

THE INSURANCE COMMISSIONER, PETITIONER AND APPELLEE, VS. GLOBE ASSURANCE CO., INC., RESPONDENT AND APPELLANT.*G.R. No. 13236. February 16, 1961*

Ponente: CONCEPCION, J.

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Appeal from a decision of the Court of First Instance of Manila, directing the liquidation of respondent-appellant Globe Assurance Co., Inc., and making permanent the preliminary injunction issued soon after the institution of this case.

The facts are not disputed. In January and February, 1956, a representative of petitioner herein, the Insurance Commissioner, acting upon his orders, examined the records of respondent herein—a surety and insurance corporation, duly organized and existing under and by virtue of the laws of the Philippines and authorized thereunder to engage in fire, marine, motor car, fidelity and surety, casualty and miscellaneous insurances (except life), with main offices in the City of Manila—to ascertain its financial conditions and determine its methods of doing business as an insurance firm. The result of the examination was set forth in a report submitted to the petitioner, and approved by him, finding that respondent had committed several irregularities described in said report—some of which are hereinafter stated—and that, as of December 31, 1955, respondent had, as a consequence, P430,615.39 worth of assets, as against total liabilities amounting to P173,794.60 and a paid-up capital of P500,000.00, which was, accordingly, impaired to the extent of P243,179.21. On March 10, 1956, petitioner wrote, therefore, the letter Exhibit B advising respondent of the aforementioned findings and demanding that said impairment be covered up and that the other requirements made, in said letter and in previous communications be complied with within five (5) days from notice. This demand not having been heeded, respondent's certificate of authority to transact insurance business was suspended by virtue of another letter (Exhibit C) of petitioner herein dated March 26, 1956. Subsequently, or on October 5, 1956, the latter filed with the Court of First Instance of Manila the petition with which this case was begun, setting forth substantially the facts above mentioned and praying that respondent be required to show cause why it should not be liquidated, that, after due notice and hearing, an order be issued liquidating its corporate existence, and that, meanwhile, a writ of preliminary injunction be issued restraining respondent, as well as its officers and agents, from transacting business with the general public and from committing any act which may interfere with the proceedings or result in the wastage or disposition of its assets. Said writ of preliminary injunction was issued on October 13, 1956.

Respondent's answer admitted the main allegations of fact made in the petition and alleged, inter alia, that it had been "trying its best to rehabilitate its finances"; that "its liquidation is not timely and proper"; that, on October 22, 1956, or after the commencement of this proceedings, a plan to rehabilitate itself was submitted to the petitioner, who did not disapprove it; and that it would be able to rehabilitate itself fully, in accordance with said plan, within 180 days. Respondent, therefore, prayed, either that the case be set for hearing only after the lapse of 180 days from the filing of said answer, or that it be granted said period to rehabilitate itself, and that, after hearing, the petition be dismissed forthwith.

In due course, the Court of First Instance of Manila rendered the decision aforementioned, from which respondent has appealed, upon the ground that an error and a grave abuse of discretion had been committed in ordering its liquidation. We find no merit in the appeal.

Respondent does not deny the accuracy of any of the aforementioned findings, made by an examiner of the Government and approved and adopted by the petitioner, with respect to its precarious financial condition. It maintains, however, that the lower court should not have ordered its liquidation, for it was not bound to do so under the law, and that it should have granted, instead the period of time requested by respondent to rehabilitate itself, because, at any rate, its certificate of authority to transact business had been suspended by petitioner herein, and the lower court had enjoined respondent from transacting its business, so that no danger for the public could possibly result from the granting of a period for its rehabilitation. Respondent's pretense would, perhaps, have a semblance of validity if its aforementioned plan of rehabilitation offered a reasonable assurance of success. No such assurance, however, is discernible for said plan.

To begin with, the same was—contrary to respondent's claim—disapproved by the petitioner, whose view carries weight, he being best qualified, by reason of his position and experience in the field of insurance, to pass upon the soundness of said plan. Secondly, said view was confirmed by subsequent events. Indeed, respondent merely asked for 180 day from the filing of his answer, dated October 25, 1956, within which to complete its rehabilitation in accordance with said plan. Yet, such rehabilitation was far from being an accomplished fact when—after several postponements granted upon respondent's request—this case was eventually tried on August 1, 1957, or over 90 days after the expiration of said period. Then, too, respondent had been found to have committed, inter alia, the following irregularities:

- It had granted loans without security, and mostly to its president and his wife;
- Several communications of the petitioner demanding that the granting of cash advances and loans without security be stopped, were disregarded by respondent. Worse still, the amounts of such cash advances and loans increased as follows:

"(a)

Accounts Receivable—Miscellaneous as of February 28, 1954

P550.00

(b)

Accounts Receivable—Miscellaneous as of November 15, 1954

10,120.55

(c)

Accounts Receivable—Miscellaneous as of September 30, 1955

26,900.59

(d)

Accounts Receivable—Miscellaneous as of December 31, 1955

73,271.59"

- The company had issued numerous bonds in amounts ranging from P60,000.00 to P275,000.00, or far in excess of its maximum writing capacity of P25,628.08;
- Its cash on hand, as of December 31, 1955, was only P5,631.33, contrary to the provisions of Circular No. 57 of the Secretary of Finance, approved on April 6, 1955, pursuant to which, respondent must maintain at all times, free from all liens, cash in bank amounting, at least, to P50,000.00;
- Respondent's records did not even show that it had cash deposited in banks. Its daily collections were kept in the company's safe, a practice which is not in accordance with current sound business procedure.

In other words, the irregularities committed by respondent were such as to affect the faith and trust that insurance companies must command. Hence, this case is clearly distinguishable from that of the Government of the P.I. vs. El Hogar Filipino (50 Phil., 399) and that of Government vs. Philippine Sugar Estates (38 Phil., 15), in that both involved technical violations of the law, not affecting the financial soundness of the respondents herein, whereas those committed by respondent herein affected adversely the interest of the parties dealing with it, as well as the stability of the firm. Thus, public interest demands the liquidation and dissolution of respondent herein.

Wherefore, the decision appealed from is hereby affirmed, with costs against respondent-appellant. It is so ordered.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes and Dizon, JJ., concur.

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