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**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**ANA MARIA QUE TAN, ELAINE VICTORIA QUE TAN, CAROLINA QUE VILLONGCO, FRANCIS QUE VILLONGCO, CARLO GERONIMO QUE VILLONGCO, MICHAEL CLIMENT QUE VILLONGCO, MARCELIA QUE VILLONGCO and ANGELICA QUE GONZALES,**  
*Petitioners,*

**G.R. No. 229603**  
Present:  
PERLAS-BERNABE, S.A.J.,  
*Chairperson,*  
HERNANDO, INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

- versus -

**GEMINIANO QUE YABUT III, CARLOS QUE YABUT, GERONIMO QUE YABUT, JOSE ELSTON QUE YABUT, MA. CORAZON QUE GARCIA, ANTHONY QUE GARCIA, EUMIR CARLO QUE CAMARA, PAOLO QUE CAMARA and ABIMAR QUE CAMARA,**  
*Respondents.*

Promulgated:  
**SEP 29 2021**  
*[Signature]*

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**DECISION**

**INTING, J.:**

*[Handwritten mark]*

Before the Court is a Petition for Review<sup>1</sup> assailing the Decision<sup>2</sup> dated February 5, 2015 and the Resolution<sup>3</sup> dated January 30, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 130647 which dismissed the Complaint<sup>4</sup> for Distribution/Settlement of Shares of Stock and Injunction (With Prayer for the Issuance of a Seventy-Two (72)-Hour Temporary Restraining Order, Seventeen (17)-Day Temporary Restraining Order and Writ of Preliminary Injunction) in Civil Case No. CV-941-MN and nullified and set aside the Order<sup>5</sup> dated May 20, 2013 of Branch 74, Regional Trial Court (RTC), Malabon City in Civil Case No. CV-941-MN.

### *The Antecedents*

The contending parties in the case are stockholders of Carlque Plastic, Inc. (Carlque).<sup>6</sup>

Carlque has an authorized capital stock of 75,000 shares, 15,000 of which are subscribed and paid up. Cecilia Que Yabut (Cecilia), together with Geminiano Que Yabut III (Geminiano), *et al.*<sup>7</sup> collectively hold 7,030 shares; while Ana Maria Que Tan (Ana Maria), *et al.*<sup>8</sup> own a total of 7,032 shares.<sup>9</sup>

The remaining 938 shares (QPC shares) are owned by the late Que Pei Chan.<sup>10</sup> However, in Carlque's General Information Sheet (GIS) for 2011 and 2012, it failed to include the QPC shares among the outstanding capital stock of the corporation.<sup>11</sup>

<sup>1</sup> *Rollo*, Vol. I, pp. 20-168.

<sup>2</sup> *Id.* at 171-180; penned by Associate Justice Danton Q. Bueser with Associate Justices Apolinario D. Bruselas, Jr. and Pedro B. Corales, concurring.

<sup>3</sup> *Id.* at 182-184; penned by Associate Justice Pedro B. Corales with Associate Justices Apolinario D. Bruselas, Jr. and Amy C. Lazaro-Javier (now Member of the Court), concurring.

<sup>4</sup> *Id.* at 289-322.

<sup>5</sup> *Id.* at 558-559; penned by Judge Celso R.L. Magsino, Jr.

<sup>6</sup> *Id.* at 172.

<sup>7</sup> The group of Geminiano, *et al.* includes the following respondents in this case: Carlos Que Yabut, Geronimo Que Yabut, Jose Elston Que Yabut, Ma. Corazon Que Garcia, Anthony Que Garcia, Eumir Carlo Que Camara, Paolo Que Camara and Abimar Que Camara.

<sup>8</sup> The group of Ana Maria, *et al.* includes the following: Elaine Victoria Que Tan, Carolina Que Villongco, Francis Que Villongco, Carlo Geronimo Que Villongco, Michael Climent Que Villongco, Marcelia Que Villongco and Angelica Que Gonzales as substituted by her heir, Rosa Maria Que Gonzales.

<sup>9</sup> *Rollo*, Vol. I, p. 172.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 172-173.

Sometime in January 2013, Cecilia, as Corporate Secretary of Carlque, issued a notice for the annual stockholders' meeting to be held on January 26, 2013, 3:00 p.m., at Max's Restaurant, Gov. Pascual corner M.H. Del Pilar, Malabon City.<sup>12</sup>

In a Letter<sup>13</sup> dated January 23, 2013, Ana Maria called for the postponement of the annual meeting until the QPC shares, which she claimed were missing, are found and accounted for to avoid an acrimonious conflict among the stockholders who are relatives.<sup>14</sup>

On January 24, 2013, Ana Maria, *et al.* filed the Complaint<sup>15</sup> for Distribution/Settlement of Shares of Stock and Injunction (With Prayer for the Issuance of a Seventy-Two (72)-Hour Temporary Restraining Order, Seventeen (17)-Day Temporary Restraining Order and Writ of Preliminary Injunction) against Cecilia and Geminiano, *et al.* Parenthetically, the Heirs of Que Pei Chan, or any other person/s having or claiming interest in the QPC shares, were not made parties to the complaint.<sup>16</sup>

Ana Maria, *et al.* prayed for the issuance of a temporary restraining order (TRO) to enjoin Geminiano, *et al.* from holding the Carlque annual stockholders' meeting as scheduled in the notice; doing any other act pursuant to or emanating from the said meeting; and exercising rights, powers, or attributes, including the right to participate and vote in stockholders' meetings, with respect to the QPC shares. Ana Maria, *et al.* further sought judgment to declare, among others, that the ownership rights pertaining to the QPC shares, including the voting rights, may not be exercised, and that any exercise of the ownership rights relative to the shares be declared null and void.<sup>17</sup>

Ana Maria, *et al.*'s application for TRO was denied. Still, the Carlque stockholders' meeting scheduled for January 26, 2013 did not push through.<sup>18</sup>

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 286.

<sup>14</sup> *Id.* at 173.

<sup>15</sup> *Id.* at 289-322.

<sup>16</sup> *Id.* at 173.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

Geminiano, *et al.* filed their Joint Answer and Motion to Declare Complaint as Nuisance and/or Harassment Suit.<sup>19</sup> They argued that the case was designed solely to harass them and to unjustifiably prevent the holding of the annual stockholders' meeting. They emphasized that the threshold issue at hand, that is, the status of the QPC shares, could be determined only by impleading the Heirs of Que Pei Chan, or the person/s who own such shares, as indispensable parties in the case.<sup>20</sup> Ana Maria, *et al.*'s refusal or failure to implead the owners of the QPC shares shows that the object of Ana Maria, *et al.*'s complaint was merely to vex and harass them. Thus, they sought for its dismissal.<sup>21</sup>

The parties filed their responsive pleadings including a Motion for Production of Documents<sup>22</sup> filed by Ana Maria, *et al.* praying that Geminiano, *et al.* be directed to produce Carlque's stock and transfer book (STB) as well as the stock certificates allegedly issued to the shareholders.<sup>23</sup>

#### *The RTC Ruling*

On May 20, 2013, the RTC issued an Order<sup>24</sup> holding that Ana Maria, *et al.*'s complaint is not a nuisance or harassment suit and that Geminiano, *et al.* should produce the corporate books and records of Carlque, among others.

To quote:

x x x the Court finds the instant complaint not among those that constitutes a mere harassment or nuisance suit. There are genuine and legitimate factual as well as legal issues which must be threshed out in a full blown intra-corporate [proceeding]. The prayer in the Joint Answer to dismiss, the case is DENIED.

Anent the Motion for production of documents, Section 1, Rule 3 of the Interim Rules, provides that a party can avail of any of

<sup>19</sup> *Id.* at 349-365.

<sup>20</sup> *Id.* at 353-356.

<sup>21</sup> *Id.* at 173-174.

<sup>22</sup> *Id.* at 425-430.

<sup>23</sup> *Id.* at 174.

<sup>24</sup> *Id.* at 558-559.

the modes of discovery not later than fifteen (15) days from joinder of issues, which is upon the filing of defendants' Joint Answer in February 18, 2013. Considering that the mode of discovery was seasonably availed of on March 7, 2013 and the defendants has not objected thereto within ten (10) days, the Court hereby GRANTS the motion and REQUIRES defendants to produce the corporate books and records of Carlque Plastics, Inc., referred to in their Joint Answer and the Certificates of stock concerned, before the Branch Clerk of Court on May 30, 2013 at 2:00 p.m. to enable plaintiffs to inspect and photocopy the said records and documents.<sup>25</sup>

### *The CA Ruling*

Geminiano, *et al.* filed a Petition for *Certiorari* and Prohibition with Urgent Application for a Temporary Restraining Order and/or a Writ of Preliminary Injunction<sup>26</sup> under Rule 65 assailing the RTC Order and praying for the dismissal of Ana Maria, *et al.*'s complaint for being a nuisance and/or harassment suit, invoking Section 1(b) of Rule 8 of the Interim Rules of Procedure Governing Intra-Corporate Controversies.<sup>27</sup>

On February 5, 2015 the CA rendered its Decision<sup>28</sup> finding merit in Geminiano, *et al.*'s petition, *viz.*:

WHEREFORE, premises considered, the assailed order dated May 20, 2013 is NULLIFIED and SET ASIDE, and the Complaint in Civil Case No. CV-941-MN is hereby DISMISSED.

IT IS SO ORDERED.<sup>29</sup>

The CA held that the Heirs of Que Pei Chan are indispensable parties and should have been impleaded in the complaint.<sup>30</sup> Also, for the production of documents to be complete, the heirs should have been summoned as they are the owners of the QPC shares subject of the complaint.<sup>31</sup>

The CA also noted that Ana Maria, *et al.*'s purported cause of action

<sup>25</sup> *Id.* at 558.

<sup>26</sup> *Rollo*, Vol. II, pp. 645-672.

<sup>27</sup> *Rollo*, Vol. I, p. 172.

<sup>28</sup> *Id.* at 171-180.

<sup>29</sup> *Id.* at 179.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 178.

had been rendered moot as the annual stockholders' meeting originally scheduled for January 26, 2013 did not take place precisely because they refused to attend.<sup>32</sup>

Ana Maria, *et al.* filed a Motion for Reconsideration<sup>33</sup> which the CA denied on January 30, 2017.<sup>34</sup>

### *The Petition*

Ana Maria, *et al.* are now before the Court arguing that the CA committed manifest error in nullifying and setting aside the RTC Order dated May 20, 2013:

#### I

x x x DESPITE THE INAPPLICABILITY OF THE REMEDIES OF CERTIORARI AND PROHIBITION IN THE CASE BELOW

#### II

x x x DESPITE THE INAPPLICABILITY OF THE RULE AS REGARDS NUISANCE AND/OR HARASSMENT SUIT IN THE CASE BELOW

#### III

x x x AND [IN] UPHOLDING THE APPLICABILITY OF THE RULE AS REGARDS INDISPENSABLE PARTIES IN THE CASE BELOW

#### IV

x x x DESPITE THE APPLICABILITY OF THE RULE AS REGARDS THE PRODUCTION OF DOCUMENTS IN THE CASE BELOW

#### V

x x x AND [IN] UPHOLDING THE APPLICABILITY OF THE PRINCIPLE OF MOOTNESS AS REGARDS PETITIONERS' CAUSE OF ACTION IN THE CASE BELOW.<sup>35</sup>

<sup>32</sup> *Id.* at 179.

<sup>33</sup> *Rollo*, Vol. II, pp. 958-989

<sup>34</sup> *Rollo*, Vol. I, pp. 182-184.

<sup>35</sup> *Id.* at 86-87.

Ana Maria, *et al.* assert that their complaint is not a nuisance or harassment suit. They raised valid and legitimate issues before the RTC, sitting as a commercial court, that cannot be resolved without the presentation of testimonial and documentary evidence. They further contend that the group which the Heirs of Que Pei Chan will side with will emerge as the majority stockholder because the group of Ana Maria, *et al.* holds 7,032 of the shares, while the group of Geminiano, *et al.* group holds 7,030 shares. Thus, it is in Carlque's best interest if the controversy below is resolved. They also pray that Cecilia's act of calling for the annual stockholders' meeting that was supposed to be held on January 26, 2013 be declared null and void to prevent repetition.<sup>36</sup>

As for their failure to implead the Heirs of Que Pei Chan, Ana Maria, *et al.* aver that the heirs do not appear in the GIS for 2011 and 2012; thus, Ana Maria *et al.* could not have impleaded them as parties before the RTC. Moreover, the Heirs of Que Pei Chan are not indispensable but only necessary parties, which the court could order to be joined. For Ana Maria, *et al.*, the dismissal of the complaint was therefore unwarranted.<sup>37</sup>

As for the production and inspection of documents, Ana Maria, *et al.*, invoke Rule 27 of the Rules of Court, which provides for the modes of discovery in order to enable not only the parties, but also the court, to discover all the relevant and material facts in connection with the case pending before it.<sup>38</sup>

Geminiano, *et al.* in their Comment<sup>39</sup> maintain that the CA was correct in dismissing the case *a quo*. They agree that the Heirs of Que Pei Chan are indispensable parties. Also, they raise that the complaint was predicated on a misleading allegation that the QPC shares are missing. They contend that this was already clarified by Cecilia in her Letter dated January 29, 2013 to the Securities and Exchange Commission, which stated that the QPC shares were merely omitted, inadvertently, in Carlque's GIS for the years 2011 and 2012.<sup>40</sup>

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<sup>36</sup> *Id.* at 103 and 108.

<sup>37</sup> *Id.* at 114-116.

<sup>38</sup> *Id.* at 124-125.

<sup>39</sup> *Rollo*, Vol. II, pp. 1004-1030.

<sup>40</sup> *Id.* at 1013 and 1019.

Geminiano, *et al.* add that, assuming the QPC shares were actually missing, Ana Maria, *et al.* failed to allege any act or omission on the part of Geminiano, *et al.*, which resulted in the violation of Ana Maria, *et al.*'s rights as stockholders. Geminiano, *et al.* never claimed ownership over the QPC shares, neither did they exercise nor attempt to exercise ownership and voting rights over the shares.<sup>41</sup>

Geminiano, *et al.* further argue that the filing of the complaint was a mere ploy by Ana Maria, Carolina Que Villongco, and Angelica Que Gonzales to effectively extend their term as directors. For Geminiano, *et al.*, without the QPC shares, and with Ana Maria, *et al.*'s group holding 46.88% of the subscribed shares, their refusal to attend the annual stockholders' meeting would certainly result in a lack of quorum.<sup>42</sup>

They assert that the CA correctly ruled that the Motion for Production of Documents should be denied because the ownership of their shares is not disputed. Also, they raise that they cannot be directed to produce the QPC shares because they are not in possession or control of them. As for the STB, Geminiano, *et al.* allege that Ana Maria, *et al.* as stockholders may access or examine the same without any court order.<sup>43</sup>

Finally, Geminiano, *et al.* assert that the CA was correct in dismissing the complaint for being moot as the assailed annual stockholders' meeting did not push through.<sup>44</sup>

#### *The Issue*

Whether the CA was correct in setting aside the RTC Order dated May 20, 2013 and in dismissing the Complaint in Civil Case No. CV-941-MN.

#### *Our Ruling*

The Court finds merit in the petition.

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<sup>41</sup> *Id.* at 1020.

<sup>42</sup> *Id.* at 1004-1030

<sup>43</sup> *Id.* at 1023-1025.

<sup>44</sup> *Id.* at 1027-1028.



When the Court reviews a decision of the CA rendered in a Rule 65 petition, what the Court determines is whether the CA correctly ruled on whether grave abuse of discretion exists in the lower court or tribunal's issuance of its ruling.<sup>45</sup>

In the case, the CA found grave abuse on the part of the RTC in its issuance of the Order dated May 20, 2013 for the primary reason that Ana Maria, *et al.* failed to implead the Heirs of Que Pei Chan, or any other person having interest in the subject shares.<sup>46</sup> For such failure, the CA then went on to dismiss Ana Maria, *et al.*'s complaint.<sup>47</sup>

### *Indispensable Parties*

An indispensable party is one whose interest will be affected by the court's action in the litigation and without whom no final determination of the case can be had. Such party is one whose interest in the subject matter of the suit and the relief sought are so inextricably intertwined with the other parties' in that his/her legal presence as a party to the proceeding is an absolute necessity. When an indispensable party is absent, there cannot be a resolution of the dispute of the parties before the court which is effective, complete, or equitable. Therefore, the absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.<sup>48</sup>

The Court affirms the CA ruling insofar as it declared the Heirs of Que Pei Chan as indispensable parties. As admitted by the contending groups, the vote of the owner of the QPC shares will determine the majority shares of the corporation. Also, in order for the production of documents to be complete, the Heirs of Que Pei Chan should be summoned as they are the owners of the contested shares. Without them as parties, there can simply be no final adjudication of the case.

However, the CA erred in dismissing the complaint based on this ground.

<sup>45</sup> See *Team Pacific Corp. v. Parente*, G.R. No. 206789, July 15, 2020.

<sup>46</sup> *Rollo*, Vol. I, pp. 176-177.

<sup>47</sup> *Id.* at 179.

<sup>48</sup> *Agcaoili v. Mata*, G.R. No. 224414, February 26, 2020, citing *Divinagracia v. Parilla*, 755 Phil. 783, 789 (2015).

There are two consequences of a finding that indispensable parties have not been joined. First is the declaration that all subsequent actions of the lower court are null and void for lack of jurisdiction. Second is that the case should be remanded to the trial court for the inclusion of indispensable parties. It is only upon the plaintiff's refusal to comply with an order to join indispensable parties that the case may be dismissed.<sup>49</sup>

It is basic that in non-joinder of indispensable parties, the case should not be dismissed. Instead, the indispensable party should be impleaded.<sup>50</sup> Non-joinder of indispensable parties is not a ground for the dismissal of an action. The remedy is to implead the non-party claimed to be indispensable. Parties may be added by order of the court or on motion of a party or on its own initiative at any stage of the action or at such times as are just.<sup>51</sup> In instances of non-joinder of indispensable parties, the proper remedy is to implead them and not dismiss the case. The CA should have remanded the case to the RTC and directed the parties to implead all indispensable parties and to proceed with the resolution of the case with dispatch.

*Not a Nuisance or Harassment Suit*

Geminiano, *et al.* has consistently prayed for the dismissal of the complaint saying that it is a nuisance or harassment suit.

Section 1(b), Rule 1 of A.M. No. 01-2-04-SC<sup>52</sup> provides:

RULE 1

*General Provisions*

SECTION 1. (a) *Cases Covered* — These Rules shall govern the procedure to be observed in civil cases involving the following:

x x x x

<sup>49</sup> *Florete, et al. v. Florete, et al.*, 778 Phil. 614, 652 (2016). Citations omitted.

<sup>50</sup> *Agcaoili v. Mata*, *supra* note 48.

<sup>51</sup> *Id.*, citing *Heirs of Juan M. Dinglasan v. Ayala, Corp.*, G.R. No. 204378, August 5, 2019.

<sup>52</sup> Re: Proposed Interim Rules of Procedure Governing Intra-Corporate Controversies under R.A. No. 8799, approved on March 13, 2001.

(b) *prohibition against nuisance and harassment suits.* — Nuisance and harassment suits are prohibited. In determining whether a suit is a nuisance or harassment suit, the court shall consider, among others, the following:

- (1) The extent of the shareholding or interest of the initiating stockholder or member;
- (2) Subject matter of the suit;
- (3) Legal and factual basis of the complaint;
- (4) Availability of appraisal rights for the act or acts complained of; and
- (5) Prejudice or damage to the corporation, partnership, or association in relation to the relief sought.

In case of nuisance or harassment suits, the court may, *motu proprio* or upon motion, forthwith dismiss the case. (Italics in the original.)

Guided by this provision, the RTC declared that the complaint before it was not a nuisance or harassment suit as it found “genuine legitimate factual as well as legal issues which must be threshed out in a full-blown intra-corporate proceeding.”<sup>53</sup>

The Court agrees.

Based on the submissions of the contending parties, it is clear that there is a genuine and legitimate need to settle the ownership of the QPC shares as the exercise of its voting rights would determine which of the two major groups of stockholders would hold the majority share of the corporation. Dismissal of the complaint would not resolve the impasse which the groups of Ana Maria and Geminiano find themselves in.

It is true that the annual stockholders’ meeting that was scheduled for January 26, 2013, which Ana Maria, *et al.* sought to prevent, never took place precisely because of their refusal to attend the meeting. While their prayer for injunction on this point has been clearly rendered moot by its nonoccurrence, still the dismissal of the complaint is not warranted.

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<sup>53</sup> *Rollo*, Vol. I, p. 558.


A case or issue is considered moot when it ceases to present a justiciable controversy by virtue of supervening events so that an adjudication of the case or a declaration on the issue would be of no practical value or use. In such a situation, there is no actual substantial relief which a party would be entitled to, and which would be negated by the dismissal of the petition. Generally, courts decline jurisdiction over such case or dismiss it on the ground of mootness for the reason that judgment will not serve any useful purpose or have any practical legal effect.<sup>54</sup>

As the CA amply pointed out in its Decision, the subject matter of the complaint in the proceedings in the RTC is the 938 QPC shares.<sup>55</sup> Thus, even if the matter of the holding of the 2013 stockholders' meeting was rendered moot, there remains the unresolved issue of the 938 shares left by the late Que Pei Chan.

The proper recourse therefore is not to dismiss the complaint, but to remand the case to the RTC with the directive that the Heirs of Que Pei Chan or any party having interest in the QPC shares be impleaded as indispensable parties.

**WHEREFORE**, the petition is **GRANTED**. The Court of Appeals Decision dated February 5, 2015 and the Resolution dated January 30, 2017 in CA-G.R. SP No. 130647 are **SET ASIDE** and a new one is entered **REMANDING** the case to Branch 74, Regional Trial Court, Malabon City, for further proceedings. The trial court is **DIRECTED TO ISSUE AN ORDER TO IMPLEAD**, as party defendants, the Heirs of Que Pei Chan, and all other persons having interest in the shares of stock of the late Que Pei Chan in Carlque Plastic, Inc., and **PROCEED** with the resolution of the case on the merits **WITH DISPATCH**.

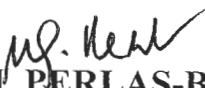
**SO ORDERED.**

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*


<sup>54</sup> *Sze v. Bureau of Internal Revenue*, G.R. No. 210238, January 6, 2020, citing *Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*, 728 Phil. 535, 540 (2014).


<sup>55</sup> *Rollo*, Vol. I, p. 176.

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*  
*Chairperson*

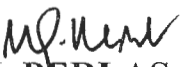
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*


**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*



