

## SECOND DIVISION

[ G.R. No. 195289, September 24, 2014 ]

**ROBINSON'S BANK CORPORATION (FORMERLY THE ROYAL BANK OF SCOTLAND [PHILS.], INC.), PETITIONER, VS. HON. SAMUEL H. GAERLAN, HON. HAKIM S. ABDULWAHID AND HON. RICARDO R. ROSARIO, IN THEIR CAPACITY AS ASSOCIATE JUSTICES RESPECTIVELY OF THE TENTH DIVISION OF THE COURT OF APPEALS, AND TRADE AND INVESTMENT DEVELOPMENT CORPORATION OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for *Certiorari*<sup>[1]</sup> assails the July 19, 2010 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 104141, entitled "*Trade and Investment Development Corporation of the Philippines, Petitioner, versus World Granary Corporation, Respondent,*" as well as its December 6, 2010 Resolution<sup>[3]</sup> denying the Motion for Reconsideration<sup>[4]</sup> of herein petitioner Robinson's Bank Corporation<sup>[5]</sup> (RBC).

#### ***Factual Antecedents***

On December 4, 2006, Nation Granary, Inc. (now World Granary<sup>[6]</sup> Corporation, or WGC) filed a Petition for Rehabilitation with Prayer for Suspension of Payments, Actions and Proceedings<sup>[7]</sup> before the Regional Trial Court (RTC) of Lucena City, which was docketed as Special Proceedings No. 2006-77 and assigned to Branch 57.

WGC is engaged in the business of mechanized bulk handling, transport and storage, warehousing, drying, and milling of grains. It incurred loans amounting to P2.66 billion from RBC and other banks and entities such as herein private respondent Trade and Investment Development Corporation of the Philippines (TIDCORP). It appears that RBC is both a secured and unsecured creditor,<sup>[8]</sup> while TIDCORP is a secured creditor.<sup>[9]</sup>

On December 12, 2006, the RTC issued a Stay Order<sup>[10]</sup> staying the enforcement of creditors' claims; prohibiting WGC from disposing or encumbering its properties and paying its outstanding liabilities; prohibiting its suppliers from withholding their goods and services; appointing a rehabilitation receiver; and directing creditors and interested parties to file their respective comments to the Petition.

RBC filed its Opposition<sup>[11]</sup> to the Petition for Rehabilitation.

In a July 27, 2007 Order,<sup>[12]</sup> the RTC gave due course to the Petition for

Rehabilitation and directed the receiver to evaluate the rehabilitation plan submitted by WGC, and thereafter submit his recommendations thereon. Accordingly, the receiver submitted his Report with Recommendation<sup>[13]</sup> dated September 27, 2007, to which RBC and TIDCORP filed their respective Comments.<sup>[14]</sup> Apparently, the Report proposed, among others, a *pari passu* – or equal – sharing between the secured and unsecured creditors of the proceeds from WGC’s cash flow made available for debt servicing.<sup>[15]</sup>

In its Comment, TIDCORP among others took exception to the proposed *pari passu* sharing, insisting that as a secured creditor, it should enjoy preference over unsecured creditors, citing law and jurisprudence to the effect that the law on preference of credits shall be observed in resolving claims against corporations under rehabilitation.<sup>[16]</sup> It likewise claimed that WGC violated its Indemnity Agreement<sup>[17]</sup> with TIDCORP – which required that while the agreement subsisted, WGC shall not incur new debts without TIDCORP’s approval<sup>[18]</sup> – by obtaining additional loans without the knowledge and consent of the latter.

RBC filed an Opposition<sup>[19]</sup> to TIDCORP’s Comment, arguing pertinently that TIDCORP’s objection to a *pari passu* sharing of WGC’s cash flow proceeds and insistence on preferential treatment goes against the legal principle that during rehabilitation, both secured and unsecured creditors stand on equal footing, and that it is only when rehabilitation is no longer feasible – and liquidation is the remaining option – that secured creditors shall enjoy preference over unsecured creditors;<sup>[20]</sup> that giving preference to TIDCORP would violate the Stay Order and impair the powers of the receiver; and that any change in the contractual relations between TIDCORP and WGC relative to their Indemnity Agreement comes as a necessary consequence of rehabilitation, which TIDCORP may not be heard to complain.

On June 6, 2008, the RTC issued an Order<sup>[21]</sup> approving WGC’s rehabilitation plan, thus:

WHEREFORE, the Rehabilitation Program submitted as Attachment “A” of the Report with Recommendation (On the Rehabilitation Program), dated September 27, 2007, of the Rehabilitation Receiver is hereby APPROVED with the following conditions to form part thereof:

1. that with the exception of the guarantee fees to TIDCORP (also known as PHILEXIM) all obligations of the petitioner should be settled on a *pari-passu* basis;
2. that the Rehabilitation Program should include a schedule of the equity infusion in the amount of Eighty Three Million Pesos;
3. that Petitioner should submit to the Court, copy furnished the creditors, the schedule of contracts under negotiations with its prospective clients with informations as to their status and proposed terms and conditions within thirty (30) days from receipt of this Order;

4. that Petitioner should submit to the Court, copy furnished the creditors, a complete inventory of all the properties it bought using the proceeds from the LC/TR within thirty (30) days from receipt of this Order; and

5. that the Petitioner should include in the Rehabilitation Program the repayment terms of the creditors on record not included therein, among whom is creditor Belmont Agricorn, Inc., furnishing copy thereof the concerned creditors.

The Petitioner is enjoined to strictly comply with the provisions of the Rehabilitation Program, performing its obligations thereunder, and to take all the actions necessary to carry out the program, failing which the Court shall either upon motion, *motu proprio*, or upon the recommendation of the Rehabilitation Receiver, terminate the proceedings as provided for under the Rules.

The Rehabilitation Receiver is directed to strictly monitor the implementation of the program and submit a quarterly report on the progress thereof.

SO ORDERED.<sup>[22]</sup>

### ***Ruling of the Court of Appeals***

TIDCORP thus filed CA-G.R. SP No. 104141, which is a Petition for Review<sup>[23]</sup> assailing the above June 6, 2008 Order on the ground that the trial court's specific directive for WGC to settle its obligations on a *pari passu basis* is contrary to law and jurisprudence, as it unduly benefits unsecured creditors and thus prejudices its interests as a secured creditor. In addition, TIDCORP claimed that WGC violated its covenants under its Indemnity Agreement with TIDCORP by subsequently obtaining additional loans from RBC and other banks without TIDCORP's knowledge and consent.<sup>[24]</sup>

TIDCORP argued that the banks – including RBC – which granted new loans to WGC in violation of its Indemnity Agreement contributed to TIDCORP's present "iniquitous predicament" – that is, its rights as a secured creditor were "greatly impaired"; thus, these banks "should be held accountable" pursuant to the Civil Code provision that any "person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same."<sup>[25]</sup> It maintained that for these reasons, it should be given preferential and special treatment among the WGC creditors.

TIDCORP thus prayed in its Petition that the portion of the assailed June 6, 2008 Order specifically directing that all WGC obligations be settled on a *pari passu basis* be reversed and set aside. It likewise sought injunctive relief.

RBC filed an Urgent Motion for Intervention with attached Comment in Intervention,<sup>[26]</sup> which is anchored on its original claim and objection to TIDCORP's position –

that the latter may not enjoy preferential treatment over the other WGC creditors.

[27] Additionally, RBC argued that as an unsecured creditor which stood to be affected by the outcome of TIDCORP's Petition, it should have been impleaded in the Petition; since it was not impleaded, the Petition for review should be dismissed. Finally, RBC pointed out that TIDCORP actually knew of the additional loans WGC obtained as it approved, on July 26, 2006, WGC's request for TIDCORP to increase its guarantee on these additional loans. [28] RBC therefore prayed that TIDCORP's Petition for Review be dismissed; that the RTC's June 6, 2008 Order be affirmed *in toto*; and that TIDCORP's application for injunctive relief be denied.

In its Opposition [29] seeking the dismissal of RBC's Urgent Motion for Intervention, TIDCORP maintained that intervention is not allowed in rehabilitation proceedings, citing Rule 3, Section 1 of the Interim Rules of Procedure on Corporate Rehabilitation [30] (Interim Rules), which applies even on appeal, since an appeal is merely a continuation of the original action for rehabilitation. [31] It added that the cases cited by RBC do not apply to the instant case, since they involved petitions for suspension of payments, while the instant case involves a petition for rehabilitation pursuant to the Interim Rules. Next, it claimed that RBC failed to show that its participation would not delay the proceedings on appeal. Finally, it argued that a final determination of the appeal does not depend on RBC's participation since rehabilitation proceedings are *in rem* and binding on all interested and affected parties even if they did not participate in the proceedings.

On July 19, 2010, the first assailed Resolution was issued, which held thus:

As pointed out by the petitioner in its opposition, intervention is a prohibited pleading under Rule 3, Section 1 par 2 (g) of the Rules of Procedure On Corporate Rehabilitation to wit:

Section 1. Nature of proceeding-

x x x x

The proceedings shall also be summary and non-adversarial in nature. The following pleadings are prohibited:

x x x x

(g) Intervention

x x x x

In view of the foregoing, the instant motion is DENIED. The parties are directed to file their respective memoranda within fifteen (15) days from notice.

SO ORDERED. [32]

RBC filed a Motion for Reconsideration, [33] arguing that the Interim Rules covering

prohibited pleadings apply only during rehabilitation proceedings and before the rehabilitation court decides the case; after a decision is rendered, the Rules of Court<sup>[34]</sup> apply. It cited the case of *Leca Realty Corporation v. Manuela Corporation*,<sup>[35]</sup> which held as follows:

The issue posed before us in G.R. No. 166800 for *certiorari* and *mandamus* is whether the trial court erred in ruling that a motion for extension of time to file record on appeal is a prohibited pleading under Section 1 of the Interim Rules of Procedure on Corporate Rehabilitation which provides:

Section 1. Nature of Proceedings. – Any proceeding initiated under these Rules shall be considered in rem. Jurisdiction over all those affected by the proceedings shall be considered as acquired upon publication of the notice of the commencement of the proceedings in any newspaper of general circulation in the Philippines in the manner prescribed by these Rules.

The proceedings shall also be summary and non-adversarial in nature. The following pleadings are prohibited:

- a. Motion to Dismiss;
- b. Motion for Bill of Particulars;
- c. Motion for New Trial or For Reconsideration;
- d. Petition for Relief;
- e. Motion for Extension;
- f. Memorandum;
- g. Motion for Postponement;
- h. Reply or Rejoinder;
- i. Third Party Complaint;
- j. Intervention;

x x x x

The prohibited pleadings enumerated above are those filed in the rehabilitation proceedings. Once the trial court decides the case and an aggrieved party appeals, the procedure to be followed is that prescribed by the Rules of Court as mandated by Section 5, Rule 3, of the same Interim Rules, thus:

The review of any order or decision of the court or on appeal therefrom shall be in accordance with the Rules of Court.<sup>[36]</sup>

In its Comment/Opposition,<sup>[37]</sup> TIDCORP essentially argued that the cited pronouncement in the *Leca Realty* case is a mere *obiter dictum*; that since RBC failed to file a Petition for Review of the trial court's June 6, 2008 Order, it cannot now move to intervene in TIDCORP's Petition for Review as a substitute for its lost appeal; that there are no valid reasons for intervention; and that intervention would unnecessarily delay the proceedings.

In its second assailed Resolution of December 6, 2010, the CA remained