

**NESTLE PHILIPPINES, INC. AND NESTLE WATERS PHILIPPINES, INC.
(FORMERLY HIDDEN SPRINGS & PERRIER, INC.), PETITIONERS,
VS. UNIWIDE SALES, INC., UNIWIDE HOLDINGS, INC., NAIC RESOUR...**

G.R. No. 174674. October 20, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the 10 January 2006 Decision[2] and the 13 September 2006 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 82184. The 10 January 2006 Decision denied for lack of merit the petition for review filed by petitioners. The 13 September 2006 Resolution denied petitioners' motion for reconsideration and referred to the Securities and Exchange Commission petitioners' supplemental motion for reconsideration.

The Facts

The petitioners in this case are Nestle Philippines, Inc. and Nestle Waters Philippines, Inc., formerly Hidden Springs & Perrier Inc. The respondents are Uniwide Sales, Inc., Uniwide Holdings, Inc., Naic Resources and Development Corporation, Uniwide Sales Realty and Resources Club, Inc., First Paragon Corporation, and Uniwide Sales Warehouse Club, Inc.

On 25 June 1999, respondents filed in the Securities and Exchange Commission (SEC) a petition for declaration of suspension of payment, formation and appointment of rehabilitation receiver, and approval of rehabilitation plan. The petition was docketed as SEC Case No. 06-99-6340.[4] The SEC approved the petition on 29 June 1999.

On 18 October 1999, the newly appointed Interim Receivership Committee filed a rehabilitation plan in the SEC. The plan was anchored on return to core business of retailing; debt reduction via cash settlement and dacion en pago; loan restructuring; waiver of penalties and charges; freezing of interest payments; and restructuring of credit of suppliers, contractors, and private lenders.

On 14 February 2000, the Interim Receivership Committee filed in the SEC an Amended Rehabilitation Plan (ARP). The ARP took into account the planned entry of Casino Guichard Perrachon, envisioned to infuse P3.57 billion in fresh capital. On 11 April 2001, the SEC approved the ARP.

On 11 October 2001, the Interim Receivership Committee filed in the SEC a Second Amendment to the Rehabilitation Plan (SARP) in view of Casino Guichard Perrachon's withdrawal. In its Order dated 23 December 2002, the SEC approved the SARP.

Petitioners, as unsecured creditors of respondents, appealed to the SEC praying that the 23 December 2002 Order

approving the SARP be set aside and a new one be issued directing the Interim Receivership Committee, in consultation with all the unsecured creditors, to improve the terms and conditions of the SARP.

The Ruling of the SEC

In its 13 January 2004 Order, the SEC denied petitioners' appeal for lack of merit. Petitioners then filed in the Court of Appeals a petition for review of the 13 January 2004 Order of the SEC.

The Ruling of the Court of Appeals

In its assailed 10 January 2006 Decision, the Court of Appeals denied for lack of merit the petition for review filed by petitioners, thus:

In reviewing administrative decisions, the findings of fact made therein must be respected as long as they are supported by substantial evidence, even if not overwhelming or preponderant; that it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of the witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of the evidence; that the administrative decision in matters within the executive jurisdiction can only be set aside on proof of grave abuse of discretion, fraud, or error of law.

WHEREFORE, the petition for review is DENIED for lack of merit.

SO ORDERED.[5]

Petitioners moved for reconsideration. They also filed a supplemental motion for reconsideration alleging that they received a letter on 25 January 2006, from the president of the Uniwide Sales Group of Companies, informing them of the decision to transfer, by way of full concession, the operation of respondents' supermarkets to Suy Sing Commercial Corporation starting 1 March 2006.

In its questioned 13 September 2006 Resolution, the Court of Appeals denied for lack of merit petitioners' motion for reconsideration and referred to the SEC petitioners' supplemental motion for reconsideration.

Dissatisfied, petitioners filed in this Court on 3 November 2006 the present petition for review.

The Issue

Before us, petitioners raise the issue of whether the SARP should be revoked and the rehabilitation proceedings terminated.

The Court's Ruling

The petition lacks merit.

Petitioners contend that the transfer of respondents' supermarket operations to Suy Sing Commercial Corporation has made the SARP incapable of implementation. Petitioners point out that since the SARP may no longer be implemented, the rehabilitation case should be terminated pursuant to Section 4-26, Rule IV of the SEC Rules of Procedure on Corporate Recovery. Petitioners claim that the terms and conditions of the SARP are unreasonable, biased in favor of respondents, prejudicial to the interests of petitioners, and incapable of a determination of feasibility.

Respondents maintain that the SARP is feasible and that the SEC Hearing Panel did not violate any rule or law in approving it. Respondents stress that the lack of majority objection to the SARP bolsters the SEC's findings that the SARP is feasible. Respondents insist that the terms and conditions of the SARP are in accord with the Constitution and the law.

The Court takes judicial notice of the fact that from the time of the filing in this Court of the instant petition, supervening events have unfolded substantially changing the factual backdrop of this rehabilitation case.

As found by the SEC, several factors prevented the realization of the desired goals of the SARP, to wit: (1) unexpected refusal of some creditors to comply with all the terms of the SARP; (2) unexpected closure of Uniwide EDSA due to the renovation of EDSA Central Mall; (3) closure of Uniwide Cabuyao and Uniwide Baclaran; (4) lack of supplier support for supermarket operations; and (5) increased expenses.[6]

On 11 July 2007, the rehabilitation receiver filed in the SEC a Third Amendment to the Rehabilitation Plan (TARP). But before the SEC could act on the TARP, the rehabilitation receiver filed on 29 September 2008 a Revised Third Amendment to the Rehabilitation Plan (revised TARP).

A majority of the secured creditors strongly opposed the revised TARP, which focused on the immediate settlement of all the obligations accruing to the unsecured creditors through a dacion of part of respondents' Metro Mall property.[7] Since some creditors claimed that the value of the Metro Mall property had gone down since 1999, the Hearing Panel issued its 30 July 2009 Order directing the reappraisal of the Metro Mall property.[8]

In its 17 September 2009 Order, the Hearing Panel directed respondents to show cause why the rehabilitation case should not be terminated considering that the rehabilitation plan had undergone several revisions. The Hearing Panel also directed the creditors to manifest whether they still wanted the rehabilitation proceedings to continue.

Respondents moved for reconsideration of the 30 July 2009 and the 17 September 2009 Orders. The Hearing Panel, in its 6 November 2009 Order, denied the motion for reconsideration for being a prohibited pleading.

Respondents then filed in the SEC a petition for certiorari assailing the 30 July 2009, the 17 September 2009, and the 6 November 2009 Orders of the Hearing Panel. The petition was docketed as SEC En Banc Case No. 12-09-183.

Meanwhile, in its 13 January 2010 Resolution, the Hearing Panel disapproved the revised TARP and terminated the rehabilitation case as a consequence. The dispositive portion of the Resolution reads:

WHEREFORE, premises considered:

- Petitioners' Motion to Approve Revised Third Amendment to the Group Rehabilitation Plan (Revised TARP) is DENIED.
- The motions to declare petitioners' rehabilitation plan "not feasible" are GRANTED. Consequently, the instant rehabilitation case is TERMINATED and the stay order is lifted and dissolved. This case is deemed finally disposed of pursuant to Section 5.2 of Republic Act No. 8799.[9]

On 22 January 2010, respondents filed another petition appealing the Hearing Panel's 13 January 2010 Resolution. The petition was docketed as SEC En Banc Case No. 01-10-193. In order to preserve the parties' rights during the pendency of the appeal, the SEC en banc in its Order dated 18 March 2010 directed the parties to observe the status quo prevailing before the issuance of the 13 January 2010 Resolution of the Hearing Panel.

Meanwhile, on 27 April 2010, the SEC en banc issued an Order directing the rehabilitation receiver, Atty. Julio C. Elamparo, to submit a comprehensive report on the progress of the implementation of the SARP.

Finally, in its 30 September 2010 Order, the SEC consolidated SEC En Banc Case No. 01-10-193 with SEC En Banc Case No. 12-09-183, the parties being identical and the issues in both petitions being in reference to the same rehabilitation case.

Considering the pendency of SEC En Banc Case No. 12-09-183 and SEC En Banc Case No. 01-10-193, recently

filed in the SEC, involving the very same rehabilitation case subject of this petition, the present petition has been rendered premature.

SEC En Banc Case No. 12-09-183 deals with the Order of the Hearing Panel directing respondents to show cause why the rehabilitation case should not be terminated and the creditors to manifest whether they still want the rehabilitation proceedings to continue. On the other hand, SEC En Banc Case No. 01-10-193 is an appeal of the Hearing Panel's Resolution disapproving the revised TARP and terminating the rehabilitation proceedings.

In light of supervening events that have emerged from the time the SEC approved the SARP on 23 December 2002 and from the time the present petition was filed on 3 November 2006, any determination by this Court as to whether the SARP should be revoked and the rehabilitation proceedings terminated, would be premature.

Undeniably, supervening events have substantially changed the factual backdrop of this case. The Court thus defers to the competence and expertise of the SEC to determine whether, given the supervening events in this case, the SARP is no longer capable of implementation and whether the rehabilitation case should be terminated as a consequence.

Under the doctrine of primary administrative jurisdiction, courts will not determine a controversy where the issues for resolution demand the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact.[10]

In other words, if a case is such that its determination requires the expertise, specialized training, and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the court is had even if the matter may well be within the latter's proper jurisdiction.[11]

The objective of the doctrine of primary jurisdiction is to guide the court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question or some aspect of some question arising in the proceeding before the court.[12]

It is not for this Court to intrude, at this stage of the rehabilitation proceedings, into the primary administrative jurisdiction of the SEC on a matter requiring its technical expertise. Pending a decision of the SEC on SEC En Banc Case No. 12-09-183 and SEC En Banc Case No. 01-10-193, which both seek to resolve the issue of whether the rehabilitation proceedings in this case should be terminated, we are constrained to dismiss this petition for prematurity.

WHEREFORE, we DISMISS the instant petition for having been rendered premature pending a decision of the Securities and Exchange Commission (SEC) in SEC En Banc Case No. 12-09-183 and SEC En Banc Case No. 01-10-193.

No pronouncement as to costs.

SO ORDERED.

Nachura, Leonardo-De Castro,[*] Peralta, and Villarama, Jr.,[**] JJ., concur.

[*] Designated additional member per Special Order No. 905 dated 5 October 2010.

[**] Designated additional member per Raffle dated 20 October 2010.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 73-83. Penned by Associate Justice Marina L. Buzon, with Associate Justices Aurora

Santiago-Lagman and Arcangelita Romilla-Lontok, concurring.

[3] Id. at 84-88.

[4] Id. at 74.

[5] Id. at 82.

[6] SEC Order in SEC En Banc Case Nos. 12-09-183 and 01-10-193, dated 30 September 2010.

[7] Id.

[8] Id.

[9] RA No. 8799

Sec. 5.2

The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed. (Emphasis supplied)

[10] Maria Luisa Park Association, Inc. v. Almendras, G.R. No. 171763, 5 June 2009, 588 SCRA 663.

[11] Ferrer, Jr. v. Roco, G.R. No. 174129, 5 July 2010.

[12] Fabia v. Court of Appeals, 437 Phil. 389 (2002).

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