

## EN BANC

**[ G.R. No. 172302, February 18, 2014 ]**

### **PRYCE CORPORATION, PETITIONER, VS. CHINA BANKING CORPORATION, RESPONDENT.**

#### **RESOLUTION**

**LEONEN, J.:**

This case resolves conflicting decisions between two divisions. Only one may serve as res judicata or a bar for the other to proceed. This case also settles the doctrine as to whether a hearing is needed prior to the issuance of a stay order in corporate rehabilitation proceedings.

The present case originated from a petition for corporate rehabilitation filed by petitioner Pryce Corporation on July 9, 2004 with the Regional Trial Court of Makati, Branch 138.<sup>[1]</sup>

The rehabilitation court found the petition sufficient in form and substance and issued a stay order on July 13, 2004 appointing Gener T. Mendoza as rehabilitation receiver.<sup>[2]</sup>

On September 13, 2004, the rehabilitation court gave due course to the petition and directed the rehabilitation receiver to evaluate and give recommendations on petitioner Pryce Corporation's proposed rehabilitation plan attached to its petition.<sup>[3]</sup>

The rehabilitation receiver did not approve this plan and submitted instead an amended rehabilitation plan, which the rehabilitation court approved by order dated January 17, 2005.<sup>[4]</sup> In its disposition, the court found petitioner Pryce Corporation "eligible to be placed in a state of corporate rehabilitation."<sup>[5]</sup> The disposition likewise identified the assets to be held and disposed of by petitioner Pryce Corporation and the manner by which its liabilities shall be paid and liquidated.<sup>[6]</sup>

On February 23, 2005, respondent China Banking Corporation elevated the case to the Court of Appeals. Its petition questioned the January 17, 2005 order that included the following terms:

1. The indebtedness to China Banking Corporation and Bank of the Philippine Islands as well as the long term commercial papers will be paid through a dacion en pago of developed real estate assets of the petitioner.  
x x x x
4. All accrued penalties are waived[.]
5. Interests shall accrue only up to July 13, 2004, the date of issuance of the stay order[.]
6. No interest will accrue during the pendency of petitioner's

corporate rehabilitation[.]

7. Dollar-denominated loans will be converted to Philippine Pesos on the date of the issuance of this Order using the reference rate of the Philippine Dealing System as of this date.<sup>[7]</sup>

Respondent China Banking Corporation contended that the rehabilitation plan's approval impaired the obligations of contracts. It argued that neither the provisions of Presidential Decree No. 902-A nor the Interim Rules of Procedure on Corporate Rehabilitation (Interim Rules) empowered commercial courts "to render without force and effect valid contractual stipulations."<sup>[8]</sup> Moreover, the plan's approval authorizing *dacion en pago* of petitioner Pryce Corporation's properties without respondent China Banking Corporation's consent not only violated "mutuality of contract and due process, but [was] also antithetical to the avowed policies of the state to maintain a competitive financial system."<sup>[9]</sup>

The Bank of the Philippine Islands (BPI), another creditor of petitioner Pryce Corporation, filed a separate petition with the Court of Appeals assailing the same order by the rehabilitation court. BPI called the attention of the court "to the non-impairment clause and the mutuality of contracts purportedly ran roughshod by the [approved rehabilitation plan]."<sup>[10]</sup>

On July 28, 2005, the Court of Appeals Seventh (7<sup>th</sup>) Division<sup>[11]</sup> granted respondent China Banking Corporation's petition, and reversed and set aside the rehabilitation court's: (1) July 13, 2004 stay order that also appointed Gener T. Mendoza as rehabilitation receiver; (2) September 13, 2004 order giving due course to the petition and directing the rehabilitation receiver to evaluate and give recommendations on petitioner Pryce Corporation's proposed rehabilitation plan; and (3) January 17, 2005 order finding petitioner Pryce Corporation eligible to be placed in a state of corporate rehabilitation, identifying assets to be disposed of, and determining the manner of liquidation to pay the liabilities.<sup>[12]</sup>

With respect to BPI's separate appeal, the Court of Appeals First (1<sup>st</sup>) Division<sup>[13]</sup> granted its petition initially and set aside the January 17, 2005 order of the rehabilitation court in its decision dated May 3, 2006.<sup>[14]</sup> On reconsideration, the court issued a resolution dated May 23, 2007 setting aside its original decision and dismissing the petition.<sup>[15]</sup> BPI elevated the case to this court, docketed as G.R. No. 180316. By resolution dated January 30, 2008, the First (1<sup>st</sup>) Division of this court denied the petition.<sup>[16]</sup> By resolution dated April 28, 2008, this court denied reconsideration with finality.<sup>[17]</sup>

Meanwhile, petitioner Pryce Corporation also appealed to this court assailing the July 28, 2005 decision of the Court of Appeals Seventh (7<sup>th</sup>) Division granting respondent China Banking Corporation's petition as well as the resolution denying its motion for reconsideration.

In the decision dated February 4, 2008,<sup>[18]</sup> the First (1<sup>st</sup>) Division of this court denied its petition with the dispositive portion as follows:

WHEREFORE, we **DENY** the petition. The assailed Decision of the Court of Appeals in CA-G.R. SP No. 88479 is **AFFIRMED** with the modification

discussed above. Let the records of this case be **REMANDED** to the RTC, Branch 138, Makati City, sitting as Commercial Court, for further proceedings with dispatch to determine the merits of the petition for rehabilitation. No costs.<sup>[19]</sup>

Petitioner Pryce Corporation filed an omnibus motion for (1) reconsideration or (2) partial reconsideration and (3) referral to the court En Banc dated February 29, 2008. Respondent China Banking Corporation also filed a motion for reconsideration on even date, praying that the February 4, 2008 decision be set aside and reconsidered only insofar as it ordered the remand of the case for further proceedings "to determine whether petitioner's financial condition is serious and whether there is clear and imminent danger that it will lose its corporate assets."<sup>[20]</sup>

By resolution dated June 16, 2008, this court denied with finality the separate motions for reconsideration filed by the parties.

On September 10, 2008, petitioner Pryce Corporation filed a second motion for reconsideration praying that the Court of Appeals' decision dated February 4, 2008 be set aside.

The First Division of this court referred this case to the En Banc en consulta by resolution dated June 22, 2009.<sup>[21]</sup> The court En Banc, in its resolution dated April 13, 2010, resolved to accept this case.<sup>[22]</sup>

On July 30, 2013, petitioner Pryce Corporation and respondent China Banking Corporation, through their respective counsel, filed a joint manifestation and motion to suspend proceedings. The parties requested this court to defer its ruling on petitioner Pryce Corporation's second motion for reconsideration "so as to enable the parties to work out a mutually acceptable arrangement."<sup>[23]</sup>

By resolution dated August 6, 2013, this court granted the motion but only for two (2) months. The registry receipts showed that counsel for respondent China Banking Corporation and counsel for petitioner Pryce Corporation received their copies of this resolution on September 5, 2013.<sup>[24]</sup>

More than two months had lapsed since September 5, 2013, but no agreement was filed by the parties. Thus, we proceed to rule on petitioner Pryce Corporation's second motion for reconsideration.

This motion raises two grounds.

First, petitioner Pryce Corporation argues that the issue on the validity of the rehabilitation court orders is now *res judicata*. Petitioner Pryce Corporation submits that the ruling in *BPI v. Pryce Corporation* docketed as G.R. No. 180316 contradicts the present case, and it has rendered the issue on the validity and regularity of the rehabilitation court orders as *res judicata*.<sup>[25]</sup>

Second, petitioner Pryce Corporation contends that Rule 4, Section 6 of the Interim Rules of Procedure on Corporate Rehabilitation<sup>[26]</sup> does not require the rehabilitation court to hold a hearing before issuing a stay order. Considering that

the Interim Rules was promulgated later than *Rizal Commercial Banking Corp. v. IAC*<sup>[27]</sup> that enunciated the “serious situations” test,<sup>[28]</sup> petitioner Pryce Corporation argues that the test has effectively been abandoned by the “sufficiency in form and substance test” under the Interim Rules.<sup>[29]</sup>

The present second motion for reconsideration involves the following issues:

- I. Whether the issue on the validity of the rehabilitation order dated January 17, 2005 is now res judicata in light of *BPI v. Pryce Corporation* docketed as G.R. No. 180316;
- II. Whether the rehabilitation court is required to hold a hearing to comply with the “serious situations” test laid down in the case of *Rizal Commercial Banking Corp. v. IAC* before issuing a stay order.

We proceed to discuss the first issue.

*BPI v. Pryce Corporation* docketed as G.R. No. 180316 rendered the issue on the validity of the rehabilitation court’s January 17, 2005 order approving the amended rehabilitation plan as res judicata.

In *BPI v. Pryce Corporation*, the Court of Appeals set aside initially the January 17, 2005 order of the rehabilitation court.<sup>[30]</sup> On reconsideration, the court set aside its original decision and dismissed the petition.<sup>[31]</sup> On appeal, this court denied the petition filed by BPI with finality. An entry of judgment was made for *BPI v. Pryce Corporation* on June 2, 2008.<sup>[32]</sup> In effect, this court upheld the January 17, 2005 order of the rehabilitation court.

According to the doctrine of res judicata, “a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.”<sup>[33]</sup>

The elements for res judicata to apply are as follows: (a) the former judgment was final; (b) the court that rendered it had jurisdiction over the subject matter and the parties; (c) the judgment was based on the merits; and (d) between the first and the second actions, there was an identity of parties, subject matters, and causes of action.<sup>[34]</sup>

Res judicata embraces two concepts: (1) bar by prior judgment<sup>[35]</sup> and (2) conclusiveness of judgment.<sup>[36]</sup>

Bar by prior judgment exists “when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action.”<sup>[37]</sup>

On the other hand, the concept of conclusiveness of judgment finds application “when a fact or question has been squarely put in issue, judicially passed upon, and adjudged in a former suit by a court of competent jurisdiction.”<sup>[38]</sup> This principle only needs identity of parties and issues to apply.<sup>[39]</sup>

The elements of res judicata through bar by prior judgment are present in this case.

On the element of identity of parties, res judicata does not require absolute identity of parties as substantial identity is enough.<sup>[40]</sup> Substantial identity of parties exists “when there is a community of interest between a party in the first case and a party in the second case, even if the latter was not impleaded in the first case.”<sup>[41]</sup> Parties that represent the same interests in two petitions are, thus, considered substantial identity of parties for purposes of res judicata.<sup>[42]</sup> Definitely, one test to determine substantial identity of interest would be to see whether the success or failure of one party materially affects the other.

In the present case, respondent China Banking Corporation and BPI are creditors of petitioner Pryce Corporation and are both questioning the rehabilitation court’s approval of the amended rehabilitation plan. Thus, there is substantial identity of parties since they are litigating for the same matter and in the same capacity as creditors of petitioner Pryce Corporation.

There is no question that both cases deal with the subject matter of petitioner Pryce Corporation’s rehabilitation. The element of identity of causes of action also exists.

In separate appeals, respondent China Banking Corporation and BPI questioned the same January 17, 2005 order of the rehabilitation court before the Court of Appeals.

Since the January 17, 2005 order approving the amended rehabilitation plan was affirmed and made final in G.R. No. 180316, this plan binds all creditors, including respondent China Banking Corporation.

In any case, the Interim Rules or the rules in effect at the time the petition for corporate rehabilitation was filed in 2004 adopts the cram-down principle which “consists of two things: (i) approval despite opposition and (ii) binding effect of the approved plan x x x.”<sup>[43]</sup>

First, the Interim Rules allows the rehabilitation court<sup>[44]</sup> to “approve a rehabilitation plan even over the opposition of creditors holding a majority of the total liabilities of the debtor if, in its judgment, the rehabilitation of the debtor is feasible and the opposition of the creditors is manifestly unreasonable.”<sup>[45]</sup>

Second, it also provides that upon approval by the court, the rehabilitation plan and its provisions “shall be binding upon the debtor and all persons who may be affected by it, including the creditors, whether or not such persons have participated in the proceedings or opposed the plan or whether or not their claims have been scheduled.”<sup>[46]</sup>

Thus, the January 17, 2005 order approving the amended rehabilitation plan, now final and executory resulting from the resolution of *BPI v. Pryce Corporation* docketed as G.R. No. 180316, binds all creditors including respondent China Banking Corporation.

This judgment in *BPI v. Pryce Corporation* covers necessarily the rehabilitation court’s September 13, 2004 order giving due course to the petition. The general rule