

BAE MYUNG HEE, HONG JONGWOOK, HONG SANGWOOK, PARK SEUNG HA, LEE EUNSUK AND MARY ANN MENDOZA, PETITIONERS, VS. HON. RICHARD A. PARADEZA, IN HIS CAPACITY AS PRESIDING JUDGE OF THE...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This petition for certiorari and prohibition with urgent prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction seeks to nullify the proceedings on the ground of lack of jurisdiction and the dismissal of SEC Case No. 13-002 entitled: “Global Daeil Subic, Inc. (doing business under the name and style of American International School of Subic), represented by Lee Sangeok (aka James Lee) vs. Bae Myung Hee, Hong Jong Wook, Hong Song Wook, Park Seung Ha, Lee Eun Suk, Mary Ann Mendoza, John Does.”

Specifically, Bae Myung Hee, Hong Jongwook, Hong Sangwook, Park Seung Ha, Lee Eun Suk, and Mary Ann Mendoza (hereinafter collectively referred to as petitioners) seek to nullify and set aside the following: i) the Order and Amended Order, both dated December 20, 2013, which granted the issuance of a Temporary Restraining Order; ii) the Order dated January 14, 2014, which granted the issuance of a Writ of Preliminary Injunction; iii) the Order dated January 15, 2014 denying petitioners' Motion for Inhibition (Ex Abudanti Ad Cautelam); and iv) any Order that may have been issued or will be issued in the meantime by the Honorable Judge Richard A. Paradeza (hereinafter referred to as respondent Judge) of the Regional Trial Court of Olongapo City, Branch 72.[1] Also, petitioners seek to prohibit respondent Judge from assuming jurisdiction over SEC Case No. 13-002.

As culled from the pleadings and annexes submitted by the parties, the factual and procedural antecedents are as follows:

On February 14, 2012, Global Daeil Subic, Inc. (GDSI for short), was registered with the Securities and Exchange Commission (SEC) to primarily “establish and operate an International educational institution or learning center which shall provide courses of study in PRE-ELEMENTARY, ELEMENTARY and SECONDARY EDUCATION subject to the laws of the Philippines.”[2] As stated in the third paragraph of the Articles of Incorporation, the principal office of the corporation is located at “FORMER LEGENDA SUITES HOTEL COMPOUND, CUBI AREA, SUBIC BAY FREEPORT ZONE.”[3] The authorized capital stock of the corporation is Twenty Million Pesos (Php20,000,000.00) divided into 200,000 shares with a par value of Php100.00 per share. The incorporators of the corporation were all Korean nationals, namely: Kim Bangjun, Bae Myung Hee, Gil Hong Ok, Park Sungkeun and Lee Sangeok who subscribed 500 shares each and paid the sum of Php50,000.00 each for their subscription. GDSI subscribed 47,500 shares and paid the sum of Php4,750,000.00 bringing the total subscription to 50,000 or 25% of the authorized capital stock.[4] The aforementioned incorporators were the “first directors who are to serve until their successors are elected and qualified as provided by the by-laws.”[5] In the By-Laws of the corporation, March 31st of each year is the annual regular meeting of stockholders and stockholders representing majority of the outstanding capital stock or the Board of Directors

may call for the special meeting of stockholders.[6] Under Section 2, Article III of the By-Laws, “[T]he board of Directors shall be elected during each regular meeting of stockholders and shall hold office for one (1) year and until their successors are elected and qualified.”[7]

As shown in the General Information Sheet[8] (GIS) filed with the SEC, as of May 2, 2013, the Officers and Directors of GDSI were as follows: 1) Kim Bangjun, President; 2) Bae Myung Hee, Gil Hong Ok, Park Sungkeon, and Lee Sangeok, Directors; and 3) Lorena De Dios, Corporate Secretary/Chief Finance Officer.[9] Also, in the GIS filed with the SEC, on October 31, 2013, it appeared that GDSI's subscription remains the same, but the shares subscribed by each incorporators (Kim Bangjun, Bae Myung Hee, Gil Ong Ok, Park Sungkeon), except Lee Sangkeok and Yoon Suktae who subscribed 2,500 shares each and paid the amount of Php25,000.00 each, were increased from 500 shares to 5,000; however, they paid only the sum of Php50,000.00 each.[10] Added in the GIS is the subscription of 150,000 shares and payment of Php150,000,000.00 by AIS KOREA INC.[11]

In a letter[12] dated October 21, 2013, addressed to GDSI (through its President Kim Bangjun, Corporate Secretary/Chief Finance Officer Lorena De Dios, Vice President Lee Sangeok and Director Gil Hong Ok), anchored on the Secretary's Certificate submitted by Ms. De Dios to the SEC that “the Board of Directors and Stockholders of Global Daeil Subic Inc. allegedly held a meeting on January 15, 2013 to approve the increase of paid up capital and alleged waiver of pre-emptive rights of all existing subscribers” and that based on the “SEC Amended General Information Sheet and corporate filings of Global Daeil Subic Inc. the company authorized the subscription and issuance of Php15 Million worth of shares to AIS Korea and it received the said amount, representing increase of paid-up capital”, in behalf of their clients “GLOBAL DAEL INC. (Korea) and Ms. Bae Myung Hee”, pursuant to “Section 74 and 75 of the Corporation Code of the Philippines”, Reyes Esguerra Baluyut Benitez & Bongco Law Offices (hereinafter referred to as petitioners' counsel) requested “to inspect, examine and to copy within five (5) days from receipt of this letter ALL business transactions, minutes of all stockholders and board meetings, proof of notice of these meetings, action taken therein, and the 'Stock and Transfer Book’”. Also, it requested that it be provided “with ALL company bank statement of accounts, accounting, inventory and liquidation of company assets and liabilities and its financial statements within ten (10) days from receipt” of the letter.

On November 4, 2013, Bae Myung Hee as a “stockholder and director” filed her Complaint-Affidavit[13] with the Office of the City Prosecutor of Manila, docketed as NPS No. XV-07-INV-13K07318, charging Lorena De Dios, Kim Bang Jun, Gil Hong Ok, Lee Sangeok, Park Sungkeon and Kim Ilma of falsification of public documents and perjury allegedly committed as follows:

“x x x

6. On or about 29 April 2013, respondents, conspiring with one another, cause the respondent Corporate Secretary Lorena De Dios to execute, and did execute, a Secretary's Certificate notarized before notary public Atty. Cesar G. Viola in the City of Manila, to the effect that the Global Daeil Subic Board of Directors and stockholders held a meeting on 15 January 2013 wherein the directors and stockholders purportedly 'approved the increase of its Paid-Up Capital stock by Fifteen Million Pesos (P15,000,000.00) divided into One Hundred Fifty Thousand (150,000) shares...' and that she certified 'that all non-subscribing stockholders have waive (sic) their pre-emptive rights to subscribe.'

7. Respondent Lorena De Dios, in her capacity also as Treasurer of Global Daeil Subic knowingly made these false notarized Secretary's Certificate, notarized List of Stockholders of Record Before and After Additional Infusion of P15Million Capital and Acknowledgment Receipt, which were required by law to be submitted to the SEC, representing subscription of 150,000 share in the amount of P15Million by a certain AIS Korea

making it the new majority stockholder and owner of Global Daeil Subic Inc.

In support thereof, on 30 April 2013, respondent Lorena De Dios likewise submitted the SEC Form 10.1 on Notice of/Application for Confirmation Exempt Transaction, which was signed by respondent Kim Bang Jun wherein they falsely indicated AIS Korea as 'Qualified Buyer' of the 150,000 share of Global Daeil Subic since there was no board meeting approving the additional issuance of unissued shares and stockholders meeting for the waiver of their pre-emptive rights.

Copies of the Secretary's Certificate, notarized List of Stockholders of Record Before and After Additional Infusion of Capital, Acknowledgment Receipt, Amended General Information Sheet submitted to the SEC on 2 May 2013, including other documents, and the SEC Form 10.1 on Notice of/Application for Confirmation Exempt Transaction are hereto attached and made integral parts hereof as ANNEXES 'D', 'E', 'F', 'G' and 'H'.

8. The truth of the matter is that there was no such board and/or stockholders meeting on said date and time that approved the increase in paid up capital because:

a)

Global Daeil Korea and I were not present and could not have voted to allow the entry of AIS Korea as majority stockholder;

b)

No notices were sent to the directors and stockholders, including me;

c)

Global Daeil Korea and I would have exercised our pre-emptive rights to the remaining unissued shares, being the majority stockholder and owner of Global Daeil Subic, Inc.; and

d)

There was no new actual infusion of additional P15Million capital coming from AIS Korea to Global Daeil Subic, Inc. In fact, respondents up to this time and despite several demands from me and Global Daeil Korea could not produce any bank inward remittances from Korea and/or AIS Korea as proof that indeed the following are new capital infusion coming from AIS Korea, and not existing company funds that were merely withdrawn and re-deposited to Global Daeil Subic BDO Subic Account No. 005860262419:

Date

Name

Paid-Up Amount

01-20-13

AIS Korea

P7,000,000.00

02-11-13

AIS Korea

5,000,000.00

03-08-13

AIS Korea

3,000,000.00

TOTAL

P15,000,000.00

9. Because of the untruthful statements in the narration of facts and willful and corrupt assertion of falsehood on material matters under oath in the notarized corporate Secretary's Certificate approving the increase of paid-up by P15Million, notarized List of Stockholders of Record Before and After Additional Infusion of P15Million Capital and Acknowledgment Receipt issued by respondent Lorena De Dios, in conspiracy and with the knowledge and consent of the other respondents knowing they (sic) contain falsehood under oath, and thereafter filed and used with the SEC, Global Daeil Korea and I were fraudulently divested of majority ownership and control of Global Daeil Subic, including the exercise of our pre-emptive rights and the misappropriation of our money and other contribution to Global Daeil Subic in the amount of no less than TEN MILLION PESOS (P10,000,000.00).

10. Under the foregoing facts and pieces of evidence, on behalf of Global Daeil Korea and for myself, I am executing this Complaint-Affidavit to attest to the truth of the foregoing statements and to accuse respondents Respondents (sic) LORENA DE DIOS, KIM BANG JUN, LEE SANGEOK, GIL HONG OK, PARK SUNGKEON and KIM ILMA with conspiring with each other in committing Falsification of Public Documents and Perjury as defined and penalized under Articles 172 and 183 of the Revised Penal Code, Syndicate (sic) Estafa under P.D. 1689 and/or for such other offenses as may be warranted by law under the premises.”[14]

In their Complaint[15] dated December 9, 2013, filed before the Bureau of Immigration, Hong Jongwook and Bae Myung Hee prayed for the blacklisting and/or deportation of Kim Bang Jun, Lee Sangeok, Gil Hong Ok, Park Sungkeon, Kim Ilma and Yoon Suktae for being undersirable aliens. Based on their inquiry, “there was no new actual infusion of additional P15 Million capital coming from AIS Korea to Global Daeil Subic Inc. and because BDO bank deposit slips that were submitted to the SEC are fake.”

In another Complaint-Affidavit[16] dated November 4, 2013, filed before the Office of the City Prosecutor of Olongapo City, docketed as NPS No. III-10-INV-13-K-01101, Bae Myung Hee charged Lorena De Dios, Kim Bang Jun, Gil Hong Ok, Lee Sangeok, Park Sungkeon, Kim Ilma and Yoon Suktae of violating Sections 74 and 75, in relation to Section 144, of the Corporation Code of the Philippines for their willful refusal to allow her and Global Daeil Korea to “examine, inspect and copy ALL business transactions, minutes of all stockholders and board meetings xxx” as well as the “Stock and Transfer Book and financial statements of Global Daeil Subic.”

In Bae Myung Hee's letter[17] dated November 4, 2013, addressed to the Corporate Secretary Lorena De Dios pursuant to the written request of the stockholders representing the majority of the outstanding capital stock, she informed the latter of a "Special Stockholders Meeting of GLOBAL DAEIL SUBIC INC. at its principal office on 19 November 2013 at 10:00 a.m." In another letter[18] dated November 15, 2013, addressed to the Corporate Secretary Lorena De Dios, Bae Myung Hee informed the latter of the resetting of the Special Stockholders Meeting to "6 December 2013 at 10:00 a.m." As appearing in the aforesaid letters, by registered mail, she furnished Kim Bang Jun, Gil Hong Ok, Park Sungkeon and Lee Sangeok with copies of both letters. Listed as the agenda in the meeting are the following: 1) Presentation of the Corporate books and records by the Corporate Secretary; 2) Report of Accounting and Financial statements, including balance sheet and bank statements of account by the Treasurer/Chief Finance Officer; 3) Election of members of the Board of Directors and/or Corporate Officers; 4) Amendment of Articles of Incorporation and/or By-Laws; and 5) Other matters.[19]

In the GIS submitted to the SEC on December 6, 2013, the following were listed as the Officers of GDSI, namely: 1) Hong Jongwook, Chairman; 2) Bae Myung Hee, President; 3) Hong Sangwook, Vice-President; and 4) Mary Ann Mendoza, Corporate Secretary/Treasurer.[20] Also, in the same GIS filed with the SEC, it appeared that GDSI's subscription remains the same, but the shares subscribed by each incorporators (Kim Bangjun, Gil Hong Ok, Park Sungkeun and Lee Sangeok), except Bae Myung Hee which was reduced to 496 shares, were reverted back to 500 shares each.[21] Moreover, listed as new stockholders were Hong Jookwook, Park Seung Ha, Hong Sangwook and Lee Eunsuk who subscribed one share each and paid the sum of Php100.00 each. Notably, AIS KOREA INC. was deleted as a stockholder of GDSI.[22]

In a letter[23] dated December 6, 2013, addressed to Chairman Roberto V. Garcia, in behalf of their clients "GLOBAL DAEIL SUBIC, INC., owner of American International School of Subic, and its President Ms. Bae Myung Hee", petitioners' counsel informed the former that "on 6 December 2013, the Board of Directors has removed for cause Mr. Kim Bangjun, Lee Sangeok (alias James Lee), Lorena de Dios as President, Vice-President and Corporate Secretary/Treasurer, respectively, for their series of acts of dishonesty, falsification of corporate books and financial statements, fraud, acts of mismanagement and other acts inimical to the interest of the Corporation that led to the filing of the following four (4) criminal complaint-affidavits for Falsification of Public Documents, Perjury and Violation of the Corporation Code with the Office of the City Prosecutor of Manila and Olongapo City."

In a letter[24] dated December 9, 2013, addressed to the BDO Main Office, through the Branch Manager BDO Subic-Times Square Branch, in behalf of their client "Global Daeil Subic, Inc. and its duly elected President Ms. Bae Myung Hee", petitioners' counsel informed the former that the new signatory of GDSI BDO Account No. 005860262419 is Ms. Bae Myung Hee. In a follow-up letter[25] dated December 16, 2013, addressed to BDO Subic Times Square Branch Manager Fernan Labayo, signed by Ms. Bae Myung Hee as President of GDSI, she requested the bank to "refrain from transacting with Mr. James Lee and/or Ms. Lorena De Dios" and that she be recognized as "the true and lawful signatory of Global Daeil Subic Inc."

On December 19, 2013, as Director/Vice-President and as a representative of GDSI, Lee Sangeok through his counsel Mendoza Orozco Abdon & Associates Law Offices, filed with the RTC-Branch 72 of Olongapo City, docketed as SEC Case No. 13-002, a petition[26] for the declaration of nullity of the special stockholders meeting held on December 6, 2013 against herein petitioners. In his petition, Lee Sangeok claims that Bae Myung Hee and/or Hong Jongwook were not authorized by Gil Hong Ok (who owned 585,000 shares of GDSI) to represent him and call for a special stockholders meeting on December 6, 2013. The special stockholders meeting was not called by the president or by the board of directors and was "illegal" in violation of the Corporation Code and the By-Laws of GDSI. Hence, the election and/or appointment of members of the board of directors and corporate

officers were null and void. By way of relief, Lee Sangeok prayed: a) upon filing, the immediate issuance of a 72-hour temporary restraining order, after hearing the issuance of a writ of preliminary injunction, and thereafter a permanent injunction enjoining and prohibiting petitioners from performing their functions and representing the corporation; b) to declare null and void ab initio the Special Stockholders Meeting and the board of directors meeting as well as the election and/or appointment made on December 6, 2013; and c) to adjudge petitioners jointly and severally liable to pay Php2,000,000.00 moral damages, Php1,000,000.00 exemplary damages and Php500,000.00 attorney's fees plus costs of litigation.

On December 19, 2013, Clerk of Court V Atty. Gerry R. Gruspe issued summons to petitioners requiring them to file their answer within fifteen (15) days from notice.[27] On even date, respondent Judge set the summary hearing on the application for a temporary restraining order on December 20, 2013 at 8:30 in the morning.[28]

In their Opposition[29] dated December 20, 2013, petitioners pointed out, among others, the defect in the petition and interposed the defense of the lack of personality and authority of Lee Sangeok to file the petition. On the application for restraining order, petitioners asserted that it is moot and academic as well as “fait accompli” because the new board of directors have assumed office and have exercised their duties and functions. As relief, they prayed for the denial of the issuance of a temporary restraining order and dismissal of the complaint.

On December 20, 2013, after the parties' oral arguments, respondent Judge issued a temporary restraining order for a period of twenty (20) days directing petitioners to temporarily refrain from representing themselves as the new set of members of the board of directors and officers of GDSI.[30] On even date, respondent Judge issued an Amended Order[31] by requiring the posting of a bond in the amount of Php300,000.00.

On January 2, 2014, petitioners, “without in any way waiving their right to question as to the Honorable Court's acquisition of jurisdiction,” filed a Motion for Inhibition[32] (Ex Abudanti Ad Cautelam) of respondent Judge on the ground of “seeming irregularities in the raffle of the case and issuance of the Temporary Restraining Order on December 20, 2013 which create an impression of bias, pre-judgment, denial of due process against the respondents [herein petitioners] and apparent ignorance of procedure.” Lee Sangeok filed his Comment/Opposition[33] dated January 8, 2014. In the Order[34] dated January 15, 2014, respondent Judge denied the motion for inhibition for lack of merit.

In their Answer (Ex Abudanti Ad Cautelam) With Compulsory Counterclaims[35] dated January 3, 2014, petitioners prayed for the dismissal of the complaint and payment of damages. In their Amended (Ex Abudanti Ad Cautelam) With Compulsory Counterclaims[36] dated January 9, 2014, petitioners prayed for the outright dismissal of the complaint on the ground of lack of jurisdiction. Specifically, petitioners pointed out that the principal office and business address of GDSI is in the Cubi area portion of the Subic Bay Freeport Zone situated within the territorial boundary of the Province of Bataan and not in the Province of Zambales as shown in the maps[37] provided by the Subic Bay Metropolitan Authority (SBMA) Land and Asset Management Department and by the Bataan Provincial Assessors Office.[38] Also, they asked the respondent Judge being the “RTC Executive Judge and native of Olongapo City” to take judicial notice that “Cubi area has always been part of Bataan province, and never part of Olongapo City or Subic, Zambales.” Moreover, on January 9, 2014, they filed a Manifestation and Motion[39] for the dismissal of the complaint on the ground of lack of jurisdiction.

On January 14, 2014, conditioned upon the posting of an additional injunction bond in the sum of Php200,000.00, respondent Judge granted the issuance of the writ of preliminary injunction enjoining the petitioners from representing themselves as the new set of members of the board of directors and officers of GDSI.

In his Comment/Opposition[40] dated January 14, 2014, Lee Sangeok prayed for the denial of the “Manifestation and Motion” for the reason that the petitioners did not raise in the hearing and in their previous motions and

“Answer (Ex Abudanti Ad Cautelam) with Compulsory Counterclaims” the issue of venue or jurisdiction. Moreover, in their “Amended Answer (Ex Abudanti Ad Cautelam) with Compulsory Counterclaims,” the petitioners are asking for an award in millions of pesos from the trial court.

Petitioners filed their Reply dated January 21, 2014. Lee Sangeok filed his Rejoinder dated January 27, 2014.

On February 7, 2014, respondent Judge denied the Manifestation and Motion dated January 9, 2014 for lack of merit.

Hence, the instant petition for certiorari and prohibition citing as grounds, the following:

A) THE PETITIONERS SUBMIT THAT RESPONDENT JUDGE EXHIBITED CONTINUING BIAS AND GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN PROCEEDING WITH THE HEARING OF THE CASE DESPITE LACK OF JURISDICTION AND THE SAME BEING BARRED BY THE RULES ON IMPROPER VENUE.

B) THE PUBLIC RESPONDENT EXHIBITED BIAS AND GRAVE ABUSE OF DISCRETION WHEN HE WHIMSICALLY AND WITH UNDUE AND INDECENT HASTE ISSUED THE TRO WITHOUT A VALID RAFFLE AND IMPOSING A BOND, IN CLEAR VIOLATION OF RULE 10, SECTION 1 OF THE INTERIM RULES OF PROCEDURE ON INTRA-CORPORATE CONTROVERSIES.

C) THE HASTE AND PRECIPITATE MANNER IN WHICH RESPONDENT JUDGE ISSUED THE WRIT OF PRELIMINARY INJUNCTION SANS HEARING AND FORMAL OFFER OF EVIDENCE BEFORE THE RESOLUTION OF THE MOTIONS FOR INHIBITION AND MANIFESTATION AND MOTION TO DISMISS ON THE GROUND OF LACK (SIC) JURISDICTION IS NOT ONLY UNFOUNDED BUT IS A DISPLAY OF PARTIALITY TO RESPONDENT GLOBAL SUBIC.”[41]

The pivotal issue for resolution is whether or not respondent Judge committed grave abuse of discretion amounting to lack of jurisdiction in not dismissing SEC Case No. 13-002.

Petitioners argue that RTC-Branch 72 of Olongapo City has no jurisdiction to hear and try SEC Case No. 13-002 because the principal office of GDSI is situated not within the territory of Olongapo City but actually located in the Municipality of Morong in the Province of Bataan. Hence, the respondent Judge committed grave abuse of discretion resulting to lack of jurisdiction when it assumed jurisdiction over SEC Case No. 13-002 and granted a temporary restraining order and writ of preliminary injunction.

On the other hand, Lee Sangeok asserts that RTC-Branch 72 of Olongapo City is a special court designated by the Supreme Court to try and decide SEC cases enumerated in Section 5 of P.D. No. 902-A. Filing of actions in the RTC with territorial jurisdiction over the principal office of the corporation is a matter of venue and not jurisdiction. Petitioners submitted to the jurisdiction of RTC-Branch 72 of Olongapo City when their counsel appeared during the hearing on December 20, 2013 and even filed various pleadings asking for affirmative relief.

The petition is impressed with merit.

Traditionally, by grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically.[42] The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law.[43] Its expanded meaning, however, already includes acts done contrary to the Constitution, the law, or jurisprudence.[44]

In the case at bar, after going over the arguments of the parties vis-à-vis the pertinent provisions of law, it is crystal clear that respondent Judge committed grave abuse of discretion amounting to lack of jurisdiction in not

dismissing SEC Case No. 13-002.

Jurisdiction, as defined by jurisprudence, is the power and authority to hear and decide a case.[45] Jurisdiction over the nature and subject matter of an action is conferred by law, and it cannot “be acquired through, or waived by, any act or omission of the parties.”[46] In other words, jurisdiction is conferred by law and lack of it affects the very authority of the court to take cognizance of and to render a valid judgment.[47] Jurisdiction over the subject matter is the power to hear and determine cases of the general class to which the proceedings in question belong.[48] There is lack of jurisdiction over the nature of the action where the type of action is reposed by law in other courts.[49] Also, in the exercise of jurisdiction, unless otherwise provided by law, the same is governed by the Rules of Court or by orders which the Supreme Court may from time to time issue.[50]

Section 1, paragraphs (a) subparagraphs (2) and (3) of the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799, in relation to Section 5 thereof, explicitly provides that intra-corporate controversies involving election of directors and/or appointment of officers of the corporation “shall be commenced and tried in the Regional Trial Court which has jurisdiction over the principal office of the corporation.”

It is not disputed by the parties that SEC Case No. 13-002 is an offshoot of the intra-corporate dispute between the petitioners (who questioned the entry of AIS Korea Inc. as stockholder of GDSI and its none infusion of Php15 million capital in GDSI) and Lee Sangeok who assailed the special stockholders meeting and election of the board of directors and officers on December 6, 2013 by petitioners. Equally, not disputed by the parties that, as expressly stated in the Articles of Incorporation of GDSI, the principal office of the corporation is located at “FORMER LEGENDA SUITES HOTEL COMPOUND, CUBI AREA, SUBIC BAY FREEPORT ZONE.” As pointed out by the petitioners, which was not controverted by Lee Sangeok, as shown in the maps provided by the Subic Bay Metropolitan Authority Land and Asset Management Department and by the Bataan Provincial Assessors Office, the principal office and business address of GDSI is in the Cubi area portion of the Subic Bay Freeport Zone situated within the territorial boundary of the Province of Bataan and not in the Province of Zambales. In their Reply dated May 12, 2014, which was not refuted by Lee Sangeok, petitioners further stated that the principal office of GDSI is “situated not within the territory of Olongapo City but actually located in the municipality of Morong in the Province of Bataan.” As such, pursuant to A.M. No. 00-11-03-SC (effective December 15, 2000) in relation to A.M. No. 03-03-03-SC (effective July 1, 2003) the RTC-Branch 2 of Bataan (Balanga), Third Judicial Region, which was designated as Special Commercial Court has the territorial jurisdiction to hear and decide SEC Case No. 13-002. Conversely, RTC-Branch 72 of Olongapo City has no jurisdiction to hear and decide SEC Case No. 13-002.

The contention of Lee Sangeok that petitioners “accepted” the jurisdiction of RTC-Branch 72 of Olongapo City because they did not raise the issue of jurisdiction in the hearing and in their previous motions/pleadings filed in Court, except in their Amended Answer (Ex Abudanti Ad Cautelam) with Compulsory Counterclaims dated January 9, 2014 and in their Manifestation and Motion dated January 9, 2014, deserves scant consideration. Likewise, untenable is his contention that the petitioners is estopped from questioning the jurisdiction of RTC-Branch 72 of Olongapo City, citing the case of HSBC Ltd. vs. Catalan,[51] because they are asking for millions of pesos in damages by way of compulsory counterclaim.

The case of HSBC Ltd. is not applicable to the instant case. The Supreme Court ruled that HSBANK effectively submitted voluntarily to the jurisdiction of the RTC for the simple reason that it invoked the jurisdiction of the RTC to secure affirmative relief. Clearly, what is involved in the HSBC Ltd. case is jurisdiction over the person of the defendant and not on the subject matter. Jurisdiction over the subject matter is conferred by law and objection based on lack of jurisdiction cannot be waived by the parties.[52] In the case of Heirs of Julian Dela Cruz and

Leonora Talaro vs. Heirs of Alberto Cruz,[53] the Supreme Court further elucidated that:

“xxx Jurisdiction over the nature and subject matter of an action is conferred by the Constitution and the law, and not by the consent or waiver of the parties where the court otherwise would have no jurisdiction over the nature or subject matter of the action (Atuel v. Valdez, G.R. No. 139561, 10 June 2003, 403 SCRA 517). Nor can it be acquired through, or waived by, any act or omission of the parties. Moreover, estoppel does not apply to confer jurisdiction to a tribunal that has none over the cause of action. The failure of the parties to challenge the jurisdiction of the DARAB does not prevent the court from addressing the issue, especially where the DARAB's lack of jurisdiction is apparent on the face of the complaint or petition (Atuel v. Valdez, supra).

Indubitably, as above discussed, the RTC-Branch 72 of Olongapo City had no jurisdiction to hear and decide SEC Case No. 13-002. Consequently, all the proceedings before it and the orders it issued are null and void.

Aptly, in the case of Paredes, et al. vs. Moya, et al.,[54] the Supreme Court succinctly declared that:

“In this jurisdiction, a void judgment or order is in legal effect no judgment or order. By it no rights are divested. From it no rights can be obtained. Being worthless, it neither binds nor bars anyone. All acts performed under it and all claims flowing from it are void.”

In the case of Luz Caro, et al. vs. Court of Appeals,[55] it was also held that:

“The order of the CFI of Sorsogon being void is no order at all. It confers no right nor does it impose any duty. 'It neither binds nor bars anyone.' All acts performed under a void order or judgments and all claims flowing out of it are also void, for like the spring that cannot rise above its source, a void order cannot create a valid and legally enforceable right. A fortiori the order of October 19, 1968 of the CFI of Albay directing private respondent to deliver the possession and enjoyment of Lot No. I-C to Luz Caro, is also void.”

Indeed, a void order, like a void decision, does not exist in the eyes of the law. It can be attacked directly or collaterally. Thus, in the case of Filemon David vs. Hon. Gregorio Aquilizan, et al.,[56] the Supreme Court opined that:

“xxx Being null and void from its inception, the decision sought to be set aside does not exist in the eyes of the law because it is 'as though it had not been done.' In legal contemplation, it is no judgment at all. 'By it, no rights are divested. From it, no rights can be obtained. Being worthless in itself, all proceedings founded upon it are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void. . . It may be attacked directly or collaterally, and the action therefor may be brought even after the time for appeal or review has lapsed. The judgment is vulnerable to attack even when no appeal has been taken. Hence, such judgment does not become final in the sense of depriving a party of his right to question its validity.”

In the case of Virginia A. Leonor vs. Court of Appeals,[57] the Supreme Court stated that:

“A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void; ' . . . it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head.”

In Republic of the Philippines vs. Spouses Roberto and Marina Sanchez,[58] the Supreme Court pointed out that:

“xxx a void judgment is not entitled to the respect accorded to a valid judgment, but may be entirely disregarded or declared inoperative by any tribunal in which effect is sought to be given to it. It is attended by none of the consequences of a valid adjudication. It has no legal or binding effect or efficacy for any purpose or at any place. It cannot affect, impair or create rights. It is not entitled to enforcement and is, ordinarily, no

protection to those who seek to enforce. All proceedings founded on the void judgment are themselves regarded as invalid. In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there were no judgment. It, accordingly, leaves the parties litigants in the same position they were in before the trial.”

Verily, the assailed Orders of public respondent Judge rendered without jurisdiction are null and void ab initio. Said Orders, including all the proceedings conducted by respondent Judge, are void ab initio and can be attacked directly or collaterally. Also, a party may assail the jurisdiction of the court over the action at any stage of the proceedings and even on appeal.[59]

Lastly, contrary to the assertion of Lee Sangeok that the filing of actions in the RTC with territorial jurisdiction over the principal place of the corporation is a matter of venue and not jurisdiction, suffice it to say that in intra-corporate cases venue and jurisdiction is intertwined and fixed by the rules in the “Regional Trial Court which has jurisdiction over the principal office of the corporation”. As discussed above, the principal office of GDSI is at “FORMER LEGENDA SUITES HOTEL COMPOUND, CUBI AREA, SUBIC BAY FREEPORT ZONE” located in the municipality of Morong in the Province of Bataan and not within the territory of Olongapo City and/or the Province of Zambales. As such, RTC-Branch 72 of Olongapo City has no jurisdiction to hear and decide SEC Case No. 13-002.

With the foregoing disquisition, there is no need to discuss the other issues raised in the instant petition.

WHEREFORE, the instant petition is GRANTED. All orders or issuances rendered before and after the filing of the instant petition as well as proceedings conducted by respondent Judge in SEC Case No. 13-002 are NULLIFIED and SET-ASIDE. Respondent Judge is DIRECTED to immediately CEASE and DESIST from conducting further proceedings or rendering judgment in said case. SEC Case No. 13-002 is hereby ordered DISMISSED. No costs.

SO ORDERED.

Zalameda and Reyes-Carpio,[*] JJ., concur.

[*] Acting Junior Member vice J. Diy per Office Order No. 283-14-ABR dated June 16, 2014.

[1]Rollo, p. 5.

[2] Articles of Incorporation, Rollo, pp. 304-310.

[3] Ibid, Rollo, p. 305.

[4] Ibid, Rollo, p. 307.

[5] Ibid, Rollo, p. 306.

[6] Sections 1 & 2, Article II, By- Laws, Rollo, pp. 311-319.

[7] Ibid, Rollo, p. 314.

[8] Rollo, pp.111-157.

[9] Rollo, p. 114.

[10]Rollo, p. 115.

- [11] Rollo, p. 116.
- [12] Rollo, pp. 158-160.
- [13] Rollo, pp. 164-168.
- [14] Rollo, pp. 166-168.
- [15] Rollo, pp. 227-233.
- [16] Rollo, pp. 180-185.
- [17] Rollo, p. 186.
- [18] Rollo, p. 192.
- [19] Rollo, p. 186.
- [20] Rollo, p. 203.
- [21] Rollo, p. 204.
- [22] Rollo, pp. 204-205.
- [23] Rollo, pp. 209-210.
- [24] Rollo, pp. 214-216.
- [25] Rollo, pp. 217-218.
- [26] Rollo, pp. 283-298.
- [27] Rollo, pp. 427-428.
- [28] Rollo, pp. 429-430.
- [29] Rollo, pp. 431-434.
- [30] Rollo, pp. 52-58.
- [31] Rollo, pp. 59-66.
- [32] Rollo, pp. 437-444.
- [33] Rollo, pp. 545-553.
- [34] Rollo, pp. 78-82.
- [35] Rollo, pp. 461-480.
- [36] Rollo, pp. 484-506.
- [37] Rollo, pp. 508 & 511.
- [38] Rollo, pp. 484-506.
- [39] Rollo, pp. 512-515.
- [40] Rollo, pp. 555-560.
- [41] Rollo, pp. 20-21.

- [42] PMI Colleges vs. NLRC and Alejandro Galvan, G.R. No. 121466, August 15, 1997.
- [43] Panaligan vs. Adolfo, 67 SCRA 176.
- [44] Information Technology Foundation of the Philippines vs. Commission on Elections, 419 SCRA 141.
- [45] United BF Homeowners Association vs. BF Homes Inc., 310 SCRA 304.
- [46] Heirs of Julian Dela Cruz and Leonora Tanaro vs. Heirs of Alberto Cruz, 475 SCRA 743.
- [47] PP vs. Jose de Martinez, 76 Phil. 599, 601 (1946).
- [48] Allied Domecq Phil., Inc. vs. Villon, 439 SCRA 667.
- [49] Loyok vs. CA, 245 SCRA 477.
- [50] Office of the Court Administrator vs. Matas, 247 SCRA 9.
- [51] G.R. No. 159590, October 18, 2004.
- [52] U.S. vs. De La Santa, 9 Phil. 22.
- [53] G.R. No. 162890, November 22, 2005.
- [54] No. L-38051, December 26, 1974, 61 SCRA 526.
- [55] G.R. No. L-31426, February 29, 1988.
- [56] No. L-49360, December 14, 1979, 94 SCRA 707.
- [57] G.R. No. 112597, April 2, 1996, 256 SCRA 69, citing the case of Banco Español-Filipino vs. Palanca, 37 Phil. 921.
- [58] G.R. No. 146081, July 17, 2006, citing MWSS vs. Sison, 209 Phil. 325.
- [59] De Leon vs. Court of Appeals, G.R. No. 96107, 245 SCRA 166.

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