Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City

CELIA S. BENICO,

Petitioner,

- versus -

SEC CASE NO. 04-96-5322

MA. SALOME I. UNIDAD,
MA. TERESA U. SAGUINSIN and
INTERNAL AUDITOR OF
UNISHOPPE SUPERMARKET
MANAGEMENT CORPORATION,

Respondents.

x----------x

DECISION

For decision is the *Motion for Reconsideration* filed by herein Respondents, last October 1, 2004 which, in the interest of substantial justice is hereby treated as an appeal to the En Banc, praying:

> ... that the Decision dated 14 September 2004 insofar as it found respondents and the undersigned guilty for indirect contempt be reverse(d) and reconsider(ed) for (being) patently illegal and void for it was promulgated in excess and/or lack of jurisdiction.

Considering the length of time that this case has been pending, from its initial filing on April 29, 1996 to the present, it behooves this Commission to revisit the facts that led to the filing of this complaint to obviate any further needless proceedings after the promulgation of this Resolution.

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The Petition was filed on April 29, 1996. The Answer, with Compulsory Counterclaim and Affirmative Defenses, was filed on June 13, 1996. The Answer to Respondents' Counterclaim was filed on July 11, 1996.

PHC did not allow the CFD access to its books and accounts. Instead, it filed the instant *Petition* arguing that:

1. The Commission must defer examination of PHC's books and records since it is *subjudice*.
2. The intended examination violates PHC's right to due process.
3. Section 15 of the Securities Regulation Code (SRC) does not apply to PHC.
4. The Commission is being used by certain individuals for their own personal interest.

In its *Comment*, dated September 20, 2006, the CFD avers that:

1. It has the authority to inspect and examine the corporate books and records of PHD despite the attendant circumstances.
2. There was no violation of due process.
3. Section 15 of the SRC applies to the petitioner.
4. It is impartial and it will not allow itself to be partisan to any of the personal interest of the parties concerned.

The CFD also maintains, in its *Comment,* that it's 22 August 2006 Order emanated from a letter of Jose Ma. Ozamis[4] requesting the Office of the General Counsel (OGC) of the Commission to issue a Cease and Desist Order (CDO) against PHC, its directors and officers, to enjoin them from making any withdrawals from any and all PHC's accounts and placements which would result in the dissipation of PHC's assets until the completion of PHC's Annual Stockholders' Meeting. The OGC, in its Memorandum to the CFD[5], referred Mr. Ozamis' letter for CFD's appropriate action. Thus, CFD's action was "to determine through the intended audit, if there is a violation of the SRC and its Implementing Rules and Regulations to warrant the issuance of a CDO."[6]

While this Petition was pending, the Commission received, on 27 April 2009, a letter[7] from Katrina Ponce-Enrile, representing herself as the chairwoman of PHC, requesting the Commission to defer its Order revoking the registration of its securities and alleging that:

1. Since 11 December 2007, PHC has been under the control of a different group of directors/stockholders. The Bildner & Ponce-Enrile group was able to take control of PHC from the Brodett, Lokim & Locsin group that refused the audit and filed the subject case.

2. The Commission was able to conduct the audit after the PHC's external auditor, Virgilio Santos, was compelled to submit his working papers.

3. PHC appeared for hearing on 20 April 2009 before the CFD regarding the matter of revoking the registration of PHC's securities for violations of the Securities Regulation Code.

[4] Dated 21 September 2005. Annex "H", CFD's Comment to the Petition.
[5] Dated February 27, 2006, Annex "A", Comment.
[6] Page 8, last paragraph, Comment.
[7] Dated on 27 April 2009 (erroneously dated 27 April 2008).

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x----------x

23 March 2015

TO:

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G R E E T I N G S:

Please take notice that on 23 April 2015, a **DECISION** was issued in the above-entitled case, the original of which is now on file with the Commission.

Mandaluyong City, Philippines.

For the Commission En Banc:

C. A. GERARD M. LUKBAN
Commission Secretary

"The Court DIRECTS the Locsin-PCGG Group to render an accounting of all the funds and other assets received from the Philippine Overseas Telecommunications Corporation, Philippine Holdings Corporation and Philippine Communications Satellite Corporation since September 1, 2004, and to return such funds to the respective corporations within thirty days from the finality of this decision."

Moreover, the fact that the matter of lifting of the Order of Suspension of Registration of Securities[18] issued by the then CFD is still pending with the MSRD shows that the Commission does not cede its visitorial powers over PHC. In fact, the Commission already assessed PHC a penalty of PhP 5,402,100.00 for non-compliance with the reportorial requirements. In the instant case, the Order appealed from was issued by the then CFD to determine whether there is a ground to suspend PHC's right to sell and offer for sale securities pending further investigation.

Accordingly, the foregoing indicate that the instant Appeal has been rendered moot and academic by the subsequent events that transpired during the pendency of the case.

WHEREFORE, premises considered, the instant *Petition for Review* is hereby **DISMISSED** for being moot.

SO ORDERED.

Mandaluyong City, 23 April 2015.

TERESITA J. HERBOSA
Chairperson

MANUEL HUBERTO B. GAITE
Commissioner

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

BLAS JAMES G. VITERBO
Commissioner

[18] Commission's Order, dated August 7, 2008, suspending the registration of PHC's securities due to its violation of the SRC Rules 17.1 (1)(A)(i) and (ii) for non-filing of 2006 and 2007 Annual Report, as well first three Quarterly Reports for 2007.