Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DE LA SALLE MONTESSORI INTERNATIONAL OF MALOLOS, INC.,
Petitioner,

- versus -

DE LA SALLE BROTHERS, INC., DE LA SALLE UNIVERSITY, INC., LA SALLE ACADEMY, INC., DE LA SALLE-SANTIAGO ZOBEL SCHOOL, INC. (formerly named De La Salle-South Inc.), DE LA SALLE CANLUBANG, INC. (formerly named De La Salle University-Canlubang, Inc.),
Respondents.

G.R. No. 205548

Present:
SERENO, *C.J.*, *Chairperson,*
LEONARDO-DE CASTRO,
DEL CASTILLO,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:
FEB 07 2018

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DECISION

JARDELEZA, *J.*:

Petitioner De La Salle Montessori International of Malolos, Inc. filed this petition for review on *certiorari*[1] under Rule 45 of the Rules of Court to challenge the Decision[2] of the Court of Appeals (CA) dated September 27, 2012 in CA-G.R. SP No. 116439 and its Resolution[3] dated January 21, 2013 which denied petitioner's motion for reconsideration. The CA affirmed the Decision[4] of the Securities and Exchange Commission (SEC) *En Banc* dated September 30, 2010, which in turn affirmed the Order[5] of the SEC Office of the General Counsel (OGC) dated May 12, 2010 directing petitioner to change or modify its corporate name.

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[1] *Rollo*, pp. 10-29.
[2] *Id.* at 31-47. Penned by Associate Justice Socorro B. Inting and concurred in by Associate Justices Ricardo R. Rosario and Mario V. Lopez.
[3] *Id.* at 49-50.
[4] *Id.* at 99-106.
[5] *Id.* at 59-63.

Petitioner reserved with the SEC its corporate name *De La Salle Montessori International Malolos, Inc.* from June 4 to August 3, 2007,[6] after which the SEC indorsed petitioner's articles of incorporation and by-laws to the Department of Education (DepEd) for comments and recommendation.[7] The DepEd returned the indorsement without objections.[8] Consequently, the SEC issued a certificate of incorporation to petitioner.[9]

Afterwards, DepEd Region III, City of San Fernando, Pampanga granted petitioner government recognition for its pre-elementary and elementary courses on June 30, 2008,[10] and for its secondary courses on February 15, 2010.[11]

On January 29, 2010, respondents De La Salle Brothers, Inc., De La Salle University, Inc., La Salle Academy, Inc., De La Salle-Santiago Zobel School, Inc. (formerly De La Salle-South, Inc.), and De La Salle Canlubang, Inc. (formerly De La Salle University-Canlubang, Inc.) filed a petition with the SEC seeking to compel petitioner to change its corporate name. Respondents claim that petitioner's corporate name is misleading or confusingly similar to that which respondents have acquired a prior right to use, and that respondents' consent to use such name was not obtained. According to respondents, petitioner's use of the dominant phrases "La Salle" and "De La Salle" gives an erroneous impression that De La Salle Montessori International of Malolos, Inc. is part of the "La Salle" group, which violates Section 18 of the Corporation Code of the Philippines. Moreover, being the prior registrant, respondents have acquired the use of said phrases as part of their corporate names and have freedom from infringement of the same.[12]

On May 12, 2010, the SEC OGC issued an Order[13] directing petitioner to change or modify its corporate name. It held, among others, that respondents have acquired the right to the exclusive use of the name "La Salle" with freedom from infringement by priority of adoption, as they have all been incorporated using the name ahead of petitioner. Furthermore, the name "La Salle" is not generic in that it does not particularly refer to the basic or inherent nature of the services provided by respondents. Neither is it descriptive in the sense that it does not forthwith and clearly convey an immediate idea of what respondents' services are. In fact, it merely gives a hint, and requires imagination, thought and perception to reach a conclusion as to the nature of such services. Hence, the SEC OGC concluded that respondents' use of the phrase "De La Salle" or "La Salle" is arbitrary, fanciful, whimsical and distinctive, and thus legally protectable. As regards

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6 *Id.* at 52.
7 *Id.* at 54.
8 *Id.* at 55.
9 *Id.* at 56.
10 *Id.* at 57.
11 *Id.* at 58.
12 *Id.* at 32-33.
13 *Supra* note 5.

petitioner's argument that its use of the name does not result to confusion, the SEC OGC held otherwise, noting that confusion is probably or likely to occur considering not only the similarity in the parties' names but also the business or industry they are engaged in, which is providing courses of study in pre-elementary, elementary and secondary education.[14] The SEC OGC disagreed with petitioner's argument that the case of *Lyceum of the Philippines, Inc. v. Court of Appeals*[15] (*Lyceum of the Philippines*) applies since the word "lyceum" is clearly descriptive of the very being and defining purpose of an educational corporation, unlike the term "De La Salle" or "La Salle."[16] Hence, the Court held in that case that the Lyceum of the Philippines, Inc. cannot claim exclusive use of the name "lyceum."

Petitioner filed an appeal before the SEC *En Banc*, which rendered a Decision[17] on September 30, 2010 affirming the Order of the SEC OGC. It held, among others, that the *Lyceum of the Philippines* case does not apply since the word "lyceum" is a generic word that pertains to a category of educational institutions and is widely used around the world. Further, the Lyceum of the Philippines failed to prove that "lyceum" acquired secondary meaning capable of exclusive appropriation. Petitioner also failed to establish that the term "De La Salle" is generic for the principle enunciated in *Lyceum of the Philippines* to apply.[18]

Petitioner consequently filed a petition for review with the CA. On September 27, 2012, the CA rendered its Decision[19] affirming the Order of the SEC OGC and the Decision of the SEC *En Banc in toto*.

Hence, this petition, which raises the lone issue of "[w]hether or not the [CA] acted with grave abuse of discretion amounting to lack or in excess of jurisdiction when it erred in not applying the doctrine laid down in the case of [*Lyceum of the Philippines*], that LYCEUM is not attended with exclusivity."[20]

The Court cannot at the outset fail to note the erroneous wording of the issue. Petitioner alleged grave abuse of discretion while also attributing error of judgment on the part of the CA in not applying a certain doctrine. Certainly, these grounds do not coincide in the same remedy. A petition for review on *certiorari* under Rule 45 of the Rules of Court is a separate remedy from a petition for *certiorari* under Rule 65. A petition for review on *certiorari* under Rule 45 brings up for review errors of judgment, while a petition for *certiorari* under Rule 65 covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Grave abuse

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14 *Rollo*, pp. 60-63.
15 G.R. No. 101897, March 5, 1993, 219 SCRA 610.
16 *Rollo*, pp. 60-61.
17 *Supra* note 4.
18 *Rollo*, p. 105.
19 *Supra* note 2.
20 *Rollo*, p. 18.

of discretion is not an allowable ground under Rule 45.[21] Nonetheless, as the petition argues on the basis of errors of judgment allegedly committed by the CA, the Court will excuse the error in terminology.

The main thrust of the petition is that the CA erred in not applying the ruling in the *Lyceum of the Philippines* case which petitioner argues have "the same facts and events"[22] as in this case.

We DENY the petition and uphold the Decision of the CA.

As early as *Western Equipment and Supply Co. v. Reyes*,[23] the Court declared that a corporation's right to use its corporate and trade name is a property right, a right *in rem*, which it may assert and protect against the world in the same manner as it may protect its tangible property, real or personal, against trespass or conversion.[24] It is regarded, to a certain extent, as a property right and one which cannot be impaired or defeated by subsequent appropriation by another corporation in the same field.[25] Furthermore, in *Philips Export B.V. v. Court of Appeals*,[26] we held:

> A name is peculiarly important as necessary to the very existence of a corporation x x x. Its name is one of its attributes, an element of its existence, and essential to its identity x x x. The general rule as to corporations is that each corporation must have a name by which it is to sue and be sued and do all legal acts. The name of a corporation in this respect designates the corporation in the same manner as the name of an individual designates the person x x x; and the right to use its corporate name is as much a part of the corporate franchise as any other privilege granted x x x.
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> A corporation acquires its name by choice and need not select a name identical with or similar to one already appropriated by a senior corporation while an individual's name is thrust upon him x x x. A corporation can no more use a corporate name in violation of the rights of others than an individual can use his name legally acquired so as to mislead the public and injure another x x x.[27]

Recognizing the intrinsic importance of corporate names, our Corporation Code established a restrictive rule insofar as corporate names are concerned.[28] Thus, Section 18 thereof provides:

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21 *Villareal v. Aliga*, G.R. No. 166995, January 13, 2014, 713 SCRA 52, 67. Citation omitted.
22 *Rollo*, p. 18.
23 51 Phil. 115 (1927).
24 *Id.* at 128.
25 *Philips Export B.V. v. Court of Appeals*, G.R. No. 96161, February 21, 1992, 206 SCRA 457, 462. Citation omitted.
26 *Supra.*
27 *Id.* at 462-463; citations omitted.
28 *Lyceum of the Philippines, Inc. v. Court of Appeals*, *supra* note 15 at 615.

> Sec. 18. *Corporate name.* — No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is identical or deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing laws. When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name.

The policy underlying the prohibition in Section 18 against the registration of a corporate name which is "identical or deceptively or confusingly similar" to that of any existing corporation or which is "patently deceptive" or "patently confusing" or "contrary to existing laws," is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision over corporations.[29]

Indeed, parties organizing a corporation must choose a name at their peril; and the use of a name similar to one adopted by another corporation, whether a business or a non-profit organization, if misleading or likely to injure in the exercise of its corporate functions, regardless of intent, may be prevented by the corporation having a prior right, by a suit for injunction against the new corporation to prevent the use of the name.[30]

In *Philips Export B.V. v. Court of Appeals*,[31] the Court held that to fall within the prohibition of Section 18, two requisites must be proven, to wit: (1) that the complainant corporation acquired a prior right over the use of such corporate name; and (2) the proposed name is either: (a) identical, or (b) deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law; or (c) patently deceptive, confusing or contrary to existing law.[32]

With respect to the first requisite, the Court has held that the right to the exclusive use of a corporate name with freedom from infringement by similarity is determined by priority of adoption.[33]

In this case, respondents' corporate names were registered on the following dates: (1) De La Salle Brothers, Inc. on October 9, 1961 under SEC Registration No. 19569; (2) De La Salle University, Inc. on December 19, 1975 under SEC Registration No. 65138; (3) La Salle Academy, Inc. on January 26, 1960 under SEC Registration No. 16293; (4) De La Salle-Santiago Zobel School, Inc. on October 7, 1976 under SEC Registration No.

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29 *Id.* at 615; citation omitted.
30 *Philips Export B.V. v. Court of Appeals*, *supra* note 25; citation omitted.
31 *Supra.*
32 *Id.* at 463.
33 *Id.*

69997; and (5) De La Salle Canlubang, Inc. on August 5, 1998 under SEC Registration No. A1998-01021.[34]

On the other hand, petitioner was issued a Certificate of Registration only on July 5, 2007 under Company Registration No. CN200710647.[35] It being clear that respondents are the prior registrants, they certainly have acquired the right to use the words "De La Salle" or "La Salle" as part of their corporate names.

The second requisite is also satisfied since there is a confusing similarity between petitioner's and respondents' corporate names. While these corporate names are not identical, it is evident that the phrase "De La Salle" is the dominant phrase used.

Petitioner asserts that it has the right to use the phrase "De La Salle" in its corporate name as respondents did not obtain the right to its exclusive use, nor did the words acquire secondary meaning. It endeavoured to demonstrate that no confusion will arise from its use of the said phrase by stating that its complete name, "De La Salle Montessori International of Malolos, Inc.," contains four other distinctive words that are not found in respondents' corporate names. Moreover, it obtained the words "De La Salle" from the French word meaning "classroom," while respondents obtained it from the French priest named Saint Jean Baptiste de La Salle. Petitioner also compared its logo to that of respondent De La Salle University and argued that they are different. Further, petitioner argued that it does not charge as much fees as respondents, that its clients knew that it is not part of respondents' schools, and that it never misrepresented nor claimed to be an affiliate of respondents. Additionally, it has gained goodwill and a name worthy of trust in its own right.[36]

We are not persuaded.

In determining the existence of confusing similarity in corporate names, the test is whether the similarity is such as to mislead a person using ordinary care and discrimination. In so doing, the Court must look to the record as well as the names themselves.[37]

Petitioner's assertion that the words "Montessori International of Malolos, Inc." are four distinctive words that are not found in respondents' corporate names so that their corporate name is not identical, confusingly similar, patently deceptive or contrary to existing laws,[38] does not avail. As correctly held by the SEC OGC, all these words, when used with the name "De La Salle," can reasonably mislead a person using ordinary care and

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34 *Rollo*, p. 41.
35 *Id.*
36 *Rollo*, pp. 20-22.
37 *Philips Export B.V. v. Court of Appeals*, *supra* note 25 at 464; citation omitted.
38 *Rollo*, p. 20.

discretion into thinking that petitioner is an affiliate or a branch of, or is likewise founded by, any or all of the respondents, thereby causing confusion.[39]

Petitioner's argument that it obtained the words "De La Salle" from the French word meaning "classroom," while respondents obtained it from the French priest named Saint Jean Baptiste de La Salle,[40] similarly does not hold water. We quote with approval the ruling of the SEC *En Banc* on this matter. Thus:

> Generic terms are those which constitute "the common descriptive name of an article or substance," or comprise the "genus of which the particular product is a species," or are "commonly used as the name or description of a kind of goods," or "characters," or "refer to the basic nature of the wares or services provided rather than to the more idiosyncratic characteristics of a particular product," and are not legally protectable. It has been held that if a mark is so commonplace that it cannot be readily distinguished from others, then it is apparent that it cannot identify a particular business; and he who first adopted it cannot be injured by any subsequent appropriation or imitation by others, and the public will not be deceived.
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> Contrary to [petitioner's] claim, the word *salle* only means "room" in French. The word *la*, on the other hand, is a definite article ("the") used to modify *salle*. Thus, since *salle* is nothing more than a room, [respondents'] use of the term is actually suggestive.
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> A suggestive mark is therefore a word, picture, or other symbol that suggests, but does not directly describe something about the goods or services in connection with which it is used as a mark and gives a hint as to the quality or nature of the product. Suggestive trademarks therefore can be distinctive and are registrable.
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> The appropriation of the term "*la salle*" to associate the words with the lofty ideals of education and learning is in fact suggestive because roughly translated, the words only mean "the room." Thus, the room could be anything – a room in a house, a room in a building, or a room in an office.
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> x x x
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> In fact, the appropriation by [respondents] is fanciful, whimsical and arbitrary because there is no inherent connection between the words *la salle* and education, and it is through [respondents'] painstaking efforts that the term has become associated with one of the top educational

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39 *Id.* at 62.
40 *Id.* at 20.

> institutions in the country. Even assuming *arguendo* that *la salle* means "classroom" in French, imagination is required in order to associate the term with an educational institution and its particular brand of service.[41]

We affirm that the phrase "De La Salle" is not merely a generic term. Respondents' use of the phrase being suggestive and may properly be regarded as fanciful, arbitrary and whimsical, it is entitled to legal protection.[42] Petitioner's use of the phrase "De La Salle" in its corporate name is patently similar to that of respondents that even with reasonable care and observation, confusion might arise. The Court notes not only the similarity in the parties' names, but also the business they are engaged in. They are all private educational institutions offering pre-elementary, elementary and secondary courses.[43] As aptly observed by the SEC *En Banc*, petitioner's name gives the impression that it is a branch or affiliate of respondents.[44] It is settled that proof of actual confusion need not be shown. It suffices that confusion is probable or likely to occur.[45]

Finally, the Court's ruling in *Lyceum of the Philippines*[46] does not apply.

In that case, the Lyceum of the Philippines, Inc., an educational institution registered with the SEC, commenced proceedings before the SEC to compel therein private respondents who were all educational institutions, to delete the word "Lyceum" from their corporate names and permanently enjoin them from using the word as part of their respective names.

The Court there held that the word "Lyceum" today generally refers to a school or institution of learning. It is as generic in character as the word "university." Since "Lyceum" denotes a school or institution of learning, it is not unnatural to use this word to designate an entity which is organized and operating as an educational institution. Moreover, the Lyceum of the Philippines, Inc.'s use of the word "Lyceum" for a long period of time did not amount to mean that the word had acquired secondary meaning in its favor because it failed to prove that it had been using the word all by itself to the exclusion of others. More so, there was no evidence presented to prove that the word has been so identified with the Lyceum of the Philippines, Inc. as an educational institution that confusion will surely arise if the same word were to be used by other educational institutions.[47]

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41 *Id.* at 104-105, citing *Societe Des Produits Nestlé, S.A. v. Court of Appeals*, G.R. No. 112012, April 4, 2001, 356 SCRA 207; and *Philippine Refining Co., Inc. v. Ng Sam*, G.R. No. L-26676, July 30, 1982, 115 SCRA 472. Italics in the original.

42 *Ang v. Teodoro*, 74 Phil. 50 (1942); See also *Societe Des Produits Nestle, S.A. v. Court of Appeals*, *supra* note 41.

43 *Rollo*, pp. 62-63.

44 *Id.* at 104.

45 *Philips Export B.V. v. Court of Appeals*, *supra* note 25 at 464.

46 *Supra* note 15.

47 *Id.* at 616-619.

Here, the phrase "De La Salle" is not generic in relation to respondents. It is not descriptive of respondent's business as institutes of learning, unlike the meaning ascribed to "Lyceum." Moreover, respondent De La Salle Brothers, Inc. was registered in 1961 and the De La Salle group had been using the name decades before petitioner's corporate registration. In contrast, there was no evidence of the Lyceum of the Philippines, Inc.'s exclusive use of the word "Lyceum," as in fact another educational institution had used the word 17 years before the former registered its corporate name with the SEC. Also, at least nine other educational institutions included the word in their corporate names. There is thus no similarity between the *Lyceum of the Philippines* case and this case that would call for a similar ruling.

The enforcement of the protection accorded by Section 18 of the Corporation Code to corporate names is lodged exclusively in the SEC. By express mandate, the SEC has absolute jurisdiction, supervision and control over all corporations. It is the SEC's duty to prevent confusion in the use of corporate names not only for the protection of the corporations involved, but more so for the protection of the public. It has authority to de-register at all times, and under all circumstances, corporate names which in its estimation are likely to generate confusion.[48]

Clearly, the only determination relevant to this case is that one made by the SEC in the exercise of its express mandate under the law.[49]

Time and again, we have held that findings of fact of quasi-judicial agencies, like the SEC, are generally accorded respect and even finality by this Court, if supported by substantial evidence, in recognition of their expertise on the specific matters under their consideration, more so if the same has been upheld by the appellate court, as in this case.[50]

WHEREFORE, the Petition is **DENIED**. The assailed Decision of the CA dated September 27, 2012 is **AFFIRMED**.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

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[48] *GSIS Family Bank-Thrift Bank [formerly Comsavings Bank, Inc.] v. BPI Family Bank*, G.R. No. 175278, September 23, 2015, 771 SCRA 284, 301-302.

[49] *Id.* at 302-303.

[50] *Id.* at 298.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

NOEL GIMENEZ TIJAM
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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