Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City
Commission En Banc

COMGLASCO AGUILA GLASS CORPORATION,
Appellant,

- versus –

SEC *En Banc* Case No. 05-14-331

DIRECTOR FERDINAND B. SALES, in his capacity as Director of the Company Registration and Monitoring Department of the Securities and Exchange Commission
Appellee,

AGUILA GLASS CO., INC.
Intervenor.
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DECISION

Before the Commission is the *Memorandum on Appeal*[1] filed on 7 May 2014 by appellant Comglasco Aguila Glass Corporation (Comglasco) praying that the Letters of appellee Director Ferdinand B. Sales of the Company Registration and Monitoring Department (CRMD) of the Commission dated 6 January 2014[2] and 14 April 2014[3] (Assailed Letters) be set aside, and, in lieu thereof, an order be issued affirming or confirming the right of the Comglasco to enjoy and use its present corporate name. The Assailed Letters of Director Ferdinand B. Sales directed Comglasco to amend its Articles of Incorporation by changing its corporate name since it is confusingly similar to Aguila Glass Co. Inc. (Aguila).

Aguila incorporated with the Commission on 19 May 2000 under SEC Registration No. A200007822 with its principal office address located in Pasig City. Its primary purpose, among others, is to engage in the business of manufacturing glass products.[4]

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[1] Memorandum on Appeal dated 6 May 2014.
[2] *Id.*, Annex "A" (Letter of the CRMD dated 6 January 2014).
[3] *Id.*, Annex "B" (Letter of the CRMD dated 14 April 2014).
[4] Reply Memorandum dated 19 May 2014, par. 6 and Annexes "3" and "3-A" (Certificate of Incorporation and Articles of Incorporation of Aguila).

Comglasco incorporated with the Commission on 26 November 1975 under SEC Registration No. 64731 with its principal office address located in Makati City. At the time of its incorporation, its registered name was CLEARLITE GLASS CORPORATION. Its primary purpose is also to engage in the business of manufacturing glass products. [5]

ANTECEDENT FACTS

On 15 December 1988, the Commission approved its Amended Articles of Incorporation, effecting a change of its corporate name to COMMERCIAL GLASS CORPORATION from CLEARLITE GLASS CORPORATION.[6]

On 4 October 1995, the Commission again approved its Amended Articles of Incorporation, effecting another change of its corporate name to COMGLASCO CORPORATION from COMMERCIAL GLASS CORPORATION.[7]

Thereafter, pursuant to another change of its corporate name from COMGLASCO CORPORATION to COMGLASCO AGUILA GLASS CORPORATION, a *Reservation Payment Confirmation* was issued to Comglasco by the Commission certifying that the corporate name "COMGLASCO AGUILA GLASS CORPORATION" has been reserved from 3 November 2003 to 2 February 2004. Moreover, the appellee stated that it was issued on the basis that the said corporate name appeared to be available at the time. However, it provides that Comglasco undertakes to change the corporate name in case another person or firm has acquired a prior right to the use of the said name or the same is deceptively or confusingly similar to one already registered.[8]

On 30 December 2003, an *Affidavit of Undertaking to Change Name* was executed by the Florante G. Aguila, who is the President of Comglasco, which provides, among others, the following:

> **"That I, in behalf of [Comglasco], hereby UNDERTAKES TO CHANGE ITS CORPORATE NAME in the event another person, firm or entity has acquired a *prior right* to the use of the said firm name by virtue of registration with other government agencies OR our 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."**[9] (Emphasis ours)

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[5] Memorandum on Appeal, Annex "C" (Amended Articles of Incorporation dated 19 January 2004).
[6] Reply Memorandum, par. 2.
[7] *Id*, par. 3.
[8] *Id.*, par. 4 and Annex "1-A" (Reservation Payment Confirmation issued to Comglasco).
[9] *Id.*, par. 5 and Annex "2" (Affidavit of Undertaking to Change Name executed on 30 December 2003).

On 19 January 2004, the Commission approved its Amended Articles of Incorporation, effecting again another change of its corporate name from COMGLASCO CORPORATION to COMGLASCO AGUILA GLASS CORPORATION.[10]

In a Letter of the legal counsel of Aguila dated 19 September 2013 addressed to the appellee, the former requested that Comglasco change its corporate name and remove the word "Aguila" therein since confusion might arise considering both companies cater to same clientele.[11]

On 22 October 2013, the CRMD, in its Letter to the Comglasco, directed the latter to amend its Articles of Incorporation by changing its corporate name.[12] However, Comglasco failed to respond; and, in which case, the CRMD issued another Letter dated 6 January 2014 which was received by the President of Comglasco on 30 January 2014.[13]

In the Letter dated 6 January 2014 of the CRMD, it informed him of the erroneous approval of the corporate name of Comglasco. The CRMD stated that the erroneous approval is the result of the failure of the computer system of the Commission to recognize the prior registration of Aguila. Thus, the CRMD directed Comglasco to amend its Articles of Incorporation by changing its corporate name.[14]

In response, Comglasco, through its counsel, interposed its opposition to the directive to change its corporate name in its Letter dated 20 February 2014.[15]

Thereafter, Comglasco was informed by the CRMD, in a Letter dated 14 April 2014, that the directive to change its corporate name remains, and that it may appeal to the Commission *En Banc* the said directive.[16]

Hence, this instant appeal.

In its Memorandum on Appeal, Comglasco argues the following: (i) its corporate name is not confusingly similar with the corporate name of Aguila; (ii) Aguila does not have the exclusive right to the word "Aguila", considering it is a known and common surname and it is a generic or common term; (iii) "Comglasco" is a distinctive word which eliminates confusion, when such word is appended to the corporate name, pursuant to SEC Memorandum Circular No. 21, Series of 2013 (SEC MC 21-13); (iv)

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[10] *Id.*, par. 4 and Annex "1" (Certificate of Filing of Amended Articles of Incorporation dated 19 January 2004 and issued to Comglasco).

[11] *Id.*, par. 8 and Annex "6" (Letter of the legal counsel of Aguila dated 19 September 2013).

[12] *Id.*, par. 9 and 11; and Annex "6-a" (Letter dated 22 October 2013).

[13] Memorandum on Appeal, par. 2.2 and Annex "A" (Letter of CRMD dated 6 January 2014); and Reply Memorandum, par. 11.

[14] *Id.*

[15] Reply Memorandum, par. 12; and Memorandum on Appeal, par. 2.4 and Annex "D" (Letter of Comglasco dated 20 February 2014).

[16] Memorandum on Appeal, par. 2.5 and Annex "B" (Letter of the CRMD dated 14 April 2014).

"Comglasco" is the main, prevalent and essential feature of the corporate name of Comglasco; (v) the fact that Aguila has not filed an opposition and/or complaint is a clear indication that it and its customers have never been aggrieved and/or misled by its corporate name; (vi) the CRMD is barred by laches from directing it to change its corporate name considering that it has been more than ten (10) years lapsed since the approval of the former's corporate name; and (vii) the CRMD cannot require it to change its corporate name in the absence of any valid complaint or opposition filed by Aguila.[17]

In response, the appellee, in his Reply Memorandum, argues the following: (i) the corporate name of Comglasco is confusingly similar with the corporate name of Aguila considering, among others, that both are located in the same geographical location; (ii) the principle of estoppel and laches does not apply in the enforcement of a standing undertaking to change corporate name; and (iii) the Commission may motu propio enforce compliance of Comglasco with its undertaking to change its corporate name.[18]

On 13 June 2014, Comglasco filed a *Motion to Admit Rejoinder* praying that the Commission admit attached *Rejoinder Memorandum*.[19] In the Rejoinder Memorandum, Comglasco reiterates its arguments stated in its Memorandum on Appeal. However, Comglasco additionally argues, among others, there is no likelihood of confusion of their corporate names, since Comglasco's office address is located in Makati City and Aguila's office address is located in Pasig City.[20]

On 5 March 2015, Aguila filed an *Urgent Motion to Intervene and Admit Attached Ad Cautelam Comment/Opposition (to [Comglasco's] Memorandum on Appeal dated May 6, 2014)* (Motion to Intervene).[21] Aguila attached its *Ad Cautelam Comment/Opposition (to [Comglasco's] Memorandum on Appeal dated May 6, 2014)* (Comment/Opposition to Memorandum on Appeal) and prayed that it be allowed to intervene in the instant case as a complainant-appellee. In its Comment/Opposition to Memorandum on Appeal, Aguila states, among others, that it has a prior right over the use of the phrase "Aguila Glass". Moreover, it avers that Comglasco's corporate name "not only confuses the investing public, but also misleads them into believing that the two entities are identical, or at the very least affiliated with each other." Lastly, Aguila alleges that Comglasco frequently used the words "Aguila Glass" in most, if not all, of its establishments.[22]

On 14 April 2015, Comglasco filed its *Comment/Opposition (to the Urgent Motion to Intervene and Admit Attached Ad Cautelam Comment/Opposition dated March 5, 2015 filed by Movant Aguila Glass Co. Inc.)* (Comment/Opposition to Aguila's

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[17] *Id.*, pars. 4.1.3, 4.1.15, 4.1.14, 4.1.19, 4.2.2, and 4.3.2.
[18] Reply Memorandum dated 19 May 2014, pars. 19, and 26-30.
[19] Motion to Admit Rejoinder dated 10 June 2014.
[20] Rejoinder dated 30 May 2014, par. 1.4.
[21] Motion to Intervene dated 5 March 2015.
[22] Comment/Opposition to Memorandum on Appeal dated 5 March 2015, pars. 12, 16 and 17; and Annex "F" (Photographs of establishments of Comglasco which uses the words "Aguila Glass" prominently).

Comment/Opposition). In its Comment/Opposition to Aguila's Comment/Opposition, Comglasco reiterates its arguments stated in its Memorandum on Appeal and Rejoinder Memorandum. Further, it avers that Aguila failed to establish any legal and factual basis as to why it should be allowed to intervene in the case. Thus, it prays that the Commission deny the Motion to Intervene and Comment/Opposition to Memorandum on Appeal filed by Aguila.[23]

On 15 April 2015, appellee filed his *Comment on the Intervention* stating, among others, "that the intervention of Aguila, though unnecessary, is significant in the sense that it is a proper party to intervene, having a prior right to protect and at the same time, it finds itself in a situation that any adverse ruling by the Commission *En Banc* will be prejudicial to its interest".[24]

On 3 September 2015, the Commission received a *Motion for Resolution* dated 2 September 2015 from Aguila praying for the immediate resolution of the case. Another Motion for Resolution was likewise filed by Aguila.[25]

MAIN ISSUE

The main issue to be resolved is whether Comglasco should be ordered to change its corporate name.

RULING

Procedural Issues

Before we resolve the main issue in this case, the procedural issues must be resolved first.

As to the *Motion to Admit Rejoinder* filed by Comglasco praying that the Commission admit attached *Rejoinder Memorandum*, the Rejoinder Memorandum is admitted considering that it is not among the prohibited pleadings provided under Section 3-6 of the 2006 Rules of Procedure of the Commission (Rules).[26]

As to the *Motion to Intervene* filed by Aguila, Comglasco argues that intervention is allowed only when there is an action still pending with the Hearing Panel or Officer of

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[23] Comment/Opposition to Aguila's Comment/Opposition dated 14 April 2015 filed by Comglasco.
[24] Comment on the Intervention dated 31 March 2015 filed by the appellee.
[25] Motion for Resolution dated 1February 2016 and filed on even date.
[26] The prohibited pleadings under Section 3-6 of the Rules are the following: (i) Motion to Dismiss; (ii) Motion for a Bill of Particulars; (iii) Motion for New Trial, Reconsideration of Judgment or Order, or Reopening of Trial; (iv) Petition for Relief from Judgment; (v) Motion for Extension of Time to File Pleadings, Affidavits, or other Submission of Similar Intent; (vi) Motion to Declare Defendant in Default; (vii) Motion for Postponement and any other Motions of Similar Intent; and (viii) Motion for Leave to Amend Pleadings.

the Commission. However, Aguila's Comment/Opposition to Memorandum on Appeal is admitted since it has a legal interest in the case pursuant to Section 2-3 of the Rules, considering that the main issue of this case is whether Comglasco's corporate name must be change for being confusingly similar to Aguila's corporate name. Further, intervention by Aguila will not unduly delay or prejudice the adjudication of the rights of the original parties. Furthermore, Aguila may not have a right to protect its corporate name in a separate proceeding, since this case resolves whether it has a prior right to such name and whether Comglasco's corporate name is deceptively or confusingly similar to that of the former. In fact, in a Supreme Court case, the court allowed intervention even after a decision has been rendered by the lower court.[27]

Substantial Issue

As to the main issue, Section 18 of the Corporation Code provides that no corporate name may be allowed by the 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. 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.[28]

This provision seeks to avoid a situation wherein the corporation adopts at pleasure the name of another corporation resulting in confusion, difficulty in identifying the corporation and unfair competition, thereby opening the doors to fraud and difficulties of administration and supervision.[29]

First Requisite

With respect to the *first requisite*, it has been held that the right to the exclusive use of a corporate name with freedom from infringement by similarity is determined by priority of adoption.[30] We have consistently held that priority in the adoption and registration of a corporate name confers upon the registrant a vested right to the exclusive use thereof.[31]

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[27] Office of the Ombudsman v. Masing, et al., G.R. No. 165416, 22 January 2008.

[28] *Industrial Refactories Corporation of the Philippines v. Court of Appeals, et al.,* G.R. No. 122174, 3 October 2002, citing *Philips Export B.V., et al. v. Court of Appeals, et al.*, G.R. No. 96161, 21 February 1992.

[29] *Red Line Transit vs. Rural Transit*, 60 Phil. 549.

[30] *Industrial Refactories Corporation of the Philippines v. Court of Appeals, et al.*, citing *Philips Export B.V., et al. v. Court of Appeals, et al.*, G.R. No. 96161, 21 February 1992 which cited 1 Thomson, p. 80 citing Munn v. Americana Co., 82 N., Eq. 63, 88 Atl. 30; San Francisco Oyster House v. Mihich, 75 Wash, 274, 134 Pac. 921.

[31] *Mechanical Handling Equipment Co. Inc. v. Mechanical Handling Engineer (Philippines), Inc.*, SEC-AC No. 452, 5 December 1994.

In the case at bar, Aguila acquired a prior right over the use of its corporate name considering it registered with the Commission on 19 May 2000. On the other hand, even though Comglasco registered with the Commission on 26 November 1975 under the corporate name CLEARLITE GLASS CORPORATION, the Commission approved the amended corporate name of Comglasco on 19 January 2004, which is a date later than the registration of Aguila. Clearly, Aguila acquired a prior right over the corporate name since it registered the said corporate name almost four (4) years ahead of Comglasco.

Second Requisite

As to the *second requisite*, the Supreme Court, in the recent case of *GSIS Family Bank – Thrift Bank v. BPI Family Bank,*[32] stated that, 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. And even without such proof of actual confusion between the two corporate names, it suffices that confusion is probable or likely to occur.

In this case, Comglasco argues its corporate name is not confusingly similar with the corporate name of Aguila for the following reasons: (i) the addition of the distinctive word "Comglasco", pursuant to SEC MC 21-13, effectively eliminates any confusion from the mind of the public between it and Aguila, and that generic words such as "Aguila" or "Glass" cannot be exclusively used by the registrant; (ii) the dominant word in its corporate name is "Comglasco"; (iii) their respective office addresses are in different cities, considering its office address is located in Makati City while the office address of Aguila is located in Pasig City; (iv) the surname or personalized name "Aguila" may not be monopolized; and (v) neither Aguila nor its customers filed any complaint and/or opposition which indicates no person has been misled by the corporate name.

1st Argument of Comglasco as to confusing similarity

Comglasco argues its corporate name is not confusingly similar with the corporate name of Aguila since the addition of the distinctive word "Comglasco", pursuant to SEC MC 21-13, effectively eliminates any confusion from the mind of the public between it and Aguila. However, contrary to the argument of Comglasco, the word "Comglasco" appended to its corporate name is not an effective differentiating medium to remove the probability or likelihood of confusion. SEC MC 21-13, particularly Sections 3(a) and (b) thereof, provides to wit:

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[32] G.R. No. 175278, 23 September 2015.

"3. a) The name shall not be identical, misleading or confusingly similar to a corporate or partnership name registered with the Commission, or with the Department of Trade and Industry, in the case of a sole proprietorships.

If the proposed name is similar to the name of a registered corporation or partnership, the applicant shall add one or more *distinctive words* to the proposed to remove the similarity or differentiate it from the registered name.

However, the addition of one or more distinctive words shall not be allowed if the registered name is coined or unique unless the board of directors of the subject corporation gives its consent to the applied name." (Emphasis ours)

In this case, it may be true that the word "Comglasco" is distinctive, but its addition in the corporate name is not sufficient to satisfy the requirements of SEC MC 21-13 since "Aguila Glass" is a coined phrase and not a generic nor a descriptive term as argued by Comglasco. The word "Aguila", which is a Spanish word for "eagle", is neither a generic word nor descriptive in relation to the word "Glass". In *GSIS Family Bank – Thrift Bank,* the Supreme Court stated that generic marks are commonly used as the name or description of a kind of goods, such as "Lite" for beer or "Chocolate Fudge" for chocolate soda drink. Descriptive marks, on the other hand, convey the characteristics, function, qualities or ingredients of a product to one who has never seen it or does not know it exists, such as "Arthriticare" for arthritis medication.

The court further stated that arbitrary marks are "words or phrases used as a mark that appear to be random in the context of its use. They are generally considered to be easily remembered because of their arbitrariness. They are original and unexpected in relation to the products they endorse, thus, becoming themselves distinctive."

Here, "Aguila Glass" is not a generic nor a descriptive term but rather a coined or fanciful phrase. "Aguila" is a Spanish word for eagle; an "eagle" is defined as a large bird that has very good eyesight and that kills other birds and animals for food.[33] On the other hand, "Glass" is defined as a hard usually transparent material that is used for making windows and other products.[34] By definition, there can be no expected relation between the word "Aguila" or "eagle" and "Glass". In which case, the phrase "aguila or eagle glass" cannot be used to define an object; it is a COINED PHRASE, neither being generic nor descriptive, which is merely suggestive[35] and may properly be regarded as arbitrary.

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[33] Miriam-Webster Online Dictionary, 2016 edition, last accessed on 13 March 2016.

[34] *Id.*

[35] In *GSIS,* the Court defined "Suggestive marks" as "marks which merely suggest some quality or ingredient of goods. xxx The strength of the suggestive marks lies on how the public perceives the word in relation to the product or service."

It must be noted that, considering the board of directors of Aguila has not consented to the use of the words "Aguila Glass" pursuant to SEC MC 21-13, Comglasco cannot appropriate for its use in its corporate name such words.

2nd Argument of Comglasco as to confusing similarity

Comglasco argues its corporate name is not confusingly similar with the corporate name of Aguila since the dominant word in its corporate name is "Comglasco". However, both corporate names employ the dominant words "Aguila Glass" in their corporate names which is identical. The combination of the dominant words in the term "Aguila Glass" creates a name that is so unique and distinctive in relation to the industry which it is being used, such that the term is so closely identified with the entity set up by Aguila. Considering that they are engaged in the business of manufacturing glass products, the dominant words "Aguila Glass" in their corporate name adequately describe the nature of their business. On the other hand, contrary to the argument of Comglasco that the dominant word in its corporate name is "Comglasco", the word "Comglasco" in the corporate name of Comglasco is not the dominant feature of its name since it does not described the nature of its business. Lastly, considering that Comglasco insists that the dominant feature of its corporate name is "Comglasco", then it may drop the words "Aguila Glass" from its corporate name.

3rd Argument of Comglasco as to confusing similarity

Comglasco argues that its corporate name is not confusingly similar with the corporate name of Aguila since their respective office addresses are in different cities, considering its office address is located in Makati City while the office address of Aguila is located in Pasig City. However, contrary to the argument of Comglasco, it must be noted that both companies are still located within the National Capital Region or Metro Manila. In fact, Makati City and Pasig City are in close geographical proximity to each other. Thus, the clientele of Aguila are likely to be misled by the business operations of Comglasco considering that their principal office is located within the National Capital Region or Metro Manila and in close geographical proximity from one another.

It must be pointed out that the line of businesses and location of entities are major factors in determining the existence of confusing similarity in corporate names. In the case of *T.D. & S Hope Christian Academy Foundation, Inc. v. Hope Christian Academy Foundation, Inc.*[36], the Commission stated that "there is no doubt that the corporate name T.D. & S Hope Christian Academy Foundation, Inc. is confusingly similar to that of the corporate name of Hope Christian Academy Foundation, Inc. For one, both [parties] are engaged in <u>the same line of business</u>, particularly the operation of education institutions, <u>in the same city</u> and serve the same clientele."

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[36] SEC En Banc Case No. 07-10-206.

In this case, confusing similarity will again likely occur such as to mislead a person since, not only both are located in the National Capital Region or Metro Manila, but both companies are engaged in the same line of business. As stated in the primary purpose in the Articles of Incorporation of both companies, it provides that both companies are to engage in the business of manufacturing glass products.

4th Argument of Comglasco as to confusing similarity

Comglasco argues that a personal name or surname such as "Aguila" cannot be monopolized, and cites a Supreme Court case[37] to support its argument. The Supreme Court in that case stated that "*a personal name or surname may not be monopolized as a trademark or tradename as against others of the same name or surname.*" However, it is the personal name or surname that may not be monopolized as a trademark or tradename as stated in the case, and the said case did not refer to a corporate name. Moreover, SEC MC 21-13, as amended by SEC MC 08-15, does not mention that a personal name or surname may not be exclusively appropriated in the adoption of a corporate name. As above stated, it is the coined phrase "Aguila Glass" that cannot be appropriated by another corporation.

5th Argument of Comglasco as to confusing similarity

Comglasco argues neither Aguila nor its customers filed any complaint and/or opposition which indicates no person has been misled by the corporate name. However, the Supreme Court case, in the case entitled "*Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. Sa Bansang Pilipinas, Inc. vs. Iglesia ng Dios Kay Cristo Jesus, Haligi at Suhay ng Katotohanan*", stated that the Commission has the authority to de-register AT ALL TIMES and UNDER ALL CIRCUMSTANCES corporate names which in its estimation are likely to spawn confusion. It is the duty of the Commission 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. [38] In which case, no complaint is necessary considering that the Commission has the authority to de-register at all times and under all circumstances corporate names which is likely to spawn confusion.

In fact, Aguila already instituted the case upon the filing of its Letter dated 19 September 2013 requesting Comglasco to change its corporate name since confusion might arise considering both companies cater to same clientele. Such filing led the CRMD to direct Comglasco to change its corporate name in its Assailed Letters dated 6

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[37] *Emerald Garment Manufacturing Corporation v. Court of Appeals*, G.R. No. 100098, 2 December 1995.
[38] *Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. Sa Bansang Pilipinas, Inc. vs. Iglesia ng Dios Kay Cristo Jesus, Haligi at Suhay ng Katotohanan*, G.R. No. 137592, 12 December 2001.

January 2014 and 14 April 2014. Moreover, during the pendency of this instant appeal, Aguila filed the Motion to Intervene attaching its Comment/Opposition to Memorandum on Appeal, on 5 March 2015; Aguila claims that the use of the phrase "Aguila Glass" by Comglasco will cause confusion and will mislead the public into believing that the two (2) entities are identical. Thus, it is not correct for Comglasco to argue that Aguila has filed a complaint or opposition.

Estoppel nor Laches applies

Comglasco argues that the Commission can no longer enforce the *Affidavit of Undertaking to Change Name* executed by the Florante G. Aguila, who is the President of Comglasco, under the principle of estoppel and laches. It claims that ten (10) years has already lapsed since the approval of the Commission of its corporate name.

However, the principal of estoppel and laches does not apply to the Commission even if there was an erroneous approval of the corporate name of Comglasco committed by the CRMD. In a recent Supreme Court case,[39] the court stated:

> "**The general rule is that the State cannot be put in estoppel by the mistakes or errors of its officials or agents.** Indeed, like all general rules, this is also subject to exceptions. **Estoppel should not be invoked except in a rare and unusual circumstance**. It may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public. **They must be applied with circumspection and should be applied only in those special cases where the interests of justice clearly require it**." (Emphasis ours)

As can be seen, estoppel and laches cannot be interposed in this case by Comglasco since the Commission cannot be put in estoppel by mistakes such as the erroneous approval of the corporate name. Further, the erroneous approval by the CRMD is not a rare and unusual circumstance for estoppel to be invoked since the operation of a public policy adopted to protect the public would be defeated by the invocation of estoppel. Section 18 of the Corporation Code prohibits the adoption of a corporate name that is identical or deceptively or confusingly similar to that of any existing corporation. Thus, estoppel cannot give validity to an act that is prohibited by law.[40] In other words, the Commission cannot authorize Comglasco to use its corporate name since it is already in violation of a law, i.e., Section 18 of the Corporation Code, considering it is confusingly similar to the corporate name of Aguila, as above-stated.

Lastly, estoppel cannot be interposed against the Commission since Florante G. Aguila, who is the president of Comglasco, executed an *Affidavit of Undertaking to Change Name*, in behalf of the company, undertaking to change its corporate name in the event another entity acquired a prior right to the use of such name or is confusingly

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[39] *The City of Davao, Represented by the City Treasurer of Davao City v. The Intestate Estate of Amado S. Dalisay, represented by Special Administrator Atty. Nicasio B. Paderna*, G.R. No. 207791, 15 July 2015.
[40] *Vide Ouano v. Court of Appeals*, 446 Phil. 690, (2003).

similar to that of any existing corporation. As correctly pointed out by the appellee, the undertaking, which is an agreement with the Commission and Comglasco, remains valid and effective during the entire life of the latter. The agreement is breached if Comglasco fails to comply with its undertaking to change its corporate name.

WHEREFORE, premises considered, the instant appeal is hereby **DENIED.** Appellant COMGLASCO AGUILA GLASS CORPORATION is hereby **DIRECTED TO CHANGE OR MODIFY** its corporate name by excluding and/or dropping the words "AGUILA GLASS" therein, and amending its Articles of Incorporation. The appellant is directed to file a compliance report within the said 30-day period. Failure to comply constitutes CONTEMPT which will be punished accordingly, and may be a ground for the REVOCATION of the appellant's Certificate of Incorporation.

Let a copy of this Decision be furnished to the Company Registration and Monitoring Department for proper notation and action.

SO ORDERED.

Mandaluyong City, 31 May 2016.

TERESITA J. HERBOSA*
Chairperson

MANUEL HUBERTO B. GAITE
Commissioner

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

BLAS JAMES G. VITERBO *
Commissioner

*On Leave