

SECOND DIVISION

[G.R. No. 180036, July 25, 2012]

SITUS DEVELOPMENT CORPORATION, DAILY SUPERMARKET, INC. AND COLOR LITHOGRAPHIC PRESS, INC., PETITIONERS, VS. ASIATRUST BANK, ALLIED BANKING CORPORATION, METROPOLITAN BANK AND TRUST COMPANY, AND CAMERON GRANVILLE II ASSET MANAGEMENT, INC. (CAMERON), RESPONDENTS.

DECISION

SERENO, J.:

The instant Rule 45 Petition assails the Decision^[1] and Resolution^[2] of the Court of Appeals (CA) in CA-GR. CV No. 80223. The CA reversed and set aside the Adjudication^[3] of the Regional Trial Court (RTC), Branch 93, Quezon City (the Rehabilitation Court) in Civil Case No. Q-02-010, which had approved the Second Amended Rehabilitation Plan of petitioners Situs Development Corporation, Daily Supermarket, Inc. and Color Lithographic Press, Inc. (collectively, petitioners or petitioner corporations) over the objections of respondents Asiatrust Bank (Asiatrust), Allied Banking Corporation (Allied Bank) and Metropolitan Bank and Trust Company (Metrobank). Respondent Cameron Granville II Asset Management, Inc. (Cameron), a Special Purpose Vehicle, was the transferee of Metrobank's rights, title and interest in the instant case.

The facts are not in issue, and we quote with favor the narration of the appellate court:

In 1972, the Chua Family, headed by its patriarch, Cua Yong Hu, *a.k.a.* Tony Chua, started a printing business and put up Color Lithographic Press, Inc. (COLOR). On June 6, 1995, the Chua Family ventured into real estate development/leasing by organizing Situs Development Corporation (SITUS) in order to build a shopping mall complex, known as Metrolane Complex (COMPLEX) at 20th Avenue corner P. Tuazon, Cubao, Quezon City. To finance the construction of the COMPLEX, SITUS, COLOR and Tony Chua and his wife, Siok Lu Chua, obtained several loans from (1) ALLIED secured by real estate mortgages over two lots covered by TCT Nos. RT-13620 and RT-13621; (2) ASIATRUST secured by a real estate mortgage over a lot covered by TCT No. 79915; and (3) Global Banking Corporation, now METROBANK, secured by a real estate mortgage over a lot covered by TCT No. 79916. The COMPLEX was built on said four (4) lots, all of which are registered in the names of Tony Chua and his wife, Siok Lu Chua. On March 21, 1996, the Chua Family expanded into retail merchandising and organized Daily Supermarket, Inc. (DAILY). All three (3) corporations have interlocking directors and

are all housed in the COMPLEX. The Chua Family also resides in the COMPLEX, while the other units are being leased to tenants. SITUS, COLOR and DAILY obtained additional loans from ALLIED, ASIATRUST and METROBANK and their real estate mortgages were updated and/or amended. Spouses Chua likewise executed five (5) Continuing Guarantee/Comprehensive Surety in favor of ALLIED to guarantee the payment of the loans of SITUS and DAILY. SITUS, COLOR, DAILY and the spouses Chua failed to pay their obligations as they fell due, despite demands.

On November 22, 2000, ALLIED filed with the Office of the Clerk of Court and Ex-Officio Sheriff of Quezon City an application for extrajudicial foreclosure of the mortgage on the properties of spouses Chua covered by TCT Nos. RT-13620 and RT-13621. The auction sale was scheduled on February 6, 2001. However, on February 5, 2001, SITUS, COLOR and spouses Chua filed a complaint for nullification of foreclosure proceedings, with prayer for temporary restraining order/injunction, with the Regional Trial Court, Branch 87, Quezon City, docketed as Civil Case No. Q-01-43280. As no temporary restraining order was issued, the scheduled auction sale proceeded wherein ALLIED emerged as the highest bidder in the amount of P88,958,700.00. The Certificate of Sale dated March 9, 2001 in favor of ALLIED was approved by the Executive Judge of the Regional Trial Court of Quezon City on September 9, 2002 and the same was annotated on TCT Nos. RT-13620 and RT-13621 on September 23, 2002.

On July 26, 2001, METROBANK likewise filed an application for extrajudicial foreclosure of the mortgage on the property of spouses Chua covered by TCT No. 79916. The auction sale was conducted on September 18, 2001, with METROBANK as the highest bidder in the amount of P95,282,563.86.

On May 16, 2002, ASIATRUST sent a demand letter to DAILY and COLOR for the payment of their outstanding obligations.

On June 11, 2002, SITUS, DAILY and COLOR, herein petitioners, filed a petition for the declaration of state of suspension of payments with approval of proposed rehabilitation plan, docketed as Civil Case No. Q02-010, with the Regional Trial Court, Branch 93, Quezon City. Petitioners alleged that due to the 1997 Asian financial crisis, peso devaluation and high interest rate, their loan obligations ballooned and they foresee their inability to meet their obligations as they fall due; that their loan obligations are secured by the real properties of their major stockholder, Tony Chua; that ALLIED has already initiated foreclosure proceedings; that Global Banking Corporation, now METROBANK, and ASIATRUST made final demands for payment of their obligations; that they foresee a very good future ahead of them if they would be given a "breathing spell" from their obligations as they fall due; and that their assets are more than sufficient to pay off their debts. Petitioners submitted a program of rehabilitation for the approval of creditors and the court *a quo*.

A Stay Order dated June 17, 2002, was issued by the court *a quo*

directing as follows:

- a.) a stay in the enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the petitioners Situs Development Corporation, Daily Supermarket, Inc., & Color Lithographic Press, Inc., their guarantors and sureties not solidarily liable with them;
- b.) prohibiting Situs Development Corporation, Daily Supermarket, Inc., & Color Lithographic Press, Inc., from selling, encumbering, transferring or disposing in any manner any of their properties except in the ordinary course of business;
- c.) prohibiting Situs Development Corporation, Daily Supermarket, Inc. & Color Lithographic Press, Inc., from making any payment of their liabilities outstanding as of the filing of the instant petition;
- d.) prohibiting Situs Development Corporation, Daily Supermarket, Inc. and Color Lithographic Press, Inc.'s suppliers of goods and services from withholding supply of goods and services in the ordinary course of business for as long as Situs Development Corporation, Daily Supermarket, Inc. & Color Lithographic Press, Inc., make payments for the goods and services supplied after the issuance of this stay order; and
- e.) directing the payment in full of all administrative expenses incurred after the issuance of this stay order.

The court *a quo* appointed Mr. Antonio B. Garcia as the Rehabilitation Receiver, set the initial hearing on the petition on August 2, 2002 and directed all creditors and interested parties, including the Securities and Exchange Commission (SEC), to file their comment on or opposition to the petition.

ALLIED filed its opposition and comment praying for the dismissal of the petition and the lifting of the Stay Order on the grounds that it is defective in form and substance; that it contains substantial inaccuracies and inconsistencies; and that it does not contain a viable rehabilitation plan.

ASIATRUST filed its comment with partial opposition praying likewise for the dismissal of the petition on the grounds that it is not in due form and lacks substantial allegations on its debt obligations with its various creditors; that petitioners do not have a viable rehabilitation plan; and that petitioners do not have a clear source of repayment of their obligations.

No comment or opposition was filed by SEC.

In an Order dated August 2, 2002, the court *a quo* found *prima facie* merit in the petition and gave due course thereto. The Rehabilitation Receiver was given forty-five (45) days within which to submit his report on the proposed rehabilitation plan.

On October 15, 2002, METROBANK filed a Manifestation stating that it was participating in the proceedings as a mere observer inasmuch as the mortgage executed in its favor by spouses Chua on the property covered by TCT No. 79916 was foreclosed by it on September 18, 2001, so that it ceased to be a creditor of COLOR as its claim was already fully satisfied.

On October 9, 2002, petitioners filed a motion for the cancellation of the certificate of sale approved on September 9, 2002 by the Executive Judge of the RTC of Quezon City and the annotation thereof on TCT Nos. RT-13620 and RT-13621, as the same were done in violation of the Stay Order dated June 17, 2002. A vehement opposition was filed by ALLIED arguing that the foreclosure proceedings cannot be considered as a "claim", as understood under Section 1, Rule 2 of the Interim Rules of Procedure on Corporate Rehabilitation, since the issuance of the Certificate of Sale and annotation thereof on the certificates of titles do not constitute demands for payment of debt or enforcement of pecuniary liabilities; that the auction sale was conducted more than one year before the filing of the petition for rehabilitation; and that TCT Nos. RT-13620 and RT-13621 are registered in the names of "Cua Yong Hu/Tony Chua and Siok Lu Chua", hence, should not have been included in the Inventory of Assets of petitioners.

On October 21, 2002, ASIATRUST filed an urgent manifestation praying for the outright dismissal of the petition inasmuch as METROBANK and ALLIED had already foreclosed the mortgages on the properties that stood as securities for petitioners' obligations, as well as the lifting of the Stay Order.

On October 19, 2002, the Rehabilitation Receiver submitted his Report on petitioners' proposed Rehabilitation Plan, to which oppositions were filed by ALLIED and METROBANK.

On November 21, 2002, petitioners proposed to amend their Rehabilitation Plan. On December 2, 2002, petitioners filed and submitted an Amended Rehabilitation Plan, which was opposed by ALLIED and ASIATRUST.

On January 8, 2003, petitioners filed a motion to admit Second Amended Rehabilitation Program of Situs Development Corporation, the pertinent provisions of which read:

1. Situs will assume the outstanding obligations of its non-profitting affiliate companies: Daily Supermarket, Inc. and Color Lithographic Press, Inc.;
2. Situs will convert all its debts to equity;

3. Situs will lease the properties from the new owners at P50.00 per square meter for a period of 25 years or at P555,200.00 a month, with a yearly escalation of 5%;
4. The annual lease income will be distributed among the new owners according to their percentage ownership and, in the event that the property is sold, any profit will be shared accordingly;
5. The new owners are Asiatruster with 21% ownership, Metrobank with 17% ownership, Allied with 30% ownership, and Tony Chua with 32% ownership;
6. The two properties in Cavite which were mortgaged to ASIATRUST will be returned to its registered owner since the properties where the Complex sits is enough to cover the loan obligations; and
7. All unpaid interests, penalties and other charges are waived.

Comments on and oppositions to the Second Amended Rehabilitation Plan were filed by ALLIED, ASIATRUST and METROBANK.

On August 15, 2003, ALLIED filed a motion praying for the dismissal of the petition as no Rehabilitation Plan was approved upon the lapse of 180 days from the date of the initial hearing on August 2, 2002, as mandated in Section 11 of the Interim Rules of Procedure on Corporate Rehabilitation.

On August 14, 2003, the court *a quo* rendered an ADJUDICATION approving the Second Amended Rehabilitation Program as SITUS deserves a sporting chance at rehabilitation, subject to the following conditions:

1. The first phase of implementation shall cover immediately the payment of the appurtenant shares to the creditors/new owners out of the monthly rental income of P555,200.00 as outlined in paragraph D.1 of the plan;
2. An automatic review of the progress of implementation shall be undertaken six (6) months from and after the initial payment described in condition no. 1 above;
3. The rehabilitation receiver, petitioner and creditors/new owners to file written reports on the sixth month of implementation and to seasonably prompt the court to set up the matter for a monitoring hearing thereon;
4. At the end of one year from and after the initial implementation of the plan, the court shall undertake a review of the entire rehabilitation program for the purpose of determining the desirability of terminating or continuing with the rehabilitation;
5. The rehabilitation receiver, petitioner and creditors/new owners to file written reports conformably with condition