

## SECOND DIVISION

[ G.R. No. 112337, January 25, 1996 ]

**DR. ANTONIO L. AZORES, PETITIONER, VS. SECURITIES AND EXCHANGE COMMISSION AND PHILIPPINE COLUMBIAN ASSOCIATION, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

Petitioner was a member of private respondent Philippine Columbian Association (PCA), a non-stock corporation organized in 1907 under Philippine laws. For valuable consideration, he was issued in 1952 Proprietary Membership Certificate No. 094 and, in 1954, Membership Certificate No. 282.

On June 17, 1956, petitioner wrote the Treasurer of the PCA, requesting change in his membership status from resident to non-resident, in view of the fact that he had transferred residence to San Pablo. The records do not show whether the request was granted, but petitioner claims that the PCA later billed him as a non-resident member.<sup>[1]</sup>

In 1966 petitioner immigrated to the United States to work as Attorney-Adviser in the U.S. Department of Commerce. Because the position was reserved for American citizens, petitioner obtained American citizenship. Petitioner simply stopped paying membership dues without informing the PCA of his change of residence and citizenship.

After his retirement in 1981, petitioner came back to the Philippines. On June 30, 1981, he inquired from the PCA President, Dr. Jose Villanueva, how he could reactivate his membership and how much he could sell one of his shares. He was told by the Chairman of the Membership Committee, Lino M. Patajo, that he had to pay all dues, which active members had to pay, during the time he was out of the country. With respect to the second question, petitioner was informed that the transfer of share was a matter between buyer and seller.<sup>[2]</sup>

Petitioner objected to the condition for the reactivation of his membership, alleging that although he was remiss in not informing the PCA of his change of residence in 1966, it was not fair that he should be required to pay the amount due active members since he was out of the country and did not use PCA facilities during his absence. In response, Ramon Casanova, Membership Committee Chairman, informed petitioner that in 1977 all certificates of membership had been recalled for replacement and that certificates not surrendered, including those of petitioner, had been cancelled. As a gesture of goodwill, however, Casanova offered to recommend to the PCA Board of Directors the reactivation of petitioner's membership on condition (1) that only one of his shares would be validated and (2) that petitioner pay one month due for every year of absence from the Philippines.<sup>[3]</sup>

Petitioner replied that he was willing to accept the second condition but considered the first unfair, "there being no legal justification for the forfeiture of his second share," since he had allegedly paid for the same and the PCA was not bankrupt. Petitioner insisted on the replacement of his two certificates, but the PCA Board of Directors, in a meeting held on July 15, 1983, stood pat on its original proposal. [4]On February 14, 1991 petitioner filed with the Securities and Exchange Commission a complaint, praying for the replacement of his membership certificates and his reinstatement as an active member upon payment of one month due for every year of absence from the Philippines and for damages.

Petitioner's complaint was referred to a Hearing Officer. After the parties had submitted their pleadings and evidence, Hearing Officer Alberto P. Atas rendered on August 5, 1992 a decision sustaining the PCA. [5]Petitioner moved for a reconsideration, but his motion was denied in an order dated October 15, 1992. On October 20, 1992, he filed a Notice and Memorandum of Appeal with the Hearing Officer. His appeal was, however, dismissed on November 4, 1992 for having been filed out of time. Petitioner filed on November 20, 1992 a motion for reconsideration of the denial of his appeal. As his motion was denied, petitioner filed the present petition for certiorari.

Petitioner contends that the SEC gravely abused its discretion in dismissing his appeal and that, as a consequence, the SEC committed the following errors:

1. The SEC failed to decide the following questions:
  - a. Whether private respondent has the right to deprive complainant of the enjoyment of his membership privileges indefinitely for non-payment of dues without selling the latter's membership certificates at public auction in direct contravention of respondent's own corporate by-laws.
  - b. Whether private respondent is liable to pay damages to complainant for its malicious refusal and failure to bill him as a non-resident member thereby not only depriving him of the right to enjoy membership privileges, but resulting inevitably in moral damages suffered by him.
2. The SEC disregarded material and relevant facts duly established and proved.
3. The SEC sanctioned and approved a condition imposed by the PCA which is against the law, morals, and public policy.
4. The SEC sanctioned and approved a violation of private respondent's own corporate by-laws.
5. The SEC decided the case contrary to the applicable decisions of the Supreme Court.

Petitioner's contention has no merit.