

JOSE MARCEL PANLILIO, ERLINDA PANLILIO, NICOLE MORRIS AND MARIO T. CRISTOBAL, PETITIONERS, VS. REGIONAL TRIAL COURT, BRANCH 51, CITY OF MANILA, REPRESENTED BY HON. PRESIDING JUD...

G.R. No. 173846. February 02, 2011

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari[1] under Rule 45 of the Rules of Court, seeking to set aside the April 27, 2006 Decision[2] and August 2, 2006 Resolution[3] of the Court of the Appeals (CA) in CA-G.R. SP No. 90947.

The facts of the case are as follows:

On October 15, 2004, Jose Marcel Panlilio, Erlinda Panlilio, Nicole Morris and Marlo Cristobal (petitioners), as corporate officers of Silahis International Hotel, Inc. (SIHI), filed with the Regional Trial Court (RTC) of Manila, Branch 24, a petition for Suspension of Payments and Rehabilitation[4] in SEC Corp. Case No. 04-111180.

On October 18, 2004, the RTC of Manila, Branch 24, issued an Order[5] staying all claims against SIHI upon finding the petition sufficient in form and substance. The pertinent portions of the Order read:

Finding the petition, together with its annexes, sufficient in form and substance and pursuant to Section 6, Rule 4 of the Interim Rules on Corporate Rehabilitation, the Court hereby:

x x x x

2) Stays the 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.[6]

At the time, however, of the filing of the petition for rehabilitation, there were a number of criminal charges[7] pending against petitioners in Branch 51 of the RTC of Manila. These criminal charges were initiated by respondent Social Security System (SSS) and involved charges of violations of Section 28 (h)[8] of Republic Act 8282, or the Social Security Act of 1997 (SSS law), in relation to Article 315 (1) (b)[9] of the Revised Penal Code, or Estafa. Consequently, petitioners filed with the RTC of Manila, Branch 51, a Manifestation and Motion to Suspend Proceedings.[10] Petitioners argued that the stay order issued by Branch 24 should also apply to the criminal charges pending in Branch 51. Petitioners, thus, prayed that Branch 51 suspend its proceedings until the petition for rehabilitation was finally resolved.

On December 13, 2004, Branch 51 issued an Order[11] denying petitioners' motion to suspend the proceedings. It ruled that the stay order issued by Branch 24 did not cover criminal proceedings, to wit:

x x x x

Clearly then, the issue is, whether the stay order issued by the RTC commercial court, Branch 24 includes the above-captioned criminal cases.

The Court shares the view of the private complainants and the SSS that the said stay order does not include the prosecution of criminal offenses. Precisely, the law "criminalizes" the non-remittance of SSS contributions by an employer to protect the employees from unscrupulous employers. Clearly, in these cases, public interest requires that the said criminal acts be immediately investigated and prosecuted for the protection of society.

From the foregoing, the inescapable conclusion is that the stay order issued by RTC Branch 24 does not include the above-captioned cases which are criminal in nature.[12]

Branch 51 denied the motion for reconsideration filed by petitioners.

On August 19, 2005, petitioners filed a petition for certiorari[13] with the CA assailing the Order of Branch 51.

On April 27, 2006, the CA issued a Decision denying the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is hereby DENIED and is accordingly DISMISSED. No costs.[14]

The CA discussed that violation of the provisions of the SSS law was a criminal liability and was, thus, personal to the offender. As such, the CA held that the criminal proceedings against the petitioners should not be considered a claim against the corporation and, consequently, not covered by the stay order issued by Branch 24.

Petitioners filed a Motion for Reconsideration,[15] which was, however, denied by the CA in a Resolution dated August 2, 2006.

Hence, herein petition, with petitioners raising a lone issue for this Court's resolution, to wit:

x x x WHETHER OR NOT THE STAY ORDER ISSUED BY BRANCH 24, REGIONAL TRIAL COURT OF MANILA, IN SEC CORP. CASE NO. 04-111180 COVERS ALSO VIOLATION OF SSS LAW FOR NON-REMITTANCE OF PREMIUMS AND VIOLATION OF [ARTICLE] [3] 515 OF THE REVISED PENAL CODE.[16]

The petition is not meritorious.

To begin with, corporate rehabilitation connotes the restoration of the debtor to a position of successful operation and solvency, if it is shown that its continued operation is economically feasible and its creditors can recover more, by way of the present value of payments projected in the rehabilitation plan, if the corporation continues as a going concern than if it is immediately liquidated.[17] It contemplates a continuance of corporate life and activities in an effort to restore and reinstate the corporation to its former position of successful operation and solvency, the purpose being to enable the company to gain a new lease on life and allow its creditors to be paid their claims out of its earnings.[18]

A principal feature of corporate rehabilitation is the suspension of claims against the distressed corporation. Section 6 (c) of Presidential Decree No. 902-A, as amended, provides for suspension of claims against corporations undergoing rehabilitation, to wit:

Section 6 (c). x x x

x x x 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.[19]

In November 21, 2000, this Court En Banc promulgated the Interim Rules of Procedure on Corporate Rehabilitation,[20] Section 6, Rule 4 of which provides a stay order on all claims against the corporation, thus:

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 x x x; (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; x x x[21]

In *Finasia Investments and Finance Corporation v. Court of Appeals*,[22] the term "claim" has been construed to refer to debts or demands of a pecuniary nature, or the assertion to have money paid. The purpose for suspending actions for claims against the corporation in a rehabilitation proceeding is to enable the management committee or rehabilitation receiver to effectively exercise its/his powers free from any judicial or extrajudicial interference that might unduly hinder or prevent the rescue of the debtor company.[23]

The issue to be resolved then is: does the suspension of "all claims" as an incident to a corporate rehabilitation also contemplate the suspension of criminal charges filed against the corporate officers of the distressed corporation?

This Court rules in the negative.

In *Rosario v. Co*[24] (*Rosario*), a case of recent vintage, the issue resolved by this Court was whether or not during the pendency of rehabilitation proceedings, criminal charges for violation of Batas Pambansa Bilang 22 should be suspended, was disposed of as follows:

x x x the gravamen of the offense punished by B.P. Blg. 22 is the act of making and issuing a worthless check; that is, a check that is dishonored upon its presentation for payment. It is designed to prevent damage to trade, commerce, and banking caused by worthless checks. In *Lozano v. Martinez*, this Court declared that it is not the nonpayment of an obligation which the law punishes. The law is not intended or designed to coerce a debtor to pay his debt. The thrust of the law is to prohibit, under pain of penal sanctions, the making and circulation of worthless checks. Because of its deleterious effects on the public interest, the practice is proscribed by the law. The law punishes the act not as an offense against property, but an offense against public order. The prime purpose of the criminal action is to punish the offender in order to deter him and others from committing the same or similar offense, to isolate him from society, to reform and rehabilitate him or, in general, to maintain social order. Hence, the criminal prosecution is designed to promote the public welfare by punishing offenders and deterring others.

Consequently, the filing of the case for violation of B.P. Blg. 22 is not a "claim" that can be enjoined within the purview of P.D. No. 902-A. True, although conviction of the accused for the alleged crime could result in the restitution, reparation or indemnification of the private offended party for the damage or injury he sustained by reason of the felonious act of the accused, nevertheless, prosecution for violation of B.P. Blg. 22 is a criminal action.

A criminal action has a dual purpose, namely, the punishment of the offender and indemnity to the offended party. The dominant and primordial objective of the criminal action is the punishment of the offender. The civil action is merely incidental to and consequent to the conviction of the accused. The reason for this is that criminal actions are primarily intended to vindicate an outrage against the sovereignty of the state and to impose the appropriate penalty for the vindication of the disturbance to the social order caused by the offender. On the other hand, the action between the private complainant and the accused is intended solely to indemnify the former.[25]

Rosario is at fours with the case at bar. Petitioners are charged with violations of Section 28 (h) of the SSS law, in relation to Article 315 (1) (b) of the Revised Penal Code, or *Estafa*. The SSS law clearly "criminalizes" the

non-remittance of SSS contributions by an employer to protect the employees from unscrupulous employers. Therefore, public interest requires that the said criminal acts be immediately investigated and prosecuted for the protection of society.

The rehabilitation of SIHI and the settlement of claims against the corporation is not a legal ground for the extinction of petitioners' criminal liabilities. There is no reason why criminal proceedings should be suspended during corporate rehabilitation, more so, since the prime purpose of the criminal action is to punish the offender in order to deter him and others from committing the same or similar offense, to isolate him from society, reform and rehabilitate him or, in general, to maintain social order.[26] As correctly observed in Rosario,[27] it would be absurd for one who has engaged in criminal conduct could escape punishment by the mere filing of a petition for rehabilitation by the corporation of which he is an officer.

The prosecution of the officers of the corporation has no bearing on the pending rehabilitation of the corporation, especially since they are charged in their individual capacities. Such being the case, the purpose of the law for the issuance of the stay order is not compromised, since the appointed rehabilitation receiver can still fully discharge his functions as mandated by law. It bears to stress that the rehabilitation receiver is not charged to defend the officers of the corporation. If there is anything that the rehabilitation receiver might be remotely interested in is whether the court also rules that petitioners are civilly liable. Such a scenario, however, is not a reason to suspend the criminal proceedings, because as aptly discussed in Rosario, should the court prosecuting the officers of the corporation find that an award or indemnification is warranted, such award would fall under the category of claims, the execution of which would be subject to the stay order issued by the rehabilitation court.[28] The penal sanctions as a consequence of violation of the SSS law, in relation to the revised penal code can therefore be implemented if petitioners are found guilty after trial. However, any civil indemnity awarded as a result of their conviction would be subject to the stay order issued by the rehabilitation court. Only to this extent can the order of suspension be considered obligatory upon any court, tribunal, branch or body where there are pending actions for claims against the distressed corporation.[29]

On a final note, this Court would like to point out that Congress has recently enacted Republic Act No. 10142, or the Financial Rehabilitation and Insolvency Act of 2010.[30] Section 18 thereof explicitly provides that criminal actions against the individual officer of a corporation are not subject to the Stay or Suspension Order in rehabilitation proceedings, to wit:

The Stay or Suspension Order shall not apply:

x x x x

(g) any criminal action against individual debtor or owner, partner, director or officer of a debtor shall not be affected by any proceeding commenced under this Act.

Withal, based on the foregoing discussion, this Court rules that there is no legal impediment for Branch 51 to proceed with the cases filed against petitioners.

WHEREFORE, premises considered, the petition is DENIED. The April 27, 2006 Decision and August 2, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 90947 are AFFIRMED. The Regional Trial Court of Manila, Branch 51, is ORDERED to proceed with the criminal cases filed against petitioners.

SO ORDERED.

Corona,[*] C.J., Carpio, (Chairperson), Perez,**] and Mendoza, JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per raffle dated June 22, 2009.

[**] Designated as an additional member in lieu of Associate Justice Roberto A. Abad, per raffle dated July 12, 2010.

[1] Rollo, pp. 9- 23.

[2] Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Rosmari D. Carandang and Japar B. Dimaampao, concurring, *id.* at 31-37.

[3] *Id.* at 28.

[4] *Id.* at 102- 110.

[5] *Id.* at 111-113.

[6] *Id.* at 112.

[7] Crim. Cases Nos. 00-184890, 00-183031 to 71, 03-213284 to 88, 03-206273, 03-207141, 03-214539, 03-214667, 03-215273, 03-215650, 03-215651, 03-216015 and 03-216187.

[8] (h) Any employer who, after deducting the monthly contributions or loan amortizations from his employee's compensation, fails to remit the said deduction to the SSS within thirty (30) days from the date they became due, shall be presumed to have misappropriated such contributions or loan amortizations and shall suffer the penalties provided in Article Three hundred fifteen of the Revised Penal Code.

[9] (b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

[10] Rollo, pp. 114-120.

[11] Records, pp. 375-376.

[12] *Id.* at 376.

[13] Rollo, pp. 150-168.

[14] *Id.* at 37.

[15] *Id.* at 169-174,

[16] *Id.* at 14.

[17] Rule 2, Section 1 of the Rules of Procedure on Corporate Rehabilitation, effective January 19, 2009, supplanting the Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC).

[18] *Negros Navigation Co., Inc. v. Court of Appeals*, G.R. Nos. 163156 and 166845, December 10, 2008, 573 SCRA 434, 450.

[19] Emphasis supplied.

[20] A.M. No. 00-8-10-SC, [November 21, 2000]

[21] Emphasis supplied.

[22] G.R. No. 107002, October 7, 1994, 237 SCRA 446, 450.

[23] *BF Homes, Incorporated. v. Court of Appeals*, G.R. Nos. 76879 and 77143, October 3, 1990, 190 SCRA 262, 269.

[24] G.R. No. 133608, August 26, 2008, 563 SCRA 239.

[25] *Id.* at 250-251. (Emphasis supplied.) (Citations omitted.)

[26] *Ramiscal v. Sandiganbayan*, 487 Phil. 384, 405 (2004).

[27] *Supra* note 24, at 252.

[28] *Id.* at 252-253.

[29] *Id.* at 253.

[30] AN ACT PROVIDING FOR THE REHABILITATION OR LIQUIDATION OF FINANCIALLY DISTRESSED ENTERPRISES AND INDIVIDUALS.

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