

LUIS TIRSO RIVILLA, LOURDES COJUANGCO RIVILLA, ROSARIO AFRICA, OSCAR T. AFRICA AND ERLINDA G. GONZALES, PETITIONERS, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT, HON. FILEMON...

G.R. No. 78170. July 31, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals (formerly Intermediate Appellate Court),[1] in CA-G.R. SP No. 08986, dated 30 October 1986, denying due course to the petition, as well as its resolution, dated 10 April 1987, denying the petitioners' Motion for Reconsideration.

The antecedents are as follows:

On 9 October 1984, private respondent Cornelio T. Rivera filed with the Regional Trial Court of Quezon City, Branch XCIV, a complaint with prayer for preliminary attachment[2] against the C.R. Agro Industrial Development Corporation and herein petitioners together with Renato M. Leuterio and Erlinda Victoria, docketed therein as Civil Case No. Q-43027, alleging inter alia that:

"III

"On April 29, 1981, defendants Renato M. Leuterio and Erlinda Victoria, who were Sr. Vice President and Assistant Vice President and Comptroller, respectively, of defendant corporation and who were duly authorized by the Controlling Stockholder's [sic] and/or officers of the same, corporation, namely:

- a) Luis Tirso Rivilla - Board Chairman
- b) Lourdes Cojuangco Rivilla - President
- c) Rosalina Vidal - Executive Vice-President and Treasurer
- d) Rosario Africa – Stockholder
- e) Oscar Africa – Stockholder
- f) Erlinda C. Gonzales - Stockholder

issued a "Promissory Note" in the name of the defendant Corporation in favor of plaintiff, bearing Serial No. 5159 with maturity value of TWO HUNDRED FOURTEEN THOUSAND EIGHT HUNDRED SEVENTY FIVE and 24/100 (P214, 875.24) which matured on June 30, 1981, x x x;

IV

"That after maturity of the aforesaid promissory note plaintiff on several occasions requested defendants, verbally and in writing, for payment of the promissory note plus the agreed interest at the rate of twenty four percent (24%) per annum;

V

"Defendants Luis Rivilla, Lourdes Rivilla, Rosalina Vidal, Renato Leuterio, Erlinda Victoria, Rosario Africa, Oscars Africa and Erlinda Gonzales who were the Controlling Stock- holders and/or officers of the defendant corpo-ration clearly and actually used the said corporation as a shield to perpetuate or commit fraud and/or evade just and valid obligations against plaintiff by issuing a promissory note in the name of the said corporation without prior registration thereof with the Securities and Exchange Commission as required by the Securities Act, which fact has been established by the Ministry of Justice in its resolution in I.S. No. 83-00859, dated November 25, 1983, approving the filing of the appropriate charges against the above named defendants;

xxx xxx xxx

BASIS OF PRELIMINARY ATTACHMENT

IX

"Defendants were guilty of inceptive fraud in contracting or incurring the obligation upon which this present action is brought, by falsely misrepresenting that the aforesaid Promissory Note was registered with the Securities and Exchange Commission (SEC) as required by law, when in truth and in fact the same was issued without prior registration from the SEC, compounded by their assurances that the same note will be paid upon maturity, when up to the present date it remained unpaid;"[3]

Instead of filing their answer, petitioners moved to dismiss[4] the complaint on the ground that the Securities and Exchange Commission (SEC) has original and exclusive jurisdiction over the subject of the complaint, and in support thereof, they argued that the complaint charged the petitioners of being perpetrators of devices and schemes amounting to fraud and misrepresentation. Private respondent opposed the motion.[5] Thereafter, on 9 May 1985, the court a quo issued an order,[6] denying the motion to dismiss, and required petitioners to file their answer within five (5) days from receipt thereof.

Petitioners then filed with the Court of Appeals (formerly Intermediate Appellate Court) a petition for certiorari with prayer for the issuance of restraining order and/or writ of preliminary injunction,[7] to annul and set aside the order of 9 May 1985, claiming that the court a quo acted with grave abuse of discretion or in excess of juris-diction in ruling that it has jurisdiction over the case. The petition was docketed as CA-G.R. SP No. 08986.

On 30, October 1986, the appellate court promulgated a decision,[8] denying due course to the petition and lifted the restraining order it had issued on 21 May 1986. It ruled, among others, that the trial court did not err in assuming jurisdiction over the case, it appearing clearly from the averments of the complaint that the case is for a sum of money; that the jurisdiction of the SEC refers to intra-corporate disputes and to regulation of the operations of corporations; and that the present case may not be considered a controversy of intra-corporate nature and, much less, one which calls for the exercise of the regulatory functions of the SEC.

Petitioners moved for reconsideration[9] but the same was denied in the resolution[10] of 10 April 1987. Hence, the present petition.

The only issue to be resolved in the instant case is whether or not Civil Case No. Q-43027 is within the

jurisdiction of the Regional Trial Court or that of the SEC.

Petitioners maintain that the present case falls within the original and exclusive jurisdiction of the SEC, specifically, under paragraph (a), Sec. 5 of PD No. 902-A because the private respondent's complaint in paragraphs 5 and 9 thereof clearly and unequivocally charges them of being perpetrators of devices and schemes amounting to fraud and misrepresentation.

The jurisdiction of the Securities and Exchange Commission is found in Sec. 5, P.D. No. 902-A, which provides as follows:

"Sec. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving,

(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."

In *Union Glass & Container Corporation, et al. vs. The Securities and Exchange Commission, et al.*,^[11] the Court held that:

"This grant of jurisdiction must be viewed in the light of the nature and function of the SEC under the law. Section 3 of PD No. 902-A confers upon the latter 'absolute jurisdiction, supervision, and control over all corporations, partnerships or associations, who are grantees of primary franchise and/or license or permit issued by the government to operate in the Philippines x x x.' The principal function of the SEC is the supervision and control over corporations, partnerships and associations with the end in view that investment in these entities may be encouraged and protected, and their activities pursued for the promotion of economic development.

It is in aid of this office that the adjudicative power of the SEC must be exercised. Thus the law explicitly specified and delimited its jurisdiction to matters intrinsically connected with the regulation of corporations, partnerships and associations and those dealing with the internal affairs of such corporations, partnerships or associations."

Again, in *Abejo vs. De la Cruz*,^[12] the Court held that the expanded jurisdiction of the SEC is "in line with the government's policy of encouraging investments, both domestic and foreign, and more active public participation in the affairs of private corporations and enterprises through which desirable activities may be pursued for the promotion of economic development; and to promote a wider and more meaningful distribution of wealth."

In other words, the jurisdiction of the SEC should be construed in relation to its power of control and supervision over all corporations to encourage active public participation in the affairs of private corporations by way of investments.

A careful review of the record shows that the case at bar is not simply an action for the recovery of a sum of money, as held by the Court of Appeals. It springs from an investment made by private respondent with the C.R.

Agro Industrial Development Corporation, as evidenced by a promissory note issued in the name of the said corporation, which has already matured. Private respondent now seeks the return of his investment by the corporation, and more particularly, by herein petitioners, its corporate officers and/or controlling stockholders. In his complaint, private respondent alleged that petitioners actually used the corporation as a shield to perpetrate or commit fraud and/or evade their just and valid obligation to him by issuing the promissory note in the name of the corporation without prior registration thereof with the SEC as required by the Securities Act, and by falsely representing that it was registered with the SEC.[13]

Evidently, the present controversy is within the contemplation of Sec. 5 (a) of PD No. 902-A, as amended. The issuance of the promissory note in the name of C.R. Agro Industrial Development Corporation by the petitioners, who are its officers and/or controlling stockholders, without prior registration of the note with the SEC, as required by Sec. 4 of the Revised Securities Act in order to protect the investing public,[14] may be considered as a device or scheme amounting to fraud and misrepresentation, because by not registering the note with the SEC, the petitioners could later try to disclaim any liability under the said promissory note by claiming that the corporation has a separate and distinct personality from its officers and stockholders. Besides, petitioners could even divert the funds invested with the said corporation by re-investing them in other corporations or business ventures. This form of manipulation apparently resorted to by the petitioners is detrimental to the interest of the public, and contravenes the government's policy of encouraging investments in private corporations and enterprises.

In the same case of Abejo vs. De la Cruz,[15] the issue involved was which entity - between the Regional Trial Court and the Securities and Exchange Commissions (SEC) - had original and exclusive jurisdiction over the dispute between principal stockholders of the corporation Pocket Bell Philippines, Inc., namely, the spouses Jose Abejo and Aurora Abejo and the purchaser, Teletronics Systems, Inc. of their 133,000 minority shareholdings and of 63,000 shares registered in the name of Virginia Braga and covered by five stock certificates endorsed in blank by her, and the spouses Agapito Braga and Virginia Braga, erstwhile majority stockholders. With the said purchases, Teletronics would become the majority stockholder, holding 56% of the outstanding stock and voting power of the corporation Pocket Bell. With the said purchases in 1982, Teletronics requested the corporate secretary of the corporation, Norberto Braga, to register and transfer to its name, and those of its nominees the total 196,000 Pocket Bell shares in the corporation's transfer book, cancel the surrendered certificates of stock and issue the corresponding new certificates of stock in its name and those of its nominees. The corporate secretary refused. Thereafter, the Bragas filed with the Regional Trial Court of Pasig, Civil Case No. 48746 for rescission and annulment of the sale of the shares of stock in Pocket Bell made by the Abejo in favor of Teletronics and declaration of nullity of any transfer, assignment or endorsement of Virginia Braga's stock certificates for 63,000 shares in Pocket Bell to Teletronics. The Abejos moved to dismiss the complaint on the ground that the SEC has original and exclusive jurisdiction over the case, which Judge Gregorio Pineda granted. However, on motion of the Bragas, Judge Rafael dela Cruz rescinded the order, and thereafter denied the Abejos' motion for reconsideration. Hence, the Abejos filed with this Court a petition for certiorari. In deciding the case for jurisdiction by the SEC, the Court held, among others, that:

"The dispute therefore clearly falls within the general classification of cases within the SEC's original and exclusive jurisdiction to hear and decide, under the aforequoted governing section 5 of the law. Insofar as the Bragas and their corporate secretary's refusal on behalf of the corporation Pocket Bell to record the transfer of the 56% majority shares to Teletronics may be deemed a device or scheme amounting to fraud and misrepresentation employed by them to keep themselves in control of the corporation to the detriment of Teletronics (as buyer and substantial investor in the corporate stock) and the Abejos (as substantial stockholders-sellers), the case fall under paragraph (a). x x x." [16]

If, indeed, the corporate secretary's refusals in the Abejo case to record the transfer of the 56% majority shares to Teletronics may be deemed a device or scheme amounting to fraud and misrepresentation, with equal if not more reason may the corporate officers' manipulation in the case at bar be likewise so considered.

Accordingly, the Court holds that the RTC of Quezon City, Branch XCVI, has no jurisdiction to hear and decide Civil Case No. Q-43027 and that the said case is within the original and exclusive jurisdiction of the SEC under Sec. 5(a) of PD No. 902-A, as amended.

WHEREFORE, the petition is GRANTED and the questioned decision, dated 30 October 1986, and resolution, dated 10 April 1987, of the Court of Appeals are hereby SET ASIDE, and a new one is hereby entered DISMISSING the complaint in Civil Case No. Q-43027, without prejudice to its re-filing with the Securities and Exchange Commission.

SO ORDERED.

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

[1] Fourth Division, penned by Justice Fidel P. Purisima and concurred in by Justices Lorna S. Lombos-De La Fuente and Pedro A. Ramirez.

[2] Rollo, p. 61

[3] Rollo, pp. 62-66

[4] Id., p. 84

[5] Id., p. 93

[6] Id., p. 95

[7] Id., p. 120

[8] Id., p. 19

[9] Id., p. 108

[10] Id., p. 24

[11] 126 SCRA 38

[12] 149 SCRA 654, 662

[13] Complaint, Pars. 5 and 9, SUPRA

[14] See Agbayani, Commercial Laws of the Philippines, Vol. 3, 1984 Ed., p. 674

[15] SUPRA

[16] 149 SCRA 665

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