HONGKONG & SHANGHAI BANKING CORPORATION, LTD. AND CITIBANK, N.A., PETITIONERS, VS. G.G. SPORTSWEAR MANUFACTURING CORPORATION, RESPONDENT.

G.R. NO. 146526. May 05, 2006

Ponente: CORONA, J.

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CORONA, J.:

The doctrine of exhaustion of administrative remedies is a cornerstone of our judicial system. The thrust of the rule on exhaustion of administrative remedies is that the courts must allow the administrative agencies to carry out their functions and discharge their responsibilities within the specialized areas of their respective competence.[1]

This is a petition for review on certiorari[2] from a decision of the Court of Appeals[3] which reversed a decision of a hearing panel of the Securities and Exchange Commission (SEC),[4] and the appellate court's resolution denying reconsideration.[5]

The undisputed facts of the case follow.

On August 29, 1997, respondent G.G. Sportswear (G.G.) filed a petition with the SEC for a "Declaration of State of Suspension of Payments, for Approval of Proposed Rehabilitation Plan and for Appointment of Management Committee," docketed as SEC Case No. 08-97-5752.[6]

On September 3, 1997, the SEC hearing panel issued an order directing the suspension of all actions, claims and proceedings against G.G. pending before any court, tribunal, office, board, body and/or commission. The SEC hearing panel likewise enjoined G.G. from disposing of any of its properties in any manner except in the ordinary course of business and from making any payment outside the legitimate and ordinary expenses of its business operation during the pendency of the proceedings. The hearing panel also scheduled a creditors' meeting on October 29, 1997 and directed the publication of a notice to this effect in a newspaper of general circulation once a week for two (2) consecutive weeks.[7]

Three of respondent's creditors, Philippine Commercial and International Bank (PCIB), Dao Heng Bank and Standard Chartered Bank filed an urgent motion for the immediate constitution of a management committee. Another creditor, FEB Leasing and Finance Corporation, on the other hand, filed a motion for exclusion with manifestation. Despite notice, respondent's representatives failed to appear at the hearings, as well as at the scheduled creditors' meeting.[8]

The hearing panel issued an order dated October 30, 1997 dismissing respondent's petition and lifting the suspension order.[9]

Upon motion, the hearing panel reconsidered its October 30, 1997 order and reset the creditors' meeting to December 12, 1997. It also extended the suspension order for 30 days. Creditors PCIB, Dao Heng Bank and Standard Chartered Bank questioned the jurisdiction of the hearing panel to have a creditors meeting sans publication of the extended order of suspension. Failing to get affirmative relief from the hearing panel, Dao Heng

and Standard Chartered elevated the matter to the SEC en banc by means of a petition for certiorari with prayer for preliminary injunction. This was docketed as SEC-AC No. 604. [10]

On December 29, 1997, the hearing panel issued another order extending the suspension to January 31, 1998.[11]

During the hearings conducted on February 19, 1998 and April 17, 1998, respondent presented as its lone witness Mainrado M. Laygo, its external auditor, to substantiate the feasibility of its rehabilitation plans. Laygo's cross-examination was suspended due to respondent's failure to attach to its petition and/or to furnish the creditors with the requisite financial documents and other records.[12] It was then terminated for lack of material time.[13]

On February 26, 1998, the hearing panel extended the suspension order one last time, to April 30, 1998.[14]

During the en banc hearings on SEC-AC No. 604 regarding the injunction aspect of the petition, it was deduced that respondent was merely suffering from liquidity problems rather than insolvency. Respondent G.G. was therefore ordered to amend its petition and limit the issue before the hearing panel to the propriety of the declaration of suspension of payments. The SEC en banc then enjoined the hearing panel from proceeding with SEC Case No. 08-97-5752 until after respondent had amended its petition accordingly.[15]

On May 7, 1998, respondent filed its amended petition, which the hearing panel admitted on November 11, 1998[16] and set for hearing along with several motions filed by both respondent G.G. and its creditors.

On January 25, 1999, Solid Mills, Inc. and Unisol Industries Manufacturing Corporation informed the hearing panel that respondent attempted to sell 500,000 pieces of garments valued at US $1,500,000 to US Apparel and Collection Pte. Ltd., a Singaporean company, but was enjoined by the High Court of Singapore upon application by Dao Heng Bank in Suit No. 82 of 1999.[17] Respondent never informed the hearing panel of this aborted transaction.

On May 20, 1999, petitioner Hongkong & Shanghai Banking Corporation, Ltd. (HSBC) manifested that it was exercising its right not to participate in the proceedings in the amended petition.[18]

On July 26, 1999, respondent filed a motion to withdraw its amended petition[19] with a view to filing another one to include its sister corporation, Magic Apparel Corporation (MAC), as co-petitioner. This petition was docketed as SEC Case No. 17-99-6374.[20] PCIB, Dao Heng Bank and Standard Charter Bank opposed the motion and prayed that the amended petition be dismissed instead.[21]

In an order dated August 18, 1999, the SEC hearing panel in SEC Case No. 17-99-6374 dismissed the joint petition filed by respondent G.G. and its sister company MAC.[22]

On September 9, 1999, respondent filed a manifestation with the hearing panel that its amended petition be maintained. The hearing panel resolved to maintain the petition but, considering it on the merits, dismissed it.

On October 13, 1999, respondent filed a "petition for certiorari, prohibition and mandamus with a prayer for the issuance of a restraining order/injunction"[23] with the Court of Appeals.

On May 31, 2000, the Court of Appeals rendered the assailed decision reversing the SEC hearing panel and, on December 14, 2000, the assailed resolution denying reconsideration.

Hence, the instant petition.

Petitioner posits four arguments, namely:

I.

THERE WAS NO VALID GROUND FOR GG SPORTSWEAR TO DISPENSE WITH A MOTION FOR

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RECONSIDERATION.

II.

THERE WAS NO VALID GROUND FOR GG SPORTSWEAR TO DISPENSE WITH AN APPEAL TO THE [SEC] EN BANC.

III.

THE HEARING PANEL OF THE [SEC] DID NOT ACT WITH GRAVE ABUSE OF DISCRETION IN DISMISSING THE PETITION.

IV.

GG SPORTSWEAR FAILED TO COMPLY WITH THE REQUIREMENTS OF SECTION 5, RULE 7 OF THE RULES OF COURT.[24]

The first three arguments can be compressed into one pivotal issue, namely, whether or not the Court of Appeals should have dismissed respondent's special civil action for certiorari for failure to exhaust administrative remedies.

We find for the petitioner.

The remedies available to respondent were stated clearly enough in the 1999 SEC Rules of Procedure. According to Rule VI,[25] the proper remedy from an adverse decision of a hearing officer was an appeal which, according to Rule XV,[26] was to be made to the SEC en banc. Respondent likewise had a remedy under Rule 43 of the 1997 Revised Rules of Civil Procedure.[27]

Nowhere in its petition did respondent explain why it did not appeal to the SEC en banc. It simply attributed the two-year delay of its case to the injunction imposed by the SEC en banc. Nothing more.

The exceptions to the doctrine of exhaustion of administrative remedies, as enumerated in Province of Zamboanga del Norte v. Court of Appeals [28] are: (1) when there is a violation of due process; (2) when the issue involved is purely a legal question; (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; (4) when there is estoppel on the part of the administrative agency concerned; (5) when there is irreparable injury; (6) when the respondent is a department secretary whose acts as an alter ego of the President bears the implied and assumed approval of the latter; (7) when to require exhaustion of administrative remedies would be unreasonable; (8) when it would amount to a nullification of a claim; (9) when the subject matter is a private land in land case proceedings; (10) when the rule does not provide a plain, speedy and adequate remedy, and (11) when there are circumstances indicating the urgency of judicial intervention, and unreasonable delay would greatly prejudice the complainant; (12) where no administrative review is provided by law; (13) where the rule of qualified political agency applies and (14) where the issue of non-exhaustion of administrative remedies has been rendered moot.

From among these exceptions, respondent claims denial of due process by the hearing panel and grave abuse of discretion on the part of the hearing panel amounting to lack or excess of jurisdiction. The facts on record, however, do not bear out respondent's allegations. Respondent did not dispute that the hearing panel extended the suspension order in its favor three times for a total period of almost eight months. During this time, the panel provided respondent more than ample opportunity to present its evidence. Neither did respondent dispute the fact that the cross-examination of its witness, external auditor Mainrado M. Laygo, was suspended during the hearing due to its own failure to attach the requisite financial documents and records to its petition, in violation of the SEC Policy Guidelines. When the cross-examination was terminated, if anyone was deprived of due process, it was the

creditors who were unable to propound searching questions to respondent's witness.

Respondent's claim that it was not given due process is therefore without basis.

Even more baseless is the argument that an appeal to the SEC en banc was useless. Respondent itself, as a matter of fact, never even raised such a ground in its petition; it was the Court of Appeals that erroneously drew the conclusion that the SEC en banc could not supposedly provide respondent with adequate relief. According to the Court of Appeals, the reasons were based on its understanding of respondent's "perception."[29] In other words, there was no factual basis for such a conclusion.

In Union Bank v. Court of Appeals,[30] petitioner Union Bank was likewise of the persuasion that the SEC en banc would be unsympathetic to its pleas. In dismissing its petition for certiorari, we said:

> In this case, petitioner was actually not without remedy to correct what it perceived and supposed was an erroneous assumption of jurisdiction by the SEC, without having recourse immediately to the Court of Appeals. Under Section 6(m) of P.D. No. 902-A, it has been expressly provided that "the decision, ruling or order of any such Commissioner, bodies, boards, committees and/or officer may be appealed to the Commission sitting en banc within thirty days after receipt by the appellant of notice of such decision, ruling or order." Such procedure being available, could have been resorted to by petitioner which, however, it chose to forego. Furthermore, by taking up the matter with the SEC, it could still have obtained an injunction which it similarly sought from the appellate court via its petition for certiorari because the said body has been empowered by Section 6(a) of P.D. No. 902-A "to issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it has jurisdiction..." Finally, petitioner itself hardly concealed the fact that it distrusted altogether the whole mechanism of appeal to the SEC en banc, which is why it did not find resort thereto imperative. Thus, it explicitly stated that "it is a given that SEC will not reverse itself, therefore, any reconsideration or appeal en banc would be a mere exercise of futility, [particularly] when public respondent Associate Commissioner Fe Gloria is the acting Chairperson of SEC." What basis does petitioner have in casting doubt on the integrity and competence of the SEC en banc? This baseless, even reckless, reasoning hardly deserves an iota of attention. It cannot justify a procedural short-cut quite contrary to law. If this were so, then the SEC en banc would not have been empowered at all by the statute to take cognizance of appeals from its subordinate units. But the lawmakers, having faith in a collegial body such as the SEC en banc, precisely empowered it to act as such appellate body cannot override the fact that the law mandates recourse thereto. (emphasis ours)

The fact that the SEC was, at the time respondent filed its special civil action for certiorari, empowered by PD 902-A[31] to issue writs of injunction refuted respondent's claim that urgency dictated its decision to take its case straight to the Court of Appeals.

Furthermore, as earlier mentioned, the SEC en banc enjoined the hearing panel from proceeding with SEC Case No. 08-97-5752, pending amendment by respondent of its petition so as to limit the issue before the hearing panel to the propriety of the declaration of suspension of payments. Respondent never complained that the hearing panel ignored that injunction. This clearly contradicts the Court of Appeals' statement that the hearing panel "would not respect whatever directive the SEC en banc would issue."[32] It further puts into sharp relief the simple fact that respondent's suppositions (regarding the futility of an appeal to the SEC en banc) were nothing but speculation.

Distrust of an administrative agency alone, unsupported by concrete evidence, is not sufficient reason to dispense with the doctrine of administrative remedies, which serves a very useful purpose in ensuring the efficient and speedy disposal of cases. Once the courts condone the circumvention of the mechanisms of administrative appeals on mere suspicion of an agency's integrity, the doctrine is as good as dead.

WHEREFORE, the instant petition is hereby GRANTED. The decision and resolution of the Court of Appeals in

CA-G.R. SP No. 55270 are hereby REVERSED. The decision of the SEC hearing panel dismissing SEC Case No. 08-97-5752 is REINSTATED.

SO ORDERED.

Azcuna and Garcia, JJ., concur.
Puno, (Chairperson), J. on leave.
Sandoval-Gutierrez, (Acting Chairperson), J. no part.

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[1] Caballes v. Perez-Sison, G.R. No. 131759, March 23, 2004, 426 SCRA 98.

[2] Under Rule 45.

[3]CA Decision dated May 31, 2000 in CA-G.R. SP No. 55270, penned by Associate Justice Wenceslao I. Agnir and concurred in by Associate Justices Angelina Sandoval-Gutierrez (now Associate Justice of the Supreme Court) and Renato C. Dacudao of the Special Fifth Division of the Court of Appeals; Rollo, pp. 52-63.

[4] Order dated September 17, 2000 in SEC Case No. 08-97-5752, signed by Associate Commissioner Rosalinda U. Casiguran and Hearing Officer Marciano S. Bacalla; Rollo, p. 125-126.

[5] CA Resolution dated December 14, 2000 (affirming the May 31, 2000 Decision) in CA-G.R. No. SP No. 55270, penned by penned by Associate Justice Wenceslao I. Agnir and concurred in by Associate Justices Angelina Sandoval-Gutierrez (now Associate Justice of the Supreme Court) and Renato C. Dacudao of the Special Fifth Division of the Court of Appeals; Rollo, pp. 65-67.

[6] Rollo, pp. 68-75.

[7] Id., pp. 76-79.

[8]Id., p. 53.

[9] Id., pp. 80-81.

[10]Id., p. 54.

[11] Id., p. 82.

[12]Id., p. 22.

[13] Id., p. 54.

[14] Id., p. 440.

[15] Id., pp. 54-55.

[16]Id., pp. 91-92.

[17] Id., pp. 93-98.

[18] Id., pp. 101-103.

[19]Id., pp. 125-126.

[20] Id., pp. 107-121.

[21] Id., pp. 125-126.

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[22] Id., pp. 123-124.

[23] Id., pp. 127-161.

[24]Rollo, pp. 28-29.

[25] SEC. 2. Finality of Decision. - The decision of the Hearing Officer, in the absence of appeal therefrom, shall become final and executory fifteen (15) days from the date of receipt thereof.

[26] SECTION 1. Appeal from the Resolution, Ruling or Order of the Hearing Officer. - Any decision, ruling or order of the Hearing Officer may be appealed by the aggrieved party to the Commission sitting En Banc within fifteen (15) days from receipt by the appellant of notice of such resolution, ruling or order.

[27] SECTION 1. Scope. - This Rule shall apply to appeals from judgments or final orders of the Court of Tax Appeals and from awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions. Among these agencies are the Civil Service Commission, Central Board of Assessment Appeals, Securities and Exchange Commission, Office of the President, Land Registration Authority, Social Security Commission, Civil Aeronautics Board, Bureau of Patents, Trademarks and Technology Transfer, National Electrification Administration, Energy Regulatory Board, National Telecommunications Commission, Department of Agrarian Reform under Republic Act No. 6657, Government Service Insurance System, Employees Compensation Commission, Agricultural Inventions Board, Insurance Commission, Philippine Atomic Energy Commission, Board of Investments, Construction Industry Arbitration Commission, and voluntary arbitrators authorized by law (emphasis ours).

SEC. 3. Where to appeal. - An appeal under this Rule may be taken to the Court of Appeals within the period and in the manner herein provided, whether the appeal involves questions of fact, of law, or mixed questions of fact and law.

[28] 396 Phil. 709 (2000), as quoted in SSS v. CA, G.R. No. 152058, September 27, 2004, 439 SCRA 239.

[29] Rollo, pp. 59-60.

[30] 352 Phil. 808 (1998).

[31] SEC. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:

a) To issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;

[32]Rollo, p. 60.

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