Supreme Court E-Library

It must be emphasized that all that the exception does is make the RTC defer the issuance of a writ of possession and allow the parties to thresh out their claim in a proper judicial proceeding. The exception does not in any way nullify or affect the mortgagee's consolidated title.

WHEREFORE, I vote to **DENY** the Petition. The Court of Appeals Decision[62] and Resolution[63] in CA-G.R. SP No. 110392 should be **AFFIRMED.**

SECOND DIVISION

[G.R. No. 201306. August 9, 2017]

LYDIA LAO, JEFFREY ONG, HENRY SY, SY TIAN TIN, SY TIAN TIN, JR., AND PAUL CHUA, *petitioners, vs.* **YAO BIO LIM AND PHILIP KING,** *respondents*.

SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL BY *CERTIORARI* TO THE SUPREME COURT; RULE THAT FACTUAL FINDINGS OF THE COURT OF APPEALS ARE NOT REVIEWABLE BY THE SUPREME COURT IS SUBJECT TO CERTAIN EXCEPTIONS.— The rule that factual findings of the Court of Appeals are not reviewable by this Court is subject to certain exceptions, such as when the inference made is manifestly mistaken and when the "findings of fact are conclusions without citation of specific evidence on which they are based."

---

[62] Dated 18 February 2011.

[63] Dated 8 July 2011.

2. MERCANTILE LAW; CORPORATION CODE; CORPORATIONS; REGULAR MEETINGS OF STOCKHOLDERS OR MEMBERS; RULE THEREON, NOT VIOLATED IN CASE AT BAR.— Section 50 of Batas Pambansa Blg. 68 or the Corporation Code prescribes that "regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws." Respondents do not dispute that Article VIII (3) of the PSI's by-laws fixed the annual meeting of stockholders on the third Friday of March of every year. This Court takes judicial notice that March 15, 2002 was the third Friday of March 2002. Furthermore, the agenda for the meeting, which includes the elections of the new board of directors and ratification of acts of the incumbent board of directors and management, was the standard order of business in a regular annual meeting of stockholders of a corporation. Thus, this Court holds that the March 15, 2002 annual stockholders' meeting was a regular meeting. Hence, the requirement to state the object and purpose in case of a special meeting as provided for in Article VIII (5) of the PSI's by-laws does not apply to the Notice for the March 15, 2002 annual stockholders' meeting. Regarding the time for serving notice of the meeting to all the stockholders, Section 50 of Batas Pambansa Blg. 68 reads in part: Section 50. *Regular and Special Meetings of Stockholders or Members*. x x x That written notice of regular meetings shall be sent to all stockholders or members of record at least two (2) weeks prior to the meeting, *unless a different period is required by the by-laws*. Under PSI's by-laws, notice of every regular or special meeting must be mailed or personally delivered to each stockholder not less than five (5) days prior to the date set for the meeting. x x x In this case, the PSI's by-laws providing only for a five (5)-day prior notice must prevail over the two (2)-week notice under the Corporation Code. By its express terms, the Corporation Code allows "the shortening (or lengthening) of the period within which to send the notice to call a special (or regular) meeting." Thus, the mailing of the Notice to respondents on March 5, 2002 calling for the annual stockholders' meeting to be held on March 15, 2002 is not irregular, since it complies with what was stated in PSI's by-laws.

3. CIVIL LAW; DAMAGES; MORAL DAMAGES; RECOVERABLE IN CASE OF WILLFUL INJURY TO PROPERTY; AWARD THEREOF, SUSTAINED IN CASE AT BAR.— [T]he Court finds no reason to reverse the award of damages. The award of moral damages finds legal basis in Articles 2217 and 2220 of

Supreme Court E-Library

the New Civil Code, which allow recovery of moral damages in case of willful injury to property. A stockholder's right to vote is inherent in and incidental to the ownership of a capital stock. Here, petitioners unjustifiably and obstinately refused to recognize respondents' shareholdings in PSI and to allow them to participate in the 2002 stockholders' meeting and elections of the corporation's directors. They did this despite the previous Orders of the Securities and Exchange Commission and of the Regional Trial Court; thus, depriving respondents of their property rights. The Court of Appeals found that "the acts of the [petitioners] have caused mental anguish, serious anxiety and social humiliation to [respondents]."

4. **ID.; ID.; ATTORNEY'S FEES AND LITIGATION EXPENSES; AWARD, PROPER IN CASE AT BAR.—** [T]he award of attorney's fees and litigation expenses is proper because respondents were compelled to litigate to protect or vindicate their stockholders' rights against the unlawful acts of the petitioners.

5. **ID.; ID.; TEMPERATE DAMAGES; MAY BE RECOVERED WHEN THE COURT FINDS THAT SOME PECUNIARY LOSS HAS BEEN SUFFERED AS IN CASE AT BAR.—** The Court of Appeals likewise correctly sustained the award of temperate damages. Petitioners contest the award on the ground that respondents have not prayed for it. While this may be true, it is also true that respondents have prayed for actual damages in their complaint. Under the law, courts may award other kinds of damages in lieu of actual damages x x x. In several cases, this Court has sustained the award of temperate damages where the amount of actual damages was not sufficiently proven. Here, in sustaining the Regional Trial Court Decision, the Court of Appeals found that respondents have suffered some pecuniary loss. Petitioners' wrongful acts have prevented respondents from exercising their rights as legitimate stockholders of the corporation. Under the circumstances of this case, this Court finds the amount of ₱100,000.00 awarded by the lower court to be fair and reasonable.

APPEARANCES OF COUNSEL

R & S Law Offices for petitioners.

Carag Zaballero San Pablo Calica & Abiera Law Offices for respondents.

Supreme Court E-Library

D E C I S I O N

LEONEN, *J.*:

This resolves a Petition for Review on Certiorari[1] seeking to annul and set aside the Decision[2] dated August 3, 2011 and Resolution[3] dated March 21, 2012 of the Court of Appeals in CA-G.R. CV. No. 90314. The Court of Appeals affirmed the March 20, 2007 Decision of Branch 90, Regional Trial Court, Quezon City.[4] This trial court Decision annulled the elections of the board of directors of Philadelphia School, Inc. (PSI) held on March 15, 2002 and the issuance of stock dividends and transfer of shares of stock, and awarded damages to Yao Bio Lim and Philip King (respondents).[5]

This case is a continuation of a dispute between two (2) groups of stockholders for the control and management of PSI. One group was headed by Lydia Lao (Lao) and the other was led by Philip King (King). Their dispute eventually reached this Court in G.R. No. 160358, entitled *Lydia Lao, William Chua Lian, Jeffrey Ong and Henry Sy v. Philip King*.[6] The relevant facts in that case were as follows:

PSI was organized in 1970 with an authorized capital stock of ₱2,000,000.00, divided into 20,000 shares with a par value

---

[1] *Rollo*, pp. 8-39.

[2] *Id*. at 41-53. The Decision was penned by Associate Justice Noel G. Tijam and concurred in by Associate Justices Marlene Gonzales-Sison and Manuel M. Barrios of the Special Eleventh Division, Court of Appeals, Manila.

[3] *Id*. at 55-56. The Resolution was penned by Associate Justice Noel G. Tijam and concurred in by Associate Justices Marlene Gonzales-Sison and Manuel M. Barrios of the Former Special Eleventh Division, Court of Appeals, Manila.

[4] *Id*. at 53.

[5] *Id*. at 45.

[6] 532 Phil. 305 (2006) [Per *J*. Garcia, Second Division].

Supreme Court E-Library

of ₱100 per share. Out of this authorized capital stock, 4,600 shares were subscribed and paid up.[7]

Ong Y. Seng, King's father, had the most number of subscribed shares, holding 1,200 shares. Before his death in 1994, he sought, and was granted, the approval of the PSI board of directors to transfer his shares to King. Since then, King had been consistently elected as a member of the PSI board of directors.[8]

During the special stockholders' meeting on May 23, 1998, a new set of directors and officers was elected. Yao Bio Lim was elected President and King was Vice President.[9]

Lao, the former president, refused to acknowledge the newly elected directors and officers as well as King's ownership of 1,200 PSI shares. On August 15, 1998, Lao issued a Secretary's Certificate stating that a board meeting was held on the same date wherein the board of directors resolved to nullify the transfer to King of the shares owned by his father.[10]

In April 1999, King discovered that a stockholders' meeting was conducted on March 19, 1999, wherein Lao, William Chua Lian (Chua Lian), Jeffrey Ong (Ong), and Henry Sy were elected as new members of the board of directors.[11]

King filed a petition before the Securities and Exchange Commission "to enjoin [Lao, Chua Lian, Ong, and Henry Sy] from representing themselves as officers and members of the board of directors of the Philadelphia School, Inc. and to nullify all acts done and resolutions passed by them. The petition was docketed as SEC Case No. 05-99-6297."[12]

---

[7] *Rollo*, p. 12.

[8] *Lao v. King*, 532 Phil. 305, 307 (2006) [Per *J.* Garcia, Second Division].

[9] *Id*. at 308.

[10] *Id*.

[11] *Id*.

[12] *Id*. at 308-309.

Supreme Court E-Library

When Republic Act No. 8799[13] took effect, the case was transferred to Branch 93, Regional Trial Court, Quezon City and was docketed as Civil Case No.Q-01-42972.[14]

On September 25, 2002, Judge Apolinario D. Bruselas, Jr. rendered a decision granting King's petition. It disposed as follows:

> WHEREFORE, the foregoing premises considered, the court finds for [King] and as prayed for, hereby orders as follows:
>
> 1) The meetings held by the [petitioners] on 15 August 1998 and all acts performed by them as the alleged officers and Board of Directors of the corporation are declared null and void;
>
> 2) The alleged election of [petitioner] Lydia Lao as president and other [petitioners] as members of the Board of Directors of the corporation during the aforementioned meeting, declared null and void;
>
> 3) The reduction in the shareholdings of [King] from 1,200 shares to only 500 shares, declared null and void; the shares of [King] should be restored to 1,200 and which number he is entitled to vote;
>
> 4) The increase in the number of the shares of Mr. Sy Tian Ting and Dy Siok Bee, declared null and void;
>
> 5) The [petitioners] to account for the funds of the corporation disbursed by them during the period they took control;
>
> 6) The new elections of the corporate directors and officers should be based on the shareholdings reflected in the Articles of Incorporation modified only by such transfers as may be shown to be valid and legitimate.
>
> SO ORDERED.[15]

King filed a motion for execution, which was granted by the Regional Trial Court.[16] Lao's group questioned the order of

---

[13] The Securities Regulation Code.

[14] *Lao v. King*, 532 Phil. 305, 309 (2006) [Per *J*. Garcia, Second Division].

[15] *Id*. at 309-310.

[16] *Id*. at 310.

Supreme Court E-Library

the trial court granting execution through a petition for certiorari filed before the Court of Appeals.[17] The Court of Appeals upheld the validity of the order,[18] which this Court eventually sustained on August 31, 2006 in G.R. No. 160358.[19]

Meanwhile, on March 15, 2002, a general stockholders' meeting was held wherein Lao, Ong, Henry Sy, Sy Tian Tin, Sy Tian Tin, Jr. and Paul Chua (petitioners) were elected as members of the board of directors, with Chua Lian as chairman of the board.[20]

On March 26, 2002, Yao Bio Lim and King filed a Petition[21] before Branch 90, Regional Trial Court, Quezon City against petitioners, the newly elected board of directors. They sought, among others, to annul: (1) "the elections held on March 15, 2002 and all corporate acts of the supposedly new board of directors and officers of [PSI]," (2) the "issuance of stock dividends," and (3) the "illegal transfer of shares of stock."[22] They also prayed that petitioners, together with Chua Lian, be ordered to account for damages and for the funds and assets of the corporation since August 1998.[23]

Yao Bio Lim and King averred that on March 10, 2002, they received the Notice of meeting informing them about the general stockholders' meeting to be held on March 15, 2002 at 9:00 a.m. at the PSI's board room. "The notice, however, did not state the agenda or the purpose of the meeting."[24] Moreover, they alleged that the Notice sent to King was still in the name

---

[17] *Id*. at 311.

[18] *Id*.

[19] *Id*. at 317.

[20] *Rollo*, p. 20.

[21] *Id*. at 41.

[22] *Id*. at 42.

[23] *Id*. at 44.

[24] *Id*. at 43.

of his father, Ong Y. Seng, while that sent to Yao Bio Lim included the name of his deceased father, Yao Chek.[25]

Yao Bio Lim claimed that he acquired his PSI shares from his father, who owned 300 PSI shares during his lifetime. Specifically, in 1995, Yao Chek transferred one (1) share to him and 100 shares to his brother, Yao Tok Lim. After Yao Chek's death in 1999, his remaining shares were divided among his five (5) children. Yao Bio Lim's brothers, in turn, agreed to assign their corresponding shares to Yao Bio Lim and Yao Juan Lim.[26]

During the meeting, "Philip King and a certain Atty. Garaygay were asked to leave the board room because they were allegedly not stockholders."[27] On the other hand, Yao Bio Lim was allowed to vote for only one (1) share during the elections despite the proxies he held for his brothers, Yao Tok Lim and Yao Juan Lim.[28]

Yao Bio Lim and King further attested that the Securities and Exchange Commission and the Regional Trial Court had previously ordered that the stockholders listed in the 1997 General Information Sheet be used as basis for the 2000 and 2001 elections of PSI board of directors. Lao, Chua Lian, Ong, and Henry Sy allegedly violated these orders when they used a different list of stockholders during the elections held on March 15, 2002. Moreover, they had purportedly previously issued 300% stock dividends to some stockholders without the required approval of stockholders representing two-thirds (2/3) of the outstanding capital stock of PSI.[29]

Finally, Yao Bio Lim and King assailed the transfer of the following shares of stocks without the required prior notice to

---

[25] *Id*.

[26] *Id*. at 42.

[27] *Id*. at 43. Atty. Garaygay acted as proxy of stockholder Lucia Cheng.

[28] *Id*.

[29] *Id*. at 43.

Supreme Court E-Library

all stockholders, which allegedly deprived them of "the opportunity to exercise their option to buy the shares"[30]:

SELLER	TRANSFEREE	NUMBER OF SHARES
David Lio	Betty Lao/Lydia Lao	200 shares
Ong Giok King	Lydia Lao/Sy Tian Tin	99 shares
William Chua Lian	Paul Chua	1 shares [sic][31]

On the other hand, petitioners claimed that the stockholders' meeting and the elections held on March 15, 2002 were conducted in accordance with the PSI's by-laws and the Corporation Code.[32]

On March 20, 2007, the trial court rendered its decision in favor of Yao Bio Lim and King. The dispositive portion of this decision read:

IN VIEW OF THE FOREGOING, judgment is rendered in favor of [respondents] and against [petitioners] as follows:

(a) Declaring the March 15, 2002 general stockholders' meeting and elections null and void and the results thereof invalid;

(b) Declaring the issuance of 300% stock dividend[s] by [petitioners]/Philadelphia School, Inc. in 199[7][33] null and void;

(c) Declaring the sale/transfer of shares of stocks of David Lao, Ong Giok King and William Chua Lian illegal and void;

(d) Ordering [petitioners] to pay [respondents]: (i) PhP100,000.00 as temperate damages, (ii) PhP50,000.00 as moral damages, (iii) PhP100,000 as reasonable attorney's fees and expenses of litigation plus costs of suit.

All other claims are dismissed fort (sic) lack of factual/legal basis.[34]

---

[30] *Id*. at 44.

[31] *Id*.

[32] *Id*.

[33] The Court of Appeals Decision mistakenly stated 1999, *rollo*, p. 45.

[34] *Rollo*, p. 45.

Supreme Court E-Library

The Court of Appeals affirmed the Regional Trial Court Decision. It held that there were valid grounds to nullify the March 15, 2002 stockholders' meeting. First, the Notice of meeting did not state the purpose of the stockholders' meeting as required by Article VIII (5) of PSI's by-laws.[35] Additionally, it was not sent to the stockholders at least two (2) weeks prior to the meeting as required under Section 50 of the Corporation Code.[36] Finally, petitioners used a schedule of stockholders different from the list contained in the 1997 General Information Sheet, contrary to previous orders of the Securities and Exchange Commission and of the Regional Trial Court.[37]

The Court of Appeals further found that the issuance of 300% stock dividends was not approved by stockholders representing two-thirds (2/3) of the outstanding capital stock in violation of Section 43 of the Corporation Code.[38]

Petitioners filed a motion for reconsideration, which was likewise denied by the Court of Appeals in its March 21, 2012 Resolution.[39]

Hence, this Petition was filed[40] anchored on the following grounds:

I. [The Court of Appeals] seriously erred in concluding that the March 15, 2002 General Stockholders['] Meeting was a special meeting, despite th[e] fact that it was a regular meeting which does not require that the notice of the meeting shall state its object and purpose;

II. [The Court of Appeals] seriously erred in ruling that [the] notice of regular meetings should be sent to all stockholders

---

[35] The Court of Appeals erroneously stated Articles of Incorporation, instead of by-laws.

[36] *Rollo*, pp. 46-47.

[37] *Id*. at 50.

[38] *Id*. at 49-50.

[39] *Id*. at 55-56.

[40] *Id*. at 8-39.

Supreme Court E-Library

at least two (2) weeks prior to the meeting, despite th[e] fact that the by-laws of [PSI] specifically provide that the notice should be sent not less than five (5) days prior to the meeting;

III. [The Court of Appeals] seriously erred in ruling that. . . Yao Bio Lim was not properly notified of the March 15, 2002 General Stockholders['] [Meeting] . . . because the notice sent to him also included the name of his father, Yao Check, despite the fact that he actually received the notice and personally attended the meeting;

IV. [The Court of Appeals] seriously erred in concluding that Philip King was a stockholder of PSI in the year 2002 as the determination of the true ownership of shares of stock left by the late Ong Y. Seng was then still pending before the Regional Trial Court of Quezon City, Branch 93 (SEC Case No. 05-099-6297, Civil Case No. Q-01-42972)

V. [The Court of Appeals] seriously erred in ruling that the distribution in the year 2002 of the previously approved and declared 300% stock dividends in the year 1997 is invalid . . .

VI. [The Court of Appeals] erred in ruling that petitioners defied a purported order of the Securities and Exchange Commission

. . . . . .

VII. [The Court of Appeals] erred in ruling that petitioners should be ordered to pay moral and temporary damages, attorney's fees, and litigation expenses in favor of [respondents] . . .[41]

The petition is denied.

I

On the first and second assigned errors, petitioners contend that the Court of Appeals erred in considering the March 15, 2002 stockholders' meeting as a special meeting. They aver that the Court of Appeals erred in ruling that the meeting was not properly called due to the Notice's failure to state the meeting's purpose and to meet the two (2)-week notice requirement under Section 50 of the Corporation Code. They

[41] *Id*. at 21-22.

maintain that the Notice of the March 15, 2002 stockholders' meeting was sent to the stockholders at least five (5) days before the meeting in compliance with the PSI's by-laws.

Respondents counter that the issue of whether or not the March 15, 2002 meeting was a special meeting is a factual issue that is not proper in a Rule 45 petition. Furthermore, they argue that petitioners are estopped from raising this issue for the first time on their appeal.

This Court finds for petitioners on this issue.

The rule that factual findings of the Court of Appeals are not reviewable by this Court is subject to certain exceptions, such as when the inference made is manifestly mistaken[42] and when the "findings of fact are conclusions without citation of specific evidence on which they are based."[43]

---

[42] *Locsin v. Hizon,* September 17, 2014, 743 Phil. 420, 428 (2014) [Per *J.* Velasco, Jr., Third Division].

[43] INTERNAL RULES OF THE SUPREME COURT, Rule 3, Sec. 4 provides:

Section 4. Cases When the Court May Determine Factual Issues. — The Court shall respect the factual findings of lower courts, unless any of the following situations is present:

(a) the conclusion is a finding grounded entirely on speculation, surmise and conjecture;

(b) the inference made is manifestly mistaken;

(c) there is grave abuse of discretion;

(d) the judgment is based on a misapprehension of facts;

(e) the findings of fact are conflicting;

(f) the collegial appellate courts went beyond the issues of the case, and their findings are contrary to the admissions of both appellant and appellee;

(g) the findings of fact of the collegial appellate courts are contrary to those of the trial court;

(h) said findings of fact are conclusions without citation of specific evidence on which they are based;

(i) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents;

(j) the findings of fact of the collegial appellate courts are premised on the supposed evidence, but are contradicted by the evidence on record; and

Supreme Court E-Library

Here, the Court of Appeals, in ruling that the Notice of the March 15, 2002 meeting sent to the stockholders did not comply with the requirement set forth in Article VIII (5) of the PSI's by-laws,[44] explained:

> [T]he notice of meeting sent to the stockholders did not comply with the requirement set forth in Article VIII (5) of the [By-Laws] of Philadephia School, Inc., which expressly provides that:
>
> > [5]. — NOTICE OF MEETINGS: Notice of the meetings, which shall be written or printed, for every regular or special meeting of the stockholders, shall be mailed or personally delivered to each stockholder, at their respective addresses as they appear in the book of the corporation, not less than five (5) days prior to the date set for such meeting; and in case of special meeting the notice shall state the object and purpose of the same . . .
>
> *Clearly, in case of a special meeting, the corporate by-laws require that the notice shall state the object and purpose for which the meeting is called. This, however, was transgressed as there was no mention in the notice as to the purpose for calling the March 15, 2002 stockholders' meeting*.[45] (Emphasis supplied)

The Court of Appeals sweepingly considered the March 15, 2002 stockholders' meeting as a special meeting without discussing the factual bases for its conclusion.

Furthermore, although raised for the first time on appeal as respondents argued, this Court resolves to pass on these issues as their resolution would not require presentation of further evidence by the adverse party. An exception to the rule that a

---

(k) all other similar and exceptional cases warranting a review of the lower courts' findings of fact.

Treñas v. People, 680 Phil. 368 (2012) [Per *J*. Sereno, Second Division]; *Bank of the Philippine Islands v. Suarez*, 629 Phil. 305 (2010) [Per *J*. Carpio, Second Division]; *Dee v. Court of Appeals*, 382 Phil. 352 (2000) [Per *J*. Quisumbing, Second Division].

[44] *Rollo*, pp. 23 and 96. The Court of Appeals erroneously stated Articles of Incorporation, instead of by-laws.

[45] *Id*. at 46-47.

Supreme Court E-Library

party may not change his or her theory on appeal was recognized in *Lianga Lumber Co. v. Lianga Timber Co., Inc.*,[46] wherein this Court said:

> [I]n the interest of justice and within the sound discretion of the appellate court, a party may change his legal theory on appeal only when the factual bases thereof would not require presentation of any further evidence by the adverse party in order to enable it to properly meet the issue raised in the new theory.[47]

In this case, the issues raised do not involve any disputed evidentiary matter.

A copy of the Notice dated March 4, 2002 for the March 15, 2002 stockholders' meeting that was sent to respondents specifically stated:

> March 4, 2002
>
> N O T I C E
>
> TO: ALL STOCKHOLDERS:
>
> This is to inform you that the *annual Meeting of the Stockholders* of Philadelphia School, Inc. is scheduled on March 15, 2002 at 9:00 a.m. to be held at the school board room.
>
> Any proxy should be presented to the Corporation at least three (3) days before the meeting or on or before March 12, 2002.
>
> [sgd.] JEFFREY ONG
> Corporate Secretary[48]
> (Emphasis supplied)

Section 50 of Batas Pambansa Blg. 68 or the Corporation Code prescribes that "regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws." Respondents do not dispute that Article VIII (3) of the PSI's

---

[46] 166 Phil. 661 (1977) [Per *J.* Antonio, Second Division].

[47] *Id*. at 688. See also *Canlas v. Tubil*, 616 Phil. 915 (2009) [Per *J.* Ynares-Santiago, Third Division].

[48] *Rollo*, pp. 57-58.

Supreme Court E-Library

by-laws fixed the annual meeting of stockholders on the third Friday of March of every year.[49] This Court takes judicial notice that March 15, 2002 was the third Friday of March 2002.

Furthermore, the agenda[50] for the meeting, which includes the elections of the new board of directors and ratification of acts of the incumbent board of directors and management, was the standard order of business in a regular annual meeting of stockholders of a corporation.

Thus, this Court holds that the March 15, 2002 annual stockholders' meeting was a regular meeting. Hence, the requirement to state the object and purpose in case of a special meeting as provided for in Article VIII (5) of the PSI's by-laws does not apply to the Notice for the March 15, 2002 annual stockholders' meeting.

Regarding the time for serving notice of the meeting to all the stockholders, Section 50 of Batas Pambansa Blg. 68 reads in part:

> Section 50. *Regular and Special Meetings of Stockholders or Members.* — Regular meetings of stockholders or members shall be held annually on a date fixed in the by-laws, or if not so fixed, on any date in April of every year as determined by the board of directors or trustees: *Provided*, That written notice of regular meetings shall be sent to all stockholders or members of record at least two (2) weeks prior to the meeting, *unless a different period is required by the by-laws*. (Emphasis supplied)

Under PSI's by-laws, notice of every regular or special meeting must be mailed or personally delivered to each stockholder not less than five (5) days prior to the date set for the meeting. Article VIII (5) of PSI's by-laws expressly provides:

> 5. — NOTICE OF MEETINGS: Notice of the meetings, which shall be written or printed, for every regular or special meeting of the stockholders, shall be mailed or personally delivered to each stockholder, at their respective addresses as they appear in the book

---

[49] *Id*. at 23.

[50] *Id*. at 59.

of the corporation, *not less than five (5) days prior to the date set for such meeting*; and in case of special meeting the notice shall state the object and purpose of the same. Provided, however, that any irregularity either in calling the meeting or in serving notice shall not invalidate any act duly voted upon in such meeting or any proceeding held thereafter, provided that all stockholders are present at the meeting.[51] (Emphasis supplied)

In this case, the PSI's by-laws providing only for a five (5)-day prior notice must prevail over the two (2)-week notice under the Corporation Code. By its express terms, the Corporation Code allows "the shortening (or lengthening) of the period within which to send the notice to call a special (or regular) meeting."[52] Thus, the mailing of the Notice to respondents on March 5, 2002[53] calling for the annual stockholders' meeting to be held on March 15, 2002 is not irregular, since it complies with what was stated in PSI's by-laws.

II

Despite the foregoing circumstances, there were other grounds to nullify the March 15, 2002 annual stockholders' meeting. As found by the Court of Appeals, petitioners did not recognize respondents' rights as stockholders, making the proceedings and elections during the March 15, 2002 meeting void. The Court of Appeals discussed:

[D]uring the same meeting, [petitioners] made use of a schedule of stockholders which was different from the list contained in the 1997 [General Information Sheet]. Obviously, [petitioners] defied the previously issued *Order* of both the SEC and the RTC requiring the use of the 1997 [General Information Sheet], it being the last, official and recorded submission by the Philadelphia School in keeping with its reportorial requirement with the SEC. As disclosed in the records,

---

[51] *Id*. at 47.

[52] *Guy v. Guy*, G.R. No, 184068, April 19, 2016 < http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/april2016/184068.pdf > 8 [Per *C.J.* Sereno, First Division].

[53] *Rollo*, p. 26.

Supreme Court E-Library

the 1997 [General Information Sheet] specified the stockholders of Philadelphia School and their respective shareholdings. Since the composition in 1997 [General Information Sheet] was not changed up to the time the March 15, 2002 meeting was called, the same should have been used as the basis for the schedule of stockholders and their respective shareholdings relative to the election of its board of directors. By so defying the *Order* of both the SEC and the RTC as regards the use of the 1997 [General Information Sheet], [petitioners], in effect, refused to recognize [respondents'] shareholdings and their right to vote, thus, rendering void all the acts done during the meeting, particularly the holding of the election of the officers and the declaration and issuance of the 300% stock dividend.[54]

The foregoing disquisitions of the Court of Appeals render untenable and irrelevant petitioners' contention that King could not be considered a legitimate stockholder of PSI during the stockholders' meeting in 2002. This is because the validity of Ong Y. Seng's transfer of shares to his son was still at issue and King's ownership of PSI stocks was finally resolved by this Court only on April 28, 2011.[55]

Petitioners also fault the Court of Appeals for not specifying which orders of the Securities and Exchange Commission and of the Regional Trial Court they allegedly violated. Respondents counter that had petitioners been mindful to search the records of the case, they would have easily known that the Court of Appeals was referring to the following Orders:

(1) the March 13, 2000 Order of the Securities and Exchange Commission issued relative to **SEC Case No. 05-99-6297**, which recognized the 1997 General Information Sheet as reference of stockholders' names to be used in any stockholders' meeting and elections for the members of the board of directors of PSI; and

(2) the March 23, 2001 Order issued by Judge Apolinario Bruselas of Branch 93, Regional Trial Court, Quezon City in

---

[54] *Rollo*, p. 50.

[55] *Id*. at 28-29, 128-129.

Supreme Court E-Library

Civil Case No. Q-01-42972, where he instructed that the 1997 General Information Sheet be the basis for the schedule of stockholders and their respective shareholdings.[56]

Nonetheless, petitioners harp on the self-serving nature of the 1997 General Information Sheet, which they assert was prepared by Yao Bio Lim. Furthermore, they insist that the issue of King's rightful ownership of the stocks was resolved with finality only on April 28, 2011.

This Court is not persuaded.

Petitioners cannot unilaterally disobey or disregard the Orders of the Securities and Exchange Commission and of the Regional Trial Court despite their own views of the correctness or propriety thereof. In *Republic Commodities Corporation v. Oca*,[57] the president and general manager of Republic Commodities Corporation were held in contempt for their refusal to comply with the order of the trial court, then Court of First Instance, to redeliver the seized air-conditioning units to Salustiano Oca. This Court, in affirming the lower court, said:

> The theory espoused by appellants that a party may, at his own choice, directly disobey a court order which said party believes to be erroneous or beyond the court's authority is fraught with serious consequences. This Court, speaking through Mr. Justice Enrique Fernando, has had occasion to condemn a similar attitude in another case:
>
> > . . . The failure to abide by the orders and processes of judicial . . . agencies . . . gives, rise to a serious concern. It engenders at the very least the well-founded suspicion that such an attitude betrays an absence of good faith. It is indicative of a belief at war with all that adjudication stands for.
> >
> > No one may be permitted to take the law into his own hands. No one, much less the party immediately concerned, should have the final say on the validity or lack of it of one's course of conduct. Centuries of reliance on the judicial process repel such a notion . . .

---

[56] *Id*. at 100-101.

[57] 144 Phil. 26 (1970) [Per *J.* Makalintal, *En Banc*].

Supreme Court E-Library

> . . . Such refusal to accord due respect and yield obedience to what a court or administrative tribunal ordains is fraught with much gravel [sic] consequences . . . If such a conduct were not condemned, some other group or groups emboldened by the absence of any reproof or disapproval may conduct themselves similarly. The injury to the rule of law may well-nigh be irreparable.
>
> Law stands for order, for the peaceful and systematic adjustment of frictions and conflicts unavoidable in a modern society with his complexities and clashing interests, The instrumentality for such balancing or harmonization is the judiciary and other agencies exercising quasi-judicial powers. When judicial or quasi-judicial tribunals speak, what they decree must be obeyed; what they ordain must be followed. A party dissatisfied may ask for reconsideration and, if denied, may go on to higher tribunal. As long as the orders stand unmodified, however, they must, even if susceptible to well-founded doubts on jurisdictional grounds, be faithfully complied with.[58]

While it may be true that SEC Case No. 05-99-6297 and Civil Case No. Q-01-42972 were finally resolved only on April 28, 2011, the Orders mentioned in the Court of Appeals Decision were issued before the March 15, 2002 annual stockholders' meeting. Hence, petitioners were obliged to use the list of stockholders indicated in the 1997 General Information Sheet in compliance with the Orders dated March 13, 2000 and March 23, 2001 issued by the Securities and Exchange Commission and by the Regional Trial Court, respectively.

III

On the issue of the validity of the 300% stock dividends declaration, petitioners insist that the 300% stock dividends were validly declared by the PSI board of directors. They claim that these were ratified by the stockholders owning two-thirds (2/3) of the outstanding capital stock in the meeting held on

---

[58] *Id.* at 29-30 *citing PAFLU vs. Salvador*, 135 Phil. 496 (1968) [Per *J.* Fernando, *En Banc*].

Supreme Court E-Library

March 22, 1997, although its distribution was implemented only on February 28, 2002.[59]

The Court of Appeals rejected this stance. It held that the handwritten minutes of the March 22, 1997 meeting offered by petitioners as proof that the declaration and issuance of stock dividends were valid was questionable because "it [did] not even indicate the number of stock dividends to be declared."[60]

This Court agrees with the Court of Appeals.

The handwritten minutes of the March 22, 1997 stockholders' meeting recorded the following:

> Quorum established.
> Ratified all acts and proceedings of the Board of Directors and Management
> *Declaration of stock dividends*
> Nomination and the election of same Board and Officers in the preceding years as new Board
> Meeting adjourned. 1:05 P.M.[61] (Emphasis supplied)

Clearly, the foregoing minutes alone would be insufficient to prove petitioners' claim that the 300% stock dividends were approved by the board of directors and ratified by the stockholders in the March 22, 1997 meeting. The minutes did not provide any other detail that would convincingly show that the 300% stock, dividends distributed in 2002 were the same stock dividends that were ratified by the stockholders in 1997.

Furthermore, while the minutes contain the names and signatures of stockholders who were present at the meeting, the shares held by each were not indicated. On its face, the minutes did not readily confirm how many shares were represented and voted at the meeting, particularly on the stock dividends declaration.

---

[59] *Rollo*, p. 30.

[60] *Id*. at 99.

[61] *Id*. at 70.

Supreme Court E-Library

This Court finds no reversible error on the part of the Court of Appeals in nullifying the 300% stock dividends, a declaration on the basis of the following findings of the Regional Trial Court:

> [O]n the declaration, issuance and distribution of a three hundred percent (300%) stock dividend by [petitioners] in favor of certain stockholders, the evidence shows that the action or actions of the [petitioners] with respect to the 300% stock dividends was or were done without the approval of. . . Yao Bio Lim, . . . Philip King and Lucia Cheng who own and/or are entitled to vote one thousand nine hundred fifty (1,950) shares of stocks of the outstanding capital stock of the School of 4,600 shares, or approximately forty-two percent (42%) of the outstanding capital stock of the School. The act/s of the [petitioners] violated Section 43 of the Corporation Code which provides that ". . . no stock dividend shall be issued without the approval of stockholders representing not less than two-thirds (2/3) of the capital stock[.]"[62]

Petitioners have not presented any cogent reason for this Court to set aside these findings. Without respondents' and Lucia Cheng's approval, who held 42% of the outstanding capital stock of PSI collectively, the required two-thirds (2/3) or 67% vote for stock dividends declaration prescribed under Section 43[63] of the Corporation Code clearly could not have been met.

---

[62] *Id*. at 48.

[63] CORP. CODE, Sec. 43 provides:

> Section 43. *Power to declare dividends*.— The board of directors of a stock corporation may declare dividends out of the unrestricted retained earnings which shall be payable in cash, in property, or in stock to all stockholders on the basis of outstanding stock held by them; Provided, That any cash dividends due on delinquent stock shall first be applied to the unpaid balance on the subscription plus costs and expenses, while stock dividends shall be withheld from the delinquent stockholder until his unpaid subscription is fully paid; Provided, further, That no stock dividend shall be issued without the approval of stockholders representing not less than two-thirds (2/3) of the outstanding capital stock at a regular or special meeting duly called for the purpose.

Supreme Court E-Library

IV

Finally, this Court finds no reason to reverse the award of damages. The award of moral damages finds legal basis in Articles 2217[64] and 2220[65] of the New Civil Code, which allow recovery of moral damages in case of willful injury to property. A stockholder's right to vote is inherent in and incidental to the ownership of a capital stock.[66] Here, petitioners unjustifiably and obstinately refused to recognize respondents' shareholdings in PSI and to allow them to participate in the 2002 stockholders' meeting and elections of the corporation's directors. They did this despite the previous Orders of the Securities and Exchange Commission and of the Regional Trial Court; thus, depriving respondents of their property rights. The Court of Appeals found that "the acts of the [petitioners] have caused mental anguish, serious anxiety and social humiliation to [respondents]."[67]

Similarly, the award of attorney's fees and litigation expenses is proper because respondents were compelled to litigate to protect or vindicate their stockholders' rights[68] against the unlawful acts of the petitioners.

---

[64] CIVIL CODE, Art. 2217 provides:

Article 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

[65] CIVIL CODE, Art. 2220 provides:

Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith.

[66] *Tan v. Sycip*, 530 Phil. 609 (2006) [Per *C.J.* Panganiban, First Division]; *Castillo v. Balinghasay*, 483 Phil. 470 (2004) [Per *J.* Quisumbing, First Division].

[67] *Rollo*, p. 52.

[68] CIVIL CODE, Art. 2208 provides:

Article 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

Supreme Court E-Library

The Court of Appeals likewise correctly sustained the award of temperate damages. Petitioners contest the award on the ground that respondents have not prayed for it.[69] While this may be true, it is also true that respondents have prayed for actual damages in their complaint.[70] Under the law, courts may award other kinds of damages in lieu of actual damages:

Article 2224. Temperate or moderate damages, which are more than nominal but less than compensatory damages, may be recovered ***when the court finds*** that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be provided with certainty. (Emphasis supplied)

In several cases,[71] this Court has sustained the award of temperate damages where the amount of actual damages was not sufficiently proven.

---

(1) When exemplary damages are awarded;

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

(3) In criminal cases of malicious prosecution against the plaintiff;

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

(5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

(6) In actions for legal support;

(7) In actions for the recovery of wages of household helpers, laborers and skilled workers;

(8) In actions for indemnity under workmen's compensation and employer's liability laws;

(9) in a separate civil action to recover civil liability arising from a crime;

(10) When at least double judicial costs are awarded;

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable. (Emphasis supplied)

[69] *Rollo*, p. 35.

[70] *Id*. at 44.

[71] *Lorenzo Shipping Corp. v. National Power Corp*., 770 Phil. 612 (2015) [Per *J*. Leonen, Second Division]; *Seven Brothers Shipping Corp. v. DMC-*

Supreme Court E-Library

Here, in sustaining the Regional Trial Court Decision, the Court of Appeals found that respondents have suffered some pecuniary loss.[72] Petitioners' wrongful acts have prevented respondents from exercising their rights as legitimate stockholders of the corporation. Under the circumstances of this case, this Court, finds the amount of ₱100,000.00 awarded by the lower court to be fair and reasonable.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

Carpio (Chairperson), Peralta, Mendoza, and *Martires, JJ.*, concur.

SECOND DIVISION

[G.R. No. 205128. August 9, 2017]

HEIRS OF ELIZA Q. ZOLETA, namely: SERGIO RENATO Q. ZOLETA, *a.k.a.*, CARLOS ZOLETA, VENANCIO Q. ZOLETA, and MILAGROS Q. ZOLETA-GARCIA, *petitioners, vs*. **LAND BANK OF THE PHILIPPINES AND DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD,** *respondents*.

Construction Resources, Inc., November 26, 2014, 748 Phil. 692 (2014) [Per *C.J.* Sereno, First Division]; *Snow Mountain Dairy Corp. v. GMA Veterans Force, Inc*., 747 Phil. 417 (2014) [Per *J.* Peralta, Third Division]; *Orix Metro Leasing and Finance Corporation v. Mangalinao y Dizon*, 680 Phil. 89 (2012) [Per *J.* Del Castillo, First Division]; *Philippine Hawk Corporation v. Lee*, 626 Phil. 483 (2010) [Per *J.* Peralta, Third Division]; *Premiere Development Bank v. Court of Appeals*, 471 Phil. 704 (2004) [Per *J.* Ynares-Santiago, First Division].

[72] *Rollo*, p. 52.