



Republic of the Philippines
Supreme Court
Manila

COURT OF THE PHILIPPINES
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FIRST DIVISION

CAROLINA QUE VILLONGCO, G.R. No. 225022
ANA MARIA QUE TAN,
ANGELICA QUE GONZALES,
ELAINE VICTORIA QUE TAN and
EDISON WILLIAMS QUE TAN,
 Petitioners,

- versus -

CECILIA QUE YABUT, EUMIR
CARLO QUE CAMARA and MA.
CORAZON QUE GARCIA,
 Respondents.

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CECILIA QUE YABUT, EUMIR G.R. No. 225024
CARLO QUE CAMARA and MA.
CORAZON QUE GARCIA,
 Petitioners,

Present:

SERENO, J.,
 Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
JARDELEZA, and
TIJAM, JJ.

- versus -

CAROLINA QUE VILLONGCO,
ANA MARIA QUE TAN,
ANGELICA QUE GONZALES,
ELAINE VICTORIA QUE TAN and
EDISON WILLIAMS QUE TAN,
 Respondents.

Promulgated:

FEB 05 2018

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DECISION**TIJAM, J.:**

Before Us are separate Petitions for Review on *Certiorari*¹ assailing the Decision² dated September 4, 2015 and Amended Decision³ dated June 8, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 134666 declaring the annual stockholder's meeting held by Cecilia Que Yabut, Eumir Carlo Que and Ma. Corazon Que Garcia (Cecilia Que, et al.) on January 25, 2014 void for lack of quorum and declared all acts performed by Cecilia Que, et al. as *ultra vires* acts as they were not legally clothed with corporate authority to do so.

The pertinent facts of the case as found by the CA are as follows:

Phil-Ville Development and Housing Corporation (Phil-Ville) is a family corporation founded by Geronima Gallego Que (Geronima) that is engaged in the real estate business. The authorized capital stock of Phil-Ville is Twenty Million Pesos (P20,000,000) divided into Two Hundred Thousand (200,000) shares with a par value of One Hundred Pesos (P100.00) per share. During her lifetime, Geronima owned 3,140 shares of stock while the remaining 196,860 shares were equally distributed among Geronima's six children, namely: Carolina Que Villongco, Ana Maria Que Tan, Angelica Que Gonzales, Cecilia Que Yabut, Ma. Corazon Que Garcia, and Maria Luisa Que Camara, as follows:

(a) Carolina Que Villongco- 32,810 shares;

(b) Ana Maria Que Tan- out of her 32,810 shares, she retained 17,710 shares and transferred the rest to her six children, thus: Edmund Williams Que Tan- 2,600 shares; Edward Williams Que Tan- 2,500 [shares]; Edison Williams Que Tan- 2,500 shares; Elaine Victoria Que Tan[-] 2,500 shares; Eloisa Victoria- 2,500 shares; and Elinor Victoria- 2,500 shares;

(c) Angelica Que Gonzales- 32,810;

(d) Cecilia Que Yabut- out of her 32,810 shares, she retained 22,810 shares and transferred the rest to her four children, thus: Geminiano Que Yabut III- 2,500 shares; Carlos Que Yabut- 2,500 shares; Geronimo Que Yabut- 2,500 shares; and Jose Elston Que Yabut- 2,500 shares;

(e) Ma. Corazon Que Garcia- out of her 32,810 shares, she retained 21,460 shares and transferred the rest to her four children, thus: Anthony Que Garcia- 2,500 shares; Geronima Que Garcia- 2,950 shares; Michelle Que Garcia-

¹ *Rollo* (225024), pp. 18-51; *rollo* (225022), pp. 21-143.

² Penned by CA Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Carmelita Salandanan Manahan, *rollo* (G.R. No. 225022), pp. 145-170.

³ *Id.* at pp. 172-174.

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2,950 shares; and Ma. Christina Que Garcia- 2,950 shares;
(f) Maria Luisa Que Camara- upon her death, her shares were divided among her children: Eumir Que Camara- 10,936.67 shares; Pablo Que Camara- 10,936.67 shares; and Abimar Que Camara- 10,936.66 shares.

Geronima died on August 31, 2007. By virtue of the *Sale of Shares of Stocks* dated June 11, 2005 purportedly executed by Cecilia as the attorney-in-fact of Geronima, Cecilia allegedly effected an inequitable distribution of the 3,140 shares that belonged to Geronima, to wit:

(a) Carolina's children were given a total of 523 shares distributed as follows: Francis Villongco- 131 shares; Carlo Villongco- 131 shares; Michael Villongco- 131 shares; and Marcelia Villongco- 130 shares;

(b) Ana Maria's daughter Elaine Victoria Que Tan was given 523 shares;

(c) Angelica- 523 shares;

(d) Cecilia's children were given a total of 524 shares distributed as follows: Geminiano Yabut- 131 shares; Carlos Yabut- 131 shares; Geronimo Yabut- 131 shares; and John Elston Yabut- 131 shares;

(e) Ma. Corazon's son Anthony Garcia was given 523 shares;

(f) Maria Luisa's children were given a total of 524 shares distributed as follows: Eumir Carlo Camara- 174 shares; Paolo Camara- 175 shares; Abimar Camara- 175 shares[.]

Accordingly, the distribution of Geronima's shares in accordance with the *Sale of Shares of Stocks* was reflected in the General Information Sheets filed by Phil-Ville in 2010 and 2011, x x x

On January 18, 2013, Cecilia, Eumir Carlo Que Camara and Ma. Corazon [Cecilia Que, et. al.] wrote a letter to Ana Maria, Corporate Secretary of Phil-Ville, to send out notices for the holding of the annual stockholders' meeting. However, before Ana Maria could reply thereto, on January 21, 2013, several letters were sent to Phil-Ville's stockholders containing a document captioned "Notice of Annual Stockholders' Meeting" signed by Cecilia and Ma. Corazon as directors, x x x
x x x x

Thereafter, Carolina, Ana Maria, and Angelica, comprising the majority of the Board of Directors of Phil-Ville held an emergency meeting and made a decision, by concensus, to postpone the annual stockholders' meeting of Phil-Ville until the issue of the distribution of the 3,140 shares of stocks in the name of certain stockholders is settled. All the stockholders were apprised of the decision to postpone the meeting in a letter dated January 21, 2013. Ana Maria, in her capacity as Corporate Secretary and Director of Phil-Ville likewise gave notice to the Securities and Exchange Commission (SEC) with regard to the postponement of the meeting.

x x x x

Despite the postponement, however, [Cecilia Que, et al.] proceeded with the scheduled annual stockholder's meeting participated only by a few

stockholders. In the said meeting, they elected the new members of the Board of Directors and officers of Phil-Ville namely: Cecilia, Ma. Corazon and Eumir, Chairman/Vice President/Treasurer, President/General Manager, and Secretary, respectively.

Meantime, two days prior to the stockholders' meeting, Carolina, Ana Maria, and Angelica, together with several others, had already filed a *Complaint for Annulment of Sale/Distribution or Settlement of Shares of Stock/Injunction* against Cecilia, Eumir Carlo and Ma. Corazon. They subsequently filed an *Amended and Supplemental Complaint for Annulment of Sale/Distribution or Settlement of Shares of Stock/Annulment of Meeting/Injunction (with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Prohibitory and Mandatory Injunction)*. x x x

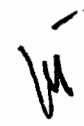
x x x x

While Civil Case No. CV-940-MN was still pending, on January 15, 2014, Eumir Carlo sent a Notice of Annual Stockholders' Meeting to all the stockholders of Phil-Ville, notifying them of the setting of the annual stockholders' meeting on January 25, 2014 at 5:00 P.M. at Max's Restaurant, Gov. Pascual corner M.H. Del Pilar Streets, Tugatog, Malabon City. During the meeting, Cecilia, Ma. Corazon and Eumir Carlo were elected as directors and later elected themselves to the following positions: Cecilia as Chairperson/Vice President/Treasurer; Ma. Corazon as Vice-Chairperson/President/General Manager; and Eumir Carlo as Corporate Secretary/Secretary.

x x x x

Consequently, on February 10, 2014, Carolina, Ana Maria, Angelica, Elaine and Edison Williams [Carolina, et al.] filed the instant election case against [Cecilia Que, et al.] before the RTC of Malabon City docketed as SEC Case No. 14-001-MN. The Complaint prayed that the election of Cecilia, Ma. Corazon and Eumir Carlo as directors be declared void considering the invalidity of the holding of the meeting at Max's Restaurant for lack of *quorum* therein, the questionable manner by which it was conducted, including the invalid inclusion in the voting of the shares of the late Geronima, the questionable validation of proxies, the representation and exercise of voting rights by the alleged proxies representing those who were not personally present at the said meeting, and the invalidity of the proclamation of the winners. [Carolina, et al.] also questioned the election of Cecilia, Ma. Corazon and Eumir Carlo as officers of the corporation. They likewise prayed that all the actions taken by the petitioners in relation to their election as directors and officers of the corporation be declared void, including but not limited to the filing of the General Information Sheet with the Securities and Exchange Commission on January 27, 2014.⁴

⁴ Id. at pp. 146-152.



Cecilia Que, et al., filed a *Motion for Additional Time to file Answer* on March 7, 2014 arguing that the summons was not properly served on them. The RTC however denied said motion since it should have been filed within ten (10) days or on March 2, 2014, in accordance with Section 5, Rule 6⁵ of the Interim Rules of Procedure for Intra-Corporate Controversies.⁶

Thus, On March 14, 2014, the RTC rendered a Decision⁷ declaring the election of Cecilia Que, et al. as void and of no effect considering the lack of quorum during the annual stockholders' meeting conducted by the latter, thus:

WHEREFORE, judgment is hereby rendered:

a. On the First Cause of Action, declaring as null and void and of no effect whatsoever the election of defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara as Directors of Phil-Ville considering the lack of quorum during the alleged annual meeting of the stockholders on 25 January 2014 at Max's Restaurant, Gov. Pascual cor. M.H. Del Pilar, Tugatog, Malabon City at 5:00 o'clock in the afternoon;

b. On the Second Cause of Action, declaring as null and void and of no effect whatsoever the election of defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara to the positions of Chairperson, Vice-Chairperson and Corporate Secretary, respectively in the Board of Directors of Phil-Ville, as well as their election as Vice-President/Treasurer, President/General Manager and Secretary, respective[ly], of Phil-Ville, considering the invalidity of the proclamation of the winners in the election supposedly conducted on that date, the alleged "Annual Meeting of the Board of Directors of Phil-Ville held at Max's Restaurant, Gov. Pascual cor. M.H. Del Pilar, Tugatog, Malabon City on 25 January 2014 at 6:30 o'clock in the evening being null and void; and

c. On the Third Cause of Action, declaring as null and void and of no effect whatsoever any and all actions taken by defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara in relation to their alleged election as Directors, their alleged election to certain positions in the Board of Directors, and their alleged election as officers of Phil-Ville including but not limited to the filing of the General Information Sheet with the Securities and Exchange Commission on 27 January 2014.

SO ORDERED.⁸

⁵ **SEC. 5. Answer.** – The defendant shall file his answer to the complaint, serving a copy thereof on the plaintiff, within ten (10) days from service of summons and the complaint. The answer shall contain the matters required in section 6, Rule 2 of these Rules.

⁶ *Rollo* (G.R. No. 225022), pp. 152.

⁷ Promulgated by RTC Judge Celso R.L. Magsino, Jr.; *id.* at pp. 819-820.

⁸ *Id.* at p. 820.

On appeal to the CA, the latter in its Decision dated September 4, 2015, while it declared the RTC decision void for violating Section 14, Article VIII of the Constitution⁹, the CA however declared the annual stockholders meeting conducted by Cecilia Que, et al. void for lack of quorum. The dispositive portion reads:

WHEREFORE, the instant Petition for Review is DENIED for lack of merit. The Decision dated March 14, 2014 Decision[sic] of the Regional Trial Court of the City of Malabon, Branch 74, in SEC Case No. SEC14-001-MN is declared VOID for failure to comply with the constitutional requirement of a valid judgment and a new one is ENTERED declaring as invalid for lack of quorum the Phil-Ville Development and Housing Corporation's stockholders annual meeting conducted by petitioners Cecilia Que Yabut, Eumir Carlo Que Camara and Ma. Corazon Que Garcia on January 14, 2014. The election of the members of the board of directors and officers of Phil-Ville that emanated from the said invalid meetings is likewise struck as void.

SO ORDERED.¹⁰

On the parties' separate Motions for Partial Reconsideration, the CA issued an Amended Decision dated June 8, 2016 ruling as follows:

WHEREFORE, petitioner's Motion for Partial Reconsideration is DENIED for lack of merit while that of respondents' is PARTLY GRANTED with respect to the *ultra vires* acts committed by petitioners after the invalidation of the election conducted on January 25, 2014. The dispositive portion of the assailed Decision dated September 4, 2015 is hereby amended to reflect the following modifications and shall read as follows:

WHEREFORE, the instant Petition for Review is DENIED for lack of merit. The Decision dated March 14, 2014 Decision[sic] of the Regional Trial Court of the City of Malabon, Branch 74, in SEC Case No. SEC14-001-MN is declared VOID for failure to comply with the constitutional requirement of a valid judgment and a new one is ENTERED declaring as invalid for lack of quorum the Phil-Ville Development and Housing Corporation's stockholders annual meeting conducted by petitioners Cecilia Que Yabut, Eumir Carlo Que Camara and Ma. Corazon Que Garcia on January 25, 2014. The election of the members of the board of directors and officers of Phil-Ville that emanated from the said invalid meetings is likewise struck as void. All acts performed by petitioners by reason of said election, including but not limited to the filing of the General Information Sheet with the SEC on

⁹Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

¹⁰Rollo (G.R. No. 225022), p. 169.



January 27, 2014, were *ultra vires* as they were not legally clothed with corporate authority to do so.

SO ORDERED.

SO ORDERED.¹¹

Both parties filed before Us their separate Petitions for Review on *Certiorari*.

Carolina, et al., raised in their petition the following assignment of errors:

I. The Honorable Court of Appeals committed manifest error in not upholding that the applicability of Section 14, Article VIII of the Constitution enconced in Section 1, Rule 36 of the Revised Rules of Court was adhered to by the RTC-Malabon City, Branch 74 in the rendition of its decision as warranted by the facts alleged in the complaint.

II. The Honorable Court of Appeals committed manifest error in not upholding the applicability of the exception to the general rule in the determination of a quorum.¹²

While Cecilia Que, et al., raised the following in their petition, to wit:

I. The Court of Appeals gravely erred when it ruled that petitioners were barred from filing an answer.

II. The Court of Appeals gravely erred in ruling on the merits, despite the finding that there was a need to remand the case.

III. At any rate, the issues raised in the case are being litigated in another case, barring its resolution on the merits here.¹³

Ultimately, the issues to be resolved are: 1) whether the CA was correct in holding that the RTC decision violated Section 14, Article VIII of the Constitution; 2) whether the total undisputed shares of stocks in Phil-Ville should be the basis in determining the presence of a quorum; and 3) whether Cecilia et al., were barred from filing an answer.

Both petitions are unmeritorious.

The Procedural Aspect

The Motion for Extension of Time to file Answer is a voluntary appearance on the part of Cecilia, et al.

¹¹Id. at pp. 173-174.

¹²Id. at pp. 115-116.

¹³*Rollo* (225024), pp. 31-32.

Cecilia Que, et al., alleged the CA erred in holding that the *Motion for Extension of Time to File Answer* filed by them was a voluntary appearance on their part.¹⁴ We do not agree.

It is well-settled that jurisdiction over the person of the defendant in a civil case is obtained through a valid service of summons. When there is no service of summons upon the defendant, the court acquires no jurisdiction over his person, and a judgment rendered against him is null and void.¹⁵

However, the invalidity of the service of summons is cured by the voluntary appearance of the defendant in court and their submission to the court's authority. As held in the case of *Carson Realty & Management Corporation v. Red Robin Security Agency, et al.*,¹⁶ this Court has repeatedly held that the filing of a motion of time to file answer is considered voluntary appearance on the part of the defendant, such that the trial court nevertheless acquired jurisdiction over his person despite the defectiveness of the service of summons, to wit:

We have, time and again, held that the filing of a motion for additional time to file answer is considered voluntary submission to the jurisdiction of the court. If the defendant knowingly does an act inconsistent with the right to object to the lack of personal jurisdiction as to him, like voluntarily appearing in the action, he is deemed to have submitted himself to the jurisdiction of the court. Seeking an affirmative relief is inconsistent with the position that no voluntary appearance had been made, and to ask for such relief, without the proper objection, necessitates submission to the Court's jurisdiction.¹⁷

In the instant case, Cecilia Que, et al., filed a motion for extension to file an answer. Thus, is deemed to be a voluntary submission to the authority of the trial court over their persons.

The Substantive Aspect

The RTC Decision dated March 14, 2014 is void for violating Section 14, Article VIII of the Constitution.

Carolina, et al., alleged in their petition that the RTC Decision did not violate Section 14, Article VIII of the Constitution since the decision clearly stated the facts and the law on which it was based. They alleged that “the decision thoroughly passed upon all the allegations in the complaint, *vis-a-*

¹⁴*Rollo* (G.R. No. 225024), p. 34.

¹⁵*Prudential Bank v. Magdamit, Jr., et al.*, 746 Phil. 649, 659 (2014) citing *Spouses Belen v. Judge Chavez, et al.*, 573, Phil. 58, 67 (2008).

¹⁶G.R. No. 225035, February 8, 2017.

¹⁷*Id.*



vis the Judicial affidavit of x x x Carolina x x x, which remains unrebutted.”¹⁸ We are not persuaded.

The RTC decision is hereby quoted *in toto*:

Before the Court is the Election Contest filed by plaintiffs stockholders/board members/officers of Phil-Ville Housing and Development Corporation – questioning the validity of the election held by defendants on January 25, 2014 at Max's Restaurant, Malabon City.

Having been served with Summons on February 20, 2014, and not having filed an Answer but instead filed a Motion for Extension of Time to file Answer on March 7, 2014 by registered mail, which was received by this Court only on March 13, 2014, the Court is duty bound to render judgment *motu proprio* within ten (10) days from the lapse of the period to file an Answer, as may be warranted by the allegations of the Complaint, as well as the affidavits, documentary and other evidence on record, awarding relief, if any, only as prayed for.

After thoroughly passing upon all and[sic] the allegations in the Complaint, vis-a-vis the Judicial Affidavit of plaintiff Carolina Que Villongco, which remains unrebutted, the Court finds that plaintiffs have fully established that there was no quorum during the annual stockholder's meeting held on 25 January 2014 at Max's Restaurant, Malabon City. Only 98,428 voting shares out of the 200,000 outstanding shares were represented. Therefore, no valid election of board members/officers of Phil-Ville could have taken place.

Necessarily, the organizational meeting supposedly conducted thereafter is likewise null and void and could not possibly binding[sic] to the said corporation.

WHEREFORE, judgment is hereby rendered:

a. On the First Cause of Action, declaring as null and void and of no effect whatsoever the election of defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara as Directors of Phil-Ville considering the lack of quorum during the alleged annual meeting of the stockholders on 25 January 2014 at Max's Restaurant, Gov. Pascual cor. M.H. Del Pilar, Tugatog, Malabon City at 5:00 o'clock in the afternoon;

b. On the Second Cause of Action, declaring as null and void and of no effect whatsoever the election of defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara to the positions of Chairperson, Vice-Chairperson and Corporate Secretary, respectively in the Board of Directors of Phil-Ville, as well as their election as Vice-President/Treasurer, President/General Manager and Secretary, respectively, of Phil-Ville, considering the invalidity of the proclamation of the winners in the election supposedly conducted on that date, the alleged “Annual Meeting of the Board of Directors of Phil-Ville held at Max's Restaurant, Gov. Pascual cor. M.H. Del Pilar, Tugatog, Malabon

¹⁸Rollo (G.R. No. 225022), p. 117.

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City on 25 January 2014 at 6:30 o'clock in the evening being null and void; and

c. On the Third Cause of Action, declaring as null and void and of no effect whatsoever any and all actions taken by defendants Cecilia Que Yabut, Ma. Corazon Que Garcia and Eumir Que Camara in relation to their alleged election as Directors, their alleged election to certain positions in the Board of Directors, and their alleged election as officers of Phil-Ville including but not limited to the filing of the General Information Sheet with the Securities and Exchange Commission on 27 January 2014.

SO ORDERED.¹⁹

In the case of *De Leon v. People*,²⁰ this Court held that:

Under Section 14, Article VIII of the Constitution, no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. Section 1 of Rule 36 of the Rules of Court provides that a judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him and filed with the clerk of the court.

Faithful adherence to the requirements of Section 14, Article VIII of the Constitution is indisputably a paramount component of due process and fair play. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal. More than that, the requirement is an assurance to the parties that, in arriving at a judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding *ipse dixit*.

The standard "expected of the judiciary" is that the decision rendered makes clear why either party prevailed under the applicable law to the facts as established. Nor is there any rigid formula as to the language to be employed to satisfy the requirement of clarity and distinctness. The discretion of the particular judge in this respect, while not unlimited, is necessarily broad. There is no sacramental form of words which he must use upon pain of being considered as having failed to abide by what the Constitution directs.²¹

Thus, Section 14, Article VIII of the Constitution mandates Us to craft Our decisions stating clearly and distinctly the facts and the law on which We based Our decisions. It should be emphasized that the mere fact that the defendant was not able to file an answer does not automatically mean that the trial court will render a judgment in favor of the plaintiff. The trial court

¹⁹*Rollo* (G.R. No. 225022), pp. 819-820.

²⁰G.R. No. 212623, January 11, 2016, 779 SCRA 84.

²¹*Id.* at 97-98.

must still determine whether the plaintiff is entitled to the reliefs prayed for. Thus, it is incumbent upon the RTC to clearly and distinctly state the facts and the legal basis on which it based its decision. This is sadly not followed by the RTC in its Decision dated March 14, 2014. The RTC merely adopted the allegations of Carolina et al. without any rhyme or reason. The decision merely stated that quorum was not established during the annual stockholders meeting conducted by Cecilia Que, et al. and that only 98,428 shares were present during the said meeting without any explanation or justification as to why the trial court ruled that way. Therefore, We agree with the CA that the RTC decision is null and void for violating the constitutional provision.

Total outstanding capital stocks, without distinction as to disputed or undisputed shares of stock, is the basis in determining the presence of quorum.

Carolina et. al., claimed that the basis for determining quorum should have been the total number of undisputed shares of stocks of Phil-Ville due to the exceptional nature of the case since the 3,140 shares of the late Geronima and the fractional .67, .67, and .66 shares of Eumir Que Camara, Paolo Que Camara and Abimar Que Camara are the subject of another dispute filed before the RTC. Thus, excluding the 3,142 shares from the 200,000 outstanding capital stock, the proper basis of determining the presence of quorum should be 196,858 shares of stocks.²² We do not agree.

Section 52 of the Corporation Code states that:

Section 52. *Quorum in meetings.* – Unless otherwise provided for in this Code or in the by-laws, a quorum shall consist of the stockholders representing a majority of the outstanding capital stock or a majority of the members in the case of non-stock corporations.

While Section 137 of the same Code defines “outstanding capital stock”, thus:

Section 137. *Outstanding capital stock defined.* – The term “outstanding capital stock”, as used in this Code, means the total shares of stock issued under binding subscription agreements to subscribers or stockholders, whether or not fully or partially paid, except treasury shares.

The right to vote is inherent in and incidental to the ownership of corporate stocks. It is settled that unissued stocks may not be voted or considered in determining whether a quorum is present in a stockholders’

²²Rollo (G.R. No. 225022), pp. 126-127.

meeting. Only stocks actually issued and outstanding may be voted.²³ Thus, for stock corporations, the quorum is based on the *number of outstanding voting stocks*.²⁴ The distinction of undisputed or disputed shares of stocks is not provided for in the law or the jurisprudence. *Ubi lex non distinguit nec nos distinguere debemus* —when the law does not distinguish we should not distinguish. Thus, the 200,000 outstanding capital stocks of Phil-Ville should be the basis for determining the presence of a quorum, without any distinction.

Therefore, to constitute a quorum, the presence of 100,001 shares of stocks in Phil-Ville is necessary.

We agree with the CA when it held that only 98,430 shares of stocks were present during the January 25, 2014 stockholders meeting at Max's Restaurant, therefore, no quorum had been established.

There is no evidence that the 3,140 shares which allegedly had been transferred to 1) Carolina's children, namely: Francis Villongco, Carlo Villongco, Michael Villongco and Marcelia Villongco; 2) Ana Maria's daughter, namely: Elaine Victoria Que Tan; 3) Angelica Que; 4) Cecilia's children, namely: Geminiano, Carlos, Geronimo and John Elston; 5) Ma. Corazon's son, Anthony; and, 6) Maria Luisa's children, namely: Eumir Carlo Camara, Paolo Camara, and Abimar Camara; where transferred and recorded in the stocks and transfer book of Phil-Ville.

Section 63²⁵ of the Corporation Code states that “*No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.*”

As held in the case of *Interport Resources Corporation v. Securities Specialist, Inc.*,²⁶ held that:

A transfer of shares of stock not recorded in the stock and transfer book of the corporation is non-existent as far as the corporation is


²³*Tan v. Sycip, et al.*, 530 Phil. 609, 621 (2006).

²⁴*Mary E. Lim, et al. v. Moldex Land, et al.*, G.R. No. 206038, January 25, 2017.

²⁵**Section 63. Certificate of stock and transfer of shares.** – The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. **No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.**

No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation. (Emphasis Ours)

²⁶G.R. No. 154069, June 6, 2016, 792 SCRA 155.



concerned. As between the corporation on the one hand, and its shareholders and third persons on the other, the corporation looks only to its books for the purpose of determining who its shareholders are. It is only when the transfer has been recorded in the stock and transfer book that a corporation may rightfully regard the transferee as one of its stockholders. From this time, the consequent obligation on the part of the corporation to recognize such rights as it is mandated by law to recognize arises.²⁷

The contention of Cecilia Que, et al., that they should not be faulted for their failure to present the stock and transfer book because the same is in the possession of the corporate secretary, Ana Maria Que Tan, who has an interest adverse from them, is devoid of merit. It is basic that a stockholder has the right to inspect the books of the corporation,²⁸ and if the stockholder is refused by an officer of the corporation to inspect or examine the books of the corporation, the stockholder is not without any remedy. The Corporation Code grants the stockholder a remedy—to file a case in accordance with Section 144.²⁹

In this case, there is no evidence that the 3,140 shares of the late Geronima were recorded in the stocks and transfer book of Phil-Ville. Thus, insofar as Phil-Ville is concerned, the 3,140 shares of the late Geronima

²⁷ Id. at 168-169.

²⁸**Section 74. Books to be kept; stock transfer agent.** – Every corporation shall keep and carefully preserve at its principal office a record of all business transactions and minutes of all meetings of stockholders or members, or of the board of directors or trustees, in which shall be set forth in detail the time and place of holding the meeting, how authorized, the notice given, whether the meeting was regular or special, if special its object, those present and absent, and every act done or ordered done at the meeting. Upon the demand of any director, trustee, stockholder or member, the time when any director, trustee, stockholder or member entered or left the meeting must be noted in the minutes; and on a similar demand, the yeas and nays must be taken on any motion or proposition, and a record thereof carefully made. The protest of any director, trustee, stockholder or member on any action or proposed action must be recorded in full on his demand.

The records of all business transactions of the corporation and the minutes of any meetings shall be open to inspection by any director, trustee, stockholder or member of the corporation at reasonable hours on business days and he may demand, in writing, for a copy of excerpts from said records or minutes, at his expense.


Any officer or agent of the corporation who shall refuse to allow any director, trustees, stockholder or member of the corporation to examine and copy excerpts from its records or minutes, in accordance with the provisions of this Code, shall be liable to such director, trustee, stockholder or member for damages, and in addition, shall be guilty of an offense which shall be punishable under Section 144 of this Code: Provided, That if such refusal is made pursuant to a resolution or order of the board of directors or trustees, the liability under this section for such action shall be imposed upon the directors or trustees who voted for such refusal: and Provided, further, That it shall be a defense to any action under this section that the person demanding to examine and copy excerpts from the corporation's records and minutes has improperly used any information secured through any prior examination of the records or minutes of such corporation or of any other corporation, or was not acting in good faith or for a legitimate purpose in making his demand.

²⁹**Section 144. Violations of the Code.** – Violations of any of the provisions of this Code or its amendments not otherwise specifically penalized therein shall be punished by a fine of not less than one thousand (₱1,000.00) pesos but not more than ten thousand (₱10,000.00) pesos or by imprisonment for not less than thirty (30) days but not more than five (5) years, or both, in the discretion of the court. If the violation is committed by a corporation, the same may, after notice and hearing, be dissolved in appropriate proceedings before the Securities and Exchange Commission: Provided, That such dissolution shall not preclude the institution of appropriate action against the director, trustee or officer of the corporation responsible for said violation: Provided, further, That nothing in this section shall be construed to repeal the other causes for dissolution of a corporation provided in this Code.

allegedly transferred to several persons is non-existent. Therefore, the transferees of the said shares cannot exercise the rights granted unto stockholders of a corporation, including the right to vote and to be voted upon.


WHEREFORE, premises considered, the instant Petitions for Review on *Certiorari* are **DENIED**. The Decision dated September 4, 2015 and Amended Decision dated June 8, 2016 of the Court of Appeals in CA-G.R. SP No. 134666 are hereby **AFFIRMED *in toto***.

SO ORDERED.




NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



FRANCIS H. JARDELEZA
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