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THIRD DIVISION

[G.R. No. 203678. February 17, 2016]

CONCORDE CONDOMINIUM, INC., by itself and comprising the Unit Owners of Concorde Condominium Building, *petitioner, vs.* **AUGUSTO H. BACULIO; NEW PPI CORPORATION; ASIAN SECURITY AND INVESTIGATION AGENCY and its security guards; ENGR. NELSON B. MORALES, in his capacity as Building Official of the Makati City Engineering Department; SUPT. RICARDO C. PERDIGON, in his capacity as City Fire Marshal of the Makati City Fire Station; F/C SUPT. SANTIAGO E. LAGUNA, in his capacity as Regional Director of the Bureau of Fire Protection-NCR, and any and all persons acting with or under them,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; JURISDICTION; JURISDICTION OVER THE SUBJECT MATTER OF A CASE IS CONFERRED BY LAW AND DETERMINED BY THE ALLEGATIONS IN THE COMPLAINT.—** "[J]urisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein."

2. **ID.; ID.; AS COURTS OF GENERAL JURISDICTION, DESIGNATED SPECIAL COMMERCIAL COURTS AND THE REGULAR REGIONAL TRIAL COURTS (RTCs)**

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ARE BOTH CONFERRED BY LAW THE POWER TO HEAR AND DECIDE CIVIL CASES IN WHICH THE SUBJECT OF THE LITIGATION IS INCAPABLE OF PECUNIARY ESTIMATION.— As a rule, actions for injunction and damages lie within the jurisdiction of the RTC, pursuant to Section 19 of Batas Pambansa Blg. 129, otherwise known as the Judiciary Reorganization Act of 1980, as amended by R.A. 7691. x x x Meanwhile, Section 6(a) of P.D. No. 902-A empowered the SEC to issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it exercises original and exclusive jurisdiction x x x However, jurisdiction of the SEC over intra-corporate cases was transferred to Courts of general jurisdiction or the appropriate Regional Trial Court when R.A. No. 8799 took effect on August 8, 2000. x x x In *GD Express Worldwide N. V., et al. v. Court of Appeals (4th Div.) et al.,* the Court stressed that Special Commercial Courts are still considered courts of general jurisdiction which have the power to hear and decide cases of all nature, whether civil, criminal or special proceedings, x x x In *Gonzales v. GJH Land, Inc., et al.,* the Court *en banc,* voting 12-1, explained [that the] transfer of jurisdiction over cases enumerated in Section 5 of P.D. 902-A was made to the RTCs in general, and not only in favor of particular RTC branches *(Special Commercial Courts)*. [Thus, it is] clearly settled that as courts of general jurisdiction, the designated Special Commercial Courts and the regular RTCs are both conferred by law the power to hear and decide civil cases in which the subject of the litigation is incapable of pecuniary estimation, such as an action for injunction.

3. ID.; PROVISIONAL REMEDIES; CONCEPT OF AN ACTION FOR INJUNCTION AS AN ORDINARY CIVIL ACTION.— The concept of an action for injunction, as an ordinary civil action, was discussed in *BPI v. Hong, et al*. as follows: An action for injunction is a suit which has for its purpose the enjoinment of the defendant, perpetually or for a particular time, from the commission or continuance of a specific act, or his compulsion to continue performance of a particular act. It has an independent existence, and is distinct from the ancillary remedy of preliminary injunction which cannot exist except only as a part or an incident of an independent action or proceeding. In an action for injunction, the auxiliary remedy of preliminary injunction, prohibitory or mandatory, may issue.

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APPEARANCES OF COUNSEL

Cruz & Capule Law Offices for petitioner.

Norman R. Gabriel for respondents Augusto Baculio and New PPI, Corp.

Santiago Arevalo Asuncion & Associates for respondent Asian Security & Investigation Agency.

Amando A. Fabio for respondent Building Official of Makati City.

Magtanggol M. Castro, Charina A. Soria & *Anthony Lemuel T. Lim* for Supt. Ricardo Perdigon & Fire Chief Santiago E. Laguna.

D E C I S I O N

PERALTA, *J.*:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the Order dated June 28, 2012 and Resolution dated September 20, 2012 of the Regional Trial Court (*RTC*) of Makati City, Branch 149,[1] which dismissed Civil Case No. 12-309 for Injunction with Damages for lack of jurisdiction.

The antecedent facts are as follows:

On April 16, 2012, petitioner Concorde Condominium, Inc., by itself and comprising the Unit Owners of Concorde Condominium Building, (*petitioner*) filed with the Regional Trial Court (*RTC*) of Makati City a Petition for Injunction [with Damages with prayer for the issuance of a Temporary Restraining Order (*TRO*), Writ of Preliminary (Prohibitory) Injunction, and Writ of Preliminary Mandatory Injunction] against respondents New PPI Corporation and its President Augusto H. Baculio; Asian Security and Investigation Agency and its security guards, Engr. Nelson B. Morales in his capacity as Building Official of the Makati City Engineering Department; Supt. Ricardo C.

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[1] Penned by Presiding Judge Cesar O. Untalan.

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Perdigon in his capacity as City Fire Marshal of the Makati City Fire Station; F/C Supt. Santiago E. Laguna, in his capacity as Regional Director of the Bureau of Fire Protection NCR, and any and all persons acting with or under them (*respondents*).

Petitioner seeks (1) to enjoin respondents Baculio and New PPI Corporation from misrepresenting to the public, as well as to private and government offices/agencies, that they are the owners of the disputed lots and Concorde Condominium Building, and from pushing for the demolition of the building which they do not even own; (2) to prevent respondent Asian Security and Investigation Agency from deploying its security guards within the perimeter of the said building; and (3) to restrain respondents Engr. Morales, Supt. Perdigon and F/C Supt. Laguna from responding to and acting upon the letters being sent by Baculio, who is a mere impostor and has no legal personality with regard to matters concerning the revocation or building and occupancy permits, and the fire safety issues of the same building. It also prays to hold respondents solidarily liable for actual damages, moral damages, exemplary damages, attorney's fees, litigation expenses and costs of suit.

The case was docketed as Civil Case No. No. l2-309 and raflled to the Makati RTC, Branch 149, which was designated as a Special Commercial Court.[2]

On April 24, 2012, the RTC called the case for hearing to determine the propriety of issuing a TRO, during which one Mary Jane Prieto testified and identified some documents. While she was undergoing cross- examination by a counsel from the Office of the Solicitor General (*OSG*) relative to the fire deficiencies of petitioner's building, the RTC interrupted her testimony to find a better solution to the problem, and issued an Order which reads:

Wherefore, this court ordered Supt. Ricardo C. Perdigon, Fire Marshal of Makati City, to conduct an inspection of Concorde Condominium Building. He is hereby ordered to submit a report

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[2] Per A.M. No. 03-03-03-SC dated June 27, 2006.

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on his investigation not later than 5:00 o'clock in the afternoon tomorrow.

In the same manner, the Building Official of Makati City, being represented by Atty. Fabio is also hereby ordered to conduct an investigation on the status of the said building to ascertain whether it [is] still structurally sound to stand. Such report shall be submitted to this court not later than 5:00 o'clock in the afternoon tomorrow.

If the report of the Building Official is negative, the unit owners of the condominium will be given the opportunity to be heard on whether to condemn the building or not.

In the same manner, the alleged owner of the land, who should have transferred it to the condominium corporation once the latter was created, and it appears that it was not complied with, they are also given the opportunity to get their own structural engineer to ascertain the structural soundness of the building. Afterwhich, the court will issue the necessary order whether to condemn or not the building and the President of the condominium corporation has acceded to such undertaking because that's the only way how to give them fair play and be heard on their right as condominium owner of Concorde Building located at 200 Benavidez corner Salcedo Streets, Legaspi Village, Makati City.

The President of the condominium corporation is hereby given, if there is still a chance to repair, four (4) months from April 30, 2012 or up to August 30, 2012 to remedy all those problems and/or deficiencies of the building.

The other parties are hereby enjoined not to threaten, interfere or molest the condominium unit owners of said building. Any other party, including the herein parties, who will obstruct the smooth implementation of this Order, is already considered to have committed a direct contempt of the order of the court.

Let the continuation of the testimony of Ms. Mary Jane Prieto be set on September 17, 2012 at 8:30 in the morning.

SO ORDERED.[3]

Meanwhile, respondents Baculio and New PPI Corporation filed an Urgent Motion to Re-Raffle dated April 25, 2012,

[3] *Rollo,* pp. 201-202.

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claiming that it is a regular court, not a Special Commercial Court, which has jurisdiction over the case.

In an Order dated April 26, 2012, the RTC denied the motion to re-raffle on the ground of failure to comply with Sections 4[4] and 5[5] of Rule 15 of the Rules of Court.

In their Motion to Vacate Order and Motion to Dismiss dated May 8, 2012, respondents Baculio and New PPI Corporation assailed the RTC Order dated April 24, 2012, stating that the case is beyond its jurisdiction as a Special Commercial Court. Respondents claimed that the petition seeks to restrain or compel certain individuals and government officials to stop doing or performing particular acts, and that there is no showing that the case involves a matter embraced in Section 5 of Presidential Decree *(P.D.)* No. 902-A, which enumerates the cases over which the SEC *[now the RTC acting as Special Commercial Court pursuant to Republic Act (R.A.) No. 8799]* exercises exclusive jurisdiction. They added that petitioner failed to exhaust administrative remedies, which is a condition precedent before filing the said petition.

In an Order dated June 28, 2012, the RTC dismissed the case for lack of jurisdiction. It noted that by petitioner's own allegations and admissions, respondents Baculio and New PPI Corporation are not owners of the two subject lots and the building. Due to the absence of intra-corporate relations between the parties, it ruled that the case does not involve an intra-corporate controversy cognizable by it sitting as a Special Commercial

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[4] Section 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

[5] Section 5. *Notice of Hearing* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

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Court. It also held that there is no more necessity to discuss the other issues raised in the motion to dismiss, as well as the motion to vacate order, for lack of jurisdiction over the case.

Petitioner filed a motion for reconsideration of the Order dated June 28, 2012, which the RTC denied for lack of merit.[6] Hence, this petition for review on *certiorari.*

Petitioner raises a sole question of aw in support of its petition:

A.

THE REGIONAL TRIAL COURT COMMITTED A MANIFEST ERROR OF LAW AND ACTED IN A MANNER CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE IN DISMISSING THE PETITION ON THE GROUND OF LACK OF JURISDICTlON.[7]

Petitioner contends that its petition for injunction with damages is an ordinary civil case correctly filed with the RTC which has jurisdiction over actions where the subject matter is incapable of pecuniary estimation. However, petitioner claims that through no fault on its part, the petition was raffled to Branch 149 of the Makati RTC, a designated Special Commercial Court tasked to hear intra-corporate disputes.

Petitioner notes that R.A. 8799 merely transferred the Securities and Exchange Commission's jurisdiction over cases enumerated under Section 5 of P.D. No. 902-A to the courts of general jurisdiction or the appropriate Regional Trial Court, and that there is nothing in R.A. 8799 or in A.M. No. 00-11-03-SC which would limit or diminish the jurisdiction of those RTCs designated as Special Commercial Courts. Petitioner stresses that such courts shall continue to participate in the raffle of other cases, pursuant to OCA Circular No. 82-2003 on Consolidation of Intellectual Property Courts with Commercial Court. It insists that for purposes of determining the jurisdiction of the RTC, the different branches thereof (in case of a multiple sala court) should not

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[6] *Rollo*, 49.

[7] *Id*. at 33.

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be taken as a separate or compartmentalized unit. It, thus, concludes that the designation by the Supreme Court of Branch 149 as a Special Commercial Court did not divest it of its power as a court of general jurisdiction.

Petitioner also submits that prior to the issuance of the Order setting the case for hearing on April 24, 2012, the Presiding Judge of Branch 149 had already determined from the averments in the petition that it is an ordinary civil action and not an intra-corporate matter; thus, he should have referred it back to the Executive Judge or the Office of the Clerk of Court for re-raffle to other branches of the RTC, instead of calendaring it for hearing or dismissing it.

For public respondents Superintendent Ricardo C. Pedrigon and Fire Chief Superintendent Santiago E. Laguna, the OSG avers that the petition for review on *certiorari* should be denied for lack of merit. It points out that petitioner failed to exhaust administrative remedies, *i.e.,* appeal the revocation of the building and occupancy permits with the Department of Public Works and Highways *(DPWH)* Secretary, pursuant to Section 307 of the National Building Code *(Presidential Decree No. 1096);* hence, the filing of a petition for injunction with damages is premature and immediately dismissible for lack of cause of action.

The OSG further argues that even if the case is remanded back to the RTC, the same will not prosper due to procedural and substantive defects, and will only further clog the trial court's dockets, for the following reasons: (l) petitioner failed to implead an indispensable party, namely, the DPWH Secretary to whom the power to reinstate the building permit and the occupancy permit is lodged; (2) with regard to the occupancy permit and the "water sprinkler" clearance, they cannot be issued without a building permit; and (3) the said clearance cannot also be issued due to lack of certification from either the Building Official or Tandem, the structural engineers personally hired by petition, that the structural integrity of Concorde Condominium Building can withstand the necessary damage and load that would be caused by the installation of the water sprinkler system.

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For their part, respondents Baculio and New PPI Corporation aver that the petition filed before the RTC should be dismissed for lack of proper verification. They likewise assert that Branch 149 has no jurisdiction over the same petition because (l) such case is not an intra-corporate controversy; (2) petitioner failed to exhaust administrative remedies which is a condition precedent before filing such case; (3) the subject building is a threat to the safety of members of petitioner themselves and of the public in general; (4) the two lots allegedly owned by petitioner are both registered in the name of New PPI Corporation; and (5) the engineering firm hired by petitioner could not even guarantee the building's structural capacity.

Meanwhile, respondent Asian Security & Investigation Agency claims that petitioner's allegations against it are already moot and academic because it had already terminated its security contract with respondents New PPI Corporation and Baculio, and pulled out its guards from petitioner's premises. At any rate, it manifests that it is adopting as part of its Comment the said respondents' Comment/Opposition to the petition for review on *certiorari.*

Respondent Office of the Building Official of Makati City, represented by Engineer Mario V. Badillo, likewise contends that the petition for review on *certiorari* should be dismissed for these reasons: (1) that petitioner failed to exhaust administrative remedies which is a mandatory requirement before filing the case with the RTC of Makati City; (2) that Branch 149, as a Special Commercial Court, has jurisdiction over the said case because it is not an intra-corporate controversy; and (3) petitioner's building is old and dilapidated, and ocular inspections conducted show that several violations of the National Building Code were not corrected, despite several demands and extensions made by the Building Official.

The petition is impressed with merit.

In resolving the issue of whether Branch 149 of the Makati RTC, a designated Special Commercial Court, erred in dismissing the petition for injunction with damages for lack of jurisdiction over the subject matter, the Court is guided by the rule "that

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jurisdiction over the subject matter of a case is conferred by law and determined by the allegations in the complaint which comprise a concise statement of the ultimate facts constituting the plaintiff's cause of action. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein. The averments in the complaint and the character of the relief sought are the ones to be consulted. Once vested by the allegations in the complaint, jurisdiction also remains vested irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein."[8]

As a rule, actions for injunction and damages lie within the jurisdiction of the RTC, pursuant to Section 19 of Batas Pambansa Big. 129, otherwise known as the Judiciary Reorganization Act of 1980, as amended by R.A. 7691:[9]

Sec. 19. *Jurisdiction in civil cases*. Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigations is incapable of pecuniary estimation;

x x x x x x x x x

(6) In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising x x x judicial or quasi-judicial functions;

x x x x x x x x x

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds Three hundred thousand pesos (₱300,000.00) or, in such other cases in Metro Manila, where the demand exclusive of the above-mentioned items exceeds Four hundred thousand pesos (₱400,000.00).

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[8] *Padlan v. Dinglasan,* GR. No. 180321, March 20, 2013, 694 SCRA 91, 98-99.

[9] *BPI v. Hong, et al.,* 682 Phil. 66, 73 (2012).

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Meanwhile, Section 6 (a) of P.D. No. 902-A empowered the SEC to issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it exercises original and exclusive jurisdiction,[10] to wit:

(a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, 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; and

(c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.[11]

However, jurisdiction of the SEC over intra-corporate cases was transferred to Courts of general jurisdiction or the appropriate Regional Trial Court when R.A. No. 8799 took effect on August 8, 2000. Section 5.2 of R.A. No. 8799 provides:

SEC. 5.2 The Commission's jurisdiction over all cases enumerated under Section 5 or Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: *Provided,* that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall

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[10] *Id.* at 74.

[11] Sec. 5, P.D. No. 902-A.

retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

In *GD Express Worldwide N.V, et al. v. Court of Appeals (4th Div.) et al.,*[12] the Court stressed that Special Commercial Courts are still considered courts of general jurisdiction which have the power to hear and decide cases of all nature, whether civil, criminal or special proceedings, thus:

> x x x Section 5.2 of R.A. No. 8799 directs merely the Supreme Court's designation of RTC branches that shall exercise jurisdiction over intra-corporate disputes. Nothing in the language of the law suggests the diminution of jurisdiction of those RTCs to be designated as SCCs. The assignment of intra-corporate disputes to SCCs is only for the purpose of streamlining the workload of the RTCs so that certain branches thereof like the SCC can focus only on a particular subject matter.
>
> The designation of certain RTC branches to handle specific cases is nothing new. For instance, pursuant to the provisions of R.A. No. 6657 or the Comprehensive Agrarian Reform Law, the Supreme Court has assigned certain RTC branches to hear and decide cases under Sections 56 and 57 of R.A. No. 6657.
>
> The RTC exercising jurisdiction over an intra-corporate dispute can be likened to an RTC exercising its probate jurisdiction or sitting as a special agrarian court. The designation of the SCCs as such has not in anyway limited their jurisdiction to hear and decide cases of all nature, whether civil, criminal or special proceedings.[13]

In *Manuel Luis C. Gonzales and Francis Martin D. Gonzales v. GJH Land, Inc. (formerly known as S.J. Land Inc.), Chang Hwan Jang a.k.a. Steve Jang, Sang Rak Kim, Mariechu N. Yap and Atty. Roberto P. Mallari II,*[14] the Court *en banc,* voting 12-1,[15] explained why transfer of jurisdiction over cases

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[12] 605 Phil. 406 (2009).

[13] *Id.* at 418-419.

[14] G.R. No. 202664, November 10, 2015.

[15] Penned by Perlas-Bernabe, *J.*, with Sereno, *C.J.*, Carpio, Velasco Jr., Peralta, Bersamin, Del Castillo, Villarama Jr., Reyes, and Jardeleza, *JJ.,*

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enumerated in Section 5 of P.D. 902-A was made to the RTCs in general, and not only in favor of particular RTC branches *(Special Commercial Courts),* to wit:

As a basic premise, let it be emphasized that a court's acquisition of jurisdiction over a particular case's subject matter is different from incidents pertaining to the exercise of its jurisdiction. Jurisdiction over the subject matter of a case is **conferred by law**, whereas a court's **exercise of jurisdiction,** unless provided by the law itself, is governed by the Rules of Court or by the orders issued from time to time by the Court. In *Lozada v. Bracewell,* it was recently held that **the matter of whether the RTC resolves an issue in the exercise of its general Jurisdiction or of its limited jurisdiction as a special court is only a matter of procedure and has nothing to do with the question of jurisdiction**.

Pertinent to this case is RA 8799 which took effect on August 8, 2000. By virtue of said law, jurisdiction over cases enumerated in Section 5 of Presidential Decree No. 902-A was transferred from the Securities and Exchange Commission (SEC) to **the RTCs, being courts of general jurisdiction**. Item 5.2, Section 5 of RA 8799 provides:

SEC. 5. *Powers and Functions of the Commission.—*

x x x x x x x x x

5.2 **The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Courtt: *Provided,* that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over the cases**. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this code. The Commission shall retain jurisdiction over pending suspension of payment/rehabilitation cases filed as of 30 June 2000 until finally disposed. (Emphasis supplied)

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concurring; Leonardo-de Castro, *J.*, concurring in the result; Brion and Mendoza, *JJ.,* on leave; Perez, *J.* with dissenting opinion; and Leonen, *J.* with separate concurring opinion.

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The legal attribution of **Regional Trial Court as courts of general jurisdiction** stems from Section 19 (6) Chapter II of Batas Pambansa Bilang (BP) 129, known as "The Judiciary Reorganization Act of 1980:"

> Section 19. *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction:
>
> x x x x x x x x x
>
> (6) 1n all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions: . . .

As enunciated in *Durisol Philippines, Inc. v. CA*:

> The regional trial court, formerly the court of first instance, is a court of general jurisdiction. All cases, the jurisdiction over which is not specifically provided for by law to be within the jurisdiction of any other court, fall under the jurisdiction of the regional trial court.

To clarify, the word "or" in Item 5.2, Section 5 of RA 8799 was intentionally used by the legislature to particularize the fact that the phrase "the Courts of general jurisdiction" is equivalent to the phrase "the appropriate Regional Trial Court." In other words, the jurisdiction of the SEC over the cases enumerated under Section 5 PD 902-A was transferred to the courts of general jurisdiction, that is to say (or, otherwise known as), the proper Regional Trial Courts. This interpretation is supported by San Miguel Corp. *v*. Municipal Council, wherein the Court held that:

> [T]he word "or" may be used as the equivalent of "that is to say" and gives that which precedes it the same significance as that which follows it. It is not always disjunctive and is sometimes interpretative or expository of the preceding word.

Further, as may be gleaned from the following excerpt of the Congressional deliberations:

> Senator [Raul S.] Roco:
>
> x x x The first major departure is as regards the Securities and Exchange Commission. The Securities and Exchange Commission has been authorized under this proposal to reorganize itself. As an administrative agency, we strengthened it and at the same time we take away the quasi-judicial functions.

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> **The quasi-judicial functions are not given back to the court of general jurisdiction — The Regional Trial Court,** except for two categories of cases.
>
> In the case of corporate disputes, only those that are now submitted for final determination of the SEC will remain with the SEC. So, all those cases, both memos of the plaintiff and the defendant, that have been submitted for resolution will continue. At the same time cases involving rehabilitation, bankruptcy, suspension of payments and receiverships that were filed before June 30, 2000 will continue with the SEC. In other words, we are avoiding the possibility, upon approval of this bill, of people filing cases with the SEC, in manner of speaking, to select their court.
>
> x x x (Emphasis supplied)

Therefore, one must be disabused of the notion that the transfer of jurisdiction was made only in favor of particular RTC branches, and not the RTCs in general.

Having clearly settled that as courts of general jurisdiction, the designated Special Commercial Courts and the regular RTCs are both conferred by law the power to hear and decide civil cases in which the subject of the litigation is incapable of pecuniary estimation, such as an action for injunction, the Court will now examine the material allegations in the petition for injunction with damages, in order to determine whether Branch 149 of the Makati RTC has jurisdiction over the subject matter of the case.

In its petition for injunction with damages, Concorde Condominium, Inc. *(CCI),* by itself and comprising the unit owners of Concorde Condominium Building, alleged that:

> **8. CCI is the duly constituted Corporation or Association which owns the common areas in the project that comprises: (a) Lot 1 where the condominium stands and Lot 2 which serves as the parking lot for the benefit of the unit owners; and (b) Concorde Condominium Building ("the building") that was developed by Pulp and Paper Distributors, Inc. (now, allegedly [as claimed by respondent Baculio], the "New PPI Corp.").**

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8.1 Petitioner's ownership of both the two (2) lots and the building (except only the units specifically owned by unit owners) is undisputable, as can be clearly gleaned in the following provisions of the Master Deed with Declaration of Restrictions ("Master Deed"), as well as the Amended By-laws of petitioner Concorde Condominium, Inc.

x x x x x x x x x

8.4 At any rate, considering that the condominium corporation (herein petitioner) had already been established or incorporated many years ago, and that the Developer (or any subsequent transferor) had already sold the units in the building to the present unit owners/members, it therefore follows that Developer had thereby lost its beneficial ownership over Lots 1 and 2 in favor of herein petitioner.

9. **Unfortunately, PPI, as developer and engaging in unsound real estate business practice, altered the condominium plan to segregate a lot (Lot 2) from the common areas and fraudulently cause the issuance of a separate title thereof in the name of PPI.**

10. CCI has questioned said fraudulent act of PPI in Housing and Land Use Regulatory Board (HLURB) Case No. REM-050500-10982 entitled "Concorde Condominium, Incorporated *vs*. Pulp and Paper, Inc. *et al.*" The same case was elevated on appeal to the HLURB Board of Commissioners in a case entitled "Concorde Condominium, Incorporated, complainant *vs*. Pulp and Paper, Inc., *et al*., respondents, *vs*. Landmark Philippines Incorporated, *et al.,* Intervenors." In both cases, the HLURB ruled in favor of CCI.

11. PPI did not anymore appeal the aforementioned decision of the HLURB Board of Commissioners to the Office of the President, hence, the decision as against PPI is already final and executory.

x x x x x x x x x

12. Although HLURB has already decided that CCI or all the unit owners have vested rights over the subject lots, recent events have compelled petitioner to urgently seek from this Honorable Court the reliefs prayed for in the instant case, such as the immediate issuance of a temporary restraining order (TRO) and/or writ of preliminary injunction against respondents.

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x x x x x x x x x

14. At present, a certain Augusto H. Baculio (respondent herein), by himself and on behalf of New PPI Corp., deliberately, actively and with patent bad faith misrepresents and misleads the public and certain government offices/agencies that the lot where the building stands and the lot which serves as parking area are owned by New PPI Corp.

x x x x x x x x x

14.1 In a letter dated 31 January 20 I1, respondent Augusto Baculio, on behalf of New PPI Corp., representing themselves as owners of the above-mentioned lots, requested from the Makati Fire Station that the building be subjected to ocular inspection, x x x.

x x x x x x x x x

14.3 On 12 August 2011, respondent Augusto H. Baculio, with the same misrepresentation, sent another letter to respondent Supt. Ricardo C. Perdigon, City Fire Marshal of Makati requesting for verification or inspection of Concorde, x x x.

x x x x x x x x x

14.4 Worth noting in the aforementioned letter of respondent Baculio dated 12 August 2011 x x x is that, not only did he misrepresent that he or New PPI Corp. owns the two lots, but he likewise openly misrepresented that he owns the building, x x x and even requested *"x x x to address its 'demolition'* as the Concorde is already 40 years old."

x x x x x x x x x

14.7 In a letter dated 07 September 2011, respondent Supt. Ricardo C. Perdigon forwarded or elevated to respondent F/C Supt. Santiago E. Laguna, Regional Director of the Bureau of Fire Protection — NCR the matter about Concorde Condominium Building.

x x x x x x x x x

14.8 On 21 October 2011, CCI sent a letter to respondent F/C Supt. Santiago E. Laguna, informing the latter of the misrepresentations of respondents Augusto Baculio and New PPI Corp.

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x x x x x x x x x

14.9 The misrepresentation of respondents Baculio and New PPI Corp. did not stop there. On 17 November 2011, Mr. Baculio requested from Meralco for the cutting off of electricity in Concorde Condominium Building, apparently with the misrepresentation that he owns the building.

x x x x x x x x x

14.14 Moreover, on 7 March 2012, one of the unit owners in the building, Sister Lioba Tiamson, OSB, sought the assistance and intervention of Honorable Mayor Jejomar Erwin S. Binay, Jr. when Concorde received a letter dated 17 February 2012 from respondent Engr. Nelson B. Morales informing Concorde of the revocation of the building and occupancy permits even if the period of sixty (60) days to comply has not yet lapsed.

x x x x x x x x x

16. Moreover, sometime in November 2011, petitioner and its unit owners noted that security guards from Asian Security and Investigation Agency have stationed themselves on rotation basis 7 days a week/24 hours a day, within the perimeter of the building. Upon inquiry of one of the administration personnel, it was discovered that they were hired by respondent August H. Baculio/New PPI Corp.

x x x x x x x x x

16.5 The presence of respondent security agency and its security guards within the perimeter of the building poses threat to and sows serious fear and anxiety to the unit owners. Thus, they should be ordered to leave the premises.

17. Respondent Baculio and New PPI Corp.'s misleading, false, baseless and unauthorized acts of claiming ownership over the subject lots and building are clear violation of the rights of petitioner and its unit owners to maintain their undisturbed ownership, possession and peaceful enjoyment of their property. Hence, should be immediately estopped, restrained and permanently enjoined.

18. Moreover, respondents Baculio and New PPI Corp., by deceit and misrepresentation, are surreptitiously attempting to

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dispossess petitioner of Concorde building to the extent of using the instrumentality of the government to achieve this purpose.

19. Worse, respondent Baculio and New PPI Corp. by writing letters to Makati City Engineering Department, are pushing for the demolition ofthe building which they do not even own.

20. Surprisingly, respondent Engr. Nelson B. Morales has been responding to and acting upon the above-mentioned letters being sent by respondent Baculio despite the latter being a mere impostor and has no legal personality whatsoever with regard to the matters concerning the lots and Concorde Condominium Building.

x x x x x x x x x

20.9 It is therefore necessary that respondent Engr. Nelson Morales be enjoined from entertaining and acting upon the letters of respondent Baculio.

20.10 Respondent Eng. Morales should be immediately restrained from implementing the revocation of petitioner's building and occupancy permit.

20.11 Respondent Engr. Morales should also be immediately restrained from ordering the possible demolition of the building, as the building is structurally sound and stable, and does not pose any safety risks to occupants and passers-by.

x x x x x x x x x

21. Respondents Supt. Ricardo C. Perdigon and F/C Supt. Santiago E. Laguna have likewise been responding to and acting upon the above-mentioned letters being sent by respondent Baculio despite the latter being a mere impostor and has no legal personality whatsoever with regard to matters concerning the building.

22. Moreover, respondents Supt. Ricardo C. Perdigon and F/C Supt. Santiago E. Laguna unjustifiably refused, and continuously refuses to issue the necessary permit for the contractor x x x engaged by petitioner to be able to commence with the installation of a fire sprinkler system and to correct other fire safety deficiencies in the building.

22.1 Thus, it is certainly ironic that the Bureau of Fire Protection headed by said respondents x x x issued compliance

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order on petitioner to correct fire safety deficiencies, and yet, they refused to issue the necessary work permit to the contractor hired by petitioner.

22.2 Hence, respondents Supt. Perdigon md F/C Supt. Laguna should be directed to issue the necessary permit to the contractor engaged by petitioner.[16]

The concept of an action for injunction, as an ordinary civil action, was discussed in *BPI v. Hong, et al.*[17] as follows:

An action for injunction is a suit which has for its purpose the enjoinment of the defendant, perpetually or for a particular time, from the commission or continuance of a specific act, or his compulsion to continue performance of a particular act. It has an independent existence, and is distinct from the ancillary remedy of preliminary injunction which cannot exist except only as a part or an incident of an independent action or proceeding. In an action for injunction, the auxiliary remedy of preliminary injunction, prohibitory or mandatory, may issue.

There is no doubt that the petition filed before the RTC is an action for injunction, as can be gleaned from the allegations made and reliefs sought by petitioner, namely: (1) to enjoin respondents Baculio and New PPI Corporation from misrepresenting to the public, as well as to private and government offices/agencies, that they are the owners of the disputed lots and Concorde Condominium Building, and from pushing for the demolition of the building which they do not even own; (2) to prevent respondent Asian Security and Investigation Agency from deploying its security guards within the perimeter of the said building; and (3) to restrain respondents Engr. Morales, Supt. Perdigon and F/C Supt. Laguna from responding to and acting upon the letters being sent by Baculio, who is a mere impostor and has no legal personality with regard to matters concerning the revocation of building and occupancy permits, and the fire safety issues of the same building.

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[16] *Rollo,* pp. 173-191. (Emphasis added)

[17] *Supra* note 9.

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Applying the *relationship test*[18] and the *nature of the controversy test*[19] in determining whether a dispute constitutes an intra-corporate controversy, as enunciated in *Medical Plaza Makati Condominium Corporation v. Cullen,*[20] the Court agrees with Branch 149 that Civil Case No. 12-309 for injunction with damages is an ordinary civil case, and not an intra-corporate controversy.

A careful review of the allegations in the petition for injunction with damages indicates no intra-corporate relations exists between the opposing parties, namely (1) petitioner condominium corporation, by itself and comprising all its unit owners, on the one hand, and (2) respondent New PPI Corporation which Baculio claims to be the owner of the subject properties, together with the respondents Building Official and City Fire Marshal or Makati City, the Regional Director of the Bureau of Fire Protection, and the private security agency, on the other hand. Moreover, the petition deals with the conflicting claims of ownership over the lots where Concorde Condominium Building stands and the parking lot for unit owners, which were developed by Pulp and Paper Distributors, Inc. (now claimed by respondent Baculio as the New PPI Corporation), as well as the purported violations of the National Building Code which resulted in the revocation

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[18] An intra-corporate controversy is one which pertains to any of the following relationship: (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. Thus, under the relationship test, the existence or any of the above intra-corporate relations makes the case intra-corporate.

[19] Under the *nature of the 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. In other words, jurisdiction should be determined by considering both the relationship of the parties as well as the nature of the question involved.

[20] G.R.No. 181416, November 11, 2013, 709 SCRA 110.

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of the building and occupancy permits by the Building Official of Makati City. Clearly, as the suit between petitioner and respondents neither arises from an intra-corporate relationship nor does it pertain to the enforcement of their correlative rights and obligations under the Corporation Code, and the internal and intra-corporate regulatory rules of the corporation, Branch 149 correctly found that the subject matter of the petition is in the nature of an ordinary civil action.

The Court is mindful of the recent guideline laid down in the recent case of *Manuel Luis C. Gonzales and Francis Martin D. Gonzales v. GJH Land, Inc. (formerly known as S.J. Land Inc.), Chang Hwan Jang a.k.a. Steve Jang, Sang Rak Kim, Mariechu N. Yap and Atty. Roberto P. Mallari II*,[21] to wit:

> For further guidance, the Court finds it apt to point out that the same principles apply to the inverse situation of ordinary civil cases filed before the proper RTCs but wrongly raffled to its branches designated as Special Commercial Courts. In such a scenario, the ordinary civil case should then be referred to the Executive Judge for re-docketing as an ordinary civil case; thereafter, the Executive Judge should then order the raffling of the case to all branches of the same RTC, subject to limitations under existing internal rules, and the payment of the correct docket fees in case of any difference. Unlike the limited assignment/raffling of a commercial case only to branches designated as Special Commercial Courts in the scenarios stated above, the re-raffling of an ordinary civil case in this instance to all courts is permissible due to the fact that a particular branch which has been designated as a Special Commercial Court does not shed the RTC's general jurisdiction over ordinary civil cases under the imprimatur of statutory law, *i.e.,* Batas Pambansa Bilang (BP 129). To restate, the designation of Special Commercial Courts was merely intended as a procedural tool to expedite the resolution of commercial cases in line with the court's exercise of jurisdiction. This designation was not made by statute but only by an internal Supreme Court rule under its authority to promulgate rules governing matters of procedure and its constitutional mandate to supervise the administration of all courts and the personnel thereof. Certainly, an internal rule promulgated by the Court cannot go beyond the

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[21] G.R. No. 202664, November 10, 2015.

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commanding statute. But as a more fundamental reason, the designation of Special Commercial Courts is, to stress, merely an incident related to the court's exercise of jurisdiction, which, as first discussed, is distinct from the concept of jurisdiction over the subject matter. The RTC's general jurisdiction over ordinary civil cases is therefore not abdicated by an internal rule streamlining court procedure.[22]

It is apt to note, however, that the foregoing guideline applies only in a situation where the ordinary civil case filed before the proper RTCs was "wrongly raffled" to its branches designated as Special Commercial Courts, which situation does not obtain in this case. Here, no clear and convincing evidence is shown to overturn the legal presumption that official duty has been regularly performed when the Clerk of Court of the Makati RTC docketed the petition for injunction with damages as an ordinary civil case — not as a commercial case — and, consequently, raffled it among all branches of the same RTC, and eventually assigned it to Branch 149. To recall, the designation of the said branch as a Special Commercial Court by no means diminished its power as a court of general jurisdiction to hear and decide cases of all nature, whether civil, criminal or special proceedings. There is no question, therefore, that the Makati RTC, Branch 149 erred in dismissing the petition for injunction with damages, which is clearly an ordinary civil case. As a court of general jurisdiction, it still has jurisdiction over the subject matter thereof.

In view of the above discussion, the Court finds no necessity to delve into the other contentions raised by the parties, as they should be properly addressed by the Makati RTC, Branch 149 which has jurisdiction over the subject matter of the petition for injunction with damages.

WHEREFORE, the petition for review on *certiorari* is **GRANTED**. The Order dated June 28, 2012 and Resolution dated September 20, 2012 issued by the Regional Trial Court of Makati City, Branch 149, in Civil Case No. 12-309, are hereby

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[22] Citations omitted.

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REVERSED and **SET ASIDE**. Civil Case No. 12-309 is **REINSTATED** in the docket of the same branch which is further **ORDERED** to resolve the case with reasonable dispatch.

This Decision is immediately executory.

SO ORDERED.

Velasco, Jr. (Chairperson), Leonardo-de Castro,[*] *Perez,* and *Reyes, JJ.,* concur.

SECOND DIVISION

[G.R. No. 206758. February 17, 2016]

MARICEL S. NONAY, *petitioner, vs.* **BAHIA SHIPPING SERVICES, INC., FRED OLSEN LINES and CYNTHIA MENDOZA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; IN CASES WHERE A PETITION FOR *CERTIORARI* IS FILED WITHIN THE 60-DAY PERIOD BUT AFTER THE EXPIRATION OF THE 10-DAY PERIOD UNDER THE 2011 NATIONAL LABOR RELATIONS COMMISSION (NLRC) RULES OF PROCEDURE, THE COURT OF APPEALS (CA) CAN GRANT THE PETITION AND MODIFY, NULLIFY AND REVERSE A DECISION OR RESOLUTION OF THE NLRC ON THE GROUND OF GRAVE ABUSE OF DISCRETION.— Payment of the judgment award in labor cases does not always render a petition for certiorari filed before the Court of Appeals, or a petition

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[*] Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated February 15, 2016.