

IN RE: PETITION FOR DECLARATION OF INSOLVENCY OF [A] FILAND MANUFACTURING AND ESTATE DEVELOPMENT COMPANY; [B] TOP CONSTRUCTION ENTERPRISES, INC.; AND [C] SPOUSES EMILIO CHING AN...

G.R. No. 73123. September 02, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Assailed in this petition for review on certiorari is the jurisdiction of the Regional Trial Court (RTC) of Pasay City over a petition for declaration of insolvency of two (2) private corporations.

The antecedent facts are undisputed:

On September 19, 1980, private respondents Filand Manufacturing and Estate Development Co., Inc. (hereafter, Filand Manufacturing) and Emilio Ching obtained from petitioner Land Bank of the Philippines a loan in the amount of Ten Million Pesos (P10,000,000.00). Private respondents having failed to pay the loan on its due date, petitioner instituted before the RTC of Manila a complaint for recovery thereof, docketed as Civil Case No. 0184-P.

During the pendency of the collection suit on December 29, 1984, private respondents Filand Manufacturing, Emilio Ching and his spouse Inai Teh, and Top Construction Enterprises, Inc., thru Emilio Ching, filed before the respondent RTC of Pasay City a petition docketed as Special Proceedings No. 3232-P for declaration of insolvency. Cited as ground therefor was their inability to pay the various debts and liabilities incurred by them, either jointly or solidarily or guaranteed by one for the other, in the course of their businesses, such inability being due to business reverses brought about by the fire on January 2, 1984 which gutted the old Holiday Plaza Building then owned and operated by Filand Manufacturing, as well as the economic crisis which gripped the country following the assassination of former Senator Benigno S. Aquino in 1983.[1]

Acting on said petition, respondent court on January 29, 1985 issued an Order of Adjudication declaring private respondents insolvent pursuant to Section 18 of the Insolvency Law (Act No. 1956). The Sheriff of Pasay City was "directed to take possession of, and safely keep, until the appointment of a receiver or assignee, all the deeds, vouchers, books of account, papers, notes, bonds, bills and securities of (therein) petitioners, and all the real and personal properties, estates and effects of the same petitioners, except such as may, by law, be exempt from execution." Respondent court set "March 25, 1985 at 9:00 A.M. in its premises x x x as the date of the meeting of the creditors of the petitioners for them to choose an assignee/assignees of the estates of the petitioners." [2]

Petitioner bank moved for a reconsideration of the Order of Adjudication on two (2) grounds, namely: (1) that the court has no jurisdiction over the subject matter of the petition insofar as petitioning corporations are concerned; and (2) the petition is defective in form and substance.[3] After an exchange of pleadings between petitioner and private respondents, respondent court issued on July 19, 1985 an Order upholding its jurisdiction over the petition

and appointing petitioner bank as the assignee for and in behalf of all the creditors without bond, thus:

"WHEREFORE, all motions seeking to have this Court make a declaration that it has no jurisdiction over the above-entitled proceeding are hereby DENIED, and the Land Bank of the Philippines is appointed as the assignee for and in behalf of all the creditors of the petitioners, without bond, to which assignee the Clerk of Court, thru the Branch Sheriff, shall deliver any and all real and personal properties, estates and effects, as well as the pertinent papers and all deeds, vouchers, books of accounts, papers, notes, bonds, bills and securities taken by him pursuant to the order of this Court of January 29, 1985.

"The assignee is hereby ordered to comply with the time limit provided for in Sec. 43 of Act 1956, and for this purpose, hereby sets his report for hearing on October 29, 1985, at 9:00 A.M.

"SO ORDERED." [4]

Petitioner bank declined the appointment and the City Treasurer of Pasay City, being the second biggest creditor of private respondents, was appointed in its stead. Petitioner bank then filed a Notice of Appeal and a Record on Appeal on August 19, 1985, on the basis of which the respondent court forwarded the records of the case directly to this Court.

By resolution dated September 23, 1985, the Court resolved to "REQUIRE the Branch Clerk of Court of the (respondent court) to EXPLAIN why he forwarded to this Court the aforesaid records when the mode of seeking review by this Court of a lower court's judgment under R.A. 5440 is by petition for review on certiorari; and the Presiding Judge of said trial court is also directed to EXPLAIN why he accepted and approved the forwarding to this Court of the aforesaid records, both within ten (10) days from notice hereof." Petitioner bank and/or counsel were also "REQUIRED to EXPLAIN within ten (10) days from notice x x x, since they failed to pay timely the docket and legal research fund fees and to file timely a petition for review on certiorari under R.A. 5440 why the judgment sought to be reviewed should not be now deemed final and executory and the records returned for execution of judgment". [5] Upon submission of the required explanations, the Court on December 4, 1985 resolved to require the petitioner bank to file a petition for review on certiorari and to pay the docket and legal research fund fees, both within a non-extendible period of ten (10) days from notice. [6] This Order was seasonably complied with.

After the private respondents had submitted their comment on the petition, petitioner bank filed on March 24, 1986 a "Manifestation with motion for issuance of writ of preliminary injunction" informing the Court that on March 3, 1986, the respondent court rendered a decision in Special Proceedings No. 3232-P, providing in its dispositive portion as follows:

"WHEREFORE, judgment is hereby rendered, as follows:

"1. Petitioners Filand Manufacturing & Estate Development Co. Inc., and Top Construction Enterprises, Inc., are declared by this Court as insolvent and, pursuant to Sec. 52 of Act 1956, as amended, their properties and assets shall be distributed to the creditors in the proceeding with respect to the appointment of the City Treasurer of Pasay City as receiver of their estates and effects. However, they are not discharged from their liabilities in accordance with Sec. 52 of Act 1956, as amended.

"2. Petitioners spouses Emilio Ching and Inai Teh are likewise declared insolvent and their application for discharge is hereby approved, and they are hereby ordered discharged and released from all claims, debts, liabilities and demands, whether actual or contingent, and whether personally or as guarantors or in a joint and solidary capacity, with respect to the obligations set forth in the schedule and inventory of accounts due and payable, Annex "A" of the petition, as well as with respect to the obligations and creditors listed in the manifestation of April 29, 1985, and the supplemental manifestation dated May 22, 1985 in the above-entitled proceedings.

"The other aspect of the above-entitled proceedings as regards the receiver and all incidents and matters in connection with his functions and duties are hereby considered as mere interlocutory matters in the process of winding up this proceeding.

"SO ORDERED." [7]

Acting on said manifestation and motion, the Court on April 14, 1986 issued a temporary restraining order enjoining the respondent court from enforcing its decision of March 3, 1986. [8] The temporary restraining order was however lifted insofar as private respondents spouses Emilio Ching and Inai Teh were concerned, the latter being natural persons over whom the jurisdiction of the respondent court is not being questioned. [9]

In its petition, given due course by the Court per resolution dated January 28, 1987, petitioner bank advances the argument that it is the Securities and Exchange Commission (SEC), rather than the Regional Trial Court (RTC) which has jurisdiction over the petition for declaration of insolvency filed by private respondent corporations. This theory is allegedly anchored on specific provisions of Presidential Decree No. 902-A, as amended, namely: Sections 3, 5(d) and 6(c) and (d), which petitioner bank construes as having repealed the Insolvency Law (Act 1956), which confers jurisdiction over insolvency proceedings on the regular courts. Private respondents maintain the opposite view, contending simply that a petition for declaration of insolvency is not one of those cases enumerated under Section 5, P.D. No. 902-A, as amended, over which the SEC has original and exclusive jurisdiction.

In view of the far reaching importance of the issue presented before the Court, both from a legal and economic standpoint, we resolved to implead the SEC as a party to this case and to require it to inform the Court of its practice regarding insolvency proceedings. [10] The SEC, thru the Solicitor General, filed its memorandum on December 13, 1989.

After deliberating on the SEC's memorandum, the Court resolved to set the case for hearing on May 14, 1990 at 10:00 o'clock in the morning. A senior and knowledgeable officer of the SEC was requested to "appear and inform the Court of the law and practice actually applied and followed by the SEC in respect of suspension of payments by, and voluntary and involuntary insolvencies of Philippine corporations x x x." Former SEC Chairman Julito Sulit, Jr. was appointed amicus curiae and was requested to appear at the hearing in that capacity. [11]

Before addressing the principal issue in the instant petition, the Court notes with dismay that the petitioner and the lower court appear to be still in the dark as to the proper mode of appeal to this Court. Hence, for their elucidation as well as the others similarly misinformed, we deem it proper to quote the following resolution dated March 1, 1990 of the Court en banc in UDK 9748, "Murillo v. Consul":

"R.A. No. 5440 changed the mode of appeal from courts of first instance (now regional trial courts) to the Supreme Court in cases involving only questions of law, or the constitutionality or validity of any treaty, law, ordinance, etc. or the legality of any tax, impost, assessment or toll, etc., or the jurisdiction of any inferior court, from ordinary appeal — i.e., by notice of appeal, record on appeal and appeal bond, under Rule 41 — to appeal by certiorari, under Rule 45.

"x x x x x x x x.

"At present then, except in criminal cases where the penalty imposed is life imprisonment or reclusion perpetua, there is no way by which judgments of regional trial courts may be appealed to this Court except by petition for review on certiorari in accordance with Rule 45 of the Rules of Court, in relation to Section 17 of the Judiciary Act of 1948, as amended. The proposition is clearly stated in the Interim Rules: 'Appeals to the Supreme Court shall be taken by petition for certiorari which shall be governed by Rule 45 of the Rules of

Court.’

“x x x x x x x x.

"x x x. To repeat, appeals to this Court cannot now be made by petition for review or by notice of appeal (and, in certain instances, by record on appeal), but only by petition for review on certiorari under Rule 45. As was stressed by this Court as early as 1980 in *Buenbrazo v. Marave*, 101 SCRA 848, all ‘the members of the bench and bar’ are charged with knowledge, not only that ‘since that enactment of Republic Act No. 6031 in 1969,’ ‘the review of the decision of the Court of First Instance in a case exclusively cognizable by the inferior court * * * cannot be made in an ordinary appeal or by record on appeal,’ but also that ‘appeal by record on appeal to the Supreme Court under Rule 42 of the Rules of Court was abolished by Republic Act No. 5440 which, as already stated, took effect on September 9, 1968.’ Similarly, in *Santos, Jr. v. C.A.*, 152 SCRA 378, this Court declared that ‘Republic Act No. 5440 had long superseded Rule 41 and Section 1, Rule 122 of the Rules of Court on direct appeals from the court of first instance to the Supreme Court in civil and criminal cases,’ x x x and that ‘direct appeals to this Court from the trial court on questions of law had to be through the filing of a petition for review on certiorari, wherein this Court could either give due course to the proposed appeal or deny it outright to prevent the clogging of its docket with unmeritorious and dilatory appeals.’”

Going now to the issue of jurisdiction raised in this petition and considering the arguments proffered by the parties’ respective counsel, the view espoused by the amicus curiae as well as the submissions of the SEC thru the Office of the Solicitor General and its Assistant Executive Director, we find for private respondents.

Under Act 1956, otherwise known as the Insolvency Law, jurisdiction over proceedings for suspension of payments, voluntary and involuntary insolvency is exclusively vested in the regular courts. However, P.D. No. 1758 issued in 1981 added to the exclusive and original jurisdiction of the SEC, defined and delineated in Section 5 of P.D. 902-A,[12] the following:

"d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree."

It is petitioner’s contention that said additional par. (d) effectively repealed the Insolvency Law so as to transfer and confer upon the SEC jurisdiction theretofor enjoyed by the regular courts over proceedings for suspension of payments and voluntary and involuntary insolvency. We do not share such interpretation.

The SEC, like any other administrative body, is a tribunal of limited jurisdiction and as such, could wield only such powers as are specifically granted to it by its enabling statute.[13] Its jurisdiction should be interpreted in strictissimi juris.[14]

Section 5, par. (d) should be construed as vesting upon the SEC original and exclusive jurisdiction only over petitions to be declared in a state of suspension of payments, which may either be: (a) a simple petition for suspension of payments based on the provisions of the Insolvency Law, or (b) a similar petition accompanied by a prayer for the creation/appointment of a management committee and/or rehabilitation receiver based on the provisions of P.D. No. 902-A. Said provision cannot be stretched to include petitions for insolvency. The reason is that under said Section 5, par. (d) above-quoted, the jurisdiction of the SEC over cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, (and therefore insolvent) is qualified by the conjunctive phrase "but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree." This qualification effectively circumscribes the jurisdiction of the SEC over insolvent corporations, partnerships and associations, and consequently, over proceedings for the declaration of

insolvency. It demonstrates beyond doubt that jurisdiction over insolvency proceedings pertains neither in the first instance nor exclusively to the SEC, but only in continuation of or as an incident to the exercise of its jurisdiction over petitions to be declared in a state of suspension of payments wherein the petitioning corporation, partnership or association had previously been placed under a rehabilitation receiver or management committee by the SEC itself.

Viewed differently, where the petition filed is one for declaration of a state of suspension of payments due to a recognition of the inability to pay one's debts and liabilities, and where the petitioning corporation either: (a) has sufficient property to cover all its debts but foresees the impossibility of meeting them when they fall due (solvent but illiquid) or (b) has no sufficient property (insolvent) but is under the management of a rehabilitation receiver or a management committee, the applicable law is P.D. No. 902-A pursuant to Sec. 5 par. (d) thereof. However, if the petitioning corporation has no sufficient assets to cover its liabilities and is not under a rehabilitation receiver or a management committee created under P.D. No. 902-A and does not seek merely to have the payments of its debts suspended, but seeks a declaration of insolvency, as in this case, the applicable law is Act 1956 on voluntary insolvency, specifically section 14 thereof, which provides:

"Sec. 14. — An insolvent debtor, owing debts exceeding in amount the sum of one thousand pesos, may apply to be discharged from his debts and liabilities by petition to the Court of First Instance of the province or city in which he has resided for six months next preceding the filing of such petition. In his petition, he shall set forth his place of residence, the period of his residence therein immediately prior to filing said petition, his inability to pay all his debts in full, his willingness to surrender all his property, estate, and effects not exempt from execution for the benefit of his creditors, and an application to be adjudged an insolvent. He shall annex to his petition a schedule and inventory in the form hereinafter provided. The filing of such petition shall be an act of insolvency."

Neither could the grant of additional powers to SEC under Section 6(c) and (d) of P.D. 902-A, as amended, be construed as vesting upon it exclusive and original jurisdiction over insolvency proceedings. The pertinent provisions read:

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

"x x x x 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 to preserve the rights of the parties-litigants to 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.

"d) To create and appoint a management committee, board, or body upon petition or motu proprio to undertake the management of corporations, partnerships or other associations not supervised or regulated by other government agencies in appropriate cases when there is imminent danger of dissipation, loss, wastage or destruction of assets or other properties or paralization of business operations of such corporations or entities

which may be prejudicial to the interest of minority stockholders, parties-litigants or the general public; Provided, further, That the Commission may create or appoint a management committee, board or body to undertake the management 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.

"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 Commission. It shall report and be responsible to the Commission until dissolved by order of the Commission: Provided, however, That the Commission 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.

"The management committee, or rehabilitation receiver, board or body shall not be subject to any action, claim or demand for, or in connection with any act done or omitted to be done by it in good faith in the exercise of its functions, or in connection with the exercise of its powers herein conferred."

As declared by the law itself, these are merely ancillary powers to enable the SEC to effectively exercise its jurisdiction. These additional ancillary powers can be exercised only in connection with an action pending before the SEC and therefore had to be viewed in relation to Section 5 which defines the SEC's original and exclusive jurisdiction. Section 6 does not enlarge or add to the exclusive and original jurisdiction of the SEC as particularly enumerated under Section 5 of said Presidential Decree, as amended.

A well-recognized rule in statutory construction is that repeals by implication are not favored and will not be so declared unless it be manifest that the legislature so intended.[15] When statutes are in pari materia they should be construed together. In construing them the old statutes relating to the same subject matter should be compared with the new provisions and if possible by reasonable construction, both should be so construed that effect may be given to every provision of each.[16]

Construing P.D. 902-A, as amended, in relation to Act 1956, we rule that insofar as petitions for declaration of insolvency of private corporations are concerned, it is the regular court that has exclusive and original jurisdiction thereon. The SEC may entertain such petitions only as an incident of and in continuation of its already acquired jurisdiction over petitions to be declared in the state of suspension of payments in the two (2) cases provided in Section 5 (d) of P.D. 902-A, as amended.

WHEREFORE, the instant petition for review on certiorari is DENIED. The temporary restraining order issued on April 14, 1986 is LIFTED. No pronouncement as to costs.

SO ORDERED.

Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.
Feliciano, J., on leave.

[1] Annex "A", Petition, pp. 86-88, Rollo.

[2] Annex 'B', Petition, p. 90, Rollo.

[3] Annex "C", Petition, pp. 92-100, Rollo.

[4] Annex "I", Petition, pp. 127-128, Rollo.

[5] p. 52, Rollo.

[6] p. 72, Rollo.

[7] pp. 257-258, Rollo.

[8] p. 259, Rollo.

[9] Resolution dated September 5, 1986, p. 305, Rollo.

[10] p. 316, Rollo.

[11] Resolution of May 7, 1990, pp. 347-348, Rollo.

[12] Section 5 of P.D. 902-A, before its amendment by P.D. 1758 read:

"SEC. 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission.

b) Controversies arising out of intracorporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity;

c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

[13] *Union Glass & Container Corporation v. Securities and Exchange Commission*, 126 SCRA 31.

[14] *Devesa v. Montecillo*, 27 SCRA 822.

[15] *Bocobo v. Estanislao*, 72 SCRA 520; *Gimenez Stock Brokerage & Co. v. SEC*, 133 SCRA 840.

[16] *City of Naga v. Agna*, 71 SCRA 176; *Lechoco v. Civil Aeronautics Board*, 43 SCRA 671; *Valera v. Tuason*, 80 Phil. 823.

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