

STRATEGIC ALLIANCE DEVELOPMENT CORPORATION, PETITIONER, VS. STAR INFRASTRUCTURE DEVELOPMENT CORPORATION ET AL., RESPONDENTS.

G.R. No. 187872. April 11, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

For resolution by the Court are the following motions and incidents filed by the parties, to wit:

- Initial Motion for Reconsideration of the Grant of the Application for Writ of Preliminary Injunction (With Offer to File Counterbond)[1] and Supplemental Motion for Reconsideration of the 17 November 2010 decision, filed by respondent Cypress Tree Capital Investment, Inc. (CTCII);[2]
- Motions for Reconsideration of said 17 November 2010 decision filed by respondents Aderito Z. Yujuico and Bonifacio C. Sumbilla,[3] Robert L. Wong,[4] and Star Infrastructure Development Corporation (SIDC);[5]
- Motion to Admit and Approve Preliminary Injunction Bond filed by petitioner Strategic Alliance Development Corporation (STRADEC);[6]
- Oppositions to STRADEC's Motion to Admit and Approve Preliminary Injunction Bond filed by respondents Yujuico and Sumbilla[7] as well as CTCII and respondent Cynthia M. Laureta;[8]
- Manifestation[9] and Reply[10] filed by STRADEC and Rejoinder filed by respondents Yujuico and Sumbilla;[11] and
- Comment (on CTCII's Initial Motion for Reconsideration of the Grant of the Application for Writ of Preliminary Injunction (With Offer to File Counterbond)[12] and Consolidated Comment (on Respondents' Motion for Reconsideration)[13] filed by STRADEC.

In their motions for reconsideration of the Court's 17 November 2010 decision, respondents essentially argue that the issue of Ceasar Quiambao's authority to represent STRADEC is a prejudicial question to the resolution of the dispute before the court a quo; that a declaration that respondent Yujuico and Sumbilla's group constitutes STRADEC's legitimate Board of Directors would not only discount Quiambao's authority to represent said corporation but would also validate the authority said respondents were given to execute the 8 October 2004 pledge of said corporation's SIDC shares; that the record is bereft of any showing that the Board of Directors who authorized Quiambao to file the 31 July 2006 amended petition before Branch 2 of the Regional Trial Court (RTC) of Batangas City was the legitimate successor of STRADEC's Board of Directors which was restored into office by this Court's 29 January 2007 decision in G.R. No. 168639; that there was misjoinder of causes of action in said amended complaint which incorporated claims both civil and intra-corporate in nature; that STRADEC has no clear and unmistakable right as would entitle it to a writ of preliminary injunction which, at any rate, cannot be directed against acts which had already been accomplished or consummated; and, that the preliminary injunction issued in the premises amounted a prejudgment of the case.[14]

In compliance with the 17 November 2010 decision sought be reconsidered, STRADEC, on the other hand, seeks the admission and approval of the preliminary injunction bond issued by the Empire Insurance Company in the sum of P10,000,000.00.[15] On the ground, however, that grave and irreparable damage will be wrought by the issuance of the writ of preliminary injunction in these premises, CTCII's motion for reconsideration of the grant of said writ is accompanied by an offer to post a counterbond in the sum of P20,000,000.00. For this purpose, CTCII calls our attention to the supposed fact, among other matters, that it is currently the principal shareholder of SIDC which, as a public utility company, holds the concession for the construction, operation and maintenance of the STAR toll road; that SIDC is scheduled to expand Stage II, Phase 2 of the STAR toll road with the construction of two additional new lanes at an estimated cost of P2,000,000,000.00; that if it is prevented from exercising proprietary rights over the subject shares and SIDC is inhibited from implementing the 20 July 2006 stockholders' resolution increasing its authorized capital stock, CTCII will be unable to infuse the equity participation commonly required for bank loans; and, that since the security for said loans consisting of SIDC's assets requires the vote of stockholders owning/controlling 2/3 of SIDC's outstanding capital stock, the writ of preliminary injunction would cause grave and irreparable damage which cannot be indemnified by the injunction bond to be posted by STRADEC.[16] In support of the foregoing arguments, CTCII submitted an affidavit of merit executed by its President, Elizabeth Lee.[17]

In their opposition to STRADEC's motion to admit and approve preliminary injunction bond, respondents Yujuico and Sumbilla, in turn, question Quiambao's authority to file and submit said bond. Calling attention to the fact that the motion did not include a board resolution authorizing Quiambao to file the same for and in behalf of STRADEC, respondents Yujuico and Quiambao once again argue that there is no showing in the record that Quiambao was so authorized by a legitimate Board of Directors which succeeded the one restored in office by the 29 January 2007 decision in G.R. No. 168639.[18] The foregoing arguments having been adopted in the 28 January 2011 manifestation filed by SIDC,[19] STRADEC filed its reply, contending that the decision in G.R. No. 168639 had reference only to the election of its Board of Directors for the term 2004-2005; that since then, the annual meetings of its stockholders had resulted in the consistent re-election of Quiambao as its Corporate President; that said subsequent elections were recognized in the 2 February 2009 decision rendered by Branch 155 of the Pasig City RTC in SCA No. 3034-PSG, entitled "Citra Metro Manila Tollways Corporation [CMMTC] vs. Strategic Alliance Development Corporation, et al."; and, that the decision was effectively affirmed in G.R. No. 188864 when this Court denied the petition for review on certiorari filed by respondents Yujuico and Sumbilla.[20] In their reply, however, the latter argue that said decision in SCA No. 3034 only referred to the validity of the proxies issued by STRADEC for the stockholders meetings of CMMTC for the years 2005 and 2006.[21]

In its comment to CTCII's Initial Motion for Reconsideration of the Grant of the Application for Writ of Preliminary Injunction (With Offer to File Counterbond), STRADEC additionally underscores the fact, among other matters, that as its duly elected Corporate President, Quiambao has been duly authorized to file its 31 July 2006 amended petition a quo and to obtain the requisite surety bond for the writ of preliminary injunction sought in connection with its petition for review on certiorari from the Court of Appeals' (CA) 22 December 2008 decision in CA-G.R. No. 96945; that CTCII's continuing violations of STRADEC's rights over its SIDC shares justify the issuance of the writ of preliminary injunction to which it is entitled as owner of said shares; and, that the grave and irreparable damage pleaded by CTCII is attributable to its illegal acquisition of the subject shares and its continued usurpation of STRADEC's rights could only result to instability in the conduct of SIDC's business.[22] Reiterating the foregoing arguments in its consolidated comment to respondents' motions for reconsideration, STRADEC maintains that the arguments presently raised by respondents had already been squarely passed upon in the decision sought to be reconsidered; and, that the suspension of the proceedings

regarding its third and fourth causes of action is not justified by the pendency of other intra-corporate disputes between STRADEC's corporators.[23]

We find respondents' motions for reconsideration bereft of merit.

Having already discussed the matter extensively in the decision sought to be reconsidered, we no longer find any reason to go into great detail in discussing the reasons why the first and second causes of action pleaded in STRADEC's 31 July 2006 amended complaint qualify as intra-corporate disputes cognizable by Branch 2 of the RTC of Batangas City, sitting as a Special Commercial Court (SCC). Fundamental is the rule that nature of the action, as well as the court or body which has jurisdiction over it, is determined based on the allegations contained in the complaint, irrespective of whether or not plaintiff is entitled to recover upon all or some of the claims asserted therein.[24] It has been held that only ultimate facts and not legal conclusions or evidentiary facts, which should not be alleged in the complaint in the first place, are considered for purposes of applying the test.[25] Applying the relationship test and the nature of the controversy test already discussed in our 17 November 2010 decision, we find that STRADEC's causes of action for the nullification of the loan and pledge over its SIDC shareholdings contracted by respondents Yujuico and Sumbilla as well as the avoidance of the notarial sale conducted by respondent Raymond M. Caraos both qualify as intra-corporate disputes.[26] It cannot, therefore, be argued that said causes of action were misjoined with STRADEC's third and fourth causes of action for the cancellation of the transfer of its shares in SIDC's books, the invalidation of the 30 July 2005 and 20 July 2006 SIDC stockholders' meetings, attorney's fees and the costs.

Neither are we inclined to hospitably entertain respondents' harping over the supposed fact that Quiambao's authority to represent STRADEC - as litigated in the cases pending before the courts of Pasig City and Urdaneta City, involving the question of ownership of the controlling shares of stock of STRADEC as well as the legitimacy of the Board of Directors headed by Quiambao - pose a prejudicial question to the resolution of the dispute before Branch 2 of the Batangas City RTC. A prejudicial question is defined as that which arises in a case, the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal.[27] It is said to come into play when a civil action and a criminal action are both pending and there exists in the former case an issue which must be preemptively resolved before the latter case may proceed since the resolution of the issue raised in the civil action is resolved would be determinative *juris et de jure* of the guilt or innocence of the accused in the criminal case. Aimed at avoiding two conflicting decisions,[28] a prejudicial question requires the concurrence of two essential requisites, to wit: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and, (b) the resolution of such issue determines whether or not the criminal action may proceed.[29] From the foregoing disquisition, it is evident that a prejudicial question cannot be appreciated where, as in the case at bench, the subject actions are all civil in nature.[30]

As an incident to the power inherent in every court to control the disposition of the cases on its dockets, the court in which an action is pending may, concededly, hold the action in abeyance in the exercise of sound discretion, to abide by the outcome of another case pending in another court,[31] especially where the parties and the issues are the same.[32] While applicable as between the actions pending before the courts of Pasig City and Urdaneta City which were supposedly instituted to determine the ownership of the controlling shares of stock of STRADEC as well as its legitimate Board of Directors, said principle cannot, however, apply to said cases *vis-à-vis* the one at bench which, at bottom, seek the nullification of the loan and pledge over said corporation's shareholdings in SIDC as well as the subsequent notarial sale thereof. Even then, we find that respondents cannot expediently argue that the defects in the impugned loan, pledge and notarial sale would be automatically discounted by a declaration from the Pasay City and Urdaneta City courts that respondents Yujuico and Sumbilla's group

constitute said corporation's legitimate Board of Directors. Assuming, arguendo, that respondents are justified in equating such determination with due authorization for the loan and pledge over STRADEC's shares in SIDC, we find that it would not still dispose of the issue of the alleged lack of consideration for the same transactions and the fraud which supposedly attended the execution of the same.

We have likewise gone over the Court's 29 January 2007 decision in G.R. No. 168639 and found no pronouncement therein that would bar the filing of the 31 July 2006 amended petition by STRADEC which, as a corporation with a personality separate and distinct from its incorporators,[33] has a right to protect its rights and interests over the subject SIDC shares. Considered in this light, we find that respondents are out on a limb in asserting that the record is bereft of any showing that Quiambao's authority to said amended petition a quo was granted by the legitimate successor to STRADEC's Board of Directors which was restored into office by this Court's 29 January 2007 decision in G.R. No. 168639. To a great extent, this situation is attributable to the fact that Civil Case No. 7956 was still on its preliminary stages when Branch 2 of the RTC of Batangas City issued its assailed 30 August 2006 order, withholding action on STRADEC's first and causes of action on the ground of improper venue and suspending proceedings regarding the corporation's third and fourth causes of action in view of the then pendency of G.R. No. 168639 before this Court. Given that responsive pleadings squarely questioning Quiambao's authority to represent STRADEC have yet to be filed by respondents, the matter is clearly one better threshed out before the court a quo, alongside such issues as the validity of the transfers of STRADEC's shares to respondents Wong and CTCII, the propriety of the recording of said transfers in SIDC's books, STRADEC's status as a stockholder of SIDC and the legality of the 30 July 2005 and 20 July 2006 SIDC stockholders' meetings.

As an adjunct to the main action subject to the latter's outcome,[34] on the other hand, a writ of preliminary injunction may be issued upon the concurrence of the following essential requisites, to wit: (1) that the invasion of the right is material and substantial; (2) that the right of complainant is clear and unmistakable; and, (3) that there is an urgent and paramount necessity for the writ to prevent serious damage.[35] Concurrence of the foregoing requisites is evident from the fact that STRADEC has been deprived of its rights to its shareholdings and to participate in SIDC's corporate affairs as a consequence of the impugned loan and pledge as well as the transfer of the shares to respondent Wong and CTCII. For these reasons alone, we find that STRADEC is entitled to a writ of preliminary injunction to restrain: (a) CTCII from further exercising proprietary rights over the subject shares; (b) SIDC and its officers from recognizing the transfer or further transfers of the same; (c) the implementation of the resolutions passed during the 20 July 2006 SIDC stockholders' special meeting; and, (d) the SEC from acting on any report submitted in respect thereto. Far from amounting to a prejudgment of the case, the restraint of said acts is merely in the service of the office of a writ of preliminary injunction, i.e., the restoration of the status quo ante as well preservation and protection of the rights of the litigant during the pendency of the case.[36]

In view of CTCII's acquisition of STRADEC's shares as well as the changes in SIDC's corporate structure which were effected as a consequence thereof, respondents also argue that the writ of preliminary injunction granted in the decision sought to be reconsidered is directed against acts already consummated. Although the general rule is to the effect that a writ of preliminary injunction cannot be issued against acts already fait accompli,[37] it has been held, however, that consummated acts which are continuing in nature may still be enjoined by the courts.[38] The propriety of the grant of the provisional injunctive writ sought by STRADEC having been established, we find that approval of said corporation's Motion to Admit and Approve Preliminary Injunction Bond is in order. Contrary to respondents' harping about the lack of showing thereof in the record, Quiambao's authority to file said motion is implicit in the following 21 May 2009 Directors' Certification attached to STRADEC's petition for review on certiorari, to wit:

"WE, as the incumbent members of the Board of Directors of the STRATEGIC ALLIANCE DEVELOPMENT CORPORATION (the "Corporation"), a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office address at Quezon Boulevard, Poblacion Sur, Bayambang, Pangasinan, Philippines, do hereby certify that the following resolutions were approved by the Board, to wit:

`RESOLVED, as it is hereby resolved that the Corporation shall file a Petition for Review on Certiorari under Rule 45 of the Rules of Court to assail the Decision dated 22 December 2008 and Resolution dated 30 April 2009 in CA-G.R. SP No. 96945, entitled `Strategic Alliance Development Corporation vs. RTC of Batangas City (Branch 2), Star Infrastructure Development Corporation, et al.", with an application for the issuance of a temporary restraining order and/or writ of injunction, if deemed necessary.

WHEREFORE, BE IT RESOLVED, as it is hereby resolved that the Corporation's President, CEZAR T. QUIAMBAO, shall be authorized, as he is hereby authorized: to cause the filing of the Petition before the Supreme Court; to verify the pleadings; and to execute any affidavit in support thereof, hereby giving and granting to CEZAR T. QUIAMBAO full power to carry into effect the foregoing, including the authority to appear on the Corporation's behalf, as fully to all intents and purposes as the Corporation might or could lawfully do if personally present, and hereby ratifying and confirming all that CEZAR T. QUIAMBAO, or his representatives shall lawfully do by virtue hereof.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this May 21, 2009 at Quezon City, Philippines.

(Sgd.) DEMETRIO G. DEMETRIA

(Sgd.) ANTHONY K. QUIAMBAO

Chairman of the Board

Vice Chairman

(Out of the Country)

CEZAR T. QUIAMBAO

JULIUS K. QUIAMBAO

(Sgd.) GIOVANNI T. CASANOVA

Director"[39]

Viewed in the light of the foregoing considerations, we find no merit in CTCII's objections to the writ of preliminary injunction and offer to file a counterbond in the sum of P20,000,000.00, on the ground that the P10,000,000.00 injunction bond STRADEC has been required to post is grossly insufficient to cover the grave and irreparable damage which would result from the issuance of said writ. Pursuant to Section 6, Rule 58 of the 1997 Rules of Civil Procedure,[40] "a preliminary injunction may be dissolved if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court on condition that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. Two conditions must concur: first, the court in the exercise of its discretion, finds that the continuance of the injunction would cause great damage to the defendant, while the plaintiff can be fully compensated for such damages as he may suffer; second, the defendant files a counterbond."[41]

Aside from the fact that the amount of injunction bond is equivalent to the sum of the supposed loan for which STRADEC's shares were pledged by respondents Yujuico and Sumbilla, we find that the projected damage to SIDC's construction, operation and maintenance of the STAR toll road is, to say the least, speculative. Even when reckoned from the commencement of the action a quo on 17 July 2006, the damage STRADEC suffered and continues to suffer as a consequence of the impugned transactions is, in contrast, clearly beyond monetary recompense as it not only amounts to a divestiture of its ownership over said shares but, more importantly, translates into a denial of its rights to elect SIDC's officers, to participate in its corporate affairs and, as a major stockholder, to determine the course of its business dealings, among other matters. Moreover, the mere offer of a counterbond does not suffice to warrant the dissolution of the preliminary writ of injunction[42] issued to stop an unauthorized act. A contrary holding would open the gates to the use of the counterbond as a vehicle of the commission or continuance of an unauthorized or illegal act which the injunction precisely is intended to prevent.[43]

WHEREFORE, premises considered, respondents' motions for reconsideration and CTCII's offer to file a counter bond are DENIED for lack of merit. Accordingly, STRADEC's motion to admit and approve injunction bond is GRANTED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Peralta,[*]JJ., concur.

[*] Additional member in lieu of Associate Justice Mariano C. Del Castillo per Special Order no. 913 dated 02 November 2010.

[1] Rollo, pp. 1217-1242, CTCII's Initial Motion for Reconsideration of the Grant of the Application for Writ of Preliminary Injunction (With Offer to File Counterbond) dated 10 December 2010.

[2] Id. at 1298-1313, CTCII's Supplemental Motion for Reconsideration, dated 22 December 2010.

[3] Id. at 1243-1257, Yujuico and Sumbilla's Motion for Reconsideration dated 17 December 2010.

[4] Id. at 1261-1276, Wong's Motion for Reconsideration dated 15 December 2010.

[5] Id. at 1314-1343, SIDC's Motion for Reconsideration dated 17 December 2010.

[6] Id. at 1277-1279, STRADEC's Motion to Admit and Approve Preliminary Injunction Bond dated 23 December 2010.

[7] Id. at 1346-1352, Yujuico and Sumbilla's Opposition to Motion to Admit and Approve Preliminary Injunction Bond dated 6 January 2011.

[8] Id. at 1355-1365, CTCII and Laureta's Opposition to Motion to Admit and Approve Preliminary Injunction Bond dated 28 January 2011.

[9] Id. at 1366-1369, SIDC's Manifestation dated 28 January 2011.

[10] Id. at 1370-1382, STRADEC's Reply dated 4 February 2011.

[11] Id. at 1403-1416, Yujuico and Sumbilla's Rejoinder dated 21 February 2011.

[12] STRADEC's Comment dated 4 March 2011.

[13] STRADEC's Consolidated Comment dated 11 March 2011.

- [14] Rollo, pp. 1298-1343.
- [15] Id. at 1277-1279.
- [16] Id. at 1217-1242; 1355-1365.
- [17] Id. at 1237-1239.
- [18] Id. at 1346-1352.
- [19] Id. at 1366-1369.
- [20] Id. at 1370-1382.
- [21] Id. at 1403-1416.
- [22] Supra note 12.
- [23] Supra note 13.
- [24] Metro Properties, Inc. v. Magallanes Village Association, Inc., 510 Phil. 101, 107 (2005).
- [25] Abacan, Jr. v. Northwestern University, 495 Phil. 123, 133 (2005).
- [26] Rollo, pp. 1199-1203, Decision dated 17 November 2010.
- [27] People of the Philippines v. Cosing, Jr., 443 Phil. 454, 459 (2003).
- [28] Sy Tiong Shiou v. Sy Chim, G.R. Nos. 174168 and 179438, 30 March 2009, 582 SCRA 517, 529.
- [29] Ching v. Court of Appeals, 387 Phil. 28, 39 (2000).
- [30] Carlos v. Court of Appeals, 335 Phil. 490, 499 (1997).
- [31] SM Systems Corporation v. Camerino, G.R. No. 178591, 26 July 2010, 625 SCRA 482, 493.
- [32] Abacan, Jr. v. Northwestern University, 495 Phil. 123, 138 (2005) citing Quiambao v. Osorio, 16 March 1988, 158 SCRA 674.
- [33] PNB v. Andrada Electric & Engineering Company, 430 Phil. 882, 894 (2002).
- [34] Bustamante v. Court of Appeals, 430 Phil. 797, 808 (2002).
- [35] Samahan ng Masang Pilipino sa Makati, Inc. (SMPMI) v. Bases Conversion Development Authority (BCDA), G.R. No. 142255, 26 January 2007, 513 SCRA 88, 98.
- [36] Supra note 34.
- [37] Philippine National Bank v. Court of Appeals, 353 Phil. 473, 479 (1998).
- [38] Reyes-Tabujara v. Court of Appeals, G.R. No. 172813, 20 July 2006, 495 SCRA 844, 857 citing Regalado, Remedial Law Compendium, Vol. I, p. 647.
- [39] Rollo, pp. 58-59.
- [40] "Section 6. Grounds for objection to, or for motion of dissolution of, injunction or restraining order. - The application for injunction or restraining order may be denied, upon a showing of its insufficiency. The injunction or restraining order may also be denied, or, if granted, may be dissolved, on other grounds upon affidavits of the party or person enjoined, which may be opposed by the applicant also on affidavits. It may further be denied, or, if

granted, may be dissolved, if it appears after hearing that although the applicant is entitled to the injunction or restraining order, the issuance or continuance thereof, as the case may be, would cause irreparable damage to the party or person enjoined while the applicant can be fully compensated for such damages as he may suffer, and the former files a bond in an amount fixed by the court conditioned that he will pay all damages which the applicant may suffer by the denial or the dissolution of the injunction or restraining order. If it appears that the extent of the preliminary injunction or restraining order granted is too great, it may be modified.

[41] Yap v. International Exchange Bank, G.R. No. 175145, 28 March 2008, 550 SCRA 395, 410.

[42] Dela Cruz v. Hon. Judge Tan Torres and Tiongco, 107 Phil. 1163, 1168 (1960).

[43] Director of the Bureau of Telecommunications v. Hon. Jose A. Aligaen, G.R. No. L-31135, 29 May 1970, 33 SCRA 368, 386.

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