

TRADERS ROYAL BANK, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. BALTAZAR M. DIZON, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 113, PASAY CITY AND ALFREDO CHING, RESP...

G.R. No. 78412. September 26, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This petition for certiorari assails the Court of Appeals' decision dated April 29, 1987 in CA-G.R. SP No. 03593, entitled "Alfredo Ching vs. Hon. Baltazar M. Dizon and Traders Royal Bank" nullifying the Regional Trial Court's orders dated August 15, 1983 and May 24, 1984 and prohibiting it from further proceeding in Civil Case No. 1028-P.

On March 30, 1982, the Philippine Blooming Mills, Inc. (PBM) and Alfredo Ching jointly submitted to the Securities and Exchange Commission a petition for suspension of payments (SEC No. 2250) where Alfredo Ching was joined as co-petitioner because under the law, he was allegedly entitled, as surety, to avail of the defenses of PBM and he was expected to raise most of the stockholders' equity of P100 million being required under the plan for the rehabilitation of PBM. Traders Royal Bank was included among PBM's creditors named in Schedule A accompanying PBM's petition for suspension of payments.

On May 13, 1983, the petitioner bank filed Civil Case No. 1028-P in the Regional Trial Court, Branch CXIII in Pasay City, against PBM and Alfredo Ching, to collect P22,227,794.05 exclusive of interests, penalties and other bank charges representing PBM's outstanding obligation to the bank. Alfredo Ching, a stockholder of PBM, was impleaded as co-defendant for having signed as a surety for PBM's obligations to the extent of ten million pesos (P10,000,000) under a Deed of Suretyship dated July 21, 1977.

In its en banc decision in SEC-EB No. 018 (Chung Ka Bio, et al. vs. Hon. Antonio R. Manabat, et al.), the SEC declared that it had assumed jurisdiction over petitioner Alfredo Ching pursuant to Section 6, Rule 3 of the new Rules of Procedure of the SEC providing that "parties in interest without whom no final determination can be had of an action shall be joined either as complainant, petitioner or respondent" to prevent multiplicity of suits.

On July 9, 1982, the SEC issued an Order placing PBM's business, including its assets and liabilities, under rehabilitation receiverships and ordered that "all actions for claims listed in Schedule A of the petition pending before any court or tribunal are hereby suspended in whatever stage the same may be, until further orders from the Commission" (p. 22, Rollo). As directed by the SEC, said order was published once a week for three consecutive weeks in the Bulletin Today, Philippine Daily Express and Times Journal at the expense of PBM and Alfredo Ching.

PBM and Ching jointly filed a motion to dismiss Civil Case No. 1028-P in the RTC, Pasay City, invoking the pendency in the SEC of PBM's application for suspension of payments (which Ching co-signed) and over which

the SEC had already assumed jurisdiction.

Before the motion to dismiss could be resolved, the court dropped PBM from the complaint, on motion of the plaintiff bank, for the reason that the SEC had already placed PBM under rehabilitation receivership.

On August 15, 1983, the trial court denied Ching's motion to dismiss the complaint against himself. The court pointed out that "P.D. 1758 is only concerned with the activities of corporations, partnerships and associations. Never was it intended to regulate and/or control activities of individuals" (p. 11, Rollo). Ching's motion for reconsideration of that order was denied on May 24, 1984. Respondent Judge argued that under P.D. 902-A, as amended, the SEC may not validly acquire jurisdiction over an individual, like Ching (p. 62, Rollo).

Ching filed a petition for certiorari and prohibition in the Court of Appeals (CA-G.R. SP No. 03593) to annul the orders of respondent Judge and to prohibit him from further proceeding in the civil case.

The main issue raised in the petition was whether the court a quo could acquire jurisdiction over Ching in his personal and individual capacity as a surety of PBM in the collection suit filed by the bank, despite the fact that PBM's obligation to the bank had been placed under receivership by the SEC.

On April 29, 1987, the Court of Appeals granted the writs prayed for. It nullified the questioned orders of respondent Judge and prohibited him from further proceeding in Civil Case No. 1028-P, except to enter an order dismissing the case. The pertinent ruling of the Court of Appeals reads:

"In sum, since the SEC had assumed jurisdiction over petitioner in SEC Case No. 2250 and reiterating the propriety of such assumption in SEC-EB No. 018; and since under PD 902-A, as amended by PD 1758, 'x x x upon appointment of a x x x rehabilitation receiver x x x pursuant to this Decree, all actions for claims against corporation x x x under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly x x x'; respondent judge clearly acted without jurisdiction in taking cognizance of the civil case in the court a quo brought by respondent bank to enforce the surety agreement against petitioner for the purpose of collecting payment of PBM's outstanding obligations. Respondent bank should have questioned the SEC's assumption of jurisdiction over petitioner in an appellate forum and not in the court a quo, a tribunal with which the SEC enjoys a co-equal and coordinate rank." (p. 27, Rollo.)

The Bank assails that decision in this petition for review alleging that the appellate court erred:

1. in holding that jurisdiction over respondent Alfredo Ching was assumed by the SEC because he was a co-signer or surety of PBM and that the lower court may not assume jurisdiction over him so as to avoid multiplicity of suits; and
2. in holding that the jurisdiction assumed by the SEC over Ching was to the exclusion of courts or tribunals of coordinate rank.

The petition for review is meritorious.

Although Ching was impleaded in SEC Case No. 2250, as a co-petitioner of PBM, the SEC could not assume jurisdiction over his person and properties. The Securities and Exchange Commission was empowered, as rehabilitation receiver, to take custody and control of the assets and properties of PBM only, for the SEC has jurisdiction over corporations only not over private individuals, except stockholders in an intra-corporate dispute (Sec. 5, P.D. 902-A and Sec. 2 of P.D. 1758). Being a nominal party in SEC Case No. 2250, Ching's properties were not included in the rehabilitation receivership that the SEC constituted to take custody of PBM's assets. Therefore, the petitioner bank was not barred from filing a suit against Ching, as a surety for PBM. An anomalous situation would arise if individual sureties for debtor corporations may escape liability by simply co-filing with the corporation a petition for suspension of payments in the SEC whose jurisdiction is limited only to corporations

and their corporate assets.

The term "parties-in-interest" in Section 6, Rule 3 of the SEC's New Rules of Procedure contemplates only private individuals sued or suing as stockholders, directors, or officers of a corporation.

Ching can be sued separately to enforce his liability as surety for PBM, as expressly provided by Article 1216 of the New Civil Code:

"ART. 1216. The creditor may proceed against any of the solidary debtors or all of them simultaneously. The demand made against one of them shall not be an obstacle to those which may subsequently be directed against the others, as long as the debt has not been fully collected."

It is elementary that a corporation has a personality distinct and separate from its individual stockholders or members. Being an officer or stockholder of a corporation does not make one's property the property also of the corporation, for they are separate entities (*Adelio Cruz vs. Quiterio Dalisay*, 152 SCRA 482).

Ching's act of joining as a co-petitioner with PBM in SEC Case No. 2250 did not vest in the SEC jurisdiction over his person or property, for jurisdiction does not depend on the consent or acts of the parties but upon express provision of law (*Tolentino vs. Social Security System*, 138 SCRA 428; *Lee vs. Municipal Trial Court of Legaspi City*, Br. I, 145 SCRA 408).

WHEREFORE, the petition for review is granted. The decision of the Court of Appeals in CA-G.R. SP No. 03593 is set aside. Respondent Judge of the Regional Trial Court in Pasay City is ordered to reinstate Civil Case No. 1028-P and to proceed therein against the private respondent Alfredo Ching. Costs against the private respondent.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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