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SECOND DIVISION

[G.R. No. 172727, September 08, 2010]

QUEENSLAND-TOKYO COMMODITIES, INC., ROMEO Y. LAU, AND CHARLIE COLLADO, PETITIONERS, VS. THOMAS GEORGE, RESPONDENT.

R E S O L U T I O N

NACHURA, J.:

At bar is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by Queensland-Tokyo Commodities, Inc. (QTCI), Romeo Y. Lau (Lau), and Charlie Collado (Collado), challenging the September 30, 2005 Decision[1] and the January 20, 2006 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 58741.

QTCI is a duly licensed broker engaged in the trading of commodity futures. In 1995, Guillermo Mendoza, Jr. (Mendoza) and Oniler Lontoc (Lontoc) of QTCI met with respondent Thomas George (respondent), encouraging the latter to invest with QTCI. On July 7, 1995, upon Mendoza's prodding, respondent finally invested with QTCI. On the same day, Collado, in behalf of QTCI, and respondent signed the *Customer's Agreement*.[3] Forming part of the agreement was the Special Power of Attorney[4] executed by respondent, appointing Mendoza as his attorney-in-fact with full authority to trade and manage his account.

On June 20, 1996, the Securities and Exchange Commission (SEC) issued a Cease-and-Desist Order (CDO) against QTCI. Alarmed by the issuance of the CDO, respondent demanded from QTCI the return of his investment, but it was not heeded. He then sought legal assistance, and discovered that Mendoza and Lontoc were not licensed commodity futures salesmen.

On February 4, 1998, respondent filed a complaint for *Recovery of Investment with Damages*[5] with the SEC against QTCI, Lau, and Collado (petitioners), and against the unlicensed salesmen, Mendoza and Lontoc. The case was docketed as SEC Case No. 02-98-5886, and was raffled to SEC Hearing Officer Julieto F. Fabrero.

Only petitioners answered the complaint, as Mendoza and Lontoc had since vanished into thin air. Traversing the complaint, petitioners denied the material allegations in the complaint and alleged lack of cause of action, as a defense. Petitioners averred that QTCI only assigned duly qualified persons to handle the accounts of its clients; and denied allowing unlicensed brokers or agents to handle respondent's account. They claimed that they were not aware of, nor were they privy to, any arrangement which resulted in the account of respondent being handled by unlicensed brokers. They added that even assuming that the subject account was handled by an unlicensed broker, respondent is now estopped from raising it as a ground for the return of his investment. They pointed out that respondent transacted business with

QTCI for almost a year, without questioning the license or the authority of the traders handling his account. It was only after it became apparent that QTCI could no longer resume its business transactions by reason of the CDO that respondent raised the alleged lack of authority of the brokers or traders handling his account. The losses suffered by respondent were due to circumstances beyond petitioners' control and could not be attributed to them. Respondent's remedy, they added, should be against the unlicensed brokers who handled the account. Thus, petitioners prayed for the dismissal of the complaint.[6]

After due proceedings, the SEC Hearing Officer rendered a decision[7] in favor of respondent, decreeing that:

> WHEREFORE, premises considered, [petitioners] Queensland Tokyo [C]ommodities, Inc., Romeo Y. Lau (aka "Lau Ching Yee") and Charlie F. Collado are hereby ordered to jointly and severally pay the [respondent] the following:
>
> 1. The amount of P138,164.00, Philippine currency, representing the x x x return of his [respondent's] peso investment, plus legal rate of interest from February 1998 until fully paid;
>
> 2. The amount of $19,820.00, American dollars, or its peso equivalent at the time of payment representing the [respondent's] return of his dollar investments, plus legal rate of interest from February 1998 until fully paid;
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> 3. The amount of P100,000.00 as (sic) by way of moral damages;
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> 4. The amount of P50,000.00 as and (sic) by way of exemplary damages;
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> 5. The amount of P10,000.00 as and for attorney's fees; and
>
> 6. The amount of P2,877.00 as cost of suit.
>
> SO ORDERED.[8]

Petitioners appealed to the Commission *en banc*, but the appeal was dismissed because the Notice of Appeal and the Memorandum on Appeal were not verified.[9]

Petitioners then went to the CA via a petition for review[10] under Rule 43, faulting the Commission *en banc* for dismissing their appeal on purely technical ground. They insisted that they did not violate the rules on commodity futures trading. Thus, they faulted the SEC Hearing Officer for nullifying the *Customer's Agreement* and for holding them liable for respondent's claims.

On September 30, 2005, the CA rendered the now challenged Decision.[11] It declared the dismissal of petitioners' appeal by the Commission *en banc* improper. Nevertheless, it did not order a remand of the case to the Commission *en banc* because jurisdiction over petitioners' appeal had already been transferred to the

Regional Trial Court (RTC) by virtue of Republic Act No. 8799 or the *Securities Regulation Code*. The CA thus proceeded to decide the merits of the case, affirming *in toto* the decision of the SEC Hearing Officer. The appellate court failed to see any reason to disturb the SEC Hearing Officer's finding of liability on the part of petitioners. It sustained the finding that petitioners violated the *Revised Rules and Regulations on Commodity Futures Trading* when they allowed

an unlicensed salesman, like Mendoza, to handle respondent's account. The CA also upheld the nullification of the *Customer's Agreement*, and the award of moral and exemplary damages, as well attorney's fees, in favor of respondent. The CA disposed, thus:

> **WHEREFORE**, premises considered, the petition is **DISMISSED** for lack of merit. The assailed decision dated February 7, 2000 is hereby **AFFIRMED** in toto.
>
> **SO ORDERED**.[12]

Petitioners filed a motion for reconsideration,[13] but the CA denied it on January 20, 2006.[14]

Hence, this recourse by petitioners arguing that:

> A.
>
> THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT PETITIONERS KNOWINGLY PERMITTED AN UNLICENSED TRADER TO SOLICIT AND HANDLE REPONDENT'S ACCOUNT, AND THAT PETITIONERS ARE GUILTY OF FRAUD AND MISREPRESENTATION.
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> B.
>
> THE HONORABLE COURT OF APPEALS ERRED IN FINDING INDIVIDUAL PETITIONERS SOLIDARILY LIABLE FOR THE DAMAGES AND AWARDS DUE [THE] RESPONDENT.[15]

Petitioners insist that they did not violate the *Revised Rules and Regulations on Commodity Futures Trading*. They claim that it has been QTCI's policy and practice to appoint only licensed traders to trade the client's account. They denied any participation in the designation of Mendoza as respondent's attorney-in-fact; taking exception to the findings that they permitted Mendoza to trade respondent's account. Petitioners also assailed the weight given by the SEC Hearing Officer and by the CA to respondent's evidence.

It is evident that the issue raised in this petition is the correctness of the factual findings of the SEC Hearing Officer, as affirmed by the CA. It is well-settled that factual findings of administrative agencies are generally held to be binding and final so long as they are supported by substantial evidence in the records of the case. It

is not the function of this Court to analyze or weigh all over again the evidence and the credibility of witnesses presented before the lower court, tribunal, or office, as we are not a trier of facts. Our jurisdiction is limited to reviewing and revising errors of law imputed to the lower court, the latter's findings of fact being conclusive and not reviewable by this Court.[16]

We sustain the finding of the SEC Hearing Officer and the CA that petitioners allowed unlicensed individuals to engage in, solicit or accept orders in futures contracts, and thus, transgressed the *Revised Rules and Regulations on Commodity Futures Trading*.[17]

We are not persuaded by petitioners' assertion that they had no hand in Mendoza's designation as respondent's attorney-in-fact. As pointed out by the CA, the *Special Power of Attorney* formed part of respondent's agreement with QTCI, and under the *Customer's Agreement,*[18] only a licensed or registered dealer or investment consultant may be appointed as attorney-in-fact. Thus:

> 2. If I so desire, I shall appoint you as my agent pursuant to a Special Power of Attorney which I shall execute for this purpose and which form part of this Agreement.
>
> x x x x
>
> 18. I hereby confer, pursuant to the Special Power of Attorney herewith attached, full authority to your licensed/registered dealer/investment in charge of my account/s and your Senior Officer, who must also be a licensed/registered dealer/investment consultant, to sign all order slips on futures trading. [19]

Inexplicably, petitioners did not object to, and in fact recognized, Mendoza's appointment as respondent's attorney-in-fact. Collado, in behalf of QTCI, concluded the *Customer's Agreement* despite the fact that the appointed attorney-in-fact was not a licensed dealer. Worse, petitioners permitted Mendoza to handle respondent's account.

Indubitably, petitioners violated the *Revised Rules and Regulations on Commodity Futures Trading* prohibiting any unlicensed person to engage in, solicit or accept orders in futures contract. Consequently, the SEC Hearing Officer and the CA cannot be faulted for declaring the contract between QTCI and respondent void.

Batas Pambansa Bilang (B.P. Blg.) 178 or the *Revised Securities Act* explicitly provided:

> SEC. 53. Validity of Contracts. x x x.
>
> (b) Every contract executed in violation of any provision of this Act, or any rule or regulation thereunder, and every contract, including any contract for listing a security on an exchange heretofore or hereafter made, the performance of which involves the violation of, or the

> continuance of any relationship or practice in violation of, any provision of this Act, or any rule and regulation thereunder, shall be void.

Likewise, Paragraph 29[20] of the Customer's Agreement provides:

> 29. Contracts entered into by unlicensed Account Executives (A/E) or Investment consultants are deemed void and of no legal effect.

Clearly, the CA merely adhered to the clear provision of B.P. Blg. 178 and to the stipulation in the parties' agreement when it declared as void the *Customer's Agreement* between QTCI and respondent.

It is settled that a void contract is equivalent to nothing; it produces no civil effect. It does not create, modify, or extinguish a juridical relation. Parties to a void agreement cannot expect the aid of the law; the courts leave them as they are, because they are deemed in *pari delicto* or *in equal fault*.[21] This rule, however, is not absolute. Article 1412 of the Civil Code provides an exception, and permits the return of that which may have been given under a void contract. Thus:

> Art. 1412. If the act in which the unlawful or forbidden cause consists does not constitute a criminal offense, the following rules shall be observed:
>
> > (1) When the fault is on the part of both contracting parties, neither may recover what he has given by virtue of the contract, or demand the performance of the other's undertaking;
> >
> > (2) When only one of the contracting parties is at fault, he cannot recover what he has given by reason of the contract, or ask for the fulfillment of what has been promised him. The other, who is not at fault, may demand the return of what he has given without any obligation to comply with his promise.

The evidence on record established that petitioners indeed permitted an unlicensed trader and salesman, like Mendoza, to handle respondent's account. On the other hand, the record is bereft of proof that respondent had knowledge that the person handling his account was not a licensed trader. Respondent can, therefore, recover the amount he had given under the contract. The SEC Hearing Officer and the CA, therefore, committed no reversible error in holding that respondent is entitled to a full recovery of his investments.

Petitioners Collado and Lau next fault the CA in making them solidarily liable for the payment of respondent's claim.

Doctrine dictates that a corporation is invested by law with a personality separate and distinct from those of the persons composing it, such that, save for certain exceptions, corporate officers who entered into contracts in behalf of the corporation cannot be held personally liable for the liabilities of the latter. Personal liability of a