

MITSUMI & CO., LTD., PETITIONER, VS. HON. MANUEL G. ABELLO, CHAIRMAN, ROSARIO N. LOPEZ, GONZALO T. SANTOS, JR., JULIO A. SULIT, JR., AND JESUS J. VALDEZ, ASSOCIATE COMMISSIONERS ...

G.R. Nos. 61067-68. November 25, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition to nullify and set aside two orders (reproduced below) which were issued by the Securities and Exchange Commission (SEC) en banc and to direct the dismissal of SEC Case No. 001614.

The antecedent facts are the following:

SEC Case No. 001614 was filed by Atlas Shipping Lines, Inc. (ATLAS). In the petition ATLAS asked that the license of Mitsui & Co., Ltd. (MITSUI) to do business in the Philippines be revoked for alleged violations of Philippine laws and of the conditions imposed by the Office of the President of the Philippines relative to the sale of an ocean-going vessel by ATLAS to MITSUI.

MITSUI moved to quash/dismiss the petition on the ground that the SEC has no jurisdiction to entertain it. MITSUI also claimed that the allegations in the petition do not constitute a cause of action for the suspension or revocation of its license to do business in the Philippines.

SEC Hearing Officer Emmanuel R. Sison denied the motion of MITSUI. A motion for reconsideration was filed but it was denied.

MITSUI then filed a petition with this Court which was docketed as G.R. No. 50101. The respondents in the petition were ATLAS, the SEC and Emmanuel R. Sison as SEC Hearing Officer. The petition prayed that the order of Sison denying MITSUI's motion to quash/dismiss be annulled. The petition invoked the same grounds in support of the motion which had been denied.

On December 6, 1979, upon the recommendation of Madame Justice Melencio-Herrera, this Court issued an en banc resolution which reads as follows:

"G.R. No. 50101 (Mitsui and Co., Ltd. vs. Atlas Shipping Lines, Inc., et al.). - Considering the allegations contained, the issues raised and the arguments adduced in the petition for certiorari with application for writ of preliminary injunction, the respondents' comments thereon; the petitioner's reply to the said comments; respondent Atlas Shipping Lines, Inc. 's rejoinder and the petitioner's surrejoinder, the Court Resolved to DISMISS the petition for lack of merit." (Rollo of G.R. No. 50101, p. 511.)

An entry of judgment was made on July 18, 1980. (*Idem*, p. 618.)

On October 6, 1980, MITSUI filed a motion with the SEC Hearing Officer praying that Case No. 001614 be elevated to the SEC en banc but the motion was denied. On January 8, 1981, MITSUI appealed to the SEC en banc seeking to nullify the order of the Hearing Officer denying its motion to elevate the case to SEC en banc.

The SEC en banc issued the following orders which MITSUI now assails, namely:

Order of December 29, 1981:

"This is an Appeal and/or Petition for Review filed by respondent Mitsui & Co., Ltd., which seeks, in effect, to nullify the Order, dated December 8, 1980, of Hearing Officer Emmanuel R. Sison, denying, for lack of merit, its motion to elevate SEC Case No. 1614 to the Commission en banc.

"Considering that the order sought to be reviewed is an interlocutory, not a final order, the remedy of appeal would not lie, in line with Section 1, Rule XVI, New Rules of Procedure of the SEC. The Commission is therefore treating the same as a petition for review, akin to certiorari. The Commission, after considering all the allegations, finds and so holds that the Hearing Officer in this case possesses the necessary jurisdiction to act on the said motion, and has not exceeded said jurisdiction, nor gravely abused his discretion, in denying the said motion to elevate the case to the Commission en banc, as to warrant the annulment or modification of said order in question.

"In view thereof, the appeal and/or petition for review of respondent is hereby dismissed for lack of merit. The Hearing Officer is, therefore, directed to proceed with the preliminary conference and trial, if necessary, of the case." (Rollo of G.R. 61067-68, p. 104.)

Order of June 18, 1982:

"After mature consideration and discussion, the Commission en banc Resolves to affirm its order dated December 29, 1981. Consequently, the motion for reconsideration of Respondent is hereby DENIED for lack of merit. This Commission en banc shall not entertain a second motion for reconsideration or any further delays. The Hearing Officer is therefore directed to proceed immediately with the hearing on the merits after the issues are joined." (Idem, p. 131.)

The petition now before Us is substantially the same as the previous one which was dismissed for lack of merit. The only difference is in respect of the public respondents. Whereas the public respondent in G.R. No. 50101 was Hearing Officer Sison, the instant petition names the members of the SEC as the respondents. The petition, as in the previous one, alleges lack of jurisdiction on the part of the SEC to hear the petition of ATLAS. It also alleges that the grounds set forth by ATLAS in its petition do not constitute grounds for the revocation of MITSUI's license to do business in the Philippines.

It is obvious that the instant petition, like the previous one, is utterly lacking in merit and was filed for dilatory purposes. Moreover, the petition treats this Court in a cavalier fashion. Petitioner thus deserves an exemplary reaction.

WHEREFORE, the petition is dismissed for lack of merit and for the reasons stated above, the petitioner is adjudged to pay treble costs. This resolution is final.

SO ORDERED.

Fernando, C.J., Makasiar, Aquino, Concepcion, Jr., Guerrero, De Castro, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee and Vasquez, JJ., in the result.

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