# RIZAL COMMERCIAL BANKING CORPORATION, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND BF HOMES, INC., RESPONDENTS.

*G.R. No. 74851. December 09, 1999*

Ponente: MELO, J.

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**MELO, J.:**

On September 14, 1992, the Court passed upon the case at bar and rendered its decision, dismissing the petition of Rizal Commercial Banking Corporation (RCBC), thereby affirming the decision of the Court of Appeals which canceled the transfer certificate of title issued in favor of RCBC, and reinstating that of respondent BF Homes.

This will now resolve petitioner's motion for reconsideration which, although filed in 1992 was not deemed submitted for resolution until in late 1998. The delay was occasioned by exchange of pleadings, the submission of supplemental papers, withdrawal and change of lawyers, not to speak of the case having been passed from one departing to another retiring justice. It was not until May 3, 1999, when the case was re-raffled to herein ponente, but the record was given to him only sometime in the late October 1999.

By way of review, the pertinent facts as stated in our decision are reproduced herein, to wit:

> On September 28, 1984, BF Homes filed a "Petition for Rehabilitation and for Declaration of Suspension of Payments" (SEC Case No. 002693) with the Securities and Exchange Commission (SEC).
>
> One of the creditors listed in its inventory of creditors and liabilities was RCBC.
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> On October 26, 1984, RCBC requested the Provincial Sheriff of Rizal to extra-judicially foreclose its real estate mortgage on some properties of BF Homes. A notice of extra-judicial foreclosure sale was issued by the Sheriff on October 29, 1984, scheduled on November 29, 1984, copies furnished both BF Homes (mortgagor) and RCBC (mortgagee).
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> On motion of BF Homes, the SEC issued on November 28, 1984 in SEC Case No. 002693 a temporary restraining order (TRO), effective for 20 days, enjoining RCBC and the sheriff from proceeding with the public auction sale. The sale was rescheduled to January 29, 1985.
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> On January 25, 1985, the SEC ordered the issuance of a writ of preliminary injunction upon petitioner's filing of a bond. However, petitioner did not file a bond until January 29, 1985, the very day of the auction sale, so no writ of preliminary injunction was issued by the SEC. Presumably, unaware of the filing of the bond, the sheriffs proceeded with the public auction sale on January 29, 1985, in which RCBC was the highest bidder for the properties auctioned.
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> On February 5, 1985, BF Homes filed in the SEC a consolidated motion to annul the auction sale and to cite RCBC and the sheriff for contempt. RCBC opposed the motion.
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> Because of the proceedings in the SEC, the sheriff withheld the delivery to RCBC of a certificate of sale covering the auctioned properties.

> On February 13, 1985, the SEC in Case No. 002693 belatedly issued a writ of preliminary injunction stopping the auction sale which had been conducted by the sheriff two weeks earlier.
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> On March 13, 1985, despite SEC Case No. 002693, RCBC filed with the Regional Trial Court, Br. 140, Rizal (CC 10042) an action for mandamus against the provincial sheriff of Rizal and his deputy to compel them to execute in its favor a certificate of sale of the auctioned properties.
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> In answer, the sheriffs alleged that they proceeded with the auction sale on January 29, 1985 because no writ of preliminary injunction had been issued by SEC as of that date, but they informed the SEC that they would suspend the issuance of a certificate of sale to RCBC.
>
> On March 18, 1985, the SEC appointed a Management Committee for BF Homes.
>
> On RCBC's motion in the mandamus case, the trial court issued on May 8, 1985 a judgment on the pleadings, the dispositive portion of which states:
> "WHEREFORE, petitioner's `Motion for Judgment on the pleadings is granted and judgement is hereby rendered ordering respondents to execute and deliver to petitioner the Certificate of the Auction Sale of January 29, 1985, involving the properties sold therein, more particularly those described in Annex `C' of their Answer." (p. 87, Rollo.)

On June 4, 1985, B.F. Homes filed an original complaint with the IAC pursuant to Section 9 of B.P. 129 praying for the annulment of the judgment, premised on the following:

> "x x x: (1) even before RCBC asked the sheriff to extra-judicially foreclose its mortgage on petitioner's properties, the SEC had already assumed exclusive jurisdiction over those assets, and (2) that there was extrinsic fraud in procuring the judgment because the petitioner was not impleaded as a party in the mandamus case, respondent court did not acquire jurisdiction over it, and it was deprived of its right to be heard." (CA Decision, p. 88, Rollo).

On April 8, 1986, the IAC rendered a decision, setting aside the decision of the trial court, dismissing the mandamus case and suspending issuance to RCBC of new land titles, "until the resolution of case by SEC in Case No. 002693," disposing as follows:

> WHEREFORE, the judgment dated May 8, 1985 in Civil Case No. 10042 is hereby annulled and set aside and the case is hereby dismissed. In view of the admission of respondent Rizal Commercial Banking Corporation that the sheriff's certificate of sale has been registered on BF Homes' TCT's . . . (here the TCTs were enumerated) the Register of Deeds for Pasay City is hereby ordered to suspend the issuance to the mortgagee-purchaser, Rizal Commercial Banking Corporation, of the owner's copies of the new land titles replacing them until the matter shall have been resolved by the Securities and Exchange Commission in SEC Case No. 002693."
>
> (p. 257-260, Rollo; also pp. 832-
> 834, 213 SCRA 830 [1992];
> Emphasis in the original.)

On June 18, 1986, RCBC appealed the decision of the then Intermediate Appellate Court (now, back to its old revered name, the Court of Appeals) to this Court, arguing that:

> 1. Petitioner did not commit extrinsic fraud in excluding private respondent as party defendant in Special Civil Case No. 10042 as private respondent was not indispensable party thereto, its participation not being necessary for the full resolution of the issues raised in said case.
>
> 2. SEC Case No. 2693 cannot be invoked to suspend Special Civil Case No. 10042, and for that matter, the extra-judicial foreclosure of the real estate mortgage in petitioner's favor, as these do not constitute actions


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against private respondent contemplated under Section 6(c) of Presidential Decree No. 902-A.

3. Even assuming arguendo that the extra-judicial sale constitute an action that may be suspended under Section 6(c) of Presidential Decree No. 902-A, the basis for the suspension thereof did not exist so as to adversely affect the validity and regularity thereof.

4. The Regional Trial court had jurisdiction to take cognizance of Special Civil Case No. 10042.

5. The Regional Trial court had jurisdiction over Special Civil Case No. 10042."

(p. 5, Rollo.)

On November 12, 1986, the Court gave due course to the petition. During the pendency of the case, RCBC brought to the attention of the Court an order issued by the SEC on October 16, 1986 in Case No.002693, denying the consolidated Motion to Annul the Auction Sale and to cite RCBC and the Sheriff for Contempt, and ruling as follows:

WHEREFORE, the petitioner's "Consolidated Motion to Cite Sheriff and Rizal Commercial Banking Corporation for Contempt and to Annul Proceedings and Sale," dated February 5, 1985, should be as is, hereby DENIED.

While we cannot direct the Register of Deeds to allow the consolidation of the titles subject of the Omnibus Motion dated September 18, 1986 filed by the Rizal Commercial banking Corporation, and therefore, denies said Motion, neither can this Commission restrain the said bank and the Register of Deeds from effecting the said consolidation.

SO ORDERED.

(p. 143, Rollo.)

By virtue of the aforesaid order, the Register of Deeds of Pasay City effected the transfer of title over subject pieces of property to petitioner RCBC, and the issuance of new titles in its name. Thereafter, RCBC presented a motion for the dismissal of the petition, theorizing that the issuance of said new transfer certificates of title in its name rendered the petition moot and academic.

In the decision sought to be reconsidered, a greatly divided Court (Justices Gutierrez, Nocon, and Melo concurred with the ponente, Justice Medialdea; Chief Justice Narvasa, Justices Bidin, Regalado, and Bellosillo concurred only in the result; while Justice Feliciano dissented and was joined by Justice Padilla, then Justice, now Chief Justice Davide, and Justice Romero; Justices Griño-Aquino and Campos took no part) denied petitioner's motion to dismiss, finding basis for nullifying and setting aside the TCTs in the name of RCBC. Ruling on the merits, the Court upheld the decision of the Intermediate Appellate Court which dismissed the mandamus case filed by RCBC and suspended the issuance of new titles to RCBC. Setting aside RCBC's acquisition of title and nullifying the TCTs issued to it, the Court held that:

. . . whenever a distressed corporation asks the SEC for rehabilitation and suspension of payments, preferred creditors may no longer assert such preference, but . . . stand on equal footing with other creditors. Foreclosure shall be disallowed so as not to prejudice other creditors, or cause discrimination among them. If foreclosure is undertaken despite the fact that a petition for rehabilitation has been filed, the certificate of sale shall not be delivered pending rehabilitation. Likewise, if this has also been done, no transfer of title shall be effected also, within the period of rehabilitation. The rationale behind PD 902-A, as amended, is to effect a feasible and viable rehabilitation. This cannot be achieved if one creditor is preferred over the others.

In this connection, the prohibition against foreclosure attaches as soon as a petition for rehabilitation is filed. Were it otherwise, what is to prevent the petitioner from delaying the creation of a Management Committee


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> and in the meantime dissipate all its assets. The sooner the SEC takes over and imposes a freeze on all the assets, the better for all concerned.
>
> (pp. 265-266, Rollo; also p. 838,
> 213 SCRA 830[1992].)

Then Justice Feliciano (joined by three other Justices), dissented and voted to grant the petition. He opined that the SEC acted prematurely and without jurisdiction or legal authority in enjoining RCBC and the sheriff from proceeding with the public auction sale. The dissent maintain that Section 6 (c) of Presidential Decree 902-A is clear and unequivocal that, claims against the corporations, partnerships, or associations shall be suspended only upon the appointment of a management committee, rehabilitation receiver, board or body. Thus, in the case under consideration, only upon the appointment of the Management Committee for BF Homes on March 18, 1985, should the suspension of actions for claims against BF Homes have taken effect and not earlier.

In support of its motion for reconsideration, RCBC contends:

> The restraining order and the writ of preliminary injunction issued by the Securities and Exchange Commission enjoining the foreclosure sale of the properties of respondent BF Homes were issued without or in excess of its jurisdiction because it was violative of the clear provision of Presidential Decree No. 902-A, and are therefore null and void; and
>
> Petitioner, being a mortgage creditor, is entitled to rely solely on its security and to refrain from joining the unsecured creditors in SEC Case No. 002693, the petition for rehabilitation filed by private respondent.

We find the motion for reconsideration meritorious.

The issue of whether or not preferred creditors of distressed corporations stand on equal footing with all other creditors gains relevance and materiality only upon the appointment of a management committee, rehabilitation receiver, board, or body. Insofar as petitioner RCBC is concerned, the provisions of Presidential Decree No. 902-A are not yet applicable and it may still be allowed to assert its preferred status because it foreclosed on the mortgage prior to the appointment of the management committee on March 18, 1985. The Court, therefore, grants the motion for reconsideration on this score.

The law on the matter, Paragraph (c), Section 6 of Presidential Decree 902-A, provides:

> Sec. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:
>
> 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, 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. (As amended by PDs No. 1673, 1758 and by PD No. 1799. Emphasis supplied.)

It is thus adequately clear that suspension of claims against a corporation under rehabilitation is counted or figured up only upon the appointment of a management committee or a rehabilitation receiver. The holding that suspension of actions for claims against a corporation under rehabilitation takes effect as soon as the application or a petition for rehabilitation is filed with the SEC - may, to some, be more logical and wise but unfortunately,

such is incongruent with the clear language of the law. To insist on such ruling, no matter how practical and noble, would be to encroach upon legislative prerogative to define the wisdom of the law- plainly judicial legislation.

It bears stressing that the first and fundamental duty of the Court is to apply the law. When the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been our consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application (Cebu Portland Cement Co. vs. Municipality of Naga, 24 SCRA 708 [1968]).

> Where the law is clear and unambiguous, it must be taken to mean exactly what it says and the court has no choice but to see to it that its mandate is obeyed (Chartered Bank Employees Association vs. Ople, 138 SCRA 273 [1985]; Luzon Surety Co., Inc. vs. De Garcia, 30 SCRA 111 [1969]; Quijano vs. Development Bank of the Philippines, 35 SCRA 270 [1970]).

Only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent. Ambiguity is a condition of admitting two or more meanings, of being understood in more than one way, or of referring to two or more things at the same time. A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.

Furthermore, as relevantly pointed out in the dissenting opinion, a petition for rehabilitation does not always result in the appointment of a receiver or the creation of a management committee. The SEC has to initially determine whether such appointment is appropriate and necessary under the circumstances. Under Paragraph (d), Section 6 of Presidential Decree No. 902-A, certain situations must be shown to exist before a management committee may be created or appointed, such as;

> 1. when there is imminent danger of dissipation, loss, wastage or destruction of assets or other properties; or
>
> 2. when there is paralization of business operations of such corporations or entities which may be prejudicial to the interest of minority stockholders, parties-litigants or to the general public.

On the other hand, receivers may be appointed whenever:

> 1. necessary in order to preserve the rights of the parties-litigants; and/or
>
> 2. protect the interest of the investing public and creditors. (Section 6 (c), P.D. 902-A.)

These situations are rather serious in nature, requiring the appointment of a management committee or a receiver to preserve the existing assets and property of the corporation in order to protect the interests of its investors and creditors. Thus, in such situations, suspension of actions for claims against a corporation as provided in Paragraph (c) of Section 6, of Presidential Decree No. 902-A is necessary, and here we borrow the words of the late Justice Medialdea, "so as not to render the SEC management Committee irrelevant and inutile and to give it unhampered `rescue efforts' over the distressed firm" (Rollo, p. 265).

Otherwise, when such circumstances are not obtaining or when the SEC finds no such imminent danger of losing the corporate assets, a management committee or rehabilitation receiver need not be appointed and suspension of actions for claims may not be ordered by the SEC. When the SEC does not deem it necessary to appoint a receiver or to create a management committee, it may be assumed, that there are sufficient assets to sustain the rehabilitation plan and, that the creditors and investors are amply protected.

Petitioner additionally argues in its motion for reconsideration that, being a mortgage creditor, it is entitled to rely on its security and that it need not join the unsecured creditors in filing their claims before the SEC-appointed


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receiver. To support its position, petitioner cites the Court's ruling in the case of Philippine Commercial International Bank vs. Court of Appeals, (172 SCRA 436 [1989]) that an order of suspension of payments as well as actions for claims applies only to claims of unsecured creditors and cannot extend to creditors holding a mortgage, pledge, or any lien on the property.

Ordinarily, the Court would refrain from discussing additional matters such as that presented in RCBC's second ground, and would rather limit itself only to the relevant issues by which the controversy may be settled with finality.

In view, however, of the significance of such issue, and the conflicting decisions of this Court on the matter, coupled with the fact that our decision of September 14, 1992, if not clarified, might mislead the Bench and the Bar, the Court resolved to discuss further.

It may be recalled that in the herein en banc majority opinion (pp. 256-275, Rollo, also published as RCBC vs. IAC, 213 SCRA 830 [1992]), we held that:

> . . . whenever a distressed corporation asks the SEC for rehabilitation and suspension of payments, preferred creditors may no longer assert such preference, but . . . stand on equal footing with other creditors. Foreclosure shall be disallowed so as not to prejudice other creditors, or cause discrimination among them. If foreclosure is undertaken despite the fact that a petition for rehabilitation has been filed, the certificate of sale shall not be delivered pending rehabilitation. Likewise, if this has also been done, no transfer of title shall be effected also, within the period of rehabilitation. The rationale behind PD 902-A, as amended, is to effect a feasible and viable rehabilitation. This cannot be achieved if one creditor is preferred over the others.
>
> In this connection, the prohibition against foreclosure attaches as soon as a petition for rehabilitation is filed. Were it otherwise, what is to prevent the petitioner from delaying the creation of a Management Committee and in the meantime dissipate all its assets. The sooner the SEC takes over and imposes a freeze on all the assets, the better for all concerned.
>
> (pp. 265-266, Rollo; also
> p. 838, 213 SCRA 830 [1992].
> Emphasis supplied.)

The foregoing majority opinion relied upon BF Homes, Inc. vs. Court of Appeals (190 SCRA 262 [1990] - per Cruz, J.: First Division) where it was held that "when a corporation threatened by bankruptcy is taken over by a receiver, all the creditors should stand on an equal footing. Not anyone of them should be given preference by paying one or some of them ahead of the others. This is precisely the reason for the suspension of all pending claims against the corporation under receivership. Instead of creditors vexing the courts with suits against the distressed firm, they are directed to file their claims with the receiver who is a duly appointed officer of the SEC" (pp. 269-270; emphasis in the original). This ruling is a reiteration of Alemar's Sibal & Sons, Inc. vs. Hon. Jesus M. Elbinias (pp. 99-100;186 SCRA 94 [1990] - per Fernan, C.J.: Third Division).

Taking the lead from Alemar's Sibal & Sons, the Court also applied this same ruling in Araneta vs. Court of Appeals (211 SCRA 390 [1992] - per Nocon, J.: Second Division).

All the foregoing cases departed from the ruling of the Court in the much earlier case of PCIB vs. Court of Appeals (172 SCRA 436 [1989] - per Medialdea, J.: First Division) where the Court categorically ruled that:

> SEC's order for suspension of payments of Philfinance as well as for all actions of claims against Philfinance could only be applied to claims of unsecured creditors. Such order can not extend to creditors holding a mortgage, pledge or any lien on the property unless they give up the property, security or lien in favor of all the creditors of Philfinance. . .

(p. 440. Emphasis supplied)

Thus, in BPI vs. Court of Appeals (229 SCRA 223 [1994] - per Bellosillo, J.: First Division) the Court explicitly stated that ". . . the doctrine in the PCIB Case has since been abrogated. In Alemar's Sibal & Sons v. Elbinias, BF Homes, Inc. v. Court of Appeals, Araneta v. Court of Appeals and RCBC v. Court of Appeals, we already ruled that whenever a distressed corporation asks SEC for rehabilitation and suspension of payments, preferred creditors may no longer assert such preference, but shall stand on equal footing with other creditors. . ." (pp. 227-228).

It may be stressed, however, that of all the cases cited by Justice Bellosillo in BPI, which abandoned the Court's ruling in PCIB, only the present case satisfies the constitutional requirement that "no doctrine or principle of law laid down by the court in a decision rendered en banc or in division may be modified or reversed except by the court sitting en banc" (Sec 4, Article VIII, 1987 Constitution). The rest were division decisions.

It behooves the Court, therefore, to settle the issue in this present resolution once and for all, and for the guidance of the Bench and the Bar, the following rules of thumb shall are laid down:

1. All claims against corporations, partnerships, or associations that are pending before any court, tribunal, or board, without distinction as to whether or not a creditor is secured or unsecured, shall be suspended effective upon the appointment of a management committee, rehabilitation receiver, board, or body in accordance with the provisions of Presidential Decree No. 902-A.

2. Secured creditors retain their preference over unsecured creditors, but enforcement of such preference is equally suspended upon the appointment of a management committee, rehabilitation receiver, board, or body. In the event that the assets of the corporation, partnership, or association are finally liquidated, however, secured and preferred credits under the applicable provisions of the Civil Code will definitely have preference over unsecured ones.

In other words, once a management committee, rehabilitation receiver, board or body is appointed pursuant to P.D. 902-A, all actions for claims against a distressed corporation pending before any court, tribunal, board or body shall be suspended accordingly.

This suspension shall not prejudice or render ineffective the status of a secured creditor as compared to a totally unsecured creditor. P.D. 902-A does not state anything to this effect. What it merely provides is that all actions for claims against the corporation, partnership or association shall be suspended. This should give the receiver a chance to rehabilitate the corporation if there should still be a possibility for doing so. (This will be in consonance with Alemar's, BF Homes, Araneta, and RCBC insofar as enforcing liens by preferred creditors are concerned.)

However, in the event that rehabilitation is no longer feasible and claims against the distressed corporation would eventually have to be settled, the secured creditors shall enjoy preference over the unsecured creditors (still maintaining PCIB ruling), subject only to the provisions of the Civil Code on Concurrence and Preferences of Credit (our ruling in State Investment House, Inc. vs. Court of Appeals, 277 SCRA 209 [1997]).

The majority ruling in our 1992 decision that preferred creditors of distressed corporations shall, in a way, stand on equal footing with all other creditors, must be read and understood in the light of the foregoing rulings. All claims of both a secured or unsecured creditor, without distinction on this score, are suspended once a management committee is appointed. Secured creditors, in the meantime, shall not be allowed to assert such preference before the Securities and Exchange Commission. It may be stressed, however, that this shall only take effect upon the appointment of a management committee, rehabilitation receiver, board, or body, as opined in the dissent.

In fine, the Court grants the motion for reconsideration for the cogent reason that suspension of actions for claims commences only from the time a management committee or receiver is appointed by the SEC. Petitioner RCBC, therefore, could have rightfully, as it did, move for the extrajudicial foreclosure of its mortgage on October 26, 1984 because a management committee was not appointed by the SEC until March 18, 1985.

WHEREFORE, petitioner's motion for reconsideration is hereby GRANTED. The decision dated September 14, 1992 is vacated, the decision of Intermediate Appellate Court in AC-G.R. No. SP-06313 REVERSED and SET ASIDE, and the judgment of the Regional Trial Court National Capital Judicial Region, Branch 140, in Civil Case No. 10042 REINSTATED.

**SO ORDERED.**

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Kapunan, Mendoza, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and De Leon, Jr., JJ., concur.
Panganiban, J., see separate opinion.
Purisima, J., no part.

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## SEPARATE OPINION

**PANGANIBAN, J.:**

The issue as to when suspension of payments takes effect upon a petition of a distressed corporation is a contentious one. The ponencia in the case under consideration, Rizal Commercial Banking Corporation (RCBC) v. Immediate Appellate Court[1], has ruled that "the prohibition against foreclosure attaches as soon as a petition for rehabilitation is filed. Were it otherwise, what is to prevent the [creditors] from delaying the creation of the Management Committee and in the meantime [seizing] all [the debtor's] assets. The sooner the SEC takes over and imposes a freeze on all the assets, the better for all concerned.[2]

Suspension Takes Effect Only Upon
Constitution of Management Committee

A Dissent debunking the quoted ruling was written by the esteemed Justice Florentino P. Feliciano as follows:

> "I understand the above quoted portion of the ponencia to be saying that suspension of actions for claims against the corporation which applies for rehabilitation takes effect as soon as the application or a petition for rehabilitation is filed with the SEC.
>
> I would point out with respect, that the actual language used in Section 6 (c) and (d) of P.D. 902-A, as amended, does not support the position taken in the ponencia. The pertinent provision of Section 6 (c) is as follows:
> 'Sec. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:
>
> xxx xxx xxx
> 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 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;


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> 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.'

It should be pointed out that the appointment of a management committee or a rehabilitation receiver is not ordinarily effected immediately upon the filing of an application for suspension of payments and for rehabilitation. The reason is that the SEC must first determine whether the jurisdictional requirements for the appointment of a management committee are present. There are at least two (2) sets of requirements: (a) the requirements in respect of the petition for declaration of suspension of payments; and (b) the requirements concerning the petition for creation and appointment of a management committee.

xxx xxx xxx

As already noted, SEC took just about six (6) months after the filing of the petition of B.F. Homes to decide to create and appoint a management committee. Only upon such appointment of the management committee did the proviso in Section 6 (c) which decrees suspension of actions for claims against the petitioning corporation take effect.

It is only then that the SEC determines that the circumstances warranting, under the statute, the appointment of a management committee do exist, i.e., that there is `imminent danger of dissipation, loss, wastage or destruction of assets - or paralization of business operations - which [would] be prejudicial to the interest of minority stockholders, parties litigant or the general public.' Only when such circumstances have been determined to exist is there justification for suspending actions for claims against the corporation so placed under SEC management. The authority of the SEC to suspend or freeze the judicial enforcement of claims against a corporation is an extraordinary authority, most especially where credits secured by specific liens on property, like real estate mortgages, are involved; such authority cannot lightly be assumed to have arisen simply because the corporation on its own initiative goes to the SEC and there seeks shelter from its lawful creditors."[3]

The foregoing Dissent found jural expression in a later case, Barotac Sugar Mills, Inc. v. Court of Appeals,[4] penned by then Associate, now Chief Justice Hilario G. Davide Jr.:

> "The appointment of a management committee or rehabilitation receiver may only take place after the filing with the SEC of an appropriate petition for suspension of payments. This is clear from a reading of sub-paragraph (d) of Section 5 and sub-paragraph (d) of Section 6 of P.D. No. 902-A. as amended by P.D. Nos. 1653 and 1758. x x x
>
> xxx xxx xxx
>
> The conclusion then is inevitable that pursuant to the underscored proviso in sub-paragraph (c) of the aforementioned Section 6, taken together with sub-paragraph (d) of Section 6, a court action is ipso jure suspended only upon the appointment of a management committee or a rehabilitation receiver."

As a member of the then First Division which promulgated Barotac, I concurred in the aforequoted ruling. To repeat, Barotac and Justice Feliciano's Dissent are clearly supported by Section 6, paragraph (c) of Presidential Decree 902-A. It is basic in statutory construction that in the absence of doubt or ambiguity, there is no necessity for construction or interpretation of the law, as in this case. Where the law speaks in clear and categorical language, there is no room for interpretation. There is only room for application."[5]

SEC Retains Power to

Issue Injunctive Relief

Left unsaid in RCBC, Barotac and even in the present Resolution, however, is the existence of two competing economic interests in the determination of the issue. On the one hand, there is the creditor; on the other, the corporation and its stockholders. Under the RCBC ponencia of Justice Medialdea, an unscrupulous company can seek shelter in a petition for suspension of payments in order to evade or at least unfairly delay the payment of just obligations. This course of action would clearly prejudice its creditors, who would be barred from judicially enforcing their rightful claims, simply because a petition for suspension has been filed. Indeed, to paraphrase Justice Medialdea, what is to prevent the debtor from delaying the creation of the management committee, in the meantime dissipating all its assets?

On the other hand, if the bare ruling of Barotac were to be applied strictly, a distressed company would be exposed to grave danger that may precipitate its untimely demise, the very evil sought to be avoided by a suspension of payments. Notably, the appointment of a management committee takes place only after several months, even years, from submission of the petition. The appointment entails hearings and the submission of documentary evidence to determine whether the requisites for suspension of payments have been met. By the time a management committee or receiver is appointed, creditors, upon knowledge of the application for suspension of payments, will have feasted on the distressed corporation.

Money lenders will demand satisfaction of their credits by precipitately foreclosing on their mortgages. Particularly vulnerable are liquid assets which can be attached and rendered useless. Payrolls will be frozen and suppliers will lose faith in the company. Verily , the distressed company's credit standing would be zero-rated. Indeed, after the vultures' feast, the remaining corporate carcass can no longer be resurrected into a viable enterprise. When this happens, there will be no more company left to rehabilitate, thus rendering ineffectual the very law which was enacted precisely to effect such rehabilitation, In the business world, bridge liquidity and credit are sometimes even more important than profits.

The prudent way to avoid the disastrous consequence of a strict application of said law is to call attention to the power of the SEC to issue injunctive reliefs. Herein movant (RCBC) raises the issue of the validity of the restraining order and the writ or preliminary injunction later issued by the Securities and Exchange Commission (SEC) prior to the appointment of the management committee. It contends that the issuance of the injunctive reliefs effectively results in the suspension of actions against the petitioning distressed corporation.

Movant is thus saying that the SEC has no jurisdiction to issue injunctive reliefs in favor of the distressed corporation petitioning for suspension of payments prior to the appointment of a management committee. I disagree.

Sec. 5(d) of PD 902-A clearly enumerates the cases over which the SEC has original and exclusive jurisdiction to hear and decide:

> "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:
>
> xxx xxx xxx
> 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."

Section 6 (a) of said Decree goes on further to say:

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

a) To issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;

x x x"

Thus, it is obvious from the above-quoted provisions that the SEC acquires jurisdiction over the distressed companies upon the submission of a petition for suspension of payments. And when the legal requirements are complied with, it has the authority to issue injunctive reliefs for the effective exercise of its jurisdiction. I would like to emphasize that this power to issue restraining orders or preliminary injunctions, upon the prayer of the petitioning corporation, may be the only buffer that could save a company from being feasted on by any vulture-creditor, prior to the appointment of a management committee or a rehabilitation receiver.

WHEREFORE, I vote to GRANT the Motion for Reconsideration, subject to the caveat that the Securities and Exchange Commission, in meritorious cases, may issue injunctive reliefs.

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[1] 213 SCRA 830, September 14, 1992. (Concurring unqualifiedly with Justice Medialdea's ponencia were Gutierrez Jr., Nocon, and Melo, JJ.; concurring in the result were Narvasa, CJ, Bidin, Regalado and Bellosillo, JJ.; dissenting were Feliciano, Padilla, Davide, Jr. and Romero, JJ.; Cruz, Griño-Aquino and Campos, JJ., did not take part in the voting.).

[2] Ibid., p. 838.

[3] Ibid., pp. 839-844.

[4] 275 SCRA 497, July 15, 1997. (With the concurrence of Narvasa, CJ; Melo, Francisco and Panganiban, JJ., of the Court's First Division.

[5] Cebu Portland Cement Co. v. Municipality of Naga, 24 SCRA 708, August 22, 1968, per Fernando, J.


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