Republic of the Philippines
Department of Finance
Securities and Exchange Commission

FILIPINO INDIAN CHAMBER OF COMMERCE IN THE PHILIPPINES, INC.,

Petitioner,

- Versus -

SEC Case En Banc No. 07-07-107

INDIAN CHAMBER OF COMMERCE PHILS., INC., RAM SITALDAS, DILIP BUDHRANI, HARESH GURNAMAL, PRAKASH DAYARAM, NARESH MIRANI, JITENDER PURI, MURLI MOHNANI, ANIL SEHWANI, KARDY LAKHMANI, and VISHNU HATHIRMANI,

Respondent.

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DECISION

Before the Commission *En Banc* is a *Petition*[1] filed, on 06 July 2007, by Filipino Indian Chamber of Commerce in the Philippines, Inc. (**Petitioner FICCPI**), praying that Indian Chamber of Commerce, Phils., Inc. (**Respondent ICCPI**), together with its member-trustees, Sitaldas Dilip, Budhrani Haresh Gurnamal, Prakash Dayaram, Naresh Mirani, Jitender Puri, Murli Mohnani, Anil Sehwani, Kardy Lakhmani and Vishnu Hathirmani (collectively, "**Individual Respondents**") be held liable for Indirect Contempt for failure to comply with the Commission's *Decision* dated 30 November 2006 in SEC Case No. 06-014.

The Facts

On 24 November 1951, Indian Chamber of Commerce of Manila, Inc. was registered with the Commission under Company Registration No. 6465. Sometime in 1959, it amended its corporate name to "Indian Chamber of Commerce, Inc." and further amended it into "Filipino-Indian Chamber of Commerce of the Philippines, Inc." (**defunct FICCPI**). However, its term of existence expired on 24 November 2001 without any application extending the same.[2]

On 20 January 2005, Naresh Mansukhani (**Mansukhani**) reserved the corporate name "Filipino Indian Chamber of Commerce in the Philippines, Inc." (**Petitioner FICCPI**) for a period from 20 January 2005 to 20 April 2005. This

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[1] Dated 25 June 2007.

[2] Paragraph 2, Commission En Banc Decision dated 30 November 2006 (SEC Case No. 06-014).

was opposed by Ram Sitaldas (**Sitaladas**), a representative of the defunct FICCPI, on the ground that the latter was using the said name since 1951.

The Company Registration and Monitoring Department (**CRMD**) resolved to deny the opposition on the ground that the defunct FICCPI has no legal personality to oppose Mansukhani's reservation. It further ruled that the defunct FICCPI's right over its corporate name ended when its term of existence expired. The CRMD's Order was affirmed by Commission *En Banc* on appeal (SEC Case No. 05-008). Likewise, the Court of Appeals (CA) upheld the SEC *En Banc* ruling[3]. While the case was pending with the CA, CRMD issued to Mansukhani a Certificate of Incorporation for the name "Filipino Indian Chamber of Commerce of the Philippines".

In the meantime, on 08 December 2005, Pracash Dayacan, a representative of the defunct FICCPI, applied for the reservation the corporate name "Indian Chamber of Commerce, Phils., Inc." or Respondent ICCPI. This was opposed by Petitioner FICCPI, through Mansukhani, citing the ruling in SEC Case No. 05-008. However, CRMD denied Petitioner FICCPI's opposition and issued Respondent ICCPI its Certificate of Incorporation on 05 April 2006.[4] However, when the case was appealed (SEC Case No. 06-014), the Commission *En Banc* reversed CRMD's ruling[5] and directed Respondent ICCPI to change or modify its corporate name (Assailed Decision), to wit:

> "WHEREFORE, the appeal is hereby granted and the assailed Order dated April 05, 2006 is hereby REVERSED and SET ASIDE and respondent (ICCPI) is directed to change or modify its corporate name within thirty (30) days from date of actual receipt hereof."

Aggrieved, Respondent ICCPI elevated the Commission's Assailed Decision to the CA (CA-G.R. S.P. No. 97320). In a *Decision* dated 15 May 2008, the CA affirmed the Commission's Assailed Decision. Later on, it denied Respondent's ICCPI's motion for reconsideration.

Subsequently, Respondent ICCPI appealed the Court of Appeals' ruling through a *Petition for Review on Certiorari* with the Supreme Court, in G.R. No. 184008 entitled *"Indian Chamber of Commerce Phils., Inc. vs. Filipino Indian Chamber of Commerce in the Philippines, Inc.,".*

While Respondent ICCPI's appeal is pending with the CA, Petitioner FICCPI filed the instant case for Indirect Contempt against Respondent ICCPI and its incorporators alleging that Respondent ICCPI has been continuously using its corporate name despite the fact that the Commission already directed the latter

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[3] CA-G.R. SP No. 92740, 27 September 2006.
[4] CRMD Order dated 05 April 2006.
[5] Decision dated 30 November 2006.

to change or modify the same.[6] Petitioner FICCPI claims that the CA has not issued any order staying the Commission's Assailed Decision pursuant to Section 12, Rule 43[7] of the Rules of Court.[8] Petitioner further alleges that Respondent ICCPI should comply with the Commission's directive to change or modify its corporate name.[9] Hence, Petitioner FICCPI seeks that Respondent ICCPI be cited for Indirect Contempt for the latter's disobedience or defiance to the Commission's directive pursuant to Section 7-2, Rule VII[10] of the 2006 SEC Rules of Procedure (2006 Rules) in relation to Section 3, Rule 71[11] of the Rules of Court.[12]

On the other hand, Respondent ICCPI, on 24 September 2007, filed its *Opposition*[13]. It argues that the Commission's Assailed Order is not yet final and executory because it timely filed an appeal with the CA.[14] Respondent ICCPI further contends that there is no law or general legal principle that mandates that all decisions of *quasi-judicial* agencies, including the Commission, are immediately executory.[15] Respondent ICCPI also argues that the Commission does not have the competence and jurisdiction to decide cases for Indirect Contempt.[16]

Subsequently, the Commission *En Banc* directed the parties to submit their respective Memoranda in support of their positions.[17] Petitioner FICCPI, on 30 June 2008, filed its *Memorandum*[18] reiterating its position. Respondent ICCPI, on 17 July 2008, filed its *Reply Memorandum*[19] raising its earlier arguments.

On 08 April 2016, the Commission was furnished with a copy of Respondent ICCPI's *Compliance and Manifestation*[20] filed with the Supreme Court manifesting that it is presently using the name "Federation of Indian Chambers of Commerce, Inc.". However, it further alleges that it is not waiving its right to

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[6] Paragraph 7 of the Petition.

[7] SEC. 12, Rule 43. Effect of Appeal. – The appeal shall not stay the award, judgment, final order or resolution sought to be review unless the Court of Appeals shall direct otherwise upon such terms as it may deem just.

[8] Paragraph 8 of the Petition.

[9] Paragraph 9 of the Petition.

[10] Section 7-2, Rule VII. Indirect Contempt – The Commission or the Hearing Panel or Officer may, after observance of due process, cite or punish any person for indirect contempt on any of the grounds prescribed under the Revised Rules of Court.

[11] Section 3. Indirect contempt to be punished after charge and hearing. – x x x (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

[12] Paragraph 10-12 of the Petition.

[13] Dated 24 September 2007.

[14] Paragraphs 1-2.4 of the Opposition.

[15] Paragraphs 3-3.4 of the Opposition.

[16] Paragraphs 4-5.7 of the Opposition.

[17] Order dated 17 June 2008.

[18] Dated 25 June 2008.

[19] Dated 17 July 2008.

[20] Dated 01 April 2016.

pursue or re-acquire its former name which is subject of the Supreme Court case with G.R. No. 184008.

Consequently, the Commission issued an *Order* dated 20 June 2016 directing Respondent ICCPI to submit a *Compliance Report* relating to its conformity with the Commission's Assailed Order.

On 28 June 2016, Respondent ICCPI filed a *Manifestation with Motion for Extension*[21] alleging that the certified copy of the AOI is scheduled to be released on 01 July 2016, hence, it is submitting a copy of its Amended Articles of Incorporation[22] reflecting its new name "Federation of Indian Chambers of Commerce (Phil.), Inc.".

Thereafter, on 03 August 2016, the Supreme promulgated a *Decision* in Respondent ICCPI's certiorari denying Respondent ICCPI's petition and affirming the CA's ruling in C.A.-G.R. SP No. 97320.

The Issue

The issue is whether or not Respondent ICCPI could be cited for Indirect Contempt for its non-compliance with the Commission's *Decision* dated 30 November 2006 in SEC Case No. 06-014.

The Ruling

In *Osmeña III vs. Social Security System of the Philippines*,[23] the Supreme Court defined a moot and academic case or issue as follows:

> "A case or issue is considered moot and academic when it **ceases to present a justiciable controversy** by virtue of supervening events, so that **an adjudication of the case or a declaration on the issue would be of no practical value or use**. In such instance, **there is no actual substantial relief which a petitioner would be entitled to**, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness save when, among others, a compelling constitutional issue raised requires the formulation of controlling principles to guide the bench, the bar and the public; or when the case is capable of repetition yet evading judicial review.[24]"

In the instant case, Respondent ICCPI already change its corporate name to "FEDERATION OF INDIAN CHAMBERS OF COMMERCE (PHIL.), INC." as

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[21] Dated 27 June 2016.

[22] Annex "1" of Respondent ICCPI's Manifestation and Compliance.

[23] G.R. No. 165272, 13 September 2007, 533 SCRA 313, citing *Province of Batangas v. Romulo*, G.R. No. 152774, 27 May 2004, 429 SCRA 736, 754; *Olanolan v. Comelec*, 494 Phil. 749,759 (2005); *Paloma v. CA*, 461 Phil. 269, 276-277 (2003).

[24] Id. at 327

evidenced by its Certificate of Filing of Amended Articles of Incorporation dated 08 April 2009.[25] When Respondent ICCPI amended its corporate name during the pendency of this case, this is considered as a supervening event that effectively rendered this instant petition moot and academic because there is no longer any justiciable controversy that is needed to be resolve. The resolution of the instant case would not serve any purpose nor would have practical value or use to Petitioner FICCPI. Therefore, dismissal of the instant petition is proper.

WHEREFORE, premises considered, the instant Petition for Indirect Contempt is hereby **DISMISSED** for being moot and academic.

SO ORDERED.

Pasay City, 27 October 2016.

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

[25] Note 22 *Supra*.