That despite huge profits derived from the operation of the Hidden Valley Springs Resort, HEVRI has not declared nor paid dividends;
5. That Roxas had grossly mismanaged HEVRI;
6. That Roxas and HEVRI had squandered the funds of the corporation, as well as its assets to the detriment of its stockholders.^[4]

In their Answer, petitioners averred that they were under no legal obligation to furnish respondents copies of the corporation's financial statements and minutes of stockholders' and Board of Directors' meetings; that they had not been remiss in the filing of its General Information Sheets (GIS) and Audited Financial Statements with the government agencies concerned; that no dividends were declared or paid because corporate funds have been, and continue to be, used for rehabilitation and upgrading works; that the Amended Petition did not state facts with sufficient particularity which tend to show that Roxas has been mismanaging HEVRI.^[5] Petitioners counterclaimed for damages.

Pursuant to Supreme Court Administrative Circular AM No. 00-11-03 dated 21 November 2000 in implementation of the provisions of the law transferring jurisdiction from SEC to the RTC, the case was transferred to the RTC of Manila, Branch 46.

During the hearing on the application for issuance of a TRO and/or writ of preliminary injunction on 26 July 2001, the RTC ordered an audit of the books of HEVRI, thus:

The Court orders that an audit of the books of the Corporation be conducted. However before the Court will enforce the same the respondents are given until August 1, 2001 to file their comments/oppositions, after which this incident will be deemed submitted for resolution.^[6]

Petitioners contested the order of audit through a motion for reconsideration. In an Order dated 10 September 2001, their Motion for Reconsideration was denied, viz:

The [private respondents herein] allege that respondent Rafael J. Roxas is making unauthorized and fraudulent disbursements of corporate funds and the former wants the latter restrained from further managing the respondent corporation.

The best way the court can determine whether there is a ground for the issuance of a temporary restraining order or preliminary injunction is to be informed of what is the real score in the financial status of the corporation. What could be a better way of knowing whether there are unauthorized and fraudulent disbursements than an audit of the books? The respondents should not fear an audit if they have nothing to hide.^[7]

Thus, on 4 October 2001, the RTC designated Financial Catalyst, Inc. to audit the books of HEVRI, thus:

WHEREFORE, the Financial Catalyst, Inc. of Unit 1107 Jollibee Plaza, Emerald Avenue, Ortigas Center, Pasig City 1605 Philippines is hereby designated to audit the books of Heirs of Eugenia V. Roxas, Inc.

The Financial Catalyst, Inc. is requested to inform the court within seventy-two (72) hours from receipt of this order if it accepts the designation. Should it accept the designation, it should start the audit immediately.

The president, vice president, corporate secretary, treasurer and other officers of the Heirs of Eugenia V. Roxas, Inc. are directed to cooperate with the auditing firm and to provide all the necessary support to accomplish its duty.

The [private respondents herein] are hereby directed to make an initial deposit with the Clerk of Court the sum of FIFTY THOUSAND PESOS (P50,000.00) to cover the expenses audit. It is understood that the expenses of audit shall be taxed as cost against the losing party or parties.^[8]

All the aforementioned orders of the RTC were assailed before the Court of Appeals in CA G.R. SP No. 67384. On 16 July 2002, the Court of Appeals issued a TRO enjoining RTC from implementing the questioned orders.

When petitioners refused to allow Financial Catalyst, Inc. to audit their books, the RTC declared Guillermo Roxas, Ma. Eugenia Vallarta and Roxas in contempt of court and issued a warrant for their arrest on 19 August 2002.^[9] Said Order was also challenged before the Court of Appeals in CA-G.R. SP No. 73187.

Thereafter, the Court of Appeals resolved to consolidate the two (2) petitions.

Finding them without merit, the Court of Appeals dismissed the petitions and affirmed the questioned orders of the RTC. The Court of Appeals upheld the right of private respondents as stockholders to inspect corporate books and records pursuant to Section 75 of the Corporation Code. It also defended the audit of the books of HEVRI for the proper determination of the issue of dissolution of the corporation. Further, the Court of Appeals sustained the validity of the indirect contempt proceedings. The Court of Appeals observed that Petitioners Guillermo Roxas, Ma. Eugenia Vallarta and Rafael Roxas were in fact given a chance to be heard in open court through an Order dated 14 June 2002:

In view of the seriousness of the charge that may result in the imposition of a fine upon the defendants in an amount not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both or indefinite imprisonment until they comply with the ORDERS of the

court, the Court:

RESOLVES to hold a formal trial to enable the said defendants to defend themselves at a hearing scheduled on Friday, the 28th day of June, 2002 at 8:30 A.M. at Room 460, City Hall, Manila, Philippines.^[10]

Petitioners moved for the cancellation of the hearing, which motion was denied.

A motion for reconsideration was filed but it was denied on 29 October 2003,^[11] hence the instant petition.

Petitioners assert that the RTC effectively ruled that a stockholder's right to inspection and to financial information include the absolute right to cause the conduct of an audit. Petitioners insist that the trial court should have examined the audited financial statements first before ordering another audit. By declaring that an audit be conducted, petitioners claim that the trial court effectively granted private respondents' prayer for inspection and examination of the books of accounts of HEVRI without hearing or trial. Also according to petitioners, the appointment of an independent auditor was not even specifically prayed for in the Amended Petition. Petitioners take exception to the ruling of the Court of Appeals that an audit will determine the financial status of the company. Petitioners aver that gross mismanagement, as alleged by private respondents, is a factor that must be proved by hard and convincing evidence. Finally, petitioners challenge the validity of the contempt order issued against them. Petitioners contend that the trial court did not *motu proprio* initiate the contempt proceedings but it was prompted by private respondents through a motion for the issuance of a show cause order, thereby disregarding Section 4, Rule 71 of the Rules of Court.

Private respondents justified the order of audit by the RTC to determine the presence or absence of mismanagement and pursuant to Rule 32 of the Rules of Court. They also maintain that the directive to conduct an audit does not amount to a prejudgment of the case. Anent the citation for contempt, private respondents assert that petitioners' whimsical disregard of the authority of the trial court exemplified by the unreasonable and unjustified refusal to comply with the directed audit constitute indirect contempt of court.

On 1 August 2006, petitioners filed a Manifestation informing the Court that an Order^[12] dated 14 February 2006 was issued by the RTC dismissing Civil Case No. 01-99671 for lack of jurisdiction, thus:

WHEREFORE, premises considered, the Court orders the DISMISSAL of this case. The incident on the creation of a Management Committee is likewise denied for being moot and academic.^[13]

As culled from the RTC Order and subsequent to the dismissal of the petition before the Court of Appeals, the RTC created a Management Committee on 15 March 2004. The trial court ordered the depositary banks of petitioners to freeze the latter's deposit. These Orders were also questioned before the Court of Appeals which issued a TRO restraining the Management Committee from taking over the