

SECOND DIVISION

[G.R. No. 188365, June 29, 2011]

BPI FAMILY SAVINGS BANK, INC., PETITIONER, VS. PRYCE GASES, INC., INTERNATIONAL FINANCE CORPORATION, AND NEDERLANDSE FINANCIERINGS-MAATSCHAPPIJ VOOR ONTWIKKELINGSLANDEN N.V., RESPONDENTS.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the Decision^[2] promulgated on 26 February 2008 and the Resolution^[3] promulgated on 11 June 2009 of the Court of Appeals in CA-G.R. SP No. 98626.

The Antecedent Facts

Pryce Gases, Inc. (PGI) is a corporation engaged in the business of producing, selling and trading in all kinds of liquids, gases, and other chemicals, including but not limited to oxygen, acetylene, hydrogen, nitrogen, argon, carbon dioxide, carbonex, nitrous oxide, compressed air, helium, and other allied or related products. PGI is a debtor of the International Finance Corporation (IFC), an international organization and an affiliate of the International Bank of Reconstruction and Development (World Bank), and the Nederlandse Financierings-Maatschappij Voor Ontwikkelingslanden N.V. (FMO), a Dutch development bank engaged in promoting the expansion of private enterprise in emerging markets.

On 27 August 2002, IFC and FMO filed a Petition for Rehabilitation^[4] with the Regional Trial Court of Makati due to the failure of PGI to service its debts as well as the refusal of PGI's parent company, the Pryce Corporation, to provide financial support to PGI. The case was raffled to Branch 142 and was docketed as SP Proc. No. 02-1016. The petition for rehabilitation was meant to preserve PGI's workforce and ensure that its cash flow would not be diverted to ill-advised ventures but would instead be channeled back to its operating capital to generate profits to pay off and retire debts. IFC and FMO proposed a financial restructuring that called for the conversion of dollar-denominated loans to peso and the splitting of the whole debt instrument into two categories: (1) the sustainable debt which would be rescheduled as a senior loan and secured by PGI's assets; and (2) the unsustainable portion to be transformed into redeemable preferred shares with voting rights. Under the proposal, senior loans shall be paid in five years while the shares are forecast to be redeemed in ten years. Based on the proposed financial restructuring, PGI's loan from BPI Family Savings Bank, Inc. (BFB) shall be paid in ten years as it was a non-MTI^[5] creditor.

Presiding Judge Estela Perlas-Bernabe of RTC, Branch 142, inhibited herself from further hearing the case. The case was re-raffled to RTC, Branch 138.

The Ruling of the Trial Court

In an Order^[6] dated 24 January 2003, the RTC, Branch 138, gave due course to the petition. The RTC, Branch 138, appointed Mr. Gener Mendoza (Mendoza) as Rehabilitation Receiver and directed him to submit his evaluation, study and recommendation on the proposed rehabilitation of PGI.

In a Manifestation^[7] dated 29 May 2003, PGI informed RTC, Branch 138, that its parent company, Pryce Corporation, had offered to help through *dacion en pago* of its real estate assets to PGI's creditors, subject to certain terms and conditions.

In a Compliance^[8] dated July 2003, Mendoza submitted his recommendation which, among others, states:

2. Creditors Secured with Non-Operating Assets. - Payment of principal and interest accrued as of August 31, 2002 by way of assets already mortgaged to them at *dacion* values pegged to the average of two appraisals to be undertaken by Bangko Sentral-accredited appraisal firms who are nominated by the creditors in a meeting called for that purpose.

^[9]

In its Comment^[10] to Mendoza's Compliance, BFB objected to *dacion en pago* as a mode of payment. BFB's exposure to PGI was secured by assets that were considered non-operating and not critical to the rehabilitation plan recommended by Mendoza. PGI and Pryce Corporation submitted a Partial Opposition^[11] to the provision on income sharing of receiver's recommended revised rehabilitation plan but manifested their conformity to the other provisions of the plan.

In an Order^[12] dated 10 October 2003, the RTC, Branch 138, approved the rehabilitation plan.

On 3 November 2003, BFB filed a notice of appeal.^[13] PGI filed a motion to dismiss the appeal on the ground that BFB failed to perfect the appeal because of failure to file the record on appeal within the required period.

On 20 April 2006, before the RTC, Branch 138, could resolve PGI's motion to dismiss, BFB filed its Opposition (Re: Additional Argument in Support of Motion to Dismiss Appeal dated 27 July 2004) and Motion With Leave to Withdraw Notice of Appeal Dated 3 November 2003 and Instead Be Allowed to File a Petition for Review.^[14]

In an Order^[15] dated 9 May 2006, the RTC, Branch 138, dismissed BFB's appeal. The RTC, Branch 138, ruled that the law clearly states that in special proceedings, record on appeal is required to perfect the appeal. The dispositive portion of the Order reads:

WHEREFORE, the Motion to Dismiss Appeal filed by respondent Pryce Gases, Inc. is granted and the appeal of BPI Family Savings Bank, Inc. is dismissed. Consequently, no action need to be taken by the Court on the Motion for Leave to Withdraw Notice of Appeal dated 3 November 2003 and Instead Be Allowed to File a Petition for Review filed by BPI Family Savings Bank, Inc.

SO ORDERED.^[16]

BFB filed a motion for reconsideration of the 9 May 2006 Order. In its Order dated 16 February 2007,^[17] the RTC, Branch 138, denied the motion on the ground that the Interim Rules of Procedure on Corporate Rehabilitation prohibit the filing of motions for reconsideration.

On 19 April 2007, BFB filed a petition for certiorari^[18] before the Court of Appeals.

The Decision of the Court of Appeals

In its 26 February 2008 Decision, the Court of Appeals dismissed the petition. The Court of Appeals ruled that corporate rehabilitations are special proceedings and as such, appeals from the final order or decision therein should be by record on appeal in accordance with Section 2, Rule 41 of the 1997 Rules of Civil Procedure. The Court of Appeals ruled that when BFB filed the notice of appeal, the rule in force was the Interim Rules of Procedure on Corporate Rehabilitation which required the filing of a record on appeal. The Court of Appeals ruled that the mere filing of a notice of appeal would not suffice without the required record on appeal. The Court of Appeals further ruled that BFB's prayer that the petition be treated as filed under Rule 43 of the 1997 Rules of Civil Procedure lacked merit because it was filed out of time. The Court of Appeals ruled that due to the dismissal of BFB's appeal and the denial of its motion for reconsideration by the RTC, Branch 138, the 10 October 2003 Order had become final and executory. Finally, the Court of Appeals ruled that BFB's petition was grossly defective because the verification was signed by an employee of the Bank of the Philippine Islands, a completely different entity from BPI Family Savings Bank, Inc.

BFB filed a motion for reconsideration. In its 11 June 2009 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition before this Court on the following grounds:

1. The Honorable Court of Appeals resolved an issue in a manner contrary to law and jurisprudence when it upheld the ruling of the lower court that dismissed the appeal of petitioner bank; and
2. The Honorable Court of Appeals resolved an issue in a manner contrary to law and jurisprudence when it upheld the ruling of the lower court which in effect forced and compelled petitioner bank to accept a *dacion en pago* arrangement against its consent.^[19]