



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LILY C. LOPEZ,

Petitioner,

G.R. Nos. 254957-58

Present:

-versus-

LOLITO S. LOPEZ, MA.*
RACHEL** NICOLETTE LOPEZ,
BARBARA VILLAS,
BENEDICTO VILLAFUERTE,
MA. LUISA PARAS, RUEL
VILLACORTA, TERESITA C.
FERNANDO, and iSPECIALIST
DEVELOPMENT
CORPORATION,

Respondents.

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO,
MARQUEZ, JJ.

X ----- X

LOLITO S. LOPEZ, MARIO S.
LOPEZ, ANDRESITO S. LOPEZ,
BARBARA O. VILLAS,
BENEDICTO L. VILLAFUERTE,
MA. LUISA I. PARAS, RUEL S.
VILLACORTA, TERESITA C.
FERNANDO, LC LOPEZ
RESOURCES, INC., and
CONQUEROR
INTERNATIONAL, INC.,

Respondents.

Promulgated:

JUN 15 2022

X ----- X

DECISION

ROSARIO, J.:

* Spelled as "Maria" in other parts of the record.
** Spelled as "Rachael" in other parts of the record.

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Before Us is a Petition for Review on *Certiorari*¹ seeking to reverse the Decision² dated 26 February 2020 rendered by the Court of Appeals (CA) in the consolidated cases of CA-G.R. SP No. 162134 and CA-G.R. SP No. 162787, entitled *Lily C. Lopez, Ma. Christina Patricia C. Lopez vs. Lolito S. Lopez, Ma. Rachel Nicolette Lopez, Barbara Villas, Benedicto Villafuerte, Ma. Luisa Paras, Ruel Villacorta, Teresita C. Fernando and iSpecialist Development Corporation and Lolito S. Lopez, Mario S. Lopez, Andresito S. Lopez, Barbara Villas, Benedicto Villafuerte, Ma. Luisa Paras, Ruel Villacorta, Teresita C. Fernando, LC Lopez Resources, Inc. and Conqueror International, Inc. vs. Lily C. Lopez, Ma. Christina Patricia Lopez, John Rusty Lito C. Lopez*, respectively.

Insofar as they are relevant to the resolution of the instant petition, the facts are as follows:

PROCEEDINGS IN THE QUEZON CITY REGIONAL TRIAL COURT

On 1 March 2019, Lily C. Lopez (petitioner), along with Ma.³ Christina Patricia C. Lopez (Christina), filed before the Regional Trial Court of Quezon City (RTC-QC) a case⁴ for election contest against Lolito S. Lopez (respondent Lolito), Ma. Rachel Nicolette Lopez, Barbara Villas, Benedicto Villafuerte, Ma. Luisa Paras, Ruel Villacorta, Teresita C. Fernando, and *iSpecialist Development Corporation* (respondents, collectively). Docketed as *Commercial Case No. R-QZN-19-03290-CV*, the case was assigned to Branch 93 of RTC-QC,⁵ which was designated as a special commercial court.⁶

iSpecialist Development Corporation (respondent *iSpecialist*) is engaged in the management and operation of a public market. It leases out market stalls in New Nova Plaza Market.⁷ Since its incorporation in 2011, it was being run by petitioner and her husband, respondent Lolito, who is also the president of said corporation.⁸

Petitioner and respondent Lolito own the majority shares of *iSpecialist*.⁹

¹ *Rollo*, pp. 11-47.

² *Id.* at 51-65. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Louis P. Acosta and Geraldine C. Fiel-Macaraig, concurring.

³ Spelled as "Maria" in other parts of the record.

⁴ *Id.* at 108-141.

⁵ *Id.* at 108 and 146.

⁶ A.M. No. 00-11-03-SC, otherwise known as "Resolution Designating Certain Branches of Regional Trial Courts to Try and Decide Cases Formerly Cognizable by the Securities and Exchange Commission," promulgated November 21, 2000.

⁷ *Rollo*, p. 53.

⁸ *Id.* at 13 and 180.

⁹ *Id.*

On 14 February 2019, respondent Lolito, in his capacity as president of *iSpecialist*, called a special stockholders' meeting of said corporation, to be held at Anabel's Restaurant in Quezon City.¹⁰ During said meeting, new members of the Board of Directors were elected: namely, respondent Lolito, Ma. Rachel Nicolette Lopez, Teresita Fernando, Barbara Villas and Benedicto Villafuerte.¹¹

Petitioner filed the Complaint *a quo* seeking to declare the nullity of the special stockholders' meeting and consequent election on the ground that they were conducted in violation of the By-Laws and Articles of Incorporation of *iSpecialist*. According to petitioner, the meeting was null and void as it was not held in the principal office of *iSpecialist*, as required by its by-laws. Furthermore, it was held on a date different from that explicitly mandated by the same by-laws.¹²

Petitioner likewise argued that the conduct of the meeting was also void on the additional ground that Christina, who claimed to be a stockholder of *iSpecialist*, was prevented from attending it.¹³

Petitioner further asserted that the elections should be nullified, as 33,495 unissued shares were allowed to vote and were actually used to elect the new Board of Directors. Petitioner also claimed that said shares could not be utilized without violating her right to pre-emptive right.¹⁴

Finally, petitioner contended that respondent Lolito had no right at all to vote any or all of his shares of stock as said shares were conjugal in nature, having been acquired during the existence of their marriage.¹⁵

Responding to the complaint, respondent Lolito and his co-defendants insisted on the validity of the meeting and the subsequent elections. They countered that under Section 2, Article II of the corporation's By-Laws, special meetings of stockholders may at any time be called by the president of the corporation.¹⁶

The venue was also valid as under Section 51 of the Corporation Code, regular or special meetings may be held in the city or municipality where the principal office is located—in this case, Quezon City.¹⁷

On 29 July 2019, the court *a quo* rendered its Decision¹⁸ finding for petitioner and Christina and declaring the 14 February 2019 elections null and void. The dispositive portion of said decision reads:

¹⁰ Id. at 54.

¹¹ Id. at 55.

¹² Id. at 181.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id. at 182.

¹⁸ Id. at 180-191. Penned by Presiding Judge Arthur O. Malabaguio.

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs, and against the defendants, as follows:

a. Declaring as null and void ab initio the Special Stockholders Meeting/Elections held on February 14, 2019, as well as any and all proceedings held therein, and

b. Enjoining all of the herein defendants from representing themselves as the newly-elected Directors and/or officers of the defendant corporation on the basis of the Special Stockholders Meeting/Elections held on February 14, 2019.

SO ORDERED.¹⁹

The trial court found that in *iSpecialist's* 2013 General Information Sheet (GIS), the total number of common shares was only 12,500, with respondent Lolito and petitioner holding 44.75% each of the total shareholdings, or 5,592 common shares for each of them. Respondent Lolito allegedly infused his personal money into the corporation as additional capital by purchasing 33,495 unissued shares.²⁰

However, the trial court held that the unissued shares in excess of the 12,500 shares originally issued by the corporation may only be issued by authority of the Board of Directors. Prior authorization of the Board was necessary to validate the sale of the unissued shares.²¹

When he was cross-examined during trial *a quo*, respondent Lolito admitted that there was no such board resolution authorizing the sale and that, despite the absence of prior authorization by said Board, he proceeded to make the purchase and eventually voted such shares in the questioned elections of the Board.²²

Citing Section 23 of the Corporation Code, in relation to Section 25 of the same code, the court *a quo* held that all corporate business of *iSpecialist* should be conducted by the Board of Directors and that no individual corporate officer could solely exercise any corporate power without authority from said Board.²³

It ruled that since the sale was invalid, the erstwhile unissued shares could not be voted upon. And because the number of shares illegally issued were substantial enough to affect the elections, the latter should likewise be voided, as the court did so.²⁴

¹⁹ *Id.* at 191.

²⁰ *Id.* at 183.

²¹ *Id.* at 183-184.

²² *Id.* at 184-186.

²³ *Id.* at 189-190.

²⁴ *Id.* at 190.

**PROCEEDINGS IN THE
MARIKINA CITY REGIONAL TRIAL COURT**

Petitioner, together with Christina and John Rusty Lito C. Lopez (John Rusty) as plaintiffs, also filed an election contest²⁵ docketed as SEC Case Nos. 2019-29 to 31 before Branch 273 of the Regional Trial Court of Marikina City (RTC-Marikina). Alleging that they were stockholders and directors of LC Lopez Resources, Inc. (LC Lopez), Conqueror International, Inc. (Conqueror) and Russ Marketing, Inc. (Russ Marketing), they questioned the validity of a stockholders' meeting held on 11 February 2019.²⁶

According to petitioner and her co-plaintiffs, who are her children with respondent Lolito, on 29 January 2019, they individually received notice for the said meeting, signed by respondent Lolito in his capacity as chairman of the board of directors and president of said corporations.²⁷

Both Christina and John Rusty sent proxies to the said meeting, but they were turned away because allegedly, their principals (Christina and John Rusty) were not stockholders of the corporations.²⁸

Petitioner, meanwhile, walked out of the venue after she was not allowed to have her lawyer around for the said meeting. However, the meeting went ahead and resulted in the election of a new set of board of directors for the aforesaid corporations.²⁹

According to petitioner, on 26 November 2018, or some two months prior to the meeting, respondent Lolito acquired 252,125 unissued shares of stock in LC Lopez, and 97,050 unissued shares of stock in Conqueror.³⁰ He used said shares, which were purchased without any board resolution of the two aforesaid corporations, to ostensibly elect, or cause to be elected, his co-defendants as directors for the two aforesaid corporations, in the process ousting petitioner, Christina, and John Rusty as directors and officers thereof.³¹

Petitioner and her co-plaintiffs thereafter filed the complaint *a quo*, assailing the alleged invalidity of the meeting and the eventual election of a new board of directors.³²

Respondent Lolito and his co-defendants in the complaint *a quo* insisted on the validity of the meeting even as they sought the dismissal of

²⁵ Id. at 192-228.

²⁶ Id. at 197, 200 and 204-205.

²⁷ Id. at 198.

²⁸ Id. at 199-200.

²⁹ Id. at 203.

³⁰ Id. at 360.

³¹ Id. at 282-283.

³² Id. at 277 and 289.

the complaint insofar as Christina and John Rusty were concerned, claiming that they were not parties-in-interest as they were not stockholders of the subject corporations.³³

They likewise sought to have the complaint dismissed in the case of Russ Marketing, saying that the scheduled election for its board of directors actually did not push through during the said meeting.

In its Decision³⁴ dated 13 September 2019, RTC-Marikina rendered judgment in favor of petitioner and her co-plaintiffs and declared the special stockholders' meeting held on 11 February 2019 and all activities made in its course, including the election of a new set of board of directors, to be null, void, and of no force and effect.

The court *a quo* found that both Christina and John Rusty were indeed stockholders of the subject corporations despite the fact that their names were not listed in the subject corporation's Stock and Transfer Book (STB), although they did appear as stockholders in the General Information Sheet (GIS) submitted to the Securities and Exchange Commission. According to the trial court, it was aware of the ruling of this Court in *F & S Velasco, Co., Inc. v. Madrid*³⁵ (*Velasco*) and *Lao vs. Lao*³⁶ (*Lao*), that respondent Lolito and his co-defendants cited to support their claim that both Christina and John Rusty were not stockholders of the concerned corporations.³⁷

In both the *Velasco* and *Lao* cases, this Court held that in determining the status of one claiming to be a stockholder of a corporation, what was controlling were the entries in the STB and not the GIS.³⁸

However, the trial court ruled that the cited cases could not be applied squarely to the case at bar because of differing factual milieus,³⁹ foremost of which was that unlike in the *Velasco* and *Lao* cases, in the instant case, petitioner and her co-plaintiffs relied not only on the GIS but also on other circumstances to support their claim: first, respondent Lolito himself, as well as his other co-defendants, Benedicto L. Villafuerte and Teresita Fernando, confirmed that the two were indeed stockholders of the subject corporations; second, the three corporations were not in the habit of religiously complying with legal corporate requisites as according to Mario Lopez (Mario), the supposed corporate secretary, even the stock certificates of respondent Lolito and those of his five co-defendants were signed only a few days before the 11 February 2019 special stockholders' meeting; and, third, the subject corporations could be strictly considered family corporations, and that at least before conflicts started to appear among family members, petitioner and respondent Lolito really intended their two children to be

³³ Id. at 316, 329 and 330.

³⁴ Id. at 341-363. Penned by Presiding Judge Romeo Dizon Tagra.

³⁵ 772 Phil. 628 (2015).

³⁶ 588 Phil. 844 (2008).

³⁷ *Rollo*, p. 345.

³⁸ *F & S Velasco, Co., Inc. v. Madrid*, supra at 642-643, and *Lao v. Lao*, supra at 858-859.

³⁹ *Rollo*, p. 346.

stockholders thereof, which would explain the inclusion of their names in the GIS.⁴⁰

The court *a quo* also ruled that the issuance of the stock certificates to respondent Lolito and his co-defendants was a clear afterthought and was obviously rigged, apparently in preparation to ousting the original members of the board. It even held the certificates to be void, as it was not executed by Mario, but by a certain Edna Victoria (Edna), the accounting head of LC Lopez, who did not have the legal mandate to do so.⁴¹ On this matter, the trial court cited part of the testimony of Mario, thus:

Atty. Nazareno:

In relation to that mister witness, I refer you to A20 of your judicial affidavit where you testified “nilagyan ni Edna ng entrada iyong Libro ng LC Lopez at Conqueror xxxx”

Witness:

Yes, sir.

Atty. Nazareno:

And by Edna, you mean Edna Victoria?

Witness:

Yes, sir.

Atty. Nazareno:

And Edna Victoria is the accounting head of the LC Lopez, correct?

x x x x

Witness:

Yes, sir.

Atty. Nazareno:

And again in A20, you said that nilagyan ni Edna ng entrada iyong libro ng LC Lopez,” when did she put the entries?

Witness:

I cannot recall, sir.

Atty. Nazareno:

⁴⁰ Id. at 347-356.

⁴¹ Id. at 355.

✓

But this was after you sought the lawyer's advice who said that you should fix the entries of the stock and transfer book, correct?

Witness:

Yes, sir.

x x x x

Atty. Nazareno:

And in fact, all of the entries in the stock and transfer book were made by Edna, correct?

Witness:

Yes, sir.

Court:

Okay. Were you present when Ms. Edna entered and wrote those entries in the stock and transfer book?

Witness:

Yes, your Honor.

x x x x

Court:

So, tell the court what documents were relied as basis by Edna in making those entries in the stock and transfer book?

x x x x

Witness:

I don't know the documents.

Atty. Nazareno:

And mister witness, you just testified that you were there when the entries were being made. And after which you signed, correct?

Witness:

Yes, sir.

x x x x

Atty. Nazareno:

And this was sometime in January 2019?

Witness:

✓

I cannot recall the exact date, sir.

Atty. Nazareno:

But it was this year?

Witness:

Yes, sir.

Atty. Nazareno:

I am showing you this Exhibit "6", which is the stock and transfer book of Conqueror. Similarly, all the entries here were prepared by Edna, correct?

Witness:

Yes, sir.

x x x x

Atty. Nazareno:

And similarly, you are not familiar with the documents that was the basis of Edna in making those entries, correct?

Witness:

Yes, sir.

Atty. Nazareno:

Again, you signed it in 2019, correct?

Witness:

Yes, sir.⁴²

According to the trial court, the act of Edna in filling out the entries in the STB was in violation of Article IV, Section 5 of the by-laws of both LC Lopez and Conqueror, as it was required therein it should be the corporate secretary, in this case Mario, who should do all the recording in the STB.⁴³

Even the stock certificates themselves did not escape the trial court's scrutiny, noting that it did not comply with the jurisprudential requisites for their validity. Citing the case of *Bitong vs. Court of Appeals*,⁴⁴ the court held that for the stock certificates to be valid, the par value, as to par value shares, or the full subscription as to no par value shares, must have been fully paid first.⁴⁵

⁴² Id. at 351-354.

⁴³ Id. at 354.

⁴⁴ 354 Phil. 516 (1998).

⁴⁵ *Rollo*, pp. 354-355.

It found that respondent Lolito, as reflected in the corporations' Articles of Incorporation, had only paid 25% of his subscribed shares, and was not able to present any proof of fully paying for his entire subscription.⁴⁶

Finally, the court ruled that respondent Lolito was estopped from questioning the shareholder status of his two children after he testified in open court that he recognized them both as members of the Board of Directors, but only for the purpose of transacting with banks. According to the trial court, respondent Lolito should not be allowed to confirm or deny the two as stockholders and directors depending on the circumstances and whenever it fitted him.⁴⁷

Concluding that the two children were stockholders and directors of the subject corporations, the trial court held that they had every right to be present during the special stockholders' meeting. It ruled that the refusal of respondent Lolito to allow the two children and petitioner from attending the special stockholders' meeting greatly affected the validity of its conduct, as no quorum could have been acquired.⁴⁸ It said that based on the 2017 GIS of LC Lopez, its outstanding shares of stock are as follows:

Lolito Lopez	-	61,750 shares
Lily Lopez	-	61,750 shares
Ma. Rachele Lopez	-	13,000 shares
John Rusty Lopez	-	13,000 shares
Ma. Christina Lopez	-	<u>13,000</u> shares
		162,500 shares ⁴⁹

Meanwhile, the 2017 GIS of Conqueror showed the following outstanding shares of stock:

Lolito Lopez	-	17,100 shares
Lily Lopez	-	17,100 shares
Ma. Rachele Lopez	-	3,600 shares
John Rusty Lopez	-	3,600 shares
Ma. Christina Lopez	-	<u>3,600</u> shares
		45,000 shares ⁵⁰

The trial court ruled that to validate the conduct of the 11 February 2019 meeting, a quorum representing 81,251 shares and 22,501 shares for LC Lopez and Conqueror, respectively, should have been attained. However, with the absence of the other members of the Board of Directors, only the 61,750 shares and 17,100 shares of respondent Lolito in each of the

⁴⁶ Id. at 355.

⁴⁷ Id. at 349, 350, and 356.

⁴⁸ Id. at 359.

⁴⁹ Id.

⁵⁰ Id. at 359-360.

corporations were represented, way below the shares needed to form a quorum.⁵¹

In arriving at its conclusion, the trial court nullified respondent Lolito's purchase of the 56,250 and 252,125 shares of LC Lopez and 97,050 shares of Conqueror, all erstwhile unissued, on the ground that it was made without the appropriate board resolution and without offering them first to petitioner in recognition of her right of pre-emption under Article 39 of the Corporation Code.⁵²

Respondents filed Petitions for Review⁵³ before the CA to question the decisions of the courts *a quo*. Thereat, the Quezon City case was docketed as CA-G.R. SP No. 162134 while the Marikina City case was docketed as CA-G.R. SP No. 162787.

In their petition, respondents insisted on the validity of the two special stockholders' meeting, maintaining that in both instances, a quorum had been attained. They likewise asserted that respondent Lolito's purchase of the unissued shares of stock were not in fact void, but was merely voidable, as it should be deemed an *ultra vires* act. They claimed that the purchase was justified as there was, at the time, an extreme need to infuse capital into the subject corporations, adding that their assets were misused by petitioner.⁵⁴

Respondents also challenged the two decisions for declaring Christina to be a stockholder of the subject corporations because her name was not mentioned in the STB and thus, based on the ruling in the *Lao* case, she should not be regarded as one.⁵⁵

In their Comment on the petitions in the court below, petitioner and Christina defended the judiciousness of the decisions while raising a procedural question insofar as CA-G.R. SP No. 162134 was concerned. Clamoring for the outright dismissal of this particular petition, they contended that it was filed beyond the 15-day period allowed under A.M. 04-9-07-SC.⁵⁶ In support of their claim, they presented a Certification⁵⁷ dated 05 September 2019 signed by Marciana M. Emproso (Ms. Emproso), civil-in-charge of Branch 93 of RTC-QC, attesting that as per records of the case, Atty. Contacto, counsel for respondents, through a certain Mr. Richard Belasco, had personally received a copy of the Decision on 06 August 2019. Thus, the petition should have been filed on or before 21 August 2019, but it was filed only on 28 August 2019, or one week after the expiration of the allowable period.

⁵¹ Id. at 360.

⁵² Id.

⁵³ Id. at 365-411. The CA petition docketed as CA-G.R. SP No. 162787 was not attached to the petition filed before this Court.

⁵⁴ Id. at 359-374.

⁵⁵ Id. at 377-382.

⁵⁶ Id. at 60.

⁵⁷ Id. at 364.

On the other hand, respondents asserted that they timely filed the petition in question, claiming that on 02 October 2022, their counsel, Atty. Yvette Contacto of Contacto Contacto and Associates, personally went to RTC-QC to verify from Ms. Emproso if there was any official letter coming from their firm requesting the court to furnish any of their office staff an original duplicate of the said decision, to which she (Ms. Emproso) replied that there was none.⁵⁸

The petitions were eventually consolidated,⁵⁹ and on 26 February 2020, the court below rendered its Decision⁶⁰ thereon, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, both Petitions for Review are hereby **GRANTED**. The Decisions dated July 29, 2019 and September 13, 2019, rendered by the Regional Trial Court, Branch 93 Quezon City, in Commercial Case No. R-QZN-19-03290-CV and by the Regional Trial Court Branch, Branch (sic) 273, Marikina City in SEC Case Nos. 2019-29 to 31, respectively, are hereby **REVERSED** and **SET ASIDE**.

The Special Stockholders' Meeting of *iSpecialist* on February 14, 2019, of LC Lopez Resources, Inc. and Conqueror International, Inc. held on February 11, 2019 are hereby declared **VALID**.⁶¹

In ruling for respondents, the CA found their ratiocinations anent the procedural and substantive issues to be meritorious. It held the petition in CA-G.R. SP No. 162134 to have been filed on time, belittling the significance of the certification issued by the court *a quo* because petitioner and Christina supposedly failed to prove that Richard Belasco was indeed connected and authorized to receive an original duplicate of the decision.⁶²

It likewise held the service to be incongruent with Section 6, Rule 13 of the Rules of Court, mandating that personal service of papers shall be made by delivering a copy to the party or his counsel, or by leaving it in his office with his clerk or with a person having charge thereof. According to the CA, Belasco was not respondents' lawyer.⁶³

On the substantive aspect, the court below gave full credence to respondents' arguments. First, it declared Christina to be a non-stockholder considering that her name was not reflected in the STB. Second, respondent Lolito's purchase of the unissued shares was justified by the immediate need of infusing much-needed capital to the concerned corporations, and that

⁵⁸ Id. at 60.

⁵⁹ Id. at 59.

⁶⁰ Id. at 51-65.

⁶¹ Id. at 65.

⁶² Id. at 60-61.

⁶³ Id.

furthermore, it was merely an *ultra vires* act that could have been ratified by the positive action of the Board.⁶⁴

Eventually, petitioner filed the petition at bar assailing the ruling of the court below.

In a Resolution⁶⁵ dated March 16, 2022, the Court required respondents to file their Comment on the petition within ten (10) days from notice. The Comment⁶⁶ was timely filed on June 6, 2022.⁶⁷

OUR RULING

The Court finds the following issues to be pertinent in resolving the petition at bar:

1. Whether or not the petition in CA-GR SP No. 162134 was timely filed;
2. Whether or not Christina is a stockholder of the subject corporations; and
3. Whether or not respondent Lolito Lopez's purchase of the unissued shares of stock was valid.

On the foregoing issues, We find for petitioner.

On the procedural issue involved in CA-G.R. SP No 162134, We note that the certification issued by Branch 93, RTC-QC declared that on 06 August 2019, respondents' counsel, through Belasco, personally received a copy of the decision. The certification, having been issued by an officer of the court, carried with it the presumption of regularity. Perforce, it should be given credence and accorded full faith.

We do not doubt for a moment that Belasco came purposely to the court to secure a copy of said decision in light of petitioner's undisputed claim that previous to 06 August 2019, it was announced in open court that the decision would be promulgated on or about 30 July 2019, with the Presiding Judge even encouraging the parties to personally secure their copies on or about said date.

Under the mentioned circumstance, and with the aforesaid presumption working against respondents, they, through their counsel, should present contrary evidence to establish their claim that their petition

⁶⁴ Id. at 61-64.

⁶⁵ Id. at 446-447.

⁶⁶ Id. at 457-497.

⁶⁷ Respondents prayed for an extension of fifteen days from May 22, 2022, the day they received the Court's Resolution dated March 16, 2022, or until June 6, 2022, within which to file their Comment. See *rollo*, pp. 453-456.

had been filed on time. However, instead of refuting head on this procedural issue – like for instance, by showing that Belasco was not an employee of the law firm, or that he was not authorized to receive a copy of the decision – respondents' counsel chose to skirt said issue. Its inquiry from the court, as to whether or not Belasco was armed by any authority coming from their law firm authorizing him to get a copy, could not have come anywhere near the overwhelming evidence required to overcome the aforesaid presumption of regularity.

Neither does this Court subscribe to the ratiocination of the CA when it held that petitioner should have presented proof to establish that Belasco was an employee of the firm and was authorized to ask and receive a copy of the decision. With the said presumption on the side of petitioner, the burden of proof is shifted to respondents to present countervailing proof to defeat it.

As We held in the case of *Yap vs. Lagtapon*:⁶⁸

The presumption of regularity in the performance of official duties is an aid to the effective and unhampered administration of government functions. Without such benefit, every official action could be negated with minimal effort from litigants, irrespective of merit or sufficiency of evidence to support such challenge. To this end, our body of jurisprudence has been consistent in requiring nothing short of clear and convincing evidence to the contrary to overthrow such presumption.⁶⁹

Consequently, on this procedural ground, We are dismissing the instant petition insofar as CA-G.R. SP No. 162134 is concerned without ruling on its merits, pursuant to the doctrine enunciated in *Building Care Corp. vs. Macaraeg*:⁷⁰

[T]he perfection of an appeal within the period and in the manner prescribed by law is jurisdictional and non-compliance with such legal requirements is fatal and has the effect of rendering the judgment final and executory. The limitation on the period of appeal is not without reason. They must be strictly followed as they are considered indispensable to forestall or avoid unreasonable delays in the administration of justice, to ensure an orderly discharge of judicial business, and to put an end to controversies.⁷¹

We are likewise dismissing CA-G.R. SP No. 162787 as We find the ruling of Branch 273, RTC-Marikina to be more in accord with law and jurisprudence, and concur with its finding that Christina is indeed a stockholder of LC Lopez and Conqueror.

The case of *Lao*⁷² does not apply squarely to the petition at bar considering the difference in their factual background. Unlike in *Lao*, Christina was able to prove her stockholder status by evidence other than the

⁶⁸ 803 Phil. 652 (2017).

⁶⁹ Id. at 653.

⁷⁰ 700 Phil. 749 (2012).

⁷¹ Id. at 757, citing *Heirs of Teofilo Gaudiano v. Benemerito*, 545 Phil. 311, 316-317 (2007).

⁷² *Supra* note 36.

GIS. There were the testimonies of respondents Lolito, Benedicto L. Villafuerte and Teresita Fernando, all of whom confirmed that Christina and John Rusty were indeed stockholders of the corporation. Respondent Lolito even sent notices to the two to attend the special stockholders' meeting.

The court *a quo* likewise made no mistake in declaring respondent Lolito estopped from denying Christina's standing as stockholder. Having presented Christina as a stockholder during his transactions with banks, respondent Lolito cannot later be allowed to deny such status when doing so would prove prejudicial to his interests.

Anent respondent Lolito's purchase of the unissued shares, We agree with the rulings of the courts *a quo* that the same could not be done in the absence of any board resolution authorizing the transaction. This is explicitly provided by Section 23 of the Corporation Code which reads as follows:

Section 23. *The board of directors or trustees* – Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year and until their successors are elected and qualified.
x x x

It is clear then that without the board resolution authorizing the sale of the erstwhile unissued shares, respondent Lolito could not have validly purchased them. The sale being invalid, respondent Lolito could not have legally used the same in voting for a new set of directors in the concerned corporations.

For yet another reason to invalidate the sale, and as judiciously held by RTC-Marikina, it was concluded in violation of petitioner's right of pre-emption granted her and the other stockholders under Section 39 of the Corporation Code.⁷³

Not only is the sale invalid, but We find the special stockholders' meeting to be void itself for lack of quorum. In determining the quorum, We would have to refer to the GIS of the subject corporations, instead of the STB, in view of the undisputed findings of the court *a quo* that the entries therein were of doubtful veracity, considering that first, it was made by Edna, who was not the corporate secretary, and second, it was admitted by respondents Mario that the entries therein, and the stock certificates

⁷³ Section 38. *Power to Deny Preemptive Right.* - All stockholders of a stock corporation shall enjoy preemptive right to subscribe to all issues or disposition of shares of any class, in proportion to their respective shareholdings, unless such right is denied by the articles of incorporation or an amendment thereto: *Provided*, That such preemptive right shall not extend to shares issued in compliance with laws requiring stock offerings or minimum stock ownership by the public; or to shares issued in good faith with the approval of the stockholders representing two-thirds (2/3) of the outstanding capital stock in exchange for property needed for corporate purposes or in payment of previously contracted debt.

themselves, were made a few days before the special stockholders' meeting and that there apparently were no documents to support said entries. Therefore, the latest GIS would have given a more accurate presentation of the actual stockholdings to determine whether or not a quorum indeed was constituted during the meeting.

The GIS of LC Lopez showed that there were 162,500 outstanding shares therein, and only respondent Lolito's share of 61,750 was represented during the meeting, as the other stockholders, by themselves or through their proxies, were prevented from attending it. In the case of Conqueror, only the 17,000 shares of respondent Lolito, out of its 45,000 outstanding shares, were represented, due also to the absence of the other stockholders. Very clearly, the shareholdings of respondent Lolito alone could not have constituted the one-half plus one of the total outstanding shares required to have a quorum.

It is beyond doubt that the special stockholders' meeting, and the sale and voting of the unissued shares of stock, were both void and thus could not have produced any legal effect.

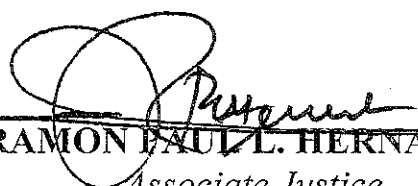
WHEREFORE, premises considered, the petition at bar is hereby **GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP Nos. 162134 and 162787 is hereby **SET ASIDE**. The Decisions of Branch 93 of the Regional Trial Court of Quezon City and Branch 273 of the Regional Trial Court of Marikina City are hereby **REINSTATED** *in toto*.

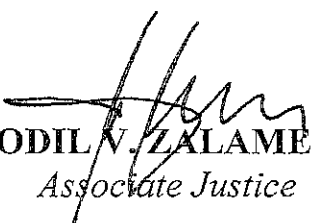
SO ORDERED.


RICARDO R. ROSARIO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

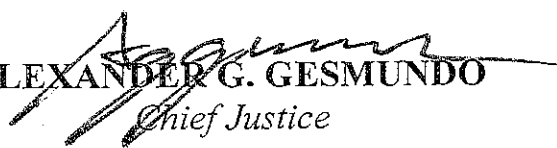

RAMON PAUL L. HERNANDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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

