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Highways v. Spouses Tecson[1] and *Heirs of Spouses Tria v. Land Bank of the Philippines*.[2]

FIRST DIVISION

[G.R. No. 184068. April 19, 2016]

SIMNY G. GUY, as minority stockholder and for and in behalf of GOODLAND COMPANY, INC., *petitioner, vs.* **GILBERT G. GUY, ALVIN AGUSTIN T. IGNACIO and JOHN and/or JANE DOES,** *respondents.*

SYLLABUS

1. COMMERCIAL LAW; CORPORATIONS; STOCKHOLDERS' MEETING; THE LAW ONLY REQUIRES SENDING OR MAILING OF THE NOTICE OF THE STOCKHOLDERS' MEETING; STOCKHOLDER IS DEEMED TO HAVE RECEIVED THE NOTICE AFTER IT WAS PROPERLY MAILED TO HIM.— [W]e find that the provisions under Section 50 of the Corporation Code and the by-laws of GCl are clear and unambiguous. They do not admit of two or more meanings; nor do they make reference to two or more things at the same time. The provisions only require the sending/mailing

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[1] *J.* Leonen, Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Decision), G.R. No. 179334, July 1, 2013, 700 SCRA 243, 274-279 [Per *J.* Peralta, Third Division]; and *J.* Leonen,Dissenting Opinion in *Department of Public Works and Highways v. Spouses Tecson* (Resolution), G.R. No. 179334, April 21, 2015 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/april2015/179334_leonen.pdf> [Per *J.* Peralta, Third Division].

[2] *J.* Leonen, Separate Opinion in *Heirs of Spouses Tria v. Land Bank of the Philippines,* G.R. No. 170245, July 1, 2013, 700 SCRA 188, 200-209 [Per *J.* Peralta, Third Division].

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of the notice of a stockholders' meeting to the stockholders of the corporation. Sending/mailing is different from filing or service under the Rules of Court. Had the lawmakers intended to include the stockholder's receipt of the notice, they would have clearly reflected such requirement in the law. Absent that requirement, the word "send" should be understood in its plain meaning: "Send" means to **deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed** x x x Clearly, respondents are only mandated to notify petitioner by depositing in the mail the notice of the stockholders' special meeting, with postage or cost of transmission provided and the name and address of the stockholder properly specified. With respect to the latter part of the definition of "send" under *Black's Law Dictionary,* the term "receipt" only has the effect of proper sending when a mail matter is received in the usual course of transmission. As found by both the RTC to the CA, petitioner admitted that the notice of the special stockholders' meeting was sent to him through registered mail by respondents on 2 September 2004 x x x Therefore, petitioner is considered to have received notice of the special stockholders' meeting after said notice was properly mailed by respondents.

2. ID.; ID.; ID.; A PERSON WHO WAS NOT A STOCKHOLDER OF RECORD IS NOT ENTITLED TO BE NOTIFIED OF THE STOCKHOLDERS' MEETING.— [T]he RTC and the CA found that Cheu was not a stockholder of record of GCI. Hence, she was not entitled to be notified of the subject special stockholders' meeting. Clearly then, the evidence presented by Cheu to prove that she was a stockholder of record -— valid, existing and uncancelled Goodland Stock Certificate Nos. 49, 50, 58 and 59 in the names of Paulino Delfin Pe and Benjamin C. Lim — does not satisfy the requirements imposed by the Corporation Code and the by-laws of GCI.

APPEARANCES OF COUNSEL

Zamora Poblador Vasquez & Bretaña for petitioner S. Guy.

Mondragon & Montoya Law Offices for respondents G.G. Guy and A.E. Ignacio.

Cadiz Tabayoyong & Valmores for Estate of the the late G. Cheu.

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D E C I S I O N

SERENO, *C.J.*:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, assailing the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 99749. The CA affirmed *in toto* the Decision[3] issued by the Regional Trial Court (RTC) of Manila, Branch 24. The challenged rulings upheld the validity of a special stockholders' meeting, the election of directors and officers of Goodland Company, Inc. (GCI), and any further proceedings, acts or resolutions resulting therefrom.

FACTUAL ANTECEDENTS

GCI is a family-owned corporation of the Guy family duly organized and existing under Philippine laws.[4] Petitioner Simny G. Guy (Simny) is a stockholder of record and member of the board of directors of the corporation. Respondents are also GCI stockholders of record who were allegedly elected as new directors by virtue of the assailed stockholders' meeting held on 7 September 2004.[5]

On 10 September 2004, Paulino Delfin Pe and Benjamin Lim (stockholders of record of GCI) informed petitioner that they had received a notice dated 31 August 2004 calling for the holding of a special stockholders' meeting on 7 September 2004 at the Manila Diamond Hotel.[6] The notice[7] reads:

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[1] *Rollo*. pp. 54-67; Decision dated 30 April 2008, penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Magdangal M. de Leon and Normandie B. Pizarro concurring.

[2] *Id.* at 68; Resolution dated 6 August 2008.

[3] *Id.* at 626-632; Decision dated 25 June 2007, penned by Judge Antonio M. Eugenio, Jr.

[4] *Id.* at 55.

[5] *Id.* at 96-97.

[6] *Id.* at 55.

[7] *Id.* at 60.

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NOTICE OF MEETING

Please take notice that the Special Stockholders' meeting of Goodland Company, Inc. shall be held on 7 September 2004 at 10:00 a.m. at the Manila Diamond Hotel located at Roxas Boulevard corner Dr. J. Quintos Street, Ermita, Manila, for the purposes, among others, of the election of the Board of Directors for the year 2004-2005, and consideration of such other matters as may arise during the meeting.

If you are unable to be present at the stockholders' meeting, please nominate and authorize your proxy representative by executing, signing and delivering to the undersigned the proxy for the meeting of the stockholders.

The newly elected Board of Directors may meet thereafter for the purposes, among others, of election and appointment of officers, and consideration of such other matters as may arise during the meeting.

Quezon City, 31 August 2004.

(Sgd)
GILBERT G. GUY
Executive Vice-President

On 22 September 2004, or fifteen (15) days after the stockholders' meeting, petitioner received the aforementioned notice.[8]

On 30 September 2004, petitioner, for himself and on behalf of GCI and Grace Guy Cheu (Cheu), filed a Complaint against respondents before the RTC of Manila[9] for the "Nullification of Stockholders' Meeting and Election of Directors, Nullification of Acts and Resolutions, Injunction and Damages with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction."[10]

Petitioner assailed the election held on 7 September 2004 on the following grounds: (1) there was no previous notice to

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[8] *Id.* at 801.

[9] *Id.* at 94-109.

[10] *Id.* to 55.

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petitioner and Cheu; (2) the meeting was not called by the proper person; and (3) the notices were not issued by the person who had the legal authority to do so.[11]

In his Answer, respondent Gilbert G. Guy (Gilbert) argued that the stockholders' meeting on 7 September 2004 was legally called and held; that the notice of meeting was signed by the authorized officer of GCI and sent in accordance with the by-laws of the corporation; and that Cheu was not a stockholder of record of the corporation, a status that would have entitled her to receive a notice of the meeting.[12]

On 18 October 2004, the RTC issued a Temporary Restraining Order (TRO) enjoining respondents and their officers, agents, assigns, and all other persons deriving authority from them from acting or holding themselves out as new directors/officers of the corporation.[13]

In a Manifestation dated 10 August 2005, respondents disclosed that an annual stockholders' meeting of GCI for the year 2005 had been held. They prayed for the dismissal of the Complaint, claiming that the issues raised therein had already become moot and academic by virtue of the 2005 annual stockholders' meeting.[14] The pertinent portions of the Manifestation read:

> 4. On March 30, 2005, defendant Gilbert G. Guy [herein respondent], in his capacity as Acting President, Vice-President, Director and majority stockholder of GOODLAND, sent a "**Notice of 2005 Annual Meeting of Stockholders**" to all stockholders of record of GOODLAND notifying all stockholders that "*pursuant to Art. II, Sec. 1 of the By-Laws of GOODLAND COMPANY, INC., the annual meeting of the stockholders of the Corporation shall be held on the SECOND MONDAY OF APRIL," or on APRIL 11, 2005, at 2:00 o'clock in the afternoon, at Taal Conference Room, Upper Lobby, Century Park Sheraton Hotel, P. Ocampo, Sr., St. Manila"* xxx.

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[11] *Id.* at 626.

[12] *Id.* at 56.

[13] *Id.*

[14] *Id.*

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5. The said Notice complies with the provisions of Art. II, Sec[tions] 2 and 3 of the By-Laws of GOODLAND, which provide that:

"Sec. 2. Special meeting of the stockholders may be called at the principal office of the company at any time by resolution of the Board of Directors or by order of the President and must be called upon the written request of stockholders registered as the owners of one-third (1/3) of the total outstanding stock."

"Section 3. Notice of meeting written or printed for every regular or special meeting of the stockholders shall be ***prepared*** *and* ***mailed*** *to the registered post office address of each stockholder not less than five (5) days prior to the date set for such meeting, and if for a special meeting, such notice shall state the object or objects of the same. No failure or irregularity of notice of any meeting shall invalidate such meeting at which all the stockholders are present and voting without protest."*

6. Plaintiff SIMNY G. GUY [herein petitioner] was notified three (3) times by the post office of the said **"Notice of 2005 Annual Meeting of Stockholders"** on April 6, 2005, April 11, 2005 and April 20, 2005, respectively, but the same was (sic) ignored by plaintiff SIMNY G. GUY [petitioner] and the said "Notice of 2005 Annual Meeting of Stockholders" was "**UNCLAIMED**" x x x.

7. The Notices sent to Paulino Delfin Pe and Benjamin Lim were duly received by them on April 5, 2005 as evidenced by their respective Registry Return Receipts x x x.

8. No Notice was sent to plaintiff GRACE GUY CHEU as she is **not** a stockholder of record of GOODLAND.[15]

On 26 October 2005, the RTC denied the prayer for dismissal and ruled that the case had not been mooted by the holding of the 2005 annual stockholders' meeting. It said that respondents' issuance and sending of notices were part of the acts arising from the special stockholders' meeting held on 7 September 2004, the validity of which is being assailed in the present case.[16]

In their Manifestation and Motion,[17] petitioner and Cheu averred that their application for preliminary injunction had

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[15] *Id.* at 579-580.

[16] *Id.* at 56.

[17] *Id.* at 603-605.

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been mooted by supervening events. One of these events was the holding of the 2005 annual stockholders' meeting of the corporation on 11 April 2005, during which a new set of directors and officers for the ensuing year was elected.[18]

In a Decision[19] dated 25 June 2007, the RTC dismissed the Complaint filed by petitioner and Cheu. The trial court ruled:

> On the issue that there was no previous notice to the plaintiffs, the evidence clearly shows that the Notice of the Special Stockholders' meeting was sent to plaintiff Simny [petitioner] by registered mail on September 2, 2004, or five days before the said meeting held on September 7, 2004, in accordance with Art. II, Section 3 of the By-Laws of Goodland. In fact, plaintiffs admitted in par. 13 of the complaint that plaintiffs were informed by Paulino Delfin Pe and Benjamin Lim that they received a Notice dated 31 August 2004 calling for the holding of a special stockholders' meeting on 7 September 2004.[20]
>
> The evidence on record consisting of the GIS of Goodland, duly filed with SEC, for the years 1998, 1999, 2001, 2002, and 2003 xxx, show that plaintiff Simny G. Guy [petitioner] owns 7,982 shares of the total 80,000 subscribed and issued shares of Goodland or equivalent to around 9.97% of the total subscribed shares of Goodland.[21]
>
> Plaintiff Grace Cheu failed to show proof of her alleged ownership of shares in Goodland as in fact, the evidence she presented during trial are the valid, existing, and uncancelled Goodland Stock Certificate Nos. 49 and 58 in the name of one Paulino Delfin Pe for a total of 8 shares x x x, and Goodland Stock Certificate Nos. 50 and 59 in the name of one Benjamin Lim for a total of 7 shares x x x.[22]
>
> On the other hand, respondent Gilbert Guy was shown to own 63,996 shares or around 79.99% of the total subscribed shares of Goodland x x x.[23]

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[18] *Id.* at 56.

[19] *Supra* note 3.

[20] *Id.* at 629.

[21] *Id.* at 628.

[22] *Id.*

[23] *Id.*

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As correctly pointed out by defendants the applicable provisions of the By-laws of Goodland are Art. II, Sec. 2 which provides that the "special meeting of the stockholders may be called x x x by order of the President and must be called upon the written request of stockholders registered as the owners of one-third the total outstanding stock" and Art. IV, Section 3 which provides that "the Vice President, if qualified, shall exercise all of the functions and perform all the duties of the President in the absence or disability, for any cause, of the latter."[24]

Based on the evidence on record and considering the above quoted provisions of Goodland's By-Laws, we rule in favor of defendants [herein respondents]. The evidence conclusively shows that defendant Gilbert is the owner of more than one-third of the outstanding stock of Goodland. In fact, it is around 79.99%. Thus, pursuant to Art. II, Sec. 2 of the By-laws of Goodland, defendant Gilbert may validly call such special stockholders' meeting.[25]

Plaintiffs have not disputed defendants' allegation that the then incumbent President of Goodland Francisco Guy Co Chia was incapacitated by Alzheimer's Disease. Thus, pursuant to Art. IV, Section 3 of the By-Laws of Goodland, defendant Gilbert, as the duly elected Vice President of Goodland (which is likewise not disputed by plaintiffs), shall exercise all of the functions and perform all the duties of the President in the absence or disability, for any cause of the latter. We likewise rule that the qualifying phrase in Art. IV, Section 3 of the By-Laws of Goodland that the Vice-President, "if qualified," refers to the qualification that the Vice President must also be a director since one of the qualifications to become a President of the corporation is that he must first be a director of the corporation. A Vice President of Goodland who is not also a director is not qualified to act as President. And since defendant Gilbert is both the duly elected Vice President and an incumbent director, we find that he is qualified to act as President. Thus, as acting President of Goodland, defendant Gilbert may validly order the calling of the said special stockholders' meeting.[26]

In view of the said findings, plaintiffs' prayer for damages against defendants must perforce fail.[27]

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[24] *Id.* at 630.

[25] *Id.*

[26] *Id.* at 630-631.

[27] *Id.* at 631.

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Aggrieved, petitioner filed a Petition for Review[28] under Rule 43 of the Rules of Court based on Section 1 of A.M. No. 04-9-07-SC dated 18 July 2007 and docketed as CA-G.R. No. 99749. According to this provision, "[all] decisions and final orders in cases falling under the Interim Rules of Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court."[29]

In a Decision[30] dated 30 April 2008, the CA affirmed the RTC ruling *in toto*.

Hence, this Petition for Review on *Certiorari* claiming that the special stockholders' meeting held on 7 September 2004 was void for lack of due notice.

Respondents filed their Comment[31] praying for the dismissal of the Petition for lack of merit and for being moot and academic.

OUR RULING

The Petition is denied.

Notice of the stockholders' meeting was properly sent in compliance with law and the by-laws of the corporation.

Section 50 of *Batas Pambansa Blg.* 68 (B.P. 68) or the Corporation Code of the Philippines reads as follows:

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

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[28] *Id.* at 248-278.

[29] *Id.* at 27.

[30] *Supra* note 1.

[31] *Id.* at 473-515.

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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.

Special meetings of stockholders or members shall be held at any time deemed necessary or as provided in the by-laws: Provided, however, That **at least one (1) week written notice shall be sent to all stockholders or members, unless otherwise provided in the by-laws.**

Notice of any meeting may be waived, expressly or impliedly, by any stockholder or member.

Whenever, for any cause, there is no person authorized to call a meeting, the Securities and Exchange Commission, upon petition of a stockholder or member, and on the showing of good cause therefor, may issue an order to the petitioning stockholder or member directing him to call a meeting of the corporation by giving proper notice required by this Code or by the by-laws. The petitioning stockholder or member shall preside thereat until at least a majority of the stockholders or members present have chosen one of their number as presiding officer. (Emphasis supplied)

For a stockholders' special meeting[32] to be valid, certain requirements must be met with respect to notice, quorum and place.[33] In relation to the above provision of B.P. 68, one of the requirements is a previous written notice sent to all stockholders at least one (1) week prior to the scheduled meeting, *unless otherwise provided in the by-laws*.[34]

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[32] Stockholders' meetings are called for corporate purposes like the election of directors (Sec. 24), amendment of the articles of incorporation involving investment for purposes other than the primary purpose, or investment in another corporation or business (Secs. 16 and 42), adoption of by-laws (Sec. 46), increase or decrease of capital stock (Sec. 38), merger or consolidation (Sec. 76), etc. [Lopez, Rosario N., *The Corporation Code of the Philippines* (Annotated) Volume Two, 685 (1994)].

[33] Campos, Jose C. Jr. and Lopez-Campos, Maria Clara, *The Corporation Code: Comments, Notes and Selected Cases* Vol. I, 413 (1990).

[34] The by-laws may either shorten or extend the time required by the Code for giving notice. (*Id.* at 414).

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Under the by-laws[35] of GCI, the notice of meeting shall be mailed not less than five (5) days prior to the date set for the special meeting. The pertinent provision reads:

> Section 3. Notice of meeting written or printed for every regular or special meeting of the stockholders shall be **prepared and mailed to the registered post office address of each stockholder not less than five (5) days prior to the date set for such meeting**, and if for a special meeting, such notice shall state the object or objects of the same. No failure or irregularity of notice of any meeting shall invalidate such meeting at which all the stockholders are present and voting without protest.[36] (Emphasis supplied)

The Corporation Code itself permits the shortening (or lengthening) of the period within which to send the notice to call a special (or regular) meeting. Thus, no irregularity exists in the mailing of the notice sent by respondent Gilbert G. Guy on 2 September 2004 calling for the special stockholders' meeting to be held on 7 September 2004, since it abides by what is stated in GCI's by-laws as quoted above.

Petitioner avers that although the notice was sent by registered mail on 2 September 2004, the registry return card shows that he received it only on 22 September 2004 or fifteen (15) days after the stockholders' meeting was held.[37] He insists that actual receipt of the notice of the stockholders' meeting prior to the date of the meeting is mandatory.[38]

Petitioner begs the Court to interpret the provisions on notice in Section 50 of the Corporation Code and GCI's by-laws pursuant to a rule in statutory construction that states: "Statutes should receive a sensible construction, such as will give effect to the legislative intention and so as to avoid an unjust or an absurd conclusion."[39]

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[35] *Rollo*, pp. 326-332.

[36] *Id.* at 328.

[37] *Id.* at 33.

[38] *Id.* at 30.

[39] *Id.* at 31.

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Petitioner persists in his view that to achieve the intent of the law, the notice must be actually received, and not just sent, prior to the date of the meeting.[40] Petitioner cites the provision on "completeness of service" under the Rules of Court, which states that service by registered mail is deemed complete upon actual receipt by the addressee or after five (5) days from the date of receipt of the first notice of the postmaster, whichever date is earlier.[41]

We are not persuaded.

The first and fundamental duty of the Court is to apply the law.[42] Where the law speaks in clear and categorical language, there is no room for interpretation;[43] there is only room for application.[44] Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent.[45]

Rizal Commercial Banking Corp. v. Intermediate Appellate Court[46] describes when the law becomes ambiguous:

> Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.

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[40] *Id.* at 32.

[41] *Id.* at 32-33.

[42] *Rizal Commercial Banking Corp. v. Intermediate Appellate Court,* 378 Phil. 10-31 (1999).

[43] *United Paracale Mining Co., Inc. v. Dela Rosa*, G.R. Nos. 63786-87, 70423, 73931, 7 April 1993, 221 SCRA 1080.

[44] *Id.*, citing *Cebu Portland Cement Company v. Municipality of Naga*, 133 Phil. 695-702 (1968).

[45] *Rizal Commercial Banking Corp. v. Intermediate Appellate Court*, *supra* note 43.

[46] *Id.*

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Applying this ruling, we find that the provisions under Section 50 of the Corporation Code and the by-laws of GCI are clear and unambiguous. They do not admit of two or more meanings, nor do they make reference to two or more things at the same time. The provisions only require the sending/mailing of the notice of a stockholders' meeting to the stockholders of the corporation. Sending/mailing is different from filing or service under the Rules of Court. Had the lawmakers intended to include the stockholder's receipt of the notice, they would have clearly reflected such requirement in the law. Absent that requirement, the word "send" should be understood in its plain meaning:[47]

> "Send" means to **deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed** and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none, to any address reasonable under the circumstances. The **receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.** (U.C.C. Sections 1-201 [38]).[48] (Emphasis supplied)

Clearly, respondents are only mandated to notify petitioner by depositing in the mail the notice of the stockholders' special meeting, with postage or cost of transmission provided and the name and address of the stockholder properly specified. With respect to the latter part of the definition of "send" under *Black's*

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[47] Under the principles of statutory construction, if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This plain-meaning rule or *verba legis* derived from the maxim *index animi sermo est* (speech is the index of intention) rests on the valid presumption that the words employed by the legislature in a statute correctly express its intent or will and preclude the court from construing the statute differently. The legislature is presumed to know the meaning of the words, to have used those words advisedly, and to have expressed its intent by the use of such words as are found in the statute. *Verba legis non est recedendum*, or "from the words of a statute there should be no departure." (*Pioneer Texturizing Corp. v. NLRC*, 345 Phil. 1057-1077 [1997]).

[48] Black, Henry Campbell, M.A., *Black's Law Dictionary* Sixth Edition.

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Law Dictionary, the term "receipt" only has the effect of proper sending when a mail matter is received in the usual course of transmission.

As found by both the RTC to the CA, petitioner admitted that the notice of the special stockholders' meeting was sent to him through registered mail by respondents on 2 September 2004.[49] Respondents further argued:

> It should be emphasized here that the period of mailing, that is, at least **five (5) days prior mailing of notice of meeting** as provided in the By-laws of GOODLAND is **reasonable enough** for the petitioner Simny Guy to receive the notice of meeting prior to the holding of the subject stockholders' meeting considering the **relative distance of the Post Office (Meralco Post Office, Pasig City) where the said notice of meeting was mailed *vis-à-vis* the place of residence of petitioner Simny Guy located at Greenmeadows, Quezon City**.[50] (Emphases supplied)

Therefore, petitioner is considered to have received notice of the special stockholders' meeting after said notice was properly mailed by respondents.

Petitioner further claims that (1) the notice suffered some fatal defects when it was not issued by the corporate secretary of GCI pursuant to its by-laws; and (2) the stockholders' meeting was not "called" by the proper person under the Corporation Code and the by-laws of GCI.

These claims are without merit.

The RTC correctly ruled:

> As correctly pointed out by defendants [respondents], the applicable provisions of the by-laws of Goodland are Article II, Sec. 2 which provides that the "special meeting of the stockholders may be called x x x by order of the President and must be called upon the written request of stockholders registered as the owners of one-third (1/3) of the total outstanding stock and Article IV, Section 3 which provides

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[49] *Rollo*, pp. 61 and 629.

[50] *Id.* at 487-488.

that "the Vice President, if qualified, shall exercise all of the functions and perform all the duties of the President, in the absence or disability, for any cause, of the latter."

Based on the evidence on record and considering the above quoted provisions of Goodland's By-laws, we rule in favor of defendants [respondents]. **The evidence conclusively show that defendant Gilbert [respondent Guy] is the owner of more than one-third (1/3) of the outstanding stock of Goodland.** In fact, it is around 79.99%. **Thus, pursuant to Art. II, Sec. 2 of the By-laws of Goodland, defendant Gilbert [respondent Guy] may validly call such special stockholders' meeting.**[51] (Emphasis supplied)

The CA, in affirming the RTC ruling, further said:

Significantly, Section 25 of the Corporation Code states:

SECTION 25. *Corporate Officers, Quorum*. — Immediately after their election, the directors of a corporation must formally organize by the election of a president, who shall be a director, a treasurer who may or may not be a director, a secretary who shall be a resident and citizen of the Philippines, and such other officers as may be provided for in the by-laws. Any two (2) or more positions may be held concurrently by the same person, except that no one shall act as president and secretary or as president and treasurer at the same time.

From the above provision, the requirement imposed on a president of the corporation is that he should be a member of the Board of Directors and he should not be at the same time the treasurer or secretary of the corporation. Therefore, under Section 3, Article IV of the By-laws of Goodland, respondent Gilbert G. Guy as Vice-President of the corporation is qualified to act as president.

x x x x x x x x x

From the above exposition, it is undisputed that x x x **the special stockholder's meeting was xxx prepared and called by the proper person**. The notice of meeting and the calling thereof by the Vice-President acting as President complied with the provisions in the by-laws of the corporation and the Corporation Code.[52] (Emphasis supplied)

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[51] *Id.* at 630.

[52] *Id.* at 63-66.

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We, therefore, find no reversible error either in the CA or in the RTC Decision after finding that notice of the special stockholders' meeting was properly issued and the meeting properly called by respondent Gilbert.

Cheu was not a stockholder of record of GCI and was therefore not entitled to any notice of meeting.

Petitioner also asserts that the special stockholders' meeting on 7 September 2004 was invalid for lack of due notice to Grace Cheu, allegedly a stockholder of record of GCI. She was considered as such for having been in possession of the stock certificates of stockholders Paulino Delfin Pe and Benjamin Lim.[53]

This contention cannot be sustained.

A "stockholder of record" is defined as follows:

A person who desires to be recognized as stockholder for the purpose of exercising stockholders' right must secure standing by having his ownership of share recorded on the stock and transfer book. Thus, **only those whose ownership of shares are duly registered in the stock and transfer book are considered stockholders of record and are entitled to all rights of a stockholder**.[54] (Emphasis supplied)

More so, Section 63 of the Corporation Code provides:

SECTION 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**

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[53] *Id.* at 40.

[54] *Id.* at 61-62, *citing* SEC Opinions dated 23 May 1993, Victor Africa; and 7 March 1994, Pastora T. O'Connor.

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as between the parties, until the transfer is recorded in the books of the corporation so as to show 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. (Emphasis supplied)

The Court affirmed this provision in *Batangas Laguna Tayabas Bus Company, Inc. v. Bitanga*:[55]

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 books. Until the transfer is registered, the transferee is not a stockholder but an outsider.** (Emphasis supplied)

The above pronouncements are embodied in GCI's by-laws, specifically Article I, Sections 2, 3 and 4:[56]

Section 2. Every certificate surrendered for exchange or transfer shall be cancelled and affixed to the original stub in the certificate book and no new certificates shall be issued unless and until the old certificates have been so cancelled and returned to the corporation, or satisfactory proof of their loss is presented.

Section 3. Certificates of stock may be sold, transferred or hypot[h]ecated by indorsement or separate deed, but **the corporation**

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[55] 415 Phil. 43 (2001).

[56] *Rollo*, p. 327.

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shall not consider any transfer effective until the indorsed certificate is submitted for cancellation and a new one issued in the name of the transferee. (Emphasis supplied)

Section 4. All certificates submitted for transfer to another name shall be marked "CANCELLED" by the Secretary and attached to its corresponding stub whereon the following data shall be shown:

a. The date when the shares were transferred.
b. To whom transferred.
c. Number of shares transferred.
d. Number or numbers of the new certificate or certificates.

Based on the foregoing, the RTC and the CA found that Cheu was not a stockholder of record of GCI. Hence, she was not entitled to be notified of the subject special stockholders' meeting.

Clearly then, the evidence presented by Cheu to prove that she was a stockholder of record — valid, existing and uncancelled Goodland Stock Certificate[57] Nos. 49, 50, 58 and 59 in the names of Paulino Delfin Pe and Benjamin C. Lim — does not satisfy the requirements imposed by the Corporation Code and the by-laws of GCI.[58]

All told, the validity of the special stockholders' meeting held on 7 September 2004 has been sufficiently established. Accordingly, we find no necessity to decide on the other issue of damages claimed by petitioner, as we find no merit therein.

WHEREFORE, the instant Petition for Review is **DENIED**. The Court of Appeals Decision in CA-G.R. SP No. 99749 is hereby **AFFIRMED**.

SO ORDERED.

Leonardo-de Castro, Bersamin, Perlas-Bernabe, and *Caguioa, JJ.*, concur.

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[57] *Id.* at 623-624; 796-799.

[58] *Id.* at 63.