

SECOND DIVISION

[G.R. NO. 163511, June 30, 2006]

LEE HIONG WEE, PETITIONER, VS. DEE PING WEE AND MARINA U. TAN, RESPONDENTS.

DECISION

GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner Lee Hiong Wee assails and seeks the nullification of the Decision^[1] dated May 14, 2004 of the Court of Appeals (CA) in CA- G.R. SP No. 82569, declaring null and void the Order^[2] dated March 3, 2004 of the Regional Trial Court (RTC) of Imus, Cavite, Branch 22, in SEC Case No. 029-03.

The facts:

At the center of the controversy is the feud between two (2) warring groups of stockholders for the control and management of Rico Philippines Industrial Corporation (RPIC), a domestic corporation engaged in seaweeds export business. The corporate by-laws provides for the holding of a regular annual stockholders' meeting on the first Friday of May each year.

Records show that from the time RPIC started business operations following its incorporation on November 15, 1990, the family of petitioner Lee Hiong Wee had been managing and exercising control of the firm, petitioner having, thru the years, been its president and chairman of the board, of which his wife, Rosalinda, was also a member.

For brevity, Lee Hiong Wee and his family members and/or allies in RPIC shall hereinafter be referred to as the **Lee Hiong group**.

Evidently, the foregoing close family management set-up did not sit well for a number of RPIC stockholders. For, sometime in July 2003 a group led by Mario T. Tan, husband (now deceased) of respondent Marina Tan, and Dee Ping Wee (hereafter the **Dee Ping group**), filed with the Securities and Exchange Commission (SEC) a *Petition* praying for the holding of stockholders' meeting, it appearing that no annual stockholders' meeting had been held by the corporation as mandated under its by-laws.

In an Order dated September 29, 2003, the SEC granted the petition and accordingly directed the corporation's president, or, in his default, Mario Tan or Dee Ping Wee, to call a stockholders' meeting not later than October 30, 2003.

After due notice, a stockholders' meeting was held on October 9, 2003 with 68.22% shares in attendance. The meeting resulted in the election of a new set of directors

the majority of which belonged to or identified with the Dee Ping group. While the spouses Lee Hiong Wee and Rosalinda retained their seats in the board, the new board replaced Lee Hiong Wee as corporate president and board chairman.

Among the new board's first acts was the passing of a resolution designating an officer-in-charge for RPIC's plant.

On October 14, 2003, in the RTC of Imus, Cavite, the Lee Hiong group filed against the Dee Ping group a *Complaint*. Thereat docketed as **SEC Case No. 029-03** and raffled to Branch 21 of the court then presided by Judge Norberto J. Quisumbing, Jr., the complaint sought to nullify the SEC-ordained October 9, 2003 stockholders' meeting, including the election of a new board and the organizational changes undertaken by the latter. On the same day, Judge Quisumbing issued a temporary restraining order (TRO) enjoining the Dee Ping group from assuming the functions of the board of directors or officers of RPIC and to respect the *status quo* prevailing prior to October 9, 2003.^[3]

The following events then transpired:

1. The spouses Mario Tan and Marina Tan filed with the CA a petition for certiorari with prayer for injunctive relief to restrain the Lee Hiong group from implementing, and eventually to nullify, the TRO issued by Judge Quisumbing. Docketed as **CA-G.R. SP No. 79988**, this petition landed to the CA's **Fifteenth Division**.
2. Pending resolution of CA-G.R. SP No. 79988, Judge Quisumbing, upon motion of Marina Tan, inhibited himself from SEC Case No. 029-03. He was replaced by pairing Judge Lucenito Tagle of Branch 20.
3. On November 24, 2003, or after the lapse of the 20-day TRO issued by Judge Quisumbing, the Lee Hiong group also sought Judge Tagle's inhibition.
4. On February 19, 2004, at which time the Quisumbing TRO had already lapsed, the CA (15th Division) promulgated its decision in CA-G.R. SP No. 79988, pertinently disposing as follows:

1. xxx xxx xxx;

2. SEC Case No. 029-03 is ordered to be re-raffled ... to the RTC Judges of Imus, Cavite excepting therefrom Judges Norberto Quisumbing, Jr., and Lucenito Tagle. xxx;

3. The court *a quo* is directed to conduct ... a physical inventory of all appurtenant machinery, stocks and goods ... at the subject factory plant and to devise ways and means of regulating or determining the necessity of withdrawal of stocks, goods and finished products, if any, from the factory plant with the end in view of protecting the interests of both parties and preserving the properties of the corporation.

SO ORDERED.

5. On March 3, 2004, Judge Cesar A. Mangrobang of Branch 22, the only remaining Imus, Cavite RTC judge after the recusals of Judges Quisumbing and Tagle, issued a *Writ of Preliminary Mandatory Injunction* mandating, *inter alia*, the following:

- a. For Defendants [Dee Ping group] ..., [to] immediately cease and desist from discharging the functions of either as directors of the board or officers of [RPIC] and ... ordering the parties to revert to their *status quo* prior to October 9, 2003 with respect to their titles and positions in the Corporation and for third parties ... to transact only with the Plaintiffs [Lee Hiong group];
- b. For Defendants to deliver to the Plaintiffs the physical possession and actual control of the plant premises of [RPIC] located at the People's Technology Complex, Carmona, Cavite, immediately upon receipt hereof and without any further delay;
- c. For the Philippine National Police (PNP) to assist ... in enforcing this order and the ancillary writ ...;

Lastly, both parties are ordered to submit ... a list of their representatives when this Court shall conduct an inventory of all the plant assets, etc. and a proposed scheme of regulating and determining the necessity of withdrawal of stock goods and finished products, if any, from the factory plant for the protection of their interests and preserving the properties of the corporation. xxx. (Words in brackets added).

6. Subsequently, Dee Ping Wee and Marina Tan went to the CA *via* a petition for certiorari and prohibition to nullify Judge Mangrobang's order, with additional prayer for a TRO to enjoin Judge Mangrobang from implementing his Order and from proceeding with SEC Case No. 029-03.

This petition was docketed as **CA-G.R. SP No. 82569** which landed to the CA's **Second Division**.

Contemporaneously, Marina Tan of the Dee Ping Wee group filed in CA-G.R. SP No. 79988, then with the CA's Fifteenth Division, a *Motion for Reconsideration* of its Decision dated February 19, 2004, claiming, among other things, that the appellate court made certain findings that are misleading and inaccurate.

7. Meanwhile, Sheriff Edgar Bermudez, in his *Report* dated March 9, 2004, informed the RTC of the partial satisfaction of the writ of preliminary mandatory injunction issued by Judge Mangrobang in SEC Case No. 029-03.

8. On March 15, 2004, the CA (Second Division) promulgated, in CA-G.R. SP No. 82569, a *Resolution* adverse to the Lee Hiong group, thereby virtually lifting the writ of preliminary mandatory injunction issued by Judge Mangrobang. In its pertinent part, the Resolution dispositively reads:

ACCORDINGLY, respondent Judge [Mangrobang], private respondents and all persons acting under his authority or behalf, are hereby directed to **CEASE and DESIST** from continuously enforcing the **WRIT OF PRELIMINARY MANDATORY INJUNCTION** dated March 4, 2004 thus

restoring the *status quo ante* as earlier stated, in accordance with the Supreme Court ruling in **JOSE MIRANDA vs. THE HON. SANDIGANBAYAN**, [et al.] ... and from conducting any further proceedings in **SEC Case No. 029-03** pending resolution of the instant petition and/or the application for the issuance of a writ of preliminary injunction. (Words in brackets added; Emphasis in the original).

9. On March 16, 2004, the Lee Hiong group filed in CA- G.R. SP No. 82569 an *Emergency Omnibus Motion to Avoid Bloodshed*, [4] therein praying that the CA (a) clarify the meaning of the TRO it issued on March 15, 2004 or recalling it, and (b) either dismiss the case for forum-shopping or order its consolidation with CA-G.R. SP No. 79988. This was followed by an *Urgent Motion for Inhibition* praying for the voluntary inhibition of the Second Division or the consolidation of the case with CA-G.R. SP No. 79988.
10. On April 2, 2004, the CA's Second Division, thru Associate Justice Regalado E. Maambong, issued a *Resolution* [5] in CA- G.R. SP No. 82569, denying the Lee Hiong group's aforementioned omnibus motion to avert bloodshed and the motion to inhibit.

Shortly thereafter, it would appear that Justice Maambong was transferred to the CA's First Division.

11. In the meantime, on May 7, 2004, the corporation held its regular annual stockholders' meeting, followed by the election of a new set of directors, which now excluded the spouses Lee Hiong Wee and Rosalinda. [6]
12. On May 14, 2004, in CA-G.R. SP No. 82569, the CA, thru its Former Second Division, rendered the herein assailed *Decision* nullifying, as having been issued in grave abuse of discretion, the writ of preliminary mandatory injunction issued by Judge Mangrobang in SEC Case No. 029-03 against Dee Ping Wee, *et al.*, and further disposing as follows:

ACCORDINGLY, a prohibitory as well as mandatory injunction is issued against respondent Hon. Cesar A. Mangrobang, in his capacity as the Presiding Judge of the [RTC] of Imus, Cavite, Branch 22, private respondents Lee Hiong Wee, [et al.] and all persons acting under their authority or behalf who are hereby directed to permanently cease and desist from enforcing the writ of preliminary mandatory injunction, dated March 4, 2004, issued by the respondent Judge.

Unless SEC Case No. 029-03 has been rendered moot by subsequent events, and consistent with the resolution of the Special Fifth (sic) Division of this Court, dated 19 February 2004, the [RTC] of Imus, Cavite, Branch 22, is directed to proceed with the hearing of said case with deliberate dispatch, in accordance with the Interim Rules Governing Intra-Corporate Controversies (A.M. No. 01-2-01-SC) and accordingly decide the case based on the evidence and applicable jurisprudence. [7]

SO ORDERED. (Words in brackets added.)

Hence, petitioner's present recourse urging the Court to issue a TRO to restrain implementation of the assailed May 14, 2004 Decision of the CA (Second Division) and the eventual nullification of the same decision. Petitioner sets forth the nature and grounds of the instant petition, to wit:

This is an appeal by certiorari pursuant to Rule 45. It is within the guidelines of Section 6 of Rule 45 because the Second Division of the Court of Appeals *a quo* has decided to take cognizance of a legal controversy already pending in the Fifteenth Division and this is "*not in accord with law or with the applicable decision of the Supreme Court*" and, moreover, the Second Division by its action "*has so far departed from the accepted and unusual course of judicial proceeding . . .*."

With all due respect, the Second Division is subject to a Rule 45 attack because said division acted with manifest partiality (a) in its undue haste (based upon unquestioned facts on the record) in granting and ordering the enforcement of a TRO...;(b) in its issuing a TRO on a moot & academic matter as unquestioned facts on record will show; (c) in its ratio decidendi which, with all due respect, appears to have been contrived; (d) in its acting without jurisdiction, and in its total absence of explanation on why it acted on a case which had been *litis pendentia* at the Fifteenth Division and rulings by two RTC Judges that the respondents had acquired possession of the property through violence and retained possession of the property through violence, ignoring even legitimate orders of the lower court. (Underscoring in the original, Emphasis supplied).

The recourse lacks merit.

To begin with, the petition did not limit itself to raising only questions of law, overflowing, as it were, with factual issues. It bears stressing that petitioner came to this Court on appeal by certiorari under Rule 45 of the Rules of Court, a recourse strictly circumscribed by the express limitation that "[it] *shall raise only questions of law which must be distinctly set forth [in the petition].*"^[8]

From a cursory perusal of the petition and its other supporting pleadings, it is fairly obvious that the issues raised call for an extensive excavation of factual matters. If only on this score alone, the Court can verily deny due course thereto. However, in the interest of substantial justice, the Court shall nonetheless resolve on the merits each ground of petitioner's lament.

On ground "**(a)**," referring to the alleged "undue haste" which allegedly characterized the grant by the CA on March 15, 2004^[9] of a TRO, petitioner states:

Unusual haste

7. The TRO issued by the Second Division in CA GR SP No. 82569 was promulgated in the afternoon of March 15, 2004 and immediately delivered to the RTC of Imus, Cavite which received it at approximately 4:55 o'clock in the afternoon. As stated in the Sheriff 's Return ..., the Sheriff and the process server of the CA proceeded at 8:35 o'clock in the evening directly to the [RPIC] plant in Carmona, Cavite for the purpose of serving process and