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FIRST DIVISION

[G.R. No. 208844. November 10, 2015]

F & S VELASCO COMPANY, INC., IRWIN J. SEVA, ROSINA B. VELASCO-SCRIBNER, MERCEDEZ SUNICO, and JOSE SATURNINO O. VELASCO,* *petitioners*, *vs*. **DR. ROMMEL L. MADRID, PETER PAUL L. DANAO, MANUEL L. ARIMADO, and MAUREEN R. LABALAN,** *respondents*.

SYLLABUS

1. COMMERCIAL LAW; CORPORATIONS; CORPORATION CODE; ALL TRANSFERS OF SHARES OF STOCK MUST BE REGISTERED IN THE STOCK AND TRANSFER BOOK IN ORDER TO BE BINDING ON THE CORPORATION, AND AN OWNER OF SHARES OF STOCK CANNOT BE ACCORDED THE RIGHTS PERTAINING TO A STOCKHOLDER — SUCH AS THE RIGHT TO CALL FOR A MEETING AND THE RIGHT TO VOTE, OR BE VOTED FOR — IF HIS OWNERSHIP OF SUCH SHARES IS NOT RECORDED IN THE STOCK AND TRANSFER BOOK.— [I]t must be clarified that Madrid's inheritance of Angela's shares of stock does not *ipso facto* afford him the rights accorded to such majority ownership of FSVCI's shares of stock. Section 63 of the Corporation Code governs the rule on transfers of shares of stock. x x x. Verily, all transfers of shares of stock must be registered in the corporate books in order to be binding on the corporation. Specifically, this refers to the Stock and Transfer Book, which is described in Section 74 of the same Code x x x. In this regard, the case of *Batangas Laguna Tayabas Bus Co., Inc. v. Bitanga* instructs that an owner of shares of stock cannot be accorded the rights pertaining to a stockholder - such as the right to call for a meeting and the right to vote, or be voted for - if his ownership of such shares is not recorded in the Stock and Transfer Book

* "Saturnino J. Velasco" and "Saturnino O. Velasco" in some parts of the records.

x x x. In the case at bar, records reveal that at the time Madrid called for the November 18, 2009 Meeting, as well as the actual conduct thereof, he was already the owner of 74.98% shares of stock of FSVCI as a result of his inheritance of Angela's 70.82% ownership thereof. However, records are bereft of any showing that the transfer of Angela's shares of stock to Madrid had been registered in FSVCI's Stock and Transfer Book when he made such call and when the November 18, 2009 Meeting was held.

2. ID.; ID.; ID.; ID.; THE CONTENTS OF THE GENERAL INFORMATION SHEET (GIS) SUBMITTED TO THE SECURITIES AND EXCHANGE COMMISSION (SEC) SHOULD NOT BE DEEMED CONCLUSIVE AS TO THE IDENTITIES OF THE REGISTERED STOCKHOLDERS OF THE CORPORATION, AS WELL AS THEIR RESPECTIVE OWNERSHIP OF SHARES OF STOCK, AS THE CONTROLLING DOCUMENT SHOULD BE THE STOCK AND TRANSFER BOOK.— [T]he CA erred in holding that Madrid complied with the required registration of transfers of shares of stock through mere reliance on FSVCI's GIS dated November 18, 2009. [I]t is noteworthy to point out that the submission of a GIS of a corporation before the SEC is pursuant to the objective sought by Section 26 of the Corporation Code which is to give the public information, under sanction of oath of responsible officers, of the nature of business, financial condition, and operational status of the company, as well as its key officers or managers, so that those dealing and who intend to do business with it may know or have the means of knowing facts concerning the corporation's financial resources and business responsibility. The contents of the GIS, however, should not be deemed conclusive as to the identities of the registered stockholders of the corporation, as well as their respective ownership of shares of stock, as the controlling document should be the corporate books, specifically the Stock and Transfer Book. Jurisprudence in *Lao v. Lao* is instructive on this matter, to wit: **The mere inclusion as shareholder of petitioners in the General Information Sheet of PFSC is insufficient proof that they are shareholders of the company**. x x x. **While it may be true that petitioners were named as shareholders in the General Information Sheet submitted to the SEC, that document alone does not conclusively prove that they are shareholders of PFSC. The information in**

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the document will still have to be correlated with the corporate books of PFSC. As between the General Information Sheet and the corporate books, it is the latter that is controlling. As correctly ruled by the CA: We agree with the trial court that **mere inclusion in the General Information Sheets as stockholders and officers does not make one a stockholder of a corporation, for this may have come to pass by mistake, expediency or negligence. As professed by respondent appellee, this was done merely to comply with the reportorial requirements with the SEC**. x x x.

3. **ID.; ID.; ID.; THE SPECIAL STOCKHOLDERS' AND RE-ORGANIZATIONAL MEETING CALLED BY THE NON-MAJORITY STOCKHOLDER OF THE CORPORATION DECLARED NULL AND VOID; EFFECT THEREOF.—** [M]adrid could not have made a valid call of the November 18, 2009 Meeting as his stock ownership of FSVCI as registered in the Stock and Transfer Book is only 4.16% in view of the non-registration of Angela's shares of stock in the FSVCI Stock and Transfer Book in his favor. As there was no showing that he was able to remedy the situation by the time the meeting was held, the conduct of such meeting, as well as the matters resolved therein, including the reorganization of the FSVCI Board of Directors and the election of new corporate officers, should all be declared null and void. Thus, in view of the nullity of the November 6, 2009 Meeting conducted by the Saturnino Group which ruling of the RTC had already attained finality, as well as the November 18, 2009 Meeting conducted by the Madrid Group — both of which attempted to wrest control of FSVCI by reorganizing the Board of Directors and electing a new set of corporate officers — the FSVCI Board of Directors at the time of Angela's death *(i.e.* Madrid, Seva, Scribner, and Sunico) should be reconstituted, and thereafter, fill the vacant seat left by Angela in accordance with Section 29 of the Corporation Code. Such Board of Directors shall only act in a hold-over capacity until their successors are elected and qualified, pursuant to Section 23 of the Corporation Code.

4. **ID.; ID.; INTERIM RULES OF PROCEDURE GOVERNING INTRA-CORPORATE CONTROVERSIES; THE CREATION AND APPOINTMENT OF A MANAGEMENT COMMITTEE IS AN EXTRAORDINARY AND DRASTIC REMEDY FOR THE BENEFIT OF THE MINORITY**

STOCKHOLDERS, THE PARTIES LITIGANTS OR THE GENERAL PUBLIC, WHICH MUST BE EXERCISED WITH CARE AND CAUTION, AND IS ALLOWED ONLY UNDER PRESSING CIRCUMSTANCES AND WHEN THERE IS INADEQUACY, INEFFECTUAL OR EXHAUSTION OF LEGAL OR OTHER REMEDIES.— [O]n the issue of the propriety of appointing/constituting a Management Committee to manage FSVCI's affairs, the Court recognizes that a corporation may be placed under the care of a Management Committee specifically created by a court and, thus, under the latter's control and supervision, for the purpose of preserving properties involved in a suit and protecting the rights of the parties. However, case law is quick to point out that "the creation and appointment of a management committee x x x is an extraordinary and drastic remedy to be exercised with care and caution; and only when the requirements under the Interim Rules [of Procedure Governing Intra-Corporate Controversies] are shown. It is a drastic course for the benefit of the minority stockholders, the parties litigants or the general public [and is] allowed only under pressing circumstances and when there is inadequacy, ineffectual or exhaustion of legal or other remedies. x x x The power of the court to continue a business of a corporation x x x must be exercised with the greatest care and caution. There should be a full consideration of all the attendant facts, including the interest of all the parties concerned."

5. **ID.; ID.; ID; CREATION OF MANAGEMENT COMMITTEE, REQUISITES.—** In view of the extraordinary nature of such a remedy, Section 1, Rule 9 of the Interim Rules of Procedure Governing Intra-Corporate Controversies provides the elements needed for the creation of a Management Committee: SEC. 1. *Creation of a management committee.* - As an incident to any of the cases filed under these Rules or the Interim Rules on Corporate Rehabilitation, a party may apply for the appointment of a management committee for the corporation, partnership or association, when there is imminent danger of: (1) Dissipation, loss, wastage or destruction of assets or other properties; and (2) Paralyzation of its business operations which may be prejudicial to the interest of the minority stockholders, parties-litigants or the general public. Thus, applicants for the appointment of a management committee need to establish

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the confluence of these two (2) requisites. This is because appointed management committees will immediately take over the management of the corporation and exercise the management powers specified in the law. This may have a negative effect on the operations and affairs of the corporation with third parties, as persons who are more familiar with its operations are necessarily dislodged from their positions in favor of appointees who are strangers to the corporation's operations and affairs.

6. ID.; ID.; ID.; ID.; A MANAGEMENT COMMITTEE CONSTITUTED PURSUANT TO THE RULING OF THE COURT OF APPEALS SHOULD BE DISSOLVED WHERE THERE IS NO ACTUAL EVIDENCE FROM THE RECORDS SHOWING THAT THERE IS IMMINENT DANGER OF DISSIPATION, LOSS, AND WASTAGE OF THE ASSETS OF THE CORPORATION AND THE PARALYZATION OF ITS BUSINESS OPERATIONS WHICH MAY BE PREJUDICIAL TO THE MINORITY STOCKHOLDERS, PARTIES-LITIGANTS OR THE GENERAL PUBLIC.— [T]he CA merely based its directive of creating a Management Committee for FSVCI on its finding of "the persisting conflict between [the Saturnino and Madrid Groups], the allegations of embezzlement of corporate funds among the parties, and the uncertainty in the leadership and direction of the corporation had created an imminent danger of dissipation, loss[,] and wastage of FSVCI's assets and the paralyzation of its business operations which may be prejudicial to the minority stockholders, parties-litigants or the general public." However, absent any actual evidence from the records showing such imminent danger, the CA's findings have no legal or factual basis to support the appointment/constitution of a Management Committee for FSVCI. Accordingly, the CA erred in ordering the creation of a Management Committee in this case. Hence, in the event a Management Committee had already been constituted pursuant to the CA ruling, as what herein respondents point out, then it should be immediately dissolved for the reasons aforestated.

APPEARANCES OF COUNSEL

Law Office of Ian Ll. Macasinag & Associates for petitioners.
Madrid Danao & Carullo for respondents.

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D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated March l, 2013 and the Resolution[3] dated August 7, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 113279, which modified the Decision[4] dated March 3, 2010 of the Regional Trial Court of Legazpi City, Branch 5 (RTC) in SR-09-007: (*a*) declaring the Special Stockholders' and Re-Organizational Meeting of petitioner F & S Velasco Company, Inc. (FSVCI) held on November 18, 2009 legal and valid; and *(b)* remanding the case to the court *a quo* and directing it to appoint or constitute a Management Committee to take over the corporate and business affairs of FSVCI.

The Facts

On June 8, 1987, FSVCI was duly organized and registered as a corporation with Francisco O. Velasco (Francisco), Simona J. Velasco (Simona), Angela V. Madrid (Angela), herein respondent Dr. Rommel L. Madrid (Madrid), and petitioner Saturnina O. Velasco (Saturnino) as its incorporators. When Simona and Francisco died on June 12, 1998 and June 22, 1999, respectively, their daughter, Angela, inherited their shares, thereby giving her control of 70.82% of FSVCI's total shares of stock. As of May 11, 2009, the distribution of FSVCI's 24,000 total shares of stock is as follows: *(a)* Angela with 16,998 shares; *(b)* Madrid with 1,000 shares; (*c*) petitioner Rosina B. Velasco-Scribner (Scribner) with 6,000 shares; and *(d)* petitioners Irwin J. Seva (Seva) and Mercedez Sunico (Sunico) with one (1) share each.[5]

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[1] *Rollo,* pp. 48-73.

[2] *Id*. at 77-95. Penned by Associate Justice Sesinando E. Villon with Associate Justices Florito S. Macalino and Edwin D. Sorongon concurring.

[3] *Id*. at 112.

[4] *Id*. at 119-121. Penned by Judge Pedro R. Soriao.

[5] See *id*. at 78-79.

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On September 20, 2009 and during her tenure as Chairman of the Board of Directors of FSVCI (the other members of the Board of Directors being Madrid, Scribner, Seva, and Sunico), Angela died intestate and without issue. On October 8, 2009, Madrid, as Angela's spouse, executed an Affidavit of Self-Adjudication covering the latter's estate which includes her 70.82% ownership of FSVCI's shares of stock. Believing that he is already the controlling stockholder of FSVCI by virtue of such self-adjudication, Madrid called for a Special Stockholders' and Re-Organizational Meeting to be held on November 18, 2009. On November 10, 2009 and in preparation for said meeting, Madrid executed separate deeds of assignment transferring one share each to Vitaliano B. Ricafort and to respondents Peter Paul L. Danao (Danao), Maureen R. Labalan (Labalan), and Manuel L. Arimado (Arimado; collectively, Madrid Group).[6]

Meanwhile, as Madrid was performing the aforesaid acts, Seva, in his then-capacity as FSVCI corporate secretary, sent a Notice of an Emergency Meeting to FSVCI's remaining stockholders for the purpose of electing a new president and vice-president, as well as the opening of a bank account. Such meeting was held on November 6, 2009 which was attended by Saturnino, Seva, and Sunico (November 6, 2009 Meeting), during which, Saturnino was recognized as a member of the FSVCI Board of Directors and thereafter, as FSVCI President, while Scribner was elected FSVCI Vice-President (Saturnino Group).[7]

Despite the election conducted by the Saturnino Group, the Madrid Group proceeded with the Special Stockholders' and Re-Organizational Meeting on November 18, 2009, wherein: *(a)* the current members of FSVCI Board of Directors (save for Madrid) were ousted and replaced by the members of the Madrid Group; and (*b)* Madrid, Danao, Arimado, and Labalan were elected President, Vice-President, Corporate

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[6] See *id*. at 79-80.

[7] See *id*. at 80 and 119-120.

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Secretary, and Treaurer, respectively, of FSVCI (November 18, 2009 Meeting).[8]

In view of the November 18, 2009 Meeting, the Saturnino Group filed a petition for Declaration of Nullity of Corporate Election with Preliminary Injunction and Temporary Restraining Order[9] (TRO) against the Madrid Group before the RTC, which was acting as a Special Commercial Court.[10]

After the RTC denied the Saturnino Groups' prayer for TRO, the Madrid Group filed its Answer (with Compulsory Counterclaims)[11] which prayed for, among others, the declaration of nullity of the November 6, 2009 Meeting conducted by the Saturnino Group. The Madrid Group likewise applied for the Appointment of a Management Committee for FSVCI, which was denied by the RTC in an Order[12] dated January 12, 2010.[13]

The RTC Ruling

In a Decision[14] dated March 3, 2010, the RTC declared both the November 6, 2009 and November 18, 2009 Meetings null and void.[15] It found the November 6, 2009 Meeting invalid because: (*a*) it was conducted without a quorum as only two (2) FSVCI Board Members *(i.e.,* Seva and Sunico) attended the same, and that Scribner cannot attend by proxy as the Corporation Code expressly prohibits proxy attendance in Board meetings; and (*b*) merely recognizing Saturnino as an additional member of the FSVCI Board of Directors — and not electing him to take the position vacated by Angela upon her death —

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[8] See *id*.

[9] Not attached to the *rollo*.

[10] *Rollo,* p. 80.

[11] Not attached to the *rollo*.

[12] Not attached to the *rollo*.

[13] See *rollo,* pp. 80-81.

[14] *Id*. at 119-121.

[15] *Id*. at 121.

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had the effect of increasing FSVCI's number of Directors to six (6), thus, exceeding the number of Directors explicitly stated in the FSVCI Articles of Incorporation.[16]

On the other hand, in ruling on the invalidity of the November 18, 2009 Meeting, the RTC held that until a probate court conducting the settlement proceedings of Angela's estate determines the rightful owner of Angela's properties, Madrid only has an equitable right over Angela's 70.82% ownership of FSVCI's shares of stock. As such, Madrid cannot exercise the rights accorded to such ownership, hence, making his call for a meeting, as well as the actual conduct of the November 18, 2009 Meeting, invalid.[17]

Aggrieved, the Madrid Group appealed[18] before the CA contesting the RTC's declaration of invalidity of the November 18, 2009 Meeting, as well as the denial of the appointment of a Management Committee for FSVCI.[19] Meanwhile, records do not show that the Saturnino Group appealed the declaration of invalidity of the November 6, 2009 Meeting to the CA.

The CA Ruling

In a Decision[20] dated March 1, 2013, the CA modified the RTC ruling: *(a)* declaring the November 18, 2009 Meeting conducted by the Madrid Group valid; and (*b)* remanding the case to the court *a quo* and directing it to appoint or constitute a Management Committee to take over the corporate and business affairs of FSVCI.[21]

Contrary to the RTC findings, the CA held that Madrid's execution of the Affidavit of Self-Adjudication already conferred

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[16] *Id*. at 120.

[17] *Id*. at 120-121.

[18] Not attached to the *rollo*.

[19] See *rollo,* pp. 77-78.

[20] *Id*. at 77-95.

[21] *Id*. at 94.

upon him the ownership of Angela's 70.82% ownership of FSVCI's shares of stock, resulting in total ownership of 74.98% shares of stock inclusive of his original 4.16% ownership.[22] In this relation, the CA found that Madrid had already complied with the registration requirement of such transfer in the books of the corporation through the November 18, 2009 General Information Sheet (GIS) of the corporation duly filed with the Securities and Exchange Commission (SEC). As such, he validly made the call for the November 18, 2009 Meeting, and accordingly, the matters resolved therein — such as the reorganization of the FSVCI Board of Directors and the election of corporate officers — should bind the corporation.[23]

Further, the CA ruled that the creation of a Management Committee is appropriate in view of the persisting conflict between the Saturnino and Madrid Groups, the allegations of embezzlement of corporate funds among the parties, and the uncertainty in the leadership and direction of the corporation which had created an imminent danger of dissipation, loss, and wastage of FSVCI's assets and the paralyzation of its business operations which may be prejudicial to the minority stockholders, parties-litigants, or the general public.[24]

Dissatisfied, the Saturnino Group moved for reconsideration[25] which was, however, denied in a Resolution[26] dated August 7, 2013; hence, the instant petition.

The Issues Before the Court

The core issues for the Court's resolution are whether or not the CA correctly ruled that: *(a)* the November 18, 2009 Meeting organized by Madrid is legal and valid; and (*b)* a Management

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[22] See *id*. at 79.

[23] See *id*. at 86-92.

[24] See *id*. at 92-93.

[25] See Notice of Appearance with Motion for Reconsideration dated April 5, 2013; *id*. at 96-110.

[26] *Id*. at 112.

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Committee should be appointed or constituted to take over the corporate and business affairs of FSVCI.

The Court's Ruling

The petition is partly meritorious.

At the outset, the Court notes that after Madrid executed his Affidavit of Self-Adjudication, he then filed a petition for letters of administration regarding Angela's estate, docketed as S.P. No. M-7025, before the Regional Trial Court of Makati City, Branch 59[27] (RTC-Makati Br. 59). Through Orders dated December 29, 2010[28] and March 29, 2011,[29] the RTC-Makati Br. 59 already recognized Madrid as Angela's sole heir to the exclusion of others *i.e.,* Angela's purported biological sister, Lourdita J. Estevez (Estevez) — and, thus, appointed him as Special Administrator of Angela's estate.[30] Estevez then belatedly challenged such Orders of the RTC-Makati Br. 59 *via* a petition for annulment of judgment before the CA, docketed as CA-G.R. SP No. 128979, which was dismissed through Resolutions dated April 3, 2013[31] and November 4, 2013.[32] Undaunted, Estevez made a further appeal[33] to the Court, which was denied in the Minute Resolutions dated February 26, 2014[34] and June 16, 2014.[35] Such ruling of the Court had already attained finality

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[27] S.P. No. M-7025 was re-raffled to RTC-Makati, Branch 142 for the resolution of several pending incidents in said case.

[28] *Rollo,* pp. 194-208. Penned by Judge Winlove M. Dumayas.

[29] *Id*. at 209-210.

[30] See *id*. at 207-208.

[31] *Id*. at 184-190. Penned by Associate Justice Agnes Reyes Carpio with Associate Justices Rosalinda Asuncion-Vicente and Danton Q. Bueser concurring.

[32] *Id*. at 192-193.

[33] See petition for review on *certiorari* dated December 30, 2013, docketed as G.R. No. 210133; *id.* at 217-236.

[34] *Id*. at 264.

[35] *Id*. at 302.

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as evidenced by an Entry of Judgment[36] dated June 16, 2014. In view of the foregoing, the Court is constrained to view that Madrid is indeed Angela's sole heir and her death caused the immediate transfer of her properties, including her 70.82% ownership of FSVCI's shares of stock, to Madrid.[37] As such, Madrid may compel the issuance of certificates of stock in his favor, as well as the registration of Angela's stocks in his name in FSVCI's Stock and Transfer Book.

Be that as it may, it must be clarified that Madrid's inheritance of Angela's shares of stock does not *ipso facto* afford him the rights accorded to such majority ownership of FSVCI's shares of stock. Section 63 of the Corporation Code governs the rule on transfers of shares of stock. It reads:

> SEC. 63. *Certificate of stock and transfer of shares.* The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. **No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.**
>
> No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation. (Emphasis and underscoring supplied)

Verily, all transfers of shares of stock must be registered in the corporate books in order to be binding on the corporation. Specifically, this refers to the Stock and Transfer Book, which is described in Section 74 of the same Code as follows:

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[36] *Id.* at 307-308.

[37] See Article 777 of the Civil Code.

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SEC. 74. *Books to be kept; stock transfer agent.* – x x x.

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Stock corporations must also keep a book to be known as the "stock and transfer book", in which must be kept a record of all stocks in the names of the stockholders alphabetically arranged; the installments paid and unpaid on all stock for which subscription has been made, and the date of payment of any installment; a statement of every alienation, sale or transfer of stock made, the date thereof, and by and to whom made; and such other entries as the by-laws may prescribe. The stock and transfer book shall be kept in the principal office of the corporation or in the office of its stock transfer agent and shall be open for inspection by any director or stockholder of the corporation at reasonable hours on business days.

x x x x x x x x x

In this regard, the case of *Batangas Laguna Tayabas Bus Co., Inc. v. Bitanga*[38] instructs that an owner of shares of stock cannot be accorded the rights pertaining to a stockholder – such as the right to call for a meeting and the right to vote, or be voted for – if his ownership of such shares is not recorded in the Stock and Transfer Book, *viz.:*

Indeed, until registration is accomplished, the transfer, though valid between the parties, cannot be effective as against the corporation. Thus, the unrecorded transferee, the Bitanga group in this case, cannot vote nor be voted for. **The purpose of registration, therefore, is two-fold: to enable the transferee to exercise all the rights of a stockholder, including the right to vote and to be voted for, and to inform the corporation of any change in share ownership so that it can ascertain the persons entitled to the rights and subject to the liabilities of a stockholder.** Until challenged in a proper proceeding, a stockholder of record has a right to participate in any meeting; his vote can be properly counted to determine whether a stockholders' resolution was approved, despite the claim of the alleged transferee. On the other hand, **a person who has purchased stock, and who desires to be recognized as a stockholder for the purpose of voting, must secure such a standing by having the transfer recorded on the corporate**

[38] 415 Phil. 43 (2001).

books. Until the transfer is registered, the transferee is not a stockholder but an outsider.[39] (Emphases and underscoring supplied)

In the case at bar, records reveal that at the time Madrid called for the November 18, 2009 Meeting, as well as the actual conduct thereof, he was already the owner of 74.98% shares of stock of FSVCI as a result of his inheritance of Angela's 70.82% ownership thereof. However, records are bereft of any showing that the transfer of Angela's shares of stock to Madrid had been registered in FSVCI's Stock and Transfer Book when he made such call and when the November 18, 2009 Meeting was held. Thus, the CA erred in holding that Madrid complied with the required registration of transfers of shares of stock through mere reliance on FSVCI's GIS dated November 18, 2009.

In this relation, it is noteworthy to point out that the submission of a GIS of a corporation before the SEC is pursuant to the objective sought by Section 26[40] of the Corporation Code which is to give the public information, under sanction of oath of responsible officers, of the nature of business, financial condition, and operational status of the company, as well as its key officers or managers, so that those dealing and who intend to do business with it may know or have the means of knowing facts concerning the corporation's financial resources and business responsibility.[41]

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[39] *Id*. at 57-58; citations omitted.

[40] Section 26 of the Corporation Code reads:

SEC. 26. *Report of election of directors, trustees and qfjicers.*– Within thirty (30) days after the election of the directors, trustees and officers of the corporation, the secretary, or any other officer of the corporation, shall submit to the Securities and Exchange Commission, the names, nationalities and residences of the directors, trustees and officers elected. Should a director, trustee or officer die, resign or in any manner cease to hold office, his heirs in case of his death, the secretary, or any other officer of the corporation, or the director, trustee or officer himself, shall immediately report such fact to the Securities and Exchange Commission.

[41] See *Monfort Hermanos Agricultural Dev't. Corp. v. Monfort III,* 478 Phil. 34, 42 (2004); citation omitted.

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The contents of the GIS, however, should not be deemed conclusive as to the identities of the registered stockholders of the corporation, as well as their respective ownership of shares of stock, as the controlling document should be the corporate books, specifically the Stock and Transfer Book. Jurisprudence in *Lao v. Lao*[42] is instructive on this matter, to wit:

The mere inclusion as shareholder of petitioners in the General Information Sheet of PFSC is insufficient proof that they are shareholders of the company.

Petitioners bank heavily on the General Information Sheet submitted by PFSC to the SEC in which they were named as shareholders of PFSC. They claim that respondent is now estopped from contesting the General Information Sheet.

While it may be true that petitioners were named as shareholders in the General Information Sheet submitted to the SEC, that document alone does not conclusively prove that they are shareholders of PFSC. The information in the document will still have to be correlated with the corporate books of PFSC. As between the General Information Sheet and the corporate books, it is the latter that is controlling. As correctly ruled by the CA:

> We agree with the trial court that **mere inclusion in the General Information Sheets as stockholders and officers does not make one a stockholder of a corporation, for this may have come to pass by mistake, expediency or negligence. As professed by respondent- appellee, this was done merely to comply with the reportorial requirements with the SEC.** This maybe against the law but "practice, no matter how long continued, cannot give rise to any vested right."
>
> If a transferee of shares of stock who failed to register such transfer in the Stock and Transfer Book of the Corporation could not exercise the rights granted unto him by law as stockholder, with more reason that such rights be denied to a person who is not a stockholder of a corporation. Petitioners-appellants never secured such a standing as stockholders of PFSC and consequently, their petition should be denied.[43]

(Emphases and underscoring supplied)

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[42] 588 Phil. 844 (2008).

[43] *Id.* at 858-859.

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In light of the foregoing, Madrid could not have made a valid call of the November 18, 2009 Meeting as his stock ownership of FSVCI as registered in the Stock and Transfer Book is only 4.16% in view of the non-registration of Angela's shares of stock in the FSVCI Stock and Transfer Book in his favor. As there was no showing that he was able to remedy the situation by the time the meeting was held, the conduct of such meeting, as well as the matters resolved therein, including the reorganization of the FSVCI Board of Directors and the election of new corporate officers, should all be declared null and void.

Thus, in view of the nullity of the November 6, 2009 Meeting conducted by the Saturnino Group which ruling of the RTC had already attained finality, as well as the November 18, 2009 Meeting conducted by the Madrid Group — both of which attempted to wrest control of FSVCI by reorganizing the Board of Directors and electing a new set of corporate officers — the FSVCI Board of Directors at the time of Angela's death *(i.e.* Madrid, Seva, Scribner, and Sunico) should be reconstituted, and thereafter, fill the vacant seat left by Angela in accordance with Section 29[44] of the Corporation Code. Such Board of Directors shall only act in a hold-over capacity until their

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[44] Section 29 of the Corporation Code reads:

SEC. 29. *Vacancies in the office of director or trustee.* – Any vacancy occurring in the board of directors or trustees other than by removal by the stockholders or members or by expiration of term, may be filled by the vote of at least a majority of the remaining directors or trustees, if still constituting a quorum; otherwise, said vacancies must be filled by the stockholders in a regular or special meeting called for that purpose. A director or trustee so elected to fill a vacancy shall be elected only or the unexpired term of his predecessor in office.

Any directorship or trusteeship to be filled by reason of an increase in the number of directors or trustees shall be filled only by an election at a regular or at a special meeting of stockholders or members duly called for the purpose, or in the same meeting authorizing the increase of directors or trustees if so stated in the notice of the meeting.

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successors are elected and qualified, pursuant to Section 23[45] of the Corporation Code.

Finally, on the issue of the propriety of appointing/constituting a Management Committee to manage FSVCI's affairs, the Court recognizes that a corporation may be placed under the care of a Management Committee specifically created by a court and, thus, under the latter's control and supervision, for the purpose of preserving properties involved in a suit and protecting the rights of the parties.[46] However, case law is quick to point out that "the creation and appointment of a management committee x x x is an extraordinary and drastic remedy to be exercised with care and caution; and only when the requirements under the Interim Rules [of Procedure Governing Intra-Corporate Controversies] are shown. It is a drastic course for the benefit of the minority stockholders, the parties- litigants or the general public [and is] allowed only under pressing circumstances and when there is inadequacy, ineffectual or exhaustion of legal or other remedies. x x x The power of the court to continue a business of a corporation x x x must be exercised with the greatest care and caution. There should be a full consideration of all

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[45] Section 23 of the Corporation Code reads:

SEC. 23. *The board of directors or trustees.* – Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year and until their successors are elected and qualified.

Every director must own at least one (1) share of the capital stock of the corporation of which he is a director, which share shall stand in his name on the books of the corporation. Any director who ceases to be the owner of at least one (1) share of the capital stock of the corporation of which he is a director shall thereby cease to be a director. Trustees of non-stock corporations must be members thereof. A majority of the directors or trustees of all corporations organized under this Code must be residents of the Philippines.

[46] See *Villamor, Jr. v. Umale,* G.R. Nos. 172843 and 172881, September 24, 2014, 736 SCRA 325, 352; citations omitted.

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the attendant facts, including the interest of all the parties concemed."[47] In view of the extraordinary nature of such a remedy, Section 1, Rule 9 of the Interim Rules of Procedure Governing Intra-Corporate Controversies[48] provides the elements needed for the creation of a Management Committee:

> SEC. 1. *Creation of a management committee.* – As an incident to any of the cases filed under these Rules or the Interim Rules on Corporate Rehabilitation, a party may apply for the appointment of a management committee for the corporation, partnership or association, when there is imminent danger of:
>
> (1) Dissipation, loss, wastage or destruction of assets or other properties; and
>
> (2) Paralyzation of its business operations which may be prejudicial to the interest of the minority stockholders, parties-litigants or the general public.

Thus, applicants for the appointment of a management committee need to establish the confluence of these two (2) requisites. This is because appointed management committees will immediately take over the management of the corporation and exercise the management powers specified in the law. This may have a negative effect on the operations and affairs of the corporation with third parties, as persons who are more familiar with its operations are necessarily dislodged from their positions in favor of appointees who are strangers to the corporation's operations and affairs.[49]

In the case at bar, the CA merely based its directive of creating a Management Committee for FSVCI on its finding of "the persisting conflict between [the Saturnino and Madrid Groups], the allegations of embezzlement of corporate funds among the parties, and the uncertainty in the leadership and direction of

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[47] *Id*. at 353, citing *Sy Chim v. Sy Siy Ho & Sons, Inc.,* 516 Phil. 256, 284 (2006).

[48] A.M No. 01-2-04-SC, entitled "RE: PROPOSED INTERIM RULES OF PROCEDURE GOVERNING INTRA- CORPORATE CONTROVERSIES UNDER R.A. No. 8799" (April 1, 2001).

[49] *Id*. at 352-353; citations omitted.

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the corporation had created an imminent danger of dissipation, loss[,] and wastage of FSVCI's assets and the paralyzation of its business operations which may be prejudicial to the minority stockholders, parties-litigants or the general public."[50] However, absent any actual evidence from the records showing such imminent danger, the CA' s findings have no legal or factual basis to support the appointment/constitution of a Management Committee for FSVCI. Accordingly, the CA erred in ordering the creation of a Management Committee in this case. Hence, in the event a Management Committee had already been constituted pursuant to the CA ruling, as what herein respondents point out,[51] then it should be immediately dissolved for the reasons aforestated.

WHEREFORE, the petition is **PARTLY GRANTED.** The Decision dated March 1, 2013 and the Resolution dated August 7, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 113279 are hereby **REVERSED** and **SET ASIDE.** The Special Stockholders' and Re-Organizational Meeting of petitioner F & S Velasco Company, Inc. called by respondent Rommel L. Madrid and held on November 18, 2009 is declared **NULL** and **VOID** and the Management Committee constituted pursuant to the aforementioned CA Decision and Resolution is hereby **DISSOLVED.**

Accordingly, the Board of Directors of petitioner F & S Velasco Company, Inc. prior to the death of Angela V. Madrid — consisting of the remaining members petitioners Rosina B. Velasco-Scribner, Irwin J. Seva, and Mercedez Sunico and respondent Dr. Rommel L. Madrid — is hereby **ORDERED** reconstituted. The Board of Directors is **ORDERED** to fill the vacant seat left by Angela V. Madrid and, thereafter, act in a hold-over capacity until their successors are elected and qualified, in accordance with prevailing laws, rules, and jurisprudence.

SO ORDERED.

Sereno, *C.J.* (*Chairperson*), *Leonardo-de Castro*, *Bersamin*, and *Perez*, *JJ.*, concur.

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[50] *Rollo,* p. 93.

[51] See *id*. at 147-148 and 175-178.