# CHINA BANKING CORPORATION, PETITIONER, VS. CEBU PRINTING AND PACKAGING CORPORATION, RESPONDENT.

*G.R. No. 172880. August 11, 2010*

Ponente: PERALTA, J.

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**PERALTA, J.:**

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court which seeks to annul and set aside the Amended Decision[2] dated March 3, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 71017.

The facts, as shown in the records, are the following:

On January 29, 2002, Cebu Printing and Packaging Corporation (CEPRI) filed a Petition for Rehabilitation[3] with the Regional Trial Court (RTC) of Cebu City, Branch 11.[4] Finding the petition sufficient in form and substance, the RTC issued a Stay Order[5] dated February 11, 2002: staying enforcement of all claims against CEPRI, its guarantors and sureties; appointing Mr. Sergio D. Lim, Jr. as rehabilitation receiver and fixing his bond at P100,000.00; directing CEPRI to publish said Order in a newspaper of general circulation in the Philippines once a week for two (2) consecutive weeks; fixing the initial hearing on the petition on March 21, 2002; and directing all creditors and all interested parties (including the Securities and Exchange Commission) to file and serve on CEPRI a verified comment on or opposition to the petition, with supporting affidavits and documents, not later than ten (10) days before March 21, 2002, and putting them on notice that their failure to do so will bar them from participating in the proceedings, among others.

After due publication of the Stay Order, only China Banking Corporation (Chinabank) filed a Comment/Opposition[6] dated March 8, 2002.

After the initial hearing, the RTC issued the Order[7] dated April 30, 2002 denying due course to the petition for rehabilitation. The Order reads in part:

> WHEREFORE, in view of the foregoing premises, this Court hereby does not give due course to the petition for rehabilitation filed in this case.
>
> Accordingly, the Court lifts the stay order issued in this case on February 11, 2002 and recalls the appointment of Mr. Carlos G. Co as rehabilitation receiver.
>
> IT IS SO ORDERED.

CEPRI received the Order of the RTC on May 8, 2002, and filed an Urgent Motion for Reconsideration[8] on May 14, 2002, which the court, in an Order[9] dated May 23, 2002, desisted from taking cognizance because such motion is a prohibited pleading. Thus:

> The Court hereby desists from taking cognizance of the petitioner's urgent motion for reconsideration of the order issued in this case on April 30, 2002 because a motion for reconsideration of an order is a prohibited pleading under Section 1 of Rule 3 of the Interim Rules of Procedure on Corporate Rehabilitation.

On June 4, 2002, or past the period within which to file an appeal, CEPRI filed with the CA a Petition for Certiorari[10] which the court denied, and affirmed in toto the Order dated April 30, 2002 of the RTC, the dispositive portion of which reads:

> WHEREFORE, premises considered, the Petition is hereby DENIED. Accordingly, the Orders dated April 30, 2002 and May 23, 2002 are AFFIRMED in toto.
>
> SO ORDERED.[11]

Aggrieved, CEPRI filed a Motion for Reconsideration[12] dated September 27, 2005 which the CA granted in its Amended Decision[13] dated March 3, 2006, the dispositive portion of which reads as follows:

> WHEREFORE, premises considered, the Petition is hereby GRANTED. The Orders dated April 30, 2002 and May 23, 2002 are REVERSED, and the case is remanded to the lower court. The Stay Order issued by the public respondent is REINSTATED, and the appointment of the Rehabilitation Receiver, Mr. Carlos G. Co, is RESTORED. The Petition for Rehabilitation is given DUE COURSE, and the petition is referred to the Rehabilitation Receiver for the evaluation of the rehabilitation plan. The Rehabilitation Receiver is given ONE HUNDRED TWENTY (120) days from receipt of this Amended Decision to submit his recommendations to the lower court for the proper disposition thereof.
>
> SO ORDERED.

Due to the above ruling, Chinabank filed a motion for reconsideration[14] dated March 23, 2006, which was denied by the CA in its Resolution[15] dated May 29, 2006.

Hence, the present petition with the following issues raised:

> A -
>
> THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT EVEN A PETITION FOR CERTIORARI UNDER RULE 65 OF THE RULES OF COURT IS EMBRACED UNDER A.M. NO. 04-9-07-SC PROMULGATED ON SEPTEMBER 14, 2004 AND TOOK EFFECT ON OCTOBER 15, 2004, GOVERNING APPEALS IN CORPORATE REHABILITATION CASES.
>
> B -
>
> THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT CONVENIENTLY DISREGARDED THE FACTUAL FINDINGS OF THE COMMERCIAL COURT, AND SUBSTITUTED THE SAME WITH ITS OWN JUDGMENT, BY MERELY RELYING ON THE OPINION OF AN AUTHOR IN CORPORATE REHABILITATION, WHOSE EXPERTISE IN THE FIELD IS NOT EVEN WELL ESTABLISHED.
>
> C -
>
> THE ASSAILED AMENDED DECISION REINSTATING THE REHABILITATION CASE HAD UNWITTINGLY SANCTIONED THE DESPICABLE PRACTICE OF FORUM SHOPPING BY THE RESPONDENT AND ITS COUNSEL, WHEREBY THERE ARE NOW TWO (2) CASES PENDING, ONE FOR CORPORATE REHABILITATION UNDER SRC CASE NO. 001-CEB, AND THE OTHER, FOR ANNULMENT OF LOANS AND MORTGAGE CONTRACTS, AMONG OTHERS, UNDER CIVIL CASE NO. MAN-4372, PRESENTLY PURSUED SIMULTANEOUSLY BY THE RESPONDENT, EACH ASKING FOR RELIEF INCOMPATIBLE WITH THE OTHER.[16]

In its Comment[17] dated October 23, 2006, CEPRI argued that the CA did not commit any reversible error when it ruled that even a petition for certiorari under Rule 65 of the Rules of Court is embraced under A.M. No.


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04-9-07-SC promulgated on September 14, 2004 and took effect on October 15, 2004, governing appeals in corporate rehabilitation cases. It further claimed that the CA did not err in disregarding the factual findings of the RTC. It also pointed out that the issue on forum shopping should not have been raised in this Court, because the said issue had already been addressed by the CA.

The petition is impressed with merit.

Petitioner contends that a special civil action under Rule 65 of the 1997 Rules of Civil Procedure is not a remedy for the failure to timely file a petition for review under Rule 45. It adds that Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, especially if such loss or lapse was occasioned by one's own negligence or error in the choice of remedies. It also claims that CEPRI was prompted to file the petition for certiorari not because of its firm conviction that grave abuse of discretion attended the issuance of the commercial court's Order dated April 30, 2002, denying due course on the petition for rehabilitation, but in a bid to make up for the lost remedy of appeal.

Nevertheless, the CA, in its Amended Decision dated March 3, 2006, treated the petition for certiorari as a petition for review citing several decisions[18] of this Court. The CA went on to state that the petition for certiorari filed by CEPRI was pursuant to A.M. No. 04-9-07-SC which treats the said petition as a petition for review under Rule 43. This is an error on the part of the CA.

The foremost issue to be resolved is whether or not CEPRI availed of the proper remedy. This Court rules in the negative.

Section 5,[19] Rule 3 of the Interim Rules of Procedure on Corporate Rehabilitation provides:

> Sec. 5. Executory Nature of Orders. - Any order issued by the court under these Rules is immediately executory. A petition for review or an appeal therefrom shall not stay the execution of the order unless restrained or enjoined by the appellate court. The review of any order or decision of the court or an appeal therefrom shall be in accordance with the Rules of Court: Provided, however, that the reliefs ordered by the trial or appellate courts shall take into account the need for resolution of proceedings in a just, equitable, and speedy manner.

As correctly argued by petitioner, the proceedings for corporate rehabilitation is categorized as a special proceeding; hence, as supplied in A.M. 00-8-10-SC:

> Following the discussion above, the period of appeal provided in section 3, Rule 41[20] of the 1997 Rules of Civil Procedure for ordinary civil actions shall apply to cases involving intra-corporate disputes. Corollarily, the period of appeal provided in paragraph 19 (b) of the Interim Rules Relative to the Implementation of B.P. Blg. 129 for special proceedings shall apply to petitions for rehabilitation.

However, this Court issued A.M. No. 04-9-07-SC[21] as a clarification on the proper mode of appeal of cases which were formerly under the jurisdiction of the Securities and Exchange Commission, such as those cases involving corporate rehabilitation. Now, there is no more need to file a notice of appeal and record on appeal. An appeal may now be perfected by filing a petition for review within fifteen (15) days from notice of the decision or final order of the trial court, directly to the CA under Rule 43 of the Rules of Court. As stated:

> WHEREFORE, the Court Resolves:
>
> 1. All decisions and final orders in cases falling under the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealable to the Court of Appeals through a petition for review under Rule 43 of the Rules of Court.
>
> 2. The petition for review shall be taken within fifteen (15) days from notice of the decision or final order of

> the Regional Commercial Court. Upon proper motion and the payment of the full amount of the legal fee prescribed in Rule 141, as amended before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days within which to file the petition for review. No further extension shall be granted except for the most compelling reasons and in no case to exceed fifteen (15) days.
>
> 3. This Resolution shall apply to all pending appeals filed within the reglementary period from decisions and final orders in cases falling under the Interim Corporate Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799, regardless of the mode of appeal or petition resorted to by the appellant.
>
> 4. These pending appeals or petitions shall be treated in the following manner:
>
> a. In case a notice of appeal and/or record on appeal was filed with the Regional Commercial Court within the period provided in A.M. No. 00-8-10-SC, and the original record or the approved record on appeal has not been transmitted to the Court of Appeals, the appealing party shall have fifteen (15) days from the effectivity of this Resolution to file a petition for review under Rule 43 with the Court of Appeals, without prejudice to filing a motion for extension in accordance with 1 hereof.
>
> The notice of appeal and/or record on appeal shall remain in the original record but the Regional Commercial Court and/or its clerk shall not transmit the original record or the approved record on appeal to the Court of Appeals anymore.
>
> An appealing party who fails to file a petition for review with the Court of Appeals within the prescribed period shall not be deemed to have abandoned his appeal, in which case the appeal shall run its due course.
>
> b. In case a notice of appeal and/or record on appeal was filed with the Regional Commercial Court within the period provided in A.M. No. 00-8-10-SC, and the original record or the approved record on appeal has been transmitted to the Court of Appeals, the case shall continue as an appeal.
>
> c. In case a petition appealing or assailing the decision and/or final order is filed directly with the Court of Appeals within the reglementary period, such petition shall be considered a petition for review under Rule 43.
>
> d. In case a notice of appeal and/or record on appeal is filed with the Regional Commercial Court and a petition appealing or assailing the decision and/or final order is likewise filed with the Court of Appeals, the cases shall be consolidated and treated as a petition for review under Rule 43. (Emphasis supplied.)

The above resolution emphasizes the need to perfect an appeal within the given period which is fifteen (15) days by specifically stating that Rule 43 of the Rules of Court is the mode of appeal that is applicable for those appealing or assailing the decisions and/or final orders of the RTC. Thus, when it is mentioned in paragraph 4 (c) of A.M. No. 04-9-07-SC that in case a petition appealing or assailing the decision and/or final order is filed directly with the Court of Appeals within the reglementary period, such petition shall be considered a petition for review under Rule 43, it is presumed that the mode of appeal resorted to was an ordinary appeal and not a special civil action. Otherwise, the Resolution should have categorically included certiorari under Rule 65 as among those that should be considered as a petition for review under Rule 43 of the Rules of Court. Again, Rule 43 of the Rules of Court pertains to an ordinary mode of appeal, whereas CEPRI availed of Rule 65, a special civil action.

In New Frontier Sugar Corporation v. RTC, Branch 39, Iloilo City,[22] this Court already ruled that the proper mode of appeal in cases of corporate rehabilitation is through a petition for review under Rule 43 of the Rules of Court to be filed within fifteen (15) days from notice of the decision or final order of the RTC. As ruled:

> However, it should be noted that the Court issued A.M. No. 04-9-07-SC on September 14, 2004, clarifying the proper mode of appeal in cases involving corporate rehabilitation and intra-corporate controversies. It is provided therein that all decisions and final orders in cases falling under the Interim Rules of Corporate

> Rehabilitation and the Interim Rules of Procedure Governing Intra-Corporate Controversies under Republic Act No. 8799 shall be appealed to the CA through a petition for review under Rule 43 of the Rules of Court to be filed within fifteen (15) days from notice of the decision or final order of the RTC.[23]

Through the above decision of this Court, it can be gleaned that the reglementary period of fifteen (15) days from notice of the decision or final order of the RTC within which to file an appeal is of utmost importance.

In reversing its original ruling that CEPRI availed of wrong mode of appeal, the CA in its Amended Decision reasoned out that although the petition for certiorari was an incorrect remedy, it allowed the treatment of such petition as a petition for review based on earlier rulings of this Court. While it may be true that this Court, in various cases, has treated a petition for certiorari under Rule 65 as a petition for review, it does not follow that the appellate courts should subscribe to those rulings as a general rule. In those decisions, certain exceptional circumstances were present which necessitated the relaxing of the rule. Highly instructive is this Court's ruling in Tagle v. Equitable PCI Bank:[24]

> The remedies of appeal in the ordinary course of law and that of certiorari under Rule 65 of the Revised Rules of Court are mutually exclusive and not alternative or cumulative. Time and again, this Court has reminded members of the bench and bar that the special civil action of Certiorari cannot be used as a substitute for a lost appeal where the latter remedy is available; especially if such loss or lapse was occasioned by one's own negligence or error in the choice of remedies.
>
> To be sure, once again, we take this opportunity to distinguish between a Petition for Review on Certiorari (an appeal by certiorari) and a Petition for Certiorari (a special civil action/an original action for Certiorari), under Rules 45 and 65, respectively, of the Revised Rules of Court. Madrigal Transport Inc. v. Lapanday Holdings Corporation summarizes the distinctions between these two remedies, to wit:
>
> As to the Purpose. Certiorari is a remedy designed for the correction of errors of jurisdiction, not errors of judgment. In Pure Foods Corporation v. NLRC, we explained the simple reason for the rule in this light:
>
> When a court exercises its jurisdiction, an error committed while so engaged does not deprive it of the jurisdiction being exercised when the error is committed. If it did, every error committed by a court would deprive it of its jurisdiction and every erroneous judgment would be a void judgment. This cannot be allowed. The administration of justice would not survive such a rule. Consequently, an error of judgment that the court may commit in the exercise of its jurisdiction is not correct[a]ble through the original civil action of certiorari.
>
> The supervisory jurisdiction of a court over the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court -- on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision. Even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of certiorari. Where the error is not one of jurisdiction, but of an error of law or fact î º a mistake of judgment î º appeal is the remedy.
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> As to the Manner of Filing. Over an appeal, the CA exercises its appellate jurisdiction and power of review. Over a certiorari, the higher court uses its original jurisdiction in accordance with its power of control and supervision over the proceedings of lower courts. An appeal is thus a continuation of the original suit, while a petition for certiorari is an original and independent action that was not part of the trial that had resulted in the rendition of the judgment or order complained of. The parties to an appeal are the original parties to the action. In contrast, the parties to a petition for certiorari are the aggrieved party (who thereby becomes the petitioner) against the lower court or quasi-judicial agency, and the prevailing parties (the public and the private respondents, respectively).
>
> As to the Subject Matter. Only judgments or final orders and those that the Rules of Court so declared are appealable. Since the issue is jurisdiction, an original action for certiorari may be directed against an


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> interlocutory order of the lower court prior to an appeal from the judgment; or where there is no appeal or any plain, speedy or adequate remedy.
>
> As to the Period of Filing. Ordinary appeals should be filed within fifteen days from the notice of judgment or final order appealed from. Where a record on appeal is required, the appellant must file a notice of appeal and a record on appeal within thirty days from the said notice of judgment or final order. A petition for review should be filed and served within fifteen days from the notice of denial of the decision, or of the petitioner's timely filed motion for new trial or motion for reconsideration. In an appeal by certiorari, the petition should be filed also within fifteen days from the notice of judgment or final order, or of the denial of the petitioner's motion for new trial or motion for reconsideration.
>
> On the other hand, a petition for certiorari should be filed not later than sixty days from the notice of judgment, order, or resolution. If a motion for new trial or motion for reconsideration was timely filed, the period shall be counted from the denial of the motion.
>
> As to the Need for a Motion for Reconsideration. A motion for reconsideration is generally required prior to the filing of a petition for certiorari, in order to afford the tribunal an opportunity to correct the alleged errors. Note also that this motion is a plain and adequate remedy expressly available under the law. Such motion is not required before appealing a judgment or final order.
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> x x x x
>
> It is true that in accordance with the liberal spirit pervading the Rules of Court and in the interest of substantial justice, this Court has, before, treated a petition for certiorari as a petition for review on certiorari, particularly (1) if the petition for certiorari was filed within the reglementary period within which to file a petition for review on certiorari; (2) when errors of judgment are averred; and (3) when there is sufficient reason to justify the relaxation of the rules.[25]

This Court was also liberal in its treatment of a wrong mode of appeal in Land Bank of the Philippines v. CA,[26] wherein it was ruled that:

> x x x However, there are cases where the cert writ may still issue even if the aggrieved party has a remedy of appeal in the ordinary course of law. Thus, where the exigencies of the case are such that the ordinary methods of appeal may not prove adequate either in point of promptness or completeness so that a partial or total failure of justice may result, a cert writ may issue.

The same was also applied in Leyte IV Electric Cooperative, Inc. v. LEYECO IV Employees Union-ALU,[27] thus:

> In addition, while the settled rule is that an independent action for certiorari may be availed of only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law and certiorari is not a substitute for the lapsed remedy of appeal, there are a few significant exceptions when the extraordinary remedy of certiorari may be resorted to despite the availability of an appeal, namely: (a) when public welfare and the advancement of public policy dictate; (b) when the broader interests of justice so require; (c) when the writs issued are null; and (d) when the questioned order amounts to an oppressive exercise of judicial authority.[28]

With the above-cited rulings of this Court in mind, the Amended Decision, as well as the records and the antecedent circumstances of the present case are devoid of any justification that would merit the deviation from the strict rule of procedure. The fact still remains that CEPRI had chosen to file an inappropriate mode of appeal and regardless of the reason behind it, whether it was to substitute a lost appeal or merely through plain negligence, such can no longer be corrected. It is elementary that the special civil action of certiorari is not and cannot be a substitute for an appeal, where the latter remedy is available, as it was in this case.[29] A special civil

action under Rule 65 of the Rules of Court will not be a cure for failure to timely file an appeal under Rule 43 of the Rules of Court. Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, especially if such loss or lapse was occasioned by one's own neglect or error in the choice of remedies.[30]

Notwithstanding the error committed by the CA in disregarding the proper mode of appeal or even under the presumption that it committed no mistake in treating the petition for certiorari under Rule 65 as a petition for review, the CA was still amiss in disregarding the factual findings of the RTC.

The RTC found CEPRI to be in the state of insolvency which precludes it from being entitled to rehabilitation. The findings of fact of the RTC must be given respect as it is clear and categorical in ruling that CEPRI is not merely in the state of illiquidity, but in an apparent state of insolvency. There is nothing more detailed than the contents of the said Order, which reads, in part:

> After the aforesaid initial hearing, this Court made a careful and judicious scrutiny and evaluation as to whether the petition for rehabilitation filed by the petitioner is impressed with merit or not. Up to this time, this Court is not satisfied that there is merit in the said petition.
>
> Foremost of all, it appears that the petitioner does not really have enough assets, net worth and earning to meet and settle its outstanding liabilities. As stated by it in paragraph 7.8 of the petition, it has outstanding liabilities in the aggregate sum of P69,539,903.57 to the Bank of Philippine Islands and China Banking Corporation. These major liabilities are broken down as follows: P20,230,000.00 to BPI and P49,309,903.57 to China Banking Corporation as of December 31, 2001. There is a strong probability that these may still increase substantially after December 31, 2001. However, the petitioner has relatively less assets to answer for these liabilities. As historically shown by its audited financial statements, the petitioner's assets from 1990 to 2000 were only worth as follows: P352,222.40 in 1990 (Exhibit K), P452,723.33 in 1991 (Exhibit K), P569,948.19 in 1992 (Exhibit L), P787,300.65 in 1993 (Exhibit M), P761,310.69 in 1994 (Exhibit N), P3,042,411.81 in 1995 (Exhibit O), P5,608,866.70 in 1996 (Exhibit P), P8,100,022.81 in 1997 (Exhibit Q), P10,007,490.26 in 1998 (Exhibit R), P10,905,649.83 in 1999 (Exhibit S) and P11,615,251.75 in 2000 (Exhibit T). Of course, there is a sudden and tremendous supposed increase or leap of the worth of petitioner's assets as of December 31, 2001, as shown by Annex A of the petition, from P11,615,251.75 as of December 31, 2000 to P65,766,094.28 as of December 31, 2001. But this is actually of no moment. The fact is that the petitioner booked as its assets certain properties not actually belonging to it, like the parcels of land covered by Transfer Certificates of Title Nos. 34039, 34040, 34041 and 30696 in the name of Rolando S. Go. The petitioner, through its counsel, admitted this fact during the hearing on its petition. And so, the balance sheet of the petitioner as of December 31, 2001 is not really a faithful one. The revaluation increments stated or indicated therein are questionable. For all intents and purposes, it can thus be said that the petitioner was not actually better off in terms of its assets and equity in 2001 than in 2000. In view thereof, this Court concurs with the oppositor, China Banking Corporation, that the petitioner is actually now in a state of insolvency, not illiquidity. In other words, it cannot be the proper subject of rehabilitation.
>
> Secondly, this Court is not really prepared to give full faith to the financial projections of the petitioner (Annex H-1 of the petition). The assumption that petitioner's gross sales will increase by 25% to 30% within the next five years is without adequate basis. It is too speculative and unrealistic. It is not borne by petitioner's historical operations. Neither is it borne by an objective industry forecast. It is even belied by the Packaging Industry Profile prepared by the DTI Cebu Provincial Office which the petitioner submitted to this Court (Exhibit U). In said Packaging Industry Profile, it is categorically and explicitly stated that "packaging demand is projected by the Strategic Industry Research and Analysis (SIRA) to increase only by around 4.7% compound per annum over the period 1997-2003." And so, there is actually no faithful and adequate showing by the petitioner that it has ample capacity to pay its outstanding and overdue loans to its major creditors such as the BPI and China Banking Corporation, even if it be given a breathing spell.

> In the third place, the petitioner has not met all the conditions which are required or necessary to place it under rehabilitation. It has not been shown categorically and specifically by the petitioner that its stockholders had irrevocably approved and/or consented to all actions or matters necessary and desirable to rehabilitate it, such as amending its articles of incorporation and by-laws, increasing or decreasing its authorized capital stock, its issuing bonded indebtedness, alienating or encumbering its assets and modifying the rights of its shareholders. Such is not specifically shown in Annex L of the petition and Exhibits J and J-1 for the petitioner. In the absence of it, this Court cannot be in a position to approve the petitioner's proposed rehabilitation plan.[31]

Based on the above Order of the RTC, this Court finds no reason to disturb the RTC's findings of fact, and neither should the CA. It must be remembered that the trial court has the authority to dismiss a petition for rehabilitation after hearing, or even after due consideration of the pleadings filed before it.[32] This is in accord with the trial court's authority to give due course to the petition or not under Rule 4,[33] Section 9 of the Interim Rules.[34] The trial court, acting in its capacity as a commercial court, has the expertise and knowledge over matters under its jurisdiction and is in a better position to pass judgment thereon. It is no different than that of administrative departments and, as such, its findings of fact are generally accorded respect, if not finality.

Anent the issue of forum shopping, the resolution of the first two issues renders it inconsequential.

In summary, had the CA not reversed its original decision, which was more in tune with the law and the prevailing jurisprudence, the simple issues presented before this Court would have been settled expeditiously.

WHEREFORE, the petition for review dated July 18, 2006 of China Banking Corporation is hereby GRANTED. The Amended Decision dated March 3, 2006 of the Court of Appeals in CA-G.R. SP No. 71017 is hereby ANNULLED and SET ASIDE. Consequently, the Order dated April 30, 2002 of the Regional Trial Court, Branch 11, Cebu City is hereby AFFIRMED.

**SO ORDERED.**

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

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[1] Rollo, pp. 46- 679.

[2] Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Vicente L. Yap and Enrico A. Lanzanas, concurring; id. at 10-27.

[3] Rollo, pp. 254-445.

[4] A specially designated corporate court, pursuant to Section 5.2 of R.A. 8799.

[5] Rollo, pp. 446-447.

[6] Id. at 448-458, with a Supplemental Comment/Opposition dated April 12, 2002, id. at 459-466.

[7] Rollo, pp. 145-147.

[8] Id. at 467-485.

[9] Id. at 486. (Emphasis supplied.)

[10] Id. at 487-533.

[11] Id. at 36.

[12][ ]Id. at 621-631.


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[13] Id. at 10-27.

[14] Id. at 1169-1208.

[15] Id. at 38-39.

[16] Id. at 71-72.

[17] Id. at 693-732.

[18] Cando v. NLRC, G.R. No. 91344, September 14, 1990, 189 SCRA 666; Royal Crown Internationale v. NLRC, G.R. No. 78085, October 16, 1989, 178 SCRA 569; People v. Ferrer, 150-C Phil. 551 (1972); Universal Textile Mills, Inc. v. C. I. R., 146 Phil. 1101 (1970); Shugo Noda & Co., Ltd. v. CA, G.R. No. 107404, March 30, 1994, 231 SCRA 620; Commission on Elections v. CA, G.R. No. 108120, January 26, 1994, 229 SCRA 501; Estrada v. Domingo, 139 Phil. 158 (1969); Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co., Inc., G.R. No. L-31195, June 5, 1973, 51 SCRA 189.

[19] A.M. No. 00-8-10-SC. (Emphasis supplied.)

[20] Sec. 3. Period of ordinary appeal. - The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or the final order. x x x

The period of appeal shall be interrupted by a timely motion for new commercial or reconsideration. No motion for extension of time to file a motion for new commercial or reconsideration shall be allowed.

[21] Re: Mode of Appeal in Cases Formerly Cognizable by the Securities and Exchange Commission.

[22] G.R. No. 165001, January 31, 2007, 513 SCRA 601.

[23] Id. at 611. (Emphasis supplied.)

[24] G.R. No. 172299, April 22, 2008, 552 SCRA 424.

[25] Id. at 434-444, citing Cathay Pacific Steel Corp. v. Court of Appeals, 500 SCRA 226, 236 (2006); Land Bank of the Philippines v. Continental Watchman Agency Incorporated, 465 Phil. 607, 615 (2004); Land Bank of the Philippines v. Court of Appeals, 456 Phil. 755, 784 (2003); Madrigal Transport Inc. v. Lapanday Holdings Corporation, 436 SCRA 123, 134-136 (2004); Oaminal v. Sps. Castillo, 459 Phil. 542, 556 (2003); Republic v. Court of Appeals, 379 Phil. 92, 98 (2000); Eternal Gardens Memorial Park Corp. v. Court of Appeals, 347 Phil. 232, 256 (1997); Delsan Transport Lines, Inc. v. Court of Appeals, 335 Phil. 1066, 1075 (1997); Banco Filipino Savings and Mortgage Bank v. Court of Appeals, 389 Phil. 644 (2000); Bank of America, NT & SA v. Gerochi, Jr., 230 SCRA 9, 15 (2004), citing Alto Sales Corp. v. Intermediate Appellate Court, 274 Phil. 914 (1991); Filcon Manufacturing Corp. v. National Labor Relations Commission, 199 SCRA 814 (1999); and Kabushi Kaisha Isetan v. Intermediate Appellate Court, 203 SCRA 583 (1991). (Emphasis supplied.)

[26] 456 Phil. 755, 786 (2003), citing State v. Guinotte, 57 S.W. 281 (1900). (Emphasis supplied.)

[27] G.R. No. 157775, October 19, 2007, 537 SCRA 154.

[28] Id. at 166, citing 1997 Rules of Civil Procedure, Rule 65, Sec. 1; Madrigal Transport, Inc. v. Lapanday Holdings Corporation, supra note 23, at 127; Madriaga v. Court of Appeals, G.R. No. 142001, July 14, 2005, 463 SCRA 298; Martillano v. Court of Appeals, G.R. No. 148277, June 29, 2004, 433 SCRA 195; Heirs of Lourdes Padilla v. Court of Appeals, 469 Phil. 296, 204 (2004); Metropolitan Manila Development Authority v. JANCOM Environmental Corp., 425 Phil. 961, 974 (2002); Uy Chua v. Court of Appeals, 398 Phil. 17, 30 (2000).

(Emphasis supplied.)

[29] See Badiola v. Court of Appeals, G.R. No. 170691, April 23, 2008, 552 SCRA 562, 583.

[30] Id.

[31] Rollo, pp. 145-16. (Emphasis supplied.)

[32] See New Frontier Sugar Corporation v. RTC, Branch 39, Iloilo City, et al., supra note 21.

[33] x x x

(4) Initial hearing on any matter relating to the petition or on any comment and/or opposition filed in connection therewith. If the trial court is satisfied that there is merit in the petition, it shall give due course to the petition;

x x x

[34] New Frontier Sugar Corporation v. RTC, Branch 39, Iloilo City, et al., supra note 21.


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