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to the result of his efforts and not the amount thereof, we should not find that the relationship of employer and employee exists.[7] In fine, there is nothing in the records to show or would "indicate that complainant was under the control of the petitioner" in respect of the means and methods[8] in the performance of complainant's work.

Consequently, private respondent is not entitled to the benefits prayed for.

In view of the foregoing premises, the petition is hereby GRANTED, and the decision of the NLRC is hereby REVERSED AND SET ASIDE.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and *Mendoza, JJ.*, concur.

SECOND DIVISION

[G.R. No. 96551. November 4, 1996]

PREMIUM MARBLE RESOURCES, INC., *petitioner, vs.* THE COURT OF APPEALS and INTERNATIONAL CORPORATE BANK, *respondents.*

PRINTLINE CORPORATION, *petitioner, vs.* THE COURT OF APPEALS and INTERNATIONAL CORPORATE BANK, *respondents.*

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[7] Investment Planning Corporation of the Philippines *vs.* Social Security System, No L-19124, November 18, 1967, 21 SCRA 924.

[8] *Idem.*

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SYLLABUS

1. **COMMERCIAL LAW; CORPORATION CODE; CORPORATIONS; POWER TO SUE AND BE SUED, LODGED WITH THE BOARD OF DIRECTORS.**— The power of the corporation to sue and be sued in any court is lodged with the board of directors that exercises its powers. Thus, the issue of authority and the invalidity of plaintiff-appellant's subscription which is still pending, is a matter that is also addressed, considering the premises, to the sound judgment of the Securities & Exchange Commission.

2. **ID.; ID.; ID.; REQUIRED TO SUBMIT TO SEC WITHIN 30 DAYS AMONG OTHERS, THE NAMES OF DIRECTORS, TRUSTEES AND OFFICERS ELECTED; PURPOSE.**— By the express mandate of the Corporation Code (Section 26), all corporations duly organized pursuant thereto are required to submit within the period therein stated (30 days) to the Securities and Exchange Commission the names, nationalities and residences of the directors, trustees and officers elected. Evidently, the objective sought to be achieved by Section 26 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 together with information on its key officers or managers so that those dealing with it and those 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.

3. **ID.; ID.; ID.; NO PERSON, IN THE ABSENCE OF AUTHORITY FROM THE BOARD OF DIRECTORS, CAN VALIDLY BIND THE CORPORATION; ACTION FOR DAMAGES FILED BY CORPORATION WITHOUT RESOLUTION OF THE BOARD OF DIRECTORS.**— The lower court finds that the officers represented by Atty. Dumadag do not as yet

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have the legal capacity to sue for and in behalf of the plaintiff corporation and/or the filing of the present action (Civil Case 14413) by them before Case No. 2688 of the SEC could be decided is a premature exercise of authority or assumption of legal capacity for and in behalf of plaintiff corporation. "The issues raised in Civil Case No. 14444 are similar to those raised in Civil Case No. 14413. This Court is of the opinion that before SEC Case No. 2688 could be decided, neither the set of officers represented by Atty. Dumadag nor that set represented by the Siguion Reyna, Montecillo and Ongsiako Law Office, may prosecute cases in the name of the plaintiff corporation. It is clear from the pleadings filed by the parties in these two cases that the existence of a cause of action against the defendants is dependent upon the resolution of the case involving intra-corporate controversy still pending before the SEC." On appeal, the Court of Appeals affirmed the trial court's Order which dismissed the consolidated cases. We agree with the finding of public respondent Court of Appeals, that "in the absence of any board resolution from its board of directors the [sic] authority to act for and in behalf of the corporation, the present action must necessarily fail. The claim of petitioners as represented by Atty. Dumadag, that Zaballa, et al., are the incumbent officers of Premium has not been fully substantiated. In the absence of an authority from the board of directors, no person, not even the officers of the corporation, can validly bind the corporation.

APPEARANCES OF COUNSEL

Arnulfo F. Dumadag for petitioner.

Fe Magalino & Associates for private respondents.

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DECISION

TORRES, JR., *J.*:

Assailed in the instant petition for review is the decision[1] of the Court of Appeals in CA-G.R. CV No. 16810 dated September 28, 1990 which affirmed the trial court's dismissal of petitioners' complaint for damages.

The antecedents:

On July 18, 1986, Premium Marble Resources, Inc. (Premium for brevity), assisted by Atty. Arnulfo Dumadag as counsel, filed an action for damages against International Corporate Bank which was docketed as Civil Case No. 14413. The complaint states, *inter alia*:

"3. Sometime in August to October 1982, Ayala Investment and Development Corporation issued three (3) checks [Nos. 097088, 097414 & 27884] in the aggregate amount of P31,663.88 payable to the plaintiff and drawn against Citibank;

xxx xxx xxx

"5. On or about August to October 1982, former officers of the plaintiff corporation headed by Saturnino G. Belen, Jr., without any authority whatsoever from the plaintiff deposited the above-mentioned checks to the current account of his conduit corporation, Intervest Merchant Finance (Intervest, for brevity) which the latter maintained with the defendant bank under account No. 0200-02027-8;

"6. Although the checks were clearly payable to the plaintiff corporation and crossed on their face and for payee's account only, defendant bank accepted the checks to be deposited to the current account of Intervest and thereafter presented the same for collection from the drawee bank which subsequently

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[1] Thirteenth Division, Herrera, M., *J.*, *ponente*, Bengzon, Rasul, *JJ.*, concurring.

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cleared the same thus allowing Intervest to make use of the funds to the prejudice of the plaintiff;

xxx xxx xxx

"14. The plaintiff has demanded upon the defendant to restitute the amount representing the value of the checks but defendant refused and continue to refuse to honor plaintiff's demands up to the present;

"15. As a result of the illegal and irregular acts perpetrated by the defendant bank, the plaintiff was damaged to the extent of the amount of P31,663.88."

Premium prayed that judgment be rendered ordering defendant bank to pay the amount of P31,663.88 representing the value of the checks plus interest, P100,000.00 as exemplary damages; and P30,000.00 as attorney's fees.

In its Answer International Corporate Bank alleged, *inter alia*, that Premium has no capacity/personality/authority to sue in this instance and the complaint should, therefore, be dismissed for failure to state a cause of action.

A few days after Premium filed the said case, Printline Corporation, a sister company of Premium also filed an action for damages against International Corporate Bank docketed as Civil Case No. 14444. Thereafter, both civil cases were consolidated.

Meantime, the same corporation, i.e., Premium, but this time represented by Siguion Reyna, Montecillio and Ongsiako Law Office as counsel, filed a motion to dismiss on the ground that the filing of the case was without authority from its duly constituted board of directors as shown by the excerpt of the minutes of the Premium's board of directors' meeting.[2]

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[2] *Rollo*, p. 56.

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In its opposition to the motion to dismiss, Premium thru Atty. Dumadag contended that the persons who signed the board resolution namely Belen, Jr., Nograles & Reyes, are not directors of the corporation and were allegedly former officers and stockholders of Premium who were dismissed for various irregularities and fraudulent acts; that Siguion Reyna Law office is the lawyer of Belen and Nograles and not of Premium and that the Articles of Incorporation of Premium shows that Belen, Nograles and Reyes are not majority stockholders.

On the other hand, Siguion Reyna Law firm as counsel of Premium in a rejoinder, asserted that it is the general information sheet filed with the Securities and Exchange Commission, among others, that is the best evidence that would show who are the stockholders of a corporation and not the Articles of Incorporation since the latter does not keep track of the many changes that take place after new stockholders subscribe to corporate shares of stocks.

In the *interim*, defendant bank filed a manifestation that it is adopting *in toto* Premium's motion to dismiss and, therefore, joins it in praying for the dismissal of the present case on the ground that Premium lacks authority from its duly constituted board of directors to institute the action.

In its Order, the lower court concluded that:

"Considering that the officers (directors) of plaintiff corporation enumerated in the Articles of Incorporation, filed on November 9, 1979, were 'to serve until their successors are elected and qualified' and considering further that as of March 4, 1981, the officers of the plaintiff corporation were Alberto Nograles, Fernando Hilario, Augusto Galace, Jose L.R. Reyes, Pido Aguilar and Saturnino Belen, Jr., who presumably are the officers represented by the Siguion Reyna Law Firm, and that together with the defendants, they are moving for the dismissal of the above-entitled case, the Court finds that the officers represented by Atty. Dumadag do not as yet have the

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legal capacity to sue for and in behalf of the plaintiff corporation and/or the filing of the present action (Civil Case 14413) by them before Case No. 2688 of the SEC could be decided is a premature exercise of authority or assumption of legal capacity for and in behalf of plaintiff corporation.

"The issues raised in Civil Case No. 14444 are similar to those raised in Civil Case No. 14413. This Court is of the opinion that before SEC Case No. 2688 could be decided, neither the set of officers represented by Atty. Dumadag nor that set represented by the Siguion Reyna, Montecillo and Ongsiako Law Office, may prosecute cases in the name of the plaintiff corporation.

"It is clear from the pleadings filed by the parties in these two cases that the existence of a cause of action against the defendants is dependent upon the resolution of the case involving intra-corporate controversy still pending before the SEC."[3]

On appeal, the Court of Appeals affirmed the trial court's Order[4] which dismissed the consolidated cases. Hence, this petition.

Petitioner submits the following assignment of errors:

I

"The Court of Appeals erred in giving due course to the motion to dismiss filed by the Siguion Reyna Law Office when the said motion is clearly filed not in behalf of the petitioner but in behalf of the group of Belen who are the clients of the said law office.

II

"The Court of Appeals erred in giving due course to the motion to dismiss filed by the Siguion Reyna Law Office in behalf of petitioner when the said law office had already appeared in other cases wherein the petitioner is the adverse party.

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[3] *Rollo*, pp. 162-163.

[4] *Rollo*, p. 160.

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III

"The Court of Appeals erred when it ruled that undersigned counsel was not authorized by the Board of Directors to file Civil Case Nos. 14413 and 14444.

IV

"The Court of Appeals erred in concluding that under SEC Case No. 2688 the incumbent directors could not act for and in behalf of the corporation.

V

"The Court of Appeals is without jurisdiction to prohibit the incumbent Board of Directors from acting and filing this case when the SEC where SEC Case No. 2688 is pending has not even made the prohibition."

We find the petition without merit.

The only issue in this case is whether or not the filing of the case for damages against private respondent was authorized by a duly constituted Board of Directors of the petitioner corporation.

Petitioner, through the first set of officers, *viz.*, Mario Zavalla, Oscar Gan, Lionel Pengson, Jose Ma. Silva, Aderito Yujuico and Rodolfo Millare, presented the Minutes[5] of the meeting of its Board of Directors held on April 1, 1982, as proof that the filing of the case against private respondent was authorized by the Board. On the other hand, the second set of officers, *viz.*, Saturnino G. Belen, Jr., Alberto C. Nograles and Jose L.R. Reyes, presented a Resolution[6] dated July 30, 1986, to show that Premium did not authorize the filing in its behalf of any suit against the private respondent International Corporate Bank.

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[5] *Rollo*, pp. 108-109.

[6] *Rollo*, p. 56.

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Later on, petitioner submitted its Articles of Incorporation[7] dated November 6, 1979 with the following as Directors: Mario C. Zavalla, Pedro C. Celso, Oscar B. Gan, Lionel Pengson, and Jose Ma. Silva.

However, it appears from the general information sheet and the Certification issued by the SEC on August 19, 1986[8] that as of March 4, 1981, the officers and members of the board of directors of the Premium Marble Resources, Inc. were:

Alberto C. Nograles — President/Director
Fernando D. Hilario — Vice President/Director
Augusto I. Galace — Treasurer
Jose L.R. Reyes — Secretary/Director
Pido E. Aguilar — Director
Saturnino G. Belen, Jr. — Chairman of the Board.

While the Minutes of the Meeting of the Board on April 1, 1982 states that the newly elected officers for the year 1982 were Oscar Gan, Mario Zavalla, Aderito Yujuico and Rodolfo Millare, petitioner failed to show proof that this election was reported to the SEC. In fact, the last entry in their General Information Sheet with the SEC, as of 1986 appears to be the set of officers elected in March 1981.

We agree with the finding of public respondent Court of Appeals, that "in the absence of any board resolution from its board of directors the [sic] authority to act for and in behalf of the corporation, the present action must necessarily fail. The power of the corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers. Thus, the issue of

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[7] *Rollo*, pp. 65-75.

[8] Annexes "A" and "B" to reply to opposition to motion to dismiss; Order, p. 2, *Rollo*, p. 161.

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authority and the invalidity of plaintiff-appellant's subscription which is still pending, is a matter that is also addressed, considering the premises, to the sound judgment of the Securities & Exchange Commission."[9]

By the express mandate of the Corporation Code (Section 26), all corporations duly organized pursuant thereto are required to submit within the period therein stated (30 days) to the Securities and Exchange Commission the names, nationalities and residences of the directors, trustees and officers elected.

Sec. 26 of the Corporation Code provides, thus:

"Sec. 26. *Report of election of directors, trustees and officers.* — 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. xxx"

Evidently, the objective sought to be achieved by Section 26 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 together with information on its key officers or managers so that those dealing with it and those 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.[10]

The claim, therefore, of petitioners as represented by Atty. Dumadag, that Zaballa, et al., are the incumbent

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[9] Decision, pp. 4 & 5.

[10] HB Humphrey Co. *vs.* Pollock Roller Runner Sled Co. 278 Mass 350, 180 NE 164; See also Lopez, R., Corporation Code of the Philippines, p. 446.

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officers of Premium has not been fully substantiated. In the absence of an authority from the board of directors, no person, not even the officers of the corporation, can validly bind the corporation.[11]

We find no reversible error in the decision sought to be reviewed.

ACCORDINGLY, for lack of merit, the petition is hereby DENIED.

SO ORDERED.

Regalado (Chairman), Romero, Puno, and *Mendoza, JJ.*, concur.

EN BANC

[G.R. No. 116422. November 4, 1996]

AVELINA B. CONTE and LETICIA BOISER-PALMA, *petitioners, vs.* COMMISSION ON AUDIT (COA), *respondent.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; SOCIAL SECURITY LAW; SSS RESOLUTION 56 PROVIDING FINANCIAL ASSISTANCE, ILLEGAL, VOID AND OF NO EFFECT.**— A cursory examination of the preambular clauses and provisions of Res. 56 provides a number of clear indications that its financial

[11] Visayan *vs.* NLRC, 196 SCRA 410, G.R. No. 69999, April 30, 1991.