

**PHILIPPINE FIRST INSURANCE COMPANY, INC.,
PLAINTIFF-APPELLANT, VS. MARIA CARMEN HARTIGAN, CGH, AND
O. ENGKEE, DEFENDANTS-APPELLEES.**

G.R. No. L-26370. July 31, 1970

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from the decision dated 6 October 1962 of the Court of First Instance of Manila - dismissing the action in its Civil Case No. 48925 - brought by the herein plaintiff-appellant Philippine First Insurance Co., Inc. to the Court of Appeals which Court, upon finding that the said appeal raises purely questions of law, declared itself without jurisdiction to entertain the same and, in its resolution dated 15 July 1966, certified the records thereof to this Court for proper determination.

The antecedent facts are set forth in the pertinent portions of the resolution of the Court of Appeals referred to as follows:

"According to the complaint, plaintiff was originally organized as an insurance corporation under the name of 'The Yek Tong Lin Fire and Marine Insurance Co., Ltd.'. The articles of incorporation originally presented before the Security and Exchange Commissioner and acknowledged before Notary Public Mr. E. D. Ignacio on June 1, 1953 state that the name of the corporation was 'The Yek Tong Lin Fire and Marine Insurance Co., Ltd.'. On May 26, 1961 the articles of incorporation were amended pursuant to a certificate of the Board of Directors dated March 8, 1961 changing the name of the corporation to 'Philippine First Insurance Co., Inc.'.

"The complaint alleges that the plain-tiff Philippine First Insurance Co., Inc., doing business under the name of 'The Yek Tong Lin Fire and Marine Insurance Co., Ltd.' signed as co-maker together with defendant Maria Carmen Hartigan, CGH, a promissory note for P5,000.00 in favor of the China Banking Corporation payable within 30 days after the date of the promissory note with the usual banking interest; that the plaintiff agreed to act as such co-maker of the promissory note upon the application of the defendant Maria Carmen Hartigan, CGH, who together with Antonio F. Chua and Chang Ka Fu, signed an indemnity agreement in favor of the plaintiff, undertaking jointly and severally, to pay the plaintiff damages, losses or expenses of whatever kind or nature, including attorney's fees and legal costs, which the plaintiff may sustain as a result of the execution by the plaintiff as co-maker of Maria Carmen Hartigan, CGH, of the promissory note above-referred to; that as a result of the execution of the promissory note by the plaintiff and Maria Carmen Hartigan, CGH, the China Banking Corporation delivered to the defendant Maria Carmen Hartigan, CGH, the sum of P5,000.00 which said defendant failed to pay in full, such that on August 31, 1961 the same was renewed for P4,500.00 payable within 30 days thereof and as of November 27, 1961 there was due on account of the promissory note the sum of P4,559.50 including interest. The complaint ends with a prayer for judgment against the defendants, jointly and severally, for the sum of P4, 559.50 with interest at the rate of 12% per annum from November 23, 1961 plus P911.90 by way of attorney's fees and costs.

"Although O. Engkee was made as party defendant in the caption of the complaint, his name is not mentioned in the body of said complaint. However, his name appears in the Annex A attached to the complaint which is

the counter indemnity agreement supposed to have been signed according to the complaint by Maria Carmen Hartigan, CGH, Antonio F. Chua and Chang Ka Fu.

"In their answer the defendants deny the allegation that the plaintiff formerly conducted business under the name and style of 'The Yek Tong Lin Fire and Marine Insurance Co., Ltd.'. They admit the execution of the indemnity agreement but they claim 'that they signed said agreement in favor of the 'Yek Tong Lin Fire and Marine Insurance Co., Ltd.' and not in favor of the plaintiff. They likewise admit that they failed to pay the promissory note when it fell due but they allege that since their obligation with the China Banking Corporation based on the promissory note still subsists, the surety who co-signed the promissory note is not entitled to collect the value thereof from the defendants otherwise they will be liable for double the amount of their obligation, there being no allegation that the surety has paid the obligation to the creditor.

"By way of special defense, defendants claim that there is no privity of contract between the plaintiff and the defendants and consequently, the plaintiff has no cause of action against them, considering that the complaint does not allege that the plaintiff and the 'Yak Tong Lin Fire and Marine Insurance Co., Ltd.' are one and the same or that the plaintiff has acquired the rights of the latter. The parties after the admission of Exhibit A which is the amended articles of incorporation and Exhibit 1 which is a demand letter dated August 16, 1962 signed by the manager of the loans and discount department of the China Banking Corporation showing that the promissory note up to said date in the sum of P4,500.00 was still unpaid, submitted the case for decision based on the pleadings."

Under date of 6 October 1962, the Court of First Instance of Manila rendered the decision appealed. It dismissed the action with costs against the plaintiff Philippine First Insurance Co., Inc., reasoning as follows:

"* * * With these undisputed facts in mind, the parties correctly concluded that the issues for resolution by this Court are as follows:

"(a) Whether or not the plaintiff is the real party in interest that may validly sue on the indemnity agreement signed by the defendants and the Yek Tong Lin Fire & Marine Insurance Co., Ltd. (Annex A to plaintiff's complaint); and

"(b) Whether or not a suit for indemnity or reimbursement may under said indemnity agreement prosper without plaintiff having yet paid the amount due under said promissory note.

"In the first place, the change of name of the Yek Tong Lin Fire & Marine Insurance Co., Ltd. to the Philippine First Insurance Co., Inc. is of dubious validity. Such change of name in effect dissolved the original corporation by a process of dissolution not authorized by our corporation law (see Secs. 62 and 67, inclusive, of our Corporation Law). Moreover, said change of name, amounting to a dissolution of the Yek Tong Lin Fire & Marine Insurance Co., Ltd., does not appear to have been effected with the written note or assent of stockholders representing at least two-thirds of the subscribed capital stock of the corporation, a voting proportion required not only for the dissolution of a corporation but also for any amendment of its articles of incorporation (Secs. 18 and 62, Corporation Law). Furthermore, such change of corporate name appears to be against public policy and may be effected only by express authority of law (*Red Line Transportation Co. v. Rural Transit Co., Ltd.*, 60 Phil. 549, 555; *Cincinnati Cooperage Co., Ltd. vs. Vate*, 26 SW 538, 539; *Pilsen Brewing Co. vs. Wallace*, 125 NE 714), but there is nothing in our corporation law authorizing the change of corporate name in this jurisdiction.

"In the second place, assuming that the change of name of the Yek Tong Lin Fire & Marine Insurance Co., Ltd. to Philippine First Insurance Co., Inc., as accomplished on March 8, 1961 is valid, that would mean that the original corporation, the Yek Tong Lin Fire & Marine Insurance Co., Ltd., became dissolved and of no further existence since March 8, 1961, so that on May 15, 1961, the date the indemnity agreement, Annex A, was executed, said original corporation had no more power to enter into any agreement with the defendants, and the agreement entered into by it was ineffective for lack of capacity of said dissolved corporation to enter

into said agreement. At any rate, even if we hold that said change of name is valid, the fact remains that there is no evidence showing that the new entity, the Philippine First Insurance Co., Inc. has, with the consent of the original parties, assumed the obligations or was assigned the rights of action in the original corporation, the Yek Tong Lin Fire & Marine Insurance Co., Ltd. In other words, there is no evidence of conventional subroga-tion of the plaintiffs in the rights of the Yek Tong Line Fire & Marine Insurance Co., Ltd. under said indemnity agreement (Arts. 1300, 1301, New Civil Code). Without such subrogation or assignment of rights, the herein plaintiff has no cause of action against the defendants, and is, therefore, not the right party in interest as plaintiff.

"Last, but not least, assuming that the said change of name was legal and operated to dissolve the original corporation, the dissolved corporation, must pursuant to Sec. 77 of our corporation law, be deemed as continuing as a body corporate for three (3) years from March 8, 1961 for the purpose of prosecuting and defending suits. It is, therefore, the Yek Tong Lin Fire & Marine Insurance Co., Ltd. that is the proper party to sue the def-endants under said indemnity agreement up to March 8, 1964.

"Having arrived at the foregoing conclusions, this Court need not squarely pass upon issue (b) formulated above.

"WHEREFORE, plaintiff's action is hereby dismissed, with costs against the plaintiff."

In due time, the Philippine First Insurance Company, Inc. moved for reconsideration of the decision aforesaid, but said motion was denied on December 3, 1962 in an order worded thus:

"The motion for reconsideration, dated November 8, 1962, raises no new issue that we failed to consider in rendering our decision of October 6, 1962. However, it gives us an opportunity to amplify our decision as regards the question of change of name of a corporation in this jurisdiction.

"We find nothing in our Corporation Law authorizing a change of name of a corporation organized pursuant to its provisions. Sec. 18 of the Corporation Law authorizes, in our opinion, amendment to the Articles of Incorporation of a corporation only as to matters other than its corporate name. Once a corporation is organized in this jurisdiction by the execution and registration of its Articles of Incorporation, it shall continue to exist under its corporate name for the lifetime of its corporate existence fixed in its Articles of Incorporation, unless sooner legally dissolved (Sec. 11, Corp. Law). Significantly, change of name is not one of the methods of dissolution of corporations expressly authorized by our Corporation Law. Also significant is the fact that the power to change its corporate name is not one of the general powers conferred on corporations in this jurisdiction (Sec. 13, Corp. Law). The enumeration of corporate powers made in our Corporation Law implies the exclusion of all others (Thomas v. West Jersey R. Co., 101 U.S. 71, 25 L. ed. 950). It is obvious, in this connection, that change of name is not one of the powers necessary to the exercise of the powers conferred on corporations by said Sec. 13 (see Sec. 14, Corp. Law).

"To rule that Sec. 18 of our Corporation Law authorizes the change of name of a corporation by amendment of its Articles of Incorporation is to indulge in judicial legislation. We have examined the cases cited in Volume 13 of American Jurisprudence in support of the proposition that the general power to alter or amend the charter of a corporation necessarily includes the power to alter the name of a corporation, and find no justification for said conclusion arrived at by the editors of American Jurisprudence. On the contrary, the annotations in favor of plaintiff's view appear to have been based on decisions in cases where the statute itself expressly authorizes change of corporate name by amendment of its Articles of Incorporation. The correct rule in harmony with the provisions of our Corporation Law is well expressed in an English case as follows:

'After a company has been completely registered without defect or omission, so as to be incorporated by the name set forth in the deed of settlement, such incorporated company has not the power to change its name * * * Although the King by his prerogative might incorporate by a new name, and the newly named corporation might

retain former rights, and sometimes its former name also, * * * it never appears to be such an act as the corporation could do by itself, but required the same power as created the corporation. (Reg. v. Registrar of Joint Stock Cos. 10 Q.B. 839, 59 E.C.L. 839).'

The contrary view appears to represent the minority doctrine, judging from the annotations on decided cases on the matter.

"The movant invokes as persuasive precedent the action of the Securities Commissioner in tacitly approving the Amended Articles of Incorporation on May 26, 1961. We regret that we cannot in good conscience lend approval to this action of the Securities and Exchange Commissioner. We find no justification, legal, moral, or practical, for adhering to the view taken by the Securities and Exchange Commissioner that the name of a corporation in the Philippines may be changed by mere amendment of its Articles of Incorporation as to its corporate name. A change of corporate name would serve no useful purpose, but on the contrary would most probably cause confusion. Only a dubious purpose could inspire a change of a corporate name which, unlike a natural person's name, was chosen by the incorporators themselves; and our Courts should not lend their assistance to the accomplishment of dubious purposes.

"WHEREFORE, we hereby deny plaintiff's motion for reconsideration, dated November 8, 1962, for lack of merit."

In this appeal appellant contends that -

"I

"THE TRIAL COURT ERRED IN HOLDING THAT IN THIS JURISDICTION, THERE IS NOTHING IN OUR CORPORATION LAW AUTHORIZING THE CHANGE OF CORPORATE NAME;

"II

"THE TRIAL COURT ERRED IN DECLARING THAT A CHANGE OF CORPORATE NAME APPEARS TO BE AGAINST PUBLIC POLICY;

"III

"THE TRIAL COURT ERRED IN HOLDING THAT A CHANGE OF CORPORATE NAME HAS THE LEGAL EFFECT OF DISSOLVING THE ORIGINAL CORPORATION;

"IV

"THE TRIAL COURT ERRED IN HOLDING THAT THE CHANGE OF NAME OF THE YEK TONG LIN FIRE & MARINE INSURANCE CO., LTD. IS OF DUBIOUS VALIDITY;

"V

"THE TRIAL COURT ERRED IN HOLDING THAT THE APPELLANT HEREIN IS NOT THE RIGHT PARTY IN INTEREST TO SUE DEFENDANTS-APPELLEES;

"VI

"THE TRIAL COURT FINALLY ERRED IN DIS-MISSING THE COMPLAINT."

Appellant's position is correct; all the above assignments of error are well taken. The whole case, however, revolves around only one question. May a Philippine corporation change its name and still retain its original

personality and individuality as such?

The answer is not difficult to find. True, under Section 6 of the Corporation Law, the first thing required to be stated in the Articles of Incorporation of any corporation is its name, but it is only one among many matters equally if not more important, that must be stated therein. Thus, it is also required, for example, to state the number and names of and residences of the incorporators and the residence or location of the principal office of the corporation, its term of existence, the amount of its capital stock and the number of shares into which it is divided, etc., etc.

On the other hand, Section 18 explicitly permits the articles of incorporation to be amended thus:

"Sec. 18. - Any corporation may for legitimate corporate purpose or purposes, amend its articles of incorporation by a majority vote of its board of directors or trustees and the vote or written assent of two-thirds of its members, if it be a non-stock corporation or, if it be a stock corporation, by the vote or written assent of the stockholders representing at least two-thirds of the subscribed capital stock of the corporation: Provided, however, That if such amendment to the articles of incorporation should consist in extending the corporate existence or in any change in the rights of holders of shares of any class, or would authorize shares with preferences in any respect superior to those of outstanding shares of any class, or would restrict the rights of any stockholder, then any stockholder who did not vote for such corporate action may, within forty days after the date upon which such action was authorized, object thereto in writing and demand payment for his shares. If, after such a demand by a stockholder, the corporation and the stockholder cannot agree upon the value of his share or shares at the time such corporate action was authorized, such value shall be ascertained by three disinterested persons, one of whom shall be named by the stockholder, another by the corporation, and the third by the two thus chosen. The findings of the appraisers shall be final, and if their award is not paid by the corporation within thirty days after it is made, it may be recovered in an action by the stockholder against the corporation. Upon payment by the corporation to the stockholder of the agreed or awarded price of his share or shares, the stockholder shall forthwith transfer and assign the share or shares held by him as directed by the corporation: Provided, however, That their own shares of stock purchased or otherwise acquired by banks, trust companies, and insurance companies, should be disposed of within six months after acquiring title thereto.

"Unless and until such amendment to the articles of incorporation shall have been abandoned or the action rescinded, the stockholder making such demand in writing shall cease to be a stockholder and shall have no rights with respect to such shares, except the right to receive payment therefor as aforesaid.

"A stockholder shall not be entitled to payment for his shares under the provisions of this section unless the value of the corporate assets which would remain after such payment would be at least equal to the aggregate amount of its debts and liabilities and the aggregate par value and/or issued value of the remaining subscribed capital stock.

"A copy of the articles of incorporation as amended, duly certified to be correct by the president and the secretary of the corporation and a majority of the board of directors or trustees, shall be filed with the Securities and Exchange Commissioner, who shall attach the same to the original articles of incorporation, on file in his office. From the time of filing such copy of the amended articles of incorporation, the corporation shall have the same powers and it and the members or stockholders thereof shall thereafter be subject to the same liabilities as if such amendment had been embraced in the original articles of incorporation: Provided, however, that should the amendment consist in extending the corporate life, the extension shall not exceed 50 years in any one instance, Provided, further, That the original articles and amended articles together shall contain all provisions required by law to be set out in the articles of incorporation: And, provided, further, That nothing in this section shall be construed to authorize any corporation to increase or diminish its capital stock or so as to effect any rights or actions which accrued to others between the time of filing the original articles of incorporation and the filing of the amended articles.

"The Securities and Exchange Commissioner shall be entitled to collect and receive the sum of ten pesos for filing said copy of the amended articles of incorporation. Provided, however, That when the amendment Consists in extending the term of corporate existence, the Securities & Exchange Commissioner shall be entitled to collect and receive for the filing of its amended articles of incorporation the same fees collectible under existing law for the filing of articles of incorporation. The Securities & Exchange Commissioner shall not hereafter file any amendment to the articles of incorporation of any bank, banking institution, or building and loan association unless accompanied by a certificate of the Monetary Board (of the Central Bank) to the effect that such amendment is in accordance with law. (As further amended by Act No. 3610, Sec. 2 and Sec. 9, R.A. No. 337 and R.A. No. 3531.)"

It can be gleaned at once that this section does not only authorize corporations to amend their charter; it also lays down the procedure for such amendment; and, what is more relevant to the present discussion, it contains provisos restricting the power to amend when it comes to the term of their existence and the increase or decrease of the capital stock. There is no prohibition therein against the change of name. The inference is clear that such a change is allowed, for if the legislature had intended to enjoin corporations from changing names, it would have expressly stated so in this section or in any other provision of the law.

No doubt, "(the) name (of a corporation) is peculiarly important as necessary to the very existence of a corporation. The general rule as to corporations is that each corporation shall have a name by which it is to sue and be sued and do all legal acts. The name of a corporation in this respect designates the corporation in the same manner as the name of an individual designates the person." [1] Since an individual has the right to change his name under certain conditions, there is no compelling reason why a corporation may not enjoy the same right. There is nothing sacrosanct in a name when it comes to artificial beings. The sentimental considerations which individuals attach to their names are not present in corporations and partnerships. Of course, as in the case of an individual, such change may not be made exclusively by the corporation's own act. It has to follow the procedure prescribed by law for the purpose; and this is what is important and indispensably prescribed - strict adherence to such procedure.

Local well known corporation law commentators are unanimous in the view that a corporation may change its name by merely amending its charter in the manner prescribed by law. [2] American authorities which have persuasive force here in this regard because our corporation law is of American origin, the same being a sort of codification of American corporate law, [3] are of the same opinion.

"A general power to alter or amend the charter of a corporation necessarily includes the power to alter the name of the Corporation. *Fr. Pitt Bldg. etc., Assoc. v. Model Plan Bldg., etc., Assoc.*, 159 Pa. St. 308, 28 Atl. 215; *In re Fidelity Mut. Aid Assoc.*, 12 W.N.C. (Pa.) 271; *Excelsior Oil Co.*, 3 Pa. Co. Ct. 184; *Wetherill Steel Casting Co.*, 5 Pa. Co. Ct. 337.

x x x x x

"Under the General Laws of Rhode Island, c 176, sec. 7, relating to an increase of the capital stock of a corporation, it is provided that 'such agreement may be amended in any other particular, excepting as provided in the following section', which relates to a decrease of the capital stock. This section has been held to authorize a change in the name of a corporation. *Armington v. Palmer*, 21 R.I. 109, 42 Atl. 308, 43 L.R.A. 95, 79 Am. St. Rep. 786." (Vol. 19, *American and English Annotated Cases*, p. 1239.)

Fletcher, a standard authority on American and English corporation law also says:

"Statutes are to be found in the various jurisdictions dealing with the matter of change in corporate names. Such statutes have been subjected to judicial construction and have, in the main, been upheld as constitutional. In direct terms or by necessary implication, they authorize to adopt new names and prescribe the mode of

procedure for that purpose. The same steps must be taken under some statutes to effect a change in a corporate name, as when any other amendment of the corporate charter is sought x x x When the general law thus deals with the subject, a corporation can change its name only in the manner provided." (6Fletcher, Cyclopedia of the law of Private Corporations, 1968 Revises Volume, pp. 212-213.) [Underscoring Ours]

The learned trial judge held that the above-quoted propositions are not supported by the weight of authority because they are based on decisions in cases where the statutes expressly authorize change of corporate name by amendment of the articles of incorporation. We have carefully examined these authorities and We are satisfied of their relevance. Even Lord Denman who has been quoted by His Honor from *In Reg. v. Registrar of Joint Stock Cos.* 10, Q.B., 59 E.C.L. maintains merely that the change of its name "never appears to be such an act as the corporation could do for itself, but required the same power as created a corporation." What seems to have been overlooked, therefore, is that the procedure prescribed by Section 18 of our Corporation Law for the amendment of corporate charters is practically identical with that for the incorporation itself of a corporation.

In the appealed order of dismissal, the trial court made the observation that, according to this Court in *Red Line Transportation Co. v. Rural Transit Co. Ltd.*, 60 Phil. 549, 555, change of name of a corporation is against public policy. We must clarify that such is not the import of Our said decision. What this Court held in that case is simply that:

"We know of no law that empowers the Public Service Commission or any court in this jurisdiction to authorize one corporation to assume the name of another corporation as a trade name. Both the Rural Transit Company, Ltd., and the Bachrach Motor Co., Inc., are Philippine corporations and the very law of their creation and continued existence requires each to adopt and certify a distinctive name. The incorporators 'constitute a body politic and corporate under the name stated in the certificate.' (Section 11, Act No. 1459, as amended.) A corporation has the power 'of succession by its corporate name.' (Section 13, *ibid.*) The name of a corporation is therefore essential to its existence. It cannot change its name except in the manner provided by the statute. By that name alone is it authorized to transact business. The law gives a corporation no express or implied authority to assume another name that is unappropriated; still less that of another corporation, which is expressly set apart for it and protected by the law. If any corporation could assume at pleasure as an unregistered trade name the name of another corporation, this practice would result in confusion and open the door to frauds and evasions and difficulties of administration and supervision. The policy of the law as expressed in our corporation statute and the Code of Commerce is clearly against such a practice. (Cf. *Scarsdale Pub. Co.- Colonial Press vs. Carter*, 116 New York Supplement, 731; *Svenska Nat. F. i. C. vs. Swedish Nat. Assn.*, 205 Illinois [Appellate Courts], 428, 434.)"

In other words, what We have held to be contrary to public policy the use by one corporation of the name of another corporation as its trade name. We are certain no one will disagree that such an act can only "result in confusion and open the door to frauds and evasions and difficulties of administration and supervision." Surely, the *Red Line* case was not one of change of name.

Neither can We share the posture of His Honor that the change of name of a corporation results in its dissolution. There is unanimity of authorities to the contrary.

"An authorized change in the name of a corporation has no more effect upon its identity as a corporation than a change of name of a natural person has upon his identity. It does not affect the rights of the corporation or lessen or add to its obligations. After a corporation has effected a change in its name it should sue and be sued in its new name. * * * " (13 Am. Jur. 276-277, citing cases.)

"A mere change in the name of a corporation, either by the legislature or by the incorporators or stockholders under legislative authority, does not, generally speaking, affect the identity of the corporation, nor in any way affect the rights, privileges, or obligations previously acquired or incurred by it. Indeed, it has been said that a

change of name by a corporation has no more effect upon the identity of the corporation than a change of name by a natural person has upon the identity of such person. The corporation, upon such change in its name, is in no sense a new corporation, nor the successor of the original one, but remains and continues to be the original corporation. It is the same corporation with a different name, and its character is in no respect changed. * * *

(6 Fletcher, Cyclopaedia of the Law of Private Corporations, 224-225, citing cases.)

"The change in the name of a corporation has no more effect upon its identity as a corporation than a change of name of a natural person has upon his identity. It does not affect the rights of the corporation, or lessen or add to its obligations.

"England. - Doe v. Norton, 11 M. & W. 913, 7 Jur. 751, 12 L. J. Exch. 418.

"United States. - Metropolitan Nat. Bank v. Claggett, 141 U.S. 520, 12 S. Ct. 60, 35 U.S. (L. ed.) 841.

"Alabama. - Lomb v. Pioneer Say., etc., Co., 106 Ala. 591, 17 So. 670; North Birmingham Lumber Co. v. Sims, 157 Ala. 595, 48 So. 84.

"Connecticut. - Trinity Church v. Hall, 22 Conn. 125.

"Illinois. - Mt. Palatine Academy v. Kleinschnitz, 28 Ill. 133; St. Louis, etc. R. Co. v. Miller, 43 Ill. 199; Reading v.. Wedder, 66 Ill. 80.

"Indiana. - Rosenthal v. Madison, etc., Plank Road Co., 10 Ind. 358.

"Kentucky. - Cahill v. Bigger, 8 B. Mon. 211; Wilhite v. Convent of Good Shepherd, 177 Ky. 251, 78 S. W. 138.

"Maryland. - Phinney v. Sheppard & Enoch Pratt Hospital, 88 Md. 633, 42 Atl. 58, writ of error dismissed, 177 U.S. 170, 20 S. Ct. 573, 44 U.S. (L. ed.) 720.

"Missouri. - Dean v. La Motte Lead Co., 59 Mo. 523.

"Nebraska. - Carlon v. City Say. Bank, 82 Neb. 582, 188 N. W. 334.

"New York. - First Soc. of M.E. Church v. Brownell, 5 Hun 464.

"Pennsylvania. - Com. v. Pittsburgh, 41 Pa. St. 278.

"South Carolina. - South Carolina Mut. Ins. Co. v. Price, 67 S.C. 207, 45 S.E. 173.

"Virginia. - Wilson v. Chesapeake, etc., R. Co., 21 Gratt. 654; Wright-Caesar Tobbaco Co. v. Hoen, 105 Va. 327, 54 S.E. 309.

"Washington. - King v. Ilwaico R. etc., Co., 1 Wash. 127, 23 Pac. 924.

"Wisconsin. - Racine County Bank v. Ayers, 12 Wis. 512.

"The fact that the corporation by its old name makes a formal transfer of its property to the corporation by its new name does not of itself show that the change in name has affected a change in the identity of the corporation. Palfrey v. Association for Relief, etc., 110 La. 452, 34 So. 600. The fact that a corporation organized as a state bank afterwards becomes a national bank by complying with the provisions of the National Banking Act, and changes its name accordingly, has no effect on its right to sue upon obligations or liabilities incurred to it by its former name. Michigan Ins. Bank v. Eldred, 143 U.S. 293, 12 S. Ct. 450, 36 U.S. (L. ed.) 162.

"A deed of land to a church by a particular name has been held not to be affected by the fact that the church afterwards took a different name. Cahill v. Bigger, 8 B. Mon. (ky.) 211.

"A change in the name of a corporation is not a divestiture of title or such a change as requires a regular transfer of title to property, whether real or personal, from the corporation under one name to the same corporation under another name. *McCloskey v. Doherty*, 97 Ky. 300, 30 S. W. 649." (19 American and English Annotated Cases 1242-1243.)

As was very aptly said in *Pacific Bank v. De Ro*, 37 Cal. 538, "The changing of the name of a corporation is no more the creation of a corporation than the changing of the name of a natural person is the begetting of a natural person. The act, in both cases, would seem to be what the language which we use to designate it imports - a change of name, and not a change of being."

Having arrived at the above conclusion, We have to agree with appellant's pose that the lower court also erred in holding that it is not the right party in interest to sue defendants-appellees.[4] As correctly pointed out by appellant, the approval by the stockholders of the amendment of its articles of incorporation changing the name "The Yek Tong Lin Fire & Marine Insurance Co., Ltd." to "Philippine First Insurance Co., Inc." on March 8, 1961, did not automatically change the name of said corporation on that date. To be effective, Section 18 of the Corporation Law, earlier quoted, requires that "a copy of the articles of in-corporation as amended, duly certified to be correct by the pre-sident and the secretary of the corporation and a majority of the board of directors or trustees, shall be filed with the Securities & Exchange Commissioner", and it is only from the time of such filing, that that "the corporation shall have the same powers and it and the members and stockholders thereof shall thereafter be sub-ject to the same liabilities as if such amendment had been embraced in the original articles of incorporation." It goes with out saying then that appellant rightly acted in its old name when on May 15, 1961, it entered into the indemnity agreement, Annex A, with the defendants-appellees; for only after the filing of the amended articles of incorporation with the Securities & Exchange Commission on May 26, 1961, did appellant legally acquire its new name; and it was perfectly right for it to file the present case in that new name on December 6, 1961. Such is but the logical ef-fect of the change of name of the corporation upon its actions.

"Actions brought by a corporation after it has changed its name should be brought under the new name although for the enforce-ment of rights existing at the time the change was made. *Lomb v. Pioneer Say., etc., Co.*, 106 Ala. 591, 17 So. 670; *Newlan v. Lombard University*, 62 Ill. 195; *Thomas v. Visitors of Frederick County School*, 7 Gill & J. (Md.) 388; *Delaware, etc., R. Co. v. Irick*, 23 N. J. L. 321; *Northumberland Coun-ty Bank v. Eyer*, 60 Pa. St. 436; *Wilson v. Chesapeake, etc., R. Co.*, 21 Gratt. (Va.) 654.

"The change in the name of the corporation does not affect its right to bring an action on a note given to the corporation under its former name. *Cumberland College v. Ish*, 22 Cal. 641; *Northwestern College v. Schwagler*, 37 Ia. 577." (19 American and Eng-lish Annotated Cases 1243.)

In consequence, We hold that the lower court erred in dismissing appellant's complaint. We take this opportunity, however, to express the Court's feeling that it is apparent that appellee's position is more technical than otherwise. Nowhere in the record is it seriously pretended that the indebtedness sued upon has already been paid. If appellees entertained any fear that they might again be made liable to Yek Tong Lin Fire & Marine Insurance Co. Ltd., or to someone else in its behalf, a cursory examination of the records of the Securities & Exchange Commission would have sufficed to clear up the fact that Yek Tong Lin had just changed its name but it had not ceased to be their creditor. Everyone should realize that when the time of the courts is utilized for cases which do not involve substantial questions and the claim of one of the parties therein is based on pure technicality that can at most delay only the ultimate outcome necessarily adverse to such party because it has no real cause on the merits, grave injustice is committed to numberless litigants whose meritorious cases cannot be given all the needed time by the courts. We address this appeal once more to all members of the bar, in particular, since it is their bounden duty to the profession and to our country and people at large to help ease as fast as possible the clogged dockets of the courts. Let us not wait until the people resort to other means to secure speedy, just and inexpensive determination

of their cases.

WHEREFORE, judgment of the lower court is reversed, and this case is remanded to the trial court for further proceedings consistent herewith. With costs against appellees.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, Teehankee, and Villamor, JJ., concur.

[1] 13 Am. Jur. 268, Sec. 131.

[2] Pineda & Carlos, *The Law on Private Corps. & Corp. Practice*, (1960 ed.), p. 30; 3 Agbayani, *Commercial Laws of the Phil.* (1964 ed.) p. 1266; Salonga, *Phil. Law on Private Corps.* (1952 ed.), p. 68; 4 Martin, *Commentaries & Jurisprudence on Phil. Commercial Laws* (1961 Revised Edition with 1964 Supplement), p. 1505.

[3] *Harden vs. Benguet Consolidated Mining Company*, 58 Phil. 141, 146.

[4] See fifth assignment of error. The fourth assigned error regarding the validity of appellant's change of name has been sufficiently discussed earlier.

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