

CMH AGRICULTURAL CORPORATION, CARLOS M. HOJILLA, CESAR M. HOJILLA, CLAUDIO M. HOJILLA, CORA M. HOJILLA AND CORNELIO M. HOJILLA, PETITIONERS, VS. HON. COURT OF APPEALS AND CRISTO...*G.R. No. 112625. March 07, 2002*

Ponente: DE LEON, JR., J.

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This is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks to review and set aside the Decision[1] of the Court of Appeals in CA-G.R. SP No. 28893 promulgated on October 25, 1993 holding that the Regional Trial Court (RTC) of Bacolod City, Branch 45, did not commit grave abuse of discretion in reconsidering its Order dated November 22, 1991 dismissing Civil Case No. 6256 for lack of jurisdiction.[2]

The antecedent facts show that the private respondent, Cristobal M. Hojilla, filed a complaint for “Disregarding and Piercing the Veil of Corporate Fiction, Formal Declaration or Recognition of Successional Rights and Recovery of Title with Damages”[3] with the RTC of Bacolod City, Branch 45, docketed as Civil Case No. 6256 against his siblings namely: Carlos M. Hojilla, Cesar M. Hojilla, Cornelio M. Hojilla, Claudio M. Hojilla and Corazon M. Hojilla (with the latter two (2) impleaded as unwilling co-plaintiffs), and CMH Agricultural Corporation (CMH for brevity). Cristobal alleged in his complaint that CMH was a dummy corporation created to be the alter-ego of their mother, the late Concepcion Montelibano-Hojilla, who purposely organized the same in 1975 to shield her paraphernal properties from taxes by fictitiously assigning them to CMH, with her children acting as dummy stockholders. Immediately upon its incorporation, the following properties of his mother were assigned to CMH: Hacienda Manayosayao, Hacienda Nangka and a house and lots on 23rd Street, Bacolod City, consisting of Lot Nos. 240, 241, 242, 246, 247 and 248. After their mother’s death, Cristobal and his siblings extrajudicially partitioned the properties with Carlos, Cesar and Cornelio taking Hacienda Nangka and the commercial lots of their late father, Mattias J. Hojilla, situated in Silay City, while Corazon, Claudio and Cristobal were apportioned Hacienda Manayaosayao, the house and lots on 23rd Street, Bacolod City, and some lots which were not assigned to CMH. Thereafter, with the promise that the title over the property would be delivered to them, Corazon, Claudio and Cristobal took possession of the subject house and lots. However, Cristobal claimed that the title over the said property had not been turned over to them and on several occasions Carlos, Cesar and Cornelio had, without his and his co-owners’ knowledge, mortgaged the said lots comprising the 23rd Street property in Bacolod City to several banking institutions and even leased the same to Pilipinas Shell Petroleum Corporation, which, however, was only curtailed by court action. Thus, Cristobal prayed that the veil of corporate fiction be pierced as CMH was being used to deprive and defraud him of his successional rights over the house and lots on 23rd Street, Bacolod City.

Carlos, Cesar, Cornelio, Claudio and Corazon, as defendants therein, countered, by way of special and affirmative defenses:[4] first, regular courts had no jurisdiction over the subject matter of the complaint since it involved an intra-corporate controversy - the complaint being instituted by Cristobal who is a stockholder and incorporator of

CMH against his siblings, who are likewise stockholders of the same corporation, and as such within the exclusive and original jurisdiction of the Securities and Exchange Commission (SEC for brevity); second, the creation of CMH as an alleged dummy corporation was a device or scheme amounting to fraud, thus falling under the original and exclusive jurisdiction of the SEC; third, the claim of ownership over the house and lots by Cristobal which was ventilated in the ejectment case filed by the said defendants against Cristobal in the Municipal Trial Court in Cities (MTCC) of Bacolod City, Branch III and docketed therein as Civil Case No. 17698, was resolved in favor of CMH; fourth, Cristobal committed forum-shopping since he had previously filed a case against CMH, its incorporators and stockholders before the SEC, docketed as SEC Case No. 03559; fifth, Cristobal had no cause of action since the power to sue and be sued was vested alone in the board of directors of the corporation, CMH in particular, and not on a mere stockholder.

Finding the arguments meritorious, the trial court issued on November 22, 1991, an order^[5] dismissing the complaint in Civil Case No. 6256. However, upon filing by Cristobal of a motion for reconsideration^[6] dated December 6, 1991, the court a quo in its order^[7] dated April 20, 1992 reversed itself and set aside its previous order dismissing the complaint. Thereafter, the defendant filed a motion for reconsideration^[8] but it was denied in the order^[9] dated August 17, 1992 of the trial court.

Carlos, Cesar, Cornelio, Claudio and Corazon elevated the case to the Court of Appeals through a petition for certiorari^[10] alleging that the trial court committed grave abuse of discretion amounting to lack of jurisdiction in taking cognizance of Cristobal's motion for reconsideration despite the absence of notice of time and place of hearing in violation of procedural rules and in reconsidering its extensive and exhaustive order dated November 22, 1991 with a minute resolution denying their motion to dismiss.

Finding no abuse of discretion on the part of the court a quo, the appellate court resolved on October 25, 1993 that the filing of the opposition to Cristobal's motion for reconsideration cured the defect of lack of notice and hearing; and that the complaint in Civil Case No. 6256 did not involve an intra-corporate controversy but Cristobal's successional rights which is within the jurisdiction of the court.^[11]

Hence, the instant petition which is anchored on the following grounds:

I

THE HON. COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE IN OBVIOUS DEFIANCE OF THE DECISION OF THE SUPREME COURT, IN NOT DISMISSING A CASE WHICH IS PURELY AN INTRA-CORPORATE CONTROVERSY AND THEREFORE, FALLS UNDER THE EXCLUSIVE JURISDICTION OF THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO P.D. 902-A;

II

THE HON. COURT OF APPEALS HAS AGAIN DECIDED A QUESTION OF SUBSTANCE, CONTRARY TO THE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE CASE FILED BY THE PRIVATE RESPONDENT WHO PURSUED SIMULTANEOUS REMEDIES IN TWO (2) DIFFERENT FORA, AND IS THEREFORE GUILTY OF FORUM SHOPPING;

III

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE COMPLAINT FILED BY THE PRIVATE RESPONDENT ON THE GROUND OF PENDENCY OF ANOTHER ACTION;

IV

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN NOT DISMISSING THE COMPLAINT OF A MERE STOCKHOLDER, WITHOUT BEING AUTHORIZED BY THE BOARD OF DIRECTORS;

V

THE HON. COURT OF APPEALS HAS DECIDED THE CASE NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT, IN TAKING COGNIZANCE OF A “MERE SCRAP OF PAPER”, A MOTION FOR RECONSIDERATION, WHICH DOES NOT CONTAIN THE NOTICE OF TIME AND PLACE OF HEARING, IN VIOLATION OF THE MANDATORY REQUIREMENTS OF THE RULES OF COURT.

At the outset, we note that the alleged errors attributed on the part of the Court of Appeals by the petitioners are mere reiteration of those already raised in the court below but which we will nonetheless consider to put an end to this dispute.

First, petitioners argue that the trial court has no jurisdiction over the complaint in Civil Case No. 6256 as it involves a suit filed by a stockholder against other stockholders and the corporation itself; thus, it is an intra-corporate controversy within the jurisdiction of the SEC and not of the regular courts. Likewise, petitioners argue that the allegation of fictitious creation of CMH as an alter-ego of the late Concepcion M. Hojilla and the concomitant prayer to pierce the veil of corporate fiction falls within the category of a device or scheme employed by corporate officers cognizable by the SEC alone.

The relationship of the parties to a suit has formerly been the lone indicia for its classification either as an intra-corporate controversy within the jurisdiction of the SEC or a civil dispute within the jurisdiction of the regular courts. Thus, a dispute arising between a stockholder and the corporation, without distinction, qualification or exemption, was previously considered an intra-corporate controversy within the jurisdiction of the SEC and not of the regular courts. Recent jurisprudence, however, has established that in determining which body has jurisdiction over a case, the better policy would be to consider not only the status or relationship of the parties but also the nature of the question that is the subject of the controversy.[12]

A reading of the complaint filed by private respondent shows that its primary objective is to protect his successional rights as an heir of his late mother, Concepcion M. Hojilla, whose paraphernal properties he claimed were fictitiously assigned to CMH to evade payment of taxes. He alleged therein that the properties had already been the subject of extra-judicial partition between the heirs with the house and lots on 23[rd] Street, Bacolod City, being bestowed upon him and his co-heirs Corazon and Claudia. He claimed that the failure of his other siblings, Carlos, Cesar and Cornelio, to turn over the title to him and his co-heirs allowed CMH to continue claiming the house and lots as its own and even attempted to lease a few of the lots to other persons without the knowledge of private respondent and his co-heirs. Thus, private respondent filed the complaint to consolidate his claim over the subject properties and forestall any further intrusive act from the CMH which would place his and his co-heirs/co-owners' rights over the properties in constant peril. Private respondent's position as a stockholder of CMH and his relationship to the other stockholders, became incidental only to the issue of ownership over the subject properties and did not convert the action into an intra-corporate controversy within the exclusive jurisdiction of the SEC but remained a civil action cognizable by the regular courts.

Neither does the allegation about CMH's formation as an alleged dummy corporation designed to be the alter-ego of the late Concepcion M. Hojilla and the prayer for piercing the corporate veil convert the action into an intra-corporate controversy as the former is merely cited as the ground relied upon by private respondent to prove his claim of ownership over the said house and lots whereas through the said prayer, he in effect exhorts the court to confirm his allegations and thus, protect his successional rights.

Thus, in *Cease v. CA*[13] this Court took cognizance of the civil case filed by respondents against their siblings (petitioners therein) and the Tiaong Milling and Plantation Company, Inc. praying that the corporation be declared identical to their deceased father, Forrest L. Cease, and that its properties be divided among his children as his intestate heirs. The Court treated the case as an action for partition and, applying the doctrine of piercing the corporate veil, disregarded the separate personality of the corporation from that of its stockholders reasoning that if the legal fiction of separate corporate personality were sustained, then it would be used to delay and ultimately deprive and defraud respondents of their successional rights over the estate of their deceased father.

Second, petitioners argue that the appellate court erred in entertaining the complaint in Civil Case No. 6256 despite the existence of a similar complaint filed by Cristobal before the SEC, docketed as SEC Case No. 03559[14] involving the same parties and the same issues raised in Civil Case No. 6256.

We do not agree. As properly resolved by the appellate court, the filing of SEC Case No. 03559 does not bar the subsequent filing of Civil Case No. 6256 because they refer to different causes of action with distinct reliefs prayed for. The private respondent in the SEC case prayed for the appointment of a receiver, dissolution and liquidation of CMH, and to enjoin petitioners from leasing the house and lots at 23[rd] Street, Bacolod City. However, in Civil Case No. 6256, he sought to preserve his successional rights as heir of his deceased mother by piercing the veil of corporate fiction to recover the title of the house and lots on 23rd Street, Bacolod City, and claim payment of damages for the injury he has suffered.

Neither does the resolution of SEC Case No. 03559 dismissing the petition of private respondent during the pendency of Civil Case No. 6256 constitute *res judicata* on the matter since the cause of action and issues raised and resolved in the former are different from those cited in the latter. The requirements of *res judicata* are: (a) the former judgment must be final; (b) the court which rendered it had jurisdiction over the subject matter and the parties; (c) it must be a judgment on the merits; and (d) there must be, between the first and second actions, identity of parties, subject matter, and causes of action.[15] Notably, in the SEC case, the private respondent averred that petitioner stockholders and CMH committed acts to defraud the public such as the lack of accounting, lack of records, lack of proper notice of meetings, and prayed for the dissolution of the corporation; whereas, in Civil Case No. 6256, the private respondent contended that CMH was a mere dummy corporation and an alter-ego of his deceased mother and thus, sought the delivery of the title over the house and lots in question as his share of inheritance from his deceased mother.

Third, petitioners argue that the MTCC's adverse decision in the ejectment case, Civil Case No. 17698, which they had filed against private respondent Cristobal M. Hojilla, is already final and conclusive with regard to latter's claim of ownership over the house and lots in question. Hence, petitioners contend that Civil Case No. 6256 of the RTC should have been dismissed as it allegedly involves the same subject matter and the same issue.

The record shows that the MTCC rendered a decision in the ejectment case, Civil Case No. 17698, ordering private respondent to vacate the premises; and that decision was affirmed by the Court of Appeals. However, under Sec. 7, Rule 70 of the Rules of Court, the judgment rendered by a municipal or metropolitan trial court in an action for forcible entry or detainer shall be effective with respect to possession only and in no wise shall affect or bind the title of ownership of the land or building. Such judgment shall not bar an action between the same parties respecting the title to the land or building nor shall the facts found therein be held conclusive in another case between the same parties upon a different cause of action not involving possession.[16] Thus, the filing of Civil Case No. 6256 in the RTC was not barred by the adverse decision of the MTCC in the ejectment case, Civil Case No. 17698, inasmuch as the issue raised in the former was one regarding ownership while the issue resolved in the ejectment case was priority of possession alone.[17]

Fourth, petitioners contend that the complaint should have been dismissed as it was filed by a mere stockholder in behalf of the corporation without being authorized by its board of directors.

On the contrary, authorization from the board of directors of the CMH in the case at bar was not necessary inasmuch as private respondent was not acting on behalf of the corporation but in his own personal capacity; and precisely he was suing the corporation itself (CMH) to preserve his successional rights.

Finally, petitioners point out that the lower court erred in granting the motion for reconsideration of herein private respondent despite the lack of notice of time and place of hearing in violation of the mandatory provision of the Rules of Court. However, as correctly ruled by the appellate court, the requirement of notice of time and hearing in a party's pleading is necessary only to appraise the other party of the actions of the former. Inasmuch as petitioners have timely filed their Opposition[18] on January 7, 1992 to private respondent's motion for reconsideration, any defect regarding such notice had been cured.

In view of the foregoing, the Court of Appeals did not commit any reversible error in its challenged decision.

WHEREFORE, the assailed Decision dated October 25, 1993 of the Court of Appeals in CA-G.R. SP No. 28893 holding that the RTC of Bacolod City, Branch 45, did not commit grave abuse of discretion in reconsidering its Order, dated November 22, 1991, in Civil Case No. 6256 is AFFIRMED. The Regional Trial Court of Bacolod City, Branch 45, is hereby ordered to resume forthwith the trial of Civil Case No. 6256 and to resolve the same with utmost dispatch.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Associate Justice Ma. Alicia Austria-Martinez (now CA Presiding Justice) and concurred in by Associate Justices Alfredo M. Marigomen and Lourdes K. Tayao-Jaguros, Fifteenth Division; Petition, Appendix "S", Rollo, pp. 310-320.

[2] Penned by Judge Simplicia S. Medina. Petition, Appendix "M", Rollo, pp. 188.

[3] Petition, Appendix "A", Rollo, pp. 46-63.

[4] Petition, Appendix "B", Rollo, pp. 67-75.

[5] Petition, Appendix "J", Rollo, pp. 154-159.

[6] Petition, Appendix "K", Rollo, pp. 160-181.

[7] See Note No. 2.

[8] Petition, Appendix "N", Rollo, pp. 189-197.

[9] Petition, Appendix "P", Rollo, p. 205.

[10] Petition, Appendix "Q", Rollo, pp. 206-260.

[11] See Note No. 1.

[12] *Saura v. Saura, Jr.*, 313 SCRA 465, 473 (1999); *Lozano v. Delos Santos*, 274 SCRA 452, 457 (1997); *Bernardo, Sr. v. Court of Appeals*, 263 SCRA 660, 675 (1996); *Macapalan v. Katalbas-Moscardon*, 227 SCRA 49, 54 (1993).

[13] 93 SCRA 483, 497 (1979).

[14] SEC Case No. 03559 entitled “Revocation of Certificate of Registration and/or Dissolution and Liquidation of CMH Agricultural Corporation with Preliminary Injunction, Restraining Order, Free Access to Records, Objection to Board Decisions”.

[15] *Nacuray v. NLRC*, 270 SCRA 9, 17 (1997).

[16] *Olan v. CA*, 314 SCRA 273, 281 (1999); *Corpus v. CA*, 274 SCRA 275, 280-281 (1997).

[17] *Mendoza v. CA*, 201 SCRA 343, 354 (1991); *Bautista v. Fernandez*, 38 SCRA 548, 558 (1971); *Rom v. Cobadora*, 28 SCRA 758, 761 (1969).

[18] *Rollo*, pp. 183-187.

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