# MANUEL D. RECTO, CESAR A. DIGNOS, AND FRANCISCO S. AÑONUEVO, PETITIONERS, VS. BISHOP FEDERICO O. ESCALER, S.J., JOAQUINA DE ARANAZ, FILOMENA BAGAMASBAD, ELADIA BANGUILAN, TEODON...

*G.R. No. 173179. October 11, 2010*

Ponente: NACHURA, J.

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**NACHURA, J.:**

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Petitioners Manuel D. Recto (Recto), Cesar A. Dignos, and Francisco S. Añonuevo assail the Decision[1] dated February 21, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 78227 and its Resolution[2] dated June 9, 2006, denying their Motion for Reconsideration. The CA set aside the Judgment[3] of the Regional Trial Court (RTC) of Quezon City, Branch 93, in Civil Case No. Q-01-43011.

The factual antecedents are as follows:

Buklod ng Pag-ibig Foundation, Inc. (Foundation) is a non-stock, non-profit foundation, duly registered with the Securities and Exchange Commission (SEC). On June 24, 1997, its principal co-founder and Spiritual Director, Fr. Pascual Adorable, S.J., passed away. Fr. Nicasio Cruz, S.J. (Fr. Nic) succeeded him as the Foundation's Spiritual Director.[4]

However, on September 15, 1999, petitioners, as the Foundation's Council of Elders (Elders), wrote to Rev. Fr. Romeo Intengan, Jesuit Provincial of the Society of Jesus (Jesuit Order), informing him that they were "returning" Fr. Nic to the Jesuit Order effective September 15, 1999 since the latter's vision and mission differed from those of the Foundation. Petitioners also sent Fr. Nic a letter terminating him as the Foundation's Spiritual Director. Some members of the Foundation requested that Fr. Nic be retained, but petitioners did not heed the request.[5]

Consequently, Bishop Teodoro Bacani (Bishop Bacani), as representative of then Manila Archbishop Jaime Cardinal Sin, intervened. He reinstated Fr. Nic until the latter could turn over the position to Bishop Federico Escaler, S.J. (Bishop Escaler), either 30 days after March 6, 2000 or on April 15, 2000. Petitioners agreed with Bishop Bacani's proposal.[6]

On May 10, 2000, acting as the Foundation's Spiritual Director, Bishop Escaler informed the Foundation's "Apostles"[7] that, pursuant to its By-laws, the term of the present Elders should have ended on March 17, 2000. He then set May 19, 2000 as the date for the selection of a new set of Elders. Bishop Escaler also sent petitioner Recto, the Foundation's Executive Director, a letter requesting for the Foundation's latest annual financial report and list of personnel.[8]

Instead of complying with the letter, petitioners issued Buklod ng Pag-ibig Bulletin Number 6, informing their members that Bishop Escaler was not their Spiritual Director; and that the Foundation had no Spiritual Director at that moment. Bishop Escaler reset the intended selection of Elders to May 24, 2000.[9]

Subsequently, petitioners submitted to the SEC the Foundation's Amended By-laws, supposedly ratified by 2/3 votes of the members who were qualified to vote in a special meeting held on May 14, 2000. The SEC approved the same on May 16, 2000. Petitioners also issued a notice to the Foundation's members, naming Fr. Dominador Guzman as their Spiritual Director, and inviting qualified members to attend the selection of Elders on May 24, 2000.[10]

On May 23, 2000, respondents filed before the SEC a Petition to Declare the Nullity of the Amended By-laws with Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction. Respondents alleged that the subject Amended By-laws was void because Bishop Escaler, the Foundation's Spiritual Director, did not preside over the supposed meeting where the amendments were approved, and the majority of qualified members was not even notified or given the opportunity to participate in the voting. Respondents also prayed that petitioners be restrained from conducting their scheduled selection of Elders on May 24, 2000.[11]

On the same day, the SEC issued a 72-hour TRO barring petitioners from holding the scheduled selection of Elders. On May 29, 2000, the SEC extended the TRO for another 20 days. The SEC also directed petitioners to submit the Foundation's financial reports, and scheduled the examination of the same on June 5, 2000.[12]

At the hearing on the issuance of a Writ of Preliminary Injunction on May 30, 2000, the parties agreed to respect the May 29, 2000 Order, pending determination of the injunction case. However, on June 9, 2000, Bishop Escaler set the special assembly for the election of the new set of Elders on June 17, 2000.[13]

Petitioners, in their Answer with Special Affirmative Defenses, Counterclaim and prayer for Preliminary Injunction and Urgent Motion for the Issuance of a TRO filed on June 13, 2000, asked that Bishop Escaler be enjoined from proceeding with the June 17, 2000 assembly. They also asserted that the number of members qualified to vote was 27 - not 59 as claimed by respondents - and that the Amended By-laws was approved by 2/3 of said members, as required by the previous By-laws. Petitioners specifically denied having accepted Bishop Escaler as the Foundation's Spiritual Director.[14]

On June 15, 2000, petitioners filed an Urgent Ex-parte Motion for the Issuance of a Temporary Retraining Order, praying for a TRO effective only for 72 hours to prevent respondents from conducting an election on June 17, 2000. The following day, a hearing on petitioners' motion was held. After the parties' respective counsel's oral arguments, the SEC Hearing Officer ordered petitioners' Urgent Motion to be submitted for resolution.[15]

On June 22, 2000, a hearing on respondents' application for Preliminary Injunction was held, while hearings on petitioners' own application for Preliminary Injunction were held on June 28, and July 3 and 4, 2000.

In the meantime, Republic Act (R.A.) No. 8799[16] took effect in August 2000. Pursuant to Section 5.2 of that law, the case was transferred to the RTC of Quezon City, Branch 93.[17]

Consequently, during the August 1, 2000 hearing, the SEC Hearing Officer submitted the issue on the issuance of Preliminary Injunction for resolution. On the other hand, the trial court issued an Order on February 5, 2001, setting a status hearing on May 15, 2001.[18]

On May 15, 2001, the RTC issued an Order[19] resolving to focus on the issues of (1) whether or not the court should proceed to hear the case on the principal prayer for the nullification of the Amended By-laws of the concerned corporation; and (2) whether or not the court should proceed to resolve the injunction incident, which appears to have been submitted for final resolution before the SEC even before the effectivity of R.A. No. 8799. The RTC directed the parties to submit their simultaneous memoranda on these two issues and, upon receipt thereof, to consider these incidents submitted for resolution. The RTC also ordered respondents to file their


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Comments and/or Opposition to Defendants' (herein petitioners') Motion to Expunge, and petitioners to file their Comment and/or Opposition to respondents' Motion to Admit Amended Petition, setting the hearing for these motions on July 5, 2001.[20]

On July 5, 2001, the trial court submitted for resolution petitioners' Motion to Expunge from the Records Audit Report, and respondents' Motion to Admit Amended Petition.

Subsequently, on November 21, 2001, the trial court issued an order[21] denying petitioners' Motion to Expunge and respondents' Motion to Admit, and resolving to proceed to hear the case on the principal prayer for the nullification of the second Amended By-laws, and to consider the resolution of the parties' respective applications for injunction.

On July 29, 2002, the RTC issued the assailed Judgment,[22] the dispositive portion of which reads:

> WHEREFORE, the foregoing premises considered, the court finds in part, for the plaintiffs. The acts of the council of elders and of the general assembly held on May 3 and May 14, 2000, respectively, insofar as the amendment of the by-laws is concerned, are considered irregular and consequently, the alleged Amended By-laws of May 14, 2000 is declared null and void.
>
> This is not to say that Buklod or the elders may not initiate the amendment of their by-laws. They may do so but only in keeping with the requirements as explained above.
>
> The counterclaim is consequently dismissed.
>
> No award of damages. No costs.[23]

The trial court noted that the only question raised in the case was the validity of the 2000 Amended By-laws as allegedly approved in the special meeting called for that purpose.[24]

Both parties appealed the Judgment to the CA.

In its assailed February 21, 2006 Decision, the CA disposed of the case in this wise:

> WHEREFORE, Plaintiffs-Appellants' Appeal is GRANTED. Defendants-Appellants' Appeal is accordingly DISMISSED. The assailed Judgment, dated July 29, 2002, of the Regional Trial Court of Quezon City, Branch 93, in Civil Case No. Q[-]01-43011, is hereby VACATED and SET ASIDE.
>
> In view of this, the case is REMANDED to the court a quo for the required pre-trial conference and for further proceedings.
>
> SO ORDERED.[25]

The CA held that the RTC failed to comply with Rule 4, Section 1 of the Interim Rules of Procedure for Intra-Corporate Controversies, which provides that a pre-trial conference is mandatory.

The CA found that, at the time of the promulgation of the Interim Rules of Procedure for Intra-Corporate Controversies, the SEC Hearing Officer submitted for resolution the prayer for injunction but chose not to proceed with the hearing of the merits of the case to enable the judge to hear the case in court. Upon transfer, the RTC did not issue an order, as required by the Rules. Instead, the RTC issued a Judgment, wholly deciding the merits of the complaint.[26]

Thus, the CA ruled that, at the time of the issuance of the RTC's Judgment, the case was not yet ripe for decision. It also noted that there was nothing in the records to suggest that the parties had agreed to waive their right to a pre-trial conference or to a hearing on the merits to allow the RTC to resolve the case without complying with the


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mandatory rule. The issuance of the Judgment was premature, the CA concluded.

In this petition, petitioners seek the reversal of the CA's February 21, 2006 Decision. They pray that this Court modify the trial court's Judgment and declare that Bishop Escaler is not and has never been the Foundation's Spiritual Director; thus, dismissing the complaint and declaring that the Foundation's Amended By-laws was duly ratified by 2/3 votes of its qualified apostles in an assembly duly called for the purpose, and therefore, valid and effective.[27]

The petition has no merit.

Even a cursory examination of the issues raised immediately leads this Court to conclude that these are questions of fact that are not within the province of this Court to decide. More importantly, these are questions of fact that have never been ventilated in the proper proceedings before the trial court because the case did not even reach the pre-trial stage.

Prior to rendering the assailed Judgment, the RTC issued an Order, to wit:

> This resolves the following incidents:
>
> 1. whether or not the court should proceed to hear the case on the principal prayer for the nullification of the by-laws of BNP Foundation;
>
> 2. whether or not the court should proceed to resolve the injunction incident which appears to have been submitted for resolution before the Securities and Exchange Commission (SEC);
>
> 3. motion to expunge from the records the audit report that was prepared by the petitioners and the opposition thereto;
>
> 4. motion to admit amended complaint.[28]

The RTC then ordered:

> The case now being with the court pursuant to Republic Act No. 8799, and the parties being both in agreement that the incidents then pending with the SEC may now be resolved by this court, the first two issues above-listed are therefore resolved in the affirmative.
>
> The court therefore shall proceed to hear the case on the principal prayer for the nullification of the second amended by-laws and shall also consider the resolution of the incidents then pending with the SEC which involve the parties' respective applications for injunction.[29]

Clearly, even the RTC itself recognized the need to hear the case in order to resolve the principal issue of the validity of the Foundation's Amended By-laws. Yet, after issuing the Order, and without any further proceedings, the RTC promulgated its Judgment, resolving the main issues of the case.

Further, the conduct of a pre-trial is mandatory under the Interim Rules of Procedure for Intra-Corporate Controversies. Rule 4, Section 1 of the Interim Rules provides:

> Section 1. Pre-trial conference; mandatory nature. - Within five (5) days in Rule 3 hereof, whichever comes later, the court shall issue and serve an order immediately setting the case for pre-trial conference and directing the after the period for availment of, and compliance with, the modes of discovery prescribed parties to submit their respective pre-trial briefs. The parties shall file with the court and furnish each other copies of their respective pre-trial brief in such manner as to ensure its receipt by the court and the other party at least five (5) days before the date set for pre-trial.

Rule 4, Section 4 further states:

> Sec. 4. Judgment before pre-trial. - If, after submission of the pre-trial briefs, the court determines that, upon consideration of the pleadings, the affidavits and other evidence submitted by the parties, a judgment may be rendered, the court may order the parties to file simultaneously their respective memoranda within a non-extendible period of twenty (20) days from receipt of the order. Thereafter, the court shall render judgment, either full or otherwise, not later than ninety (90) days from the expiration of the period to file the memoranda.

However, the RTC never ordered the submission of the parties' pre-trial briefs. Neither were they made to submit their memoranda. Earlier in the proceedings, both parties were ordered to submit their memoranda on the issue of whether the RTC should proceed with the hearing of the case on the merits. Both parties agreed that it should. They believed that the case was not yet ripe for final disposition and that the RTC should proceed to hear the case on the principal prayer for the nullification of the Amended By-laws of the Foundation.

Thus, petitioners said:

> Therefore, in so far as the Petitioners [herein respondents] are concerned, there appears to be three remaining matters that needs (sic) to be resolved: the nullification of the by-laws, the proscription from the enforcement of the recently amended by-laws by the respondents and the matter of the attorney's fees. Petitioners [herein respondents] may have presented evidence on the first two but the third cause of action does not appear to have been ventilated as yet. There is also the matter of the compulsory counterclaim of the Respondents [herein petitioners], which was not yet likewise heard. This would verily take this case out of that classification of being ready for final resolution or disposition of the intra-corporate dispute.[30]

On the other hand, respondents said:

> However, the SEC has not ruled yet on the parties' respective formal offer of Exhibits relative to the injunction issue; and was yet to hear the main case where one of the main reliefs prayed for was the declaration of the nullity of the assailed amended By-laws.[31]

Likewise, the Judgment of the RTC is bereft of any justification for dispensing with the pre-trial and trial. There was no discussion of any agreement by the parties to dispense with the trial and submit the case for resolution based on the pleadings filed. In fact, because there was no pre-trial, it remains unclear exactly what issues are to be resolved by the trial court.

It must also be pointed out that there was a preliminary issue - that of the parties' respective petitions for injunction - that had to be determined before the resolution of the main case. When the case was transferred from the SEC to the RTC, only the matter of the petitions for preliminary injunctions had been heard and submitted for resolution. The hearings to resolve the petition to nullify the Foundation's Amended By-laws were yet to be held.

An injunctive writ is not a judgment on the merits of the case.[32] A writ of preliminary injunction is generally based solely on initial and incomplete evidence. The evidence submitted during the hearing on an application for a writ of preliminary injunction is not conclusive or complete, for only a "sampling" is needed to give the trial court an idea of the justification for the preliminary injunction pending the decision of the case on the merits.[33]

An order granting a preliminary injunction is not a final resolution or decision disposing of the case. It is based on a preliminary determination of the status quo and on petitioner's entitlement to the Writ.[34]

Thus, the findings of fact and opinion of a court when issuing the writ of preliminary injunction are interlocutory in nature and made before the trial on the merits is commenced or terminated. There may be vital facts to be presented at trial which may not be obtained or presented during the hearing on the application for the injunctive writ.[35] The trial court needs to conduct substantial proceedings in order to put the main controversy to rest.[36]


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As such, even as respondents claim that the RTC correctly ruled that the Amended By-laws are not valid, they are still contesting the latter's finding on the number of qualified apostles.[37] This only further underscores the need for trial to determine which of the parties' claims are true and relevant.

There are other questions raised that cannot be answered in the present petition, and nothing less than a full-blown trial is needed in order to test the conflicting claims of the parties.

WHEREFORE, the foregoing premises considered, the Petition for Review is DENIED. The Decision of the Court of Appeals dated February 21, 2006 in CA-G.R. CV. No. 78227 is hereby AFFIRMED. The Regional Trial Court of Quezon City is directed to conduct a pre-trial in Civil Case No. Q-01-43011, and thereafter to hear and decide the same with dispatch.

**SO ORDERED.**

Carpio, (Chairperson), Leonardo-De Castro,[**] Peralta, and Mendoza, JJ., concur.

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[*] Referred to in some parts of the records as "Madalena Fajatin."

[**] Additional member in lieu of Associate Justice Roberto A. Abad per Special Order No. 905 dated October 5, 2010.

[1] Penned by Associate Justice Noel G. Tijam, with Associate Justices Elvi John S. Asuncion and Mariflor P. Punzalan Castillo, concurring; rollo, pp. 10-21.

[2] Id. at 73-74.

[3] Penned by Presiding Judge Apolinario D. Bruselas, Jr.; CA rollo, pp. 89-99.

[4] Rollo, p. 11.

[5] Id.

[6] Id. at 11-12.

[7] According to the Petition, an "apostle" is defined under the Foundation's Amended By-laws as "a commissioned disciple, recommended by the Teaching and Shepherding Ministries and approved by the Council of Elders. Only an active apostle has the right to participate in the selection of Elders, ratification and amendment of the Articles of Incorporation and By-laws, and other matters that may be determined by the Council of Elders"; id. at 28.

[8] Id. at 12.

[9] Id.

[10] Id.

[11] Id. at 12-13.

[12] Id. at 13.

[13] Id.


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[14] Id.

[15] Id. at 14.

[16] The Securities Regulation Code.

[17] Rollo, p. 14.

[18] Id.

[19] Records, Vol. V, pp. 659-660.

[20] Rollo, p. 15.

[21] Records, Vol. V, pp. 692-694.

[22] Supra note 3.

[23] Id. at 98-99.

[24] Id. at 95.

[25] Rollo, p. 20.

[26] Id. at 18-19.

[27] Id. at 70-71.

[28] Records, Vol. V, p. 692.

[29] Id. at 693.

[30] Id. at 670.

[31] Id. at 674.

[32] Landbank of the Philippines v. Continental Watchman Agency Inc., 465 Phil. 607, 617 (2004).

[33] Id.; Urbanes, Jr. v. Court of Appeals, 407 Phil. 856, 867 (2001), citing Olalia, et al. v. Hizon, et al., 274 Phil. 66 (1991).

[34] Dolmar Real Estate Development Corporation v. Court of Appeals, G.R. No. 172990, February 27, 2008, 547 SCRA 114, 121, citing United Coconut Planters Bank v. United Alloy Philippines Corporation, 490 Phil. 353 (2005).

[35] La Vista v. CA, 344 Phil. 30, 44 (1997).

[36] Urbanes, Jr. v. Court of Appeals, supra note 33, at 867, citing Santo Tomas University Hospital v. Surla, 355 Phil. 804 (1998).

[37] Rollo, p. 130.


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