

**MODERN PAPER PRODUCTS, INC., AND SPOUSES ALFONSO CO AND ELIZABETH CO, PETITIONERS, VS. COURT OF APPEALS, METROPOLITAN BANK & TRUST CO., AND PHILIPPINE SAVINGS BANK, RESPONDENTS.**

*G.R. No. 127166. March 02, 1998*

Ponente: DAVIDE, JR., J.

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**DAVIDE, JR., J.:**

In this petition for review on certiorari under Rule 45 of the Rules of Court, the petitioners ask us to review and set aside that part of the 12 July 1996 Decision[1] of the Court of Appeals in CA-G.R. SP No. 40285[2] ordering the dismissal of the petition for suspension of payments filed with the Securities and Exchange Commission (SEC) insofar as petitioners Alfonso and Elizabeth Co were concerned.

The factual antecedents are summarized by the Court of Appeals as follows:

On 12 May 1995, Modern Paper Products, Inc. (hereafter, MPPI) and Spouses Alfredo and Elizabeth Co filed before the Securities and Exchange Commission a Petition for Suspension of Payments for rehabilitation purposes, docketed as SEC Case No. 05-95-5054, seeking the following reliefs:

1. Upon filing of this petition, a temporary restraining order and/or writ of preliminary injunction be issued restraining and enjoining petitioner MPPI's creditors from instituting, prosecuting or in any other manner enforcing any foreclosures of mortgages, actions or complaints before the courts or any other tribunal or agency;
2. Petitioners be declared in a state of suspension of payments, and that an Order be issued suspending and enjoining the filing, prosecution and/or enforcement of any and all other claims against petitioners and their properties, whether judicially or extrajudicially, before any court, tribunal, board or agency;
3. An Order be issued approving petitioners' rehabilitation plan and schedule for deferred payment of petitioner MPPI's liabilities to its creditors;
4. Petitioner MPPI be allowed to continue with its business operations and to use the proceeds or income thereof in accordance with petitioner MPPI's rehabilitation plan and schedule of deferred payment; and
5. A Management Committee be created to oversee the continuation of petitioner MPPI's business operations as well as the implementation of petitioner MPPI's rehabilitation plan and schedule of deferred payment, and to exercise such other functions subject to the control and supervision of the Honorable Commission (Rollo, pp. 55-56).

Pursuant thereto, the Hearing Panel issued an order setting the petition for hearing. Accordingly, MPPI met with its creditors, among them Metrobank, PSBank\* and TR Mercantile. Several hearings were conducted wherein evidences [sic] were adduced to determine the feasibility and viability of the proposed rehabilitation plan.

Metrobank and PSBank, in an Omnibus Motion, sought the dismissal of MPPI's petition for not being legally feasible. The Hearing Panel denied the Motion and directed the creation of a management committee. It also ordered the suspension of all claims not only against MPPI but against the Co spouses, as well.

Metrobank and PSBank on one hand, and TR Mercantile on the other, took exception in separate petitions for certiorari (SEC-EB No. 473 and 479, respectively) before the Commission En Banc, questioning the order for the creation of a management committee. The Commission En Banc, in a consolidated Order dated 18 March 1996, denied both petitions.[3]

Unsatisfied with the consolidated order, Metrobank and PS Bank filed with public respondent Court of Appeals a petition for review, docketed as CA-G.R. SP No. 40285, alleging therein that

9. The SEC (En Banc) misconstrued and misapplied the rules on suspension of payments.

9.01. The SEC (En Banc) went beyond the scope of Sec. 6 (c) of P.D. 902-A by expanding the effects of the suspension of all actions for claims against MPPI to include personal obligations of the Co spouses.

9.02. The SEC (En Banc) misinterpreted the RCBC ruling (213 SCRA 830) to mean that the mere filing of a Petition for suspension of payments extinguishes -- and not merely postpones the enforcement of -- mortgage liens over specific corporate properties. In short, the filing of the petition ipso facto transforms -- permanently -- secured credits to unsecured credits.

9.03. More, the SEC (En Banc) refused to remove MPPI from the control of management committee despite having received uncontroverted evidence that the proposed rehabilitation plan is neither feasible nor viable. As far as the SEC (En Banc) is concerned, therefore, a management committee can continue to exist even if the proposed rehabilitation has already been shown not to be feasible and viable.[4]

On 12 July 1996, the Court of Appeals rendered a decision[5] affirming the appealed order with the modification that the petition of Spouses Alfonso and Elizabeth Co filed before the SEC for the suspension of payments of obligations they incurred in their personal capacity was ordered dismissed for lack of jurisdiction. In justifying its modification, the Court of Appeals ruled that petitions for suspension of payments under Section 5(d) of P.D. No. 902-A are limited to corporations, partnerships, or associations.[6] It then concluded that the Co spouses could not be allowed as co-petitioners in their personal capacity in MPPI's petition; hence, the SEC exceeded its jurisdiction when it included them under a state of suspension of payments.

Metrobank and PS Bank filed a Motion for Partial Reconsideration and/or Clarification[7] urging the Court of Appeals (1) to declare that the SEC's order placing MPPI under a management committee did not thereby permanently discharge Metrobank and PS Bank's mortgage lien over MPPI's property, and (2) to set aside the SEC (En Banc) order insofar as it refused to remove MPPI under the control of a management committee.

MPPI and the Co spouses also filed a motion for the reconsideration of the decision insofar as it dismissed the petition of the said spouses for suspension of payments.[8]

In its resolution[9] of 8 November 1996, the Court of Appeals denied both motions for reconsideration but granted the motion for clarification by declaring that the appointment of a management committee did not by itself extinguish the mortgage lien over MPPI's property.

Dissatisfied with the abovementioned decision, MPPI and the Co spouses filed the instant petition.

Metrobank and PS Bank also filed with us a Petition for Review on Certiorari under Rule 45 of the Rules of Court, which was docketed as G.R. No. 127169. However, in the Resolution of 24 February 1997, we denied the said petition for failure of the petitioners therein to submit a verified statement of the date of filing of their motion

for reconsideration before the Court of Appeals and to sufficiently show any reversible error in the questioned judgment.[10]

The only issue in this petition is whether the Court of Appeals erred in dismissing the petition for suspension of payments insofar as Spouses Alfonso and Elizabeth Co were personally concerned.

We resolve the issue in the negative. The Court of Appeals was correct in concluding that the SEC lacked or exceeded its jurisdiction when it included the Co spouses under a state of suspension of payments together with MPPI.

Section 3 of P.D. No. 902-A[11] vests upon the SEC absolute jurisdiction, supervision, and control over all corporations, partnerships, or associations which are grantees of primary franchise or license or permit issued by the government to operate in the Philippines. Section 5 thereof grants the SEC original and exclusive jurisdiction to hear and decide cases such as petitions of corporations, partnerships, or associations for suspension of payments. As amended by P.D. No. 1758, Section 5 reads in part as follows:

Sec. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

...

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 possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or 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.

It is axiomatic that jurisdiction is conferred by the Constitution or by law.[12] It is indubitably clear from the aforequoted Section 5(d) that only corporations, partnerships, and associations – NOT private individuals – can file with the SEC petitions to be declared in a state of suspension of payments. It logically follows that the SEC does not have jurisdiction to entertain petitions for suspension of payments filed by parties other than corporations, partnerships, or associations. Thus, in *Chung Ka Bio v. Intermediate Appellate Court*,[13] we explicitly ruled:

This section clearly does not allow a mere individual to file the petition which is limited to “corporation, partnerships or associations.” Administrative agencies like the SEC are tribunals of limited jurisdiction and, as such, can exercise only those powers which are specifically granted to them by their enabling statutes.[14] Consequently, where no authority is granted to hear petitions of individuals for suspension of payments, such petitions are beyond the competence of the SEC. The analogy offered by the respondent court is clearly inappropriate for while it is true that the Sandiganbayan may assume jurisdiction over private individuals, it is because its charter expressly allows this in specified cases. No similar permission is found in PD 902-A.

The circumstance that Ching is a co-signer in the corporations’ promissory notes, collateral or guarantee or security agreements, does not make him a proper party. Jurisdiction over the subject matter must exist as a matter of law and cannot be fixed by agreement of the parties, acquired through, or waived, enlarged or diminished by, any act or omission; neither can it be conferred by acquiescence of the tribunal. Hence, Alfredo Ching, as a mere individual, cannot be allowed as a co-petitioner in SEC Case No. 2250.

The petitioners try to convince this Court that the claims against the Co spouses, the payments of which they sought to have suspended through their petition before the SEC, are not personal in nature because such claims were incurred by them in their capacity as officers of MPPI and while acting for and in behalf of the said

corporation.

This contention is belied by petitioners-spouses' own representations in their petition for suspension of payments wherein they alleged that they had executed the suretyship agreements in question in their personal capacity and offered their personal properties to secure the obligations of petitioner MPPI. Thus:

7. Petitioners Alfonso L. Co and Elizabeth Y. Co, are the principal stockholders as well as the Chairman and President, and Executive Vice-President and General Manager, respectively of petitioner MPPI. They have joined this petition as co-petitioners with respect to the obligations of petitioner MPPI where they executed joint and several suretyship agreements in their personal capacities and/or have offered their personal properties to secure the same.[15]

The petitioners-spouses are now estopped from denying that they executed the suretyship agreements in their personal capacity. Moreover, as correctly pointed out by the private respondents, "to subscribe to Co spouses' theory that they had acted for and in behalf of the corporation when they executed the suretyship agreements would result in an absurd situation wherein the corporation (acting through its officers) would actually be acting as surety of itself."

Hence, respondent Court of Appeals was correct in ordering the dismissal of the petition for suspension of payments insofar as the Co spouses were concerned on the ground of lack of jurisdiction on the part of the SEC.

WHEREFORE, the petition is DENIED. The challenged decision of the Court of Appeals in CA-G.R. SP No. 40285 is AFFIRMED in toto.

Costs against petitioners.

**SO ORDERED.**

Bellosillo, Vitug, Panganiban, and Quisumbing, JJ., concur.

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[1] Per Vasquez, Jr., C. J., ponente, with Buena, A., and Gutierrez, A., JJ. concurring. Annex "B" of Petition, Rollo, 29-33.

[2] Entitled Metropolitan and Trust Co. and Philippine Savings Bank versus Modern Papers Products, Inc., and Spouses Alfonso and Elizabeth Co.

\* Philippine Savings Bank.

[3] Rollo, 29-30

[4] Rollo, 30-31.

[5] Supra note 1.

[6] Citing *Chung Ka Bio v. Intermediate Appellate Court*, 163 SCRA 534 [1988].

[7] Rollo of CA-G.R. SP No. 40285 (CA-Rollo), 208-216.

[8] CA-Rollo, 227-230.

[9] *Id.*, 255-256; Annex "C" of Petition, Rollo, 34-35.

[10] Ca-Rollo, unpaginated.

[11] Entitled "Reorganization of the Securities and Exchange Commission with Additional Powers and Placing the

Said Agency under the Administrative Supervision of the Office of the President."

[12] CAMILO D. QUIASON, PHILIPPINE COURT AND THEIR JURISDICTION 34 (1993) citing a host of cases.

[13] Supra note, at page 545.

[14] Citing Union Glass & Container Corp. v. SEC, 126 SCRA 31, 39 [1983]; DMRC Enterprises v. Este del Sol Mountain Reserve, Inc., 132 SCRA 293 [1984].

[15] Volume I, SEC Case Folder, 17.

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