

## LUZ BACUS LACORDA, PETITIONER, VS. MA. LINDA BACUS MANGLICMOT, RESPONDENT.

Ponente: LOPEZ, J.

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### LOPEZ, J.:

Before Us is a Petition for Review under Rule 43 of the Revised Rules of Court assailing the Order[1] dated September 5, 2011 of the Regional Trial Court (RTC), Branch 17, of Kidapawan City, the fallo of which reads:

IN VIEW THEREOF, this case is dismissed for lack of jurisdiction.

SO ORDERED.

The factual antecedents are as follows:

Parents Meliton and Matilde, who owned income-generating real estate properties, decided to organize their finances and formed MECBA Agri Farms, Incorporated (hereafter MECBA) with their children, namely: Maria Linda, Maria Lourdes and Luz, as fellow incorporators.

On July 17, 1991, a Certification was issued by the Securities and Exchange Commission (SEC) approving the incorporation of MECBA Agri Farms, Inc.[2] (hereafter MECBA). Their articles of incorporation stated its primary purpose, to wit:

“to develop, administer, own, lease and operate agricultural lands, farms, pasture lands, ranches, fishponds, fishpens, foreshore lands and fishing rights or concessions; to engage in the planting and cultivation of coconuts, rubber, coffee and other farm products; xxx.

At the time Meliton passed away in December 1997, MECBA had yet to meet to organize its board of directors and officers. Thus, on February 3, 1998, Matilde, Maria Linda and Luz executed an Extra-Judicial Settlement of Estate with Waiver of Rights.[3] In this document, Matilde, Linda and Luz agreed to distribute nine of MECBA’s properties to Linda, Luz and to three of Meliton’s grandchildren, by right of representation. Despite this settlement, the properties were still under the control and administration of MECBA.

From this moment until the reins of MECBA were turned over to Luz in 2004, Linda assumed the management of MECBA and, acting as President, took control of all of MECBA’s properties which included receipt of all the income from the properties under MECBA.

Subsequently, Luz asked her sister to provide them with an accounting of the income earned by the properties assigned to her per the settlement, particularly referring to MECBA’s income from 1998 to February 2004. The request was made repeatedly but Maria Linda refused to comply.

The warring siblings had a meeting but no reconciliation was reached after Maria Linda told Luz that it was impossible for her to give an accounting because she did not possess any document to show the income flow of MECBA.

On April 9, 2004, Luz sent a letter of demand to Maria Linda, with threat of legal action in case of

non-compliance.[4]

On May 18, 2005, Luz filed a Complaint for Accounting, Delivery of Cash Dividends, Declaration of Incapacity, Election, Issuance of Letters of Administration, Injunction and/or TRO, Damages and Attorney's Fees[5] before the RTC, Branch 17, of Kidapawan City, Cotabato (hereafter RTC-Kidapawan).

Before the RTC-Kidapawan could act on it, an Amended Complaint was sent via registered mail on May 4, 2006 which merely emphasized the fact that the contending parties are from the same family and are the incorporators of MECBA.[6] This was not marked as received by the RTC-Branch 17, Kidapawan City, Cotabato.

In her Answer which was belatedly filed,[7] Maria Linda explained that she could not give them an accounting of the income for the period named because it was not actually her who used the money. She reminded them that their mother and a special needs sister, Teresita, were staying with her, and that all of MECBA's income was spent for their medical and various needs. Maria Linda only became involved because she was designated to collect the rent and other income in lieu of Matilde who was too weak to go around. In short, she did not benefit in any way from MECBA's income because these were exclusively used for their mother's and sister's needs. Maria Linda questioned Luz' interest, stating that the latter should have requested for the accounting while their mother was still alive because she was aware of the arrangement. She also pointed out that contrary to Luz' claim, it was the latter who was interested in organizing and heading MECBA. In fact, Luz should be the one to give an accounting because after their mother died, she took over the collection of income.[8] She also denied transferring parcels of land to Melito's grandchildren, pointing out that she could not have possibly done it because the parcels of land were not registered in her name. Lastly, she lamented that it was actually Luz who benefitted much from the properties because their mother and Teresita had initially lived with them. She intimated that Luz had control of the finances but she was also maltreating Teresita. This prompted their mother to send Teresita to live with Maria Linda, with Matilde to follow shortly thereafter.

Maria Linda also denied the accusation that she was running MECBA for her own interest because she and her husband already own a thriving construction business.

On December 8, 2009, the RTC, Branch 17, Kidapawan City issued an Order requiring the re-computation of docket fees due for the complaint on the ground that the action was really for settlement of estate such that the docket fee paid was deficient, thus:

As required under Administrative Circular No. 35, Section 7(d) the computation of the filing fees shall be based on the estimated market value of the estate of the decedents.[9]

On January 28, 2010, petitioner filed a motion for reconsideration from the re-computation order. She contended that since the complaint is a suit for accounting, the case is one incapable of pecuniary estimation, hence, it is error to base the amount of docket fee due on the market value of all the properties owned by MECBA.

In the assailed Order dated September 5, 2011, the same court dismissed the complaint for lack of jurisdiction, citing insufficient payment of docket fee.[10]

Petitioner then filed this petition for review via Rule 43 of the 1997 Rules of Civil Procedure.[11] She asked that the court a quo be ordered to take cognizance of the case as an intra-corporate dispute and, in the case of deficiency, that she be allowed to pay the balance due on the docket fee.

In her Comment,[12] respondent Maria Linda prayed for the dismissal of the petition for review on the ground that the mode of appeal resorted to was improper. Petitioner filed her Reply thereto on January 24, 2012.[13]

Per Agendum dated February 24, 2012, the contending parties were directed to submit their respective

memoranda.[14] Petitioner Luz submitted her Manifestation and Motion on May 14, 2012[15] while respondent Maria Linda was deemed to have waived her right to file a memorandum.[16] The instant case was deemed submitted for decision on July 30, 2012.

### ISSUES:

I. THAT THE HONORABLE PRESIDING JUDGE SERIOUSLY ERRED IN NOT ADOPTING THE PROCEEDINGS PRESCRIBED UNDER THE INTERIM RULES OF PROCEDURE GOVERNING INTRA-CORPORATE CONTROVERSIES UNDER R.A. 8799;

II. THAT THE HONORABLE PRESIDING JUDGE ERRED IN FINDING THAT THE CORRECT BASIS FOR THE COMPUTATION OF THE FILING FEES MUST BE THE VALUE OF THE ENTIRE ESTATE OF THE LATE MELITON BACUS; and,

III. THAT THE HONORABLE PRESIDING JUDGE ERRED IN NOT GIVING THE PLAINTIFF NOW PETITIONER [THE OPPORTUNITY] TO PAY THE REQUIRED DOCKET FEES. IT IS NOT THE FAULT OF THE PLAINTIFF IF INDEED THE DOCKET FEES IS INCOMPLETE AS COMPUTATION OF THE "CORRECT DOCKET FEES" IS THE DUTY OF THE [CLERK] OF COURT.

### RULING:

Petitioner contends that the Complaint she filed involved an intra-corporate dispute and that she had paid the amount of docket fee as assessed by the RTC-Kidapawan Clerk of Court. She raised that assuming arguendo that the assessed and paid docket fee was insufficient for her action, she should have been given the opportunity to correct the error instead of outrightly dismissing her complaint.

The appeal is impressed with merit.

Based on the evidence that MECBA was already dissolved when the action for accounting was filed, the court a quo deemed it wise to treat the complaint as an action for settlement of the estate of Meliton. It ratiocinated that:

It is apparent that MECBA AGRI FARMS, INC. did not exist at all. The revocation of the certificate of registration on August 11, 2003 was due to the non-compliance of the required annual reports. Practically, it did not have activities to report to SEC on annual basis.

MECBA was incorporated in 1991, and its certificate of registration was revoked in 2003. This gives MECBA a life of 12 years without counting the allowable period for liquidation and winding up.[17] The period subject of the demand for computation covers only 6 years, or from 1998 to February 2004.

Prior to the revocation in 2003, MECBA was, for all intents and purposes, a valid and existing corporation. Its shortcomings as a corporation did not affect its existence prior to 2003. Section 6 of Presidential Decree 902-A provides that:

i) To suspend, or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law, including the following:

xxx

- Failure to file required reports in appropriate forms as determined by the Commission within the prescribed period; xxx.

The grant of the certification of registration upon MECBA indicates that when its incorporators filed its application for registration, it complied with all the requirements to be declared a lawfully created corporation and from the moment its application was granted, it acquired legal personality. Perforce, before its registration was

revoked, MECBA was an existing corporate entity. Neither MECBA's failure to submit to SEC its annual report nor its neglect to elect its corporate officers is sufficient to revoke its registration because the revocation of a registration of a corporation is never automatic. Notice and hearing must be had. Prior to these procedural requirements on revocation, any corporation is deemed an entity endowed with legal personality. Thus, it was error for the court a quo to declare that MECBA did not really exist when the appropriate body to ascertain the question had already vested it with legal personality.

Absent any indication that MECBA was formed for purposes contrary to law, to avoid certain obligations, or to commit fraud, its separate personality should be respected. To reiterate, it is not the authority of the court a quo to consider the revocation of MECBA's incorporation, to retroact to the day it was incorporated, and deem it as to have never existed at all.

The primary purpose of MECBA was for the development, administration, ownership, lease and operation of the numerous properties owned by Meliton and Matilde. No list of properties was provided in the articles nor was a copy of the by-laws submitted to determine what MECBA owned as a corporation. However, as pointed out by Luz and as determined by the court a quo, the 1998 extra-judicial settlement was only for a partial distribution of the properties left by Meliton which properties were still part of MECBA. In fact, only the income from these nine properties were assigned to each of the heirs, three each for Luz, Linda, and the three grandchildren[18] by right of representation. The administration of the properties was still entrusted to MECBA, and Luz was only asking for petitioner to account for the income earned by the three properties which were assigned to her.

We find it revealing when Luz argued that:

Respondent Maria Linda Manglicmot as claimed by petitioner voluntarily took over the management and administration of MECBA upon the death of their father, Meliton Bacus in 1997. During that time, the properties allotted to petitioner per the extrajudicial partition were not [turned over] to her but continually placed under MECBA.

What the petitioner is asking is [for] the accounting and delivery of the income of her property placed under MECBA within the period 1998 to February 2004;

In their defense, Maria Linda Manglicmot claimed that MECBA has no property and that the same was already dissolved. In effect, she is saying that plaintiff now petitioner can no longer ask for accounting and others.

Respondent seems to forget that what plaintiff now petitioner is asking is for her to render an accounting on the affairs of MECBA for the period 1998 to February 2004 when petitioner's property were placed under MECBA which was managed and administered by respondent.[19]

In an action for accounting by a member of a corporation is a derivative suit which seeks to enforce his right to know the activities of the corporation, and in this case, to assert petitioner's right to receive her just share in the corporation's income. The distinction of the two actions as applied in the case at bench lies in petitioner's purpose in filing the action. In her complaint for accounting, petitioner asked only for the turn-over and delivery of the earnings from her three properties. If We were to consider her complaint as actually one for settlement of Meliton's estate, it would entail the determination of all of Meliton's properties, real and personal, before his death, the payment of taxes and other liabilities due from him, and the distribution of the inheritance to each of his heirs, as prescribed in Rules 73-90 of the Rules of Special Proceedings.

From this premise, We find that the court a quo erred when it ordered the re-computation of the amount of docket fee due. The basis for computing the filing fees in intra-corporate cases shall be Section 7(a) and (b) 1 and 3 of Rule 141 of the Revised Rules of Court,[20] and these provide that intra-corporate disputes fall under the category

“incapable of pecuniary estimation.”

As aptly argued by petitioner in her petition:

What is in litigation under SP Proc Case No. 19-2005 is only the property of petitioner placed under the management and administration of MECBA and/or Maria Linda Manglicmot.

In addition when the Order dated December 28, 2008 requiring re-computation of the docket fees, plaintiff now petitioner filed a motion for reconsideration pointing to the fact that SP Proc. Case No, 19-2005 is covered by the special summary rules on intra-corporate controversies and that what is involved is accounting on the affairs of MECBA from 1998 to February 2004.

After the motion for reconsideration on re-computation was denied, the Honorable Presiding Judge no longer gave time for the clerk to re-compute the docket fees and for plaintiff now petitioner to pay the re-computed fees;[21]

Petitioner, honestly believing that the action she initiated was one incapable of pecuniary estimation, could not be faulted for paying only the amount due for an action supposedly incapable of pecuniary estimation. In *Lu vs. Lu YM*,[22] it was ruled that:

...assuming there was deficiency in paying the docket fees and assuming further that there was a mistake in the computation, the deficiency may be considered a lien on the judgment that may be rendered, there being no established intent to defraud the government.[23]

Assuming *arguendo* that petitioner failed to pay the correct amount for the Complaint, she should have been given the opportunity to pay the deficiency. The motion for reconsideration, while insisting that the action was actually one incapable of pecuniary estimation, cannot be construed as a refusal to pay. Upon the finding of any deficiency, the court *a quo* is not precluded from acquiring jurisdiction as it had the authority to direct the mistaken party to complete the docket fees in the course of the proceedings.[24]

In *Spouses Rogelio vs. Spouses Valiente*,[25] the non-payment of docket fee, or lack thereof, cannot be held as a ground for dismissing a petition, thus:

In *Sun Insurance Office, Ltd. Vs. Asuncion*, the Court held that the strict regulations set in *Manchester Development Corporation vs. Court of Appeals* that a court acquires jurisdiction over any case only upon payment of the prescribed docket fees does not apply where the party does not deliberately intend to defraud the court in payment of docket fees, and manifests its willingness to abide by the rules by paying the additional docket fees when required by the court.

Thus, without any proof that petitioner intended to defraud the government, any deficiency in the payment of docket fee may still be considered a lien on the judgment that may be rendered.[26] The motion for reconsideration of the September 5, 2011 Order did not indicate any refusal on petitioner's part to pay the deficiency. Rather, she merely asserted on a belief in good faith that her action was one incapable of pecuniary estimation. Moreover, there is no record that a re-computation was indeed made, hence, petitioner did not even have any idea what the correct docket fee as re-computed would be. By the outright dismissal of her complaint, she was deprived of the right to know the amount due and the opportunity to make amends.

Corollary to the determination that the issue is an intra-corporate dispute is the finding that the petitioner did, in fact, resort to the proper mode of appeal when she filed the Petition for Review under Rule 43 of the Rules of Court. Respondent raised the same question in her Comment, stating that such error in the appeal rendered the assailed Order final and executory.

Administrative Matter No. 04-9-07-SC dated September 14, 2004 provides in part:

All decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court.

Additionally, respondent's contention that the Complaint should have been filed in Davao City where both petitioner and respondent reside does not deserve consideration. The Articles of Incorporation of MECBA indicate that the "principal office is to be established or located at Kidapawan, North Cotabato." [27] Section 5 of the Interim Rules state that:

Sec. 5. Venue. - All actions covered by these Rules shall be commenced and tried in the Regional Trial Court which has jurisdiction over the principal office of the corporation, partnership, or association concerned. Where the principal office of the corporation, partnership or association is registered in the Securities and Exchange Commission as Metro Manila, the action must be filed in the city or municipality where the head office is located.

Hence, when the intra-corporate controversy was filed by petitioner before the RTC, Branch 17, Kidapawan City, Cotabato, the said court had jurisdiction.

Considering that MECBA's registration was revoked by the SEC in 2003, its incorporators, herein petitioner and respondent, should have started the process of dissolution and winding-up. The period provided by the Corporation Code is three years. Hence, when the Complaint was filed in 2005, followed by the Amended Complaint in 2006, the action was well-within the three-year period.

Finally, it is clear that Linda was at the helm of MECBA for the period covered in the Complaint. As its head, she is presumed to know the goings on of the corporation and is accountable to all its members. In the interest of justice and fair play, she could not be allowed to shy away from her responsibility as MECBA President and use its subsequent dissolution, [28] or her alleged lack of control over MECBA's finances, as a defense.

In closing, a corporation's life commences upon the grant of its application for registration by the SEC, and it ends when its charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner provided by law. Thus, petitioner's demand for accounting of the income generated, or for the exercise of any of the rights granted to a member or stockholder, within its corporate lifetime properly falls under an intra-corporate dispute.

WHEREFORE, premises considered, the Appeal is hereby GRANTED. The Order dated September 5, 2011 rendered by the Regional Trial Court, Branch 23, of Kidapawan City is REVERSED and SET ASIDE. The case is REMANDED to the court of origin for further proceedings.

### **SO ORDERED**

### **CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Camello, J., Ch., and Inting, JJ., concur.

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[1] Rollo, pp. 23-25.

[2] S.E.C. Reg. No. DS-091-005808.

[3] Rollo, pp. 40-43.

[4] Received by respondent's representative on April 15, 2004.

[5] Rollo, pp. 45-52.

[6] Rollo, pp. 56-65.

[7] Mailed via registered mail on January 28, 2010 but also not marked as "Received" by the lower court; Rollo, pp. 66-85.

[8] Rollo, p. 70.

[9] Rollo, p. 86.

[10] Rollo, pp. 23-25.

[11] Rollo, pp. 3-22.

[12] Rollo, pp. 91-97.

[13] Rollo, pp. 98-103.

[14] Rollo, p. 104.

[15] Rollo, pp. 112-114.

[16] Rollo, p. 115.

[17] Batas Pambansa Blg. 68, Section 122. Corporate liquidation. – Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the business for which it was established.

[18] Jose Marri C. Bacus, Marjoe Cris C. Bacus, Joeanna Lou C. Bacus and Jennifer G. Bacus. See Rollo, p. 41.

[19] Rollo, pp. 14-15.

[20] A.M No. 00-8-10-SC: Transfer of Cases from the Securities and Exchange Commission to the Regional Trial Courts En Banc Resolution on Clarification on the Legal Fees to be Collected and the Applicable Period of Appeal in Cases Formerly Cognizable by the Securities and Exchange Commission.

[21] Rollo, p. 17.

[22] G.R. No. 153690, February 15, 2011.

[23] G.R. No. 15369, February 15, 2011.

[24] Philippine First Insurance Co., Inc. et. al vs. Pyramid Logistics and Trucking Corporation, G.R. No. 165147, July 9, 2008.

[25] G.R. No. 166802, July 4, 2008.

[26] Lu vs. Lu YM, G.R. No. 153690, February 15, 2011. Citations omitted.

[27] Rollo, p. 30.

[28] Corporation Code, Section 77. Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and of enabling it gradually to settle and close its affairs, to dispose of and convey its property and to divide its capital stock, but not for the purpose of continuing the business for which it was established

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