

MARIETTA Y. FIGUEROA, PETITIONER, VS. SECURITIES AND EXCHANGE COMMISSION AND PHILIPPINE UNDERWRITERS FINANCE CORPORATION (PHILFINANCE), RESPONDENTS.

G.R. No. 76627. June 27, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.

This is a petition for the review of the resolutions of the respondent Securities and Exchange Commission (SEC) dated August 19, 1986 and October 21, 1986, respectively, where the issue posed is whether the SEC can declare null and void a contract entered into between petitioner and the respondent, Philippine Underwriters Finance Corporation (PHILFINANCE), of which the SEC is a receiver.

The undisputed facts are as follows: On June 18, 1981, the respondent SEC and the Central Bank (CB) took over the management of respondent PHILFINANCE pursuant to the directive of the President of the Philippines and upon consultation with the Governor of the Central Bank of the Philippines.[1] On August 7, 1981, respondent SEC appointed the following persons as receivers of PHILFINANCE:

"1. Associate Commissioner

Julio A. Sulit, Jr. — Chairman

2. Mr. Feliciano A. Arban — Member

3. Mr. Sotero G. Queano — Member.

"who shall have, in addition to the powers of a receiver under Section 7. Rule 59 of the Rules of Court and Section 6 of Presidential Decree No. 902-A, as amended by Presidential Decree No. 1799, management, control and supervision of PHILFINANCE as well as of the various committees, staff, task forces and investigating teams which have been, or may hereinafter be, created."

On October 1, 1985, petitioner and respondent PHILFINANCE executed a "Canteen Concession Agreement,"[2] where said respondent agreed to have petitioner operate and manage the canteen in their Makati Office to be known as the PHILFINANCE Canteen for the purpose of providing food and refreshment to all PHILFINANCE employees and the employees of the tenants of the PHILFINANCE Building where the Canteen would be operated, particularly the Fiber Development Authority, the Consulate of Jordan and Silvercraft, at the most reasonable price possible. The duration of the agreement was two (2) years from October 1, 1985 to October 1, 1987 with the petitioner having an option to renew the same for a like period of two years.

On October 30, 1985, the Bengzon Law Offices was appointed receiver of PHILFINANCE under the same terms and conditions provided in the order of the respondent SEC on August 7, 1981.

The canteen concession contract was looked into by said receiver and upon finding irregularities therein, they wrote a letter to respondent SEC on July 14, 1986, asking that the said agreement be declared null and void for the

following reasons:

"1. the terms and conditions of the agreement are onerous and one-sided and do not redound to the best interest of Philfinance and its creditors/investors.

2. The contract apparently suffers from many infirmities.

2.1 The contract does not bear the approval of the then SEC Receivership Committee Chairman;

2.2 There is no board resolution authorizing the President. Mr. Gregorio V. Gonzales to bind PUFC into this contract;

2.3 Although the agreement purports to be notarized, it was discovered that the notarial register of the notary public shows that another document was entered in the records; hence, it appears that the notarization was falsified fake."[3]

On August 19, 1986, respondent SEC adopted a resolution declaring the said agreement dated October 1, 1985 null and void. Petitioner filed a motion for reconsideration of the aforesaid ruling but the respondent SEC, in an en banc executive session on October 21, 1986, upheld its previous resolution.

Hence, the herein petition for review, wherein petitioner alleges that respondent SEC committed a grave abuse of discretion based on the following legal questions:

"A.

UNDER P.D. 902-A, AS AMENDED, DOES THE RESPONDENT SEC HAVE THE POWER AND AUTHORITY TO DECLARE AS NULL AND VOID PRIVATE CONTRACTS AND AGREEMENTS SUCH AS THE CANTEEN CONCESSION AGREEMENT (ANNEX 'E')?

B.

ASSUMING ARGUENDO THAT IT HAS, MAY SAID RESPONDENT SEC DECLARE SAID CONTRACTS AND AGREEMENTS AS NULL AND VOID WITHOUT NOTICE TO THE PARTIES CONCERNED SUCH AS IN THE CASE OF HEREIN PETITIONER?"

Petitioner alleges that nowhere in P.D. No. 902-A and its amendatory decrees is it expressly provided that respondent SEC is clothed with authority and power to declare contracts entered into by private persons to be null and void and that such power and authority is reserved by law only to the regular courts and not to administrative bodies like the SEC. Petitioner further contends that, assuming for the sake of argument that it has such power and authority, there is nothing in the law that would also authorize respondent SEC to rescind contracts unilaterally, and without giving the parties notice or an opportunity to be heard. Petitioner avers that respondent SEC went roughshod over her rights and proceeded to declare said agreement to be null and void without even notifying petitioner of such ruling.

On the other hand, respondents argue that the SEC, under P.D. No. 902-A, as amended by P.D. No. 1799, was created by law not only to promote economic development, but also to rectify the chaos brought about by the near collapse of the financial system due to the economic crisis which confronted the country. For this purpose the respondents add, the SEC was given extraordinary powers by way of P.D. No. 1799 placing companies facing liquidity problems or those on the brink of insolvency under receivership. Respondents point out that paragraph 6(d), sub-par. (2) of P.D. 902-A, as amended, provides as follows:

"The management committee rehabilitation receiver, board or body shall have the power to take custody of and control over, all existing assets and property of such entities under management, x x x. 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." (As amended by P.D. No. 1799) (Italics supplied.)

From the foregoing, respondents contend that the SEC has the authority to revoke or nullify the acts of the previous management.

Respondents emphasize that this contract was entered into when the receivership committee of the respondent SEC was already actually managing respondent PHILFINANCE and said agreement was entered into without prior approval or knowledge of the SEC as receiver so that when respondent SEC was appraised of the facts attendant thereto, it had a right to declare it null and void.

Moreover, respondents allege that when the Bengzon Law Offices took over as receiver from respondent SEC, through its PUFC officer-in-charge Salvador G. Tirona, they wrote to the petitioner on several occasions citing therein the infirmities of the alleged contract but all that petitioner did was to insist that they have a valid and subsisting contract to the extent of threatening to file criminal charges against Mr. Tirona for alleged harassment; and that Mr. Tirona had no alternative but to go to the SEC to ask for a declaration of the nullity of the contract. The respondents admit that when the SEC issued the resolution of August 19, 1986, petitioner was not able to present her side; nevertheless, by a letter of reconsideration filed by petitioner, she was able to ventilate her side on the matter to the SEC sitting en banc.

The Court finds the petition to be devoid of merit.

There appears to be no question as to the irregularities attendant in the consummation of the said contract. It did not bear the approval of the SEC Receivership Committee Chairman; the president, Mr. Gregorio B. Gonzales, was not duly authorized to enter into said contract; and that although it was purported to be notarized, the notarization was found to be falsified as another document also appears to have been entered in the records of the notary public concerned on the same date.

Indeed, as pointed out by respondents, the contract was onerous and prejudicial to the creditors of respondent PHILFINANCE as it provides:

"ARTICLE II: CANTEEN SPACE FACILITIES

"1. PHILFINANCE shall make avertable, free of rental and free of charge, to the CONCESSIONAIRE a suitable portion of the 3rd Floor premises of its office building in Benavidez St., Makati, Metro Manila, as well as provide the water, telephone service, air-conditioning and electricity to be used in the canteen; provided that CONCESSIONAIRE shall use them economically and sparingly; and provided further that CONCESSIONAIRE shall not use electricity for cooking purposes except in emergencies or when absolutely necessary.

"2. PHILFINANCE undertakes to make available to CONCESSIONAIRE for the use of the canteen, the properties, equipment, appliances, and furniture of its previous canteen listed herein and attached hereto as ANNEX 'A.' (italics supplied)"[4]

Under paragraph 6(d), sub-par. (2) of P.D. No. 902-A, as amended, as above adverted to, the management committee or receiver may overrule or revoke previous acts of the management as it did in this case. Petitioner may not complain that she was denied due process. Even before the Bengzon Law Offices asked the respondent SEC to nullify the contract, the petitioner was informed of the infirmities in the said contract. Instead of justifying or explaining such infirmities, petitioner insisted that it is valid. And when respondent SEC adopted the resolution

of August 19, 1986, thereby nullifying the contract, petitioner was afforded the opportunity to be heard when she filed a request for reconsideration which was duly considered by the SEC sitting en banc but the petition was denied and the nullification of the contract was upheld.

What the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard. Where a party was given a chance to be heard with respect to his motion for reconsideration, there is sufficient compliance with the requirements of due process.[5]

The Court, therefore, finds no grave abuse of discretion on the part of respondent SEC in nullifying the contract that was entered into in this case.

WHEREFORE, the petition is hereby DISMISSED without pronouncement as to costs.

SO ORDERED.

Narvasa (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex "A", to Comment.

[2] Annex "D", Petition.

[3] Annex "E", to the Comment.

[4] Annex D to Petition.

[5] Aguilar v. Tan, 31 SCRA 205, 210 (1970); Catura v. Court of Industrial Relations, 37 SCRA 303, 310-311 (1971).

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