

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PHILIPPINE SCHOOL OF BUSINESS
ADMINISTRATION, MANILA,
ANTONIO M. MAGTALAS, JOSE
ARANAS, JUAN D. LIM, JOSE F.
PERALTA and BENJAMIN P. PAULINO,
*Petitioners,***

-versus-

**G.R. No. L-58468
February 24, 1984**

**LABOR ARBITER LACANDOLA S.
LEANO of the National Labor Relations
Commission and RUFINO R. TAN,
*Respondents.***

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DECISION

MELENCIO-HERRERA, J.:

This Petition for Certiorari questions the jurisdiction of respondent Labor Arbiter over the present controversy (No. NCR-9-20-81) involving private respondent-complainant, Rufino R. Tan (TAN), and petitioners, the Philippine School of Business Administration (PSBA), a domestic corporation, and majority of its Directors.

TAN is one of the principal stockholders of PSBA. Before September 5, 1981, he was a Director and the Executive Vice President enjoying salaries and allowances.

On August 1, 1981, at the PSBA Board of Directors' regular meeting, three members were elected to fill vacancies in the seven-man body.

On September 5, 1981, also during a regular meeting, the Board declared all corporate positions vacant except those of the Chairman and President, and at the same time elected a new set of officers. TAN was not re-elected as Executive Vice-President.^[1]

On September 16, 1981, TAN filed with the National Labor Relations Commission (NLRC) (National Capital Region) a complaint for Illegal Dismissal against petitioners alleging that he was "summarily, illegally, irregularly and improperly removed from his position as Executive Vice-President without cause, investigation or notice" (NLRC Case No. NCR-9-20-81) (the Labor Case, in brief).

On September 21, 1981, TAN also filed a one-million-peso damage suit against petitioners before the then Court of First Instance of Rizal, Quezon City, for illegal and oppressive removal (Civil Case No. Q-33444).

And, on September 28, 1981, TAN lodged before the Securities and Exchange Commission (SEC) another complaint against petitioners essentially questioning the validity of the PSBA elections of August 1, 1981 and September 5, 1981, and of his "ouster" as Executive Vice-President (SEC Case No. 2145).

On October 13, 1981, SEC issued a subpoena duces tecum commanding the production of corporate documents, books and records.^[2]

On October 15, 1981, respondent Labor Arbiter also issued a subpoena duces tecum to submit the same books and documents.^[3]

Before the NLRC, petitioners moved for the dismissal of TAN's complaint, invoking the principle against split jurisdiction.

On October 22, 1981, petitioners availed of this Petition contending mainly that:

“1. The respondent labor arbiter illegally assumed jurisdiction over the complaint for ‘Illegal Dismissal’ because the failure of the private respondent to be re-elected to the corporate position of Executive Vice-President was an intra-corporate question over which the Securities and Exchange Commission had already assumed jurisdiction.

“2. The issuance by the respondent labor arbiter of a subpoena duces tecum was likewise without jurisdiction especially if considered in the light of procedural and substantial requirements therefor such that it is imperative that the supervising authority of this Honorable Court should be exercised to prevent a substantial wrong and to do substantial justice.”^[4]

TAN counter-argues that his sole and exclusive cause of action is illegal dismissal, falling within the jurisdiction of the NLRC, for he was dismissed suddenly and summarily without cause in violation of his constitutional rights to due process and security of tenure. He prays that his dismissal be declared illegal and that his reinstatement be ordered with full backwages and without loss of other benefits.

We issued a Temporary Restraining Order, enjoining respondent Labor Arbiter from proceeding in any manner with the Labor Case, and subsequently gave due course to the Petition.

The jurisdiction of the SEC vis-a-vis the NLRC is in issue. An intracorporate controversy would call for SEC jurisdiction. A labor dispute, that of the NLRC.

Relevant and pertinent it is to note that the PSBA is a domestic corporation duly organized and existing under our laws. General management is vested in a Board of seven directors elected annually by the stockholders entitled to vote, who serve until the election and qualification of their successors. Any vacancy in the Board of Directors is filled by a majority vote of the subscribed capital stock entitled to vote at a meeting specially called for the purpose, and the

director or directors so chosen hold office for the unexpired term.^[5] Corporate officers are provided for, among them, the Executive Vice-President, who is elected by the Board of Directors from their own number.^[6] The officers receive such salaries or compensation as the Board of Directors may fix.^[7] The By-Laws likewise provide that should the position of any officer of the corporation become vacant by reason of death, resignation, disqualification, or otherwise, the Board of Directors, by a majority vote, may choose a successor or successors who shall hold office for the expired term of his predecessor.^[8]

It was at a board regular monthly meeting held on August 1, 1981, that three directors were elected to fill vacancies. And, it was at the regular Board Meeting of September 5, 1981 that all corporate positions were declared vacant in order to effect a reorganization, and at the ensuing election of officers, TAN was not re-elected as Executive Vice-President.

Basically, therefore, the question is whether the election of directors on August 1, 1981 and the election of officers on September 5, 1981, which resulted in TAN's failure to be re-elected, were validly held. This is the crux of the question that TAN has raised before the SEC. Even in his position paper before the NLRC, TAN alleged that the election on August 1, 1981 of the three directors was in contravention of the PSBA By-Laws providing that any vacancy in the Board shall be filled by a majority vote of the stockholders at a meeting specially called for the purpose. Thus, he concludes, the Board meeting on September 5, 1981 was tainted with irregularity on account of the presence of illegally elected directors without whom the results could have been different.

TAN invoked the same allegations in his complaint filed with the SEC. So much so, that on December 17, 1981, the SEC (Case No. 2145) rendered a Partial Decision annulling the election of the three directors and ordered the convening of a stockholders' meeting for the purpose of electing new members of the Board.^[9] The correctness of said conclusion is not for us to pass upon in this case. TAN was present at said meeting and again sought the issuance of injunctive relief from the SEC.

The foregoing indubitably show that, fundamentally, the controversy is intra-corporate in nature. It revolves around the election of directors, officers or managers of the PSBA, the relation between and among its stockholders, and between them and the corporation. Private respondent also contends that his “ouster” was a scheme to intimidate him into selling his shares and to deprive him of his just and fair return on his investment as a stockholder received through his salary and allowances as Executive Vice-President. Vis-a-vis the NLRC, these matters fall within the jurisdiction of the SEC. Presidential Decree No. 902-A vests in the Securities and Exchange Commission:

“original and exclusive jurisdiction to hear and decide cases involving:

“a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or stockholders, partners, members of associations or organizations registered with the Commission.

“b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

“c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.^[10]

This is not a case of dismissal. The situation is that of a corporate office having been declared vacant, and of TAN’s not having been elected thereafter. The matter of whom to elect is a prerogative that belongs to the Board, and involves the exercise of deliberate choice and the faculty of discriminative selection. Generally speaking, the

relationship of a person to a corporation, whether as officer or as agent or employee, is not determined by the nature of the services performed, but by the incidents of the relationship as they actually exist.^[11]

With the foregoing conclusion, it follows that the issuance of a subpoena duces tecum by the Labor Arbiter will have to be set aside.

WHEREFORE, judgment is hereby rendered (1) ordering respondent Labor Arbiter to dismiss the complaint in NLRC Case No. NCR-9-20-81 for lack of jurisdiction; (2) nullifying the subpoena duces tecum issued by him in said case; and (3) declaring the Temporary Restraining Order heretofore issued permanent.

No costs.

SO ORDERED.

Plana and Gutierrez, Jr., JJ., concur.
Teehankee, and Relova, JJ., concur in the result.

[1] pp. 2-3, Minutes of Board Meeting, pp. 46-47, Rollo.

[2] p. 75, Rollo.

[3] p. 74, *ibid.*

[4] p. 10, *ibid.*

[5] Section 1, Article II, PSBA By-Laws.

[6] Section 5, Article III, *ibid.*

[7] Section 11, Article III, *ibid.*

[8] Section 4, Article II, *ibid.*

[9] p. 177, Rollo.

[10] P.D. No. 902-A, Section 5.

[11] *Bruce vs. Travelers Ins. Co.*, 266 F2d 781, cited in 19 Am. Jur. 2d 526.