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

IN THE MATTER OF THE DISSOLUTION OF CBCPNET CORPORATION

SEC *En Banc Case No.* 06-02-01
For: Dissolution of a Corporation

MONSIGNOR PEDRO QUITORIO, BISHOP HONESTO ONGTIOCO AND ARCHBISHOP OSCAR V. CRUZ,
Complainants.
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DECISION

For the consideration of the Commission *En Banc* is the *Complaint*[1] filed on 12 February 2002 by Monsignor Pedro Quitorio, Bishop Honesto Ongtioco and Archbishop Oscar V. Cruz (complainants) praying, among others, for the dissolution of CBCPNET Corporation (CBCPNET).

Appellant CBCPNET was a company duly registered with the Commission on 20 November 2000 with SEC Registration No. A200017485.[2] The primary purpose of CBCPNET is to engage in the business of trading goods such as pre-paid internet cards on a wholesale or retail basis.[3] The complainants were the minority stockholders of CBCPNET and spouses Eman J. Lim and Mardie B. Lim were the majority stockholders.[4]

In their *Complaint*, the complainants state that they are filing the said Complaint pursuant to Section 5(a), Republic Act No. 8799 and Section 121 of the Corporation Code. They allege therein that the majority stockholders brought the company into financial ruin by amassing an estimated Php 177 million in debt. Moreover, the majority stockholders did not start a decent bookkeeping of financial transactions and disregarded the issuances of receipts and records of disbursements. Further, the majority stockholders have absconded and have abandoned CBCPNET.[5]

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[1] Petition for Review of the complainants dated 28 August 2002 and filed with the Court of Appeals on 29 August 2002, Annex "C" (Complaint of the complainants dated 30 January 2002).
[2] Certificate of Incorporation of CBCPNET issued by the Commission on 20 November 2000; Records, p. 205.
[3] Second Article of the Articles of Incorporation of CBCPNET; Records, p. 204.
[4] Complaint, pars. 2 and 3.
[5] Id., pars. 1, 6, 7, 8 and 9.

The complainants believe that the continued operation or existence of CBCPNET is inimical to the public interest and to their interest, and that the withdrawal of the franchise/charter by way of dissolution is in order. Thus, the complainants pray, among others, that the Commission issue an order dissolving CPBCNET. [6]

In a *Letter* of the Commission dated 16 April 2002 addressed to CBCPNET, it states that the latter failed to submit and register its Stock and Transfer Book.[7]

In another *Letter* of the Commission dated 21 May 2002 addressed to CBCPNET, it states that the latter failed to submit the following: (i) General Information Sheet (GIS) for the year 2002; (ii) Financial Statements for the year 2001; and (iii) Stock and Transfer Book.[8]

On 29 May 2002, the complainants appeared in a hearing before Commissioner Jesus E.G. Martinez of the Commission.[9] During the hearing, the complainants were informed that the Commission has no jurisdiction over their Complaint since it is a dissolution based on mismanagement. However, the complainants agreed to submit to the Commission the financial statements of CBCPNET.[10]

On 17 June 2002, the complainants filed a *Manifestation* before the Commission claiming that an audit of the financial affairs of CBCPNET has been started. Moreover, they stated that Republic Act No. 8799 did not expressly divest the Commission of its authority to hear petitions for dissolution and that the subject matter of the Complaint does not involve an intra-corporate controversy.[11]

In a *Decision* dated 20 June 2002, the Commission *En Banc* dismissed the Complaint for lack of jurisdiction since the provisions under the Corporation Code, particularly Section 121, are not applicable. The Commission *En Banc* stated Section 121 of the Corporation Code is not applicable since the grounds for the revocation of a certificate of registration of a corporation enumerated in Section 6(l) of P.D. 902-A are not present in the case. Moreover, Commission *En Banc* treated the Complaint as an off-shoot of an intra-corporate dispute that involves mismanagement, auditing and possible criminal action. In which case, the Commission *En Banc* states that redress should have been sought in the courts of general jurisdiction.[12]

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[6] *Id.*, p. 3.
[7] Petition for Review of the complainants dated 28 August 2002 and filed with the Court of Appeals on 29 August 2002, par. 9.1 and Annex "E" (Letter of the Commission dated 19 April 2002).
[8] *Id.*, par. 9.2 and Annex "F" (Letter of the Commission dated 21 May 2002).
[9] *Id.*, par. 10.
[10] *Id.*, par. 11.
[11] *Id.*, par. 12 and Annex "H" (Manifestation of the complainants dated 11 June 2002).
[12] *Id.*, Annex "A" (Decision of the Commission *En Banc*, p. 2-4).

After the denial by Commission *En Banc* of the Motion for Reconsideration filed by the complainants,[13] the matter was elevated to the Court of Appeals by the said complainants in which they assail the Decision and denial of their Motion for Reconsideration of the Commission *En Banc*.[14]

After an exchange of pleadings, the Court of Appeals rendered a *Decision* on 14 October 2004 stating that the Commission has the power to dissolve juridical entities for reasons or causes detrimental to public interest as well as to existing laws, rules and regulations. Section 6(l) of PD 902-A authorizes the Commission to suspend or revoke, after proper notice and hearing, the franchise or certificate of registration of corporations upon any of the grounds provided by law, including: (i) serious misrepresentation as to what a corporation can do or is doing to the great prejudice or damage to the general public; and (ii) failure to file the required reports. Further, the Court of Appeals states that, in effect, the complaint filed before the Commission is an action to revoke or cancel the certificate of registration of CBCPNET for the latter's failure to file the necessary reports and for committing serious misrepresentation. Lastly, the acts complained of are not considered intra-corporate controversies.[15]

In light of the foregoing, the Court of Appeals set aside the Decision and the Resolution of the Commission *En Banc* denying complainant's Motion for Reconsideration, and remanded the case back to the Commission for further proceedings.[16] On 9 November 2004, the Decision of the Court of Appeals has become final and executory and is recorded in the book of entry of judgments of the said court.[17]

However, further proceedings for the dissolution of CBCPNET are no longer required. Records will show that CBCPNET failed to file its GIS for the years 2001 to 2005 and its Financial Statements for the years 2001 to 2005.[18] Under Section 22 of the Corporation Code, the continuous non-filing of reports may be construed as a failure to formally organize and commence the business of the corporation which renders it dissolved. More pertinent to this case is that such continuous non-filing of reports may also be construed as a continuous inoperation of the business of CBCPNET[19] which is a ground for the revocation of its Certificate of Registration pursuant to the said section. As consequence of such non-filing of reports, the Company Registration and Monitoring Department (CRMD) of the Commission issued an Order dated 2 August 2006

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[13] *Id.*, Annex "B" (Resolution of the Commission *En Banc* dated 30 July 2002).
[14] Petition for Review of the complainants dated 28 August 2002.
[15] Decision of the Court of Appeals, p. 7-12.
[16] *Id,* p. 12.
[17] Entry of Judgment by the Court of Appeals received by the Commission on 26 April 2005; Records, p. 144.
[18] Records, p. 208.
[19] Order of the CRMD dated 29 August 2014, entitled "*In the Matter of J'Art Construction and Development Corp., et al.*"

effectively revoking the Certificate of Registration of CBCPNET.[20] Hence, no further proceedings in the dissolution of CBCPNET is required considering that its Certificate of Registration is revoked.

WHEREFORE, considering that the Company Registration and Monitoring Department has already revoked the Certificate of Registration of CBCPNET Corporation for non-compliance with the reportorial requirements, the prayer for revocation is hereby declared **MOOT.**

Let a copy of this Order be furnished the Company Registration and Monitoring Department and the Economic Research and Information Department for their information and appropriate action.

SO ORDERED.

Mandaluyong City, 16 June 2015.

TERESITA J. HERBOSA
Chairperson

MANUEL HUBERTO B. GAITE
Commissioner

ANTONIETA F. IBE *
Commissioner

EPHYRO LUIS B. AMATONG *
Commissioner

BLAS JAMES G. VITERBO
Commissioner

* On Official Business

[20] Memorandum of the Company Registration and Monitoring Department (CRMD) dated 7 May 2009 addressed to the Office of the General Counsel; Records, p. 206.