

ERLINDA BILDNER, COMPLAINANT, VS. JUSTICE VICENTE Q. ROXAS, RESPONDENT.*A.M. OCA I.P.I. No. 07-108-CA-J. June 12, 2008*

Ponente: VELASCO JR., J.

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This administrative complaint filed on June 6, 2007 by Erlinda Bildner, president of the Philippine Communications Satellite Corporation (PHILCOMSAT), against Court of Appeals (CA) Justice Vicente Q. Roxas charges Justice Roxas with gross ignorance of the law in deciding CA-G.R. SP No. 94038 entitled *Manuel H. Nieto, Jr. v. Securities and Exchange Commission (Nieto)* when he granted the petition despite the Motion to Withdraw Petition based on a Memorandum of Understanding (MOU) among the opposing factions of stockholders of the Philippine Holdings Corporation (PHC). Bildner also alleges that Justice Roxas was guilty of obvious impartiality when he disregarded her motion for a hearing to determine the authority of the counsel representing Manuel Nieto, Jr., the hold-over president of PHC. Eighty-one percent (81%) of PHC is owned by PHILCOMSAT, which complainant Bildner heads. It is fully owned by the Philippine Overseas Telecommunications Corporation.

The problem started in August 2004. After having no annual elections from 2000 to 2003, the stockholders of PHC held their annual elections upon request of a minority stockholder, one Jose Ma. Ozamis. But since the elections were under protest, the same group of directors/officers headed by Nieto kept their positions on a hold-over capacity. On May 16, 2005, Ozamis requested the Securities and Exchange Commission (SEC) to call an annual stockholders' meeting that the SEC granted in an order on February 26, 2006. Nieto sought reconsideration of the order averring that PHC had pending cases that had yet to be resolved before the SEC could call the meeting.

Bildner and her group resisted the objection of Nieto to holding a meeting, alleging that the cases alluded to by Nieto had long been in existence even before the August 2004 meeting of PHC. The SEC denied the motion for reconsideration of Nieto. It said that those cases had nothing to do with the petition calling for a stockholders' meeting and their pendency was no reason not to hold the annual meeting.

Hence, on April 11, 2006, Nieto filed before the CA a petition for certiorari and prohibition with prayer for a temporary restraining order (TRO) and a writ of preliminary injunction, docketed as CA-G.R. SP No. 94038. Nieto alleged that the SEC committed grave abuse of discretion when it issued the orders dated February 26, 2006 and April 4, 2006 in SEC Case No. 02-06-0133 that involved intra-corporate matters, matters that are outside the jurisdiction of the SEC.

Bildner filed an opposition to the application for a TRO, asserting that the SEC had jurisdiction to compel the officers of any registered corporation or association to call a stockholders' meeting.

Meanwhile, on July 1, 2006, the majority stockholders of PHC, including Bildner, entered into an MOU and requested the SEC to set a date for the annual stockholders meeting.

Four days after the execution of the MOU, on July 5, 2006, the CA, with Justice Roxas as ponente, issued a TRO enjoining the respondents in CA-G.R. SP No. 94038 from implementing the assailed orders in SEC Case No. 02-06-0133.

On July 26, 2006, in her Comment with Motion to Lift TRO and Motion to Set Case for Hearing of CA-G.R. SP No. 94038, Bildner insisted that the SEC had the jurisdiction to call an annual stockholders meeting. Anent the Motion to Set Case for Hearing, she claimed that she had evidence to show that Nieto was misled by his counsels of record into signing the petition before the CA. She posited that had the CA not issued the TRO, the SEC could have resolved the stockholders' dilemma.

The SEC in its Comment maintained that CA-G.R. SP No. 94038 had become mooted by the MOU. It likewise asserted that it had jurisdiction to call the PHC elections.

Despite the MOU, on August 16, 2006, the CA issued a Resolution issuing a writ of preliminary injunction.

Thereafter, on September 1, 2006, Nieto filed a Motion to Withdraw Petition that the CA, with Justice Roxas as ponente, denied. The CA said the motion came too late inasmuch as the SEC Comment had already been filed. According to the CA, under Section 8, Rule 65 of the Rules of Civil Procedure, the CA was confined only to two options: to either grant or dismiss the petition. The CA Decision held that the assailed SEC orders were issued with grave abuse of discretion as they effectively rendered moot any decision that the regular courts may make on the disputed elections. The dispositive portion of the CA's October 30, 2006 Decision[1] states:

WHEREFORE, premises considered, petition is hereby GRANTED. The February 26, 2006 and the two (2) April 4, 2006 Orders of the SEC in SEC Case No. 02-06-133 are hereby ANNULLED. The Securities and Exchange Commission is hereby DIRECTED to stay its hand and cease in the exercise of its regulatory powers, as in this case, when they interfere with or render moot the exercise of the adjudicative powers already transferred from the SEC to the regular courts.

SO ORDERED.

Hence, we have this administrative complaint charging Justice Roxas with gross ignorance of the law and obvious impartiality.

The complaint has no merit. Essentially, complainant raises two grounds: First, Justice Roxas should not have granted Nieto's petition before the CA because it had been superseded by Nieto's Motion to Withdraw Petition. Second, Justice Roxas should have acted on complainant's motion to set a hearing to determine the authority of Nieto's former counsels to represent him.

On the first complaint. Sec. 8, Rule 65 of the Rules on Civil Procedure provides that the CA, in dealing with a petition for certiorari, shall either (1) render judgment for the relief prayed for or (2) dismiss the petition if it is patently without merit, prosecuted manifestly for delay, or the questions raised before it are too unsubstantial to require consideration. Sec. 8 states:

Sec. 8. Proceedings after comment is filed. - After the comment or other pleadings required by the court are filed, or the time of the filing thereof has expired, the court may hear the case or require the parties to require memoranda. If after such hearing or submission of memoranda or the expiration of the period for the filing thereof the court finds that the allegations of the petition are true, it shall render judgment for the relief prayed for or to which the petitioner is entitled.

The court, however, may dismiss the petition if it finds the same to be patently without merit, prosecuted manifestly for delay, or that the questioned raised therein are too unsubstantial to require consideration.

A scrutiny of Sec. 8 would show that there is nothing in it that requires that the judge dismiss a petition whenever a motion to withdraw petition is filed. The decision to grant or deny the motion to withdraw is discretionary on the part of the judge. By analogy, after an answer has been filed, the plaintiff cannot unilaterally withdraw his complaint or information.^[2] The decision to allow or disallow a motion to withdraw from a case is left to the discretion of the judge. Complainant cites *Solar Entertainment v. Court of Appeals*^[3] and *Patli v. Purugganan*^[4] to show that courts have granted similar petitions even after a comment had already been filed. Complainant is right. Motions to withdraw petitions have been granted in the past and more often so. But, as we said, the decision to grant or not to grant is fully within the discretion of the court, most especially when the circumstances surrounding the case dictate that the judge make a ruling on jurisdiction.

In this case, we are inclined to agree with respondent justice that CA-G.R. SP No. 94038, a petition for certiorari under Rule 65, involves an error in jurisdiction and, thus, the primordial issue of jurisdiction must first be passed upon by the CA. Sec. 5.2 of Republic Act No. 8799 or the Securities Regulation Code, made effective in 2000, confers on regular courts the adjudicative functions once enjoyed by the SEC under Presidential Decree No. 902-A. Sec. 5.2 states:

5.2 The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

A review of the dispositive portion of the October 30, 2006 Decision in CA-G.R. SP No. 94038 will readily reveal that the reason stated for ordering the SEC "to stay its hand and cease in the exercise of its regulatory powers" is that the SEC order would "interfere with or render moot the exercise of the adjudicative powers already removed from the SEC and transferred to the regular courts."^[5] Patently, this statement is a ruling on the issue of jurisdiction.

Further, we do not agree with complainant's averment that the PHC controversy on its annual elections would have been resolved had the CA granted the motion to withdraw the petition because the parties would still have to contend with the SEC's lack of jurisdiction over the controversy. Besides, the issuance of the TRO against the SEC did not prejudice the parties to Nieto. The contending stockholders may still settle the representation dispute among themselves. After the finality of the October 30, 2006 CA Decision, they could have simply agreed to the holding of the annual elections. Hence, there was no serious prejudice to the parties.

Complainant's other charge is that respondent justice showed obvious interest, partiality, and overzealousness in the case when he disregarded complainant's motion to set the case for hearing to determine the authority of Nieto's counsels in CA-G.R. SP No. 94038. The accusation is bereft of merit. Sec. 3, Rule 49 of the Rules of Court tells us that "motions shall not be set for hearing and, unless the [CA] otherwise directs, no hearing or oral argument shall be allowed in support thereof." Being mainly a review court, the CA has the discretion to hear the motion of a party. It has not been sufficiently demonstrated that respondent Justice abused his discretion in not granting complainant's prayer for a hearing considering that the issue on the authority of Nieto's counsel can be resolved sans the requested hearing based solely on the submissions of the parties. Besides, the matter was inconsequential to the issue of jurisdiction.

One last note. Without necessarily reflecting on the bona fides of the filing of this complaint, the Court notes that the complainant imputes ill motives on respondent justice and, without so much as presenting proof to support her

imputation, seeks an investigation as to his motives. Allegations of gross ignorance, ill motives, and bias against a magistrate are serious charges. They cannot be made to rest on pure speculation and suspicion alone, as here. If an aggrieved party honestly feels that a judge had rendered an erroneous decision or gravely abused his discretion in the exercise of his judicial functions, the Rules of Court to be sure affords such party adequate judicial remedies. An administrative complaint, with the end in view of having the judge suspended, or worse, dismissed for any of his act perceived to be irregular or erroneous, can hardly be considered as an appropriate corrective judicial remedy.[6]

WHEREFORE, this complaint charging CA Justice Vicente Q. Roxas for gross ignorance of the law and obvious partiality is DISMISSED for lack of merit.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.
Corona, J., on leave.

* On leave.

[1] Penned by Associate Justice Vicente Q. Roxas and concurred in by Associate Justices Edgardo P. Cruz and Ramon M. Bato, Jr.

[2] San Miguel Corporation v. Sandiganbayan, G.R. Nos. 104637-38 & 109797, September 14, 2000, 340 SCRA 289.

[3] G.R. No. 150146, September 10, 2003 Resolution.

[4] CA-G.R. SP No. 67087, September 27, 2006 CA Decision.

[5] Supra note 1.

[6] See Santos v. Orlino, A.M. No. RTJ-98-1418, September 25, 1998, 296 SCRA 101, 106.

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