EN BANC

[G.R. No. 229471. July 11, 2023]

PACIFIC CEMENT COMPANY, *PETITIONER*, VS. OIL AND NATURAL GAS COMMISSION, *RESPONDENT*.

D E C I S I O N

GESMUNDO, C.J.:

This is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court seeking to reverse and set aside the August 20, 2015 Decision,[2] and the August 22, 2016 and January 11, 2017 Resolutions[3] of the Court of Appeals, Cagayan de Oro City (*CA*) in CA-G.R. CV No. 02916-MTN. The CA affirmed the January 6, 2012 Decision[4] of the Regional Trial Court of Surigao City, Branch 30 (*RTC*) in Civil Case No. 4006, subject to the rehabilitation proceedings in Sp. Proc. No. 7906.

Antecedents

The factual background of this case was set forth in *Oil and Natural Gas Commission v. Court of Appeals*,[5] summarized as follows:

Respondent Oil and Natural Gas Commission (*respondent*) is a foreign corporation owned and controlled by the Government of India, while petitioner Pacific Cement Company[6] (*petitioner*) is a domestic corporation based in Surigao City, Philippines. The controversy between the parties emanated from a contract they entered into on February 26, 1983 whereby petitioner undertook to supply respondent with 4,300 metric tons of oil well cement for the price of US$477,300.00.[7]

The oil well cement was loaded on board the ship MV Surutana Nava at the port of Surigao City for delivery at Bombay and Calcutta, India. However, the cargo did not reach its point of destination as it was held up in Bangkok, Thailand due to a dispute between the shipowner and petitioner. Despite receipt of payment and several demands made by respondent, petitioner failed to deliver the oil well cement. Thereafter, negotiations were held between the parties, and it was agreed that petitioner will replace the entire 4,300

metric tons of oil well cement with Class "G" cement cost-free at respondent's designated port. However, upon inspection, it was found that the replacement cement did not conform to respondent's specifications.[8]

Respondent notified petitioner that it was referring its claim to an arbitrator pursuant to Clause No. 16 of their contract, which states:

> Except where otherwise provided in the supply order/contract all questions and disputes, relating to the meaning of the specification designs, drawings and instructions herein before mentioned and as to quality of workmanship of the items ordered or as to any other question, claim, right or thing whatsoever, in any way arising out of or relating to the supply order/contract design, drawing, specification, instruction or these conditions or otherwise concerning the materials or the execution or failure to execute the same during stipulated/extended period or after the completion/abandonment thereof shall be referred to the sole arbitration of the persons appointed by Member of the Commission at the time of dispute. It will be no objection to any such appointment that the arbitrator so appointed is a Commission employer (sic) that he had to deal with the matter to which the supply or contract relates and that in the course of his duties as Commission's employee he had expressed views on all or any of the matter in dispute or difference.
>
> The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason the Member of the Commission shall appoint another person to act as arbitrator in accordance with the terms of the contract/supply order. Such person shall be entitled to proceed with reference from the stage at which it was left by his predecessor. Subject as aforesaid the provisions of the Arbitration Act, 1940, or any Statutory modification or re-enactment [thereof] and the rules made [thereunder] and for the time being in force shall apply to the arbitration proceedings under this clause.
>
> The arbitrator may with the consent of parties enlarge the time, from time to time, to make and publish the award.
>
> The venue for arbitration shall be at Dehra Dun.[9]

On July 23, 1988, the sole arbitrator resolved the dispute in favor of respondent under the following arbitral award:

> NOW THEREFORE after considering all facts of the case, the evidence, oral and documentaries adduced by the [respondent] and carefully examining the various written statements, submissions, letters, telexes, etc. sent by the [petitioner], and the oral arguments addressed by the counsel for the [respondent], I, N.N. Malhotra, Sole Arbitrator, appointed under clause 16 of the supply order dated 26.2.1983, according to which the parties, *i.e.* M/S Oil and Natural Gas Commission and the Pacific Cement Co., Inc. can refer the dispute to the sole arbitration under the provision of the Arbitration Act 1940, do hereby award and direct as follows:–
>
> The [petitioner] will pay the following to the [respondent]:–
>
> 1. Amount received by the [petitioner] against the letter of credit No. 11/19 dated 28.2.1983 – – – US$ 477,300.00
>
> 2. [Reimbursement] of [expenditures] incurred by the [respondent] on the inspection team's visit to Philippines in August 1985 – – – US$ 3,881.00
>
> 3. L.C. Establishment charges incurred by the [respondent] – – – US$ 1,252.82
>
> 4. Loss of interest suffered by [respondent] from 21.6.83 to 23.7.88 – – – US$ 417,169.95
>
> Total amount of award – – – US$ 899,603.77
>
> In addition to the above, the [petitioner] would also be liable to pay to the [respondent] the interest at the rate of 6% on the above amount, with effect from 24.7.1988 up to the actual date of payment by the [petitioner] in full settlement of the claim as awarded or the date of the decree, whichever is earlier.
>
> I determine the cost at Rs 70,000/ – equivalent to US$5,000 towards the expenses on Arbitration, legal expenses, stamps duly incurred by the [respondent]. The cost will be shared by the parties in equal proportion.

> Pronounced at Dehra Dun today, the 23rd of July 1988.[10]

Respondent then filed a petition before the Court of the Civil Judge in Dehra Dun (*foreign court*) for execution of the arbitral award. The foreign court issued notices to petitioner for filing objections to the petition, to which petitioner complied. Subsequently, the said court directed petitioner to pay the filing fees in order that its objections could be considered. However, instead of paying the required filing fees, petitioner sent a communication to the Civil Judge of Dehra Dun requesting that it be informed of the amount of such filing fees, and that it be given 15 days from receipt of such letter to comply with the same.[11]

Without responding to petitioner's communication, the foreign court refused to admit petitioner's objections for failure to pay the required filing fees. On February 7, 1990, said court issued an Order stating that:

> ORDER
>
> Since objections filed by [petitioner] have been rejected through Misc. Suit No. 5 on 7.2.90, therefore, award should be made "Rule of the Court."
>
> ORDER
>
> Award dated 23.7.88, Paper No. 3/B-1 is made Rule of the Court. On the basis of conditions of award decree is passed. Award Paper No. 3/B1 shall be a part of the decree. The [respondent] shall also be entitled to get from [petitioner] US$ 899, 603.77 (US$ Eight Lakhs ninety nine thousand six hundred and three point seventy seven only) [along with] 9% interest per annum till the last date of realization (sic).[12]

Petitioner failed to comply with the foregoing order despite notice and several demands made by respondent. Hence, respondent filed the present suit in the RTC for the enforcement of the judgment of the foreign court.

Petitioner moved to dismiss the complaint on the following grounds: 1) respondent's lack of capacity to sue; 2) lack of cause of action; and 3) respondent's claim or demand has been

waived, abandoned, or otherwise extinguished. Respondent filed its opposition, and petitioner filed a rejoinder thereto. On January 3, 1992, the RTC issued an order upholding respondent's legal capacity to sue, albeit dismissing the complaint for lack of a valid cause of action. The RTC recognized that respondent is suing upon an isolated transaction, which is an exception to the rule prohibiting foreign corporations transacting business in the Philippines without a license from maintaining a suit in Philippine courts. Nonetheless, on the issue of sufficiency of cause of action, the RTC held that the referral of the dispute to an arbitrator under Clause No. 16 was erroneous.[13]

According to the RTC, the breach consisting of the non-delivery of the purchased materials, should have been properly litigated before a court of law, pursuant to Clause No. 15 of the contract, which states:

> JURISDICTION
>
> All questions, disputes and differences, arising under out of or in connection with this supply order, shall be subject to the EXCLUSIVE JURISDICTION OF THE COURT, within the local limits of whose jurisdiction and the place from which this supply order is situated.[14]

The RTC said that the erroneous submission of the dispute to the arbitrator is a "mistake of law or fact amounting to want of jurisdiction." Consequently, the proceedings held before the arbitrator were null and void. Respondent appealed to the CA, which affirmed the RTC's ruling that the arbitrator did not have jurisdiction over the dispute between the parties and therefore the foreign court could not validly adopt the arbitrator's award. The CA also noted that the full text of the judgment of the foreign court contains the dispositive portion only, without findings of fact and law as basis for the award. Such judgment of the foreign court cannot be enforced by any Philippine court as it would violate the constitutional provision that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. Further, the CA held that the dismissal of petitioner's objections for nonpayment of the required legal fees, without the foreign court first replying to its query as to the amount of legal fees to be paid, is a violation of petitioner's right to due process. Lastly, the CA pointed out that the arbitration proceeding was defective because the arbitrator was appointed solely by respondent who was the arbitrator's former employer, giving rise to a presumed bias in its favor.[15]

With the CA's denial of respondent's motion for reconsideration, the case was brought to this Court *via* a petition for review on *certiorari*.

G.R. No. 114323[16]

In a Decision promulgated on July 23, 1998, the Court reversed the CA and ruled that the arbitrator had jurisdiction over the dispute under Clause No. 16 of the supply order/contract. The Court also upheld the Order dated February 7, 1990 of the foreign court and found no merit in petitioner's claim that said court violated petitioner's right to due process. The pertinent portions of the decision are herein reproduced:

> The threshold issue is whether or not the arbitrator had jurisdiction over the dispute between the [parties] under Clause 16 of the contract. x x x
>
> x x x x
>
> x x x It is argued that the foregoing phrase allows considerable latitude so as to include non-delivery of the cargo which was a "claim, right or thing relating to the supply order/contract." The contention is bereft of merit. First of all, the [respondent] has misquoted the said phrase, shrewdly inserting a comma between the words "supply order/contract" and "design" where none actually exists. An accurate reproduction of the phrase reads, "x x x or as to any other question, claim, right or thing whatsoever, in any way arising out of or relating to the supply order/contract design, drawing, specification, instruction or these conditions x x x." The absence of a comma between the words "supply order/contract" and "design" indicates that the former cannot be taken separately but should be viewed in conjunction with the words "design, drawing, specification, instruction or these conditions." It is thus clear that to fall within the purview of this phrase, the "claim, right or thing whatsoever" must arise out of or relate to the design, drawing, specification, or instruction of the supply order/contract. The [respondent] also insists that the non-delivery of the cargo is not only covered by the foregoing phrase but also by the phrase, "x x x or otherwise concerning the materials or the execution or failure to execute the same during the stipulated/extended period or after completion/abandonment thereof x x x."
>
> x x x A close examination of Clause 16 reveals that it covers three matters which

may be submitted to arbitration namely,

(1) all questions and disputes, relating to the meaning of the specification designs, drawings and instructions herein before mentioned and as to quality of workmanship of the items ordered; or

(2) any other question, claim, right or thing whatsoever, in any way arising out of or relating to the supply order/contract design, drawing, specification, instruction or these conditions; or

(3) otherwise concerning the materials or the execution or failure to execute the same during stipulated/extended period or after the completion/abandonment thereof.

The first and second categories unmistakably refer to questions and disputes relating to the design, drawing, instructions, specifications or quality of the materials of the supply/order contract. In the third category, the clause, "execution or failure to execute the same," may be read as "execution or failure to execute the supply order/contract." But in accordance with the doctrine of *noscitur a sociis*, this reference to the supply order/contract must be construed in the light of the preceding words with which it is associated, meaning to say, as being limited only to the design, drawing, instructions, specifications or quality of the materials of the supply order/contract. The non-delivery of the oil well cement is definitely not in the nature of a dispute arising from the failure to execute the supply order/contract design, drawing, instructions, specifications or quality of the materials. That Clause 16 should pertain only to matters involving the technical aspects of the contract is but a logical inference considering that the underlying purpose of a referral to arbitration is for such technical matters to be deliberated upon by a person possessed with the required skill and expertise which may be otherwise absent in the regular courts.

This Court agrees with the appellate court in its ruling that the non-delivery of the oil well cement is a matter properly cognizable by the regular courts as stipulated by the parties in Clause 15 of their contract:

x x x x

The [respondent's] interpretation that Clause 16 is of such latitude as to

contemplate even the non-delivery of the oil well cement would in effect render Clause 15 a mere superfluity. A perusal of Clause 16 shows that the parties did not intend arbitration to be the sole means of settling disputes. This is manifest from Clause 16 itself which is prefixed with the proviso, "Except where otherwise provided in the supply order/contract x x x," thus indicating that the jurisdiction of the arbitrator is not all encompassing, and admits of exceptions as may be provided elsewhere in the supply order/contract. We believe that the correct interpretation to give effect to both stipulations in the contract is for Clause 16 to be confined to all claims or disputes arising from or relating to the design, drawing, instructions, specifications or quality of the materials of the supply order/contract, and for Clause 15 to cover all other claims or disputes.

The [respondent] then asseverates that granting, for the sake of argument, that the non-delivery of the oil well cement is not a proper subject for arbitration, the failure of the replacement cement to conform to the specifications of the contract is a matter clearly falling within the ambit of Clause 16. In this contention, we find merit. When the 4,300 metric tons of oil well cement were not delivered to the [respondent], an agreement was forged between the latter and the [petitioner] that Class "G" cement would be delivered to the [respondent] as replacement. Upon inspection, however, the replacement cement was rejected as it did not conform to the specifications of the contract. Only after this latter circumstance was the matter brought before the arbitrator. Undoubtedly, what was referred to arbitration was no longer the mere non-delivery of the cargo at the first instance but also the failure of the replacement cargo to conform to the specifications of the contract, a matter clearly within the coverage of Clause 16.

x x x x

We now go to the issue of whether or not the judgment of the foreign court is enforceable in this jurisdiction in view of the (petitioner's] allegation that it is bereft of any statement of facts and law upon which the award in favor of the [respondent] was based. x x x

x x x x

As specified in the order of the Civil Judge of Dehra Dun, "Award Paper No. 3/B-1 shall be a part of the decree." This is a categorical declaration that the foreign

court adopted the findings of facts and law of the arbitrator as contained in the latter's Award Paper. Award Paper No. 3/B-1, contains an exhaustive discussion of the respective claims and defenses of the parties, and the arbitrator's evaluation of the same. Inasmuch as the foregoing is deemed to have been incorporated into the foreign court's judgment the appellate court was in error when it described the latter to be a "simplistic decision containing literally, only the dispositive portion."

The constitutional mandate that no decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based does not preclude the validity of "memorandum decisions" which adopt by reference the findings of fact and conclusions of law contained in the decisions of inferior tribunals. x x x

x x x x

Hence, **even in this jurisdiction, incorporation by reference is allowed if only to avoid the cumbersome reproduction of the decision of the lower courts, or portions thereof, in the decision of the higher court**. This is particularly true when the decision sought to be incorporated is a lengthy and thorough discussion of the facts and conclusions arrived at, as in this case, where Award Paper No. 3/B-1 consists of eighteen (18) single spaced pages.

Furthermore, the recognition to be accorded a foreign judgment is not necessarily affected by the fact that the procedure in the courts of the country in which such judgment was rendered differs from that of the courts of the country in which the judgment is relied on. This Court has held that matters of remedy and procedure are governed by the *lex fori* or the internal law of the forum. Thus, **if under the procedural rules of the Civil Court of Dehra Dun, India, a valid judgment may be rendered by adopting the arbitrator's findings, then the same must be accorded respect. In the same vein, if the procedure in the foreign court mandates that an Order of the Court becomes final and executory upon failure to pay the necessary docket fees, then the courts in this jurisdiction cannot invalidate the order of the foreign court simply because our rules provide otherwise**.

x x x x

> In the instant case, the [petitioner] does not deny the fact that it was notified by the foreign court to file its objections to the petition, and subsequently, to pay legal fees in order for its objections to be given consideration. Instead of paying the legal fees, however, the [petitioner] sent a communication to the foreign court inquiring about the correct amount of fees to be paid. On the pretext that it was yet awaiting the foreign court's reply, almost a year passed without the [petitioner] paying the legal fees. Thus, on February 2, 1990, the foreign court rejected the objections of the [petitioner] and proceeded to adjudicate upon the [respondent's] claims. **We cannot subscribe to the [petitioner's] claim that the foreign court violated its right to due process when it failed to reply to its queries nor when the latter rejected its objections for a clearly meritorious ground.** The [petitioner] was afforded sufficient opportunity to be heard. It was not incumbent upon the foreign court to reply to the [petitioner's] written communication. On the contrary, a genuine concern for its cause should have prompted the [petitioner] to ascertain with all due diligence the correct amount of legal fees to be paid. The [petitioner] did not act with prudence and diligence thus its plea that they were not accorded the right to procedural due process cannot elicit either approval or sympathy from this Court.
>
> The [petitioner] bewails the presumed bias on the part of the arbitrator who was a former employee of the [respondent]. This point deserves scant consideration in view of the following stipulation in the contract:
>
> "x x x. It will be no objection to any such appointment that the arbitrator so appointed is a Commission employer (sic) that he had to deal with the matter to which the supply or contract relates and that in the course of his duties as Commission's employee he had expressed views on all or any of the matter in dispute or difference."[17] (Emphases supplied; citations omitted)

The Court then reiterated the rule that a foreign judgment is presumed to be valid and binding unless the contrary is shown. Petitioner having failed to discharge its burden of overcourting such presumption of validity, the Court found that remand of the case to the RTC is no longer necessary, thus:

> The foreign judgment being valid, there is nothing else left to be done than to order its enforcement, despite the fact that the [respondent] merely prays for the

> remand of the case to the RTC for further proceedings. As this Court has ruled on the validity and enforceability of the said foreign judgment in this jurisdiction, further proceedings in the RTC for the reception of evidence to prove otherwise are no longer necessary.
>
> **WHEREFORE**, the instant petition is GRANTED, and the assailed decision of the Court of Appeals sustaining the trial court's dismissal of the OIL AND NATURAL GAS COMMISSION's complaint in Civil Case No. 4006 before Branch 30 of the RTC of Surigao City is REVERSED, and another in its stead is hereby rendered ORDERING [petitioner] PACIFIC CEMENT COMPANY, INC. to pay to [respondent) the amounts adjudged in the foreign judgment subject of said case.
>
> **SO ORDERED.**[18]

Petitioner filed a motion for reconsideration. On September 28, 1999, the Court issued a Resolution[19] reiterating its ruling in the Decision dated July 23, 1998 that the arbitrator had jurisdiction over the dispute between the parties. On the issue of enforceability of the foreign court's Order dated February 7, 1990 adopting the arbitral award, the Court deemed it proper to remand the case to the RTC for further proceedings, thus:

> In this case, considering that [respondent] simply prayed for the remand of the case to the lower court, the outright ruling and adherence to the foreign court's order adopting by reference another entity's findings and conclusion was misplaced. The adjudication of this case demands a full ventilation of the facts and issues and the presentation of their respective arguments in support and in rebuttal of the claims of the contending parties. This is all the more applicable herein since the Court is not a trier of facts, but oftentimes simply relies on the cold pages of the silent records of the case.
>
> **ACCORDINGLY**, in the interest of due process, the case is *REMANDED* to the Regional Trial Court of Surigao City for further proceedings.
>
> **SO ORDERED.**[20]

Proceedings on remand

Petitioner filed its Answer with Counterclaim setting forth the same defenses against the judgment of the foreign court (respondent's lack of legal capacity to sue; the complaint states no cause of action since the decision sought to be enforced is null and void; the foreign court never acquired jurisdiction over the person of petitioner and the subject matter of the suit; petitioner was denied due process in the arbitration proceedings before the Civil Court of India; and the foreign judgment is unenforceable as it does not comply with the Philippine Constitution and the Rules of Court). Additionally, petitioner contended that it cannot be held liable to respondent because the reason for the non-delivery was the refusal of the carrier to proceed with the voyage from Bangkok, Thailand to Bombay and Calcutta, India.[21]

Respondent presented as its witness, Y.C. Pandey, a Registered Advocate in India and an Additional Chief Legal Advisor of respondent.[22] For petitioner, Cesar Siruelo, Jr., Vice-President for Administration, testified.[23]

In its memorandum, respondent raised the following issues: 1) Was the authenticity of the foreign judgment proven? 2) Did petitioner overcome the presumption that the foreign court acted in lawful exercise of its jurisdiction? 3) Did petitioner overcome the presumptive validity of a foreign judgment? 4) Was respondent able to satisfactorily prove damages and attorney's fees? 5) For taking a case it intervened in, did petitioner's counsel commit a violation of the Code of Professional Ethics?[24]

On the other hand, petitioner submitted its memorandum raising the issue of whether or not the judgment of the foreign court in this case can be validly enforced in this jurisdiction. It was argued that said judgment was defective on the following grounds: 1) lack of jurisdiction of the sole arbitrator and the Civil Court of Dehra Dun, India; 2) the cause of action is not lawful; 3) the judgment never became final; and 4) presumptive evidence of a right between the parties was duly repelled by petitioner.[25]

The RTC Ruling

On January 6, 2012, the RTC rendered its Decision in favor of respondent who was able to prove beyond question the existence and authenticity of the foreign judgment sought to be enforced. On the issue of jurisdiction raised by petitioner, the said court cited the ruling of this Court in G.R. No. 114323 that the dispute is within the jurisdiction of the arbitrator pursuant to Clause No. 16 of the contract. Since the facts presented before it were the very

same facts proven and argued before the CA and this Court, the RTC declared that the law of the case applies.

On the claim of petitioner that the foreign judgment did not attain finality, the RTC found no documentary evidence to support such allegation. On the contrary, respondent presented oral and documentary evidence showing that the judgment rendered by the Civil Court of Dehra Dun is already final and executory.

The RTC granted respondent's claim for attorney's fees considering that petitioner's failure to honor its contractual obligation to respondent compelled the latter to litigate and retain the services of counsel to protect its interest. In addition, it held that respondent was entitled to an award of litigation expenses. However, the claim for exemplary damages was denied, there being no evidence showing that petitioner's contractual breach amounted to bad faith.

The dispositive portion of the RTC Decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of [respondent] and against [petitioner], ordering the latter to pay the former the following, [*viz*.]:
>
> 1. The sum of EIGHT HUNDRED NINETY-NINE THOUSAND SIX HUNDRED THREE DOLLARS AND SEVENTYSEVEN CENTS (US$ 899,603.77) or its present equivalent in Philippine Pesos, with interest at the rate of six percent (6%) per annum from 24 July 1988 until the date of actual payment by the [petitioner] in full settlement of the claim as awarded or the date of decree, whichever is earlier;
> 2. The sum of RS70,000.00, which is equivalent to US$ 5,000.00 or its present equivalent in Philippine Pesos for the cost of arbitration, legal expenses and stamps duly incurred by the [respondent] which sum is likewise part of the arbitrator's award and likewise made the Rule of Court;
> 3. The sum of P100,000.00 as and by way of attorney's fees incurred in the Philippines;
> 4. The sum of P50,000.00 representing expenses of litigation; and

5. Costs of suit.

SO ORDERED.[26]

Petitioner filed a motion for reconsideration which was denied under the Order dated March 16, 2012.[27]

Dissatisfied, petitioner appealed to the CA, alleging that the RTC had arbitrarily denied its motion for reconsideration in clear disregard of procedural rules and evident partiality. Petitioner contended that the lower court erred: 1) in declaring that jurisdiction was acquired by the sole arbitrator when the evidence showed the contrary; 2) in applying the law of the case principle; 3) in ruling that there was an agreement to replace the original 4,300 metric tons of oil well cement; and 4) in failing to appreciate the fact that petitioner was able to sufficiently and clearly impeach the presumptive validity of the foreign judgment sought to be enforced.[28]

The CA Ruling

In its August 20, 2015 Decision, the CA upheld the lower court's application of the principle of law of the case in resolving the issues of jurisdiction and lack of cause of action. The CA found that the matter of replacement of the oil well cement, the inspection done by respondent's representatives in Surigao City of the proposed replacement, and the failure of this new batch of cement to meet the contract specifications, was raised in the original dispute involving non-delivery under the first contract, and evidence thereon was received and duly considered by the arbitrator.[29]

On petitioner's insistence that the alleged agreement on replacement of the oil well cement is a new issue not raised even in the pleadings before the RTC, and was not the subject of the arbitral award, the CA cited this Court's Decision in G.R. No. 114323 which set forth the undisputed facts of the case.[30]

The CA likewise found no merit in petitioner's assertion of procedural surprise and unfairness when it claimed that beginning from its memorandum, respondent had subtly shifted its cause of action in the case from one to enforce the obligation arising from non-delivery of 4,300 metric tons of oil well cement to the agreement to replace the undelivered oil. Further, other issues previously settled by this Court in this controversy were reiterated

by the CA, including the incorporation by reference of the findings of fact and law of the arbitrator by the foreign court, and the perceived bias on the part of the arbitrator.[31]

Examining petitioner's documentary evidence, the CA ruled that the same does not present sufficient ground to repel the foreign judgment, the existence and authenticity of which has been judicially admitted by petitioner:

> A review of the evidence presented below by [petitioner] will point to evidence given for the purpose of proving its efforts to remedy the unexpected problem regarding the diversion of the vessel to Bangkok, Thailand and its refusal to sail to India, its repeated objection to jurisdiction of the sole arbitrator sent by telex or posted matter, the unfairness and bias of the sole arbitrator and in the conduct of the arbitration proceedings and communications on the proposal for replacement of oil cement. The other evidences pertain to facts essentially not disputed.[32]

Lastly, the CA found no irregularity in the trial court's denial of petitioner's motion for reconsideration without conducting a hearing. It said that an actual hearing is not an indispensable requirement in resolving a motion, unless the rule very clearly requires that the motion be set for hearing before being acted upon. It was noted that the notice of hearing in petitioner's motion for reconsideration was fatally defective as it was set for hearing 14 days after it was filed, in violation of Section 5, Rule 1.5 of the Rules of Court which states that a motion should be set for hearing within 10 days from the date of its filing. Consequently, such motion is considered *pro forma* similar to a motion without notice of hearing at all.[33]

In view of the foregoing, the CA denied the appeal and affirmed the Decision of the RTC.

Rehabilitation Proceedings

During the pendency of the appeal before the CA, petitioner filed in the RTC a Petition for Rehabilitation dated October 27, 2014, claiming that when it started operation, the business had been earning profits and was very viable. Petitioner cited the 1997 Asian currency crisis and devaluation of the Philippine Peso as turning points which supposedly led to its financial downturn. To finance the company's rapid expansion plans, loans from various institutions were contracted. In 2000, pursuant to a deed of assignment, all the assets and liabilities of

the company were eventually transferred to Pacific Cement Philippines, Inc. The effects of the financial crisis compounded by decline in the demand for cement and the enormous debts already incurred made it difficult for petitioner to pay all its obligations. Hence, petitioner presented a Rehabilitation Plan for approval of its creditors and the court under the provisions of Republic Act (*R.A.*) No. 10142, otherwise known as the *Financial Rehabilitation and Insolvency Act of 2010* (*FRIA*).[34]

Finding the petition sufficient in form and substance, the RTC acting as Rehabilitation Court in Sp. Proc. No. 7906 issued a Commencement Order[35] dated December 15, 2014. The said Order declared petitioner under rehabilitation with legal effects as provided in Sec. 9, Rule 2(8) of the *Financial Rehabilitation Rules of Procedure* (*2013*),[36] otherwise known as the *FR Rules*. A Stay Order[37] was incorporated in the said Commencement Order.

On October 13, 2015, the court-appointed Rehabilitation Receiver, Gonzalo T. Ocampo (*Ocampo*), filed a Manifestation[38] before the CA praying that its August 20, 2015 Decision be rendered null and void since the case was considered suspended from the time of the issuance of the December 15, 2014 Commencement Order. He averred that it was incumbent upon petitioner's counsel, Atty. Alfonso S. Casurra (*Atty. Casurra*), to manifest before the CA the filing of a petition for rehabilitation and the subsequent issuance by the rehabilitation court of a Commencement Order which, among others, suspended all actions or proceedings for the enforcement of claims against petitioner, which necessarily included CA-G.R. CV No. 02916-MIN.

In the Comment[39] filed by respondent, it was asserted that petitioner's counsel, prior to the promulgation of the CA Decision, never informed the CA or respondent's counsel of any other proceeding in relation to the present case, including the ongoing rehabilitation case, and neither did petitioner inform the CA of the issuance of a commencement order. In its Reply,[40] petitioner's new counsel claimed that it was only recently that it was engaged by the Rehabilitation Receiver to represent petitioner in the CA, and pointed out that a Stay Order was included in the Commencement Order. It was argued that the provisions of FRIA and its implementing rules do not contemplate an outcome where the debtor corporation will be subject to the enforcement of claims during the pendency of its rehabilitation.

On June 22, 2016, the CA issued a Resolution[41] setting aside its August 20, 2015 Decision and remanding the case to the Rehabilitation Court for further rehabilitation proceedings. The CA reasoned that to enforce its decision would "inevitably obviate any possibility of [petitioner's] recovery, rehabilitation and future operation."[42] As directed, entry of

judgment was issued by the CA on July 22, 2016 declaring as final and executory the June 22, 2016 Resolution.[43]

Respondent filed a Motion for Reconsideration[44] of the June 22, 2016 Resolution, arguing that an action to enforce a foreign judgment is not affected by the Stay Order as defined in Sec. 16 of FRIA and the enforcement of a foreign judgment is already conclusive.[45]

In a Resolution dated August 22, 2016, the CA clarified its June 22, 2016 Resolution, as follows:

> Pursuant to Our 22 June 2016 Resolution, any attempt to collect or enforce a claim against [petitioner] is suspended from the time of the issuance of the Commencement Order. However, We clarify that Our 20 August 2015 Decision, which affirmed the enforcement of foreign judgment in favor of [respondent], was set aside in view of the fact that [petitioner] is still undergoing rehabilitation proceedings. The remand of the present case to the rehabilitation court is necessary, [respondent] being one of the creditors seeking to be paid of its claims from [petitioner's] earnings or assets.
>
> As to the enforceability of the foreign judgment, We reiterate Our previous finding that no sufficient ground exists to repel the foreign judgment rendered by the Indian Court, whose existence and validity has been judicially admitted by [petitioner], and its presumptive validity has not been successfully overcome.
>
> Thus, Our previous decision affirming the enforcement of foreign judgment in favor of [respondent] is sustained, but its enforcement is suspended since the suspension of all actions or proceedings for the enforcement of claims against [petitioner] pending rehabilitation proceedings necessarily includes this case.
>
> **WHEREFORE**, [respondent's] motion for reconsideration is **PARTIALLY GRANTED**, insofar as the remand of the recognition of the foreign judgment to the court of origin. Accordingly, Our 20 August 2015 Decision upholding the enforceability of the foreign judgment in favor of [respondent] is **SUSTAINED**, but subject to the appropriate rehabilitation proceedings.
>
> SO ORDERED.[46]

Petitioner filed a Motion for Reconsideration[47] of the August 22, 2016 Resolution, arguing that the reinstatement of the August 20, 2015 CA Decision violates Sec. 16 of FRIA since the mandatory suspension of all actions or proceedings to enforce any judgment includes the enforcement of the foreign judgment in this case. Thus, the remand of this case to the Rehabilitation Court is compliant with the directive under Sec. 17(e) requiring that the resolution of all legal proceedings by and against the corporation under rehabilitation be consolidated to the rehabilitation court. Further, petitioner reiterated that sufficient ground exists to repel the foreign judgment, pursuant to Sec. 48, Rule 39 of the Rules of Court.[48]

In its Opposition[49] to petitioner's motion for reconsideration, respondent lamented the fact that after three decades of litigation, the present case has not yet been resolved. Whether the enforcement of the foreign judgment is suspended or the CA resolution set aside, petitioner refuses to put an end to the present controversy and squarely face its obligations to respondent by moving forward with the rehabilitation case with dispatch, which, after all, is the objective of FRIA. Respondent also contended that the motion for reconsideration of petitioner was filed out of time, and hence, the subject resolution of the CA has attained finality. Respondent stressed that the CA complied with Sec. 16 of FRIA when it stated that "any attempt to collect or enforce a claim against [petitioner] is suspended from the time of the issuance of the Commencement Order." Moreover, the CA correctly recognized the validity and enforceability of the foreign judgment notwithstanding that its execution is suspended as it remains subject to appropriate rehabilitation proceedings.[50]

On January 11, 2017, the CA issued a Resolution denying petitioner's motion for reconsideration. Construing Sec. 17(b) of FRIA, the CA said:

> x x x What [Section 17(b)] means to prohibit is any possible seizure or disposition of the debtor's properties or enforcement of any claim against it during the pendency of the rehabilitation proceedings. It does not intend to nullify a court judgment upholding the validity and enforceability of a foreign judgment, which remains conclusive *sans* the existence of any ground to repel the same.
>
> Since the suspension of all actions or proceedings for the enforcement of claims against [petitioner] pursuant to the Stay Order necessarily includes the present case, this Court thus found the need to remand the same to the rehabilitation court for appropriate proceedings. The remand to the rehabilitation court is in fact compliant with Section 17(e) of the FRIA requiring that *the resolution of all*

> *legal proceedings by and against the corporation under rehabilitation be consolidated to the rehabilitation court*, [respondent] being one of the creditors seeking to be paid of its claims from [petitioner's] earnings or assets.
>
> As to the enforceability of the foreign judgment, this Court finds [petitioner's] contentions in this motion a mere rehash of the facts and issues that have already been threshed out in Our 20 August 2015 Decision.[51] (Italics in the original)

Thus, the instant appeal.

Petitioner's Arguments

Petitioner emphasizes that the proceedings before the CA is an action to collect or enforce a claim against it and is thus covered by the provisions of FRIA. In view of the mandatory provisions of said law, the Commencement Order containing the Stay Order rendered the assailed Decision and Resolutions of the CA null and void. Despite the CA's recognition that the foreign judgment upheld by the RTC is covered by the Stay Order, it erroneously ruled that the Stay Order did not operate to nullify the RTC judgment upholding the validity and enforceability of the foreign judgment. As early as December 15, 2014 when the Commencement Order was issued, the proceedings before the CA should have already been suspended.[52]

Petitioner reiterates its position that it was able to establish that the foreign judgment upon which respondent bases its claim was rendered without jurisdiction. The submission to the arbitrator pleaded non-delivery of oil well cement, which is not contemplated under Clause No. 16 of the supply contract, as this Court held in G.R. No. 114323. The arbitrator, thus, exceeded his authority in conducting the proceeding and issuing the award in favor of respondent. Such mistake of law or fact equivalent to want of jurisdiction is sufficient ground to repel the foreign judgment sought to be enforced by respondent in Civil Case No. 4006.[53]

On the matter of specification of the replacement cement, petitioner again avers that this was never raised as issue before the arbitrator. The Arbitral Award discussed at length, to the exclusion of all other issues, the failure to deliver to respondent the oil well cement on account of petitioner's dispute with its carriers. While replacement cement was mentioned, the Arbitral Award did not include any disposition pertaining to the specifications or quality of the replacement cement; instead, it harped on the non-delivery of the oil well cement

which is clearly not an issue included in Clause No. 16 of the supply contract. The Arbitral Award was thus issued under the erroneous interpretation of the sole arbitrator that the Arbitration Clause "is wide enough to cover the present dispute regarding the non-supply of cement to the claimant." It was only on appeal, as a mere afterthought, that respondent raised the issue of the quality of replacement cement offered by petitioner as a gesture of goodwill.[54]

Respondent's Arguments

Respondent maintains that the petition should be dismissed because it has long been settled that the foreign judgment is enforceable in this jurisdiction. The CA had sustained its August 20, 2015 Decision upholding the enforceability of the foreign judgment in favor of respondent, although subject to the rehabilitation proceedings. Such complies with Sec. 16(q) of FRIA which provides that the effect of the stay order is to suspend all actions for the enforcement of all claims and judgment against the debtor.[55]

ln any event, respondent submits that the petition must fail since petitioner has miserably failed to establish any ground to repel the foreign judgment.[56]

Issue

Whether the assailed CA Decision dated August 20, 2015 and the Resolutions dated August 22, 2016 and January 11, 2017 are valid, in view of the issuance of the Commencement Order by the Rehabilitation Court.

The Court's Ruling

We deny the petition.

Corporate rehabilitation was unheard of prior to Presidential Decree (*P.D.*) No. 902-A. Under Act No. 1956 or the *Insolvency Law* enacted in 1909, a financially distressed corporation had two remedies: 1) suspension of payments; and 2) insolvency. The first remedy was available only for solvent corporations, while a financially ailing corporation's sole recourse was the filing of a petition for insolvency. Both remedies were then under the jurisdiction of the regular courts.

By operation of P.D. No. 902-A, as amended,[57] jurisdiction over petitions filed by financially

ailing companies was lodged exclusively with the Securities and Exchange Commission (*SEC*). While there was no definition of rehabilitation proceedings under P.D. No. 902-A, it clearly introduced an expanded coverage of suspension of payments, which, under the old Insolvency Law, excluded creditors holding legal or contractual mortgages.[58]

On July 19, 2000, the Congress enacted R.A. No. 8799, otherwise known as the *Securities Regulation Code*, which transferred the jurisdiction exercised by the SEC over all cases enumerated under Sec. 5[59] of P.D. No. 902-A to RTCs, except cases involving intra-corporate controversies pending with the SEC and suspension of payments or rehabilitation cases filed with the SEC as of June 30, 2000.[60]

On November 21, 2000, the Court promulgated the *Interim Rules of Procedure on Corporate Rehabilitation*[61] which provided for a summary and non-adversarial proceeding to govern petitions filed before the proper RTC by corporations, partnerships, and associations pursuant to P.D. No. 902-A. This was superseded by the *2008 Rules of Procedure on Corporate Rehabilitation* which was approved by the Court on December 2, 2008 and took effect on January 16, 2009.

Significant changes in corporate rehabilitation proceedings were introduced by FRIA, which became effective on August 31, 2010.[62] Consequently, the Court promulgated the FR Rules on August 27, 2013.[63] Since the petition for rehabilitation in this case was filed on October 27,2014, it is governed by FRIA law and rules of procedure.

Rehabilitation contemplates a continuance of corporate life and activities in an effort to restore and reinstate the financially distressed corporation to its former position of successful operation and solvency.[64] The purpose of rehabilitation proceedings is to enable the company to gain a new lease on life and thereby allow creditors to be paid their claims from its earnings.[65] FRIA defines rehabilitation as "the restoration of the debtor to a condition of successful operation and solvency, if it is shown that its continuance of operation is economically feasible and its creditors can recover by way of the present value of payments projected in the plan, more if the debtor continues as a going concern than if it is immediately liquidated."[66] The intention of the law is "to ensure or maintain certainty and predictability in commercial affairs, preserve and maximize the value of the assets of these debtors, recognize creditor rights and respect priority of claims, and ensure equitable treatment of creditors who are similarly situated."[67]

A vital function of rehabilitation proceedings is the mechanism of suspension of all actions

and claims against the distressed corporation. The purpose and application of such suspension is explained in *Veterans Philippine Scout Security Agency, Inc. v. First Dominion Prime Holdings, Inc.*[68] as follows:

> Now as to the issue of whether the existence of the corporate rehabilitation proceedings of the FDPHI Group of Companies has the effect of barring petitioner from asserting its claim for the payment of security services against Clearwater by reason of the approved Amended Rehabilitation Plan, we rule in the affirmative.
>
> An essential function of corporate rehabilitation is the mechanism of **suspension of all actions and claims against the distressed corporation** upon the due appointment of a management committee or rehabilitation receiver. **Section 6(c) of PD 902-A mandates that upon appointment of a management committee, rehabilitation receiver, board, or body, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board, or body shall be suspended.** The actions to be suspended cover **all claims** against a distressed corporation whether for damages founded on a breach of contract of carriage, labor cases, collection suits or any other **claims of pecuniary nature**. Jurisprudence is settled that the suspension of proceedings referred to in the law uniformly applies to "all actions for claims" filed against the corporation, partnership or association under management or receivership, without distinction, except only those expenses incurred in the ordinary course of business. The stay order is effective on all creditors of the corporation without distinction, **whether secured or unsecured**.
>
> x x x x
>
> The justification for the suspension of actions or claims, without distinction, pending rehabilitation proceedings is **to enable the management committee or rehabilitation receiver to effectively exercise its/his powers free from any judicial or extrajudicial interference that might unduly hinder or prevent the "rescue" of the debtor company**. To allow such other actions to continue would only add to the burden of the management committee or rehabilitation receiver, whose time, effort and resources would be wasted in

> defending claims against the corporation instead of being directed toward its restructuring and rehabilitation. It is worthy to note that the stay order remains effective during the duration of the rehabilitation proceedings.[69] (Emphases supplied)

Under Sec. 4(c) of FRIA, the definition of "claim" is encompassing:

> (c) *Claim* shall refer to all claims or demands of **whatever nature or character against the debtor or its property, whether for money or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed**, including, but not limited to: (1) all claims of the government, whether national or local, including taxes, tariffs and customs duties; and (2) claims against directors and officers of the debtor arising from acts done in the discharge of their function's falling within the scope of their authority: *Provided*, That, this inclusion does not prohibit the creditors or third parties from filing cases against the directors and officers acting in their personal capacities. (Emphasis supplied)

In *Philippine Airlines, Inc. v. Zamora*,[70] the Court categorically declared that the automatic suspension of an action for claims against a corporation under a rehabilitation receiver or management committee embraces *all phases of the suit*, that is, the entire proceedings of an action or suit, "be it before the trial court or any tribunal or before this Court," and not just the payment of claims. In another case, the term "claim" covered by the suspension order was understood as the right to payment, *whether or not it is reduced to judgment*, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, and secured or unsecured.[71]

Without doubt, the foreign arbitral award, recognized and upheld in the RTC Decision dated January 6, 2012 ordering petitioner to pay respondent a sum of money, is covered by the suspension of payments under FRIA. Accordingly, such claim of respondent under the foreign arbitral award may not be subject of execution while the rehabilitation proceeding is ongoing.

Under the FR Rules, the court, after finding the petition sufficient in form and substance, shall issue within five working days from the filing of the petition a Commencement Order,

the effects of which shall retroact to the date of filing of the petition for rehabilitation.[72] The Commencement Order shall include a Stay or Suspension Order,[73] which shall have the following effects:

(a) **suspend all actions or proceedings in court or otherwise, for the enforcement of all claims against the debtor;**
(b) **suspend all actions to enforce any judgment, attachment or other provisional remedies against the debtor;**
(c) prohibit the debtor from selling, encumbering, transferring or disposing in any manner any of its properties except in the ordinary course of business; and
(d) prohibit the debtor from making any payment of its liabilities outstanding as of the commencement date except as may be provided herein.[74] (Emphases supplied)

However, not all pending actions at the time of the filing of the petition for rehabilitation are affected by the stay order issued by a rehabilitation court. FRIA provides for several exceptions, to wit:

Section 18. *Exceptions to the Stay or Suspension Order*. The Stay or Suspension Order shall **not** apply:

(a) **to cases already pending appeal in the Supreme Court as of commencement date: *Provided*, That any final and executory judgment arising from such appeal shall be referred to the court for appropriate action;**
(b) subject to the discretion of the court, to cases pending or filed at a specialized court or quasi-judicial agency which, upon determination by the court, is capable of resolving the claim more quickly, fairly and efficiently than the court: *Provided*, That any final and executory judgment of such court or agency shall be referred to the court and shall be treated as a non-disputed claim;
(c) to the enforcement of claims against sureties and other persons solidarily liable with the debtor, and third party or accommodation mortgagors as well as issuers of letters of credit, unless the property subject of the third party or accommodation mortgage is necessary for the rehabilitation of the debtor as determined by the court upon recommendation by the rehabilitation receiver;
(d) to any form of action of customers or clients of a securities market participant to recover or otherwise claim moneys and securities entrusted to the latter in the ordinary course of the latter's business as well as any action of such securities market participant or the appropriate regulatory agency or self regulatory organization to pay or settle such claims or liabilities;

> (e) to the actions of a licensed broker or dealer to sell pledged securities of a debtor pursuant to a securities pledge or margin agreement for the settlement of securities transactions in accordance with the provisions of the Securities Regulation Code and its implementing rules and regulations;
> (f) the clearing and settlement of financial transactions through the facilities of a clearing agency or similar entities duly authorized, registered and/or recognized by the appropriate regulatory agency like the Bangko Sentral ng Pilipinas (BSP) and the SEC as well as any form of actions of such agencies or entities to reimburse themselves for any transactions settled for the debtor; and
> (g) any criminal action against individual debtor or owner, partner, director or officer of a debtor shall not be affected by any proceeding commend under this Act. (Emphasis supplied)

As of commencement date, the appeal from the RTC judgment was pending with the CA, hence, not covered by the exception in Sec. 18(a).

This notwithstanding, the Court cannot sustain petitioner's theory that the August 20, 2015 Decision of the CA affirming the RTC judgment is null and void because it was rendered *after* the issuance of the Commencement Order.

The Court's earlier rulings on the fatal consequence of continuing court proceedings or any process to enforce all claims against the debtor during the effectivity of the suspension or stay order are anchored on the violation of the provisions of the law then in force, P.D. No. 902-A. Said law mandates that "upon appointment of a management committee, rehabilitation receiver, board or body, pursuant to this Decree, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body, shall be suspended accordingly."[75]

In the oft-cited case of *Lingkod Manggagawa sa Rubberworld AdidasAnglo v. Rubberworld (Phils.), Inc.*[76] (*Lingkod Manggagawa*), decided under the regime of P.D. No. 902-A and involving a distressed corporation placed under a management committee, the Court categorically declared the nullity of the decision and orders of the Labor Arbiter and the National Labor Relations Commission (*NLRC*), which proceeded with an unfair labor practice case despite the suspension order issued by the SEC. In affirming the CA which had granted the petition for *certiorari* filed by Rubberworld, the Court held:

> Given the factual milieu obtaining in this case, it cannot be said that the decision of the Labor Arbiter, or the decision/dismissal order and writ of execution issued

by the NLRC, could ever attain final and executory status. **The Labor Arbiter completely disregarded and violated Section 6(c) of Presidential Decree 902-A, as amended, which categorically mandates the suspension of all actions for claims against a corporation placed under a management committee by the SEC. Thus, the proceedings before the Labor Arbiter and the order and writ subsequently issued by the NLRC are all null and void for having been undertaken or issued in violation of the SEC suspension Order dated December 28, 1994.** As such, the Labor Arbiter's decision, including the dismissal by the NLRC of Rubberworld's appeal, could not have achieved a final and executory status.

Acts executed against the provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity. The Labor Arbiter's decision in this case is void *ab initio*, and therefore, non-existent. A void judgment is in effect no judgment at all. No rights are divested by it nor obtained from it. Being worthless in itself, all proceedings upon which the judgment is founded are equally worthless. It neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void. In other words, a void judgment is regarded as a nullity, and the situation is the same as it would be if there were no judgment. It accordingly leaves the party-litigants in the same position they were in before the trial.[77] (Emphases supplied)

In subsequent cases,[78] the Court reiterated the doctrine that all actions for claims against corporations undergoing rehabilitation are *ipso jure* suspended upon the effectivity of the suspension or stay order whether or not the case has reached the execution stage.

In the case of *La Savoie Development Corp. v. Buenavista Properties, Inc.*[79] (*La Savoie*), the Court found no reason not to apply the rule in *Lingkod Manggagawa* since the case also involved a final judgment rendered by the Labor Arbiter despite the issuance of a suspension order. In *La Savoie*, a complaint for termination of contract and recovery of property with damages was filed before the Quezon City RTC against La Savoie Development Corporation (*LSDC*). While that case was pending, LSDC filed a petition for rehabilitation before the Makati City RTC which issued a Stay Order on June 4, 2003. In the meantime, the Quezon City RTC rendered a Decision on June 12, 2003 against LSDC. LSDC was only able to notify the Quezon City RTC of the issuance of the Stay Order a few days after, in a manifestation dated June 21, 2003. Eventually, a writ of execution was issued by

the Quezon City RTC on November 21, 2007.

Subsequently, the Makati City RTC approved an Amended Revised Rehabilitation Plan (*ARRP*). Among the terms of the ARRP, the Makati City RTC reduced the amount of penalty imposed on LSDC. Such change was questioned before the CA, which annulled the ARRP insofar as it reduced the amount of penalty adjudged by the Quezon City RTC. On the issue of whether the CA's ruling was correct, the Court held:

> Here, the Rehabilitation Court issued a Stay Order on June 4, 2003 or during the pendency of Civil Case No. Q-98-33682 before the QC RTC. The effect of the Stay Order is to *ipso jure* suspend the proceedings in the QC RTC at whatever stage the action may be. The Stay Order notwithstanding, the QC RTC proceeded with the case and rendered judgment. The judgment became final and executory on July 31, 2007. Respondent relies on this alleged finality to prevent us from looking into the effect of the Stay Order on the QC RTC Decision. Respondent's attempt fails.
>
> In *Lingkod Manggagawa sa Rubberworfd Adidas-Anglo v. Rubbervvorld (Phils.), Inc. (Lingkod)*, we ruled that proceedings and orders undertaken and issued in violation of the SEC suspension order are null and void; as such, they could not have achieved a final and executory status.
>
> x x x x
>
> We see no reason not to apply the rule in *Lingkod* in case of violation of a stay order under the Interim Rules. Having been executed against the provisions of a mandatory law, the QC RTC Decision did not attain finality.
>
> x x x x
>
> Necessarily, we reject respondent's contention that the Rehabilitation Court cannot exercise its cram-down power to approve a rehabilitation plan over the opposition of a creditor. Since the QC RTC Decision did not attain finality, there is no legal impediment to reduce the penalties under the ARRP.[80]

While both *Lingkod Manggagawa* and *La Savoie* dealt with suspension or stay orders issued in accordance with P.D. No. 902-A, such prior pronouncements are equally applicable to

suspensions of proceedings pursuant to FRIA.

More recently, in *Kaizen Builders, Inc. v. Court of Appeals*[81] (*Kaizen Builders*), the Court similarly applied the earlier rulings when it declared void the CA's decision which was rendered after the issuance of a commencement order by the rehabilitation court in accordance with FRIA, thus:

> Here, it is undisputed that Kaizen Builders filed a petition for corporate rehabilitation. Finding the petition sufficient in form and substance, the rehabilitation court issued a Commencement Order on August 12, 2015 or during the pendency of the appeal in CA-G.R. CV No. 102330. Yet, the CA proceeded with the case and rendered judgment. On this point we find grave abuse of discretion. To reiterate, the Commencement Order *ipso jure* suspended the proceedings in the CA at whatever stage it may be, considering that the appeal emanated from a money claim against a distressed corporation which is deemed stayed pending the rehabilitation case. Moreover, the appeal before the CA is not one of the instances where a suspension order is inapplicable. The CA should have abstained from resolving the appeal. Taken together, the CA clearly defied the effects of a Commencement Order and disregarded the state policy to encourage debtors and their creditors to collectively and realistically resolve and adjust competing claims and property rights. Applying the pronouncements in *Lingkod Manggagawa sa Rubberworld* and *La Savoie Development Corp.*, the CA's Resolution dated December 8, 2015 and Decision dated October 1, 2018 in CA-G.R. CV No. 102330 are void for having been rendered with grave abuse of discretion and against the provisions of a mandatory law.[82]

It must be noted that in *Lingkod Manggagawa* and *Kaizen Builders*, the Labor Arbiter and the CA, respectively, were properly informed of the issuance of suspension of payment/commencement order while the case was pending before them, and yet they still proceeded with rendition of judgment. Thus, the Court, in those cases, necessarily found the decisions themselves to be null and void.

Meanwhile in *La Savoie*, when the Quezon City RTC was informed of the rehabilitation proceedings, it was already after it rendered its judgment, but before it had issued the entry of judgment and writ of execution. Notably, in finding that the rehabilitation court could still modify the penalties imposed on LSDC, the Court did not expressly declare the Quezon City

RTC decision itself to be null and void, but only that it did not attain finality.

Considering the attendant circumstances, we hold that *La Savoie* is not controlling in this case. At the time the CA decided the instant case, it was not bound to take note of and consider the pendency of the rehabilitation proceedings, as the matter was not properly brought to its attention.

Relevantly, the case of *De Castro v. Liberty Broadcasting Network, Inc.*[83] highlights the necessity of properly informing courts of any pending rehabilitation proceeding involving the parties. An earlier motion for suspension of proceedings was filed before this Court by the Liberty Broadcasting Network, Inc. (*LBNI*), but the same was not included in its memoranda. While the Court eventually affirmed the ruling against therein respondent corporation, the NLRC was nonetheless directed to suspend the execution of its decision, until the stay order is lifted or the rehabilitation proceedings are terminated. Thus:

> **"The Court does not take judicial notice of proceedings in the various courts of justice in the Philippines." At the time we decided the present case, we were thus not bound to take note of and consider the pendency of the rehabilitation proceedings, as the matter had not been properly brought to our attention.** In *Social Justice Society v. Atienza*, we said that:
>
> > In resolving controversies, courts can only consider facts and issues pleaded by the parties. Courts, as well as magistrates presiding over them are not omniscient. They can only act on the facts and issues presented before them in appropriate pleadings. They may not even substitute their own personal knowledge for evidence. Nor may they take notice of matters except those expressly provided as subjects of mandatory judicial notice.
> >
> > [x x x x]
> >
> > **The party asking the court to take judicial notice is obligated to supply the court with the full text of the rules the party desires it to have notice of.**

Notably, LBNI's memorandum was filed on May 4, 2006, more than 180 days

> from the date of the initial hearing on October 5, 2005 (as set in the Stay Order of August 19, 2005). Under Section 11, Rule 4 of the Interim Rules of Procedure on Corporate Rehabilitation (*Interim Rules*), a petition for rehabilitation shall be dismissed if no rehabilitation plan is approved by the court upon the lapse of 180 days from the date of initial hearing. While the Interim Rules grant extension beyond the 180-day period, no such extension was alleged in this case; in fact, as we earlier pointed out, **no mention at all was made in LBNI's memorandum of the rehabilitation proceedings. With the failure of LBNI to raise rehabilitation proceedings in its memorandum, the Court had sufficient grounds to suppose that the rehabilitation petition had been dismissed by the time the case was submitted for decision.**
>
> Given these circumstances, the existence of the Stay Order — which would generally authorize the suspension of judicial proceedings, even those pending before the Court — could not have affected the Court's action on the present case. **At any rate, a stay order simply suspends all actions for claims against a corporation undergoing rehabilitation; it does not work to oust a court of its jurisdiction over a case properly filed before it. Our ruling on the principal issue of the case — that de Castro had been illegally dismissed from his employment with LBNI — thus stands.**
>
> Nevertheless, with LBNI's manifestation that it is still undergoing rehabilitation, the Court resolves to suspend the execution of our September 23, 2008 Decision. The suspension shall last up to the termination of the rehabilitation proceedings, as provided in Section 11, in relation to Section 27, Rule 4 of the Interim Rules[.][84] (Emphases supplied; citation omitted)

Here, there is absolutely no showing that petitioner notified respondent or the CA of the issuance of the December 15, 2014 Commencement Order during the pendency of the appeal before the CA. It was only after the CA had promulgated its Decision on August 20, 2015 that it was apprised of the rehabilitation proceedings. In a Compliance dated September 4, 2015, petitioner's counsel of record, Atty. Casurra, manifested that he ceased to be recognized from the time a petition for rehabilitation was filed by a different law office.[85] Likewise, the Manifestation of Ocampo dated October 13, 2015 informed the CA of the rehabilitation proceedings, and sought nullification of the CA Decision on the ground that it was rendered during the effectivity of the Commencement/Stay Order.[86] Even then,

it was admitted therein that it was incumbent upon Atty. Casurra to inform the CA of the filing of the petition for rehabilitation, which the former counsel failed to do. In any case, both pleadings were undoubtedly filed only after the CA rendered the challenged Decision.

We note that in his manifestation, Ocampo did not state whether the amount being claimed by respondent was already included in the schedule of debts and liabilities submitted to the Rehabilitation Court, and whether respondent was listed as among the creditors/claimants of petitioner, as required by the FR Rules.[87] He did not even apprise the CA of the status of the rehabilitation proceedings.

It bears to stress that the parties had been litigating for decades over their failed supply contract. In G.R. No. 114323, the Court had resolved with finality the jurisdictional and procedural issues involving the arbitrator's award in favor of respondent which was recognized by the foreign court. These are the very same grounds raised by petitioner before the CA to repel enforcement of the foreign judgment. It behooved on petitioner to demonstrate good faith by giving proper notice to the CA, and to respondent as one of petitioner's creditors/claimants, that it had initiated rehabilitation proceedings and the current status thereof. Apparently, petitioner intentionally failed to disclose these developments in anticipation of a favorable ruling on its appeal.

Petitioner further insists that it was not necessary to give notice to respondent since it already complied with the publication requirement under the rules. Thus, the failure of petitioner to inform the CA and respondent of the rehabilitation case will not exempt the case on appeal (CA-G.R. CV No. 02916-MIN) from the effects of the Commencement Order and Stay Order. This proceeds from the nature of rehabilitation proceedings under FRIA:

> Section 3. *Nature of Proceedings*. – The proceedings under this Act shall be [*in rem*]. Jurisdiction over all persons affected by the proceedings shall be considered as acquired upon publication of the notice of the commencement of the proceedings in any newspaper of general circulation in the Philippines in the manner prescribed by the rules of procedure to be promulgated by the Supreme Court.
>
> The proceedings shall be conducted in a summary and non adversarial manner consistent with the declared policies of this Act and in accordance with the rules of procedure that the Supreme Court may promulgate.

Such argument fails to convince. There can be no dispute as to the *in rem* nature of rehabilitation proceedings under FRIA. Nevertheless, in addition to publication, the FRIA and the FR Rules also require personal notice to certain classes of creditors and entities.

Under Sec. 8(H), Rule 2(B) of the FR Rules, implementing Sec. 16(g) of FRIA, if petitioner is the debtor, as in this case, the court shall:

> x x x [D]irect the debtor to serve, by personal delivery, a copy of the petition on (i) each creditor holding at least ten percent (10%) of the total liabilities of the debtor as determined from the schedule attached to the petition, (ii) the Bureau of Internal Revenue (BIR), and (iii) the appropriate or relevant regulatory [agency.]

Further, under Sec. 8(J), Rule 2(B) of the FR Rules, petitioner should likewise be directed "to ensure that foreign creditors with no known addresses in the Philippines be served a copy of the Commencement Order at their foreign addresses in such a manner that will ensure that the foreign creditor shall receive a copy of the order at least fifteen (15) days before the initial hearing."

Respondent is a foreign creditor of petitioner with principal office located in Tel Bhavan, Dehradun, India. For the purpose of the present case, respondent may be served with this Court's processes through its counsel of record.[88] There is no indication in the records that respondent has a business address in the Philippines. This circumstance alone would have entitled respondent to receive a copy of the Commencement Order at least 15 days before the initial hearing in accordance with Sec. 8(J), Rule 2(B). Moreover, considering the substantial amount of respondent's claim under the foreign judgment (US$899,603.77, exclusive of interest and costs), respondent may very well have been entitled to notice by personal delivery under Sec. 8(H), Rule 2(B) of the FR Rules.

Notice to such classes of creditors as specified in the commencement order is not an empty gesture, but a jurisdictional requirement under Sec. 13, Rule 2(B) of the FR Rules, which states:

> Section 13. *Compliance with jurisdictional requirements*. – On or before the first initial hearing set in the Commencement Order, the petitioner shall file a publisher's affidavit showing that the publication requirements and a petitioner's

affidavit showing that the service requirement for local creditors and notification requirement for foreign creditors had been complied with, as required in the Commencement Order.

Before proceeding with the initial hearing, the court shall determine whether the jurisdictional requirements set forth above had been complied with.

Sec. 17 of FRIA sets forth the legal effects of the commencement order to pending actions and claims, *viz*.:

Section 17. *Effects of the Commencement Order*. — Unless otherwise provided for in this Act, the court's issuance of a Commencement Order shall, in addition to the effects of a Stay or Suspension Order described in Section 16 hereof:

(a) vest the rehabilitation receiver with all the powers and functions provided for in this Act, such as the right to review and obtain all records to which the debtor's management and directors have access, including bank accounts of whatever nature of the debtor, subject to the approval by the court of the performance bond filed by the rehabilitation receiver;

(b) prohibit, or otherwise serve as the legal basis for rendering null and void **the results of any extrajudicial activity or process to seize property, sell encumbered property, or otherwise attempt to collect on or enforce a claim against the debtor** after the commencement date unless otherwise allowed in this Act, subject to the provisions of Section 50 hereof;

(c) serve as the legal basis for rendering null and void **any set-off after the commencement date of any debt** owed to the debtor by any of the debtor's creditors;

(d) serve as the legal basis for rendering null and void the **perfection of any lien** against the debtor's property after the commencement date; and

(e) **consolidate the resolution of all legal proceedings by and against the debtor to the court:** *Provided, however*, That the court may allow the continuation of cases in other courts where the debtor had initiated the suit.

Attempts to seek legal or other recourse against the debtor outside these proceedings shall be sufficient to support a finding of indirect contempt of court. (Emphases supplied)

In relation thereto, Sec. 16(q) of FRIA provides that the commencement order shall:

> (q) include a Stay or Suspension Order which shall:
>
> (1) suspend all actions or proceedings, in court or otherwise, for the enforcement of claims against the debtor;
> (2) suspend all actions to enforce any judgment, attachment or other provisional remedies against the debtor;
> (3) prohibit the debtor from selling, encumbering, transferring or disposing in any manner any of its properties except in the ordinary course of business; and
> (4) prohibit the debtor from making any payment of its liabilities outstanding as of the commencement date except as may be provided herein.

It is clear from the foregoing that it is the enforcement of a claim by way of execution, foreclosure, attachment or levy on the debtor's property, or collection efforts such as garnishment or any means of payment, satisfaction or settlement of any debt or monetary obligation against the debtor, that would be nullified by the application of Sec. 17. The word "enforcement" is used to denote disposition of property or money to satisfy a claim by a creditor.

Nowhere in FRIA is it stated that any action taken on pending actions against the debtor, including rendition of judgment, is automatically voided on the ground that it was rendered or issued after the issuance of a commencement order. The mandate of the law is simply to consolidate the resolution of all such legal proceedings by and against the debtor to the rehabilitation court. As what happened in this case, the court, in a pending suit against the debtor, may have proceeded to render judgment for lack of information regarding the pendency of rehabilitation proceeding involving the said debtor.

Indeed, a stay order simply suspends all actions for claims against a corporation undergoing rehabilitation; it does not work to oust a court of its jurisdiction over a case properly filed before it.[89] It must also be emphasized that the suspension is only for a temporary period to prevent the irreversible collapse of the corporation and give the management committee or receiver the absolute tranquility to study the viability of the corporation.[90]

In sum, the Court holds that, as to the rendition of judgment by the CA on petitioner's appeal, petitioner may not seek its nullification on the ground that it was rendered after the effectivity of the Stay Order. The CA, therefore, did not err in issuing the assailed

Resolutions sustaining its August 20, 2015 Decision and granting respondent's motion to remand the case to the RTC, subject to the ongoing rehabilitation proceedings initiated by petitioner.

The Court clarifies that We are not abandoning the doctrine enunciated in *Lingkod Manggagawa*. The stay order incorporated in a commencement order shall suspend all actions or proceedings, in court or otherwise, for the enforcement of claims against the debtor,[91] subject to certain exceptions as mentioned earlier. Practically, however, other courts and tribunals must of course first be apprised of the rehabilitation proceedings and the issuance of the stay order so that they may suspend their own proceedings.

As what happened in this case, courts and tribunals are not always properly and promptly informed of the issuance of a commencement order that involves or affects the party litigants, whether as creditor or debtor. To obviate the possibility of separate suits or appeals questioning orders or judgments rendered in violation of a commencement/stay order, which will only delay the consolidation of all legal proceedings in the rehabilitation court, it is imperative for the Court to formulate guidelines on the matter of actual notice to the concerned court or tribunal.

In view of the foregoing, the Court hereby mandates that the following procedure be observed in the conduct of financial rehabilitation proceedings pursuant to FRIA and the FR Rules:

> Upon the appointment of a rehabilitation receiver, the rehabilitation court shall instruct the former to notify all courts or tribunals before which the debtor/s has/have pending actions, by way of manifestation, of the existence of the petition for rehabilitation, the court before which the petition was filed, the date of its filing, and the fact of the issuance of a commencement order and stay order.
>
> In cases where the petitioner/sis/are debtor/s, the courts or tribunals to be notified shall be those indicated in the verified petition and affidavit of general financial condition, as required by Sec. 2(A)(7) and (10), Rule 2(A) of the FR Rules.
>
> In cases where the petitioner/s is/are creditor/s, the rehabilitation court shall, together with the appointment of a rehabilitation receiver, instruct the latter to

ascertain the existence of any pending actions or proceedings by or against the debtor/s.

The rehabilitation receiver shall report its compliance herewith to the rehabilitation court on the date of the initial hearing.

The rehabilitation court shall further require the rehabilitation receiver, should the latter learn of any other pending actions by or against the debtor/s, to notify such other court or tribunal of the existence of the petition for rehabilitation, the court before which the petition was filed, the date of its filing, and the fact of the issuance of a commencement order and stay order, by way of manifestation within five calendar days from the rehabilitation receiver's knowledge of such other actions. The rehabilitation receiver shall likewise report its compliance herewith to the rehabilitation court within five calendar days.

WHEREFORE, the petition is **DENIED**. The August 20, 2015 Decision, and the August 22, 2016 and January 11, 2017 Resolutions of the Court of Appeals, Cagayan de Oro City in CA-G.R. CV No. 02916-MIN are **AFFIRMED**.

The Office of the Court Administrator is **DIRECTED** to **DISSEMINATE** copies of this Decision to all trial courts, for their guidance.

SO ORDERED.

Leonen, SAJ., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ.*, concur.

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[1] *Rollo*, pp. 3-37.

[2] *Id*. at 48-75; penned by Associate Justice Pablito A. Perez and concurred in by Associate Justices Romulo V. Borja and Oscar V. Badelles.

[3] *Id*. at 77-79 and 81-83, respectively; penned by Associate Justice Ruben Reynaldo G. Roxas and concurred in by Associate Justices Edgardo A. Camello and Rafael Antonio M. Santos.

[4] *Id*. at 84-102; penned by Presiding Judge Evangeline S. Yuipco Bayana.

[5] 354 Phil. 830 (1998).

[6] The title and interest in and to Pacific Cement Company's assets, operations, and outstanding obligations were transferred to Pacific Cement Philippines, Inc., who is the party that filed the instant petition; *rollo*, pp. 3-6.

[7] **Oil and Natural Gas Commission v. Court of Appeals**, *supra* at 833.

[8] *Id.*

[9] *Id.* at 834.

[10] *Id.* at 835.

[11] *Id.* at 836.

[12] *Id.* at 837.

[13] *Id.* at 837-838.

[14] *Id.* at 838.

[15] *Id.* at 838-839.

[16] **Oil and Natural Gas Commission v. Court of Appeals**, *supra* note 5.

[17] **Oil and Natural Gas Commission v. Court of Appeals**, *supra* note 5, at 840-844, 846-850.

[18] *Id.* at 850-851.

[19] **Oil and Natural Gas Commission v. Court of Appeals**, 373 Phil. 928 (1999).

[20] *Id.* at 941.

[21] *Rollo*, pp. 90-91.

[22] *Id.* at 91.

[23] *Id.* at 94.

[24] *Id.* at 96-97.

[25] *Id.* at 97.

[26] *Id.* at 101-102.

[27] *Id.* at 103.

[28] *Id.* at 60-61.

[29] *Id.* at 64-67.

[30] *Id.* at 67-68.

[31] *Id.* at 68-72.

[32] *Id.* at 74.

[33] *Id.* at 74-75.

[34] *Id.* at 131-132.

[35] *Id.* at 131-135.

[36] **A.M. No. 12-12-11-SC**, August 27, 2013.

[37] *Rollo*, pp. 134-135.

[38] *Id.* at 107-112.

[39] *Id.* at 113-116.

[40] *Id.* at 121-130.

[41] *Id.* at 139-142.

[42] *Id.* at 141.

[43] *Id.* at 143-144.

[44] *Id.* at 145-149.

[45] *Id.* at 146-147.

[46] *Id.* at 78-79.

[47] *Id.* at 150-166.

[48] *Id.* at 152-155.

[49] *Id.* at 167-180.

[50] *Id.* at 171-173.

[51] *Id.* at 82.

[52] *Id.* at 17-25.

[53] *Id.* at 25-30.

[54] *Id.* at 30-32.

[55] *Id.* at 422-432.

[56] *Id.* at 432-437.

[57] See P.D. No. 1653 (1979) and P.D. No. 1758 (1981).

[58] Act No. 1956 (1909), Sec. 9, in relation to Sec. 6.

[59] Sec. 5. x x x

a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations; and

d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree.

[60] R.A. No. 8799 (2000), Sec. 5.2.

[61] **A.M. No. 00-8-10-SC.**

[62] **Bank of the Philippine Islands v. Sarabia Manor Hotel Corp.**, 715 Phil. 420, 436 (2013).

[63] See note 36.

[64] **Ruby Industrial Corporation v. Court of Appeals**, 348 Phil. 480, 497 (1998).

[65] **Rubberworld (Phils.), Inc. v. National Labor Relations Commission**, 365 Phil. 273, 284 (1999).

[66] R.A. No. 10142, Sec. 4(gg).

[67] *Id.*, Sec. 2.

[68] 693 Phil. 336 (2012).

[69] *Id.* at 346-347.

[70] 543 Phil. 546 (2007).

[71] **Molina v. Pacific Plans, Inc.**, 671 Phil. 119, 129 (2011), citing **Philippine Airlines v. Spouses Kurangking**, 438 Phil. 375, 382 (2002).

[72] Financial Rehabilitation Rules of Procedure (2013), Rule 1, Sec. 5(e), in relation to Rule 2(8), Sec. 7.

[73] *Id.*, Rule 2(B), Secs. 7 and 8(V).

[74] *Id.*, Sec. 8(V).

[75] P.D. No. 902-A, as amended by P.D. No. 1758, Sec. 6(c).

[76] 542 Phil. 203 (2007).

[77] *Id.* at 212-213.

[78] **Molina v. Pacific Plans, Inc.**, *supra* note 71; **Castilla v. Uniwide Warehouse Club,**

Inc., 634 Phil. 41 (2010); **Philippine Airlines, Inc. v. Court of Appeals**, 596 Phil. 500 (2009); **Negros Navigation Co., Inc. v. Court of Appeals**, 594 Phil. 96 (2008).

[79] 854 Phil. 125 (2019).

[80] *Id.* at 138-141.

[81] **G.R. No. 226894**, September 3, 2020, 949 SCRA 230.

[82] *Id.* at 249-250.

[83] 643 Phil. 304 (2010).

[84] *Supra* note 83, at 313-314.

[85] *Rollo*, p. 108.

[86] *Id.*

[87] Rule 2(A), Sec. 2(B) of the FR Rules requires the petition for rehabilitation to be accompanied by the following documents:

x x x x

(4) a Schedule of Debts and Liabilities which lists all the creditors of the debtor, indicating the name and last address of record of each creditor; the amount of each claim as to principal, interest, or penalties due thirty (30) days prior to the date of filing; the nature of the claim; and any pledge, lien, mortgage, judgment or other security given for the payment thereof;

x x x x

(9) a Statement of Possible Claims by or against the debtor which must contain a brief statement of the facts which might give rise to the claim and an estimate of the probable amount thereof[.]

[88] *Rollo*, p. 6.

[89] **De Castro v. Liberty Broadcasting Network, Inc.**, *supra* note 83, at 314.

[90] **BF Homes, Incorporated v. Court of Appeals**, 268 Phil. 276, 284-285 (1990), citing **BF Homes, Inc. v. Hon. Fernando P. Agdamag, CA-G.R. SP No. 09680**, October 16, 1986.

[91] R.A. No. 10142, Sec. 16(q)(l).

Date created: October 17, 2023