

BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. MARCIANO S. BACALLA, JR., EDUARDO M. ABACAN, ERLINDA U. LIM, FELICITO A. MADAMBA, AND PEPITO M. DELGADO, RESPONDENTS.

G.R. No. 223404. July 15, 2020

Ponente: GESMUNDO, J.

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GESMUNDO, J.:

This is a Petition for Review on Certiorari[1] filed by Bank of the Philippine Islands (BPI)[2] assailing the July 27, 2015 Decision[3] and March 4, 2016 Resolution[4] of the Court of Appeals (CA) in CA-G.R. SP No. 129574. The CA affirmed the Orders dated August 10, 2012[5] and January 14, 2013[6] rendered by the Regional Trial Court, Las Piñas City, Branch 197 (RTC), in Civil Case No. LP-05-0212 which refused to apply the Interim Rules of Procedure for Intra-Corporate Controversies (Interim Rules) and denied the Request for Admission applied for by the petitioner.

Antecedents

The present controversy originated from a Petition for Involuntary Dissolution filed against the Tibayan Group of Investment Companies, Inc. (TGICI) before the RTC Las Piñas City, Branch 253. On September 24, 2004, the RTC rendered a Decision[7] granting the petition and ordering the receiver, Atty. Marciano S. Bacalla, Jr. (Atty. Bacalla), to proceed with the liquidation of properties. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, finding merit to the instant petition for involuntary dissolution, the same is GRANTED.

Accordingly, judgment is rendered declaring the dissolution of the hereunder-named respondent corporations pursuant to the provisions of Sections 121 and 122 of the Corporation Code of the Philippines:

Tibayan Group of Investment Company, Inc.
Tibayan Management Group International Holdings Co. Ltd.
TG Asset Management Corporation
MATCOR Holdings Company Ltd.
JETCOR Equity Company Ltd.
Sta. Rosa Management and Trading Corporation
Westar Royalty Management and Trading Corporation
Starboard Management and Trading Corporation
United Alpa Management and Trading Corporation
Global Progress Management and Trading Corporation
Athon Management and Trading Corporation
Diamond Star Management and Trading Corporation

Likewise, all claims of the petitioners herein and all other creditors shall be paid, as far as practicable, out of the assets and other properties of respondents Jesus V. Tibayan, Palmy B. Tibayan, the above-named corporations

and all their officers, and directors, nominees and/or dummies.

Furthermore, the Receiver Atty. Marciano S. Bacalla, Jr. is ordered to immediately effect the liquidation process pursuant to Section 122 of the Corporation Code and exercise any and all of the powers enumerated under Section 5, Rule 9 of the Interim Rules Governing Intra-Corporate Controversies under RA 8799, and such other powers as may be deemed necessary, just and equitable under the premises and/or circumstances.

Furnish a copy of this Decision to the Securities and Exchange Commission for its information and appropriate action.

SO ORDERED.[8] (emphasis supplied)

Pursuant to his authority as receiver, Atty. Bacalla, together with TGICI investors Eduardo M. Abacan, Erlinda U. Lim, Felicito A. Madamba, Pepito M. Delgado (collectively, respondents) and the Federation of Investors Tulungan, Inc. (FITI), instituted Civil Case No. LP-05-0212[9] for violation of Presidential Decree No. 902-A and the Interim Rules under R.A. No. 8799 (Securities Regulations Code) against Prudential Bank and Trust Company, JAMCOR Holdings Corp. (JAMCOR Holdings) and Cielo Azul Holdings Corp. (Cielo Azul), among others.

The respondents alleged in their complaint that TGICI resorted to "fraudulent inducements, deceit, and misrepresentations" by representing themselves as licensed and duly authorized by the Securities and Exchange Commission (SEC) to solicit and accept deposits and investments from the general public; that the SEC found TGICI violated Section 9.1 in relation to Subsection 8.1 of R.A. No. 8799, in using multiple front and conduit corporations and issuing unregistered securities to the public;[10] that the monies and investments collected by TGICI were diverted and channeled to JAMCOR Holdings and then to Cielo Azul;[11] that Cielo Azul initially purchased 420,000 common shares of stocks of Prudential Bank at P700.00 per share or a total acquisition cost of P294 million pesos; that Cielo Azul also purchased 230,225 common shares of Prudential Bank with an acquisition cost of P161.16 million; that the shares purchased by Cielo Azul came from the proceeds of the illegal activities of TGICI.[12]

During the pre-trial conference held on September 20, 2010, herein petitioner made an oral motion to declare the respondents as non-suited on the ground that respondents and their counsel lacked Special Powers of Attorney.[13] Upon order of the trial court to submit a written motion,[14] Petitioner filed a Memorandum (In Support of Oral Motion to Declare the Federation of Investors Tulungan, Inc. and Marciano S. Bacalla, Jr. Non-Suited).[15]

The trial court denied the motion in its November 28, 2011 Order.[16] It held that Atty. Bacalla has been judicially authorized to pursue the case which was part of the execution of the September 4, 2004 Decision of the RTC. On the other hand, FITI President Eduardo M. Abacan and their counsel, Atty. De Vera, were authorized pursuant to a Board Resolution.[17]

In the meantime, petitioner filed several Requests for Admissions[18] dated February 8, 2012 addressed to the respondents, which contain, among others, similar statements regarding their lack of Special Powers of Attorney from Cielo Azul to file the complaint, as well as lack of knowledge regarding any claims, dissolution and other proceedings involving Cielo Azul.

On August 10, 2012, the trial court issued an Order,[19] denying the Motion for Reconsideration and the requests for admission. The trial court ratiocinated as follows:

A careful perusal of the arguments presented by all parties herein has revealed that the issues raised in the Motion for Reconsideration have already been discussed judiciously in the Order dated November 28, 2011.

The Motion for Reconsideration and the subsequent pleadings filed in support thereof have not convinced this court the assailed Order dated November 28, 2011 should be reversed or modified. The Motion for Reconsideration, therefore, is hereby DENIED.

As to the issue, however, of the applicability of the Interim Rules in connection with the Requests of Admission filed by the bank defendants, this court is of the opinion that the Orders dated April 21, 2006, July 28, 2006, and February 16, 2007 stand, in deference to the Doctrine of Non-interference or Judicial Stability, which substantially pertains to the ruling that courts of co-equal jurisdiction and coordinate jurisdiction cannot interfere with each other's orders x x x. Therefore, the Motion to Reverse and Set Aside the Orders of Hon. Salvador Timbang, Jr. is hereby DENIED.

Accordingly, the Requests for Admission are hereby DENIED. Contrary to its alleged purpose of expediting the proceedings of this case, it has added controversy to the instant case that has already been passed upon and denied by the then presiding judge, Hon. Salvador Timbang, Jr. Consequently, a lot of pleadings have been filed before this court effectively delaying the proceedings in this case, and numerous motions for extension of time have polluted the records of the case. In order to indeed expedite the proceedings in this case, let the Pre-Trial Conference proceed as scheduled, and all matters for stipulations, admissions, and denials may be done during Pre-Trial Conference.

SO ORDERED. [20]

Consequently, petitioner filed a Petition for Certiorari before the CA, docketed as CA-G.R. SP No. 127072, to assail the November 28, 2011 and August 10, 2012 Orders of the RTC concerning the respondents' authority to file the complaint. The CA ruled partially in favor of the petitioner by holding that FITI was not suited. Petitioner appealed to this Court via a Petition for Review docketed as G.R. No. 217650.[21] The Court denied the said petition through a Minute Resolution dated June 17, 2015.

Aside from the above petition, petitioner also filed a Motion for Reconsideration regarding the applicability of the Interim Rules, but the trial court denied the motion in its Order promulgated on January 14, 2013.[22] Dissatisfied by the ruling, petitioner filed another Petition for Certiorari before the CA docketed as CA-G.R. SP No. 129574,[23] alleging that the trial court committed grave abuse of discretion in applying the Interim Rules.

CA Ruling

On July 27, 2015, the CA promulgated a Decision[24] denying the petition. The appellate court ruled that because the complaint filed by Atty. Bacalla and the TGICI investors concerned the recovery of the assets of the dissolved corporation through its subsidiaries, the issue involved an intra-corporate dispute under Section 5(a) of P.D. No. 902-A.[25] It also ruled that the petitioner was guilty of splitting its cause of action and that its remedy had already prescribed.[26]

The petitioner filed a Motion for Reconsideration[27] but the CA denied the same in its March 4, 2016 Resolution.[28] Hence, this Petition for review.

Issues

The petitioner submits the following grounds in support of its petition:

I

THE COURT OF APPEALS COMMITTED GRAVE, MANIFEST, AND REVERSIBLE FUNDAMENTAL ERROR IN RULING THAT THE ICC RULES GOVERN THE CASE A QUO DESPITE THE PATENT ABSENCE OF AN INTRA-CORPORATE CONTROVERSY AS DEFINED UNDER APPLICABLE LAW AND JURISPRUDENCE;[29]

II

THE COURT OF APPEALS COMMITTED A GRAVE, MANIFEST, AND REVERSIBLE FUNDAMENTAL ERROR IN RULING THAT BPI'S CERTIORARI PETITION BEFORE IT WAS FILED OUT OF TIME AND IN VIOLATION OF RULE 2, SECTIONS 3 AND 4 OF THE RULES OF COURT AGAINST SPLITTING OF CAUSE OF ACTION.[30]

Petitioner maintains that the CA failed to apply the intra-corporate relations test and the nature of the controversy test in determining whether the respondents' complaint involved an intra-corporate dispute. Under the intra-corporate relations test, TMG Holdings as the principal holding company and stockholder of JAMCOR, remained a distinct and separate legal personality from Cielo Azul. The present controversy involved a different issue which cannot be taken as a continuation of the Petition for Dissolution of TGICI.[31] On the other hand, under the nature of controversy test, there should be proof that the dispute is intrinsically connected with the regulation of Cielo Azul and not of TMG Holdings or JAMCOR. The respondents failed to establish in their complaint that Cielo Azul was part of TGICI or that it was a dummy or nominee of TGICI.[32]

As regards the CA ruling on the splitting of cause of action and prescription, the petitioner contends that the proscription against splitting of causes of action under Rule 2, Sections 3 and 4 does not apply in filing a Petition for Certiorari under Rule 65; that a certiorari petition does not originate from a cause of action but from the existence of grave abuse of discretion; that the issue of application of the Interim Rules was first resolved only in the August 10, 2012 Order of the RTC; and that at the time that the first Petition for Certiorari was filed, the issue on the applicability of the Interim Rules was still the subject of a Motion for Reconsideration.[33]

On the other hand, respondents counter that their complaint involved an intra-corporate controversy as it concerns the recovery of illegally acquired Prudential Bank shares; that the allegations in the complaint were within the purview of Sec. 5(a) of P.D. No. 902-A; that the complaint was a continuation of the dissolution of TGICI where the Interim Rules finds application;[34] and that the present petition was filed out of time and violated the proscription against splitting a cause of action because the matter should have been included in the first Petition for Certiorari.[35]

In sum, the Court shall resolve the following matters: (1) Does the Interim Rules on Intra-Corporate Controversies apply to the subject proceedings in the RTC; and (2) Are petitioners guilty of violating the rule against splitting the cause of action?

Ruling of the Court

We deny the petition.

I

The Interim Rules of Procedure for Intra-Corporate Controversies under R.A. No. 8799 applies to the proceedings in the RTC.

The Court notes that the petitioner does not challenge the jurisdiction of the RTC in hearing the complaint filed by the respondents. The controversy lies in whether the trial court correctly applied the Interim Rules on Intra-Corporate Controversies in its proceedings below.

The Interim Rules traces its roots from Section 5.2 of R.A. No. 8799 which transferred all cases under Sec. 5 of P.D. No. 902-A from the Securities and Exchange Commission (SEC) to the courts of general jurisdiction or the appropriate RTC. Under Sec. 5 of P.D. No. 902-A, the following cases were transferred to the RTC:

a)

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

b)

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

c)

Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations. (emphasis supplied)

In compliance, the Court approved the Interim Rules on March 13, 2001 and took effect on April 1, 2001.[36] Section 1(a), Rule 1 of the Interim Rules restates the cases enumerated under Sec. 5 of P.D. No. 902-A with the addition of derivative suits[37] and inspection of corporate books.[38]

In the assailed Decision, the CA observed that based on the impleaded parties, allegations, and the reliefs prayed for, the complaint concerned the recovery of assets of the dissolved TGICI. It concluded that because of the fraudulent dissipation of TGICI assets caused by the officers, the matter had become an intra-corporate dispute under Sec. 5(a) of P.D. No. 902-A.[39]

Indeed, the respondents initiated their action under the Interim Rules as shown on the face of the complaint which reads: "For: Devices or Schemes Amounting to Fraud and Misrepresentation Detrimental to the Interest of the Public Under PD No. 902-A and the Interim Rules of Procedure Governing Intra-Corporate Controversies under R.A. 8799 with Declaration of Nullity of Contracts and Specific Performance with Prayer for the Issuance of a Writ of Preliminary Injunction." [40] But since courts cannot rely on the caption of the complaint alone, and if the complainant wishes to invoke the court's special commercial jurisdiction, the complaint must show on its face what the claimed fraudulent corporate acts[41] are which require the application of the Interim Rules. We expounded on this requirement in *Guy v. Guy*[42] as follows:

x x x. In *Reyes*, we pronounced that "in cases governed by the Interim Rules of Procedure on Intra-Corporate Controversies a bill of particulars is a prohibited pleading. It is essential, therefore, for the complaint to show on its face what are claimed to be the fraudulent corporate acts if the complainant wishes to invoke the court's special commercial jurisdiction." This is because fraud in intra-corporate controversies must be based on "devices and schemes employed by, or any act of, the board of directors, business associates, officers or partners, amounting to fraud or misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, or members of any corporation, partnership, or association," as stated under Rule 1, Section 1(a) (1) of the Interim Rules. The act of fraud or misrepresentation complained of becomes a criterion in determining whether the complaint on its face has merits, or within the jurisdiction of special commercial court, or merely a nuisance suit. (emphasis supplied)

We perused the subject complaint and were convinced that it contained specific allegations of corporate layering, improper matched orders and other manipulative devices or schemes resorted to by the corporate officers in

defrauding the stockholders and investors of TGICI.[43] Evidently, these averments meet the standard of specificity required by Section 5(a) of P.D. No. 902-A and Section 1(a)(1), Rule 1 of the Interim Rules.

However, the petitioner remained unconvinced that the Interim Rules applies. It argued that the complaint does not involve an intra-corporate controversy as it failed to satisfy the relationship test and the nature of the controversy test. It ventured that since Cielo Azul has a separate and distinct personality, there can be no relationship between the corporation and the respondents as TGICI receiver and investors.

The contention is erroneous.

In determining whether a case is an intracorporate controversy, We resort to a combined application of the relationship test and the nature of the controversy test.[44]

Under the relationship test, the existence of any of the following relations makes the conflict intra-corporate: (1) between the corporation, partnership or association and the public; (2) between the corporation, partnership or association and the State insofar as its franchise, permit or license to operate is concerned; (3) between the corporation, partnership or association and its stockholders, partners, members or officers; and (4) among the stockholders, partners or associates themselves. For as long as any of these intra-corporate relationships exists between the parties, the controversy would be characterized as intra-corporate.[45]

Meanwhile, in the nature of controversy test, the controversy must not only be rooted in the existence of an intra-corporate relationship, but must as well pertain to the enforcement of the parties' correlative rights and obligations under the Corporation Code and the internal and intra-corporate regulatory rules of the corporation.[46]

The subject complaint specifically alleged that the corporate officers resorted to corporate layering by transferring funds accumulated through investments by the public to TGICI subsidiaries. Such allegation plainly established the relationship between the petitioner as the issuer of shares funneled to Cielo Azul, and herein respondents as court-appointed receiver and investors. Based on this relationship, respondents sought the lower court to pierce the corporate veil and declare Cielo Azul, JAMCOR Holdings, TMG Holdings, Jesus Tibayan and Gelacio as having one personality. Accordingly, We concur with the CA that petitioner cannot take refuge from the defense of being a third party. The CA fittingly explained:

It is also undisputed that there is a right of action vested upon the Receiver of the said holding corporation as well as the investors thereof over the wholly owned subsidiary. The latter is sued in due regard to the allegations on the singular identity of the holding corporation and the wholly owned subsidiary in this case. This right of action by interested parties in the holding corporation over the subsidiary transcends the individual juridical personalities of the said corporations as ruled by the Supreme Court in *Gokongwei vs. Securities and Exchange Commission*, wherein the right of the stockholder of the parent corporation to inspect the books of the wholly owned subsidiary was upheld. x x x

x x x x

Accordingly, the fact that Prudential Bank (now Petitioner Bank) and the vendees who seem to be third parties do not necessarily convert this action into an ordinary civil action where only the Rules of Court applies. There are sufficient allegations of anomalies in the sale of all the corporate assets (the 630,225 shares of stocks) of the subsidiaries to the vendees with the latter's knowledge and participation and also with the knowledge of Prudential Bank. Thus, the impleading of the vendees and Prudential Bank aside from the subsidiaries and the officers of the corporation is only consequential because of Prudential Bank's and the vendees' participation in violating the investors' rights. What matters is that there is a violation of the Corporation Code and defraudation of those interested therein, i.e., the investing public.

In *Spouses Abejo vs. Dela Cruz*, the Supreme Court clarified that when it affects the interests of the corporation, i.e., the enforcement of rights and obligations under the Corporation Code affecting the internal or intracorporate affairs of the said Corporation, the same is an Intracorporate dispute. x x x

x x x x

Indeed, in *Rivilla vs. Intermediate Appellate Court*, the Supreme Court citing *Abejo*, recognized the dispute as Intracorporate as when schemes were resorted to by officers of corporations to defraud investors. x x x[47] (citations omitted, emphasis supplied)

As a mere conduit in the alleged fraudulent investment scheme by TGICI, Tibayan and Elacio, Cielo Azul, with TMG Holdings and JAMCOR Holdings, cannot prevent the court-appointed receiver of TGICI from accessing its corporate books and records to recover the assets which have been purportedly dissipated through illegal stock trading. Verily, the nature of the dispute raised by the respondents in their complaint is intrinsically connected with the regulation of TGICI and its subsidiaries.

Considering that the present matter involves an intra-corporate dispute, the CA did not err in affirming the denial by the RTC of the petitioner's belated filing of Requests for Admissions based on Section 1, Rule 3[48] of the Interim Rules.

II

The rule against splitting the cause of action does not apply in a Petition for Certiorari

Petitioner maintains that the CA erred in applying the rule against splitting a cause of action. Accordingly, a Petition for Certiorari is not based on a cause of action but rather the presence of grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the trial court in rendering the assailed order.[49]

We agree with the petitioner.

Section 2, Rule 2 of the Rules of Court defines a "cause of action" as the act or omission by which a party violates a right of another. The essential elements of a cause of action are: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the defendant not to violate such right; and (3) an act or omission on the part of the defendant in violation of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff.[50]

On the other hand, a Writ of Certiorari under Section 1 of Rule 65 will issue when there is grave abuse of discretion committed by a tribunal, board or officer who in the exercise of its judicial or quasi-judicial functions, has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction. In the instance of grave abuse of discretion, the court may annul or modify the proceedings of such tribunal, board or officer, and grant such incidental reliefs as the law and justice may require.

Verily, a Petition for Certiorari cannot be based on a cause of action. First, the parties involved in such petition would be the petitioner and the tribunal, board or officer who purportedly exceeded its discretion in the exercise of judicial or quasi-judicial functions. In a cause of action, the parties would be the plaintiff and the defendant who violated the right of the former which he (defendant) had the obligation to respect.

Second, a Petition for Certiorari cannot arise from a violation of a right belonging to the petitioner that the tribunal, board or officer has the concomitant obligation to respect. To reiterate, a certiorari writ will only lie when the tribunal, board of officer commits grave abuse of discretion amounting to a lack or excess of jurisdiction. Meanwhile, the existence of a cause of action will be the basis of every ordinary civil action.[51]

Third, a Writ of Certiorari results in the annulment or modification of the proceedings. However, the violation of a right of a plaintiff or breach of obligation by the defendant would give rise to a cause of action that will provide the plaintiff with the right to file an action in court for the recovery of damages or other relief.[52]

Finally, a Petition for Certiorari, being a special civil action, may only be availed of when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. Meanwhile, a cause of action is the basic requirement in an ordinary civil action.

Here, the CA held that petitioner violated the subject rule and should have joined all its objections against the August 10, 2012 Order of the RTC in one Petition for Certiorari. The CA explained:

Petitioner is guilty of splitting its cause of action in the filing of the instant Petition. Rule 2, Sections 3 and 4 of the 1997 Rules of Civil Procedure, provide:

Section 3. One Suit For A Single Cause of Action. — A party may not institute more than one suit for a single cause of action. (3a)

Section 4. Splitting A Single Cause of Action; Effect of. — If two or more suits are instituted on the basis of the same cause of action, the filing of one or a judgment upon the merits in any one is available as a ground for the dismissal of the others. (4a)

It is undisputable that CA-G.R. 127072 is a Petition assailing the contents of the 10 August 2012 Order of the trial court on the issue of whether the plaintiffs are non-suited. The instant action on the other hand, assails the same Order, albeit this time only on the portion resolving the issue of non-applicability of the ICC and the disallowance of the Requests for Admission. Definitely, the Petitioner could have joined all its objections to the assailed Order in a single Petition for Certiorari, but rather elected to file two (2) Petitions thus taxing the energy and the docket of this Court. Thus, the instant action should also be dismissed based on this ground.[53]

The CA arrived at an erroneous conclusion.

Petitioner filed the first petition (CA-G.R. 127072) to question the November 28, 2011 and August 10, 2012 Orders upon the belief that the RTC committed grave abuse of discretion when it failed to declare FITI and Bacalla as not suited. On the other hand, the second petition (CA-G.R. No. 129574) now subject of the instant case, arose from the August 10, 2012 and January 14, 2013 Orders of the trial court which petitioner maintains to have been tainted with grave abuse of discretion due to the application of the Interim Rules. Clearly, the said petitions did not allege the RTC to have violated petitioner's right which may be the basis for a cause of action. Instead, petitioner alleged separate occasions of grave abuse of discretion committed by the trial court in not declaring FITI and Batalla as not suited and in applying the Interim Rules. Both petitions will give rise to an annulment or modification of the proceedings below and will not afford the petitioner with a remedy of damages against the RTC.

Moreover, a Writ of Certiorari may only be availed when there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. For this reason, We cannot fault the petitioner for filing the second petition because the trial court only ruled on the applicability of the Interim Rules in the August 10, 2012 Order. It is settled rule that a Motion for Reconsideration is mandatory before the filing of a Petition for Certiorari.[54] Hence, petitioner properly moved for a reconsideration of that portion in the August 10, 2012 Order pertaining to the application of the Interim Rules before directly resorting to a Petition for Certiorari. Accordingly, the CA erred in applying the rule against splitting the cause of action in the assailed rulings.

A final note.

The inaccurate application by the CA of the rule against splitting a cause of action will not negatively impact the efficacy of its July 27, 2015 Decision and March 4, 2016 Resolution. To recall, We affirmed the CA in denying the petitioner's application for a Writ of Certiorari because the Interim Rules apply in the proceedings below. The misapplication of the rule on splitting the cause of action was merely an innocuous mistake on the part of the CA and will not disaffirm our resolve to deny the present petition due to lack of merit.

WHEREFORE, the petition is DENIED. The assailed July 27, 2015 Decision and March 4, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 129574 are hereby AFFIRMED.

Costs against the petitioner.

SO ORDERED.

Leonen (Chairperson), Carandang, Zalameda, and Delos Santos, JJ., concur.

[1] Rollo, pp. 38-59.

[2] Id. at 38. Successor-in-interest of Prudential Bank and Trust Company, the original defendant in the proceedings below.

[3] Id. at 15-31; penned by Associate Justice Francisco P. Acosta with Associate Justices Noel G. Tijam (Ret.) and Eduardo B. Peralta, Jr., concurring.

[4] Id. at 33-34.

[5] Id. at 372-378.

[6] (Not attached to the rollo.)

[7] Id. at 112-141.

[8] Id. at 140-141.

[9] Id. at 142-241.

[10] Id. at 173-174.

[11] Id. at 179.

[12] Id. at 179-180.

[13] Id. at 75-76.

[14] Id. at 76.

[15] Id. at 307-315.

[16] Id. at 316-322.

[17] Id. at 321-322.

[18] Id. at 334-371.

[19] Id. at 372-378.

[20] Id. at 377-378.

[21] Entitled "Bank of the Philippine Islands v. The Hon. Ismael Duldulao, Marciano S. Bacalla, Jr., Federation of Investors Tulungan, Inc., Eduardo M. Abacan, Erlinda U. Lim, Felicito A. Madamba and Pepito M. Delgado."

[22] Rollo, p. 78.

[23] Id. at 379-413.

[24] Id. at 73-89.

[25] Id. at 86.

[26] Id. at 78-80.

[27] Id. at 93-109.

[28] Id. at 91-92.

[29] Id. at 46.

[30] Id. at 54.

[31] Id. at 49.

[32] Id. at 51-52.

[33] Id. at 55-56.

[34] Id. at 535-540.

[35] Id. at 553-554.

[36] See *Speed Distributing Corp. v. Court of Appeals*, 469 Phil. 739, 758 (2004).

[37] Sec. 1(a)(4), Rule 1.

[38] Sec. 1(a)(5), Rule 1.

[39] Rollo, pp. 80-86.

[40] Id. at 142.

[41] See *Guy v. Guy*, 694 Phil. 354, 373 (2012); citing *Reyes v. RTC of Makati*, Br. 142, 583 Phil. 591, 606 (2008).

[42] Id. at 373.

[43] See paragraphs 70, 80, 87 of the Complaint (Rollo, pp. 170, 178-179, 182-183).

[44] See *Phil. Communications Satellite Corp. v. Sandiganbayan 5th Division*, 760-Phil. 893, 905 (2015).

[45] *Belo Medical Group, Inc. v. Santos*, 817 Phil. 363, 382-383 (2017), citing *Philex Mining Corporation v. Hon. Reyes*, 204 Phil. 241 (1982).

[46] *Phil. Communications Satellite Corp. v. Sandiganbayan 5th Division*, supra note 44 at 905, citing *Medical Plaza Makati Condominium Corporation v. Cullen*, 720 Phil. 732 (2013).

[47] Rollo, pp. 84-87.

[48] Section 1. In general. – A party can only avail of any of the modes of discovery not later than fifteen (15)

days from the joinder of issues.

[49] Rollo, p. 55.

[50] *Manila Electric Company v. Nordec Philippines*, G.R. No. 196020, April 18, 2018, 861 SCRA 515, 534; *Goyanko, Jr. v. United Coconut Planters Bank*, 703 Phil. 76, 90 (2013).

[51] RULES OF COURT, Rule 2, Sec. 1.

[52] See *ASB Realty Corp. v. Ortigas & Company Limited Partnership*, 775 Phil. 262, 283 (2015).

[53] Rollo, pp. 78-79.

[54] *Sen. De Lima v. Judge Guerrero*, 819 Phil. 616, 698 (2017); citing *Sen. Estrada v. Office of the Ombudsman*, 751 Phil. 821, 877-878 (2015).

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