

## EN BANC

[ G.R. No. 135808, October 06, 2008 ]

**SECURITIES AND EXCHANGE COMMISSION, PETITIONER, VS.  
INTERPORT RESOURCES CORPORATION, MANUEL S. RECTO,  
RENE S. VILLARICA, PELAGIO RICALDE, ANTONIO REINA,  
FRANCISCO ANONUEVO, JOSEPH SY AND SANTIAGO TANCHAN,  
JR., RESPONDENTS.**

### D E C I S I O N

#### **CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision,<sup>[1]</sup> dated 20 August 1998, rendered by the Court of Appeals in C.A.-G.R. SP No. 37036, enjoining petitioner Securities and Exchange Commission (SEC) from taking cognizance of or initiating any action against the respondent corporation Interport Resources Corporation (IRC) and members of its board of directors, respondents Manuel S. Recto, Rene S. Villarica, Pelagio Ricalde, Antonio Reina, Francisco Anonuevo, Joseph Sy and Santiago Tanchan, Jr., with respect to Sections 8, 30 and 36 of the Revised Securities Act. In the same Decision of the appellate court, all the proceedings taken against the respondents, including the assailed SEC Omnibus Orders of 25 January 1995 and 30 March 1995, were declared void.

The antecedent facts of the present case are as follows.

On 6 August 1994, the Board of Directors of IRC approved a Memorandum of Agreement with Ganda Holdings Berhad (GHB). Under the Memorandum of Agreement, IRC acquired 100% or the entire capital stock of Ganda Energy Holdings, Inc. (GEHI),<sup>[2]</sup> which would own and operate a 102 megawatt (MW) gas turbine power-generating barge. The agreement also stipulates that GEHI would assume a five-year power purchase contract with National Power Corporation. At that time, GEHI's power-generating barge was 97% complete and would go on-line by mid-September of 1994. In exchange, IRC will issue to GHB 55% of the expanded capital stock of IRC amounting to 40.88 billion shares which had a total par value of P488.44 million.<sup>[3]</sup>

On the side, IRC would acquire 67% of the entire capital stock of Philippine Racing Club, Inc. (PRCI). PRCI owns 25.724 hectares of real estate property in Makati. Under the Agreement, GHB, a member of the Westmont Group of Companies in Malaysia, shall extend or arrange a loan required to pay for the proposed acquisition by IRC of PRCI.<sup>[4]</sup>

IRC alleged that on 8 August 1994, a press release announcing the approval of the agreement was sent through facsimile transmission to the Philippine Stock Exchange and the SEC, but that the facsimile machine of the SEC could not receive it. Upon

the advice of the SEC, the IRC sent the press release on the morning of 9 August 1994.<sup>[5]</sup>

The SEC averred that it received reports that IRC failed to make timely public disclosures of its negotiations with GHB and that some of its directors, respondents herein, heavily traded IRC shares utilizing this material insider information. On 16 August 1994, the SEC Chairman issued a directive requiring IRC to submit to the SEC a copy of its aforesaid Memorandum of Agreement with GHB. The SEC Chairman further directed all principal officers of IRC to appear at a hearing before the Brokers and Exchanges Department (BED) of the SEC to explain IRC's failure to immediately disclose the information as required by the Rules on Disclosure of Material Facts.<sup>[6]</sup>

In compliance with the SEC Chairman's directive, the IRC sent a letter dated 16 August 1994 to the SEC, attaching thereto copies of the Memorandum of Agreement. Its directors, Manuel Recto, Rene Villarica and Pelagio Ricalde, also appeared before the SEC on 22 August 1994 to explain IRC's alleged failure to immediately disclose material information as required under the Rules on Disclosure of Material Facts.<sup>[7]</sup>

On 19 September 1994, the SEC Chairman issued an Order finding that IRC violated the Rules on Disclosure of Material Facts, in connection with the Old Securities Act of 1936, when it failed to make timely disclosure of its negotiations with GHB. In addition, the SEC pronounced that some of the officers and directors of IRC entered into transactions involving IRC shares in violation of Section 30, in relation to Section 36, of the Revised Securities Act.<sup>[8]</sup>

Respondents filed an Omnibus Motion, dated 21 September 1994, which was superseded by an Amended Omnibus Motion, filed on 18 October 1994, alleging that the SEC had no authority to investigate the subject matter, since under Section 8 of Presidential Decree No. 902-A,<sup>[9]</sup> as amended by Presidential Decree No. 1758, jurisdiction was conferred upon the Prosecution and Enforcement Department (PED) of the SEC. Respondents also claimed that the SEC violated their right to due process when it ordered that the respondents appear before the SEC and "show cause why no administrative, civil or criminal sanctions should be imposed on them," and, thus, shifted the burden of proof to the respondents. Lastly, they sought to have their cases tried jointly given the identical factual situations surrounding the alleged violation committed by the respondents.<sup>[10]</sup>

Respondents also filed a Motion for Continuance of Proceedings on 24 October 1994, wherein they moved for discontinuance of the investigations and the proceedings before the SEC until the undue publicity had abated and the investigating officials had become reasonably free from prejudice and public pressure.<sup>[11]</sup>

No formal hearings were conducted in connection with the aforementioned motions, but on 25 January 1995, the SEC issued an Omnibus Order which thus disposed of the same in this wise:<sup>[12]</sup>

WHEREFORE, premised on the foregoing considerations, the Commission resolves and hereby rules:

1. To create a special investigating panel to hear and decide the instant case in accordance with the Rules of Practice and Procedure Before the Prosecution and Enforcement Department (PED), Securities and Exchange Commission, to be composed of Attys. James K. Abugan, Medardo Devera (Prosecution and Enforcement Department), and Jose Aquino (Brokers and Exchanges Department), which is hereby directed to expeditiously resolve the case by conducting continuous hearings, if possible.
2. To recall the show cause orders dated September 19, 1994 requiring the respondents to appear and show cause why no administrative, civil or criminal sanctions should be imposed on them.
3. To deny the Motion for Continuance for lack of merit.

Respondents filed an Omnibus Motion for Partial Reconsideration,<sup>[13]</sup> questioning the creation of the special investigating panel to hear the case and the denial of the Motion for Continuance. The SEC denied reconsideration in its Omnibus Order dated 30 March 1995.<sup>[14]</sup>

The respondents filed a petition before the Court of Appeals docketed as C.A.-G.R. SP No. 37036, questioning the Omnibus Orders dated 25 January 1995 and 30 March 1995.<sup>[15]</sup> During the proceedings before the Court of Appeals, respondents filed a Supplemental Motion<sup>[16]</sup> dated 16 May 1995, wherein they prayed for the issuance of a writ of preliminary injunction enjoining the SEC and its agents from investigating and proceeding with the hearing of the case against respondents herein. On 5 May 1995, the Court of Appeals granted their motion and issued a writ of preliminary injunction, which effectively enjoined the SEC from filing any criminal, civil or administrative case against the respondents herein.<sup>[17]</sup>

On 23 October 1995, the SEC filed a Motion for Leave to Quash SEC Omnibus Orders so that the case may be investigated by the PED in accordance with the SEC Rules and Presidential Decree No. 902-A, and not by the special body whose creation the SEC had earlier ordered.<sup>[18]</sup>

The Court of Appeals promulgated a Decision<sup>[19]</sup> on 20 August 1998. It determined that there were no implementing rules and regulations regarding disclosure, insider trading, or any of the provisions of the Revised Securities Acts which the respondents allegedly violated. The Court of Appeals likewise noted that it found no statutory authority for the SEC to initiate and file any suit for civil liability under Sections 8, 30 and 36 of the Revised Securities Act. Thus, it ruled that no civil, criminal or administrative proceedings may possibly be held against the respondents without violating their rights to due process and equal protection. It further resolved that absent any implementing rules, the SEC cannot be allowed to quash the assailed Omnibus Orders for the sole purpose of re-filing the same case against the respondents.<sup>[20]</sup>

The Court of Appeals further decided that the Rules of Practice and Procedure Before the PED, which took effect on 14 April 1990, did not comply with the statutory

requirements contained in the Administrative Code of 1997. Section 8, Rule V of the Rules of Practice and Procedure Before the PED affords a party the right to be present but without the right to cross-examine witnesses presented against him, in violation of Section 12(3), Chapter 3, Book VII of the Administrative Code.<sup>[21]</sup>

In the dispositive portion of its Decision, dated 20 August 1998, the Court of Appeals ruled that<sup>[22]</sup>:

**WHEREFORE**, [herein petitioner SEC's] Motion for Leave to Quash SEC Omnibus Orders is hereby DENIED. The petition for certiorari, prohibition and mandamus is GRANTED. Consequently, all proceedings taken against [herein respondents] in this case, including the Omnibus Orders of January 25, 1995 and March 30, 1995 are declared null and void. **The writ of preliminary injunction is hereby made permanent and, accordingly, [SEC] is hereby prohibited from taking cognizance or initiating any action**, be they civil, criminal, or administrative against [respondents] with respect to Sections 8 (Procedure for Registration), 30 (Insider's duty to disclose when trading) and 36 (Directors, Officers and Principal Stockholders) in relation to Sections 46 (Administrative sanctions) 56 (Penalties) 44 (Liabilities of Controlling persons) and 45 (Investigations, injunctions and prosecution of offenses) of the Revised Securities Act and Section 144 (Violations of the Code) of the Corporation Code. (Emphasis provided.)

The SEC filed a Motion for Reconsideration, which the Court of Appeals denied in a Resolution<sup>[23]</sup> issued on 30 September 1998.

Hence, the present petition, which relies on the following grounds<sup>[24]</sup>:

#### I

THE COURT OF APPEALS ERRED WHEN IT DENIED PETITIONER'S MOTION FOR LEAVE TO QUASH THE ASSAILED SEC OMNIBUS ORDERS DATED JANUARY 25 AND MARCH 30, 1995.

#### II

THE COURT OF APPEALS ERRED WHEN IT RULED THAT THERE IS NO STATUTORY AUTHORITY WHATSOEVER FOR PETITIONER SEC TO INITIATE AND FILE ANY SUIT BE THEY CIVIL, CRIMINAL OR ADMINISTRATIVE AGAINST RESPONDENT CORPORATION AND ITS DIRECTORS WITH RESPECT TO SECTION 30 (INSIDER'S DUTY TO DISCLOSED [sic] WHEN TRADING) AND 36 (DIRECTORS OFFICERS AND PRINCIPAL STOCKHOLDERS) OF THE REVISED SECURITIES ACT; AND

#### III

THE COURT OF APPEALS ERRED WHEN IT RULED THAT RULES OF PRACTICE AND PROSECUTION BEFORE THE PED AND THE SICD RULES OF PROCEDURE ON ADMINISTRATIVE ACTIONS/PROCEEDINGS<sup>[25]</sup> ARE INVALID AS THEY FAIL TO COMPLY WITH THE STATUTORY REQUIREMENTS CONTAINED IN THE ADMINISTRATIVE CODE OF 1987.

The petition is impressed with merit.

Before discussing the merits of this case, it should be noted that while this case was pending in this Court, Republic Act No. 8799, otherwise known as the Securities Regulation Code, took effect on 8 August 2000. Section 8 of Presidential Decree No. 902-A, as amended, which created the PED, was already repealed as provided for in Section 76 of the Securities Regulation Code:

SEC. 76. *Repealing Clause.* - The Revised Securities Act (Batas Pambansa Blg. 178), as amended, in its entirety, and Sections 2, 4 and 8 of Presidential Decree 902-A, as amended, are hereby repealed. All other laws, orders, rules and regulations, or parts thereof, inconsistent with any provision of this Code are hereby repealed or modified accordingly.

Thus, under the new law, the PED has been abolished, and the Securities Regulation Code has taken the place of the Revised Securities Act.

The Court now proceeds with a discussion of the present case.

***I. Sections 8, 30 and 36 of the Revised Securities Act do not require the enactment of implementing rules to make them binding and effective.***

The Court of Appeals ruled that absent any implementing rules for Sections 8, 30 and 36 of the Revised Securities Act, no civil, criminal or administrative actions can possibly be had against the respondents without violating their right to due process and equal protection, citing as its basis the case *Yick Wo v. Hopkins*.<sup>[26]</sup> This is untenable.

In the absence of any constitutional or statutory infirmity, which may concern Sections 30 and 36 of the Revised Securities Act, this Court upholds these provisions as legal and binding. It is well settled that every law has in its favor the presumption of validity. Unless and until a specific provision of the law is declared invalid and unconstitutional, the same is valid and binding for all intents and purposes.<sup>[27]</sup> The mere absence of implementing rules cannot effectively invalidate provisions of law, where a reasonable construction that will support the law may be given. In *People v. Rosenthal*,<sup>[28]</sup> this Court ruled that:

In this connection we cannot pretermitt reference to the rule that "legislation should not be held invalid on the ground of uncertainty if susceptible of any reasonable construction that will support and give it effect. An Act will not be declared inoperative and ineffectual on the ground that it furnishes no adequate means to secure the purpose for which it is passed, if men of common sense and reason can devise and provide the means, and all the instrumentalities necessary for its execution are within the reach of those intrusted therewith." (25 R.C.L., pp. 810, 811)

In *Garcia v. Executive Secretary*,<sup>[29]</sup> the Court underlined the importance of the presumption of validity of laws and the careful consideration with which the judiciary strikes down as invalid acts of the legislature: