Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

FOREST HILLS GOLF AND COUNTRY CLUB, INC., Petitioner,	**G.R. No. 164686**
	Present:
- versus -	SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
	Promulgated:
GARDPRO, INC., Respondent.	OCT 22 2014

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D E C I S I O N

BERSAMIN, *J.*:

The articles of incorporation and the by-laws of a corporation define and regulate the relations between the corporation and the stockholders. In interpreting them, the literal meaning of their provisions shall control, and such provisions should be construed as a whole and not in isolation.

The Case

This appeal by the corporation seeks to overturn the ruling promulgated on September 26, 2003 by the Court of Appeals (CA) denying its appeal by petition for review, thereby affirming the adverse ruling of the Securities and Exchange Commission (SEC) regarding the refund of membership fees.[1]

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[1] *Rollo*, pp. 47-53; penned by Associate Justice Rosmari D. Carandang, with the concurrence of Associate Justice Eugenio S. Labitoria (retired) and Associate Justice Mercedes Gozo-Dadole (retired).

Antecedents

Petitioner Forest Hills Golf and Country Club, Inc. (interchangeably Forest Hills or Club), a non-profit stock corporation, was established to promote social, recreational and athletic activities among its members. It constructed and maintained golf courses, tennis courts, swimming pools, and other indoor and outdoor sports and recreational facilities. It was an exclusive and private club organized for the sole benefit of its members. In March 1993, Fil-Estate Properties, Inc., a party to a Project Agreement to develop the Forest Hills Residential Estates and the Forest Hills Golf and Country Club, undertook to market the golf club shares of Forest Hills for a fee. In July 1995, Fil-Estate Properties, Inc. (FEPI) assigned its rights and obligations under the Project Agreement to Fil- Estate Golf and Development, Inc. (FEGDI).[2]

In 1995, FEPI and FEGDI engaged Fil-Estate Marketing Associates Inc., (FEMAI) to market and offer for sale the shares of stocks of Forest Hills. Leandro de Mesa, the President of FEMAI, oriented the sales staff on the information that would usually be inquired about by prospective buyers. He made it clear that membership in the Club was a privilege, such that purchasers of shares of stock would not automatically become members of the Club, but must apply for and comply with all the requirements in order to qualify them for membership, subject to the approval of the Board of Directors.[3]

In 1996, Gardpro, Inc. (Gardpro) bought class "C" common shares of stock, which were special corporate shares that entitled the registered owner to designate two nominees or representatives for membership in the Club.[4]

In October 1997, Ramon Albert, the General Manager of the Club, notified the shareholders that it was already accepting applications for membership. In that regard, Gardpro designated Fernando R. Martin and Rolando N. Reyes to be its corporate nominees; hence, the two applied for membership in the Club. Forest Hills charged them membership fees of ₱50,000.00 each, prompting Martin to immediately call up Albert and complain about being thus charged despite having been assured that no such fees would be collected from them. With Albert assuring that the fees were temporary,[5] both nominees of Gardpro paid the fees. At that time, the ₱45,000.00 membership fees of corporate members were increased to ₱75,000.00 per nominee by virtue of the August 26, 1997 resolution of the Board of Directors. Any nominee who paid the fees within a specified period was entitled to a discount of ₱25,000.00. Both nominees of Gardpro were

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2 Id. at 202.
3 Id. at 202-205.
4 Id. at 62.
5 Id. at 108.

then admitted as members upon approval of their applications by the Board of Directors. Later, Gardpro decided to change its designated nominees, and Forest Hills charged Gardpro new membership fees of ₱75,000.00 per nominee. When Gardpro refused to pay, the replacement did not take place.

On July 7, 1999, Gardpro filed a complaint in the SEC,[6] which Forest Hills duly answered.[7] Martin and Reyes testified that when the shares of stock were being marketed, nothing about payment of membership fees was explained to them; that upon his inquiry, a certain Ms. Cacho, an agent of FEMAI, had told Martin that if a corporation bought class "C" common shares, its nominees would be automatically entitled to become members of the Club; that all that the corporation would have to do thereafter was to pay the monthly dues;[8] that Albert had assured Martin that the membership fees he had paid would be refunded; and that Martin was not furnished copies of the by-laws of Forest Hills.

On June 30, 2000, SEC Hearing Officer Natividad T. Querijero rendered her decision, disposing as follows:[9]

> WHEREFORE, judgment is hereby rendered (1) restraining defendant from collecting membership fees for the two (2) replacement members;(2) the membership fees already paid shall be applied as membership fees for the two (2) replacement members; and (3) to pay complainant attorney's fees in the amount of Fifty Thousand (₱50,000.00) Pesos.
>
> SO ORDERED.

Judgment of the SEC *En Banc*

On June 28, 2001, the SEC *En Banc* affirmed the findings of Hearing Officer Querijero, except the granting of attorney's fees to Gardpro,[10] *viz*:

> The main issue to be resolved in this appeal, therefore, is whether or not under the by-laws of the club, it is authorized to collect new membership fees for replacement nominees of Class "C" members. Nowhere in the by-laws of respondent-appellant is there a provision that authorizes the collection of membership fees every time a nominee of corporate shareholder is to be replaced. What the by-laws authorizes is the collection of a "transfer fee," in such amount as may be prescribed by the Board, for every change in the designated nominees of a juridical entity (Art. II, Sec. 2.2 Subsection 2.2.2). This should be differentiated from the provision of Art. III, Sec. 13.6 of the By-laws, which authorizes the

6 Id. at 159-163.
7 Id. at 164-175.
8 Id. at 115-117.
9 Id. at 248-254.
10 Id. at 293-295.

> collection of "transfer fee" of P60,000 for corporate members for each transfer of stock in the club's books. The transfer fee under the former provision refers to the one imposed on the change in the corporate member's designated nominee only while the transfer fee under the latter provision refers to the a transfer of the stock itself from one corporate member to another which necessitates entry in the club's books. As correctly pointed out in the appealed decision, the corporation is the real club member (corporate) although its designated representative can also be a regular member of the Club. Therefore, it should not be assessed membership fees everytime it changes its nominees but only transfer fees as earlier pointed out. While we agree with respondent-appellant that any replacement of a nominee of a corporate shareholder/member must apply for membership and qualify, the By-laws does not require another payment for membership fee.[11]

Decision of the CA

On October 10, 2001, Forest Hills appealed to the CA,[12] which ultimately promulgated its assailed decision on September 26, 2003, denying the petition for review, and affirming the ruling of the SEC,[13] *viz*:

> x x x What is at issue is the interpretation of a By-law provision regarding membership in the Club.
>
> The procedure for acquiring membership is outlined in the provisions of the By-laws, where the end result is the approval of the Board of Directors of the application for membership submitted both by the juridical entity holding shares in the Club, and the designated nominee or representative.
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> Contrary to the claim of the petitioner, the payment of membership fee is not a part of the procedure for the approval of the application for membership. The matter of membership fees is provided under section 13.7 of the By-Laws, and reads as follows:
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> > Section 13.7 MEMBERSHIP FEES. Unless otherwise determined by the Board of Directors, a membership fee of Thirty Thousand Pesos (₱30,000.00) for individual and Forty Five Thousand Pesos (45,000.00) for corporate members must be paid the applicant ***within 30 days from the approval of his application before his share can be register[ed] in the Stock and Transfer Books of the Club*** as provided in Section 2.2.6 of these By-laws. Non-payment of the membership fee within the 30 day period shall be deemed a withdrawal of the application. These amount maybe waived, increased or decreased from time to time by a resolution of the Board of Directors. (Emphasis supplied)

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11 Id.
12 Id. at 296-322.
13 Supra note 1.

From the foregoing, it is clear that the membership is required to be paid within 30 days from approval of the application, and is for the purpose of registering the share of the aspiring member in the Stock and Transfer books of the Club.

We agree with the ruling of the SEC and the Hearing Officer that the real club member is Gardpro, and not its designated nominees/ representatives, considering the following:

1. The corporation (Gardpro) owns the Class "C" share as the by-laws itself provides, the nominees are merely nominees or representatives of the corporation, the latter being the real member. (Section 2.2.2, Section 2.2.4)

2. A regular individual member is entitled to vote; however, in the case of a regular corporate member, only one of the nominees may vote for the corporation they represent. (Section 2.2.2)

3. The corporation, besides the nominees, has to submit its application for membership and has to be screened vis-à-vis the nominees. [Section 2.2.7 par (d)]

4. The corporation is primarily liable for the obligations of the nominees. (Section 13.1)

5. The nature of membership of nominees may rightfully (be) compared to that of an assignee- member. (Section 2.2.8)

When respondent Gardpro decided to replace its designated nominees, it should not be required to pay membership fees again as it has already paid such fees for the original designated nominees. As the real Club members, respondent should not be assessed membership fees every time it changes its nominees. Nowhere in the By-Laws of the petitioner is it provided that it is authorized to collect membership fees every time a nominee of a corporate shareholder is to be replaced.

As correctly held by the Hearing Officer and the SEC, the applicable provision on the matter is section 2.2.2 of the By-Laws, the relevant portion of which states:

> "A juridical entity owning a Class "C" Common Share may, by resolution of its board of directors or trustees, designate two (2) nominees for regular membership to the club for each Class "C" Share registered in its name; provided, however, that only one (1) nominee for each Class "C" Share, as designated in the aforesaid resolution may vote and hold office as such. The said nominee(s) or representative(s), upon approval of the Board of Directors, may be admitted as Regular Member(s). **A transfer fee in such amount as may be prescribed by the Board of Directors, shall be charged for every change in the designated nominee of juridical entity.**" (Emphasis supplied)

> If at all, respondent Gardpro should only be made to pay the transfer fee mentioned in the aforequoted provision. It should, however, be noted that said transfer fee is different from that provided in section 13.6 of the By-laws, which authorizes the collection of 'transfer fee' of ₱60,000.00 for corporate members for each transfer of stock in the Club's Books. In this case, there is no transfer of share of ownership to be effected in the Book of the Club. As aptly ruled by the SEC, the transfer fee under the former provision refers to the one imposed on the change in the corporate member's designated nominee only, while the transfer fee under the latter provision refers to a transfer of the stock itself from one corporate member to another which necessitates entry in the Club's Books.
>
> Petitioner's contention that section 2.2.2 is inapplicable because the former nominees had already qualified and were accepted is likewise untenable. It is clear from the provision that the transfer fee is imposable "for every change in the designated nominee of the juridical entity, making no distinction between a nominee who has already qualified and was already accepted and one who is yet to qualify or be accepted. Petitioner contends that had the change occurred before the nominees became members, then section 2.2.2 may apply, and only a transfer fee is chargeable. This, We hold, is hair splitting. By becoming members through the favorable action of the Board of Directors on the (sic) their application for membership, the former nominees did not cease to be the "designated nominees" of the respondent. Therefore, the matter of replacing the designated nominees of the respondent falls squarely under the provision of section 2.2.2, such that only a transfer fee is required to be paid. However, We agree with the petitioner that any replacement of a nominee of a corporate shareholder/member must apply for membership and qualify.
>
> WHEREFORE, premises considered, the instant petition is hereby DENIED. The Order of the Securities and Exchange Commission, dated June 28, 2001, is AFFIRMED *in toto*.
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> SO ORDERED.[14]

Forest Hills moved to reconsider the decision on October 17, 2003.

On November 28, 2003, the Federation of Golf Clubs (Phil.), Inc. (Federation) sought leave to intervene as a*micus curiae*,[15] but the CA denied the motion to intervene on March 1, 2004 because it doubted the Federation's impartiality due to Forest Hills being one of its members; and because the issues did not concern matters of broad public interest to make it necessary to invite *amicus curiae*.[16]

On July 27, 2004, the CA denied the motion for reconsideration of Forest Hills.[17]

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14 *Rollo*, pp. 49-52.
15 Id. at 381-395.
16 Id. at 398-399.
17 Id. at 55-57.

Issues

On September 17, 2004, Forest Hills tendered the following issues in its petition for review on *certiorari*, to wit:

> I.
> The Court of Appeals committed an error of law in not holding that, under the applicable provisions of law on the interpretation of contracts, the replacement nominees of Gardpro, Inc., who were applying for membership in Forest Hills, should pay the required membership fees.
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> II.
> The Court of Appeals committed an error of law in encroaching upon the prerogative of Forest Hills to determine its own rules and procedure governing membership as well as in infringing on the power of its Board of Directors to decide upon all questions on the construction of Articles of Incorporation, By-Laws and rules and regulations of the Club.
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> III.
> The Court of Appeals committed an error of law in not allowing the intervention of the Federation of Golf Club of the Philippines, Inc. as *amicus curiae.*[18]

Ruling of the Court

The appeal lacks merit. The CA did not err in rendering its assailed decision against the petitioner.

1.
Replacement nominees of Gardpro were not required to pay membership fees

Forest Hills was not authorized under its articles of incorporation and by-laws to collect new membership fees for the replacement nominees of Gardpro.

There is no question that Gardpro held class "C" common stocks that entitled it to two memberships in the Club. Its nominees could be admitted as regular members upon approval of the Board of Directors but only one nominee for each class "C" share as designated in the resolution could vote as such. A regular member was then entitled to use all the facilities and privileges of the Club. In that regard, Gardpro could only designate as its nominees/representatives its officers whose functions and office were defined by its own by-laws.

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[18] Id. at 12.

The membership in the Club was a privilege, it being clear that the mere purchase of a share in the Club did not immediately qualify a juridical entity for membership. Admission for membership was still upon the favorable action of the Board of Directors of the Club. Under Section 2.2.7 of its by-laws, the application form was accomplished by the chairman of the board, president or chief executive officer of the applicant juridical entity. The designated nominees also accomplished their respective application forms, duly proposed and seconded, and the nominees were evaluated as to their qualifications. The nominees automatically became ineligible for membership once they ceased to be officers of the corporate member under its by-laws upon certification of such loss of tenure by a responsible officer of the corporate member.

Under Section 2.2.6 of the Club's by-laws, membership fees of ₱45,000.00 must be paid by the applicant within 30 days from the approval of the application before the share could be registered in the Stock and Transfer Books of the Club. Non-payment of the membership fees within the 30-day period would be deemed a withdrawal of the application. The amount of the fees could be waived, increased or decreased by the Board of Directors. Pursuant to the Club's articles of incorporation and by-laws, the membership fees should be paid by the corporate member. Based on the procedure set forth in Section 2.2.7 of the by-laws, the applicant was the juridical entity, not its nominee or nominees. Although the nominee or nominees also accomplished their application forms for membership in the Club, it was the corporate member that was obliged to pay the membership fees in its own capacity because the share was registered in its name in the Stock and Transfer Book.

Corporations buy shares in clubs in order to invest for earnings. Their purchases may also be to reward their corporate executives by having them enjoy the facilities and perks concomitant to the club memberships. When Gardpro purchased and registered its ownership of the class "C" common shares, it did not only invest for earnings because it also became entitled to nominate two of its officers in the Club as set forth in its seventh purpose of the articles of incorporation and Section 2.2.2 of the by-laws, to wit:

Articles of Incorporation

x x x x

SEVENTH

x x x x

> That this Corporation is an exclusive club and is organized on a non-profit basis for the sole benefit of its member/members. Ownership of a share shall **entitle** the registered owner to the use of all the sports and other facilities of the club, but subject to the terms and conditions herein prescribed, to the By-laws of the corporation, and to the policies, rules and

> regulations as may from time to time be promulgated by the Board of Directors. (Bold emphasis supplied)[19]
>
> By-Laws
>
> x x x x
>
> 2.2.2 Subject to compliance with rules and regulations, a Regular Member is **entitled** to use all the facilities and privileges of the Club. x x x (Bold emphasis supplied)[20]

Entitle is a term that means to give a right, claim or legal title to.[21] And, as far as the courts have dealt with the term, it may be gathered that *entitle* signifies the granting of a privilege or right to be exercised at the option of the party for whose benefit the term is used upon which no limitation can be arbitrarily imposed.[22] Nonetheless, the use of the recreational facilities of the Club is commonly known as *playing rights* of the corporate member or its nominees.

Golf clubs usually sell shares to individuals and juridical entities in order to raise capital for the construction of their recreational facilities. In that regard, golf clubs accept juridical entities to become regular members,[23] and allow such entities to designate corporate nominees because only natural persons can enjoy the sports facilities. In the context of this arrangement, Gardpro's two nominees held playing rights. But the articles of incorporation of Forest Hills and Section 2.2.2 of its by-laws recognized the right of the corporate member to replace the nominees, subject to the payment of the transfer fee in such amount as the Board of Directors determined for every change. The replacement could take place for any of the following reasons, namely: (*a*) if the nominee should cease to be an officer of the corporate member;[24] or (*b*) if the corporate member should request the replacement. In case of a replacement, the playing rights would also be transferred to the new nominees.

According to the second paragraph of Section 13.6 of the by-laws, the transfer of playing rights entailed the payment of ₱10,000.00. Yet, Section 2.2.2 of the by-laws stipulated a transfer fee for every replacement. This warranted the conclusion that Gardpro should pay to Forest Hills the transfer fee of ₱10,000.00 because it desired to change its nominees.

There was an inconsistency between the by-laws of Forest Hills and the affidavit of Albert as to the amounts of the membership fees of corporate

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19 Id. at 62-63.
20 Id. at 69.
21 West's Legal Thesaurus/Dictionary, Special Deluxe Edition, p. 280.
22 Words and Phrases 14a, p. 389.
23 *Rollo*, p. 70.
24 Id. at 71.

members. On one hand, Section 13.7 (*Membership Fees*) of the by-laws stated that "the membership fee of Forty Five Thousand Pesos (₱45,000.00) x x x for corporate members must be paid by the applicant;" on the other, Albert's affidavit alleged that "each nominee shall pay the ₱75,000.00 membership fee." To resolve the inconsistency, the by-laws should prevail because they constituted the private statutes of the corporation and its members and must be strictly complied with and applied to the letter.

Martin attested that he and Reyes, as the nominees of Gardpro, paid ₱50,000.00 each as membership fees.[25] With the payment of the fees being the personal obligation of Gardpro, the Court leaves the matter to the internal determination of Gardpro and its nominees.

The relevant provisions of the articles of incorporation and the by-laws of Forest Hills governed the relations of the parties as far as the issues between them were concerned. Indeed, the articles of incorporation of Forest Hills defined its charter as a corporation and the contractual relationships between Forest Hills and the State, between its stockholders and the State, and between Forest Hills and its stockholder; hence, there could be no gainsaying that the contents of the articles of incorporation were binding not only on Forest Hills but also on its shareholders.[26] On the other hand, the by-laws were the self-imposed rules resulting from the agreement between Forest Hills and its members to conduct the corporate business in a particular way. In that sense, the by-laws were the private "statutes" by which Forest Hills was regulated, and would function. The charter and the by-laws were thus the fundamental documents governing the conduct of Forest Hills' corporate affairs; they established norms of procedure for exercising rights, and reflected the purposes and intentions of the incorporators. Until repealed, the by-laws were a continuing rule for the government of Forest Hills and its officers, the proper function being to regulate the transaction of the incidental business of Forest Hills. The by-laws constituted a binding contract as between Forest Hills and its members, and as between the members themselves. Every stockholder governed by the by-laws was entitled to access them.[27] The by-laws were self-imposed private laws binding on all members, directors and officers of Forest Hills. The prevailing rule is that the provisions of the articles of incorporation and the by-laws must be strictly complied with and applied to the letter.[28]

In construing and applying the provisions of the articles of incorporation and the by-laws of Forest Hills, the CA has leaned on the plain meaning rule embodied in Article 1370 of the *Civil Code*, to the effect that if the terms of the contract are clear and leave no doubt upon the intention of

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25 *Rollo*, pp. 112 and 125.
26 *Lanuza v. Court of Appeals*, G.R. No. 131394, March 28, 2005, 454 SCRA 54, 64-66.
27 18 Am Jur 2d, § 311, p. 221.
28 *Valley Golf & Country Club, Inc. v. Vda. de Caram*, G.R. No. 158805, April 16, 2009, 585 SCRA 218, 233.

the contracting parties, the literal meaning of its stipulations shall control. The application of the rule has been fittingly explained as follows:

> Our ruling in *Benguet Corporation, et al. v. Cesar Cabildo* is instructive:
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> > The cardinal rule in the interpretation of contracts is embodied in the first paragraph of Article 1370 of the Civil Code: "[i]f the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control." This provision is akin to the "plain meaning rule" applied by Pennsylvania courts, which assumes that the intent of the parties to an instrument is "embodied in the writing itself, and when the words are clear and unambiguous the intent is to be discovered only from the express language of the agreement." It also resembles the "four corners" rule, a principle which allows courts in some cases to search beneath the semantic surface for clues to meaning. A court's purpose in examining a contract is to interpret the intent of the contracting parties, as objectively manifested by them. The process of interpreting a contract requires the court to make a preliminary inquiry as to whether the contract before it is ambiguous. A contract provision is ambiguous if it is susceptible of two reasonable alternative interpretations. Where the written terms of the contract are not ambiguous and can only be read one way, the court will interpret the contract as a matter of law. If the contract is determined to be ambiguous, then the interpretation of the contract is left to the court, to resolve the ambiguity in the light of the intrinsic evidence.
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> In our jurisdiction, the rule is thoroughly discussed in *Bautista v. Court of Appeals*:
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> > The rule is that where the language of a contract is plain and unambiguous, its meaning should be determined without reference to extrinsic facts or aids. The intention of the parties must be gathered from that language, and from that language alone. Stated differently, where the language of a written contract is clear and unambiguous, the contract must be taken to mean that which, on its face, it purports to mean, unless some good reason can be assigned to show that the words should be understood in a different sense. Courts cannot make for the parties better or more equitable agreements than they themselves have been satisfied to make, or rewrite contracts because they operate harshly or inequitably as to one of the parties, or alter them for the benefit of one party and to the detriment of the other, or by construction, relieve one of the parties from the terms which he voluntarily consented to, or impose on him those which he did not.[29]

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[29] *Norton Resources and Development Corporation v. All Asia Bank Corporation*, G.R. No. 162523, November 25, 2009, 605 SCRA 370, 376.

The CA was also guided by Article 1374 of the *Civil Code*, which declares that "[t]he various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly." Verily, all stipulations of the contract are considered and the whole agreement is rendered valid and enforceable, instead of treating some provisions as superfluous, void, or inoperable.

2.
The CA did not encroach upon the prerogative of Forest Hills to determine its own rules and procedures and to decide all questions on the construction of its articles of incorporation and by-laws

Anent the second issue, the Court disagrees with the contention of Forest Hills that the CA encroached upon its prerogative to determine its own rules and procedures and to decide all issues on the construction of its articles of incorporation and by-laws. On the contrary, the CA acted entirely within its legal competence to decide the issues between the parties.

The complaint of Gardpro stated a cause of action, and thus contained the operative acts that gave rise to its remedial right against Forest Hills.[30] The cause of action required not only the interpretation of contracts and the application of corporate laws but also the application of the civil law itself, particularly its tenets on unjust enrichment[31] and those regulating property rights arising from ownership. If Forest Hills were allowed to charge nominees membership fees, and then to still charge their replacement nominees every time a corporate member changed its nominees, Gardpro would be unduly deprived of its full enjoyment and control of its property even as the former would be unjustly enriched.

The interpretation and application of laws have been assigned to the Judiciary under our system of constitutional government. Indeed, defining and interpreting the laws are truly a judicial function.[32] Hence, the CA could not be denied the authority to interpret the provisions of the articles of incorporation and by-laws of Forest Hills, because such provisions, albeit in the nature of private laws, impacted on the definition of the rights and obligations of the parties. This, notwithstanding that Section 16.4 of the by-laws gave to the Board of Directors of Forest Hills the authority to decide all questions on the construction of its articles of incorporation and by-laws, and its rules and regulations.

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30 *Marquez and Gutierrez Lora v. Varela*, 92 Phil. 373 (1952).

31 There is unjust enrichment "when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience." The principle of unjust enrichment requires two conditions, namely: (1) that a person is benefited without a valid basis or justification, and (2) that such benefit is derived at the expense of another. (*Flores v. Lindo, Jr.*, G.R. No. 183984, April 13, 2011, 648 SCRA 772, 782-783).

32 *Endencia v. David*, 93 Phil. 696 (1953).

3.

Intervention of the Federation of Golf Clubs of the Philippines, Inc. as *amicus curiae* was not necessary

The CA properly disallowed the intervention of the Federation of Golf Clubs of the Philippines, Inc. as *amicus curiae*.

The courts may invite experienced and impartial attorneys to appear as *amici curiae* to help in the disposition of issues submitted to them.[33] As such, the appearance of *amicus curiae*, whether by invitation or by leave, has always been a matter of favor or grace, not of right or privilege. There is no right to compel the courts to permit *amici curiae* to appear. This simply means that the intervention of *amicus curiae* lies in the discretion of the courts, which may grant or refuse leave, according as they deem the proffered information timely and useful, or otherwise. Where matters of public concern are involved, the courts exercise great liberality in granting leave to appear; but where the parties are assisted by competent counsel, leave to appear as *amici curiae* has been usually withheld. In general, the courts desist from allowing the intervention as *amicus curiae* of anyone whose attitude appears to be partisan (such as a person in the service of those having private interests in the outcome of the litigation).[34]

The membership of Federation of Golf Clubs of the Philippines Inc. included Forest Hills and other similarly situated golf clubs. Hence, its partisanship or partiality on the pending issues was beyond question. Its participation in the action would not advance the objective appreciation by the CA of such issues. In any event, the action herein involved the contract between parties, and was a private matter fully within the competence of the SEC and the CA to consider and resolve. It is notable that Forest Hills was adequately represented by capable counsel.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on September 26, 2003; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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33 Section 36, Rule 138 of the *Rules of Court*.
34 3A CJS, pp. 423-426.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

MARIA LOURDES P. A. SERENO
Chief Justice