

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION and HEARING OFFICER  
JOSEFINA PASAY-PAZ,**  
*Petitioners,*

*-versus-*

**G.R. No. 93832  
August 23, 1991**

**COURT OF APPEALS, BAN HUA-UY  
FLORES, BAN HA UY-CHUA, ROLAND  
KING and SOON KEE COMMERCIAL,  
INC.,**  
*Respondents.*

X-----X

**UBS MARKETING CORPORATION and  
JOHNNY K.H. UY,**  
*Petitioners,*

*-versus-*

**G.R. No. 93832  
August 23, 1991**

**COURT OF APPEALS, BAN HUA UY-  
FLORES, BAN HA UY-CHUA, ROLAND  
KING and SOON KEE COMMERCIAL,  
INC.,**  
*Respondents.*

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## **DECISION**

**PADILLA, J.:**

These are Petitions for Review on Certiorari of the Decision<sup>[1]</sup> of the Court of Appeals (Thirteenth Division) in CA-G.R. SP No. 1792 dated 26 January 1990 as well as its Resolution<sup>[2]</sup> dated 4 June 1990.

The factual background of this litigation is, as follows:

Petitioner Johnny K.H. Uy and private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua are brother and sisters. They belong to the Uy family of Bacolod City which owns several corporations, including UBS Marketing Corporation and the Soon Kee Commercial, Inc. All the three (3) above-named individuals, including other members of the Uy family, were interlocking stockholders and officers of the two (2) aforementioned corporations. Thus, private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua were the managing directors of the said corporations and were in custody of the corporate accounting and tax records as well as the funds of UBS Marketing Corporation and Soon Kee Commercial, Inc. Private respondent Roland King is the accountant of the said corporations and other allied Uy family enterprises.

Due to serious disagreements and conflicts, the members of the Uy family, through several conciliation meetings held before their selected Board of Mediators, agreed to divide the family business so that the UBS Marketing Corporation would go to petitioner Johnny K.H. Uy while the Soon Kee Commercial, Inc. would go to the rest of the Uy family, including herein private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua.

Accordingly, on 5 June 1987, several Deeds of Assignment<sup>[3]</sup> were executed by the parties wherein all the stockholdings of petitioner Johnny K.H. Uy and his wife, Magdalena Uy in Soon Kee Commercial, Inc. were assigned either to private respondents Ban

Hua Uy-Flores, Ban Ha Uy-Chua or other members of the Uy family while all the stockholdings of private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua in UBS Marketing Corporation were assigned to petitioner Johnny K.H. Uy or the latter's wife. On 1 July 1987 the parties formalized this division of the family business as well as the other terms of the settlement.

On 6 April 1988, petitioners Johnny K.H. Uy and UBS Marketing Corporation filed with the Securities and Exchange Commission a Complaint (Petition)<sup>[4]</sup> against the private respondents Ban Hua Uy-Flores, Ban Ha Uy-Chua, Roland King and Soon Kee Commercial, Inc. for the recovery of UBS Marketing Corporation's corporate books, books of account, and the accounting and turn over of the funds and properties belonging to UBS Marketing Corporation, docketed therein as SEC Case No. 03328.

Briefly, the complaint alleged that before the segregation of the family business, private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua, aside from being stockholders and directors, were also officers of the UBS Marketing Corporation, who had custody, control and supervision of its records, property and funds; that private respondent Roland King was the accountant of all the business concerns of the Uy family including UBS Marketing Corporation; that after the segregation, petitioner Johnny K.H. Uy demanded for the turn over of the records of the UBS Marketing Corporation but which the private respondents refused without just cause; and that they held on and refused to account for funds and property, a portion of which should go to or benefit Johnny K.H. Uy or the UBS Marketing Corporation, in accordance with their settlement agreement made before the Board of Mediators.

Instead of filing an answer, the private respondents moved to dismiss the Complaint<sup>[5]</sup> on the ground that the SEC had no jurisdiction over their person and over the nature of the action because there was no intra-corporate relationship between the parties to the suit. The petitioners opposed the motion.<sup>[6]</sup> Thereafter, on 30 May 1988, the hearing officer Josefina Pasay-Paz issued an order,<sup>[7]</sup> denying the private respondents' motion to dismiss.

Claiming that the hearing officer acted with grave abuse of discretion in denying their motion to dismiss, the private respondents filed with the SEC en banc a petition for certiorari and prohibition to annul and set aside the order denying their motion to dismiss, docketed therein as Case No. EB-180. On 8 January 1989, the SEC En Banc issued a resolution<sup>[8]</sup> dismissing the petition. Private respondents moved for reconsideration but their motion was denied on 10 May 1989.

Thereafter, the private respondents filed with the Court of Appeals a petition for certiorari and prohibition to annul and set aside the resolution and order of the SEC and its hearing officer which denied their motion to dismiss the complaint, and other orders, for alleged lack of jurisdiction, docketed therein as CA-G.R. SP No. 17972.

On 26 January 1990, the Court of Appeals promulgated a Decision<sup>[9]</sup> granting the petition and ruling that the SEC had no jurisdiction over the controversy in SEC Case No. 03328. Thus, it held that when the petition was filed on 23 April 1988, petitioners were no longer stockholders nor officers of the corporation (Soon Kee Commercial, Inc.) as they had already assigned or sold their interest in the corporation; hence, the stockholder relationship having ceased, there was no more intra-corporate relationship to speak of over which the SEC could properly acquire jurisdiction. The petitioners moved for reconsideration but their motion was denied in the Resolution<sup>[10]</sup> dated 4 June 1988.

Whereupon, the petitioner SEC through the Solicitor General appealed to this Court in G.R. No. 93832, while the petitioners Johnny K.H. Uy and UBS Marketing Corporation appealed in G.R. No. 93339. In the resolution of the Court dated 6 August 1990, the two (2) cases were consolidated. Hence, this decision in the two (2) cases.

The only issue to be resolved in the present controversy is, whether or not the SEC has jurisdiction over the dispute subject of SEC Case No.03328.

Under Section 5 of P.D. No. 902-A, as amended by PD No. 1653, the SEC has original and exclusive jurisdiction to hear and decide cases involving:

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“(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 of associates, respectively; and between such corporations, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;”

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In *Philex Mining Corporation vs. Hon. Domingo Coronel Reyes, etc., et al.*,<sup>[11]</sup> the Court defined an “intra-corporate controversy” as follows:

“an intra-corporate controversy is one which arises between a stockholder and the corporation. There is no distinction, qualification, nor any exemption whatsoever. The provision is broad and covers all kinds of controversies between stockholders and corporations.”

As held in *Union Glass & Container Corporation, et al. vs. The SEC, et al.*,<sup>[12]</sup> —

“Otherwise stated, in order that the SEC can take cognizance of a case, the controversy must pertain to any of the following relationship: (a) between the corporation, partnership or association and the public; (b) between the corporation, partnership or association and its stockholders, partners, members, or officers; (c) between the corporation, partnership or association and the state in so far as its franchise, permit or license to operate is concerned; and (d) among the stockholders, partners or associates themselves.”

In holding that the SEC has no jurisdiction over the controversy in SEC Case No. 03328, the Court of Appeals relied heavily on the Decision of the Court in *Rivera, et al. vs. Florendo, et al.*<sup>[13]</sup> and in the consolidated cases of *Sunset View Condominium*

Corporation vs. Campos, Jr., etc. and Aguilar-Bernares Realty and Sunset View Condominium vs. Campos, Jr., etc. and Lim Siu Leng,<sup>[14]</sup> wherein it was ruled that cases of private respondents who are not stockholders of the corporation, cannot be a “controversy 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.”

The ruling laid down in the cases relied upon by the appellate court is not applicable to the case at bar. In the Rivera case the facts were as follows: The Fujiyama Hotel & Restaurant, Inc., was organized and registered under Philippine laws with a capital stock of P1,000,000.00 divided into 10,000 shares of P100.00 par value each, distributed among Aquilino Rivera and four (4) other incorporators. Subsequently, Isamu Akasako, a Japanese national, who was allegedly the real owner of the shares of stock in the name of Aquilino Rivera, sold 2550 shares to Milagros Tsuchiya with the assurance that the latter would be made the President and Lourdes Jureidini a director after the purchase. The other incorporators also sold their shares to Jureidini and Tsuchiya such that both became the owners of 3300 shares or the majority out of 5,649 outstanding subscribed shares of the corporation.

Thereafter, Jureidini and Tsuchiya attempted several times to register in their names their acquired stock certificates but the corporation refused to register the same. Hence, they filed a special civil action for mandamus and damages with preliminary mandatory injunction and or receivership against the Fujiyama Hotel & Restaurant, Inc., Aquilino Rivera and Isamu Akasako in the Court of First Instance of Manila, Branch XXXVI, docketed therein as Special Civil Action No. 13273. The respondents thereon moved to dismiss the petition on the ground that the court had no jurisdiction to entertain the case but the court a quo denied the motion.

Dissatisfied, the respondents filed with this Court a petition for certiorari and prohibition to annul and set aside, among others, the order denying their motion to dismiss. In resolving the case, the Court held:

“As the bone of contention in this case, is the refusal of petitioner Rivera to indorse the shares of stock in question and the refusal of the Corporation to register private respondents’ shares in its books, there is merit in the findings of the lower court that the present controversy is not an intra-corporate controversy; private respondents are not yet stockholders; they are only seeking to be registered as stockholders because of an alleged sale of shares of stock to them. Therefore, as the petition is filed by outsiders not yet members of the corporation, jurisdiction properly belongs to the regular courts.” (Emphasis supplied)

On the other hand, in the Sunset View Condominium cases, the facts were as follows: In G.R. No. 52361, it appears that the Aguilar-Bernares Realty, a sole proprietorship with a business name registered with the Bureau of Commerce, was the assignee of a unit, “Solana,” in the Sunset View Condominium Project with La Perla Commercial, Incorporated as assignor. The La Perla Commercial, Incorporated bought the “Solana” unit on installment from the Tower Builders, Inc. The Sunset View Condominium Corporation filed a complaint against the Aguilar-Bernares Realty for the collection of assessments levied on the unit, with the Court of First Instance of Pasay City, Branch XXX, docketed therein as Civil Case No. 7303-P. The defendant filed a motion to dismiss the complaint on the ground, among others, that the court had no jurisdiction over the subject or nature of the action.

The trial court granted the motion and ruled that the defendant was, pursuant to Section 2 of Republic Act No. 4726, a “holder of a separate interest” and consequently, a shareholder of the plaintiff condominium corporation; and that “the case should be properly filed with the SEC which has exclusive original jurisdiction on controversies arising between shareholders of the corporation.” The motion for reconsideration having been denied, the plaintiff filed with this Court a petition for certiorari praying that the said orders be set aside.

In G.R. No. 52524, the Sunset View Condominium Corporation filed with the City Court of Pasay City, Branch I, a complaint for the

collection of overdue accounts on assessments and insurance premiums and the interest thereon amounting to P6,168.06 against Lim Siu Leng to whom was assigned a unit called "Alegria" in the Sunset View Condominium Project by one Alfonso Uy who had entered into a "Contract to Buy and Sell" with Tower Builders, Inc. over the said unit on installment basis, docketed therein as Civil Case No. 14127.

The defendant filed a motion to dismiss on the ground of lack of jurisdiction, alleging that the amount sought to be collected is an assessment, the correctness and validity of which was certain to involve a dispute between her and the plaintiff corporation; that she had automatically become, as a purchaser of the condominium unit, a stockholder of the corporation pursuant to Section 2 of the Condominium Act, Republic Act No. 4726.

The City Court of Pasay City denied the motion to dismiss as well as the motion for reconsideration. On appeal, the Court of First Instance, reversed the judgment of the lower court and dismissed the appeal with a directive that the parties should ventilate their controversy with the SEC. The plaintiff's motion for reconsideration having been denied, it filed with the Court a petition for certiorari alleging grave abuse of discretion on the part of the respondent Judge.

In resolving the identical issue raised in both cases, i.e., whether or not the regular court or the SEC had jurisdiction over cases for collection of dues assessed by the Condominium Corporation on condominium units the full price of which had not been paid, the Court held:

"ownership of a unit is a condition sine qua non to being a shareholder in the condominium corporation. It follows that a purchaser of a unit who is not yet the owner thereof for not having fully paid the full purchase price, is not a shareholder. By necessary implication, the 'separate interest' in a condominium, which entitles the holder to become automatically a share holder in the condominium corporation as provided in Section 2 of the Condominium Act, can be no other than ownership of a unit. This is so because nobody can

be a shareholder unless he is the owner of a unit and when he ceases to be the owner, he also ceases automatically to be shareholder.

“The private respondents, therefore, who have not fully paid the purchase price of their units and are consequently not owners of their units are not members or shareholders of the petitioner condominium corporation.

“Inasmuch as the private respondents are not shareholders of the petitioner condominium corporation, the instant cases for collection cannot be a ‘controversy 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, pursuant to Section 5(b) of P.D. No. 902-A. The subject matters of the instant cases according to the allegations of the complaints are under the jurisdiction of the regular courts.”

It is significant to note that in the Rivera case the private respondents Tsuchiya and Jureidini were not stockholders of the Fujiyama Hotel & Restaurant, Inc. at the time of the alleged sale of shares of stock to them. Similarly, in the Sunset View Condominium cases, the private respondents Aguilar-Bernares Realty and Lim Siu Leng were also not shareholders of the Sunset View Condominium Corporation when their condominium units were assigned to them, as their assignors had not yet paid in full the purchase price of their units. In other words, in both cases, the private respondents therein were not and had never been stockholders or shareholders of the corporation. Hence, the sale of shares of stock and the sale and assignment of the condominium units to the private respondents were not intra-corporate transactions, as they did not arise from intracorporate relations. It follows that the controversies which arose therefrom were not intra-corporate controversies falling within the jurisdiction of the SEC.

In the case at bar, at the time of the execution of the Deed of Assignment wherein the petitioner Johnny K.H. Uy and his wife, Magdalena Uy, assigned all their stockholdings in Soon Kee

Commercial, Inc. to the private respondents Ban Hua Uy Flores and Ban Ha Uy-Chua and other members of the Uy family, and the Deed of Assignment wherein the private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua, assigned all their stockholdings in UBS Marketing Corporation to the petitioner Johnny KH. Uy or to his wife, the petitioner Johnny K.H. Uy and the private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua were all interlocking stockholders and officers of the two (2) corporations owned by the Uy family. Hence, the deeds of assignment were intra-corporate transactions which arose from intra-corporate relations or between and among the stockholders of the two (2) family corporations. The controversy subject of SEC Case No. 03328 is, therefore, an intra-corporate controversy which falls within the original and exclusive jurisdiction of the SEC under Section 5(b) of PD No. 902-A, as amended.

The fact that when the complaint in SEC Case No. 03328 was filed with the SEC, the private respondents Ban Hua Uy-Flores and Ban Ha Uy-Chua were no longer stockholders of the UBS Marketing Corporation did not divest the SEC of its jurisdiction over the case. As aptly observed by the Solicitor General in his Memorandum. —

“Admittedly, the SEC has no jurisdiction over a controversy wherein one of the parties involved is not or not yet a stockholder of the corporation. This rule negating the jurisdiction of the SEC however, does not apply where one of the parties was a former stockholder and the controversy arose out of this relation. Indeed, in at least three cases, this Honorable Court has ruled that the Securities and Exchange Commission retains jurisdiction over the case notwithstanding the fact that one of the parties was no longer (distinguished from one who is not yet) a stockholder of the corporation when the action was commenced.

“In the case of Saavedra vs. SEC(159 SCRA 57 [1988]), the private respondent sold all shares of stock in the Pine Philippines, Inc. to the petitioners for the sum of P1.2 million payable on installment. The vendee, however, failed to pay the full amount; hence, the private respondent rescinded the contract of sale and, thereafter, filed a case with the SEC to

declare the rescission valid and to enjoin the vendees from disposing the corporation's assets. The vendees, the remaining stockholders of the corporation, questioned the jurisdiction of the SEC on the ground that the private respondent was no longer a stockholder of the corporation when the complaint was filed. On review, this Honorable Court reiterated its earlier ruling in *Abejo vs. Dela Cruz* (149 SCRA 654 [1987]) and held:

'As aptly held by the SEC, the dispute at bar is an intracorporate dispute that has arisen between and among the principal stockholders of the corporation due to the refusal of the defendants (now petitioners) to fully comply with what has been covenanted by the parties. Such dispute involves a controversy "between and among stockholders," over unpaid assignment of shares and the validity of defendants' acquisition of the same. In other words, the present case involves an intra-corporate dispute as to who has the right to remain and act as owners stockholders of the corporation.

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'In *Abejo vs. de la Cruz*, citing *Philex Mining Corporation vs. Reyes*, the Court held that "an intra-corporate controversy is one which arises between stockholder and the corporation. There is no distinction, qualification, nor any exemption whatsoever. The provision is broad and covers all kinds of controversies between stockholders and corporations.' (Ibid., pp. 59-61)

"In *Boman Enterprises Development Corp. vs. Court of Appeals* (167 SCRA 540 [1988]), this Honorable Court was again called upon to decide whether the Securities and Exchange Commission has jurisdiction over an action filed by a former stockholder against the corporation. In this case, one Nilcar Fajilan resigned as president and as member of the board of directors of the Boman Enterprises and offered to sell all his stocks to the company for the amount of P300,000 and the Isuzu pick-up truck which he had been using. The board of directors approved the resignation and communicated their

agreement to buy Fajilan's shares of stock on installment. The company, however, failed to pay the full amount; hence, Fajilan filed a complaint with the Regional Trial Court for the recovery of the balance. The lower court dismissed the complaint saying that the controversy arose out of an intra-corporate relation over which the SEC, not the regular courts, has jurisdiction. On appeal, the Court of Appeals characterized the case as a mere suit for collection of a sum of money, not an intracorporate controversy. Boman Enterprises elevated the case to this Honorable Court for review. In ruling that the case involves an intracorporate controversy within the exclusive jurisdiction of the Securities and Exchange Commission, this Honorable Court said:

'The only issue in this case is whether or not a suit brought by a withdrawing stockholder against the corporation to enforce payment of the balance due on the consideration (evidenced by a corporate promissory note) for the surrender of his shares of stock and interests in the corporation, involves an intra-corporate dispute. The resolution of that issue will determine whether the Securities and Exchange Commission (SEC) or a regular court has jurisdiction over the action.

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'This case involves an intra-corporate controversy because the parties are a stockholder and the corporation. As correctly observed by the trial court, the perfection of the agreement to sell Fajilan's participation and interests in BEDECO and the execution of the promissory note for payment of the price of the sale did not remove the dispute from the coverage of Section 5(b) of P.D. No. 902, as amended, for both the said agreements (Annex C) and the promissory note (Annex D) arose from intra-corporate relations. Indeed, all signatories of both documents were stockholders of the corporation at the time of signing the same. It was an intra-corporate transaction, hence, this suit is an intra-corporate controversy.' (Ibid., pp. 541-542, 546; emphasis supplied for emphasis).

“Contrary to the ruling of the respondent Court of Appeals, therefore, the existence of the intra-corporate relationship at the time of the filing of the complaint does not determine the jurisdiction of the Securities and Exchange Commission. As established in the rulings in Abejo vs. Dela Cruz, Saavedra vs. SEC and Boman Enterprises vs. Court of Appeals, the fact that the status of a stockholder vis-a-vis a corporation has apparently terminated does not deprive the Securities and Exchange Commission of its jurisdiction to hear and decide the controversy which arose from that relationship. Rather, the factor which decides whether the action is within the jurisdiction of the Commission is just what the law provides, i.e., the controversy arose out of intra-corporate relations between and among the stockholders.”<sup>[15]</sup>

**WHEREFORE**, the petitions are **GRANTED** and the decision of the Court of Appeals dated 26 January 1990 as well as its resolution dated 4 June 1990 are hereby **REVERSED** and **SET ASIDE**. Costs against private respondents.

**SO ORDERED.**

**Melencio-Herrera, Paras and Regalado, JJ., concur.**  
**Sarmiento, J., is on leave.**

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[1] Penned by Justice Manuel C. Herrera with the concurrence of Justices Eduardo R. Bengzon and Artemon D. Luna.

[2] Penned by Justice Manuel C. Herrera with the concurrence of Justices Eduardo R. Bengzon and Jainal D. Rasul.

[3] Rollo; G.R. No. 93839, pp. 62, 63, 80, 82, 84, 86, 88 and 89.

[4] Rollo, G.R. No. 93839, p. 45.

[5] Id., p. 73.

[6] Id., p. 91.

[7] Id., p. 99.

[8] Rollo G.R. No. 93839, p. 45.

[9] Id., p.30.

[10] Id., p. 42.

[11] G.R. No. 57707, 19 November 1982, 118 SCRA 602, 605.

[12] G.R. No. 64013, 28 November 1983, 126 SCRA 31, 38.

[13] G.R. No. 57586, 8 October 1986, 144 SCRA 643.

- [14] G.R. Nos. 52361 and 52524, 27 April 1981, 104 SCRA 295.  
[15] Rollo, G.R. No. 93832, pp. 182-186.

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