DANILO G. PUNONGBAYAN, PETITIONER, VS. PERFECTO G. PUNONGBAYAN, JR., MARILOU P. VISITACION, AND SOTERO A. PUNONGBAYAN, RESPONDENTS.

G.R. NO. 157671. June 20, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari assailing the Decision[1] dated March 17, 2003 of the Court of Appeals in CA-G.R. SP No. 65420, entitled "Perfecto G. Punongbayan, Jr. and Marilou P. Visitacion vs. Hon. Maximo Magno-Libre (in his official capacity as Presiding Judge of the Regional Trial Court of Lanao Del Norte, Branch 5 of Iligan City), Danilo Punongbayan, Rico Quilab, Luis Lacar and Adelfa Silor (in their official capacity as members of the management committee of St. Peter's College)."

The facts are:

St. Peter's College is a non-stock, non-profit educational corporation in Iligan City. It is administered by its Board of Trustees composed of five members. As of 1995, the members of the Board were Leonila, Leonora, Danilo, Perfecto, Jr., sisters and brothers, all surnamed Punongbayan, and Sotero Punongbayan, their uncle.

In 1995, Leonila and Leonora died, leaving as members of the Board Danilo, petitioner, Perfecto, Jr., respondent, and Sotero, respondent-intervenor.

Danilo was then the President, while Perfecto, Jr. acted as Treasurer. Marilou Visitacion, another respondent, acted as the Corporate Secretary. However, there has been no Board meeting.

In 1998, Sotero filed with the Securities and Exchange Commission (SEC) a Petition for Disqualification of Members/Trustees/Officers; Production of Corporate and Financial Records; Examination and Accounting of Corporate Assets; and Damages with Prayer for a Temporary Restraining Order and/or Writ of Preliminary Injunction against Danilo, Perfecto, Jr., and Marilou, docketed as SEC Case No. 10-96-5471. The petition prays for the immediate creation of a management committee on the ground of lack of quorum among the members of the Board resulting in an impending halt of the school's operation.

In an Order[2] dated November 10, 1998, the SEC granted the prayer for the creation of a management committee.

On February 24, 1999, the SEC appointed the following as members of the management committee: Carmen V. Dormitorio, as chairperson, representing the Commission on Higher Education; Jose L. Zalsos, representing the Faculty Club of St. Peter's College, Inc.; Henie Natuel Punongbayan, representing Sotero; Carmelita Punzalan-Punongbayan, representing Danilo; and Perfecto, Jr.[3]

Subsequently, Carmen Dormitorio inhibited herself as a member and chairperson of the committee. This resulted in a deadlock among the remaining members.

Meanwhile, SEC Case No. 10-96-5471 was transferred to the Regional Trial Court (RTC), Branch 5, Iligan City, pursuant to Republic Act No. 8799.[4] The case was docketed therein as Corporation Case No. 006.

Sotero then filed with the RTC a Motion to Abolish the Management Committee, assailing the Orders of the SEC creating and appointing the members of the management committee. He prayed that the original members of the Board (himself, Danilo, and Perfecto, Jr.) be required to reconvene and run the affairs of the school.

On June 5, 2001, the RTC issued an Order[5] denying Sotero's motion, thus:

> WHEREFORE, premises considered, the instant motion to abolish the management committee is ordered denied. Instead, the Mancom will have to be revamped to be composed only of three members as mandated by the aforequoted interim rules of procedure, but before the three members to be appointed by the court to constitute the new Mancom will be made, the parties-movants are directed to jointly nominate three members they wish to be appointed to the Mancom, and the oppositor to do likewise.
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> x x x.

On June 20, 2001, the RTC issued an Order appointing Luis Lacar, Adelfa Silor, and Rico Quilab as members of the new management committee. Lacar and Silor were the nominees of Danilo, while Quilab was the nominee of Perfecto, Jr.[6]

Sotero filed a Motion for Reconsideration but the same was not acted upon being a prohibited pleading under the Interim Rules of Procedure for Intra-Corporate Controversies.

On June 23, 2001, Perfecto, Jr. and Marilou Visitacion, Acting Corporate Secretary, filed with the Court of Appeals a Petition for Certiorari with Application for the Issuance of a Writ of Preliminary Injunction against RTC Presiding Judge Maximo Magno-Libre, the members of the new management committee, and Danilo. Petitioners therein alleged that in issuing his June 5 and 20, 2001 Orders, respondent Judge gravely abused his discretion. In a Resolution dated July 9, 2001, the Court of Appeals dismissed the petition for petitioners' failure to comply with the Rule against forum shopping.

On July 17, 2001, Perfecto, Jr. and Visitacion filed a Motion for Reconsideration. Later, or on July 20, 2001, they filed a Motion to Amend Petition.

In the meantime, Sotero filed with the Appellate Court his petition-in-intervention.

On July 26, 2001, the Court of Appeals issued a Resolution reconsidering its previous Resolution dismissing the petition and admitting the amended petition as well as the petition-in-intervention.

In a Resolution dated March 13, 2002, the Appellate Court issued a writ of preliminary injunction enjoining the implementation of the Orders dated June 5, 2001 and June 20, 2001 issued by the RTC.

Danilo filed a Motion for Reconsideration but the same was denied in a Resolution dated October 8, 2002.

On March 17, 2003, the Court of Appeals promulgated its Decision setting aside the RTC Orders dated June 5 and 20, 2001, holding that:

> The Decision of the SEC that created MANCOM 1 was contained in the Order of November 10, 1998 (Rollo, pp. 523-528), while the appointment of intervenor's representative, Henie N. Punongbayan, and petitioner Perfecto Punongbayan, Jr. to MANCOM 1 was set forth in the Order of February 24, 1999 (Rollo, pp. 532-533). There was no appeal taken from both Orders of the SEC, thus, the said Orders had become final and executory and they could no longer be amended, altered, or set aside. In fact, they were already implemented before the respondent Court assumed jurisdiction over the case. Intervenor's representative and petitioner Perfecto Punongbayan, Jr. had already assumed their office as members of MANCOM 1 and commenced to

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discharge their duties long before the case was transferred to respondent Judge's court.

It is a well-established rule that a judgment which had become final and executory can no longer be amended or modified by the courts (Cardoza vs. Singson, 181 SCRA 53) as it thereby becomes immutable and unalterable (Mining International Corp. vs. NLRC, 195 SCRA 155). x x x Clearly, then, the respondent Judge acted capriciously, arbitrarily and with grave abuse of discretion amounting to lack or excess of jurisdiction when he issued the assailed Orders on June 5, 2001 abolishing MANCOM 1 and creating MANCOM 2, and on June 20, 2001 appointing the members of MANCOM 2. Public respondent had no legal authority to abolish MANCOM 1 which was formed, duly constituted, and its members chosen by SEC, which is the government agency tasked with the supervision of corporations.

x x x what public respondent should have done was to convene the Board of Trustees of the corporation composed of Sotero, Danilo, and Perfecto, Jr., which, under its Charter and By-Laws, is tasked with its management and operation, and only after there shall have been no quorum should he have ordered the revamp of the old MANCOM. There appeared to be no legal impediment to the exercise by the Board of Trustees of the School of its corporate powers. Under the By-Laws of the School, a majority of the trustees shall constitute a quorum for the transaction of the corporate business. Since there were only three surviving members, then at least two of the surviving members could constitute a quorum.

The situation now obtaining being different from that prevailing during the filing of the instant petition in that the Board of Trustees had convened on July 4, 2001 and new members in the persons of Henie N. Punongbayan, Marilou P. Visitacion and Restituto Punongbayan had been elected to the Board, and a new By-Laws of the School had been adopted and approved by the SEC on August 21, 2001, the necessity of creating a MANCOM is rendered already moot and academic. x x x

WHEREFORE, premises considered, the petition is given DUE COURSE. The assailed Orders of public respondent Judge dated June 5, 2001 and June 20, 2001 in Corporation Case No. 006 of Branch 5 of the Regional Trial Court in Iligan City, Lanao del Norte, are hereby REVERSED and SET ASIDE for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction, and another one is issued convening the Board of Trustees of St. Peter's College, Inc. in Iligan City, Lanao del Norte, and making permanent the injunction issued by this Court in this case.

SO ORDERED.

Hence, the instant petition for review on certiorari raising the following issues:

- WHETHER OR NOT THE APPELLATE COURT COMMITTED AN ERROR THROUGH GROSS MISAPPREHENSION OF FACTS AS IT RULED THAT THE LOWER COURT REVOKED, VACATED, AMENDED OR MODIFIED THE ORDER CREATING A MANAGEMENT COMMITTEE WHEN IT ISSUED THE ORDER OF JUNE 5, 2001.

- WHETHER OR NOT THE APPELLATE COURT COMMITTED AN ERROR THROUGH GRAVE MISAPPREHENSION OF FACTS WHEN IT RULED THAT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION BY APPOINTING CARMELITA P. PUNONGBAYAN AS CHIEF EXECUTIVE OFFICER OF THE CORPORATION, WHEN THERE IS NO SUCH ORDER OF APPOINTMENT.

- WHETHER OR NOT THE APPELLATE COURT ERRED IN RULING TO THE EFFECT THAT 'UNDER THE BY-LAWS OF THE SCHOOL, A MAJORITY OF THE TRUSTEES SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF THE CORPORATE BUSINESS. SINCE THERE WERE ONLY THREE SURVIVING MEMBERS, THAT AT LEAST TWO OF THE SURVIVING MEMBERS COULD CONSTITUTE A QUORUM.' THE APPELLATE COURT HAS THUS DECIDED A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW AND THE APPLICABLE DECISION OF THE SUPREME

> COURT.
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> - WHETHER OR NOT THE APPELLATE COURT ERRED IN MAKING A FINDING THAT THERE IS NOW A FUNCTIONING BOARD OF TRUSTEES AND IT MUST BE ALLOWED TO FUNCTION AND TO EXERCISE ITS POWER AND DUTIES, AS IN DOING SO THE APPELLATE COURT WENT BEYOND THE ISSUES OF THE CASE.
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> - A QUESTION OF LAW IS ALSO BEING POSED AS TO WHETHER THE APPELLATE COURT CAN RULE THAT THERE IS NOW A FUNCTIONING BOARD OF TRUSTEES AND THAT THE NECESSITY OF CREATING A MANCOM IS RENDERED MOOT AND ACADEMIC IN THE LIGHT OF THE PROVISION OF SEC. 12, RULE 9 OF THE INTERIM RULES OF PROCEDURE FOR INTRA-CORPORATE CONTROVERSIES.

Petitioner Danilo Punongbayan contends that the management committee created by the SEC was not abolished by the RTC. Its composition was only reorganized because of the existence of a deadlock among the members.

Respondents maintain that the RTC gravely abused its discretion when it ordered the creation of a new management committee in lieu of the one created by the SEC. Instead, it should have directed the remaining three members to reconvene.

The main issue for our consideration is whether the RTC could reorganize the management committee created by the SEC.

We rule in the affirmative.

Under Section 5[7] of Presidential Decree No. 902-A, the SEC has jurisdiction, among others, to hear and decide controversies in the appointments of directors, trustees, officers or managers of corporations.

Section 6 provides:

> SECTION 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:
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> x x x
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> d) To create a management committee x x x
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> The management committee x x x shall have the power to take custody of, and control over, all the existing assets and property of such entities under management; to evaluate the existing assets and liabilities, earnings and operations of such corporations, partnerships or other associations; to determine the best way to salvage and protect the interest of the investors and creditors; to study, review and evaluate the feasibility of continuing operations and restructure and rehabilitate such entities if determined to be feasible by the Commission. It shall report and be responsible to the Commission until dissolved by order of the Commission: Provided, however, That the Commission may, on the basis of the findings and recommendation of the management committee x x x or on its own findings, determine that the continuance in business of such corporation or entity would not be feasible or profitable nor work to the best interest of the stockholders, parties-litigants, creditors, or the general public, order the dissolution of such corporation entity and its remaining assets liquidated accordingly. The management committee x x x may overrule or revoke the actions of the previous management and board of directors of the entity or entities under management notwithstanding any provision of law, articles of incorporation or by-laws to the contrary.
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> x x x

A management committee is tasked to manage, take custody of and control all existing assets, funds and records

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of the corporation, and to determine the best way to protect the interest of its stockholders and creditors.

In this case, the SEC created a management committee, upon Sotero's application, and appointed its five members. However, one member, Carmen Dormitorio (representing the CHED), inhibited herself from sitting in the committee, resulting in a deadlock among the remaining members. The committee became so divided, hence, the school's business and affairs could no longer be conducted effectively to the prejudice of the stockholders and the students. In the meantime, the SEC's jurisdiction over intra-corporate controversies was transferred to the RTC. This prompted Sotero to file with the RTC, Branch 5, Iligan City, a motion to abolish the management committee created by the SEC. The RTC denied his motion and instead, ordered the reorganization of the management committee. Sotero challenged the RTC Orders before the Court of Appeals via a petition for certiorari. The Appellate Court ruled that the RTC should have directed the remaining members of the Board to reconvene instead of ordering the reorganization of the management committee.

Republic Act No. 8799, which became effective on August 8, 2000, transferred the jurisdiction of the SEC over cases involving intra-corporate disputes to the Regional Trial Courts.[8] Thus, the RTC assumed powers provided under Sections 5 and 6 of Presidential Decree No. 902-A quoted earlier. As such, it has the discretion to grant or deny an application for the creation of a management committee. This discretion, however, must be exercised with great caution and circumspection.

Having the power to create a management committee, it follows that the RTC can order the reorganization of the existing management committee. Here, knowing that the deadlock among the members of the committee (appointed by the SEC) may lead to the paralyzation of the schoolï¿½s business operations, the RTC removed the said members and appointed new members. This is pursuant to Section 11, Rule 9 of the Interim Rules of Procedure Governing Intra-Corporate Controversies which provides:

> A member of the management committee is deemed removed upon appointment by the court of his replacement chosen in accordance with Section 4 of this Rule.

Such appointment of new members does not mean the creation of a new management committee. The existing management committee was not abolished. The RTC merely reorganized it by appointing new members. The management committee created by the SEC continues to exist. However, when it failed to function due to the division among the members, the RTC replaced them. Clearly, there was no revocation of the final Order of the SEC.

Significantly, in appointing new members of the management committee, chosen from the lists of nominees submitted by both petitioner and respondents, the RTC did not deprive respondents herein of their representation in the committee.

In fine, we find no grave abuse of discretion committed by the RTC.

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals is REVERSED.

SO ORDERED.

Puno, (Chairman), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Sergio L. Pestaño (deceased), and concurred in by Associate Justices Buenaventura L. Guerrero, Delilah Vidallon-Magtolis (both retired), and Justice Mario L. Guariña. Associate Justice Martin S. Villarama, Jr., dissented; Rollo, pp. 10-28.

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[2] Id., pp. 464-469.

[3] Id., p. 473.

[4] Otherwise known as the Securities Regulation Code (jurisdiction over intra-corporate controversies was transferred to courts of general jurisdiction or appropriate Regional Trial Courts).

[5] Rollo, pp. 89-96.

[6] Id., pp. 97-100.

[7] Section 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations; and

d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree.

[8] 5.2. The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

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