EN BANC

G.R. No. 256634 – FOREST HILLS GOLF AND COUNTRY CLUB, INC., Petitioner, **v. SECURITIES AND EXCHANGE COMMISSION – COMPANY REGISTRATION AND MONITORING DEPARTMENT,** Respondent.

Promulgated:

July 25, 2025

x- -x

CONCURRING OPINION

CAGUIOA, ***J.:***

The *ponencia* grants the Petition, reverses the assailed Court of Appeals Decision and remands the instant case to the Securities and Exchange Commission *En Banc* for the determination of whether the proposed amendments in the by-laws of petitioner Forest Hills Golf and Country Club, Inc. (FHGCCI) are lawful, in consideration of FHGCCI's non-stock classification.[1]

In resolving to grant the Petition, the *ponencia* finds that FHGCCI is a non-stock corporation as it lacks the element of distribution of dividends,[2] which is one of the two concurrent requirements of a stock corporation, i.e., (1) capital stock divided into shares and (2) authority to distribute to shareholders dividends or allotments of surplus profits.[3]

On the question of whether non-stock corporation such as golf and country clubs should be prohibited from having shares of stock to ensure consistency with its purpose, the *ponencia* finds that such must be raised with the legislature, and not be speculated on by the judiciary.[4]

Finally, the *ponencia* resolves that FHGCCI's purpose of "promot[ing] social, recreational[,] and athletic activities on a non-profit basis" is consistent with its non-profit objective, and that its Articles of Incorporation also provide that "[n]o profit shall inure to the benefit of any member . . . no dividend shall at any time be declared and/or paid. Members shall be entitled only to a pro-rata share of the assets of the Corporation at the time of its dissolution or liquidation."[5]

---

1 *Ponencia,* p. 15.
2 *See id.* at 14.
3 *See id.* at 9.
4 *Id.* at 10.
5 *Id.* at 11.

On the foregoing findings, I concur with a note on some reservations as to the ruling's classification of FHGCCI as a non-stock corporation.

Particularly, while I agree that FHGCCI here is a non-stock corporation: (i) the *ponencia* must be clear that the consequence of its true classification as a non-stock corporation entails a full revision of its Articles of Incorporation, to remove any and all provisions that lend it a color of a stock corporation or a hybrid of the same, chief of which is the existence of its capital stock and its issuance of stocks to shareholders. For while it is recognized that the hybrid non-profit stock corporation may have previously existed owing to a standing misapplication of the Corporation Code provision, this is as good a time as any for the clarification of the same, i.e., that when a corporation is non-stock, it cannot possess the two concurring requisites of a non-stock corporation—it cannot issue stocks *and* it cannot distribute dividends.

On the matter of the *ponencia*'s finding that FHGCCI is a non-stock corporation because it lacks one of the two concurrent requisites of a stock corporation, I contrarily opine that Section 3 of the Corporation Code can be more clearly interpreted in such a manner that finds a corporation which is non-stock cannot possess either of the two concurrent requisites. Such reading would avoid the scenario such as the one FHGCCI finds itself in this case, where a corporation can have stocks (the first requisite) but not have the authority to distribute assets (the second requisite).

As well, on the point of finding that the hybrid nature of golf and country clubs as non-stock corporations can be best addressed and clarified by the legislature, I submit that there is, instead, no need for such a referral to the legislative body, since the perceived conceptual contradiction in the form of a "non-profit stock corporation" is not a contradiction that was created or contemplated by the provisions of the Corporation Code, but was a result of a flawed application and interpretation of the same.

Consequently, the Court is not precluded from clarifying and correcting such a confusion, as it is given the opportunity to do precisely that in the instant case. I submit, therefore, that FHGCCI, in its classification as non-stock, must also fully align its corporate attributes to that of a non-stock corporation, including the evident removal of any feature that would confuse it as a non-stock, in accordance with the Corporation Code.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice