Republic of the Philippines
Department of Finance
Securities and Exchange Commission
PICC Secretariat Building, PICC Complex, Pasay City

COMMISSION EN BANC

JORGE P. NAVARRA,
Appellant,

- versus - **SEC EB Case No. 04-18-442**

FSUU HIGH SCHOOL ALUMNI ASSOCIATION, INC., MINNIE MARY ROSE TIU-DUMANHUG as President, and BERNADETTE M. JAMER as Corporate Secretary,
Appellees.
x----------x

DECISION

For the consideration of the En Banc is an Appeal of **the Order dated 2 March 2018 of the Company Registration and Monitoring Department (CRMD)**, dismissing the Petition for Revocation filed by Appellant JORGE P. NAVARRA against Appellees FSUU HIGH SCHOOL ALUMNI ASSOCIATION, INC., MINNIE MARY ROSE TIU-DUMANHUG as President, and BERNADETTE M. JAMER as Corporate Secretary (FSUU) for lack of jurisdiction.

The CRMD characterized the legal issues as intra-corporate, specifically an election protest, and thus outside the jurisdiction of the Commission, viz.

> **Since the very issue is on who are the lawfully constituted officers of FSUU**, this Commission is constrained to steer clear therefrom in order not to interfere with the adjudicative powers of the court. xxx
>
> xxx xxx xxx
>
> From the foregoing, **it is clear that the Department has no jurisdiction over intra-corporate disputes involving Election of Officers/Trustees.** Stated otherwise, it is now the regular courts which have jurisdiction to

> hear and decide cases involving intra-corporate controversies of election of corporate officers. In fact, the Securities Regulation Code makes [clear that] the regular courts [have] been vested the exclusive jurisdiction to decide intra-corporate disputes. [Emphasis supplied]
>
> WHEREFORE, premises considered, the instant Petition is hereby DISMISSED for lack of jurisdiction.
>
> SO ORDERED.[1]

Under **Section 3-1(g), Rule III, Part V of the 2016 SEC Rules of Procedure (2016 Rules)**, an Order of dismissal for lack of jurisdiction cannot be appealed to the En Banc, viz.

> **SEC. 3-1.** ***Subject of Appeal to the Commission En Banc.*** – A party to an action may appeal to the Commission En Banc an adverse decision, final order or resolution of a Director of an Operating Department, the members of a Special Hearing Panel or a Self-Regulatory Organization, if there are (i) questions of fact, or (ii) questions of law, or (iii) questions of rule implementation, or (iv) mixed questions of fact, law and rule implementation.
>
> **No appeal may be taken from:**
>
> xxx xxx xxx
>
> g. **An order dismissing an action on the ground of absence of authority or jurisdiction of the Operating Department to act over the subject matter.** (Emphasis supplied)

However, in the interest of substantial justice, we note that it is clear from the original Petition that **Appellant raised as the main issue that there was Fraud in the Incorporation and/or Serious Misrepresentation of corporate purpose,** in violation of Sections 6(i)(1) and 6(i)(2) of P.D. 902-A. The same set of facts was alleged as evidence of these two causes of action.

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[1] Page 3 of CRMD Order dated 2 March 2018

Briefly, Mr. Navarra seeks the revocation of FSUU High School Almuni Association because it is not a bone fide alumni association, *i.e.* it has no members apart from the incorporators, such that its purpose clause is fraudulent and/or a serious misrepresentation, viz.

> IV. SUMMARY OF PETITIONER'S CLAIM AND STATEMENT OF ISSUES TO BE RESOLVED
>
> 28. **There was fraud in the procurement of the Certificate of Registration of FSUU High School Alumni Association, Inc.**, as evidenced and supported by the following incontrovertible facts:[2]
>
> a) xxx
> b) xxx
> c) xxx
> d) xxx
> e) xxx
> f) xxx
> g) xxx
>
> 29. FSUU High School Alumni Association, Inc. failed to register it Membership Book for the simple reason that **this so-called alumni association did not, and does not, have members among Urios high school alumni other than the eight (8) incorporators**[3] xxx
>
> xxx xxx xxx
>
> PRAYER
>
> WHEREFORE, premises considered, Petitioner respectfully **prays that the Honorable Commission GRANT the instant Petition for Revocation of the Certificate of Registration of FSUU High School Alumni Association, Inc.** and forthwith ORDER the revocation of the Certificate of Registration of the said FSUU High School Alumni Association, Inc.[4]

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[2] Page 7 of Petition filed with CRMD on 28 July 2017.
[3] Page 9 of Petition filed with CRMD on 28 July 2017.
[4] Id.

CRMD Order did not resolve the issues of Fraud in the Incorporation and Serious Misrepresentation of corporate purpose, which is within its jurisdiction.

The petitioner posits that the incorporators of the respondent corporation are rejects of the true alumni association who do not have enough clout to form a rival organization. However, not having a constituency at present does not necessarily mean that Petitioner has established Fraud and/or Serious Misrepresentation.

Reception of evidence and/or hearings on these issues are thus necessary at the department level.

WHEREFORE, premises considered, this matter is **REMANDED** to the CRMD to determine the merits of the Petition for Revocation on the grounds of Fraud in the Incorporation and/or Serious Misrepresentation of corporate purpose.

SO ORDERED.

Pasay City, Philippines; 16 April 2019.

EMILIO B. AQUINO
Chairperson

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO *
Commissioner

KELVIN LESTER K. LEE
Commissioner

*On Leave