

LIGAYA NOVICIO, JUSTINO PADIERNOS, MARIA DIVINA ORTAÑEZ-ENDERES, JOSE N. ORTAÑEZ, ROMEO N. ORTAÑEZ, CESAR N. ORTAÑEZ, ENRICO N. ORTAÑEZ, AND PHILIPPINE INTERNATIONAL LIFE INSUR...

G.R. No. 142611. July 28, 2005

Ponente: GARCIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-142611/>

GARCIA, J.:

On appeal to this Court by way of this petition for review on certiorari under Rule 45 of the Rules of Court are the decision[1] dated July 7, 1999 of the Court of Appeals, dismissing the petition for certiorari thereat filed by the herein petitioners in CA-G.R. SP No. 47369, and its resolution[2] dated March 22, 2000, denying petitioners' motion for reconsideration.

The factual backdrop:

On July 2, 1980, Dr. Juvencio Ortañez died, leaving as part of his estate 2,029 shares of stock, representing 50.72% of the outstanding capital stock of the Philippine International Life Company, Inc. (Philinterlife), an insurance firm. Surviving Dr. Ortañez are his widow Juliana S. Ortañez (Mrs. Ortañez) and their children.

Apparently, Dr. Ortañez also sired illegitimate children with petitioner Ligaya Novicio, namely, the latter's co-petitioners Maria Divina Ortañez -Enderes, Jose N. Ortañez, Romeo N. Ortañez, Cesar N. Ortañez and Enrico N. Ortañez, except co-petitioner Justino Padiernos.

On September 24, 1980, Rafael S. Ortañez, evidently one of Dr. Ortañez's legitimate children with Mrs. Ortañez, filed with the then Court of First Instance of Rizal, Quezon City Branch, a Petition for the Settlement of the Estate of Dr. Ortañez, thereat docketed as SP Proc. Q-30884, the current status of which is not clear from the records.

On March 4, 1982, without the permission of the probate court, the legitimate heirs of Dr. Ortañez entered into a Memorandum of Agreement (MOA), whereunder his widow Mrs. Ortañez, assigned to her son Jose S. Ortañez (not to be confused with petitioner Jose N. Ortañez), some 1,329 shares of stock of Dr. Ortañez in Philinterlife.

Several years later, or more specifically on April 15, 1989, Mrs. Ortañez, again without the authority of the probate court, executed a deed of sale with right of repurchase, wherein she sold 1,011 Philinterlife shares of stock, allegedly her paraphernal shares in the unsettled estate of Dr. Ortañez, to the Filipino Loan Assistance Group, Inc. (FLAG), a corporation owned and controlled by herein respondents Jose Lee, Benjamin Lee, Carmelita Tan, Angel Ong, Conrado Cruz, Jr., Ma. Paz Lee, Brenda Ortañez, John Oliver Pascual and Julie Ann Parado.

On May 13, 1991, respondent Jose Lee, in behalf of FLAG, executed an affidavit of consolidation of ownership over the shares sold by Mrs. Ortañez following the latter's failure to repurchase the same.

On October 3, 1994, petitioners, claiming to own Philinterlife shares of stock in their own right, filed with the

Securities and Exchange Commission (SEC), a petition for the annulment of the sale made by Mrs. Ortañez in favor of FLAG, on the ground that the shares thus sold still belong to the estate of Dr. Ortañez. This petition was docketed as SEC Case No. 11-94-4909.

On March 20, 1996, respondents were elected members of the Board of Directors of Philinterlife.

On April 20, 1996, evidently not to be outdone, petitioners, claiming that they were the unrestricted holders of 2,022 Philinterlife shares of stock, elected themselves as members of the Board of Directors of the same corporation.

Inevitably, the existence of two (2) sets of board of directors in Philinterlife further fanned the flames of legal battle between the herein parties.

For their part, respondents filed with the Securities Investigation and Clearance Department (SICD) of the SEC a petition for the nullification of the April 20, 1996 election held by the petitioners. This was docketed as SEC Case No. 06-96-5373.

In retaliation, on August 8, 1996, petitioners filed with the SEC en banc a petition for prohibition to enjoin the SICD hearing officer from hearing respondents' petition in SEC Case No. 06-96-5373. This petition for prohibition was docketed as SEC CASE EB No. 512, in connection with which the herein challenged issuances of the Court of Appeals sprung.

Meanwhile, the probate court, in its orders of August 11, 1997 and August 29, 1997, declared null and void for lack of its approval Mrs. Ortañez' sale of Philinterlife shares to FLAG. The orders were elevated by one of the legitimate children of Dr. Ortañez to the Court of Appeals in CA-G.R. SP No. 46342, which was dismissed by said court in its decision of July 7, 1999.[3] Therefrom, the same heir went to this Court in G.R. No. 35177. In a resolution promulgated on October 5, 1988,[4] this Court dismissed said petition. With the dismissal having become final and executory, an Entry of Judgment was made by this Court on February 23, 1999.[5]

Returning to the parties' confrontation at the SEC, it appears that in a resolution dated October 3, 1996,[6] the SEC en banc denied petitioners' petition for prohibition in SEC CASE EB NO. 512; enjoined petitioners from representing themselves as the duly elected members of Philinterlife's board of directors until further orders; and directed the SICD hearing officer to expedite the proceedings in SEC Case No. 06-96-5373.

On petitioners' urgent motion for reconsideration of the aforementioned SEC en banc resolution, with prayer to set case on oral argument,[7] the SEC en banc heard the parties in SEC Case EB NO. 512 on oral argument on November 18, 1996, in the course of which then SEC Chairman Perfecto R. Yasay, Jr. issued in open court an oral order for the creation of a Special Management Committee (SMC) for Philinterlife.[8]

Later, in an order dated November 27, 1996,[9] the SEC en banc formalized its chairman's aforementioned oral order by defining the composition of the SMC, as follows:

- On account of the issue as to who are the stockholders and who should legally represent the management of the company, this Commission is hereby constrained to order the creation of a Special Management Committee (SMC) that will be functioning effective immediately up to the time that all of these documents and evidences are submitted and up to such time as the Commission orders for the dissolution of this committee to be constituted by three (3) representatives from the respondents, to include already the administratrix and the Chairman of this committee will be headed no less by Commissioner Casiguran or her duly authorized representative.

In yet a separate order also dated November 27, 1996,[10] the SEC en banc specified the functions of the SMC, as follows:

- To pass upon those matters that require Board approval pursuant to existing laws and the by-laws of the corporation.

- The management appointed or elected by the Board of Directors as of March 20, 1996 shall continue to function and discharge their duties and responsibilities relative to the regular business of the corporation, that is, routine day to day operations without need for further approval by the Special Management Committee, such as, and limited to the following:

- a) Payroll
- b) Payment of insurance claims
- c) Payment of utilities, such as water, rental, power and
- d) Such as other routine disbursements.

The management shall however submit a weekly report on all such matters it has acted in the exercise of such routine functions to the Special Management Committee.

- The Management shall recommend actions by the Special Management Committee on the following:

- a) Disposal of assets
- b) Extra-ordinary transactions and/or expenses such as major repairs, purchase of capital equipment and the like.

- No payment of allowances or benefits shall be made to members of the Board of Directors except services as part of management per above guidelines.

As actually constituted, the SMC was composed of petitioners Ligaya Novicio and Ma. Divina Ortañez-Andres and one Bernard Ortañez, evidently on the side of the petitioners, and respondents Jose C. Lee, Benjamin C. Lee and Conrado Cruz, Jr., on the respondents' side, with Josefina Pasay-Paz, representing SEC Commissioner Rosalinda Casiguran, as chairman.[11]

Eventually, in an order dated April 16, 1997,[12] the SEC en banc denied petitioners' pending urgent motion for reconsideration of its resolution of October 3, 1996 in SEC EB Case No. 512.

Later, in the same en banc case, petitioners filed a Motion to Expand the Power of the SMC and/or For the Appointment of a Regular Management Committee,[13] it being claimed by them that respondents were squandering the assets of Philinterlife and that the SMC lacked powers to stop respondents. More specifically, the motion embodies the following prayers:

WHEREFORE, premises considered it is respectfully prayed that the Commission en Banc, after notice and hearing, issue an order expanding the powers of the Special Management Committee by allowing it to exclusively undertake and control the day to day management of Philinterlife and requiring that all disbursements of funds of the corporation, for whatever purposes, should not be made without the approval the Special Management Committee. Alternatively, considering the extent of the dissipation involved in this case, the Commission en Banc should now appoint a regular management committee to take control and custody over all the existing assets and properties of the corporation, in accordance with the existing laws.

In an order dated August 27, 1997,[14] the SEC en banc denied petitioners' aforementioned motion, saying that the SMC was created precisely to maintain and safeguard the assets of the corporation pending the outcome of the settlement proceedings in the probate court and in the meanwhile that the issue "as to the rightful membership in the Board of Directors and the legal ownership of the stocks in question are being resolved", adding that the SMC,

if it will only follow the mandate given it, "will surely prevent any malicious dissipation of the corporate property by the members of the (existing) Board of Directors".

Their motion for reconsideration of the same order having been denied by the SEC en banc in its resolution of February 9, 1998[15], petitioners then went to the Court of Appeals via certiorari in CA-G.R. SP No. 47369, imputing grave abuse of discretion on the part of the SEC en banc in denying their motion in SEC EB Case No. 512 for the expansion of the powers of the SMC or the creation of a regular management committee.

As already stated at the threshold hereof, the Court of Appeals, in the herein assailed decision dated July 7, 1999[16], dismissed petitioners' certiorari petition, and denied, in its equally challenged resolution of March 27, 2000, their motion for reconsideration.

Hence, petitioners' present recourse, contending that the appellate court departed from the "accepted and usual course of judicial proceedings" when it -

- xxx RULED THAT A DECISION OF ANOTHER DIVISION OF THE SAID COURT ALREADY BOUND THE SAID COURT IN SPITE OF THE FACT THAT THE SAID DECISION IS NOT YET FINAL AND EXECUTORY.

- xxx FAILED TO CONDUCT A HEARING TO RECEIVE EVIDENCE ON THE MATERIAL ALLEGATIONS OF THE PETITIONERS' SPECIAL CIVIL ACTION FOR CERTIORARI UNDER RULE 65 (CA GR. SP NO. 47369)

- xxx WITHOUT ALLOWING THE PETITIONERS TO PRESENT EVIDENCE, PROCEEDED TO RESOLVE THE PETITION ON THE BASELESS GENERALIZATION THAT THE PETITIONERS FAILED TO SHOW THAT THE SEC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.[17]

Record shows that the SEC en banc's creation of a special management committee in SEC Case EB No. 512 was declared null and void by the Court of Appeals in CA-G.R. SP No. 42573, a certiorari proceeding thereat filed by the herein respondents against SEC Chairman Yasay, the SEC itself and the members of the SMC. The appellate court's decision in that case, dated October 24, 1997, was elevated to this Court by the SEC and Chairman Yasay in G.R. No. 131418, which was dismissed by this Court in a resolution promulgated on February 25, 1998 for "having filed out of time".

To all intents and purposes, therefore, the SEC's denial of petitioners' motion for the expansion of the powers of the SMC had thereby become moot and academic for the obvious reason that there is no more special management committee to speak of at Philinterlife.

It is petitioners' posture, however, that they are not a party to the petition filed by the SEC and Chairman Yasay in G.R. No. 131418, adding that their motion for reconsideration of the Court of Appeals' decision in CA-G.R. SP No. 42573 still pends with that court, and that should the Court of Appeals ultimately deny their motion for reconsideration, they intend to appeal to this Court with the hope that their plea for the expansion of the powers of the SMC shall meet a favorable response from this Court.

Petitioners are at full liberty to speculate on the outcome of their motion for reconsideration in CA-G.R. SP No. 42573 at the Court of Appeals, with no less the same optimism as to what this Court would do should they come to us from a denial by that court of their motion for reconsideration. But the bottom line is, and as the saying goes, this Court "will cross the bridge when it comes to it".

The hard reality, however, is that at the moment, the SEC-created special management committee lies judicially entombed, and while we will not dissuade petitioners from hoping that by some stroke of fate, the tomb will be

thrown wide open with the spectacle of the special management committee rising from its grave, the parties must have to abide with the present state of things.

For the moment, suffice it to say that whatever may be the outcome of petitioners' struggle to validate and revive the SMC at Philinterlife does not concern us insofar as the instant petition is concerned.

Petitioners would next want us to venture into calibrating the appellate court's factual finding that there exists no evidence of dissipation of assets by the respondents. This cannot be done. For, let alone the settled rule that this Court is not a trier of facts, petitioners ought to be reminded that in going to the Court of Appeals in CA-G.R. SP No. 47369, they rode thru the vehicle of the special civil action of certiorari, which demands exacting standards. The abuse of discretion correctible by certiorari requires that the same be characterized as patently grave, one that is a product of a capricious, arbitrary, and whimsical exercise of judgment as is equivalent to lack of jurisdiction.

The appellate court's observation in its decision that petitioners have not shown the existence of imminent danger of dissipation of Philinterlife assets, which, to petitioners' mind is baseless, should be read in the context of the August 27, 1997 en banc order of the SEC in SEC EB Case No. 512. In that order, the SEC en banc pointedly blamed petitioners for not utilizing the powers of the SMC to conserve the assets of Philinterlife, if indeed there was truth to their claim. Partly says the SEC en banc in its order of August 27, 1997:

With regard to the issue raised that the Committee is powerless to curb the evils sought to be prevented by its creation, it would be helpful to look into the Nov. 27, 1996 Order of the Commission. According to the said Order, the management (incumbent officers) shall submit a weekly report on all matters it has acted upon in the exercise of its routine functions. It shall also recommend actions by the Special Management Committee on the following:

xxx a. Disposal of Assets, b. Extra-ordinary transactions and/or expenses such as major repairs, purchase of capital equipment and the like. No payment of allowances or benefits shall be made to members of the Board of Directors except services as part of management per above guidelines.

It would appear that the management has the obligation to consult and obtain permission from the Committee for extra-ordinary transactions and disposal of assets. Meanwhile, ordinary transactions are supposed to be disclosed through a Weekly Report submission by the management to the Special Management Committee. In short, if the members of the Special Management Committee will follow such an arrangement and procedure, it will surely prevent any malicious dissipation of corporate property by the members of the Board. As can be observed, the Special Management Committee is able to check and call the attention of management in what it believes to be unusual and extraordinary disbursements.[18]

From the foregoing, it appears clear to us that the SMC, assuming the validity of its creation, is a body which can dispense permission when it comes to "extra-ordinary transactions and disposal of assets". It is a far cry from the description pictured to us by the petitioners in the present recourse and in their certiorari petition in CA-G.R. SP No. 47369.

The litany of alleged transgressions by the respondents-dominated Philinterlife Board of Directors, as recited by the petitioners, only makes us wonder why, in the midst of the supposed raid by the respondents on corporate assets, petitioners never invoked the protection of the SMC even as they could have secured from it an order blocking respondents' alleged irresponsible disbursements of corporate funds and property. For sure, the record is barren of any showing that there was any confrontation at all between the SMC and the Philinterlife board over the issue of corporate spending. As it is, petitioners, who have representatives in the special management committee, never bothered to test its mettle relative to the problem of alleged dissipation of Philinterlife assets. Petitioners' unexplained omission to have the committee confront respondents or/and the corporate board of directors bore a gaping hole in their claim for relief. Petitioners' failure to avail of the machinery of the SMC,

which, after all, is their primary remedy, foreclosed their right to resort to the extraordinary remedy of certiorari.

Further undermining petitioner's instant petition is the notable absence in their prayer of any desire to hold the respondents accountable for their alleged corporate misdeeds. After expressing their vigorous disapproval of the actions of the Philinterlife board, petitioners are, at the very least, expected to match their outrage with a plea for restitution from the respondents. It thus appear obvious to this Court that rather than the conservation of the corporate assets, emasculation of the existing Philinterlife board of directors is petitioners' main objective in this recourse. Sad to say, the instant petition for review on certiorari cannot be helpful to their design.

WHEREFORE, the petition is DENIED and the impugned issuances of the Court of Appeals AFFIRMED.

Costs against petitioners.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Corona, JJ., concur.
Carpio-Morales, J., no part.

[1] Penned by then Associate Justice, now a member of this Court, Conchita Carpio-Morales, with Associate Justices Artemon Luna and Bernardo Abesamis (both ret.), concurring; Rollo, pp. 52-60.

[2] Rollo, pp. 62-63.

[3] Rollo, pp. 249-269.

[4] Rollo, pp. 270-271.

[5] Rollo, p. 274.

[6] Rollo, pp. 120-124.

[7] Rollo, pp. 125-129.

[8] See p. 7.05, Petition; Rollo, p. 34.

[9] Rollo, p. 131.

[10] Rollo, pp. 133-134.

[11] Rollo, p. 135.

[12] Rollo, p. 136.

[13] Rollo, pp. 138-143.

[14] Rollo, pp. 93-95.

[15] Rollo, p. 97

[16] Rollo, pp. 52-60

[17] Rollo, pp. 37-38.

[18] Rollo, pp. 94-95.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.