

## FIRST DIVISION

[ G.R. No. 161771, February 15, 2012 ]

**BANK OF THE PHILIPPINE ISLANDS, AS SUCCESSOR-IN-INTEREST OF FAR EAST BANK AND TRUST COMPANY, PETITIONER, VS. EDUARDO HONG, DOING BUSINESS UNDER THE NAME AND STYLE "SUPER LINE PRINTING PRESS" AND THE COURT OF APPEALS, RESPONDENTS.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

This petition for review on certiorari under Rule 45 assails the Decision<sup>[1]</sup> dated September 27, 2002 and Resolution<sup>[2]</sup> dated January 12, 2004 of the Court of Appeals (CA) in CA-G.R. SP No. 64166.

On September 16, 1997, the EYCO Group of Companies ("EYCO") filed a petition for suspension of payments and rehabilitation before the Securities and Exchange Commission (SEC), docketed as SEC Case No. 09-97-5764. A stay order was issued on September 19, 1997 enjoining the disposition in any manner except in the ordinary course of business and payment outside of legitimate business expenses during the pendency of the proceedings, and suspending all actions, claims and proceedings against EYCO until further orders from the SEC.<sup>[3]</sup> On December 18, 1998, the hearing panel approved the proposed rehabilitation plan prepared by EYCO despite the recommendation of the management committee for the adoption of the rehabilitation plan prepared and submitted by the steering committee of the Consortium of Creditor Banks which appealed the order to the Commission.<sup>[4]</sup> On September 14, 1999, the SEC rendered its decision disapproving the petition for suspension of payments, terminating EYCO's proposed rehabilitation plan and ordering the dissolution and liquidation of the petitioning corporation. The case was remanded to the hearing panel for liquidation proceedings.<sup>[5]</sup> On appeal by EYCO, (CA-G.R. SP No. 55208) the CA upheld the SEC ruling. EYCO then filed a petition for certiorari before this Court, docketed as G.R. No. 145977, which case was eventually dismissed under Resolution dated May 3, 2005 upon joint manifestation and motion to dismiss filed by the parties.<sup>[6]</sup> Said resolution had become final and executory on June 16, 2005.<sup>[7]</sup>

Sometime in November 2000 while the case was still pending with the CA, petitioner Bank of the Philippine Islands (BPI), filed with the Office of the Clerk of Court, Regional Trial Court of Valenzuela City, a petition for extra-judicial foreclosure of real properties mortgaged to it by Eyco Properties, Inc. and Blue Star Mahogany, Inc. Public auction of the mortgaged properties was scheduled on December 19, 2000.<sup>[8]</sup>

Claiming that the foreclosure proceedings initiated by petitioner was illegal, respondent Eduardo Hong, an unsecured creditor of Nikon Industrial Corporation,

one of the companies of EYCO, filed an action for injunction and damages against the petitioner in the same court (RTC of Valenzuela City). On its principal cause of action, the complaint alleged that:

18. The ex-officio sheriff has no authority to sell the mortgaged properties. Upon his appointment as liquidator, Edgardo Tarriela was empowered by the SEC to receive and preserve all assets, and cause their valuation (SEC Rules on Corporate Recovery, Rule VI, Section 6-4). Therefore, the SEC retains jurisdiction over the mortgaged properties of EYCO Properties, Inc. To allow the ex-officio sheriff to take possession of the mortgaged properties and sell the same in a foreclosure sale would be in derogation of said jurisdiction.

19. All the assets of the EYCO Group should thus be surrendered for collation to the liquidator and all claims against the EYCO Group should be filed with the liquidator in the liquidation proceedings with the SEC. **The SEC, at which the liquidation is pending, has jurisdiction over the mortgaged properties to the exclusion of any other court.** Consequently, the ex-officio sheriff has absolutely no jurisdiction to issue the notice of sheriff's sale and to sell the mortgaged properties on 19 December 2000.

20. Moreover, the sale of the mortgaged properties on 19 December 2000 would give undue preference to defendant FEBTC to the detriment of other creditors, particularly plaintiff. This was specifically proscribed by the Supreme Court stating in the case of Bank of the Philippine Islands v. Court of Appeals 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. Consequently, **foreclosure should be disallowed so as not to prejudice other creditors or cause discrimination among them.**<sup>[9]</sup> (Emphasis supplied.)

After hearing, the trial court issued a temporary restraining order (TRO). Petitioner filed a motion to dismiss<sup>[10]</sup> arguing that by plaintiff's own allegations in the complaint, jurisdiction over the reliefs prayed for belongs to the SEC, and that plaintiff is actually resorting to forum shopping since he has filed a claim with the SEC and the designated Liquidator in the ongoing liquidation of the EYCO Group of Companies. In his Opposition,<sup>[11]</sup> plaintiff (respondent) asserted that the RTC has jurisdiction on the issue of propriety and validity of the foreclosure by petitioner, in accordance with Section 1, Rule 4 of the 1997 Rules of Civil Procedure, as amended, the suit being in the nature of a real action.

On January 17, 2001, the trial court denied the motion to dismiss.<sup>[12]</sup> Petitioner's motion for reconsideration was likewise denied.<sup>[13]</sup> Petitioner challenged the validity of the trial court's ruling before the CA via a petition for certiorari under Rule 65.

The CA affirmed the trial court's denial of petitioner's motion to dismiss. It held that

questions relating to the validity or legality of the foreclosure proceedings, including an action to enjoin the same, must necessarily be cognizable by the RTC, notwithstanding that the SEC likewise possesses the power to issue injunction in all cases in which it has jurisdiction as provided in Sec. 6 (a) of Presidential Decree (P.D.) No. 902-A. Further, the CA stated that an action for foreclosure of mortgage and all incidents relative thereto including its validity or invalidity is within the jurisdiction of the RTC and is not among those cases over which the SEC exercises exclusive and original jurisdiction under Sec. 5 of P.D. No. 902-A. Consequently, no grave abuse of discretion was committed by the trial court in issuing the assailed orders.

With the CA's denial of its motion for reconsideration, petitioner is now before this Court raising the sole issue of whether the RTC can take cognizance of the injunction suit despite the pendency of SEC Case No. 09-97-5764.

The petition has no merit.

Jurisdiction is defined as the power and authority of a court to hear and decide a case.<sup>[14]</sup> A court's jurisdiction over the subject matter of the action is conferred only by the Constitution or by statute.<sup>[15]</sup> The nature of an action and the subject matter thereof, as well as which court or agency of the government has jurisdiction over the same, are determined by the material allegations of the complaint in relation to the law involved and the character of the reliefs prayed for, whether or not the complainant/plaintiff is entitled to any or all of such reliefs.<sup>[16]</sup> And jurisdiction being a matter of substantive law, the established rule is that the statute in force at the time of the commencement of the action determines the jurisdiction of the court.<sup>[17]</sup>

Perusal of the complaint reveals that respondent does not ask the trial court to rule on its interest or claim -- as an unsecured creditor of two companies under EYCO -- against the latter's properties mortgaged to petitioner. The complaint principally seeks to enjoin the foreclosure proceedings initiated by petitioner over those properties on the ground that such properties are held in trust and placed under the jurisdiction of the appointed Liquidator in SEC Case No. 09-97-5764. Thus, Civil Case No. 349-V-00 is one for injunction with prayer for damages.

An action for injunction is a suit which has for its purpose the enjoinder of the defendant, perpetually or for a particular time, from the commission or continuance of a specific act, or his compulsion to continue performance of a particular act. It has an independent existence, and is distinct from the ancillary remedy of preliminary injunction which cannot exist except only as a part or an incident of an independent action or proceeding. In an action for injunction, the auxiliary remedy of preliminary injunction, prohibitory or mandatory, may issue.<sup>[18]</sup>

As a rule, actions for injunction and damages lie within the jurisdiction of the RTC pursuant to Section 19 of Batas Pambansa Blg. 129, otherwise known as the "Judiciary Reorganization Act of 1980," as amended by Republic Act (R.A.) No. 7691.

Sec. 19. *Jurisdiction in civil cases.* — Regional Trial Courts shall exercise exclusive original jurisdiction:

(1) In all civil actions in which the subject of the litigations is incapable of pecuniary estimation;

x x x x

(6) *In all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising x x x judicial or quasi-judicial functions;*

x x x x

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds Three hundred thousand pesos (P300,000.00) or, in such other cases in Metro Manila, where the demand exclusive of the above-mentioned items exceeds Four hundred thousand pesos (P400,000.00). (Italics supplied.)

On the other hand, Sec. 6 (a) of P.D. No. 902-A empowered the SEC to "issue preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases in which it has jurisdiction." Such cases in which the SEC exercises original and exclusive jurisdiction are the following:

(a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission;

(b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity; and

(c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

[19]

Previously, under the Rules of Procedure on Corporate Recovery, the SEC upon termination of cases involving petitions for suspension of payments or rehabilitation may, *motu proprio*, or on motion by any interested party, or on the basis of the findings and recommendation of the Management Committee that the continuance in business of the debtor is no longer feasible or profitable, or no longer works to the best interest of the stockholders, parties-litigants, creditors, or the general public, order the dissolution of the debtor and the liquidation of its remaining assets appointing a Liquidator for the purpose.<sup>[20]</sup> The debtor's properties are then deemed to have been conveyed to the Liquidator in trust for the benefit of creditors,