

**PHILIPPINE ISLANDS CORPORATION FOR TOURISM DEVELOPMENT, INC., PETITIONER, VS. VICTORIAS MILLING COMPANY, INC., RESPONDENT.**

*G.R. No. 167674. June 17, 2008*

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167674/>

---

**QUISUMBING, J.:**

This is a petition for review under Rule 45 of the Rules of Court seeking a reversal of the Decision[1] dated June 30, 2004 and the Resolution[2] dated March 30, 2005 of the Court of Appeals in CA-G.R. SP No. 79230. The appellate court had affirmed the Order[3] dated June 20, 2002 of the Securities and Exchange Commission (SEC) in SEC Case No. 07-97-5693, denying petitioner's motion to lift the suspension of proceedings of the civil case for collection of a sum of money which petitioner had filed against respondent Victorias Milling Company, Inc. (VMC) before the Regional Trial Court (RTC) of Makati City, Branch 148.

The facts culled from the records are as follows:

On March 7, 1997, petitioner Philippine Islands Corporation for Tourism Development, Inc. (PICTD) filed a complaint[4] for collection of a sum of money with prayer for the issuance of a writ of preliminary attachment against VMC before the RTC of Makati City, Branch 148. The complaint was docketed as Civil Case No. 97-483. In its complaint, PICTD alleged that VMC obtained loans from the CICM Missionaries, Inc. in the amount of P3,259,988.08 and from the Congregation of the Most Holy Redeemer in the amount of P1,211,596.00 Both loans were assigned to PICTD by way of a deed of assignment.

When the loans matured on March 3, 1997, PICTD sought payment from VMC but the latter failed to pay, prompting PICTD to file the abovementioned complaint. The RTC ordered the issuance of a writ of preliminary attachment against VMC's properties. However, upon VMC's motion, the writ of attachment was lifted when VMC deposited a counter attachment bond.

Meanwhile, on July 4, 1997, VMC filed a petition[5] before the SEC to declare itself in a state of suspension of payments, alleging that although it has sufficient property to cover all of its debts, it foresees its inability to pay them when they become due because of financial difficulties. VMC sought the appointment of a management committee that would oversee the implementation of its proposed rehabilitation plan so that it can continue its operations and thus enable it to meet its obligations and satisfy its liabilities.

On July 8, 1997, the SEC ordered the suspension of all actions or claims against VMC pending before any court, tribunal, office, board, body and/or commission.[6] Pursuant to said order, VMC filed before the RTC an urgent motion to suspend proceedings in Civil Case No. 97-483.[7] The RTC, in an Order[8] dated September 26, 1998, granted VMC's motion and suspended proceedings in the civil case.

On December 29, 1999, PICTD filed before the SEC a motion to lift the suspension of proceedings.[9] In an Order dated June 20, 2002, the SEC denied PICTD's motion. The SEC ruled that PICTD is merely a general

creditor who was able to seize the property of the debtor through an attachment issued before judgment and did not have a prior security agreement with VMC that will ripen into a creditor's right in case of default. Thus, its claim against VMC could not take precedence over the secured creditors.[10] The dispositive portion of the SEC Order states:

WHEREFORE, premises considered, PIC's Motion to Lift [the] Suspension of Proceedings is hereby DENIED for lack of merit.

SO ORDERED. [11]

PICTD then appealed to the Court of Appeals which affirmed the SEC's Order. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the petition for review is hereby DISMISSED and the Order dated 20 June 2002 of the Securities and Exchange Commission in SEC Case No. 07-97-5693 is hereby AFFIRMED in toto.

SO ORDERED.[12]

Hence, this petition.

PICTD raises the following issues for our resolution:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN LIMITING THE ISSUE ON THE APPLICABILITY OF THE ORDER OF SUSPENSION ISSUED BY THE SEC ON THE CLAIM OF PETITIONER FILED BEFORE THE RTC.

II.

WHETHER OR NOT THE COURT OF APPEALS FAILED TO RESOLVE THAT UNDER THE CIRCUMSTANCES OF THE PRESENT CASE VIS-À-VIS SECTION 4-10, RULE IV OF THE RULES OF PROCEDURE ON CORPORATE RECOVERY[,] THE SEC HAS THE POWER TO LIFT OR MODIFY THE ORDER OF SUSPENSION.

III.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT EXCLUDING THE CLAIM OF PETITIONER IN CIVIL CASE NO. 97-[483] FROM THE STAY ORDER ISSUED BY THE SEC IN SEC CASE NO. 07-97[-]5693.

IV.

WHETHER OR NOT PETITIONER IS GUILTY OF FORUM SHOPPING.[13]

On the other hand, VMC posits the following issues for our resolution:

I.

WHETHER OR NOT PETITIONER'S CLAIM IN CIVIL CASE NO. 97-483 IS INCLUDED IN THE COVERAGE OF THE SEC ORDER OF SUSPENSION.

II.

WHETHER OR NOT PETITIONER IS GUILTY OF FORUM SHOPPING.[14]

In sum, the issues are (1) whether or not the proceedings of the complaint for collection of a sum of money filed by PICTD against VMC before the RTC of Makati City should be excluded from the SEC Order suspending all actions or claims against VMC pending before any court, tribunal, office, board, body and/or commission; and (2) whether or not PICTD is guilty of forum shopping.

PICTD argues that the Court of Appeals erred when it ruled that the order of suspension suspends all actions or claims against VMC without qualification as to whether the claim is secured or unsecured. It also argues that the SEC, had it been objective and cognizant of the predicament of PICTD, should have lifted the order of suspension because under Section 4-10,[15] Rule IV of the Rules of Procedure on Corporate Recovery of the SEC, the SEC can, on motion or motu proprio, grant, on a case-to-case basis, a relief from the stay order issued.[16]

On the other hand, VMC counters that under Section 6(c)[17] of Presidential Decree No. 902-A[18] as amended by P.D. No. 1799, all claims for actions against a corporation declared to be in a status of suspension of payments and under a management committee are suspended.[19] VMC also argues that PICTD's effort to distinguish itself as a secured creditor exempt from the order of suspension of proceedings will not help its cause since P.D. No. 902-A makes no distinction and the Order dated July 8, 1997 of the SEC suspending all actions is explicit.[20]

Before ruling on the merits of the case, we first address the procedural issue of whether or not petitioner PICTD is guilty of forum shopping. Respondent VMC contends that PICTD is guilty of forum shopping because it wants to extirpate itself from the SEC Order dated July 8, 1997 directing the suspension of all claims or actions against VMC even though said order had already been upheld by the Court of Appeals in another case docketed as CA-G.R. SP No. 61267 and that said decision had already become final and executory.[21]

After considering the circumstances of this case and the submissions of the parties, we are in agreement that PICTD is not guilty of forum shopping.

Forum shopping is defined as an act of a party, against whom an adverse judgment or order has been rendered in one forum, of seeking and possibly getting a favorable opinion in another forum, other than by appeal or special civil action for certiorari. It may also be the institution of two or more actions or proceedings grounded on the same cause on the supposition that one or the other court would make a favorable disposition.[22]

Records show that CA-G.R. No. 61267 originated from a Motion to Set Case for Further Proceedings[23] filed by PICTD before the RTC in Civil Case No. 97-483. When the motion was granted, VMC filed a Petition for Certiorari and Prohibition with Prayer for Temporary Restraining Order and Preliminary Injunction[24] before the Court of Appeals assailing the RTC's Order. The Court of Appeals granted the petition and reversed the RTC's Order. In this case, PICTD filed a motion to lift the suspension of proceedings of Civil Case No. 97-483 before the SEC. This petition was filed solely to address the issue of whether or not PICTD should be exempted from the suspension order. Finding two related proceedings involving similar issues are to be expected, petitioner cannot be charged with deliberately seeking a friendlier forum when it was merely pursuing the next proper recourse permitted by the Rules.[25]

Coming to the merits of this petition, we agree to sustain the ruling of the appellate court upholding the SEC Order suspending the proceedings of the collection suit filed by PICTD against VMC.

Section 6(c) of P.D. No. 902-A as amended by P.D. No. 1799, enumerating the powers of the SEC provides:

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

x x x x

c) To appoint one or more receivers of the property, real and personal, which is the subject of the action

pending before the Commission...whenever necessary in order to preserve the rights of the parties-litigants and/or protect the interest of the investing public and creditors:...Provided, finally, That upon appointment of a management committee, rehabilitation receiver, board or body, pursuant to this Decree, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly. (Emphasis supplied.)

The purpose for the suspension of the proceedings is to prevent a creditor from obtaining an advantage or preference over another and to protect and preserve the rights of party litigants as well as the interest of the investing public or creditors. Such suspension is intended to give enough breathing space for the management committee or rehabilitation receiver to make the business viable again, without having to divert attention and resources to litigations in various fora. The suspension would 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 action 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.[26]

We are not persuaded by PICTD's argument that it should be exempt from the suspension order because it is a secured creditor. Unlike the provisions in the Insolvency Law which exempts secured creditors from the suspensive effect of the order issued by the court in an ordinary suspension of payments proceedings, the provisions of P.D. No. 902-A, when it comes to the appointment of a management committee or a rehabilitation receiver, do not contain an exemption for secured creditors.

We likewise find no merit in PICTD's argument that the SEC should have exempted it from the suspension order. Although the SEC may, under Section 4-10, Rule IV of the Rules of Procedure on Corporate Recovery of the SEC, on motion or motu proprio, grant, on a case-to-case basis, a relief from the suspension order, we find that the determination of such issue is an administrative finding that this Court will not disturb absent any showing of grave abuse of discretion on the part of the SEC.

WHEREFORE, the petition is DENIED. The assailed Decision dated June 30, 2004 and the Resolution dated March 30, 2005 of the Court of Appeals in CA-G.R. SP No. 79230 are AFFIRMED.

Costs against petitioner.

### **SO ORDERED.**

Tinga, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

---

[\*] Additional member in place of Associate Justice Presbitero J. Velasco, Jr. who is on official leave.

[\*\*] Additional member in place of Associate Justice Conchita Carpio Morales who is on official leave.

[1] Rollo, pp. 27-38. Penned by Associate Justice Rosalinda Asuncion-Vicente, with Associate Justices Delilah Vidallon-Magtolis and Bienvenido L. Reyes concurring.

[2] Id. at 40-42.

[3] CA rollo, pp. 20-24.

[4] Id. at 27-35.

[5] Id. at 51-58.

[6] Id. at 161-166.

[7] Id. at 167-169.

[8] Id. at 59-60.

[9] Id. at 61-63.

[10] Id. at 23.

[11] Id. at 24.

[12] Rollo, p. 37.

[13] Id. at 625.

[14] Id. at 421.

[15] SECTION 4-10. Relief From, Modification, or Termination of Suspension Order. The Commission may, on motion or motu proprio terminate, modify, or set conditions for the continuance of the suspension order, or relieve a claim from the coverage thereof upon showing that (a) any of the allegations in the petition, or any of the contents of any attachment, or the verification thereof has ceased to be true, (b) a creditor does not have adequate protection over property securing its claim, or (c) the debtor's secured obligation is more than the fair market value of the property subject of the stay and such property is not necessary for the rehabilitation of the debtor.

For purposes of this section, the creditor shall lack adequate protection if it can be shown that:

- the debtor is not honoring pre-existing agreement with the creditor to keep the property insured;
- the debtor is failing to take commercially reasonable steps to maintain the property; or
- depreciation of the property is increasing to the extent that the creditor is undersecured.

Upon showing of a lack of adequate protection, the Commission shall order the debtor to (a) make arrangements to provide for the insurance or maintenance of the property, (b) to make payments or otherwise provide an additional or replacement lien to the creditor to offset the extent that the depreciation of the property is increasing the extent that the creditor is undersecured. Provided, however, that the Commission may deny the creditor the remedies in this paragraph if such remedies would prevent the continuation of the debtor as a going concern or otherwise prevent the approval and implementation of a Rehabilitation Plan.

[16] Rollo, pp. 626-627.

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

x x x x

c) To appoint one or more receivers of the property, real and personal, which is the subject of the action pending before the Commission in accordance with the pertinent provisions of the Rules of Court in such other cases whenever necessary in order to preserve the rights of the parties-litigants and/or protect the interest of the investing public and creditors: Provided, however, That the Commission may, in appropriate cases, appoint a rehabilitation receiver of corporations, partnerships or other associations not supervised or regulated by other government agencies who shall have, in addition to the powers of a regular receiver under the provisions of the Rules of Court, such functions and powers as are provided for in the succeeding paragraph d) hereof: Provided,

further, That the Commission may appoint a rehabilitation receiver of corporations, partnerships or other associations supervised or regulated by other government agencies, such as banks and insurance companies, upon request of the government agency concerned: Provided, finally, That upon appointment of a management committee, rehabilitation receiver, board or body, pursuant to this Decree, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly.

x x x x

[18] 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, done on March 11, 1976.

[19] Rollo, p. 423.

[20] Id. at 424-425.

[21] Id. at 451-452.

[22] Philippine National Construction Corporation v. Dy, G.R. No. 156887, October 3, 2005, 472 SCRA 1, 6.

[23] Rollo, pp. 474-476.

[24] Id. at 499-511.

[25] Philippine National Construction Corporation v. Dy, supra.

[26] Sobrejuanite v. ASB Development Corporation, G.R. No. 165675, September 30, 2005, 471 SCRA 763, 770-771; BF Homes, Incorporated v. Court of Appeals, G.R. Nos. 76879 & 77143, October 3, 1990, 190 SCRA 262, 269.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.