

**CORAZON D. VICARIO, ROMEO ACOSTA, LEA P. MANGOHIG,  
OLYMPIO D. LUNARIA, SERVILLANO R. BOTON, ABRAHAM B.  
BLANCAFLOR, CORAZON T. BASSIG, ROSELLER L. MANALO, ESTER  
F. OBLENA, JOEY Y...**

Ponente: GARCIA-FERNANDEZ, J.

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**GARCIA-FERNANDEZ, J.:**

This is a Petition for Review[1] under Rule 43 of the Revised Rules of Court seeking to reverse and set aside the decision[2] dated October 28, 2010 of the Securities and Exchange Commission (SEC) in SEC En Banc Case No. 01-10-191, which denied petitioners' appeal in the setting aside of the Order[3] dated December 9, 2009 of the SEC's Company Registration and Monitoring Department (CRMD).

The facts of the case are as follows:

Petitioners, alumni of the Gregorio Araneta University Foundation, filed a complaint with the Securities and Exchange Commission's (SEC) Company Registration and Monitoring Department (CRMD) on February 8, 2009 for the nullification of the three (3) amended articles of incorporation of respondent De La Salle-Araneta University, Inc. These amended articles- AAI 2002, AAI 2003 and AAI 2005 were approved by the SEC on May 31, 2002, June 24, 2003 and October 13, 2005 respectively.

The grounds alleged in the complaint[4] for the declaration of nullity of the aforementioned amended articles of incorporation (AAI) are as follows:

- a.) The Certificate of Amendment of the 2002 AAI was signed by the Board of Trustees and attested by the Corporate Secretary on May 10, 2002 in Mandaluyong City, outside of the Notarial Commission of a Notary Public commissioned in Pasig City and without indication by such Notary Public of his Professional Tax Receipt ("PTR") No. and of the information required to be entered in the Notarial Register, but with a P5.00 BIR stamp;
- b.) Several amendments in Article II of the 2002 AAI were not disclosed in the Certificate of Amendment, in violation of Section 16 of the Corporation Code and Republic Act No. 6055[5];
- c.) The amendments in Articles II, V and VII of the 2003 AAI contravene RA 6055;
- d.) The Certificate of Amendment of the 2005 AAI was signed in the City of Manila outside the Notarial Commission of Sinforoso R. Pagunsan in Pasay City;
- e.) The amendment in Article II of the 2005 AAI which includes a Special Education Program in the Basic Education Department was effected without the recommendation of the Commission on Higher Education (CHED) required under Section 17 of the Corporation Code.

On December 9, 2009, SEC's CRMD issued an Order which dismissed the complaint for lack of merit.

Petitioners interposed an appeal to the Securities and Exchange Commission en banc and moved for the setting

aside of the abovementioned Order of the CRMD. On October 28, 2010, the SEC rendered a decision, which affirmed the order of the CRMD.

Hence, the instant petition.

Petitioners claim that the Securities and Exchange Commission erred in setting aside their complaint despite the fact that the 2002 AAI was notarized by a notary public without a professional tax receipt and with no notarial register; that the 2005 AAI was notarized by a notary public outside of his notarial jurisdiction. Petitioners alleged that said amended articles of incorporation are not public documents, hence, are void ab initio and cannot be made the basis of the corresponding amendment approved by the SEC. Petitioners allege that they, as well as the Gregorio Araneta University Foundation suffered injury because of the said amendments.

Petitioners further contend that the SEC erred in holding that the coverage of RA 6055 is limited to stock educational corporations which convert to non-stock, non-profit educational foundations and is not applicable to respondent De La Salle-Araneta University. Petitioners point out that on January 17, 1970 or shortly after the enactment of RA 6055 in 1969, the Board of Trustees of Gregorio Araneta University Foundation, Inc. (respondent's former name) amended the original Articles of Incorporation dated January 27, 1966 "conformably with the provisions of RA 6055." Petitioners assert that the amendment of the Articles of Incorporation pursuant to the provisions of RA 6055 converted it from stock corporation to non-profit foundation.

The petition is devoid of merit.

A notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and it has in its favor the presumption of regularity which may only be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to the falsity of the certificate. Absent such, the presumption must be upheld.[6] The burden of proof to overcome the presumption of due execution of a notarized document lies on the party contesting the execution.[7]

In the instant case, petitioners failed to prove by substantial evidence that the notaries public who notarized the Certificates of Amendment to the 2002 and 2005 AAI were not authorized to perform notarial acts in Mandaluyong City and Manila City, respectively. The fact that the professional tax receipts of the notaries public for the 2002 and 2005 AAI appear to have been obtained in Pasig City and Pasay City, respectively, did not mean that said notaries public were not commissioned in Mandaluyong City and Manila City during the notarization of the subject certificates of amendment. Petitioners could have easily checked the Clerks of Court of Mandaluyong City and Manila City to confirm whether the notaries public concerned were duly commissioned in said jurisdictions when the notarial acts were performed. Contrary to petitioners' assertion, the notary public who notarized the Certificate of Amendment of the 2005 AAI was commissioned as such in Manila City, as evidenced by the certification issued by the Office of the Clerk of Court-Notarial Section of the Regional Trial Court of Manila.[8] The parties to the document must personally appear before the notary public to attest that the same is their own free act and deed[9]. In this regard, petitioners failed to substantiate by clear and convincing proof that the signatories to the subject certificates of amendment did not personally appear before the notaries public. Neither did petitioners adduce evidence to show the falsity of the matters sworn to in the said certificates of amendment. Therefore, the subject certificates of amendment are considered public documents and evidence of the facts therein expressed, the same being prima facie evidence of the execution of the document involved.[10]

It must be emphasized that the Certificates of Filing of Amended Articles of Incorporation issued by the Company Registration and Monitoring Division of the Securities and Exchange Commission on May 31, 2002, November 27, 2003 and October 13, 2005 respectively, all contained a memorandum to the effect that the Articles of Incorporation so filed was approved by the Securities and Exchange Commission[11].

Assuming arguendo, that defects existed in the filing of the Articles of Incorporation of respondent, said defects had already been waived. In view of Section 16, third paragraph of the Corporation Code[12], the amendments to the Articles of Incorporation were approved and thus, valid and binding. Further, the subject amendments were never questioned. Neither did the SEC, pursuant to its power granted under Section 17 of the Corporation Code, reject or disapprove said amendments.

A reading of the title of RA 6055, “An Act To Provide For The Conversion Of Educational Institutions From Stock Corporations To Non-Profit Foundations, Directing The Government Service Insurance System, The Social Security System And The Development Bank Of The Philippines To Assist In Such Conversion, And For Other Purposes,” would reveal that the same is applicable only to educational institutions organized as stock corporations but would be converted to non-stock, non-profit educational foundations and avail of the benefits granted by the Government Service Insurance System, the Social Security System and the Development Bank of the Philippines under Section 2 of RA 6055.

Respondent De La Salle-Araneta University (formerly the Araneta Institute of Agriculture, Araneta University Foundation, Inc. and Gregorio Araneta University Foundation, Inc.) was already a non-stock, non-profit educational foundation in 1966[13] while RA 6055 was only approved on August 4, 1969 and published in the Official Gazette on April 20, 1970. Clearly, the incorporation of some of the requirements found in RA 6055 to the Amended Articles of Incorporation of Araneta University Foundation did not change the nature of respondent as non-stock, non-profit educational foundation.

The private respondents, as members of the Board of Trustees of respondent De La Salle-Araneta University were well within their right to approve the subject amendments by express provision of Section 16 and Section 23 of the Corporation Code. Section 16 of the Corporation Code provides that the Articles of Incorporation of a corporation “may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code, or the vote or written assent of at least two-thirds (2/3) of the members if it be a non-stock corporation.” In addition, Section 23 of the Corporation Code reads:

“xxx unless otherwise provided in this Code, the corporate powers of all corporations shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees.”

Significantly, there is nothing in RA 6055 that prohibits the Board of Trustees and members of the respondent from adopting amendments to its Articles of Incorporation as they may see fit and in accordance with the needs of the corporation. Thus, when respondent adopted various amendments to its Articles of Incorporation, there was no violation of RA 6055.

The issues in the instant case demand the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact; a uniformity of ruling is essential to comply with the premises of the regulatory statute administered.[14] Over matters falling under their jurisdiction, the Supreme Court repeatedly held that administrative agencies are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect, if not finality, by the courts[15]. In line with these, this Court finds no error in the Securities and Exchange Commission's decision.

WHEREFORE, the petition for review is DENIED and the decision dated October 28, 2010 of the Securities and Exchange Commission (SEC) in SEC En Banc Case No. 01-10-191, is AFFIRMED.

**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.

Pizarro, N.B., Acting Chairperson[\*] and Acosta, F.P., JJ., concur.

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[\*] Per Office Order No. 168-14-RDC dated May 2, 2014.

[1] Rollo, pp. 17-47.

[2] Rollo, 48-54.

[3] Rollo, pp. 452-463.

[4] Rollo, pp. 163-177.

[5] An Act To Provide For The Conversion Of Educational Institutions From Stock Corporations To Non-Profit Foundations, Directing The Government Service Insurance System, The Social Security System And The Development Bank Of The Philippines To Assist In Such Conversion, And For Other Purposes (1969).

[6] Pacific Industrial Sales Co., Inc. vs. Court of Appeals And Nicolas Capistrano, G.R. No. 125283, February 10, 2006.

[7] Calma v. Santos, G.R. No. 161027, 22 June 2009.

[8] Annex “1” of Reply to complainant's Memorandum dated August 3, 2009 and Supplemental Memorandum dated August 17, 2009 filed before the CRMD.

[9] Rural Bank of Silay vs. Atty. Ernesto H. Pilla, Administrative Case No. 3637, January 24, 2001

[10] Spouses Alfarero, et al. vs. Spouses Sevilla, et al., G.R. No. 142974, September 22, 2003.

[11] Rollo, pp. 429-447.

[12] “The amendment shall take effect upon its approval by the Securities and Exchange Commission or from the date of filing with the said Commission if not acted upon within six (6) months from the date of filing for a cause not attributable to the corporation.”

[13] Rollo, pp. 410-421.

[14] Hernani N. Fabia vs. Court of Appeals, Department of Justice, Office of the City Prosecutor Of Manila, RTC-Br. 22, Manila and The Maritime Training Center of the Philippines (MTCP), G.R. No. 132684, September 11, 2002.

[15] Garments And Textile Export Board (GTEB) vs. Court of Appeals And American Inter-Fashion Corporation, G.R. No. 114711 February 13, 1997; American Inter-Fashion Corporation vs. Glorious Sun Fashion Garments Manufacturing (PHILS.), Inc. And Garments And Textile Export Board (GTEB), G.R. No. 115889 February 13, 1997.

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