

**ZOSIMO RIVAS AND NORDY P. DIPLOMA, PETITIONERS, VS.  
SECURITIES AND EXCHANGE COMMISSION, EZEKIEL F. TOEG,  
ORLANDO C. DULAY, MIGUEL S. ARAMBULO, JR., RODOLFO H.  
DULAY, RODRIGO C. ...**

*G.R. No. 53772. October 04, 1990*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-53772/>

---

**PADILLA, J.:**

This is a petition for certiorari with prayer for the issuance of a writ of preliminary injunction and/or restraining order, to annul and set aside the order of the Securities and Exchange Commission (SEC) en banc, dated 21 April 1980, in SEC Case AC No. 025, lifting the writ of preliminary injunction previously issued by SEC Hearing Officer Antonio R. Manabat in SEC Case No. 1719.

The antecedents are as follows:

On 26 March 1979, petitioners filed with the Securities and Exchange Commission (SEC), a petition[1] for nullification of transfer of shares and of directors' election, with prayer for the issuance of a writ of preliminary injunction, docketed therein as SEC Case No. 1719.

The petition alleged inter alia that sometime in November 1976, petitioner Nordy Diploma endorsed WOODWORKS, INC. stock certificate Nos. 151 (229 shares), 152 (281 shares), 154 (75 shares), 155 (150 shares), 156 (270 shares) and 157 (150 shares), covering a total of 1,155 shares, and deposited these certificates in Safety Deposit Box No. 243 maintained jointly under his name and that of private respondent Ezekiel P. Toeg at the Associated Citizens Bank branch on T.M. Kalaw Street, Ermita, Manila.

The petition further alleged that petitioner Diploma entrusted the duplicate key to the deposit box to respondent Toeg -- his close business associate, friend, confidant and client for ten (10) solid years since 1968 -- with the instruction for Toeg to have access to his box should anything happen to him, since he (Diploma) was frequently traveling here and abroad; that sometime in November 1978, petitioner Diploma discovered, soon after he returned from a 2-month sojourn abroad, that the stock certificates were in Toeg's possession and upon inquiry with the depository bank, petitioner Diploma learned that on 16 August 1978, Toeg opened the safety deposit box; that upon learning of Toeg's faithless act of opening the safety deposit box and stealing Diploma's share certificates therein, which were endorsed in blank, Diploma confronted, and later negotiated with Toeg and some of the other respondents, who were either Toeg's transferees or nominees, but to no avail; that on 13 February 1979, Diploma charged Toeg with theft in the Office of the City Fiscal of Manila, docketed therein as I.S. No. 79-2740; that in his counter affidavit, Toeg took the position that Diploma had sold his 1,155 shares way back in February 1978 to Toeg, Jacob (James) Isaac and Teodoro Bundang; that sometime in the early part of February 1979, they (petitioners) received a secretary's certificate issued by respondent Emigdio S. Tanjuatco, Jr., certifying to the election of directors[2] and officers[3] at a supposed stockholders' meeting and that the directors' meeting held on 22 January 1979 was absolutely illegal, null and void for absence of notice to stockholders of

record, especially to the petitioners.

On 27 March 1979, SEC Hearing Officer, Antonio R. Manabat issued a restraining order[4] "enjoining respondents, their nominees, transferees, agents, representatives or any person acting in their behalf, whether singly or collectively, from voting the shares which were derived from stock certificate Nos. 151, 152, 154, 155, 156 and 157 at the annual stockholders' meeting to be held on 29 March 1979, or at any subsequent meeting of the stockholders of Woodworks, Inc. and, further enjoining said respondents from exercising any of the powers, privileges, and functions of directors and officers of Woodworks, Inc. in so far as they derived their authority from the supposed stockholders' meeting held last 22 January 1979, until further orders from the Commission" and set the application for the issuance of a writ of preliminary injunction on 30 March 1979, at 9:00 o'clock in the morning.

In due time, the private respondents filed their answer[5] to the petition.

On 31 May 1979, after the hearing on the application for the issuance of a writ of preliminary injunction, the Hearing Officer issued an order[6] the dispositive portion of which reads as follows:

"WHEREFORE, let the writ of preliminary injunction be issued as prayed for by the petitioners upon filing of a bond and executed by them in favor of the respondents, in the amount of not less than P100,000.00, by a surety acceptable to the Commission, the condition of such bond being that the petitioners shall pay to the respondents all damages which the latter may sustain by reason of the issuance of the injunction should the Commission finally decide, in the course of the hearing of this case, that the petitioners are not entitled thereto; further, respondents are hereby enjoined from voting the contested shares in the annual stockholders' meeting of the corporation and in any subsequent meetings thereafter, or from disposing of such shares in any manner, furthermore, the respondents are hereby likewise enjoined from representing themselves as duly elected officers or members of the board of directors of Woodworks, Inc. until after the final resolution and disposition of the principal issue.

"It is understood that the hold-over board are not precluded or prohibited from executing corporate acts in accordance with the by-laws of the corporation and to discharge their ordinary duties to protect the interest of the company, save the reorganization of the corporate structure. Payments in the ordinary course of the business to meet the normal obligations shall be made. And, with reference to the contracts of the corporation with Triad Marketing Corporation, Equatorial Lumber Products Co., Ltd. and Supra Marketing Corporation, the same shall be honored and fulfilled in accordance with the pertinent terms and conditions thereof in due time.

"SO ORDERED."

The private respondents moved for reconsideration, but the same was denied by the Hearing Officer in his order,[7] dated 23 July 1979, reasoning out that --

"x x x, petitioners have established that respondent Toeg 'acquired' the 1,155 shares not through a sale made to him by petitioner Diploma or by any legitimate transfer of ownership thereof. Stated differently, petitioners have demonstrated that respondent Toeg stole the aforesaid shares. The verdict of the City Fiscal of Manila rendered in the criminal case (I.S. No. 79-4740) filed by petitioner Diploma against respondents Exekiel (sic) Toeg, Teodoro Bundang and Jacob (James) Isaac, involving the same shares in controversy, ascribed to the existence of a prima facie case of theft against said respondents and, as a result of which, an information, docketed as Criminal Case No. 46459, was filed before the Court of First Instance of Manila (See petitioners' Ex-Parte Manifestation). The fact that the City Fiscal of Manila believed that there exist a prima facie case of theft precludes any stigma of doubt as to the right of petitioners to the injunctive relief."

On 20 August 1979, private respondents appealed the order of the Hearing Officer dated 31 May 1979 to the SEC

en banc.

On 13 September 1979, while their appeal was pending with the SEC en banc, private respondents filed with this Court a petition for certiorari and prohibition, with prayer for the issuance of a restraining order, to annul and set aside the orders of the Hearing Officer dated 31 May 1979 and 23 July 1979 and to enjoin the therein respondents (now petitioners) from continuing with the proceedings in SEC Case No. 1719, docketed herein as G.R. No. 51435. On 9 November 1979, the Court dismissed the petition for lack of merit.

Thereafter, the private respondents filed with the SEC en banc a Manifestation and Motion[8] dated 31 March 1980, calling its attention to a letter-directive[9] dated 19 March 1980 of the Minister of Justice, then Hon. Ricardo C. Puno, which reversed the findings of the City Fiscal of Manila in I.S. No. 79-4740, entitled "Diploma vs. Toeg, et al." and directed the fiscal to move for the dismissal of the criminal case for theft against therein respondents (also herein respondents) for lack of prima facie evidence. Private respondents prayed that the incident pending before the Commission en banc be resolved immediately with the lifting of the preliminary injunction earlier issued by the Hearing Officer.

After the petitioners had filed their comment[10] on the aforesaid manifestation and motion, the SEC en banc issued on 21 April 1980 an order[11] the pertinent and dispositive portion of which reads as follows:

"Reading the appealed Order, the decisive factor in the issuance of the writ of injunction apparently was the resolution of the City Fiscal of Manila in I.S. No. 79-4740 finding prima facie case of theft against respondents therein, the same herein appellants Ezekiel F. Toeg, Teodoro Bundang and Jacob (James) Isaac. This finding, however, was lately reversed by the Minister of Justice in his letter-directive to the City Fiscal of Manila (See Annex 1, appellants' Manifestation and Motion). This being the case, the appealed Order should be reversed, the very foundation upon which the writ of preliminary injunction was issued had ceased to exist.

"WHEREFORE, the appealed Order is hereby reversed and, accordingly, the writ of preliminary injunction is hereby lifted and dissolved. Respondents-appellants may now proceed to perform their functions as officers elected on January 22, 1979 elections.

"Let the records of the case be remanded to the Hearing Officer for trial on the merits.

"SO ORDERED."

Hence, petitioners interposed the present petition, claiming that respondent SEC en banc acted without jurisdiction and with grave abuse of discretion in issuing the questioned order (21 April 1980), and that there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law other than this present petition.

Petitioners contend that the SEC acted without jurisdiction and with grave abuse of discretion in issuing the questioned order because: (a) it reversed a previous ruling of this Court in G.R. No. L-51435, and violated the law of the case which had already been established; (b) it effectively transferred more than 40% ownership of a corporation engaged in exploiting Philippine natural resources from a Filipino to a disqualified alien; (c) it effectively pre-judged the case on the merits, disturbed the status quo and placed private respondents in an undue advantage over the petitioners; (d) it was based on evidence not adduced before the SEC but on evidence adduced before the Manila City Fiscal and on considerations of proof appropriate for a criminal case and not for an administrative litigation; and (e) it legitimized a special stockholders' meeting for the election of corporate directors despite the absence of notice to all stockholders as required by the corporate by-laws.

The petitioners' contention that the dismissal by this Court of the private respondents' earlier petition for certiorari in G.R. No. 51435 questioning the orders of the SEC hearing officer in SEC Case No. 1719, dated 31 May 1979 and 23 July 1979, constitutes the "law of the case" which precluded the SEC en banc from ruling again on the

same issue of whether petitioners were entitled to a writ of preliminary injunction, is untenable.

“‘Law of the case’ has been defined as the opinion delivered on a former appeal. More specifically, it means that whatever is once irrevocably established, as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be facts of the case before the court.”[12]

In this connection, it is well to recall that in G.R. No. 51435, the petitioners therein, who are now the private respondents in this case, contended that the SEC, thru its hearing officer, acted without jurisdiction or with grave abuse of discretion in issuing the disputed orders on the ground that the petition in SEC Case No. 1719, although denominated as a Petition for Nullification of Transfer of Shares and of Directors' Election was in reality an action for quo warranto which is not cognizable by the Supreme Court or by the Court of First Instance (now Regional Trial Court). The Court, however, simply dismissed the petition for lack of merit in a minute resolution of 9 November 1979 without explaining the reasons on which it was predicated. It may be stated that in dismissing the petition, the Court merely resolved the point in issue, i.e., the regularity of the issuance of the questioned orders and held that the same were issued with jurisdiction and without grave abuse of discretion. It should be emphasized however that the Court in dismissing the petition did not make any ruling on the merits of the petition as to establish a controlling legal rule which had to be subsequently followed by the parties in the same case. Hence, no "law of the case" may be said to have been laid down in G.R. No. 51432.

In *Jarantilla vs. Court of Appeals*,[13] the facts were as follows: The petitioner therein Edgar Jarantilla was charged before the City Court of Iloilo for serious physical injuries thru reckless imprudence in Criminal Case No. 47207. Petitioner was acquitted in said criminal case "on reasonable doubt". Subsequently, the therein private respondent Jose Kuan Sing filed a separate civil action for damages against the petitioner with the Court of First Instance of Iloilo, Branch IV, docketed therein as Civil Case No. 9976. Acting upon the petitioner's motion to dismiss, the court a quo denied the motion. Thereafter, petitioner filed in this Court a petition for certiorari, prohibition and mandamus, assailing the trial court's order denying his motion to dismiss, docketed herein as G.R. No. 40992. The Court dismissed the petition for lack of merit in a resolution of 23 July 1975, and denied the motion for reconsideration for the same reason in a resolution dated 28 October 1975.

After trial, the court below rendered judgment in favor of the private respondent. On appeal, the Court of Appeals affirmed the decision of the lower court except as to the award of moral damages which it reduced from P25,000.00 to P18,000.00. A motion for reconsideration was denied by the Court of Appeals. Hence, petitioner filed a petition for review on certiorari with this Court docketed herein as G.R. No. 80194.

Petitioner raised a collateral issue by faulting the respondent Court of Appeals for refusing to resolve an assignment of error in his appeal therein, said respondent court holding that the main issue had been passed upon by this Court in G.R. No. L-40992. It was petitioner's position that the aforementioned two (2) resolutions of the Court in said case, the first dismissing the petition and the second denying the motion for reconsideration, did not constitute the "law of the case" which would control the subsequent proceedings in the controversy. In resolving this collateral issue, this Court held:

"The 'doctrine of the law of the case' has no application at the aforesaid posture of the proceedings when the two resolutions were handed down. While it may be true that G.R. No. L-40992 may have involved some of the issues which were thereafter submitted for resolution on the merits by the two lower courts, the proceedings involved there was for certiorari, prohibition and mandamus assailing an interlocutory order of the court a quo, specifically, its order denying therein defendant's motion to dismiss. This court, without rendering a specific opinion or explanation as to the legal and factual bases on which its two resolutions were predicated, simply dismissed the special civil action for lack of merit. It may very well be that such resolution was

premised on the fact that the Court, at that stage and on the basis of the facts then presented, did not consider that the denial order of the court a quo was tainted with grave abuse of discretion. To repeat, no rationale for such resolutions having been expounded on the merits of that action, no law of the case may be said to have been laid down in G.R. No. L-40992 to justify the respondent court's refusal to consider petitioner's claim that his former acquittal barred the separate action."

The herein petitioners also contend that the issuance of the questioned SEC en banc resolution constitutes a pre-judgment of the case because the private respondents may "now proceed to perform their functions as officers" although their election or appointment is still in issue and that it disturbed the status quo. The contention is untenable.

The SEC en banc did not pre-judge the case when it issued the questioned order. On the contrary, it was the Hearing Officer in SEC Case No. 1719 who had pre-judged the case when he issued the writ of preliminary injunction. For, in issuing the said writ, the Hearing Officer assumed as true the allegations contained in the petitioners' petition, and, in effect, disposed of the main case without trial, thereby shifting the burden of proof to the private respondents. In *Ortigas & Company Limited Partnership vs. Court of Appeals*,<sup>[14]</sup> this Court held:

"In general, courts should avoid issuing a writ of preliminary injunction which in effect disposes of the main case without trial. This is precisely the effect of the writ of preliminary mandatory injunction issued by the respondent appellate court. Having granted through a writ of preliminary mandatory injunction the main prayer of the complaint, there is practically nothing left for the trial court to try except the plaintiffs' claim for damages."

Again, in *Government Service Insurance System vs. Hon. Alfredo C. Florendo, etc., et al.*,<sup>[15]</sup> the Court held:

"x x x. Equally pertinent is the rule that courts should avoid issuing a writ of preliminary injunction which, in effect, would dispose of the main case without trial (or would result in) a prejudgment of the main case and a reversal of the rule on the burden of proof since it would assume the proposition which the petitioner is ineptly bound to prove x x x."

The issuance of the SEC en banc questioned order did not also disturb the status quo, which is the last actual peaceable uncontested status which preceded the controversy.<sup>[16]</sup> The status quo before the petitioners filed their petition for nullification of transfer of shares and of directors' election was that Ezekiel Toeg, Teodoro Bundang and Jacob Isaac were in possession of the stock certificates in dispute endorsed in blank by petitioner Nordy Diploma; that a stockholders' meeting had been held electing the directors of Woodworks, Inc.; and that a directors' meeting had been held electing the officers of the said corporation. The sole object of a preliminary injunction is to preserve the status quo until the merits of the main case can be heard.<sup>[17]</sup> In issuing the writ of preliminary injunction, the Hearing Officer in SEC Case No. 1719 did not maintain the status quo but restored the corporate situation preceding the status quo, i.e., the corporate situation before the stockholders' meeting held on 22 January 1979. The lifting by the SEC en banc of the writ of preliminary injunction merely restored the status quo.

The other issues raised by the petitioners are the main issues in SEC Case No. 1719; hence, the same should be resolved in said case.

WHEREFORE, the present petition is DISMISSED.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Sarmiento, and Regalado, JJ., concur.  
Paras, J., on leave.

---

[1] Rollo, p. 27

[2] Rollo, p. 199

[3] Id., p. 200

[4] Rollo, p. 50

[5] Rollo, p. 52

[6] Id., p. 66

[7] Id., p. 75

[8] Rollo, p. 91

[9] Id., pp. 97, 107

[10] Rollo, p. 99

[11] Id., p. 105

[12] Jarantilla vs. Court of Appeals, et al., G.R. No. 80194, 21 March 1989, 171 SCRA 429, 435-436, citing 21 C.J.S. 330

[13] G.R. No. 80194, 21 March 1989, 171 SCRA 429, 433-435

[14] G.R. No. 79128, 16 June 1988, 162 SCRA 165, 169

[15] G.R. No. L-48603, 29 September 1989

[16] Rodulfa vs. Alfonso, 76 Phil. 225

[17] Ibid.

**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.