

CONFLICTING GOALS AT GALLETAS GULLÓN

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The Spanish largest biscuit maker in terms of volume, with an annual production of over 162 million kilos, located in Aguilar de Campoó (Palencia), was immersed in a ferocious legal battle over the control of the company, involving, in one corner, the founder's three sons (Félix, Hernán and Rubén Gullón), and in the other, their mother (María Teresa Rodríguez), who was backed by the long-standing CEO (Juan Miguel Martínez Gabaldón) and by one of her daughters (Lourdes Gullón).

Following the death of the founder José Manuel Gullón in 1983, the company was presided over his widow María Teresa Rodríguez, with executive control in the hands of Gabaldón. Over the following years, the company experienced its halcyon days, whereby not only did it become the domestic market leader but also one of the leading European companies in the sector.

Nevertheless, by the end of the first decade in the new century disagreements began to flare up between conflicting groups regarding the way in which the company should be managed. Whereas the mother understood her offspring hankered after control of the company, the latter considered the problem to be the role played by the CEO, who had hoodwinked the mother and was feathering his own nest at the company's expense. Matters first came to a head in 2004 when Gabaldón purchased a plot of land beside the factory and then sought to sell it to the company for a much higher price. Whilst the children saw this as confirmation of their suspicions, for the mother and the CEO it was a move to pave the way for a possible enlargement of the factory.

Against this background, at a meeting of the board of directors held in 2009, the siblings managed to have their mother nominated Honorary Chairperson, a position with no executive powers, dismiss Gabaldón, and appoint the youngest of the three brothers, Félix Gullón, as the new CEO.

As soon as it gained control of the company, the new management team filed several lawsuits against the outgoing CEO, but it also encountered the problem of an ironclad contract in his favour, which involved a compensation payment of 8.2 million euros in the event of dismissal, which accounted to almost 80% of the company's annual earnings. The son invited Gabaldón to remain in the company, an offer he would only accept if they withdrew the lawsuits. As they were not withdrawn, Gabaldón was dismissed and compensated in full.

The meeting of the board of directors that agreed to the change of CEO was legally contested by María Teresa Rodríguez, who called for the control of the company to be returned to her, given that her shares, together with those held by Gabaldón and Lourdes Gullón, accounted for 80% of the company's stock. However, the founder's sons petitioned the courts to rule on this percentage and to whom the shares held by their mother should be allocated, as they understood that this control was solely fiduciary (i.e., based on the existence of a relationship of trust and good faith) and that ownership of the same should correspond directly to the founder's children and not to his widow.

Backed by a court ruling in their favour, at the beginning of September 2010 the three majority shareholders (Rodríguez, Gabaldón and Lourdes Gullón) called a shareholder's meeting to dismiss the

board of directors, which refused to convene the meeting as it considered it to be unlawful, barring the organiser's entry to the company's premises at the appointed time.

In view of these circumstances, the General Meeting was held in a somewhat unusual manner, outside the factory gates inside a Mercedes car, being attended solely by the three majority shareholders and a notary public. The meeting agreed to dismiss the present board of directors, appointing María Teresa Rodríguez sole administrator and amending the company's articles. The agreements were recorded in the Company Register in Palencia, whereby they came into force immediately.

The first decision the new administrator took was to reinstate Juan Miguel Martínez Gabaldón as the company's CEO, despite the huge compensation payment he had received. Nevertheless, all these changes were subjected to the lawsuit for annulment of the shareholder's meeting filed by the sons and which the court agreed to hear in early October 2010.

Finally, by the end of May 2012, the Palencia's Court of First Instance number one delivered a judgment (ratified in September 2012 by the Palencia's Provincial Court) stating that the agreements reached in the so-called "Mercedes meeting" were valid, bringing the conflict to an end in favour of María Teresa Rodríguez.