COMMERCIAL LAW

CORPORATION LAW

The Stockholder's Ratification Of An Ultra Vires Act Makes The Same Valid And Enforceable And Estops The Corporation From Contesting Its Validity.

FACTS: The D.L.R.S. Co. insured Pirovano, its president. Upon his death, the company's board of directors adopted a resolution donating to the children of said Pirovano the sum of ₱400,000 out of the proceeds of the insurance policies. The resolution was subsequently approved by the stockholders. Later, the children formally accepted the donation. However, in another meeting, the stockholders and the board revoked the resolution granting the donation. In this action by the children to enforce the revoked resolution, the D.L.R.S. Co. claims as defense that the resolution was void, being *ultra vires.*

HELD: Granting *arguendo* that the donation is an ultra vires act, still it cannot be declared ineffective for that reason alone, since the donation represents not only the act of the Board but the stockholders themselves as shown by the fact that the act has been expressly ratified by the later. This ratification cured the infirmity of the corporate act, if any and the corporation is estopped from contesting its validity. (MARIA CLARA *et al. v.* DE LA RAMA STEAMSHIP CO., INC. G. R. No. L-5377, December 29, 1954.)

Possession Of Stock Certificates Endorsed In Blank Is Prima Facie Proof Of Possessor's Ownership Thereof.

FACTS: To collect unpaid taxes, the Collector of Internal Revenue seized certain properties claimed to belong to Maria Castro in order to sell the same at public auction. The MV Corporation now seeks to enjoin the sale on the ground that the properties seized belong to it and that Castro was only a stockholder in the corporation. In support of his claim. the

Collector proved that, while not all the shares of stock of the coroporation were in Castro's name, the shares of stock issued in the name of the other subscribers were endorsed in blank and in Castro's possession. Judgment was rendered in favor of the corporation.

HELD: The possession of stock certificates endorsed in blank by all the other subscribers and the latter's absence of income sufficient to justify their subscriptions during the organization of the corporation as evidencd by their income tax returns are prima facie proof of the possessor's sole ownership of all the shares of the corporation. (*Marvel Building Corporation v. David,* G. R. No. L-5081, February 24, 1954.)

INSURANCE LAW

An Insurance Contract Being A Wagering Contract, The Insurer Cannot Complain, If It Suffers Loss Of The Money Paid As Premiums, That The Beneficiary Cannot Enrich Herself At Its Expense.

FACTS: During the occupation, the NLI Co. issued a policy on the life of Londres, with a face value of ₱3,000. All the premiums were paid as they fell due. While the policy was in force, the insured died after liberation. The company having refused to pay, plaintiff, as beneficiary, brought this action against the company. The defendant claims that, as the premium-money paid by the policyholder was declared without value by the Government, in equity the beneficiary should not be permitted to enrich herself at its expense.

HELD: The loss, painful as it is, should be suffered by the insurer. The insurer, by entering into an insurance contract, cannot claim, if it suffers loss, that the beneficiary cannot enrich herself at its expense. This is a risk attendant to any wagering contract, of which an insurance contract is one. One who gambles cannot be heard to complain of his loss. (LONDRES *v.* NATIONAL LIFE INSURANCE CO., G. R. No. L-5921, March 29, 1954.)

Insurer Not Liable Under "Accident Death Benefit Clause" Where Insured Is Murdered.

FACTS: Defendant issued a life policy to Plaintiff's husband, containing an "Accidental Death Benefit Clause" whereby defendant undertook to pay an amount in addition to that stated in the policy if the insured would die of accidental causes but subject, however, to the exception that the clause would not apply where death results from injury intentionally inflicted by a third party. Later, the insured was killed without provocation and the killer was convicted of murder. Upon defendant's refusal to pay the additional sum under the ADB Clause, plaintiff brought this action.

HELD: Where the insurer undertook to indemnify in a sum of money the beneficiary upon the death of the insured due to natural causes, and in an additional amount if it is due to accidental means from an injury not intentionally inflicted by a third party, the company is not liable for the additional amount where the insured was murdered without provocation. (KANAPI *v.* INSULAR LIFE ASSURANCE CO., LTD., G. R. No. L- 5642, February 24, 1954.)

NEGOTIABLE INSTRUMENTS LAW

The amount of a Party's Obligation on a Draft under a Letter of Credit is Determined at the Rate of Exchange on the Date of Negotiation.

FACTS: On Nov. 2, 1948, on application of plaintiff, a letter of credit for £7,440 in favor of a corporation in London was opened which was to expire on Aug. 31, 1949. On Aug. 30, 1949, a draft in the amount of £4,031.13, which was to to mature on Dec. 25, 1949, was negotiated by defendant's correspondent bank and the defendant paid said draft at the existing rate of $4.032 per £1. On Sept. 23, 1949, the British pound was devaluated to $2.80125. On Dec. 25 to Dec. 27, the exchange rate was $2.80-2/16. On Dec. 27, defendant sent a bill for ₱33,729 (based on the exchange rate on August) but plaintiff forwarded a check for only ₱23,194 in full payment of its indebtedness computed at the exchange rate for that

date. Defendant, obviously to collect the balance, debited plaintiff's overdraft account in the amount of ₱10,659. Hence, this action. Plaintiff contends that its indebtedness should be computed at the exchange rate on the maturity of the draft; defendant contends the basis should be the rate on the date of negotiation.

HELD: Although plaintiff's application for the letter of credit provided for payment at maturity of the draft, this referred merely to the time when plaintiff was bound to pay. The rate of exchange at which the draft of plaintiff should be paid, according to its agreement, was that prevailing on the date the draft was drawn and presented or negotiated. (GREGORIO ARANETA, INC. *v.* PHILIPPINE NATIONAL BANK, G. R. No. L-4633, May 31, 1954. Bengzon, dissenting.)

TRANSPORTATION

Where Partial Abandonment Of A Line Was Due To Cause Beyond Operator's Control And Did Not Prejudice Public Convenience, Cancellation Of Operator's Permit Is Not Warranted.

FACTS: Petitioner asked for the cancellation of respondent's certificate covering the E-A-P line, on the ground that the latter had stopped operation on said line. Respondent admitted that there was partial abandonment but claimed that this was due to the difficulty of obtaining spare parts. The PSC dismissed petitioner's complaint and only imposed a ₱200 fine on respondent. Hence, this appeal by petitioner.

HELD: It is true that partial abandonment may justify the cancellation of a certificate. However, respondent's partial abandonment was due to the absence of tires, a situation beyond its control, and such cause is a good excuse for temporary suspension of its trips under the certificate. Furthermore, no evidence was given to show that the public had in any way been inconvenienced by the suspension of the operation of said line. (PANGASINAN TRANSPORTATION CO., INC. *v.* F. F. HALILI, G. R. No. L-6075 and 6078, August 31, 1954.)

Public Service Commission Is Not Strictly Bound By Procedural Rule That Facts Not In Isssue In The Pleading Cannot Be Considered.

FACTS: The P.S.C. granted Follante the right to operate an ice plant. However, on Valero's motion for reconsideration, a rehearing was ordered in which new facts alleged in the motion but not in the opposition were presented. In consideration of the evidence on said facts, the commission revoked the authority granted to Follante. It is now claimed that, as the facts presented in the rehearing was not among the issues in the pleadings, they should not have been taken into account.

HELD: While the refusal to consider the evidence presented, due to a party's failure to allege the facts in his pleadings, is in line with ordinary rules of procedure, the commission should not be strictly bound by it, for the law has invested the commission with ample power to conduct its hearings without being trammeled by ordinary court rules. (VALERO ET AL. *v.* FOLLANTE, G. R. No. L-6134, April 23, 1954.)

Stipulations In Bill Of Lading Which Are Contrary To Provisions Of Carriage Of Goods By Sea Act Are Null And Void.

FACTS: U.B. Co. insured certain goods with the A.M. Insurance Co. for shipment from New York to Manila. The goods were shipped with the I.S. Co. which issued a bill of lading which provided that it would not be liable for loss unless it is served with notice within 30 days after the loss is known. Failing to receive the goods, the U.B. Co. recovered from the insurer thru its agent, Elser, Inc. Elser brought suit for the recovery of the value of the goods from the carrier, I.S. So., but the trial court absolved the carrier on the ground that notice of loss was served on it after the 30-day period agreed on in the bill of lading. The CA affirmed the decision; thus, this appeal by certiorari.

HELD: Sec 3 of the Carriage of Goods by Sea Act provides that failure to give notice of loss "shall not prejudice the right of the shipper to bring suit within 1 year after the date when the goods should have been delivered," and that "any clause

in a contract of carriage relieving the carrier from liability for loss or lessening such liability otherwise than provided in this Act, shall be null and void." Consequently, the agreement in the bill of lading is void and of no effect. (E. E. ELSER, INC. *v.* COURT OF APPEALS, G. R. No. L-6517, November 29, 1954.)

WAREHOUSE RECEIPTS LAW

Endorsement In Blank Of Warehouse Receipt Covering Goods Given As Security Does Not Pass Title Thereof To The Creditor; Thus, The Debtor Bears Loss Of Said Goods.

FACTS: Atenido obtained a loan from the PNB, secured by 2,000 cavanes of palay covered by a warehouse receipt which Atenido endorsed in blank to the bank. Before maturity of the loan, the palay disappeared. In this action by the PNB to recover the amount of the loan, Atenido claims that, by his endorsement of the receipt, title to the palay passed to the PNB and, hence, the bank should suffer the loss and that he is relieved from liability.

HELD: The delivery of the palay being merely by way of security, ownership remains with the pledgor subject only to foreclosure in case of non-fulfillment of the principal obligation. Consequently, the loss must be borne by the debtor. The endorsement in blank of the receipt and its delivery does not alter the situation since the purpose of such endorsement is merely to transfer the juridical possession of the goods in order to forestall its disposition by the debtor. (PHILIPPINE NATIONAL BANK *v.* ATENIDO, G. R. No. L-6342, January 26, 1954.)