

NEGROS NAVIGATION CO., INC., PETITIONER, VS. COURT OF APPEALS, SPECIAL TWELFTH DIVISION AND TSUNEISHI HEAVY INDUSTRIES (CEBU), INC., RESPONDENTS.

G.R. No. 163156. December 10, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before us are two consolidated cases, docketed as G.R. No. 163156 and G.R. No. 166845, which were filed by petitioners Negros Navigation Co., Inc. (NNC) and Tsuneishi Heavy Industries (Cebu), Inc. (THI), respectively. The first is a petition for certiorari and prohibition assailing the April 29, 2004 Resolution[1] of the Court of Appeals (CA) in CA-G.R. SP No. 83526. The second is a petition for review on certiorari, contesting the October 6, 2004 Decision[2] and January 24, 2005 Resolution[3] of the CA in the same case.

The Facts

The undisputed facts are as follows:

NNC is a shipping company that is primarily engaged in the business of transporting through shipping vessels, passengers and cargoes at various ports of call in the country.[4] THI, on the other hand, is engaged in the business of shipbuilding and repair.[5] NNC engaged the services of THI for the repair of its vessels.

On February 9, 2004, THI filed a case for sum of money and damages with prayer for issuance of writ of attachment against NNC before the Regional Trial Court of Cebu (Cebu RTC), docketed as Civil Case No. CEB-29899 entitled "Tsuneishi Heavy Industries (Cebu), Inc. v. Negros Navigation Co., Inc." The action is based on the unpaid services for the repair of NNC's vessels, otherwise known as repairman's lien.

On March 5, 2004, the Cebu RTC issued an Order[6] granting the issuance of a writ of preliminary attachment against the properties of NNC.[7] It reasoned that based on the affidavit in support of the application for the writ, NNC committed fraud in contracting the debt or in incurring the obligation upon which the action was brought, thus, justifying the issuance of the writ[8] as mandated by Section 1(d) of Rule 57. It added that the repairman's lien of THI constituted a superior maritime lien that is enforceable by suit in rem, as decreed by Presidential Decree No. 1521 (PD 1521).[9]

On March 12, 2004, by virtue of the writ of preliminary attachment, Sheriff Rogelio T. Pinar levied on one of the vessels of NNC, the M/V St. Peter the Apostle.[10]

On March 29, 2004, NNC filed a Petition for Corporate Rehabilitation with Prayer for Suspension of Payments[11] with the RTC of Manila (Manila RTC), Branch 46, which was docketed as Special Proceeding No. 0409532. The Manila RTC granted the NNC's petition and issued a Stay Order[12] on April 1, 2004. The said Order reads:

Petitioner Negros Navigation Co., Inc. filed a Petition alleging that it is a domestic corporation with principal

place of business at Pier 2, North Harbor, Tondo, Manila; that since its incorporation, it had been very viable and financially profitable; that because of the Asian Currency Crisis and the devaluation of the Peso, it found itself in difficulty in paying its obligations with creditors; that as a consequence, petitioner foresees its inability to meet its obligations as they fall due; that since the obligations would not be met, complications and problems will arise that will impair and affect the operation of the corporation and its effort to rehabilitate its business; that one of its creditors, Tsuneishi Heavy Industries, Inc., already attached one shipping vessel of the corporation; and other creditors are threatening to sue; but despite the foregoing, petitioner still foresees the prospect of paying its debts if only given a "breathing spell." Hence, it is presenting a Rehabilitation Plan for approval of its creditors as well as this Court.

Finding the Petition, together with its annexes, sufficient in form and substance, the Court hereby:

- Appoints Mr. Sulficio O. Tagud, Jr. as Rehabilitation Receiver with a bond in the amount of PhP150,000.00;
- Stays the enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the petitioner, its guarantors and sureties not solidarily liable with the debtor;
- Prohibits petitioner from selling, encumbering, transferring, or disposing in any manner any of its properties, except in the ordinary course of business;
- Prohibits petitioner from making any payment of its liabilities outstanding as of the date of filing of the petition;
- Prohibits the debtor's suppliers of goods or services from withholding supply of goods and services in the ordinary course of business for as long as the debtor makes payments for the services and goods supplied after the issuance of the stay order;
- Directs the payment in full of all administrative expenses incurred after the issuance of the stay order;
- Fixes the initial hearing of the petition on May 7, 2004 at 8:30 A.M.;
- Directs petitioner to publish this Order in a newspaper of general circulation throughout the Philippines once a week for two (2) consecutive weeks;
- Directs all creditors and all interested parties (including the Securities and Exchange Commission) to file and serve with the court and on the petitioner a verified comment on or opposition to the petition, with supporting affidavits and documents, not later than ten (10) days before the date of the initial hearing and putting them on notice that their failure to do so will bar them from participating in the proceedings; and
- Directing the creditors and interested parties to secure from the court copies of the petition and its annexes to enable them to file their comment on or opposition to the petition and to prepare for the initial hearing of the petition.

The Rehabilitation Receiver, Mr. Sulficio O. Tagud, Jr., is requested to submit his oath of office within ten (10) days from receipt of this Order.

IT IS SO ORDERED.[13]

Upon the issuance of the stay order by the Manila RTC, NNC filed a Manifestation and Motion to Suspend Proceedings and to Lift Preliminary Attachment with the Cebu RTC.[14]

On April 5, 2004, THI filed an Amended Complaint[15] in the Cebu RTC. In the amended complaint, THI impleaded the following vessels of NNC as co-defendants in the suit: M/V San Sebastian, M/S Princess of Negros, M/V Nossa Senhora (Nuestra Señora) De Fatima, M/V St. Peter the Apostle, M/V Santa Ana and M/V San Paolo.[16] THI prayed for the following in the amended complaint:

WHEREFORE, it is respectfully prayed that:

- An ex-parte writ of preliminary attachment/arrest order be issued directing the sheriff to attach defendant's properties not exempt from execution as security for the satisfaction of the judgment in this action, and/or arrest the defendant vessels, upon approval by the Court of an appropriate attachment/arrest bond in accordance with the Rules of Court.

- It is further respectfully prayed that after trial, judgment be rendered in favor of the plaintiff and against the defendant, Negros Navigation ordering the latter to pay the amount of P104,464,000.00 plus interest and penalties, and in satisfaction thereof and/or to ensure the same:

- In the in personam action, attaching the assets of defendant Negros Navigation, including the vessel, M/V St. Joseph; and

- In the in rem action, an order/warrant of arrest of the Vessels based on plaintiff's lien which arose from repairs and dry docking furnished by plaintiff to the following:

a) San Sebastian

-

P2,212,925.00

b) Princess of Negros

-

21,389,575.00

c) Nuestra Sra. De Fatima

-

3,743,250.00

d) St. Peter the Apostle

-

43,483,000.00

e) Sta. Ana

-

264,000.00

f) San Paolo

-

33,371,250.00

TOTAL

P104,464,000.00

be issued ex-parte and, after hearing, judgment be rendered ordering the sale at public action of the Vessels, including all their accessories, equipments, riggings and appurtenances, and, under the manner provided for by

law.

- Attorney's fees in an amount not less than P2,000,000.00 plus refund of docket fees, bond premiums and litigation expenses of no less than P2,000,000.00.

- Costs of suit.

Plaintiff prays for such other reliefs, cumulative and/or alternative, as this Honorable Court may deem just and equitable under the premises.[17]

On April 6, 2004, the Cebu RTC issued two (2) Orders. The first was an Order[18] admitting the amended complaint as a matter of right since NNC had not yet filed a responsive pleading when the same was filed. The second was an Order[19] for the arrest of the vessels of NNC in the in rem aspect of the case. The fallo of the Order reads:

WHEREFORE, in view of the foregoing, the sheriff, or other proper officers of this court and such other person(s) as they may deputize, is/are hereby directed to arrest and detain the following vessels: M/V San Sebastian, M/S Princess of Negros, M/V Nossa Senhora de Fatima (Nuestra Senora de Fatima), M/V St. Peter the Apostle, M/V Sta. Ana and M/V San Paolo. The Philippine Ports Authority, the Philippine Coast Guard, the Maritime Industry Authority (MARINA), the Philippine National Police, the National Bureau of Investigation and other law enforcement agencies and all other government agencies and instrumentalities are hereby ordered to assist. Assistance shall include but not be limited to preventing the vessel from sailing or trading except as this admiralty court shall direct. Keep the vessels in custody until further order of this court, sitting as an admiralty court.

IT IS SO ORDERED.

On April 12, 2004, NNC's Rehabilitation Receiver filed with the Manila RTC a Motion[20] for the clarification of the stay order. It sought to confirm whether the claim sought to be enforced by THI against the vessels of NNC is covered by the stay order. On the same date, the Manila RTC issued an Order[21] addressing the said motion. The pertinent portion of the Order reads:

The Interim Rules of Procedure on Corporate Rehabilitation does not distinguish the kind of claims covered, whether in rem or in personam, due or not due. Hence, when the law does not distinguish, courts ought not to distinguish. So the stay order applies to all CLAIMS.

SO ORDERED.[22]

On April 13, 2004, NNC filed a Motion to Suspend Proceedings and to Lift the Writ of Attachment and Arrest Orders[23] before the Cebu RTC by virtue of the April 12, 2004 Order of the Manila RTC. However, on April 29, 2004, the CA issued the Resolution[24] assailed in what is before this Court as G.R. No. 163156, wherein the appellate court temporarily restrained the implementation of the Orders of the Manila RTC dated April 1, 2004 and April 12, 2004. The pertinent portion of the assailed Resolution reads:

To preserve the status quo and so as not to render ineffectual and nugatory the judgment that will be rendered in this petition, a temporary restraining order valid for sixty (60) days is issued enjoining respondents and all persons acting for them and on their behalf or third persons from enforcing or implementing the Orders dated April 1, 2004 and April 12, 2004 of the public respondent.

SO ORDERED.[25]

From this CA Resolution, NNC sought recourse before us. On May 4, 2004, this Court in G.R. No. 163156 issued a Temporary Restraining Order,[26] the pertinent portion of which reads:

NOW, THEREFORE, YOU, RESPONDENTS are REQUIRED to file comment on the petition within ten (10) days from notice, and RESTRAINED from implementing the Court of Appeals resolution dated 29 April 2004, which issued a temporary restraining order in CA-GR SP No. 83526 entitled "Tsuneishi Heavy Industries (CEBU), Inc. vs. Hon. Artemio S. Tipon, Presiding Judge, Regional Trial Court, Manila, Br. 46, Negros Navigation Co., Inc. and Sulficio O. Tagud, Jr." enjoining the implementation of the Orders dated 1 April 2004 and 12 April 2004 of the Regional Trial Court of Manila, Br. 46 in SP Proc. No. 04-109532, effective immediately and continuing until further orders from this Court, and YOU, PETITIONER, are ordered to POST a BOND in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) in cash or surety issued by a reputable bonding company of indubitable solvency with terms and conditions acceptable to this Court within five (5) days from notice hereof, otherwise this temporary restraining order shall be rendered of no force and effect.

On October 6, 2004, the CA issued the Decision[27] assailed in what is now G.R. No. 166845, denying the petition of THI that sought to annul and enjoin the enforcement and implementation of the Orders of the Manila RTC dated April 1, 2004 and April 12, 2004. The fallo of the Decision reads:

WHEREFORE, in view of the foregoing, the instant petition is DENIED DUE COURSE and is DISMISSED for lack of merit.

SO ORDERED.[28]

THI filed a motion for reconsideration. The same was denied in a Resolution[29] dated January 24, 2005. Hence, this petition in G.R. No. 166845.

The Issues

NNC, in G.R. No. 163156, presented the sole issue of whether the CA committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Resolution dated April 29, 2004 embodying the temporary restraining order which enjoined the implementation of the Orders of the Manila RTC dated April 1, 2004 and April 12, 2004.[30]

On the other hand, THI, in G.R. No. 166845, assigned the following errors in the decision and resolution of the CA:

- The CA Decision erred in ruling that neither THI's enforcement/the efficacy of its maritime liens against the Vessels nor the Admiralty Court's jurisdiction over those liens is impaired by the Stay Orders issued by the Manila RTC.[31]
- The CA Decision, it is respectfully submitted, gravely erred in ruling that THI's maritime liens are covered by, and are subject to the Manila RTC's jurisdiction in, [NNC's] rehabilitation proceedings.[32]

The Ruling of the Court

In G.R. No. 163156

The issue presented by NNC in G.R. No. 163156 was rendered moot and academic by the promulgation of the CA Decision and Resolution dated October 6, 2004 and January 24, 2005, respectively. We find it unnecessary to discuss it extensively because the arguments presented by NNC and THI in support of their respective positions are, ultimately, the very same issues we now resolve in G.R. No. 166845.

In G.R. No. 166845

On the first issue, THI maintains that its maritime liens against the vessels of NNC were impaired by the issuance of the stay order. THI argues that the issuance of the stay order by the Manila RTC, acting as rehabilitation court,

was erroneous considering that maritime liens cannot be enforced, divested, and otherwise affected or dealt with except by an admiralty court in an admiralty proceeding in rem. THI cited various foreign jurisprudence to the effect that maritime liens are enforceable only by a suit in rem. [33] It further averred that the mere suspension of the in rem proceedings in the admiralty case prejudiced its substantive rights under Presidential Decree (PD) 1521.[34]

The argument of THI is misplaced. There is no conflict as to which law should apply to the case at bench. THI wishes to impress this Court that its claim for repairman's lien is a maritime lien and, accordingly, may be enforced only in a proceeding in rem. The Court agrees that PD 1521 is the governing law concerning its maritime lien for the services it rendered to NNC. However, when NNC filed a petition for corporate rehabilitation and suspension of payments, and the Manila RTC found that the petition was sufficient in form and in substance and appointed the rehabilitation receiver, the admiralty proceeding was appropriately suspended in accordance with Section 6 of the Interim Rules on Corporate Rehabilitation.[35]

Rehabilitation contemplates continuance of corporate life and activities in an effort to restore and reinstate the corporation to its former position of successful operation and solvency.[36] The purpose of rehabilitation proceedings is precisely to enable the company to gain a new lease on life and thereby allow creditors to be paid their claims from its earnings. The rehabilitation of a financially distressed corporation benefits its employees, creditors, stockholders and, in a larger sense, the general public.[37]

The governing law concerning rehabilitation and suspension of actions for claims against corporations is PD 902-A, as amended. Republic Act No. 8799 (RA 8799), otherwise known as The Securities Regulation Code, amended Section 5 of PD 902-A, thereby transferring to the Regional Trial Courts the jurisdiction of the Securities and Exchange Commission (SEC) over cases, among others, involving petitions of corporations, partnerships or associations to be declared in the state of suspension of payments where the corporation, partnership or association possesses property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due, or where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a rehabilitation receiver or a management committee.

The Court adopted the Interim Rules of Procedure on Corporate Rehabilitation on December 15, 2000, and these rules apply to petitions for rehabilitation filed by corporations, partnerships, and associations pursuant to PD 902-A.

PD 902-A[38] 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. PD 902-A does not make any distinction as to what claims are covered by the suspension of actions for claims against corporations under rehabilitation. No exception is made therein in favor of maritime claims. Thus, since the law does not make any exemptions or distinctions, neither should we. *Ubi lex non distinguit nec nos distinguere debemos*.

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 extra-judicial 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.[39]

It is undisputed that THI holds a preferred maritime lien over NNC's assets by virtue of THI's unpaid services. The issuance of the stay order by the rehabilitation court does not impair or in any way diminish THI's preferred

status as a creditor of NNC. The enforcement of its claim through court action was merely suspended to give way to the speedy and effective rehabilitation of the distressed shipping company. Upon termination of the rehabilitation proceedings or in the event of the bankruptcy and consequent dissolution of the company, THI can still enforce its preferred claim upon NNC.

PD 902-A was designed not only to salvage an ailing corporation but also to protect the interest of investors, creditors and the general public. Section 6 (d) of PD 902-A provides: "the management committee or rehabilitation receiver, board or body shall have the power to take custody of, and control over, all the existing assets and property of such entities under management; to evaluate the existing assets and liabilities, earnings and operations of such corporations, partnerships or other associations; to determine the best way to salvage and protect the interest of the investors and creditors; to study, review and evaluate the feasibility of continuing operations and restructure and rehabilitate such entities if determined to be feasible by the [court]. It shall report and be responsible to the [court] until dissolved by order of the [court]: Provided, however, That the [court] may, on the basis of the findings and recommendation of the management committee, or rehabilitation receiver, board or body, or on its own findings, determine that the continuance in business of such corporation or entity would not be feasible or profitable nor work to the best interest of the stockholders, parties-litigants, creditors, or the general public, order the dissolution of such corporation entity and its remaining assets liquidated accordingly. The management committee or rehabilitation receiver, board or body may overrule or revoke the actions of the previous management and board of directors of the entity or entities under management notwithstanding any provision of law, articles of incorporation or by-laws to the contrary."

When a distressed company is placed under rehabilitation, the appointment of a management committee follows to avoid collusion between the previous management and creditors it might favor, to the prejudice of the other creditors. The stay order is effective on all creditors of the corporation without distinction, whether secured or unsecured. All assets of a corporation under rehabilitation receivership are held in trust for the equal benefit of all creditors to preclude one from obtaining an advantage or preference over another by the expediency of attachment, execution or otherwise. As between the creditors, the key phrase is equality in equity. Once the corporation threatened by bankruptcy is taken over by a receiver, all the creditors ought to stand on equal footing. Not any one of them should be paid ahead of the others. This is precisely the reason for suspending all pending claims against the corporation under receivership.[40]

Rizal Commercial Banking Corporation v. Intermediate Appellate Court,[41] promulgated by the Court en banc before the effectivity of the Interim Rules on Corporate Rehabilitation, is still valid case law up to the present. It enumerates the guidelines in the treatment of claims involving corporations undergoing rehabilitation, viz.:

- All claims against corporations, partnerships, or associations that are pending before any court, tribunal, or board, without distinction as to whether or not a creditor is secured or unsecured, shall be suspended effective upon the appointment of a management committee, rehabilitation receiver, board, or body in accordance with the provisions of Presidential Decree No. 902-A.
- Secured creditors retain their preference over unsecured creditors, but enforcement of such preference is equally suspended upon the appointment of a management committee, rehabilitation receiver, board, or body. In the event that the assets of the corporation, partnership, or association are finally liquidated, however, secured and preferred credits under the applicable provisions of the Civil Code will definitely have preference over unsecured ones.[42]

On the second issue, THI argues that the Manila RTC, in granting the stay order, divested the Cebu RTC, which is acting as an admiralty court, of its jurisdiction over the maritime case of THI. It insists that its maritime liens over the vessels of NNC must be upheld, notwithstanding NNC's rehabilitation proceedings. It stresses that in rem

proceedings to enforce maritime liens, the vessels alone may be impleaded as defendants. The vessels themselves answer for the liens, and lienholders like THI have the substantive statutory right under PD 1521 to insist on the vessels' responsibility because an action in rem is a proceeding against the ship itself. Furthermore, it emphasizes that a maritime lien is not affected by bankruptcy or reorganization, citing *Gilmore and Black* as reference.[43]

True enough, a maritime lien is not affected by bankruptcy or reorganization. However, in the instant case, we are not dealing with bankruptcy or reorganization; rather, we are confronted with NNC's rehabilitation. If we follow the argument of THI and allow the continued enforcement of its claims against NNC, we would, in effect, violate provisions of PD 902-A. To reiterate, the rationale behind PD 902-A is to effect a feasible and viable rehabilitation of an ailing corporation.

There is no conflict between PD 1521 and PD 902-A. The Manila RTC acting as a rehabilitation court merely suspended the proceedings in the admiralty case in the Cebu RTC. It did not divest the Cebu RTC of its jurisdiction over the maritime claims of THI against NNC. The preferred maritime lien of THI can still be enforced upon the termination of the rehabilitation proceedings, or if it such be unsuccessful, upon the dissolution of the corporation.

WHEREFORE, in view of the foregoing disquisitions, judgment is rendered as follows:

- (1) In G.R. No. 163156, the petition is dismissed for being moot and academic; and
- (2) In G.R. No. 166845, the petition is DENIED for lack of merit.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Mariano C. del Castillo and Aurora Santiago-Lagman, concurring; rollo (G.R. No. 163156), p. 27.

[2] Penned by Associate Justice Juan Q. Enriquez, Jr., with Associate Justices Salvador J. Valdez, Jr. and Vicente Q. Roxas; rollo (G.R. No. 166845), p. 10-18.

[3] *Id.* at 20- 21.

[4] Rollo (G.R. No. 163156), p. 115.

[5] Rollo (G.R. No. 166845), p. 153.

[6] *Id.* at. 149.

[7] The fallo of the Order reads:

WHEREFORE, in view of the foregoing, the application for writ for preliminary attachment is hereby granted. Consequently, let a writ of attachment issue, directing the sheriff of this court or other proper officers of the court to attach the properties of defendant, real and personal, not exempt from execution upon the plaintiff's filing first of a bond in the amount of THIRTY-FIVE MILLION FOUR HUNDRED THOUSAND AND SIX HUNDRED FORTY (P35,464,640.00) PESOS, to be approved by this court, conditioned to answer for all costs and damages which the defendants may sustain by reason of the attachment, should the court finally adjudge that the plaintiff is not entitled thereto.

IT IS SO ORDERED. (*Id.* at 149.)

[8] Id. at 50.

[9] Ship Mortgage Decree of 1978.

[10] Rollo (G.R. No. 166845), p. 151.

[11] Rollo (G.R. No. 163156), pp. 115-128.

[12] Id. at 137-139.

[13] Id.

[14] Rollo (G.R. No. 166845), p. 12.

[15] Id. at 152-160.

[16] Id.

[17] Id. at 157.

[18] Id. at 171.

[19] Id. at 172-173.

[20] Rollo (G.R. No. 163156), pp. 131-132.

[21] Id. at 142

[22] Id.

[23] Id. at 106-109.

[24] Supra note 1.

[25] Id.

[26] Id. at 162-164.

[27] Supra note 2.

[28] Id.

[29] Supra note 3.

[30] Rollo (G.R. No. 163156), pp. 598-599.

[31] Rollo (G.R. No. 166845), p. 42.

[32] Id. at 47.

[33] Id. at 42-47.

[34] Section 21 of PD 1521 provides:

Section 21. Maritime Lien for Necessaries; persons entitled to such lien. - Any person furnishing repairs, supplies, towage, use of dry dock or marine railway, or other necessities to any vessel, whether foreign or domestic, upon the order of the owner of such vessel, or of a person authorized by the owner, shall have a maritime lien on the vessel, which may be enforced by suit in rem, and shall be necessary to allege or prove that credit was given to the vessel."; rollo (G.R. No. 166845), p. 46.

[35] Interim Rules on Corporate Rehabilitation

SEC. 6. Stay Order.-- If the court finds the petition to be sufficient in form and substance, it shall, not later than five (5) days from the filing of the petition, issue an Order (a) appointing a Rehabilitation Receiver and fixing his bond; (b) staying enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the debtor, its guarantors and sureties not solidarily liable with the debtor; (c) prohibiting the debtor from selling, encumbering, transferring, or disposing in any manner any of its properties except in the ordinary course of business; (d) prohibiting the debtor from making any payment of its liabilities outstanding as at the date of filing of the petition; (e) prohibiting the debtor's suppliers of goods or services from withholding supply of goods and services in the ordinary course of business for as long as the debtor makes payments for the services and goods supplied after the issuance of the stay order; (f) directing the payment in full of all administrative expenses incurred after the issuance of the stay order; (g) fixing the initial hearing on the petition not earlier than forty five (45) days but not later than sixty (60) days from the filing thereof; (h) directing the petitioner to publish the Order in a newspaper of general circulation in the Philippines once a week for two (2) consecutive weeks; (i) directing all creditors and all interested parties (including the Securities and Exchange Commission) to file and serve on the debtor a verified comment on or opposition to the petition, with supporting affidavits and documents, not later than ten (10) days before the date of the initial hearing and putting them on notice that their failure to do so will bar them from participating in the proceedings; and (j) directing the creditors and interested parties to secure from the court copies of the petition and its annexes within such time as to enable themselves to file their comment on or opposition to the petition and to prepare for the initial hearing of the petition.

[36] *New Frontier Sugar Corporation v. RTC, Branch 39, Iloilo City*, G.R. No. 165001, January 31, 2007, 513 SCRA 601; *Ruby Industrial Corporation v. CA*, G.R. Nos. 124185-87, January 20, 1998.

[37] *Rubberworld (Phils.), Inc. v. NLRC*, G.R. No. 126773, April 14, 1999, 305 SCRA 721.

[38] Section 6(c).

[39] *Philippine Airlines, Incorporated v. Philippine Airlines Employees Association (PALEA)*, G.R. No. 142399, June 19, 2007, 525 SCRA 29; *Philippine Airlines, Incorporated v. Zamora*, G.R. No. 166996, February 6, 2007, 514 SCRA 584.; *Rubberworld (Phils.), Inc. v. NLRC*, G.R. No. 128003, July 26, 2000, 336 SCRA 433; *Rubberworld (Phils.), Inc. v. NLRC*, G.R. No. 126773, April 14, 1999, *supra*; *BF Homes, Incorporated v. CA*, G.R. No. 76879, October 3, 1990, 190 SCRA 262.

[40] *New Frontier Sugar Corporation v. RTC, Branch 39, Iloilo City*, *supra*; *Rizal Commercial Banking Corporation v. Intermediate Appellate Court*, G.R. No. 74851, December 9, 1999, 320 SCRA 279; *Bank of the Philippine Islands v. Court of Appeals*, G.R. No. 97178, January 10, 1994, 229 SCRA 223; *BF Homes, Incorporated v. CA*, *supra*; *Alema's Sibal & Sons, Inc. v. Elbinias*, G.R. No. 75414, June 4, 1990, 186 SCRA 94.

[41] G.R. No. 74851, December 9, 1999, 320 SCRA 279.

[42] *Id.* at 293.

[43] *Rollo* (G.R. No. 166845), pp. 47-60.

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