

MANUEL H. NIETO, JR., PETITIONER, VS. SECURITIES AND EXCHANGE COMMISSION (SEC), ATTY. VERNETTE G. UMALI-PACO IN HER CAPACITY AS GENERAL COUNSEL OF THE SEC AND IN HER PERSONAL CA...

G.R. No. 175263. March 14, 2012

Ponente: PEREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-175263/>

PEREZ, J.:

This petition for review on certiorari seeks the reversal of the Decision[1] dated 30 October 2006 of the Court of Appeals in CA-G.R. SP. No. 94038, which annulled the Orders of the Securities and Exchange Commission (SEC) directing Philcomsat Holdings Corporation (PHC) to convene its annual stockholders' meeting.

The instant case is an offshoot of an intra-corporate dispute among contending groups, i.e., Manuel H. Nieto, Jr. (Nieto) and Africa Groups (headed by Victor Africa), in PHC.

The factual antecedents are as follow:

The voting shares of PHC were 80.5% owned by Philcomsat, which in turn, was wholly owned by the Philippine Overseas Telecommunications Corporation (POTC).

The PHC Board of Directors (Board) informed the SEC that they had decided not to convene the stockholders' meeting for 2005 pending results of the 2004 election, which was then the subject of various court litigations. Jose Ozamiz (Ozamiz), a minority stockholder of PHC, wrote to SEC and requested the issuance of a cease and desist order from SEC against the group of Nieto, consisting of directors and officers of PHC, in order to prevent the latter from allegedly dissipating the corporate assets; and that a stockholders' meeting be convened.

In response to Ozamiz's letter, Nieto alleged that Ozamiz was attempting to pre-empt any judgment in cases pending before the various courts involving the stockholders of Philcomsat, POTC and PHC.

Another letter was filed by Ozamiz to SEC urging the latter to order PHC to hold a stockholders' meeting to elect a new set of directors and officers and to form the NOMELEC (A Nomination's Committee).

On 26 February 2006, the SEC promulgated an Order in SEC Case No. 02-06-113, thus:

IN VIEW OF THE FOREGOING, the Commission hereby resolves to:

1. Direct the directors and responsible officers of PHC and the concerned parties to submit to the Commission, within ten (10) days from receipt of this Order, the names of their nominees to the NOMELEC to be composed of five (5) members, namely:

- a) One (1) from the Africa group;
- b) One (1) from Nieto group;
- c) A representative from the minority group, Mr. Jose Ozamiz, who petitioned the calling of the annual

stockholders' meeting of PHC;

d) A representative of the Republic of the Philippines; and

e) A common neutral party to be chosen by the other (4) members of the NOMELEC.

2. Direct the directors and responsible officers of PHC, within the same period to submit the preferred date of annual meeting of PHC which should be held not later than 17 April 2006; and

3. Direct the directors and responsible officers of PHC to comply with all the requirements for the conduct of meetings for publicly listed companies including the posting of notices for two (2) consecutive weeks prior to the date of meeting in strategic places within the premises of PHC.

SEC issued another Order on 5 April 2006 reiterating the demand that PHC convene its annual stockholders' meeting. The third Order issued on even date denied Nieto's motion for reconsideration of the 26 February 2006 Order.

On 11 April 2006, Nieto filed a petition for certiorari and prohibition to enjoin the SEC from calling the PHC's annual stockholder's meeting.

During the pendency of the petition before the Court of Appeals or on 1 July 2006, the majority stockholders of PHC entered into a Memorandum of Understanding (MOU) agreeing to unite and form a common slate for the Board in POTC, Philcomsat and PHC. They requested the SEC to set a date for the annual stockholders' meeting. The group of Nieto was a party to the MOU.

Four (4) days after the execution of the MOU, the Court of Appeals issued a Temporary Restraining Order (TRO) enjoining SEC from implementing its orders.

On 7 August 2006, the SEC filed its Comment to the petition and defended the order calling of the stockholders' meeting of PHC as within its power and jurisdiction to issue.

On 1 September 2006, petitioner filed a Motion to Withdraw Petition in view of the MOU. This action notwithstanding, the Court of Appeals proceeded to render a Decision annulling the assailed orders of the SEC and directing it to cease exercising its regulatory powers. In other words, the Court of Appeals granted Nieto's petition, viz:

WHEREFORE, premises considered, petition is hereby GRANTED. The February 26, 2006 and the two (2) April 4, 2006 Orders of the SEC in SEC Case No. 02-06-133 are hereby ANNULLED. The Securities and Exchange Commission is hereby DIRECTED to stay its hand and cease in the exercise of its regulatory powers, as in this case, when they interfere with or render moot the exercise of the adjudicative powers already transferred from the SEC to the regular courts.[2]

In this petition with prayer for a TRO and preliminary injunction, petitioner anchors its argument mainly on the view that the Court of Appeals should have granted the withdrawal of the petition and should not have proceeded to decide the case. The SEC agreed with petitioner that the Court of Appeals is duty bound to grant the withdrawal of the petition.

The core issue is the authority of the SEC to call a stockholders' meeting. The MOU mooted that issue. It mooted the case before the Court of Appeals. It mooted likewise the present petition questioning the authority of the Court of Appeals to decide the case in spite of petitioner's motion to withdraw petition.

By the explicit terms of the MOU, the parties to the MOU which include Pablo L. Lobregat, representing the Nieto Family and Victor V. Africa, representing the Africa Family, have decided to end their dispute.[3] Thus, the contending parties agreed on the following terms and conditions:

- The parties warrant that they represent and/or have secured authority to represent the interests of the private stockholder-families and their successors and assigns in POTC, and shall do all acts that may be necessary to enable them to continue representing such interests;
- The parties have agreed in principle to unite and form a common slate for the Boards of Directors in POTC, Philcomsat and PHC. The names of the persons to be in the said common slate shall be indicated in the Stockholders' Agreement that the parties shall hereafter execute;
- The parties have agreed that each of the six stockholder-families shall be appoint[ed] a representative who[m] the parties shall cause to be elected as director of Philcomsat and PHC; while five of such representatives shall be elected as directors of POTC, the sixth to be elected immediately after the number of POTC directors as stated in the Articles of Incorporation has been increased to nine (9);
- The parties have agreed that, with the execution of this Memorandum of Understanding where the six stockholder-families are represented, they shall hereafter be called the "Owners' Group" and henceforth no reference to the "Nieto Group" or the "Africa Group" shall be made;
- The parties have agreed that Ambassador Manuel H. Nieto, Jr., as one of the two (2) remaining living incorporators of POTC, will assume the position of Chairman Emeritus of POTC, Philcomsat and PHC.
- The parties have agreed that they shall not, individually or collectively, publish or cause to be published any press release against any party to this Memorandum of Understanding, nor against any of the stockholders the parties herein represent. The parties have likewise agreed that they shall not do nor cause to be done any act that will undermine the discussions of the parties, this Memorandum of Understanding or the Stockholders' Agreement or attack any of the parties hereto or any of the stockholders they represent.
- The parties have agreed that, upon execution of the Stockholders' Agreement, all cases pending between the parties or the stockholders they represent shall, insofar as practicable, be dropped and/or withdrawn.
- The parties have agreed that this Memorandum of Understanding as well as the discussions between them shall lead to a Stockholders' Agreement between them which shall include, among others, the matters herein described, the calling of stockholders' meetings of POTC, Philcomsat and PHC and the reorganization of the Boards of Directors of the said corporations.[4] [Emphasis Supplied]

The main point of Nieto's petition before the Court of Appeals was to oppose the calling of the annual stockholder's meeting. By signing the MOU, Nieto agreed to the convening of the annual stockholders' meeting. As a consequence of the MOU, Nieto no longer had any actual relief forthcoming from the case he filed with the Court of Appeals.

The basic questions subject of the MOU and that of the case before the Court of Appeals, overlap. The parties, specifically Nieto, effectively removed the issues from the courts. While the courts can go ahead and render a decision, as did the Court of Appeals, Nieto has divested himself of interest therein and as to him, mooted the case. Nieto could not stop the Court of Appeals from proceeding until rendition of judgment, and he cannot now question such judgment.

At any rate, whichever way the Court of Appeals decides the case would not have any effect on Nieto. The nullification of the SEC's decision to call for a stockholders' meeting is a decision on the SEC's authority to call for a meeting. It was not about, and would not result into, a prohibition against an agreement by the parties to, in fact and of their own accord, call for a stockholder's meeting.

A case becomes moot and academic when there is no more actual controversy between the parties or no useful purpose can be served in passing upon the merits of the case.[5] 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.[6]

Parenthetically, almost a year from the filing of the parties' respective Memorandum, Roberto L. Abad (Abad), claiming to be an independent director of PHC, filed an urgent motion for leave to intervene. Abad asserts that "to allow Mr. Nieto to seek the reversal of a Decision that is proper and in conformity with law and jurisprudence would adversely affect herein movant-intervenor's rights and interests as PHC director and stockholder." [7]

Abad's motion for leave to intervene, as an independent director of PHC, was intended to sustain the Decision of the Court of Appeals in nullifying the SEC orders calling for stockholders' meeting. Abad is apparently opposed to the holding of the stockholders' meeting and the decision that favors his position may be reversed by this Court. Abad's position as an independent director contradicts that of Nieto and the parties to the MOU, who all had agreed to call for a stockholder's meeting.

The rendering of the instant petition as moot also forecloses any interest on the part of Abad to intervene.

WHEREFORE, this petition is hereby DISMISSED FOR BEING MOOT AND ACADEMIC.

SO ORDERED.

Carpio, (Chairperson), Brion, Sereno, and Reyes, JJ., concur.

[1] Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Edgardo P. Cruz and Ramon M. Bato, Jr., concurring. Rollo, pp. 48-64.

[2] Id. at 64.

[3] The other parties to the MOU are Erlinda I. Bildner, Honorio A. Poblador III, Katrina C. Ponce-Enrile, and Francisca Benedicto-Paulino. Id. at 65-67.

[4] Id. at 66-67.

[5] Office of the Ombudsman v. Andutan, Jr., G.R. No. 164679, 27 July 2011, 654 SCRA 539, 554 citing Tantoy, Sr. v. Abrogar, G.R. No. 156128, 9 May 2005, 458 SCRA 301, 305.

[6] Bangko Sentral ng Pilipinas v. Orient Commercial Banking Corporation, G.R. No. 148483, 29 June 2011, 653 SCRA 1, 9 citing Chuidian v. Sandiganbayan, 529 Phil. 318, 337 (2006).

[7] Rollo, p. 184.

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.