

DESA ENTERPRISES, INC., AND LUIS N. LOPEZ, PETITIONERS, VS. THE SECURITIES AND EXCHANGE COMMISSION AND EMILIO PANTOJA, RESPONDENTS.

G.R. No. L-45430. September 30, 1982

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

Case G.R. No. L-45430 is a petition for certiorari and prohibition, with preliminary injunction, to annul and set aside the orders of the respondent Securities and Exchange Commission, dated July 23, and December 29, 1976, and to restrain the said respondent from interfering with, or inquiring into the contract of lease executed by and between the petitioners Desa Enterprises, Inc. and Luis N. Lopez for lack of jurisdiction; while

Case G.R. No. L-45644 is a petition for certiorari to review the order of the respondent Judge Jesus Arlegui, dated November 29, 1976, denying the motion to dismiss the complaint, filed in Civil Case No. 1060 of the Court of First Instance of Batangas, entitled: "Desa Enterprises, Inc., plaintiff, versus Emilio Pantoja, et al., defendants," as well as the order dated January 13, 1977, denying the motion for its reconsideration. Being interrelated, the cases are considered jointly.

The record shows that in a letter to the Securities and Exchange Commission, SEC for short, dated April 30, 1973, Emilio Pantoja asked for the revocation of the certificate of registration of the Desa Enterprises, Inc., upon the ground that his signature, as well as that of his wife, in the articles of incorporation of said corporation, was obtained by Dionisio Chua Kang Hay, one of the incorporators of said corporation, by means of fraud and false representation committed in the following manner:

"1. My original understanding with said Dionisio Chua Kang Hay when he agreed to operate an ice plant in Lian, Batangas, was that we shall contribute and invest share and share alike or on a fifty-fifty (50/50) basis as evidenced by our Joint Affidavit executed September 30, 1965* xerox copy hereto attached as Annex 'A'.

"2. Pursuant to such understanding and believing in the good faith of Dionisio Chua Kang Hay who is a family friend, I transferred into his name a parcel of land in Lian, Batangas which I paid from my own personal fund and again out of my personal funds caused the construction of the building on the above-mentioned parcel of land to house the Ice Plant.

"3. That eventually, the said Dionisio Chua Kang Hay caused the incorporation of the said ice plant under the name DESA ENTERPRISES, INC. but contrary to our original agreement that the capitalization and investment thereon shall be share and share alike or on a fifty-fifty (50/50) basis, the same was not complied with because on the articles of incorporation, I and my wife became a minority stockholders while Dionisio Chua Kang Hay, his wife and brother-in-law became majority stockholder when in truth and in fact the said persons did not contribute even a single centavo to the capitalization of DESA ENTERPRISES, INC. which fact is evidenced by a statement of receipt and disbursement prepared by Dionisio Chua Kang Hay a xerox copy hereto attached as Annex 'B'.

"4. Further, the said Dionisio Chua Kang Hay solemnly agreed in the joint affidavit hereto attached as Annex 'A' to transfer the franchise of the ice plant which may be obtained in his name in favor of DESA ENTERPRISES, INC. but up to the present time despite several demands the said Dionisio Chua Kang Hay has failed to do so nor filed a petition to this effect before the Public Service Commission or its successor-in-interest. As a consequence hereof, the DESA ENTERPRISES, INC. whose primary purpose is to own and operate an ice plant can not exercise such powers because of the deceitful failure of said Dionisio Chua Kang Hay to transfer to the corporation the franchise to operate ice plant contrary to and in violation of our original agreement." [1]

The complaint was docketed as SEC Case No. 1201 and pursuant thereto, SEC Commissioner Arcadio E. Yabyabin, after prior notice to Dionisio Chua Kang Hay, who denied the allegations in the complaint, issued an order, on September 17, 1974, appointing auditors to examine and audit the books of account of the corporation. The SEC further decreed that "in order to maintain a status quo, no sale, transfer, disposition of, or encumbrance upon the assets of the said corporation, including the ice plant, machineries, equipment and other implements connected with the operation of such ice plant shall be made without the written consent of both of the parties and a copy of any such agreement and consent submitted to this Commission." [2] On March 17, 1975, the Commanding Officer of the 214th PC Company based at Ba-lico, Nasugbu, Batangas, stopped the operations of the Lian Ice Plant pending settlement of the dispute. [3]

In the latter part of 1975, Gen. Alfredo Montoya of the II PC Zone suggested to Emilio Pantoja and Dionisio Chua Kang Hay the resumption of operations by the Lian Ice Plant while SEC Case No. 1201 was pending, in the interests of the fishermen who patronize the ice plant, and recommended its lease to Luis Lopez. [4] The parties agreed, and on April 13, 1976, a Memorandum Agreement was executed by Emilio Pantoja and Dionisio Chua Kang Hay giving "their conformity to the lease of the Lian Ice Plant by Luis N. Lopez under such terms and conditions acceptable to the Desa Enterprises, Inc., which shall be ratified by the stockholders." [5] On that same day, April 13, 1976, the Desa Enterprises, Inc., re-presented by its president, Angelina A. Baderrama, entered into a contract of lease with Luis Lopez whereby the corporation leased to the latter the Lian Ice Plant and the land on which it stands, together with all the equipment and machinery, for a period of five (5) years at the monthly rental of P3,000.00, with an option to purchase the same for P390,000.00. The parties further stipulated therein that the "lease contract shall be ratified by all stockholders at a meeting called for the purpose prior to its effective date." [6] When the lease agreement was submitted to Emilio Pantoja for ratification, however, he refused to ratify the same unless the contract shall contain a provision that the rentals thereof and the purchase price, should the option to purchase be exercised by the lessee, be paid and deposited in a joint account of Emilio Pantoja and Dionisio Chua Kang Hay or that the same be deposited in escrow to be disposed of subject to the approval of the SEC. [7]

On July 19, 1976, the Chief of Staff and Deputy Zone Commander of the II PC Zone verbally ordered the immediate resumption of the operations of the Lian Ice Plant under the management of Luis Lopez. Emilio Pantoja requested that he be given a period of five (5) days within which to seek the advice of his counsel, but this request was summarily denied. As a result, Emilio Pantoja filed an urgent petition with the SEC on July 20, 1976 for the issuance of a writ of preliminary injunction, to restrain the II PC Zone, Command or their subordinates from interfering with the intra-corporate controversy in the Desa Enterprises, Inc., except to perform their primary function to maintain peace and order, and to prohibit any person, firm or entity, whether civilian or military, from operating the ice plant without the order of the SEC and if such person, firm or entity has commenced the operations of the ice plant, to cease and desist from doing so until ordered by the SEC. [8] Acting upon said petition, SEC Associate Commissioner Julio A. Sulit, Jr., issued an order on July 23, 1976, that:

"x x x the respondent, his agents or any other person acting in his behalf or in behalf of the DESA

ENTERPRISES, INC., including Mr. Luis N. Lopez, are therefore ORDERED TO REFRAIN from interfering with and/or operating the ice plant, machineries and equipments located at Lian, Batangas, thereby maintaining the unmolested status of the said ice plant and machineries preceding the filing of the instant petition on July 20, 1976 until further orders of this Commission."[9]

On November 29, 1976, Emilio Pantoja filed an urgent manifestation with the SEC that the Lian Ice Plant had resumed commercial operations in utter and wanton violation and disregard of the Commission's order of July 23, 1976. Upon verification, the SEC found that the ice plant was indeed in operation, manufacturing and producing ice and selling the same to various customers. Hence, on December 29, 1976, SEC Associate Commissioner Julio A. Sulit, Jr. issued an order, the dispositive portion of which reads, as follows:

"WHEREFORE, in view of the deliberate disregard of, and disobedience to the lawful order of this Commission, the respondent Desa Enterprises, Inc. and their agents or persons acting in their behalf, including Mr. Luis N. Lopez, are hereby directed to appear before this Commission on January 10, 1977 at 10:00 o'clock in the morning to show cause why they should not be dealt with and punished for contempt of this Commission; and in the meantime, to desist and stop the operation of the ice plant immediately until further orders of this Commission."[10]

On January 7, 1977, Luis Lopez filed a special appearance and manifestation in SEC Case No. 1201, alleging that he is not a party to the case and is not aware of the proceedings in this case, much less of the restraining order of July 23, 1976 or of the proceedings had in this case; that he had entered into a contract of lease with the DESA ENTERPRISES, INC. which is in accordance with the Commission's order of September 17, 1974 as it was with the conformity of the parties; and that the operation of the ice plant is in the best interests, both of the public and the corporation, such operation being the only way to preserve the ice plant, and its lease to Luis Lopez was necessary for such operation and was made upon advice of military authorities for the purpose of rendering public service. He prayed that the manifestation be considered sufficient compliance with the order dated December 29, 1976, and that the restraining order dated July 23, 1976 be clarified and/or modified to except the contract of lease from its force.[11] On January 13, 1977, he filed a memorandum to support his contention.[12]

However, on January 24, 1977, Luis Lopez, without waiting for any action that may be taken thereon, and the Desa Enterprises, Inc., filed a petition for certiorari and prohibition, with preliminary injunction, to annul and set aside the orders of the SEC dated July 23, 1976 and December 29, 1976, issued in SEC Case No. 1201, and to restrain the said Commission from interfering with, or inquiring into, the lease contract executed by and between Luis Lopez and the DESA ENTERPRISES, INC., on the ground that the SEC has no jurisdiction to do so. The case was docketed as G.R. No. L-45430, and as prayed for, a temporary restraining order was issued on March 6, 1977, restraining the respondent Commission from enforcing its order of July 23, 1976.[13]

While the aforestated SEC Case No. 1201 was pending adjudication, on August 10, 1976, the Desa Enterprises, Inc., filed an action against Emilio Pantoja, Benjamin Vergara, and Eleuterio Lagrisola, with the Court of First Instance of Batangas, for the recovery of corporate funds in the amount of P25,000.00, admittedly held by Emilio Pantoja, and damages, for having caused the closure of the Lian Ice Plant in 1975. The case was docketed therein as Civil Case No. 1060.[14] Instead of filing a responsive pleading, the defendants filed a motion to dismiss the complaint upon the grounds that the Court of First Instance of Batangas has no jurisdiction over the case, which jurisdiction properly belongs to the SEC in accordance with Section 5(b) of Presidential Decree No. 902-A; that there is another pending action between the parties for the same cause before the SEC; and that the complaint does not state any cause of action since the order stopping the operations of the ice plant was legally issued by the SEC.[15] The trial court, however, denied the said motion to dismiss on November 29, 1976,[16] and the motion for its reconsideration on January 13, 1977.[17] As a consequence, the defendants Emilio Pantoja, Benjamin Vergara, and Eleuterio Lagrisola filed a petition for certiorari for the review of said orders. The case was docketed

as Case G.R. No. L-45644, and on June 10, 1977, the Court, upon previous motion, issued a temporary restraining order, prohibiting the respondents from further proceeding with Civil Case No. 1060 or from enforcing or carrying out any decision or order issued therein.[18]

In their Memorandum filed in G.R. No. L-45430, the petitioners Luis Lopez and Desa Enterprises, Inc., pose the following issues:

"1. Does SEC have at the time the complaint was filed on May 2, 1973, jurisdiction over its Case No. 1201 for the revocation of the certificate of registration of Desa Enterprises, Inc. in view of the law RA 5050 (June 17, 1967) then applicable?

"2. Is respondent Pantoja estopped from questioning the registration and personality of Desa Enterprises, Inc. considering that he was its president for some years?

"3. May SEC cite petitioners for contempt considering that they are not parties in its Case No. 1201 before it and were not furnished copies of the order violation of which they are charged? and

"4. May SEC inquire into or interfere with the contract of lease between petitioners, particularly since it was approved previously by respondent Pantoja and subsequently by the stockholders of a large majority of the capital of Desa Enterprises?"

1. The petitioners claim that at the time of the filing of the complaint in SEC Case No. 1201 on May 2, 1973, the SEC had no jurisdiction over actuations for revocation of the certificates of registration of corporations. It is contended that in May, 1973, the applicable law was Republic Act No. 5050 which merely authorized the SEC to petition the proper court of first instance to revoke the certificate of registration of any corporation upon certain grounds, and the SEC itself had no jurisdiction to revoke such registration.

Indeed, the respondent Commission had no power to revoke the certificate of registration of the Desa Enterprises, Inc. at the time of the filing of the complaint in SEC Case No. 1201 on May 2, 1973, since Presidential Decree No. 902-A, which granted the Commission the power to revoke the certificate of registration of a corporation took effect only on March 11, 1976. But, while its power to revoke the certificate of registration of a corporation was merely recommendatory under Republic Act No. 5050, the SEC had authority to investigate and hear complaints for any violation of law, rule or regulation required to be enforced by it for non-compliance of any term or condition of any certificate, license, or permit, issued by it.[19]

2. The petitioners Desa Enterprises, Inc. and Luis Lopez also claim that the respondent Emilio Pantoja, having been, and acted as, president of the Desa Enterprises, Inc., is estopped from questioning its registration and personality.

Suffice it to state, in this connection, that SEC Case No. 1201 is still pending adjudication in the SEC. This matter could be appropriately raised therein.

3. The petitioners, Desa Enterprises, Inc. and Luis Lopez further contend that they are not parties in the case before the SEC, the parties being Emilio Pantoja and Dionisio Chua Kang Hay, and were not furnished copies of the orders, violation of which they are charged so that the SEC cannot cite them for contempt.

The contention is without merit. The fact that the petitioners may not be parties in SEC Case No. 1201 does not preclude the SEC from citing them for contempt. The rule is settled that "persons who are not parties in a proceeding may be declared guilty of contempt for willful violation of an order issued in the case if said persons are guilty of conspiracy with any of the parties in violating the court's order." [20]

Besides, under Section 1(b) of Republic Act No. 1143, the SEC has power to penalize any violation of or non-compliance with any terms or conditions of any certificate, license, or permit issued by the Commission, or of any order, decision, ruling or regulation thereof.

In any event, the respondent Commission, in its questioned order of December 29, 1976, has directed Luis Lopez and Desa Enterprises, Inc. to appear before it and to show cause why they should not be dealt with, and punished for, contempt, for violating the Commission's order dated July 23, 1976. The arguments presented here could be introduced in said hearing.

4. Finally, the petitioners maintain that the respondent Commission has no jurisdiction to inquire into the contract of lease, which matter properly belongs to the regular courts.

In restraining the petitioners Luis Lopez and Desa Enterprises, Inc. from operating the Lian Ice Plant, the respondent Commission, however, was not inquiring into the validity of the lease contract, but merely enforcing compliance with its order of September 17, 1974, as well as the terms of the said contract of lease that the "lease contract shall be ratified by all stockholders at a meeting called for the purpose prior to its effective date," and exercising a power which is necessary to make effective its control over corporations registered with it.

In case G.R. No. L-45644, the petitioners, Emilio Pantoja, Benjamin Vergara, and Eleuterio Lagrisola, contend that the Court of First Instance of Batangas, had no jurisdiction to entertain the complaint, filed by Desa Enterprises, Inc. against them, during the pendency of SEC Case No. 1201, since the action is within the original and exclusive jurisdiction of the SEC.

There is merit in the contention. Section 5(b) of Presidential Decree No. 902-A provides:

"SEC. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

"a) x x x x x x x x

"b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates, between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

"c) x x x x x x x x."

Under said section, the SEC is clearly ordained to assume original and exclusive jurisdiction to hear and decide cases involving intra-corporate controversies and to determine, decide, and adjudicate the rights of the parties in litigation. Failure to act pursuant to this mandate of the law purely on the basis of technicalities of the rules of procedure would amount to an abdication of the Commission's authority and jurisdiction conferred by law; not to say a dereliction of duty.

Civil Case No. 1060 of the Court of First Instance of Batangas (G.R. No. L-45644), initiated on August 10, 1976, after Presidential Decree No. 902-A had gone into effect, is an action filed by the Desa Enterprises, Inc. against Emilio Pantoja, a stockholder of said corporation, and Benjamin Vergara and Eleuterio Lagrisola, employees of the corporation, for the recovery of corporate funds in the amount of P25,000.00, admittedly held by Emilio Pantoja, and for damages, allegedly incurred by the corporation as a result of the filing of SEC Case No. 1201 and the closure and cessation of operations of the Lian Ice Plant in 1975. It being an action between a corporation and a stockholder of said corporation arising out of intra-corporate relations, the case is within the original and exclusive jurisdiction of the SEC. While Benjamin Vergara and Eleuterio Lagrisola were made parties, these additional defendants are mere hired workers in the Lian Ice Plant and acted upon the orders of the military authorities and, consequently, cannot be held answerable for the damages that may have resulted after the ice plant ceased its operations in 1975. Their inclusion as party defendants in this case is an apparent attempt to

circumvent the provisions of Presidential Decree No. 902-A and the proceedings pending before the SEC.

WHEREFORE, judgment is hereby rendered, as follows:

1. The petition filed in case G.R. No. L-45430 is dismissed for lack of merit and the temporary restraining order heretofore issued is lifted. Costs against the petitioners; and
2. The petition filed in case G.R. No. L-45644 is granted and Civil Case No. 1060 of the Court of First Instance of Batangas is dismissed. The temporary restraining order issued is hereby made permanent. Costs against the private respondent, Desa Enterprises, Inc.

SO ORDERED.

Barredo, (Acting Chairman), Guerrero, De Castro and Escolin, JJ., concur. Aquino, J., in the result. Abad Santos, J., reserves his vote.

[*] See p. 144, Rollo of G.R. No. L-45644.

[1] Rollo of G.R. No. L-45644, p. 31.

[2] Id., p. 33.

[3] Id., pp. 13, 14.

[4] Rollo of G.R. No. L-45430, p. 98.

[5] Id., p. 29.

[6] Id., p. 12.

[7] Id., p. 68.

[8] Id., p. 51.

[9] Id., p. 19.

[10] Id., p. 18.

[11] Id., p. 20.

[12] Id., p. 23.

[13] Id., p. 58.

[14] Rollo of L-45644, p. 10.

[15] Id., p. 17.

[16] Id., p. 49.

[17] Id., p. 58.

[18] Id., p. 119.

[19] Section 1(e) of Republic Act No. 1143.

[20] Philippine Marketing & Management Corp. vs. Hon. Andres Reyes, L-27195, March 30, 1970, 32 SCRA

220, citing Ferrer vs. Rodriguez, L-17507, August 6, 1962, 5 SCRA 854.

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