

ANTONIO LITONJUA AND ARNOLD LITONJUA, PETITIONERS VS. THE HON. COURT OF APPEALS, EIGHT DIVISION, WACK WACK GOLF AND COUNTRY CLUB, BENIGNO CUA, ALFONSO CUUNJIENG, VIVENCIO TINIO,...

G.R. No. 120294. February 10, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In this petition for review on certiorari under Rule 45 of the Revised Rules of Court, petitioners assail the decision of the Court of Appeals dated 23 March 1995 in CA-G.R. SP No. 26269 which reversed and set aside the Order of the Securities and Exchange Commission en banc dated 13 August 1991 in SEC-AC No. 301. Similarly assailed in the Resolution of the Court of Appeals dated 15 May 1995, denying, for lack of merit, petitioners' motion for reconsideration.

Respondent Wack Wack golf and Country Club ins a non-profit corporation which offers sports, recreational and social activities to its members. Petitioner Antonio Litonjua is an Associate Member of said corporation and his son, co-petitioner Arnolds Litonjua, is a Junior Member thereof. The individual respondents are the members of the Board of Directors and Membership Committee of Wack Wack.

The misunderstanding between the petitioners and respondent corporation stemmed from the following facts:

On 10 January 1985, pursuant to its by-laws, respondent club posted the monthly list of delinquent members on its premises. Included therein was petitioner Antonio Litonjua.

On 13 January 1985, after Antonio Litonjua discovered that his name was on the January 1985 deliquent list, he proceeded to the Cashier's Office of the club and was informed therein that the reason behind his delinquency was his failure to pay his November 1984 dues (which should have been paid before the end of December 1984 as provided in the corporate by-laws). Antonio Litonjua alleged that he was not able to pay his monthly bill on time because he has not received his statement of account for November 1984. As proof, he presented a sealed enveloped which he allegedly presumed to be the November 1984 bill (but was actually the December 1984 statement of account) and explained that he received it only on 12 January 1985.

A check with the accounting office , however, revealed that the November 1984 statement of account had already been delivered to Antonio Litonjua's office and was received by his employees allegedly named "Aquino." Petitioner asserted that he did not receive said account and had no employee by the name of "Aquino."

Based on the foregoing, Antonio Litonjua was able to convince the auxiliary clerks in the Cashier's Office to delete his name from the list of delinquent members. Consequently, Antonio Litonjua continued to avail of the club facilities.

On 10 February 1985, as Anttonio Litonjua was about to tee off at the club's golf course, he was informed by Mr.

Ador Rallos, an employee of Wack Wack, that his name was included in the February 1985 delinquent list. Thereupon, he paid his account by presenting Mr. Rallos a blank check and requesting the latter to fill in the amount of his outstanding balance which came up to P4,784.30.

On 13 February 1985, Antonio Litonjua was advised of another outstanding balance in the amount of P9,414.00. Again, he issued a check in payment thereof. As a result, his name was deleted from the February 1985 list of delinquent members.

However, on the same day Antonio Litonjua received a letter dated 9 February 1985 from the General Manager of Wack Wack, Atty. Vicente F. Felix, informing him of the Membership Committee's decision to suspend him for a period of sixty (60) days, effective 3 February 1985. He allegedly violated Sec. 34(d) of the club's by-laws when he availed of club privileges while listed as a delinquent member. The contents of the suspension letter is hereunder reproduced:

February 9, 1985

Mr. Antonio K. Litonjua

370 Aglipay Street Mandaluyong, Metro Manila

Dear Mr. Litonjua:

I have been instructed by the Membership Committee to advise and remind you of the following Section under our By-Laws, to wit:

"SEC. 34(d). A member in the delinquent list who, in violation of the rule in Section 34 (a) prohibiting delinquent members from enjoying the privileges of the Club, proceeds to enjoy any club privileges shall be deemed automatically suspended for period of 60 days from the date of the violation and if during the automatic suspension period the again proceeds to enjoy any Club privileges the Board shall immediately order the expulsion of said member from the Club. Payment of the delinquent account during the suspension period shall not have the effect of lifting said suspension."

On 03 February, and again, on 07 February 1985, you availed of the Club food services and facilities while listed as delinquent, in violation of the above.

In view of the foregoing, the Membership Committee has decided and it is with regrets that I have to inform you of their decision to suspend you for sixty (60) days, effective as of 03 February 1985, as provided for in the applicable provision of our Club By-Laws.

With equal regrets, I must inform you that the Club employees who were negligent in their duties by accommodating you will also have to be penalized.

Very truly yours,

FOR THE MEMBERSHIP COMMITTEE

(SIGNED) ATTY. VICENTE F. FELIX

General Manager

cc: The President

The Chairman, Membership Committee

The Chairman, House Committee

Members, Membership Committee

File[1]

Immediately after receipt of the aforequoted letter, Antonio Litonjua wrote the President of Wack Wack to explain his side and to request that the decision of the Membership Committee be reconsidered. The letter stated:

February 13, 1985

WACK WACK GOLF & COUNTRY CLUB

Mandaluyong, Metro Manila

Attention: Mr. Ed Unson, President

Dear Sir:

This has reference to the 9[th] February letter which I received re- 60 days suspension issued by the Membership Committee to me and for which I would like to clarify the events that transpired prior to my being included in the Delinquent List for November 1984 outstanding account, for your evaluation and reconsideration.

1. Sometime last January 13[th], I went to the club cashier's office and presented to Leddy and Jessie a sealed Wack Wack envelope which I presumed contained the November statement of account. I advised the club cashier that same letter was delivered to my office on the 12[th] January but my name was already posted in the Delinquent List as of January 10.
2. During my conversation with the club cashier, I requested Leddy and Jessie to refer the matter of delayed delivery of statements to the club General Manager to avoid repetition of similar incident.
3. On the 7[th] of February, having received no reply to complaint, I went back to the club cashier to inquire on the action/response of the club administration to matter referred. There was no reply given and instead the same statement of account was return to me, which I found out refers to the December statement.
4. I advised Leddy that the statement handed to me on the 7[th] February (Thursday) will be process the following day (Friday) and will be ready for delivery by the messenger on the 11[th] February (Monday). This was acknowledged by Leddy.
5. On the 10[th] February (Sunday), when I was about to tee-off, my attention was called to the fact that my name is posted in the Delinquent List. I requested an audience with your goodself but unfortunately, you were in the Philippine Open Golf meeting. Unable to see you, I search my wallet for a blank personal check which fortunately I had and tendered the P4,784.30 payment for the November bills. It was allegedly received by certain Aquino as per delivery receipt shown by Ms. Emma Castillo but we don't have any Aquino in pour employ.
6. Considering my payment on the 13[th] of January in the amount of P9,414.18 and 10[th] of February, my account as of today is fully paid including the January chits, the statement of which I have not received.

In view of the foregoing, I would like to underscore the fact that I did not receive the November statement of account for which my name was posted in the Delinquent List and the attention of the cashier's office was immediately called. Although the November account was reflected in the December statement, the same was delivered only on the 12[th] of January and my name posted as early as January 10[th] or 11[th].

In the light of above circumstances, I would like to request you and the Membership Committee to reconsider your decision.

Trusting you will extend your consideration on this matter. Thank you.

Very truly yours,

(Signed) A.J. LITOMJUA

cc: Chairman, Membership Committee

Atty. Vicente F. Felix[2]

On 18 February 1985, Antonio Litonjua received a memorandum reiterating his 60-day suspension from “all privileges accorded (his) membership, (his) dependents and guests on the use of the golf course and other club facilities.”[3] Thus, co-petitioner Arnold Litonjua, Antonio Litonjua’s son, and a junior member of the club was, likewise, prevented from enjoying the club’s facilities.

On 25 February 1985, Antonio Litonjua sent the President of Wack Wack another letter contesting his and his son’s suspension. He claimed that the whole affair had caused them humiliation and thus the reserve the right to seek restitution from Wack Wack for actual and moral damages.[4]

On the 5 March 1985, Atty. Vicente F. Felix wrote the Board of Directors of Wack Wack the following letter:

The Board of Directors

Wack Wack Golf & Country Club

Mandaluyong, Metro Manila

Gentlemen:

On March 1, 1985, Mr. Antonio K. Litonjua came to my office, again trying to thresh out and clarify the true facts that transpired, which resulted in his suspension by the Membership Committee which resulted in his suspension by the Membership Committee which was subsequently approved by the Board of Directors. Attached herewith are his two (2) letters dated February 13 and 25, 1985, which are self-explanatory. He requested us to conduct a more detailed investigation on the delay in the delivery of his Statement of Account for the month of November which was delivered and received on January 12, 1985, per attached photocopy of the delivery receipt. he further requested for verification on his statement that he requested Oscar Santos to temporarily delete his name from the delinquent list. Subsequently on February 10, 1985, he issued a blank check which he supposed was to be payment of the account in question.

All the allegations contained in the letter of Mr. Antonio K. Litonjua has been verified and including Oscar Santos, Leddie Santos and Ador Rallos affirmed to the truthfulness of such statement, when inquiries was made with the Cashier’s Office. it was verified that Mr. Antonio K. Litonjua’s name was really deleted from the delinquent list of November are requested and therefore the Club & employees could no way know that Mr. Litonjua was in delinquency. He is requesting for reconsideration of the Board’s decision.

Very truly yours,

(Signed) Vicente F. Felix

General Manager[5]

On 28 March 1985, petitioners sent a letter to Wack Wack demanding restitution in the sum of P5,000,000.00 for their “wrong and arbitrary suspension.”[6]

When Wack Wack failed to respond, petitioners filed a complaint with the Securities and Exchange Commission (SEC) for the nullification of their suspension and for actual, moral and exemplary damages.

On 24 June 1985, petitioners filed an amended complaint to include as party respondents the members of both the Board of Directors and Membership Committee of Wack Wack.

On 26 March 1990, SEC Hearing Officer Antonio M. Esteves rendered his decision in favor of petitioners. The dispositive portion thus read:

WHEREFORE, finding the evidence for the complainants preponderant, this Commission hereby declares the suspension of complainant illegal and others respondents, jointly and severally, to pay the complaints the sum of FOUR MILLION (P4,000,000.00) PESOS, as moral damages, ONE HUNDRED TEN THOUSAND (P100,000.00) PESOS AS actual and compensatory damages and FIVE HUNDRED THOUSAND (P500,000.00) PESOS as and by way of attorney's fees.

SO ORDERED.[7]

Private respondents filed a motion for reconsideration which, however, was denied in the Order of Hearing Officer Esteves dated 31 May 1990.

Private respondents' next recourse was to appeal to the SEC en banc. However, the latter, in its Order dated 13 August 1990, affirmed the findings of Hearing Officer Esteves but reduced the amount of damages awarded. The dispositive portion of the Order stated thus:

WHEREFORE, the Commission hereby declares the suspension of complainant illegal and orders respondent directors, jointly and severally, to pay the complainants the sum of ONE HUNDRED THOUSAND (P100,000.00) PESOS as moral damages, TWENTY FIVE THOUSAND (P25,000.00) PESOS by way of attorney's fees.

SO ORDERED.[8]

Unfazed by their twin setbacks, private respondents filed a petition for review with the Court of Appeals rendered its decision reversing the order of the SEC en banc and upholding the suspension of petitioners. The Court of Appeals declared:

WHEREFORE, judgment is hereby rendered, reversing and SETTING ASIDE the Decision of August 13, 1991 of the SEC en banc in SEC-AC No. 301, and Arnold Litonjua and Arnold Lintonjua as members of the Wack Wack Golf and Country Club lawful, being in accordance with its By-Laws.

IT IS SO ORDERED.[9]

Petitioner's motion for reconsideration was denied for lack of merit in the Court of Appeals' resolution dated 15 May 1995.

Hence, this petition which contains the following assignment of errors;

A

RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT PETITIONERS WERE VALIDLY SUSPENDED DESPITE SUBSTANTIAL EVIDENCE TO THE CONTRARY.

B

RESPONDENT COURT OF APPEAL ERRED IN HOLDING THAT PETITIONER ANTONIO LITONJUA HAD BEEN DULY SERVED WITH STATEMENT OF ACCOUNT DESPITE SUBSTANTIAL EVIDENCE TO THE CONTRARY.[10]

The question that must primarily be answered is whether or not the statement of account for November 1984

was duly delivered to and received by Antonio Litonjua's office on 12 December 1984.

Obviously, this is a factual issue but the Court is constrained to resolve the same due to the incongruent findings of the SEC and the Court of Appeals. The maxim that the factual findings of the Court of Appeals are binding on the Supreme Court is not absolute. There are various exceptions to the rule, one of which is when factual findings of the Court of Appeals are contrary to those of the trial court (or administrative body, as the case may be).[11]

Private respondents maintain that Antonio Litonjua's bill for November 1984 was duly delivered to his office at 370 Blumentritt St., Mandaluyong by Mr. Victor Limbo of Varied Services, Inc. (the messengerial service contracted by Wack Wack to deliver various mail matters to its members) and was duly received by one of his employees on 12 December 1984, as indicated on the Special Delivery Receipt[12] that private respondents presented in evidence.

Antonio Litonjua, on the other hand, vehemently contends that he did not receive this November 1984 statement of account from Wack Wack on 12 December 1984. He disparages the testimony of the messenger, Mr. Victor Limbo, for his failure to recall during the trial the face and the gender of the person who received the statement of account. What is more damaging, he adds, is that at the beginning said witness testified that he delivered that monthly bill to Antonio Litonjua himself. He, likewise, asserts that he has no employee by the name of "Aquino," the signature that was on the Special Delivery Receipt. Petitioners aver that the factual finding of the SEC Hearing Officer, affirmed by the SEC en banc, were based on substantial evidence duly proven during the trial. They thus sum up their arguments by quoting the fundamental rule that "conclusions and findings of fact by trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in the better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in case." [13]

Petitioners' claims are unfounded.

The SEC, in its 26 March 1990 decision of its Hearing Officer, "gravely doubted," and consequently discredited Mr. Limbo's testimony due to his alleged inconsistent statements. According to the SEC, Mr. Limbo testified that he delivered the statement of account directly to Antonio Litonjua but later contradicted himself by saying that he could no longer remember the gender of the person who received the bill.[14]

The SEC committed an error in apprehending the facts. We have judiciously studied Mr. Limbo's testimony on record and we failed to find therein any statement that he delivered the November 1984 account to Antonio Litonjua himself. Mr. Limbo was consistent in his testimony to the effect that on 12 December 1984 he delivered the November 1984 statement of account at the office of Antonio Litonjua and it was received by an employee of the latter who signed the Special Delivery Receipt.[15] On cross-examination, Mr. Limbo did not waver from his testimony that Antonio Litonjua's November 1984 bill was duly received by the latter's employee:

xxx.

ATTY. DAMASO

Q When you delivered this, did you ask for the name of the person receiving it?

A I cannot remember any more.

Q You did not inquire whether he is an employee of Mr. Litonjua or not?

A I asked and he said he is employee.

Q So, you asked him. This person is a man, are you very sure of that?

A I cannot remember any more.

Q You cannot remember if he is a man or a woman but you know that you asked him if he is an employee?

A Yes, Sir.[16]

xxx.

As to Mr. Limbo's failure to recall the face and gender of the person who received the statement of account, we concur with the findings of the Court of Appeals:

xxx The failure to recall whether the employee was male or female is not significant, and may be naturally attributed to lapse of memory on the part of the messenger. The delivery of the mail matter took place in December 1984 and the witness testified in July 1989; besides the messenger must have delivered mail matters for Wack-Wack to so many of its members, such that it would be next to impossibility for him to remember distinctly the specific genders of the individual persons receiving the mail matters from him. We thus hold that the minor lapse in the testimony of the messenger, fourth grader, should not detract from his credibility as a truthful witness.[17]

Against the testimony of Mr. Victor Limbo, coupled with documentary evidence in the form of the signed Special Delivery Receipt, petitioners presented no proof other than the bare denial of Antonio Litonjua that he never received his statement of account for November 1984 and that he has no "Aquino" in his employ. Petitioners could have readily offered in evidence a record or list of Antonio Litonjua's employees to prove that he has no employee by the name of "Aquino" but, strangely, beyond his mere say-so no such evidence was adduced. In *Trans-Pacific Industrial Supplies, Inc. v. CA*.[18] we ruled in this wise:

xxx As for the records, there is actually none submitted by petitioner to prove that the contested amount, i.e., the interest, has been paid in full. In civil cases, the party that alleges a fact has the burden of proving it (*Imperial Victory Shipping Agency vs. NLRC*, 200 SCRA 178 [1991]). Petitioner could have easily adduced the receipt corresponding to the accounts paid inclusive of the interest to prove that it has fully discharged its obligations but it did not.

Mr. Victor Limbo has been delivering various mail matter for Wack Wack to the members of the latter in Mandaluyong (including Antonio Litonjua) in the regular performance of his duties as messenger of Varied Services, Inc.[19] Petitioners' bare denial, no matter how staunch, cannot thus prevail over the straightforward testimony of Mr. Limbo as supported by the signed Special Delivery Receipt.

It is clear from the foregoing discussion that the factual findings of the SEC are not supported by substantial evidence. Hence, it is the exception are well-stated in *Datu Tagoranao v. SEC*.[20]

Well-settled is the rule that the finding of the facts of administrative bodies will not be interfered with by the courts in the absence of grave abuse of discretion on the part of said agencies, or unless the aforementioned findings are not supported by substantial evidence. (*Gokongwei, Jr. vs. SEC*, 97 SCRA 78.) In a long string of cases, the Supreme Court has consistently adhered to the rule that decisions of administrative officers are not to be disturbed by the courts except when the former have acted without or in excess of their jurisdiction or with grave abuse of discretion (*Sichangco vs. Board of Commissioner of Immigration*, 94 SCRA 61). Thus in the case of *Deluao vs. Vasteel* (L-21906, Dec. 24, 1968, 26 SCRA 475, 496, citing *Pajo vs. Ago, et al.*, L-15414, June 30, 1960) and *Genitano vs. Secretary of Agriculture and Natural Resources, et al.* (L-21167, March 31, 1966), the Supreme Court held that:

"xxx Finding of fact by an administrative board of official, following a hearing, are binding upon the courts and

will not be disturbed except where the board or official has gone beyond his statutory authority, exercised unconstitutional power or clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion. xxx.” (Underscoring ours.)

Similarly, in *Tabaco v. CA*,^[21] we declared:

xxx Almost as well-recognized as the general rule is the exception that the factual findings of the trial court may nonetheless be reversed by the Court of Appeals if by the evidence on record, or lack of it, it appears that the trial court erred. xxx.

In the case at bar, therefore, the Court of Appeals was justified in setting aside the findings of the SEC.

We now proceed to the main issue. Petitioners, in the support of their contention that they were illegally suspended by Wack Wack, ratiocinated as follows:

1. Petitioners’ 60-day suspension is illegal and; therefore, void Section 34 of respondent Clubs Bay-Laws states:

“ . . . (a) The treasurer shall bill the members monthly. As soon as possible after the end of every month, a statement showing the account or bill of a member for said amount will be prepared and sent to him, If the bill of any member remains unpaid by the end of the month following that in which the bill was incurred, his name will be posted as delinquent the following day and while posted, he will not be allowed to enjoy the privileges of the club. A member cannot avail of his deposit to pay his bill unless he resigns.

... ..

(d) A member in the delinquent list who, in violation of the rule in Section 34 (a) prohibiting delinquent members from enjoying the privileges of the club, proceeds to enjoy any club privileges shall be deemed automatically suspend for a period of 60 days from the date of the violation, and if during the automatic suspension period he again proceeds to enjoy the club privileges, the Board shall immediately order the expulsion of said member from the club. Payment of the delinquent account during the suspension period shall not have the effect of lifting said suspension.”

(Emphasis supplied; Exh. “K-15”)

Since the member’s act of enjoying Club privileges while his name is posted in the delinquent list merits 60-day suspension, it follows that if his name is no longer in such list, the 60-day suspension cannot be validly imposed. “As correctly pointed out by the Hearing Officer, (f)ailure of a member to pay his club dues does not automatically expose him to sanction expressly provided for in the corporation’s by-laws. In other words, it is a condition since quo non that he must first be posted as delinquent before any sanction may be imposed upon him” (SEC en banc’s Decision dated 13 August 1991 [Annex “D”], p. 11)^[22]

Following this framework -- that a member must first be posted in the delinquent list before he may be suspended for violating the prohibition against using club facilities while delinquent -- the SEC in its 13 August 1991 Order, found that on 13 January 1985 Antonio Litonjua’s name was indeed deleted from the posted list of delinquent members for January 1985.^[23] Most telling was the letter of Atty. Vicente F. Felix, General Manager of Wack Wack, to the Board of Directors dated 15 March 1985, the pertinent portion of which states that:

All the allegations contained in the letter of Mr. Antonio K. Litonjua has been verified and including Oscar Santos, Leddie Santos and Ador Rallos affirmed to the truthfulness of such statement, when inquiries was made with the Cashier’s Office, It was verified that Mr. Antonio K. Litonjua’s name was really deleted from the delinquent list of November as requested and therefore the Club & employees could no way know that Mr. Litonjua was in delinquency. He is requesting for reconsideration of the Board’s decision.^[24]

Hence, the Commission concluded, Sec. 34(d) of the club's by-laws which metes out an automatic 60-day suspension on members on the delinquent list who continue to avail of club privileges, does not apply to petitioner because when Antonio Litonjua used the club facilities on 3 and 7 February 1985, he was no longer included in the posted list of delinquent members. Consequently, the automatic suspension imposed by Wack Wack on Antonio Litonjua (including his son Arnold Litonjua), was illegal.[25]

We disagree with the SEC on the ground that its ruling focused solely on the factual deletion of Antonio Litonjua's name from list of delinquent club members. The Commission's approach was too rigid and blindly technical, That the auxiliary clerks in the Cashier's office of Wack Wack actually crossed out Antonio Litonjua's name from the delinquent list is not dispute. However, the SEC should have considered and delved deeper into the reasons and the circumstances behind the deletion.

As correctly determined by the Court of Appeal, it was through misrepresentation that Antonio Litonjua was able to have his name deleted from the list of delinquent members. He insisted that he did not receive his statement of account for November 1984 on 12 December 1984. As previously discussed, however, this claim turned out to be unsubstantiated.

Another indication of Antonio Litonjua's duplicity is the sealed envelope he presented at the Cashier's office on the 13 January 1985, the same day he found out he was on the January 1985 and, therefore, since the bill was delivered late he should not be included in the posted list of delinquent members. With this explanation coupled with sealed envelope Antonio Litonjua turned in, he managed to persuade the clerk to cross out his name from the delinquent list. Later, however, when he sealed envelope was opened, it was discovered that it contained not the statement of account for November 1984 but the bill for December 1984.

We view with skepticism Antonio Litonjua's claim that he was unaware that the sealed envelope contained his December 1984 bill and he simply presumed it to contain his account for November 1984. It must be recalled that at the accounting office of Wack Wack, he was informed that his November 1984 bill was delivered to his office in Mandaluyong. If he thought that the sealed envelope contained his November 1984 bill, he could have simply opened said envelope at the presence of the auxiliary clerk to prove, right there and then, the veracity of his claims. But, strangely, he did not.

Hence, since it was under false pretenses that Antonio Litonjua managed to have his name deleted from the list of delinquent members the same has no force and effect. Consequently, being a delinquent member in the posted list and having used club facilities while posted as such, the imposition of suspension by respondent on Antonio Litonjua (and his son Arnold Litonjua) pursuant to Sec. 34 (d) of the club by-laws, was valid and legal.

In view of the foregoing, it is immaterial to discuss whether or not the auxiliary clerks have authority to delete Antonio Litonjua's name from the list of delinquent members. As testified to Mr. Jessie Casiguran, one of the auxiliary clerks of Wack Wack, it is their standard operating procedure that when a member pays his overdue account in full, they delete the member's name from the delinquent list even without the prior authorization of the Membership Committee and the Board of Directors which is the required procedure in the procedure in the club's by-laws.[26] Nonetheless, even if the auxiliary clerks have this authority, their deletion of Antonio Litonjua's name in the case at bar was invalid for having been accomplished through false representation.

On the suspension of Arnold Litonjua, a Junior Member of Wack Wack, petitioner aver that:

5.1 The only restriction on the right and privileges of a Junior Member is that contained in Section 6 (g) of the Revised By-Laws, which states that: "... when parents cease to be members, the junior membership of their children is likewise terminated." No similar provision exists with regard to suspension. It cannot be claimed that the provision applies to suspension of the parent-members because the reasonable interpretation of any

ambiguity should always be for the least restriction of right. Clearly, petitioner Arnold Litonjua was unlawfully and arbitrarily suspended.[27]

On this particular matter, the SEC en banc in its 13 August 1991 Order, ruled as follows:

The third issue is whether or not the suspension of an associate member automatically results in the suspension of a junior member.

This particular issue may be resolved through an examination of the By-laws of Wack Wack Golf and Country Club. Under the By-laws, a junior member is the son or daughter of a proprietary member or an associate member in good standing whose age is between 10 to 22, single and elected as such by the Board. Moreover, junior membership ceases upon the termination of membership of parents. It is clear that one of the requisites for junior membership is that the parent's membership is in good standing. This requirement seems to be a condition imposed upon junior membership such that when an associate or proprietary member suspended, the junior membership attached thereto is likewise suspended because the parent membership cannot be deemed in good standing. to subject the By-laws to another interpretation would open the door to possible circumvention of the suspension meted upon the proprietary or associate member. If a junior member is allowed to avail of his club privileges when either of his parents is suspended, then the latter may avail of club privileges through the former thereby rendering the suspension nugatory. Nevertheless, the fact that the suspension of Antonio Litonjua is hereby declared illegal renders the suspension of Arnold Litonjua moot and academic.[28]

We see no reason to disturb the findings of the Commission. From the definition of a junior member in Section 6(f) of the club's by-laws,[29] it is logical to conclude that the children's membership, as junior members, is dependent upon the membership of their parents. Hence, if the parent member is suspended, the suspension includes their children who are junior members. This "dependency" was admitted by Arnold Litonjua who testified as follows:

xxx.

Q You said that you get separate billing once a month?

A Yes, sir.

Q And in whose name is this billing issued?

A Mr. Antonio K. Litonjua.

Q In the name of your father?

A Yes.

Q When you say separate billings, you mean to say that your father has his own billings.

A Yes.

Q Both billings are in the name of your father?

A Yes, sir.

Q And it is father who has to pay these billings which pertains to you?

A Yes, sir.[30]

All told, for lack of merit, the petition must fail.

WHEREFORE, premises considered, this petition for review is hereby DENIED and the Decision of the Court of Appeals dated 23 March 1995 is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., Romero, Francisco, and Purisima, JJ. concur.

[1] Exhibit "A," Original Records.

[2] Exhibits "D" and "D-1," Original Records.

[3] Exhibits "C," Original Records.

[4] Exhibits "E" and "E-1," Original Records.

[5] Exhibit "F," Original Records.

[6] Exhibits "G," "G-1" and "G-2." Original Records.

[7] Rollo, p.106.

[8] Id., at 132.

[9] Id., at 60.

[10] Id., at 26.

[11] Consolidated Bank & Trust Corp. v. CA, 246 SCRA 193 (1995); Suntay v. CA, 251 SCRA 430 (1996).

[12] Exhibit "6," Original Records.

[13] Rollo, p. 238.

[14] Rollo, p. 95.

[15] TSN, 7 and 11 July 1989.

[16] TSN, 11 July 1984, pp. 26-27.

[17] Rollo, p. 55.

[18] 235 SCRA 494 (1994).

[19] TSN, 7 July 1989, pp. 8-9; 15-17.

[20] 123 SCRA 72 (1983).

[21] 239 SCRA 485 (1994).

[22] Rollo, pp. 26-27.

[23] Id, at 119-126.

[24] Exhibit "F," Original Records.

[25] Rollo, p. 126.

[26] TSN, 22 February 1988, pp. 51-55; TSN, March 1989, pp. 5-6.

[27] Rollo, pp. 33-34.

[28] *Id.*, at 126-127.

[29] (f) Junior Member. A junior member is the son or daughter of a Proprietary or an Associate member in good standing whose age is between 10 to 22, single, and is elected as such by the Board. Provided, however that when parents cease to be members the Junior membership of their children is likewise terminated. Junior members may play on the East or West Course depending on the Board regulations. A Junior member shall not pay an entrance fee but he shall pay monthly dues in advance as may be prescribed by the Board of Directors, and his account shall be guaranteed in writing by his parent or guardian. (As amended on July 29, 1984). (Exh. "K", Original Records.)

[30] TSN, 30 October 1986, pp. 35-37.

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