

Title

****Bank of America NT & SA vs. Court of Appeals, et al.****

Facts

****Formation and Agreement:****

- On March 25, 1974, the Insular Bank of Asia and America (IBAA) was formed through an agreement between First Insular Bank of Cebu, Bank of Asia, and Bank of America NT & SA (BA). Dai-Ichi Kangyo Bank acquired 10% of IBAA's capital stock shortly afterward.

****Class Action Initiation:****

- On July 19, 1978, a class action was initiated in the Securities and Exchange Commission (SEC) by Potenciano Ilusorio and others (the "Asia Group"), stockholders of IBAA, against BA and Andrew Gotianun (collectively, Gotianun and his relatives were referred to as the "Family Savings Bank Group").
- BA was accused of violating the agreement which prohibited selling shares without offering them first to other parties in the agreement.
- Gotianun and Family Savings Bank Group were accused of inducing BA to violate this agreement.

****SEC Proceedings and Orders:****

- The SEC rendered several contentious orders such as prohibiting IBAA's Vice-Chairman from exercising chairman functions (Order dated September 17, 1979), issuing a temporary restraining order ex parte preventing the enforcement of the disputed sale (Order dated July 19, 1978), and abolishing the IBAA board to form a management committee (Order dated December 17, 1979). These orders led to special civil actions in this Court.

****Amicable Settlement:****

- On September 25, 1985, a joint motion to dismiss claims against Andrew Gotianun and his counterclaims was filed by the plaintiffs and Gotianun, which the SEC granted. This case continued just between the Asia Group and BA.

****Court of Appeals Decision:****

- BA's request to invalidate the joint SEC's dismissal orders was rejected by the Court of Appeals, which stated BA should have appealed directly to the SEC en banc rather than filing for certiorari, among other grounds.

Issues

1. ****Propriety of Certiorari:**** Whether certiorari is an appropriate remedy for BA rather

than an appeal against the SEC's orders.

2. **Indispensable Parties and Joint Liability:** Whether Gotianun and BA were sued on common grounds and, therefore, how the dismissal against Gotianun affects the lawsuit against BA.

3. **Laches and Procedural Posture:** Whether BA's delay in filing the petition amounts to laches.

Court's Decision

Certiorari Inapplicability:

- The Supreme Court held that certiorari cannot replace an appeal when an appeal remedy was available but missed. Special civil action for certiorari under Rule 65 is appropriate only when there is no appeal or another adequate remedy. BA failed to appeal to the SEC en banc.

Final Order and Separate Causes:

- An order dismissing a case as it relates to certain parties is recognized under Section 4, Rule 36, and sufficiently final for those parties. The Supreme Court emphasized that the causes of action against BA and Gotianun were distinct. Gotianun's awareness of the right of first refusal dictated his liability, separate from BA's breach of the agreement.

Laches Confirmed:

- The Court noted BA's delay (107 days) in challenging the SEC's dismissal, establishing laches and barring a special civil action.

Plaintiff's Prerogative:

- Plaintiffs may choose who to continue their case against, provided such decision doesn't entail dismissing indispensable parties, which did not apply as between Gotianun and BA due to their separate legal grounds.

Doctrine

- **Several Judgments (Rule 36, Section 4):** Judges can issue separate judgments against different defendants when proper.

- **Appeal vs. Certiorari (Rule 65):** Certiorari cannot substitute an appeal unless appeal is unavailable or inadequate.

Class Notes

- **Several Judgments (Rule 36, Section 4):** Judgment can be rendered against one or more defendants, leaving actions against others.

- **Certiorari and Appeal (Rule 65):** Certiorari applies only without appeal or other remedies. Certiorari cannot replace a lost appeal.
- **Laches:** Delay in filing actions can bar claims.
- **Indispensable Parties:** Dismissals not involving indispensable parties can proceed.

Historical Background

This case highlights issues of corporate governance, adherence to memoranda of agreements, and shares acquisition disputes in the post-World War II Philippine financial sector, reflecting the period's financial reforms and modernization efforts.