

INSURANCE COMMISSION, PETITIONER, VS. HON. JOSELITO C. VILLAROSA, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 66, MR. BERNARDITO TORRES...

Ponente: SALANDANAN-MANAHAN, J.

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SALANDANAN-MANAHAN, J.:

The Case

This Petition for Certiorari seeks to reverse and set aside the following issuances of the public respondent Regional Trial Court of Makati City, Branch 66, in Special Proceedings Case No. M-6802 entitled "In the Matter of Petition for Corporate Rehabilitation, Permanent Plans, Inc., Petitioner":

(1)

The Order dated August 14, 2013[1] ordering the United Coconut Planters Bank-Valero Branch and/or its Branch Manager to release from the Trust Fund of Permanent Plans, Inc., the sum of P2,000,000.00 to Bernardito M. Torres; and

(2)

The Order dated September 23, 2013[2] denying the petitioner's Motion for Reconsideration.

The Antecedents

The petitioner Insurance Commission (IC) is the regulatory Agency vested with the primary and exclusive supervision and regulation of all pre-need companies pursuant to Republic Act No. 9829 (RA 9829) also known as the "Pre-Need Code of the Philippines."

The private respondent Permanent Plans, Inc. (PPI) is a corporation duly organized and existing in accordance with and by virtue of the laws of the Philippines. It is engaged in the business of selling pre-need plans in the Philippines.

Private respondent Bernardito M. Torres (Torres) is the transferee/assignee and successor-in-interest of planholders Benita and Felix Nocedas (the Nocedas) of their policies, JPA 5/15 Policy Nos. 0017712 and 0017713 having a face value of P1,000,000.00 each, subject of the assailed Orders.

On the other hand, the private respondent Fernando G. Mate, Jr. (Mate) is the then Court-Appointed Receiver and thereafter, the Court-Appointed Liquidator in Special Proceedings No. M-6802, vested with the powers and duties effecting the winding up and liquidation of the private respondent PPI and its Trust Fund.

On May 21, 2009, the private respondent PPI filed a Petition for Rehabilitation[3] with the Regional Trial Court of Makati City, which was raffled off to Branch 66 thereof, presided by herein public respondent Judge. It was docketed as Special Proceedings No. M-6802.

Eventually, the said Petition became one for dissolution and liquidation upon finding out that the private respondent PPI was already insolvent and that rehabilitation is no longer feasible.

In an Order[4] dated March 11, 2011, the public respondent Judge granted the Joint Motion to Approve Proposed Liquidation Program for Petitioner's Trust Fund filed by the private respondents PPI and Mate.

On April 4, 2011, the petitioner IC together with the Securities and Exchange Commission (SEC) filed a Motion for Partial Reconsideration[5] of the Order dated March 11, 2011, insofar as the approved liquidation program excluded PPI's planholders, now in their capacity as PPI's ordinary creditors, from participating in the liquidation of PPI's remaining corporate assets, with respect to the unsatisfied portion of their respective policies from the Trust Fund.

On August 19, 2011, the public respondent Judge issued an Order[6] which denied the said Motion for Partial Reconsideration and disposed as follows:

"WHEREFORE, premises considered, the Motion for Partial Reconsideration is hereby DENIED for lack of merit as well as for failure to comply with Sections 4 and 5, Rule 15.

xxx xxx xxx

With regard the Manifestation with Motion, the same is hereby GRANTED. Consequently and pursuant to R.A. 9828, petitioner and the Court-Appointed Liquidator are hereby AUTHORIZED to turn over to the Insurance Commission, for its proper disposition, the complete planholder records, the assets and accounts covering the Trust Fund, within a non-extendible period of thirty (30) days from receipt hereof.

Finally, the Urgent Ex-Parte Motion to Approve attached Deed of Assignment is hereby GRANTED. Accordingly, the assignment by Felix G. Noceda and Benita G. Noceda of all their rights, interest and participation over the JPA 5/15 Policy Nos. 0017712 and 0017713 issued by petitioner is hereby NOTED and approved.

SO ORDERED."[7]

The petitioner IC together with the SEC assailed the Orders dated March 11, 2011 and August 19, 2011 before this Court by way of Petition for Certiorari[8] entitled "Securities and Exchange Commission and Insurance Commission vs. Hon. Joselito Villarosa, in his capacity as Presiding Judge of the Regional Trial Court, National Capital Judicial Region, Makati City, Branch 66, Permanent Plans, Inc., and Mr. Ferdinand G. Mate, Jr., in his capacity as the Court-Appointed Liquidator." It was docketed as CA-G.R. No. 121908.

On July 31, 2012, the Sixth Division of this Court rendered a Decision,[9] the dispositive portion thereof reads as follows:

"WHEREFORE, premises considered, the instant petition is granted and the March 11, 2011 and August 19, 2011 Orders of the Public Respondent Honorable Joselito C. Villarosa, Presiding Judge of the Regional Trial Court of Makati City, Branch 66 insofar as the assailed provision of the Approved Liquidation Program of Private Respondents is concerned are hereby ANNULED and SET ASIDE.

SO ORDERED."[10]

In the meantime, the private respondent Torres, as the transferee/assignee of planholders Benita and Felix Noceda, with respect to the latter's JPA 5/15 Policy Nos. 0017712 and 0717713 issued by PPI filed a Motion for Execution[11] dated April 19, 2013 with the RTC of Makati City, Branch 66, praying that an order be issued directing petitioner IC or in the alternative, the United Coconut Planter's Bank (UCPB)-Valero Branch, to release from private respondent PPI's Trust Fund the sum of P2,000,000.00.

On April 26, 2013, the private respondents PPI and Mate, the Court-Appointed Liquidator filed a Manifestation,[12] which stated, among others, that the private respondent "Mr. Torres and the other planolders/creditors of Permanent Plans, Inc. could have been paid and their claims settled if only the Insurance Commission has complied with the letter of herein petitioner [PPI] and Court-Appointed Liquidator dated July 25, 2012. In that Letter, the Insurance Commission was requested to release the amount of P18,981,532.61 so that Permanent Plans, Inc. can pay off claims against it (including that of the Spouses Noceda/Mr. Torres) in the amount of P17,331.982.00."

On April 26, 2013, the public respondent Judge issued an Order[13] which granted the Motion for Execution filed by the private respondent claimant Torres, but at the same time, directed the petitioner IC to comment on the same motion filed by the claimant.

On June 5, 2013, the petitioner IC filed a Motion for Clarification[14] of the Order dated April 26, 2013, its Comment[15] on the Motion for Execution dated April 19, 2013, and Manifestation dated April 26, 2013.

In an Order[16] dated June 25, 2013, the public respondent Judge set for hearing on June 28, 2013, the petitioner's Motion for Clarification of the Order dated April 26, 2013.

On June 28, 2013, after the parties clarified matters regarding the Petition for Rehabilitation of the private respondent PPI, the public respondent Judge issued an Order[17] directing the petitioner IC to inform and submit to the Court, copy furnished the private respondents PPI and Mate, the Court-Appointed Liquidator, of whatever will be the findings of the CRL-SEC Team as regards the implementation of the approved plan for the immediate distribution and release of the obligation to the planholders.

Thereafter, on August 14, 2013, the public respondent issued the first assailed Order,[18] which granted the private respondent Torres' Motion for Execution. The full text of the said Order is quoted as follows, to wit:

"Before this Court are the following:

a)

Motion for Execution filed by Assignee Bernardito M. Torres;

b)

Manifestation filed by Petitioner and Court Appointed Liquidator;

c)

Comment (on the Motion for Execution dated April 19, 2013 and Manifestation dated April 26, 2013) filed by the Office of the Solicitor General;

d)

Reply filed by Assignee Bernardito M. Torres.

Above all, the Court directs the parties attention to its April 26, 2013 Order, which provides:

"Considering that Petitioner Permanent Plans, Inc., has no objection to the Motion for Execution filed by claimant Bernardito Torres, the Motion is hereby GRANTED.

The Insurance Commission is given 10 days to Comment on the Motion filed by the claimant."

A painstaking reading of the Comment of the OSG reveals that it does not interpose any objection on the issue at hand. The said comment expounded and explained the delays in the distribution of the Trust Fund as well as

the administrative payment done.

In view of the fact that no party interpose any objection on the Motion for Execution, the same is hereby GRANTED.

WHEREFORE, premises considered, United Coconut Planters Bank-Valero Branch and/or its Branch Manager is ORDERED to release from the Trust Fund of Permanent Plans, Inc., the sum of Php2,000,000.00 to Bernardito M. Torres.

SO ORDERED."

Not satisfied, the petitioner Insurance Commission moved for reconsideration. On September 23, 2013, the public respondent Judge issued the second assailed Order[19] which denied the Motion for Reconsideration and the pertinent portions of which read as follows:

"xxx xxx xxx

After an assiduous and sedulous perusal of the arguments raised by all the parties herein, the Court finds the said Motion not to be impressed with merit; the same is hereby DENIED.

The Court cannot rule in favor of the Insurance Commission on a mere guess. Further, it admits that only Permanent Plans can shed light on this matter, which the latter did. On July 25, 2012, the Chairman/CEO of petitioner as well as this Court's appointed liquidator wrote the Insurance Commission regarding the pay off of the sum of Php17,331,982.00 due to those former planholders who have outstanding claims against petitioner. Among said planholders are Benita and Felix Noceda.

WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED."

Hence, this recourse by the petitioner raising the following grounds for the allowance of the petition,[20] to wit:

"I.

RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ORDERING THE RELEASE OF THE SUBJECT P2M FROM PRIVATE RESPONDENT PPI'S TRUST FUND TO PAY OFF THE FACE VALUE OF THE POLICIES OF THE PLANHOLDERS NOCEDAS, DESPITE THE FACT THAT THE SAME AMOUNT HAD BEEN EARLIER WITHDRAWN BY PRIVATE RESPONDENT PPI FROM, AND THUS, ALREADY REIMBURSED BY THE TRUST FUND.

II.

IN APPROVING THE SAID WITHDRAWAL AND RELEASE OF THE SUBJECT P2M AGAIN FROM THE PPI TRUST FUND, RESPONDENT JUDGE, WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION, IN EFFECT, RULED THAT THERE CAN BE A VALID SET OFF BETWEEN PRIVATE RESPONDENT PPI'S OWN OBLIGATIONS TO THE PLANHOLDERS, WHOSE CLAIMS TO THE TRUST FUND IT HAD EARLIER WITHDRAWN BUT SOMEHOW REMAINED UNRELEASED TO THE LATTER, SUCH AS THE NOCEDAS (PRIVATE RESPONDENT TORRES' PREDECESSORS-IN-INTEREST), AND ITS ALLEGED RECEIVABLES FROM OTHER PLANHOLDERS WHO HAVE OUTSTANDING CONTRACTUAL LOANS TO IT, DESPITE THE ABSENCE OF ALL THE ELEMENTS OF LEGAL COMPENSATION PROVIDED UNDER THE CIVIL CODE."

The Issue

The core issue for the Court's resolution is whether or not the public respondent Judge committed grave abuse of

discretion amounting to lack or excess of jurisdiction in issuing the assailed Orders dated August 14, 2013 and September 23, 2013.

In challenging the Orders dated August 14, 2013 and September 23, 2013 of the public respondent Judge, the petitioner IC is not contesting the validity of private respondent Torres' claims as the assignee of the JPA 5/15 Policy Nos. 0017712 and 0017713 belonging to the Planholders Necedas, with a total value of P2,000,000.00. It argued that while the private respondent Torres may have a valid claim under the matured policies of his predecessors-in-interest, who were the former planholders of private respondent PPI, the same cannot again be enforced against or collected from the Trust Fund. The petitioner claims that it is the private respondent PPI which should answer and account for the said claims, considering that it had earlier withdrawn the same from the Trust Fund for and on the account of the former planholders Necedas, but which the private respondent PPI failed to pay the latter. Thus, the public respondent Judge acted with grave abuse of discretion when it ruled that the same claims of P2,000,000.00 should still be reimbursed by the Trust Fund despite the fact of payment of the claims of the Necedas by the Trust Fund upon the previous withdrawal thereof by the private respondent PPI.

In their Comment[21] to the Petition, the private respondents PPI and Mate, the Court-Appointed Liquidator, averred that the public respondent Judge did not err in ordering the execution of the Order dated August 19, 2011 insofar as the assignment by Felix and Benita G. Noceda of their rights, interest, and participation over JPA 5/15 Policy Nos. 0017712 and 0017713, as the same has become final and executory. They maintained their contention in their Manifestation[22] dated September 17, 2013. In addition, they claimed that the said assignment was never opposed or questioned by the petitioner IC thus, this Petition is anchored only on the Masterlist submitted by the petitioner IC for the approval of the public respondent Judge.

The petitioner IC countered that it based its Petition on the basic fact that the claims of the planholders Necedas is equivalent to the face values, or otherwise the maturity values of their respective policies had already been paid or "reimbursed" by the Trust Fund, even prior to the filing of the Petition for Rehabilitation by private respondent PPI.[23] Moreover, insofar as the Trust Fund is concerned, while the assignment by the Necedas of their rights with respect to their policies with PPI in favor of the private respondent Torres may be valid as it was within their personal right to do so, the payment of the maturity values thereof is no longer the concern of the Trust Fund, considering that it had already paid off the same[24] and that the issue at hand is not the assignment of the subject policies, but the re-payment ordered by the public respondent Judge to be made by the Trust Fund of the same policies which matured and consequently, fully reimbursed by the Trust Fund.[25] The subject policies issued by the private respondent PPI in favor of the former planholders Necedas with a total value of P2,000,000.00 had been withdrawn by the private respondent PPI from the Trust Fund as of April 24, 2009.[26]

The Court's Ruling

The Petition is MERITORIOUS.

After going over the records of the case, we find that the public respondent Judge committed grave abuse of discretion, when he ordered the release and payment of P2,000,000.00 to the private respondent Torres, the assignee of the former planholders Necedas, despite the fact that the same had already been paid by the Trust Fund upon the previous withdrawal of the said amount by the private respondent PPI. The subject policies issued by the private respondent PPI to the former planholders Necedas with a total value of P2,000,000.00 had already been withdrawn by PPI from its Trust Fund as early as April 24, 2009.

In the private respondent PPI's Schedule of Maturity/Termination Benefits Paid dated April 29, 2009,[27] it appears that PPI made a total withdrawal of P20,083,693.25 from the Trust Fund and included in the said amount were the claims of the planholders Necedas in the total amount of P2,000,000.00. Thus, having been previously

withdrawn from and paid by the Trust Fund, the subject claims pertaining to the Nocedas and subsequently, to that of the private respondent Torres, cannot be withdrawn again from the same Trust Fund without causing prejudice to the other planholders of private respondent PPI. As assignee, the private respondent Torres only stepped into the shoes of the Nocedas insofar as the subject claims are concerned and to allow the release of another P2,000,000.00 from the Trust Fund to pay for the same claims is indeed unjust and prejudicial to the interest of the other planholders of PPI who are yet to be paid from the liquidation of the remaining assets of the Trust Fund.

Pursuant to Section 30 of the Pre-Need Code of the Philippines, it appears that the Trust Fund assets of a corporation are exclusively devoted to satisfy the benefits of the planholders only. The Trust Fund cannot be diverted for any other purpose including the payment of the claims against the pre-need company. Thus, Section 30 of the Pre-Need Code of the Philippines provides:

"Section 30. Trust Fund.--- To ensure the delivery of the guaranteed benefits and services under a pre-need plan contract, a trust fund per pre-need plan category shall be established. A portion of the installment payment collected shall be deposited by the pre-need company in the trust fund, the amount of which will be as determined by the actuary based on the viability study of the pre-need plan approved by the Commission. Assets in the trust fund shall at all times remain for the sole benefit of the planholders. At no time shall any part of the trust fund be used for or diverted to any purpose other than for the exclusive benefit of the planholders. In no case shall the trust fund assets be used to satisfy claims of other creditors of the pre-need company. The provision of any law to the contrary notwithstanding, in case of insolvency of the pre-need company, the general creditors shall not be entitled to the trust fund.

Except for the payment of the cost of benefits or services, the termination values payable to the planholders, the insurance premium payments for insurance-funded benefits of memorial life plans and other costs necessary to ensure the delivery of benefits or services to planholders, no withdrawal shall be made from the trust fund unless approved by the Commission. The benefits received by the planholders shall be exempt from all taxes and the trust fund shall not be held liable for attachment, garnishment, levy or seizure by or under any legal or equitable processes except to pay for the debt of the planholder to the benefit plan or that arising from criminal liability in a criminal action.

The trust fund shall at all times be sufficient to cover the required pre-need reserve." (Emphasis supplied)

Indeed, the public respondent Judge should not have ordered the release of the amount of P2,000,000.00 from the Trust Fund of the private respondent Permanent Plans, Inc., as it is prejudicial to the rights and interest of the other planholders who are yet to receive payment from the liquidation of the Trust Fund.

WHEREFORE, premises considered, the Petition for Certiorari is GRANTED. The assailed Orders dated August 14, 2013 and September 23, 2013, both issued by the public respondent Judge in Spec. Proc. No. M-6802 are REVERSED and SET ASIDE.

SO ORDERED.

Dimaampao, (Chairperson), and Ybañez, JJ., concur.

[1] Rollo, p. 37.

[2] Rollo, p. 36.

[3] Rollo, pp. 38-65.

- [4] Rollo, pp. 66-69.
- [5] Rollo, pp. 70-81.
- [6] Rollo, pp. 82-85.
- [7] Rollo, p. 85.
- [8] Rollo, pp. 56-117.
- [9] Rollo, pp. 119-134.
- [10] Rollo, p. 133.
- [11] Rollo, pp. 137-140.
- [12] Rollo, pp. 141-142.
- [13] Rollo, p. 143.
- [14] Rollo, pp. 144-147.
- [15] Rollo, p. 149-156.
- [16] Rollo, p. 148.
- [17] Rollo, p. 159.
- [18] Rollo, p. 37.
- [19] Rollo, p. 36.
- [20] Rollo, pp. 12-13.
- [21] Rollo, pp. 247-250.
- [22] Rollo, pp. 192-193.
- [23] Reply (To the Comment dated January 30, 2014), Par. 5, Rollo, p. 265.
- [24] Reply (To the Comment dated January 30, 2014), Par. 6, Rollo, p. 265.
- [25] Reply (To the Comment dated January 30, 2014), Par. 7, Rollo, p. 265.
- [26] Rollo, p. 227.
- [27] Rollo, p. 231.

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