LEE HIONG WEE, PETITIONER, VS. DEE PING WEE AND MARINA U. TAN, RESPONDENTS.

G.R. NO. 163511. June 30, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner Lee Hiong Wee assails and seeks the nullification of the Decision[1] dated May 14, 2004 of the Court of Appeals (CA) in CA- G.R. SP No. 82569, declaring null and void the Order [2] dated March 3, 2004 of the Regional Trial Court (RTC) of Imus, Cavite, Branch 22, in SEC Case No. 029-03.

The facts:

At the center of the controversy is the feud between two (2) warring groups of stockholders for the control and management of Rico Philippines Industrial Corporation (RPIC), a domestic corporation engaged in seaweeds export business. The corporate bylaws provides for the holding of a regular annual stockholders' meeting on the first Friday of May each year.

Records show that from the time RPIC started business operations following its incorporation on November 15, 1990, the family of petitioner Lee Hiong Wee had been managing and exercising control of the firm, petitioner having, thru the years, been its president and chairman of the board, of which his wife, Rosalinda, was also a member.

For brevity, Lee Hiong Wee and his family members and/or allies in RPIC shall hereinafter be referred to as the Lee Hiong group.

Evidently, the foregoing close family management set-up did not sit well for a number of RPIC stockholders. For, sometime in July 2003 a group led by Mario T. Tan, husband (now deceased) of respondent Marina Tan, and Dee Ping Wee (hereafter the Dee Ping group), filed with the Securities and Exchange Commission (SEC) a Petition praying for the holding of stockholders' meeting, it appearing that no annual stockholders' meeting had been held by the corporation as mandated under its by-laws.

In an Order dated September 29, 2003, the SEC granted the petition and accordingly directed the corporation's president, or, in his default, Mario Tan or Dee Ping Wee, to call a stockholders' meeting not later than October 30, 2003.

After due notice, a stockholders' meeting was held on October 9, 2003 with 68.22% shares in attendance. The meeting resulted in the election of a new set of directors the majority of which belonged to or identified with the Dee Ping group. While the spouses Lee Hiong Wee and Rosalinda retained their seats in the board, the new board replaced Lee Hiong Wee as corporate president and board chairman.

Among the new board's first acts was the passing of a resolution designating an officer-in-charge for RPIC's plant.

On October 14, 2003, in the RTC of Imus, Cavite, the Lee Hiong group filed against the Dee Ping group a Complaint. Thereat docketed as SEC Case No. 02903 and raffled to Branch 21 of the court then presided by Judge Norberto J. Quisumbing, Jr., the complaint sought to nullify the SEC-ordained October 9, 2003 stockholders' meeting, including the election of a new board and the organizational changes undertaken by the latter. On the same day, Judge Quisumbing issued a temporary restraining order (TRO) enjoining the Dee Ping group from assuming the functions of the board of directors or officers of RPIC and to respect the status quo prevailing prior to October 9, 2003.[3]

The following events then transpired:

- The spouses Mario Tan and Marina Tan filed with the CA a petition for certiorari with prayer for injunctive relief to restrain the Lee Hiong group from implementing, and eventually to nullify, the TRO issued by Judge Quisumbing. Docketed as CA-G.R. SP No. 79988, this petition landed to the CA's Fifteenth Division.

- Pending resolution of CA-G.R. SP No. 79988, Judge Quisumbing, upon motion of Marina Tan, inhibited himself from SEC Case No. 029-03. He was replaced by pairing Judge Lucenito Tagle of Branch 20.

- On November 24, 2003, or after the lapse of the 20-day TRO issued by Judge Quisumbing, the Lee Hiong group also sought Judge Tagle's inhibition.

- On February 19, 2004, at which time the Quisumbing TRO had already lapsed, the CA (15[th] Division) promulgated its decision in CA-G.R. SP No. 79988, pertinently disposing as follows:

> - xxx xxx xxx;
>
> - SEC Case No. 029-03 is ordered to be re-raffled ... to the RTC Judges of Imus, Cavite excepting therefrom Judges Norberto Quisumbing, Jr., and Lucenito Tagle. xxx;
>
> - The court a quo is directed to conduct ... a physical inventory of all appurtenant machinery, stocks and goods ... at the subject factory plant and to devise ways and means of regulating or determining the necessity of withdrawal of stocks, goods and finished products, if any, from the factory plant with the end in view of protecting the interests of both parties and preserving the properties of the corporation.
>
> SO ORDERED.

- On March 3, 2004, Judge Cesar A. Mangrobang of Branch 22, the only remaining Imus, Cavite RTC judge after the recusals of Judges Quisumbing and Tagle, issued a Writ of Preliminary Mandatory Injunction mandating, inter alia, the following:

> - For Defendants [Dee Ping group] ..., [to] immediately cease and desist from discharging the functions of either as directors of the board or officers of [RPIC] and ... ordering the parties to revert to their status quo prior to October 9, 2003 with respect to their titles and positions in the Corporation and for third parties ... to transact only with the Plaintiffs [Lee Hiong group];
>
> - For Defendants to deliver to the Plaintiffs the physical possession and actual control of the plant premises of [RPIC] located at the People's Technology Complex, Carmona, Cavite, immediately upon receipt hereof and without any further delay;
>
> - For the Philippine National Police (PNP) to assist ... in enforcing this order and the ancillary writ ...;
>
> Lastly, both parties are ordered to submit ... a list of their representatives when this Court shall conduct an inventory of all the plant assets, etc. and a proposed scheme of regulating and determining the necessity of withdrawal of stock goods and finished products, if any, from the factory plant for the protection of their interests and preserving the properties of the corporation. xxx. (Words in brackets added).

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- Subsequently, Dee Ping Wee and Marina Tan went to the CA via a petition for certiorari and prohibition to nullify Judge Mangrobang's order, with additional prayer for a TRO to enjoin Judge Mangrobang from implementing his Order and from proceeding with SEC Case No. 029-03.

This petition was docketed as CA-G.R. SP No. 82569 which landed to the CA's Second Division.

Contemporaneously, Marina Tan of the Dee Ping Wee group filed in CA-G.R. SP No. 79988, then with the CA's Fifteenth Division, a Motion for Reconsideration of its Decision dated February 19, 2004, claiming, among other things, that the appellate court made certain findings that are misleading and inaccurate.

- Meanwhile, Sheriff Edgar Bermudez, in his Report dated March 9, 2004, informed the RTC of the partial satisfaction of the writ of preliminary mandatory injunction issued by Judge Mangrobang in SEC Case No. 029-03.

- On March 15, 2004, the CA (Second Division) promulgated, in CA-G.R. SP No. 82569, a Resolution adverse to the Lee Hiong group, thereby virtually lifting the writ of preliminary mandatory injunction issued by Judge Mangrobang. In its pertinent part, the Resolution dispositively reads:

> ACCORDINGLY, respondent Judge [Mangrobang], private respondents and all persons acting under his authority or behalf, are hereby directed to CEASE and DESIST from continuously enforcing the WRIT OF PRELIMINARY MANDATORY INJUNCTION dated March 4, 2004 thus restoring the status quo ante as earlier stated, in accordance with the Supreme Court ruling in JOSE MIRANDA vs. THE HON. SANDIGANBAYAN, [et al.] ... and from conducting any further proceedings in SEC Case No. 029-03 pending resolution of the instant petition and/or the application for the issuance of a writ of preliminary injunction. (Words in brackets added; Emphasis in the original).

- On March 16, 2004, the Lee Hiong group filed in CA- G.R. SP No. 82569 an Emergency Omnibus Motion to Avoid Bloodshed, [4] therein praying that the CA (a) clarify the meaning of the TRO it issued on March 15, 2004 or recalling it, and (b) either dismiss the case for forum-shopping or order its consolidation with CA-G.R. SP No. 79988. This was followed by an Urgent Motion for Inhibition praying for the voluntary inhibition of the Second Division or the consolidation of the case with CA-G.R. SP No. 79988.

- On April 2, 2004, the CA's Second Division, thru Associate Justice Regalado E. Maambong, issued a Resolution[5] in CA- G.R. SP No. 82569, denying the Lee Hiong group's aforementioned omnibus motion to avert bloodshed and the motion to inhibit.

Shortly thereafter, it would appear that Justice Maambong was transferred to the CA's First Division.

- In the meantime, on May 7, 2004, the corporation held its regular annual stockholders' meeting, followed by the election of a new set of directors, which now excluded the spouses Lee Hiong Wee and Rosalinda.[6]

- On May 14, 2004, in CA-G.R. SP No. 82569, the CA, thru its Former Second Division, rendered the herein assailed Decision nullifying, as having been issued in grave abuse of discretion, the writ of preliminary mandatory injunction issued by Judge Mangrobang in SEC Case No. 029-03 against Dee Ping Wee, et al., and further disposing as follows:

> ACCORDINGLY, a prohibitory as well as mandatory injunction is issued against respondent Hon. Cesar A. Mangrobang, in his capacity as the Presiding Judge of the [RTC] of Imus, Cavite, Branch 22, private respondents Lee Hiong Wee, [et al.] and all persons acting under their authority or behalf who are hereby directed to permanently cease and desist from enforcing the writ of preliminary mandatory injunction, dated March 4, 2004, issued by the respondent Judge.
>
> Unless SEC Case No. 029-03 has been rendered moot by subsequent events, and consistent with the resolution

> of the Special Fifth (sic) Division of this Court, dated 19 February 2004, the [RTC] of Imus, Cavite, Branch 22, is directed to proceed with the hearing of said case with deliberate dispatch, in accordance with the Interim Rules Governing Intra-Corporate Controversies (A.M. No. 01-2-01-SC) and accordingly decide the case based on the evidence and applicable jurisprudence. [7]
>
> SO ORDERED. (Words in brackets added.)

Hence, petitioner's present recourse urging the Court to issue a TRO to restrain implementation of the assailed May 14, 2004 Decision of the CA (Second Division) and the eventual nullification of the same decision. Petitioner sets forth the nature and grounds of the instant petition, to wit:

> This is an appeal by certiorari pursuant to Rule 45. It is within the guidelines of Section 6 of Rule 45 because the Second Division of the Court of Appeals a quo has decided to take cognizance of a legal controversy already pending in the Fifteenth Division and this is "not in accord with law or with the applicable decision of the Supreme Court" and, moreover, the Second Division by its action "has so far departed from the accepted and unusual course of judicial proceeding . . . ."
>
> With all due respect, the Second Division is subject to a Rule 45 attack because said division acted with manifest partiality (a) in its undue haste (based upon unquestioned facts on the record) in granting and ordering the enforcement of a TRO...;(b) in its issuing a TRO on a moot & academic matter as unquestioned facts on record will show; (c) in its ratio decidendi which, with all due respect, appears to have been contrived; (d)in its acting without jurisdiction, and in its total absence of explanation on why it acted on a case which had been litis pendentia at the Fifteenth Division and rulings by two RTC Judges that the respondents had acquired possession of the property through violence and retained possession of the property through violence, ignoring even legitimate orders of the lower court. (Underscoring in the original, Emphasis supplied).

The recourse lacks merit.

To begin with, the petition did not limit itself to raising only questions of law, overflowing, as it were, with factual issues. It bears stressing that petitioner came to this Court on appeal by certiorari under Rule 45 of the Rules of Court, a recourse strictly circumscribed by the express limitation that "[it] shall raise only questions of law which must be distinctly set forth [in the petition]."[8]

From a cursory perusal of the petition and its other supporting pleadings, it is fairly obvious that the issues raised call for an extensive excavation of factual matters. If only on this score alone, the Court can verily deny due course thereto. However, in the interest of substantial justice, the Court shall nonetheless resolve on the merits each ground of petitioner's lament.

On ground "(a)," referring to the alleged "undue haste" which allegedly characterized the grant by the CA on March 15, 2004[9] of a TRO, petitioner states:

> Unusual haste
>
> - The TRO issued by the Second Division in CA GR SP No. 82569 was promulgated in the afternoon of March 15, 2004 and immediately delivered to the RTC of Imus, Cavite which received it at approximately 4:55 o'clock in the afternoon. As stated in the Sheriff 's Return ..., the Sheriff and the process server of the CA proceeded at 8:35 o'clock in the evening directly to the [RPIC] plant in Carmona, Cavite for the purpose of serving process and implementing the TRO. Nowhere in the court papers pending at the Second Division was it stated that the [RPIC] Plant in Carmona, Cavite was a suitable address for purposes of serving process upon the petitioner. In fact, surprisingly, said address of the [RPIC] Plant in Carmona, Cavite was even mentioned in the petition as the address of [Dee Ping Wee and Marina Tan] xxx. (Words in brackets added).

In gist, petitioner faults the CA's Second Division for the "undue" or "unusual" haste attending the issuance of the

TRO in question. It may be recalled, however, that petitioner himself earlier applied for a TRO when he commenced SEC Case No. 02903 on October 14, 2003, and Judge Quisumbing issued the desired TRO on that very same day. There can be no quibbling then that, if time is the norm determinative of hastiness, the act of Judge Quisumbing would win hands down in terms of hastiness. For, assayed against the one (1) day-period within which Judge Quisumbing resolved Lee Hiong Wee's plea for TRO, the CA's Second Division issued its TRO on March 15, 2004 or after the lapse of ten (10) days from the commencement of CA-G.R. SP No. 82569 on March 5, 2004.[10] If petitioner does not consider Judge Quisumbing's TRO as having been issued hastily, there is simply no rhyme nor reason why the CA's issuance of a TRO, ten (10) days after the filing of the case, should be struck down for hastiness, as urged by petitioner.

Ground "(b)" focuses again on the grant by the CA of the same TRO. As argued, the appellate court issued the TRO on a moot and academic matter, intended as it was to enjoin something already accomplished. In petitioner's own words:

> - On March 12, 2004 your petitioner herein / the respondent in both cases at the CA filed a Manifestation and Motion informing the Second Division in CA GR SP No. 82569 that the questioned order therein of Hon. Cesar A. Mangrobang dated March 4, 2004 had already been fully satisfied. Your petitioner explained ... that the Writ of Preliminary Mandatory Injunction had been fully executed as to the issue ofpossession over the disputed [RPIC] plant in Carmona, Cavite on March 5, 2004; which is evidenced by the Sheriff 's Report dated March 9, 2004 xxx.
>
> - On March 15, 2004 the Second Division of the CA in CA GR SP No. 82569 issued a TRO ... enjoining the Writ of Preliminary Mandatory Injunction earlier issued by the RTC of Imus, Cavite although ... it was no longer possible to issue a TRO preventing transfer of possession of the plant to the petitioner herein, because possession had in fact already been transferred to your petitioner herein/ respondent in the CA Second Division. The matter was moot and academic. It was "fait acompli." (Word in bracket added).

Unfortunately, petitioner's own documents tell a different story. SubAnnex "1" of Annex "F" of the petition is the Sheriff's Report adverted to. The report distinctly states that the implementation of Judge Mangrobang's writ of preliminary mandatory injunction is only partially satisfied – not fait accompli. In detail, the report reads:

> - That on March 04, 2004 the undersigned served copies of the order [of Judge Mangrobang] dated March 03, 2004 to the defendants [Dee Ping Wee et al.] at their given addresses;
>
> - That on March 05, 2004 the undersigned served a copy of the writ to the security-in-charge at [RPIC] located at PTC, Carmona, Cavite [but after reading it] he (security-in charge) returned it to me and refuse to sign any acknowledgement of receipt of the writ;
>
> - xxx xxx xxx;
>
> - On the same date, the undersigned with the help of Plaintiffs' representatives ... opened the gate of the subject premises and the undersigned together with the Chief of Police, ... and personnel of the ... (PNP) and there we saw Edmond Beronia who claimed to be the plant manager and Bong Wee, who claimed to be in-charged of the renovation of the plant premises ... and again I handed to them a copy of the writ ... but they refused to sign any acknowledgement receipt of the writ;
>
> - On the same date, I turned over the physical and actual control of the plant premises to the duly authorized representative of Plaintiffs, Mr. Roy Pasion as witnessed by Atty. Antonio Fernando, [et al.] ... as evidenced by their signatures appearing on the face of the turnover receipt dated March 05, 2004;
>
> - At the time that we entered the said premises, photographs were taken .... These pictures faithfully depict the actual situation when the undersigned entered the subject premises and turned over the same to Plaintiffs'

> representative;
>
> WHEREFORE, the undersigned hereby respectfully returned to the ... to the Honorable Cesar A. Mangrobang the original copy of the writ of preliminary mandatory injunction PARTIALLY SATISFIED, considering that physical possession and actual control of the plant premises located at PTC, RICO Philippines, Carmona, Cavite have been turned over to Plaintiffs save for the equipments, machineries and goods as claimed by Plaintiffs to be missing as shown in the attached photos. [11] (Underscoring and emphasis in the original; words in brackets added.)

The petitioner's grounds "(c)" and "(d)" involve the interplay of the rules on litis pendentia and forum shopping. In ground "(c)," petitioner would insist that the CA's Second Division was bereft of jurisdiction to act on CA-G.R. SP No. 82569 on the ground of litis pendentia, because its Fifteenth Division had earlier assumed jurisdiction over and taken cognizance of the same matters covered by CA-G.R. SP No. 79988. Elaborating, petitioner states:

> All the circumstances of this litigation: how the Second Division has chosen to act on a matter that it has clearly no jurisdiction on because of litis pendentia; its having kept inexplicably quiet on the jurisdictional prerogative of the Fifteenth Division; xxx; its having issued a TRO without notice and hearing on a moot and academic matter ...; its having fast tracked the issuance of a TRO ...: all of the foregoing have convinced your petitioner that the Second Division was minded to keep CA – G.R. SP No. 82569 under its aegis and control, rather than allow it to move on to the First Division as would have been the case as a result of the reorganization of the CA effective April 12, 2004 per order of the Presiding Justice dated March 31, 2004. (Mr. Justice Regalado E. Maambong was the Ponente and was transferred to the First Division.)
>
> Obviously, the Chairman of the [2[nd]] Division knew during the hearing of April 2, 2004 that the litigation was being transferred to the First Division effective ten days later. And, consequently, his unexpected granting of due course to the petition at the end of the hearing of April 2, 2004 in open court, and without consulting his two colleagues as required by the rules, and even before your petitioner herein / respondent thereat had filed his Comment, and even before the parties had filed their Memoranda within ten (10) days as required by the Second Division at that very time: can legitimately be characterized ... as a legal contrivance meant to keep the lawsuit in the Second Division. Be it ever remembered that under Section 2.D of Rule VI of the 2002 Internal Rules of the Court of Appeals; CA – G.R. SP No. 82569 would have been transferred to the First Division following the Honorable Ponente's transfer, Mr. Justice Maambong, on March 12, 2004. Unless of [course] due course would have been given, as in fact it was given – hastily and without even waiting for either comment or memoranda.

Similarly, in ground "(d)," petitioner avers that Dee Ping Wee and Marina Tan knew when they initiated what would turn out to be their original action in CA-G.R. SP No. 82569 at the CA's Second Division that the legal controversy therein arose from an alleged violation by Judge Mangrobang of the Decision of the Fifteenth Division in CA-G.R. SP No. 79988. Yet, the two (Dee Ping Wee and Marina Tan), according to petitioner, failed to declare in the non-forum shopping portion of their petition in CA-G.R. SP No. 82569 of the pendency with the CA's Fifteenth Division of CA-G.R. SP No. 79988. In the precise words of the petitioner:

> Consequently, from the very words of [Dee Ping Wee and Marina Tan], this High Court is able to know exactly what legal controversy was elevated ... in C.A. G.R. SP No. 79988. It was a legal controversy arising as a result of an alleged violation by the Public Respondent of the Decision rendered by another division of the CA, which as it turns out, was the [15[th]] Division. However, what [Dee Ping Wee and Tan] failed to inform the Second Division about when they initiated CA G.R. SP No. 79988, was that [they] were going to file a Motion for Reconsideration of the earlier case in the Fifteenth Division, CA G.R. SP No. 79988 on March 8, 2004, or a mere four (4) days after March 4, 2004, the date in which [they] filed their petition in the [2[nd]] Division.
>
> [Dee Ping Wee and Marina Tan] definitely knew on March 4, 2004 – when they initiated their later petition

> before the Second Division – that the decision of the [15[th]] Division was not yet final. And precisely because said decision of the [15[th]] Division was not yet final, why did [they] not question the matter in the [15[th]] Division? xxx.
>
> Litis pendentia brought to the attention of the Second Division
>
> Although [Dee Ping Wee and Marina Tan] failed to inform the [2[nd]] Division in their petition that the decision of the [15[th]] Division was not yet final, [Lee Hiong Wee] made that overwhelmingly clear in both his written work and his oral argument. xxx. (Words in brackets added).

The Court is not persuaded.

The essence of forum shopping is the filing of multiple suits involving the same transaction and same essential facts and circumstances, either simultaneously or successively, for the purpose of obtaining a favorable judgment. Forum shopping exists where the elements of litis pendentia are present or where a final judgment in one case will amount to res judicata in another,[12] implying that there is between the two cases identity of parties, rights asserted and reliefs sought.[13]

As the Court sees it, respondents' commencement of CA-G.R. SP No. 82569 during the pendency of CA-G.R. SP No. 79988 does not constitute forum shopping for the principal reason that a judgment in CA-G.R. SP No. 79988 would not amount to res judicata in CA-G.R. SP No. 82569. What is more, the issues presented in the two cases are significantly different from each other. Consider: the petitions in both proceedings impute two (2) different acts allegedly constituting grave abuse of discretion arising from two (2) different orders, i.e., one granting a TRO and, the other, a preliminary mandatory injunction. To be more specific, in CA-G.R. SP No. 79988, the spouses Mario Tan and Marina Tan, as petitioners therein, ascribed grave abuse of discretion on the part of Judge Quisumbing in issuing his Order dated October 14, 2003 which contained a TRO effective for only twenty (20) days. The relief sought in CA-G.R. SP No. 79988 was that -

> xxx pending determination of the merits of the petition, a [TRO] be issued enjoining [Judge Quisumbing and the Lee Hiong group] from implementing the restraining order being questioned. Further, after due notice and consideration, judgment be rendered SETTING ASIDE the Order dated 14 October 2003 and declaring it to be null and void, having been issued with grave abuse of discretion ....[14] (Words in brackets added).

In CA-G.R. SP No. 82569, however, Dee Ping Wee and Marina Tan (respondents herein) ascribed grave abuse of discretion on the part of Judge Mangrobang in issuing his Order dated March 3, 2004 granting a writ of preliminary mandatory injunction. The prayer in CA-G.R. SP No. 82569 reads:

> WHEREFORE, [Dee Ping Wee and Marina Tan] most respectfully move that, ... [the CA] shall issue a [TRO] enjoining [Judge Mangrobang and the Lee Hiong group] from implementing the Order dated March 3, 2004 and/or writ of preliminary mandatory injunction dated March 4, 2004 issued by [the RTC at Imus, Cavite, Br. 22] pursuant to such Order and from further proceeding with the case pending consideration before [the CA] on the issue of injunction and that after due hearing, a writ of preliminary injunction be issued enjoining the implementation of the writ of preliminary mandatory injunction issued by [the RTC at Imus, Cavite, Br. 22] until further orders, and that after hearing, a decision granting the Petition 1) declaring the Order of [the RTC at Imus, Cavite, Branch 22], dated March 3, 2004 and such subsequent issuances in furtherance thereto for being a patent nullity, the same having been issued with manifest bias and partiality and with grave abuse of discretion..., and 2) making the injunction permanent, prohibiting [the RTC at Imus, Cavite, Br. 22] from further proceeding with the case. (Words in brackets added)

Then, too, the Quisumbing Order partakes of a prohibitory injunction, while the Mangrobang Order of March 3, 2004 is a mandatory injunction. In point here is Section 1, Rule 58 of the Rules of Court, which states:

> Section 1. Preliminary Injunction defined; classes. – A preliminary injunction is an order granted ... prior to the judgment or final order, requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.

A prohibitory injunction, as its name suggests, commands a party to refrain from doing a particular act, while a mandatory injunction commands the performance of some positive act to correct a wrong in the past. [15]

Here, Judge Quisumbing's prohibitory injunction enjoins the Dee Ping group –

> ... from assuming the functions of either board of directors or officer of [RPIC] and from discharging the functions and the enjoyment of whatever benefits appurtenant to the said positions.
>
> The parties are hereby ordered to respect the status quo prevailing at [RPIC] prior to October 9, 2003 with respect to their titles and positions in the said corporation as well as the possession of the subject plant premises during the effectivity of this temporary restraining order,

while Judge Mangrobang's mandatory injunction went much further by repeating what Judge Quisumbing's order prohibited and adding mandatory commands, foremost of which are the following:

> - For Defendants to deliver to the Plaintiffs the physical possession and actual control of the plant premises of [RPIC] located at the People's Technology Complex, Carmona, Cavite, immediately ...;
>
> - For the Philippine National Police (PNP) to assist this Court and its personnel in enforcing this order and the ancilliary writ and to employ all necessary means under the law to make sure that the Plaintiffs are restored to the possession of the aforesaid plant premises ....;
>
> Lastly, both parties ... to submit to this Court within three (3) calendar days from receipt hereof a list of their representatives when this Court shall conduct an inventory of all the plant assets, etc. and a proposed scheme of regulating and determining the necessity of withdrawal of stocks goods and finished products, ...

There is more. What was before the CA's Fifteenth Division did not involve the propriety of a writ of preliminary injunction as that matter was still being determined by the trial court at the time said Division promulgated its Decision on February 19, 2004 in CA-G.R. SP No. 79988. Thus says the CA's Fifteenth Division:

> Since the court below, however, is still conducting a hearing on the private respondents' [the Lee Hiong group's] prayer for the issuance of a writ of preliminary injunction, it is best that we allow the court a quo to complete its hearing so that it can make a judicious determination on the injunctive relief prayed for in accord with law and the evidence.[16] (Words in brackets added).

And certainly not lost on the Court is that as early as November 10, 2003, Mario Tan, who was still then alive, and his wife Marina - as petitioners in CA-G.R. SP No. 79988 - had been moving for the dismissal of their petition owing to the mootness of the issue thereat, Judge Quisumbing's 20-day TRO having meanwhile expired. On November 24, 2003, however, the Lee Hiong group opposed the motion to dismiss, opting to file a counterpetition against the spouses Tan. In a real sense, therefore, the continuation of CA-G.R. SP No. 79988 from November 24, 2003 onwards is not attributable to the spouses Tan, but to the Lee Hiong group. Moreover, even after Mario Tan's demise, Marina Tan still sought the dismissal of CA-G.R. SP No. 79988, as can be seen in her March 8, 2004 Motion for Reconsideration therein in which she prayed that "the earlier DECISION [of February 19, 2004] be set aside and issue a new (sic) by DISMISSING the petition and counter-petition for want of merit in fact and in law."[17]

In view of what may be considered as defined dissimilarities between CA-G.R. SP No. 79988 and CA-G.R. SP No. 82569, the CA Second Division, in its exercise of sound discretion, cannot really be faulted for denying

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petitioner's plea for consolidation of both cases.

Incidentally, the occurrence of an event strongly argues for the dismissal of the instant petition on the ground of mootness of the core issue involved. An issue becomes moot when it ceases to present a justifiable controversy so that a determination thereof would be without practical value. In such cases, there is no actual substantial relief to which petitioner would be entitled to and which would be negated by the dismissal of the petition.[18] The event referred to is the holding on May 7, 2004 of the RPIC annual stockholders' meeting, the outcome of which, as suggested earlier, was favorable to the Dee Ping group. Interestingly, the CA foresaw this supervening event and its implication on the impasse between the clashing groups, thus:

> The most that could happen is that the whole process will be overtaken by the yearly stockholders' meeting and election of directors and officers of the corporation as mandated by law. No director or officer of the corporation can claim his office in perpetuity. He has to submit himself to a yearly election if he wants to continue in the service of the corporation. [19]

Another reason for denying due course to petitioner's prayer for injunctive relief lies in the remoteness of the possibility of RPIC suffering irreparable damage consequent to the promulgation of the Decision in CA-G.R. SP No. 82569. In this regard, we reproduce with approval the ensuing sound pronouncement of the CA:

> Change of management of a corporation hardly results in irreparable injury. Any predicted injury is speculative, and only occurs when the take-over is done by incoming officers with malice aforethought with the idea of raiding the corporate coffers. It is, of course, reasonably presumed that the directors ... as well as its corporate officers will perform their duties and functions in accordance with the Corporation Law and other applicable laws. Raiding the corporate coffers and disrupting corporate operations are not included in their functions. A private corporation is primarily organized for profit and no director or officer in his right mind would perform any act detrimental to this purpose.
>
> In other words, the parties may continue with their legal battle for control of the management without need of ousting each other in a precipitate manner, which may be disruptive of the operations of the corporation. A corporation ... can perform routinary functions by itself through its officers and staff. Usually, control of management is not contested except when the corporation becomes successful and registers a lot of profit which is probably the case of the present corporation. xxx. [20]

While perhaps of little moment now, what the CA advised on what should have been done to resolve what basically is an intra-corporate controversy merits nonetheless reiteration for the guidance of all and sundry. Wrote that court:

> There is an adequate remedy at law which is clearly provided under Rule 6 (Election Contests) of the Interim Rules of Procedure Governing Intra-Corporate Controversies under R.A. No. 8799, which took effect on 01 April 2001 (A.M. NO. 01-2-04ï¿½Supreme Court, 13 March 2001).
>
> Under Section 4 (Duty of the court upon the filing of the complaint), Rule 6 of the aforesaid interim rules, "(w)ithin two (2) days from the filing of the complaint, the court, upon a consideration of the allegations thereof, may dismiss the complaint outright if it is not sufficient in form and substance, or, if it is sufficient, order the issuance of summons which shall be served, together with a copy of the complaint, on the defendant within two (2) days from its issuance".
>
> In the event that the court finds it necessary to hold a hearing to clarify specific factual matters, it shall issue an order setting the case for hearing ..... The rules also require that the hearing date should be set ..., and shall be completed not later than (15) days from the date of the first hearing. Finally, the court is mandated to render a decision with[in] fifteen (15) days from receipt of the last pleading, or from the date of the last hearing as the case may be.

> The RTC should have tried the case of annulment of election with dispatch in accordance with the provisions of A.M. NO. 01-2-04-SC and decided the case accordingly. After receiving evidence, the RTC can annul the election, and oust the usurper or the one illegally elected. But due process must be observed. If this were done right from the beginning without resorting to the short-cut of preliminary mandatory injunction, We would not have gone through all this aggravation. [21]

As a final consideration, the Court notes that petitioner, in a vain attempt to further his cause, has made much of an incident in the proceedings before the appellate court. We refer to the fact that the former members of the CA's Second Division, instead of their counterpart in the First Division where Associate Justice Regalado Maambong, the ponente of the assailed decision, was allegedly transferred, disposed of CA-G.R. SP No. 82569. In this regard, suffice it to state that it was the Second Division which gave due course to the petition in CA-G.R. SP No. 82569 and in fact issued on March 15, 2004 a TRO thereat. Accordingly, it behooved the members of the former Second Division to participate, as they did here, in the adjudication of the aforesaid petition. Section 2 (d) in relation to Section 1 of Rule VI of the 2002 Internal Rules of the CA says so:

> SECTION. 1. Justice Assigned For Study and Report.-Every case, ... assigned to a Justice for study and report shall be retained by him even if he is transferred to another Division.
>
> SEC. 2. Justices Who May Participate in the Adjudication of Cases. - In the determination of the two other Justices who shall participate in the adjudication of cases, the following shall be observed: xxx.
>
> (d) When, in an original action or petition for review, any of these actions or proceedings, namely: (1) giving due course; (2) granting of preliminary injunction; xxx, shall have been taken, the case shall remain with the Justice to whom the case is assigned for study and report and the Justices who participated therein, regardless of their transfer to other Divisions.

WHEREFORE, the assailed decision and resolution are AFFIRMED and the petition is DENIED.

Costs against petitioner.

SO ORDERED.

Puno, Acting C.J., (Chairperson), Corona, and Azcuna, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

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[1] Penned by Associate Justice Regalado E. Maambong with Associate Justices Buenaventura J. Guerrero (ret.) and Andres B. Reyes, Jr., concurring; Rollo, pp. 40-99.

[2] Rollo, pp. 136-146.

[3] Discussion in CA-G.R. SP No. 79988 Decision dated Feb. 19, 2004, pp. 2-3; Rollo, pp. 125-126.

[4] Rollo, pp. 98-105.

[5] Rollo, pp. 74-88.

[6] Minutes of the May 2004 RPIC Stockholders' Meeting; Rollo, pp. 425-427.

[7] Penned by Associate Justice Regalado E. Maambong and concurred in by Associate Justice Buenaventura J. Guerrero (ret.) and Associate Justice Andres B. Reyes, Jr.; Rollo, pp. 40-69.

[8] Sec. 1, Rule 45.

[9] See Note #22, supra.

[10] Rollo, pp. 70-73.

[11] See Note 2, supra.

[12] Melo v. Court of Appeals, G.R. No. 123686, November 16, 1999, 318 SCRA 94, citing other cases.

[13] International School, Inc. v. CA, G.R. No. 131109, June 29, 1999, 309 SCRA 474.

[14] Rollo, pp. 173-190.

[15] Levi Straus v. Clinton Apparelle, G.R. No. 138900, September 20, 2005, 470 SCRA 236, 252.

[16] CA-GR SP No. 79988 Decision dated February 19, 2004, p. 8; Rollo, p. 131.

[17] Rollo, p. 171.

[18] Vda. De Davao v. Court of Appeals, G.R. No. 116526, March 23, 2004, 426 SCRA 91.

[19] CA-GR SP No. 82569 Decision dated May 14, 2004, p. 24; Rollo, p. 63.

[20] CA-GR SP No. 82569 Decision dated May 14, 2004, p. 23; Rollo, p. 62.

[21] CA-G.R. SP No. 82569 Decision dated May 14, 2004, pp. 19-20; Rollo, pp. 58-59.

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