

## SECOND DIVISION

[ G.R. No. 174674, October 20, 2010 ]

**NESTLE PHILIPPINES, INC. AND NESTLE WATERS PHILIPPINES, INC. (FORMERLY HIDDEN SPRINGS & PERRIER, INC.), PETITIONERS, VS. UNIWIDE SALES, INC., UNIWIDE HOLDINGS, INC., NAIC RESOURCES AND DEVELOPMENT CORPORATION, UNIWIDE SALES REALTY AND RESOURCES CLUB, INC., FIRST PARAGON CORPORATION, AND UNIWIDE SALES WAREHOUSE CLUB, INC., RESPONDENTS.**

### R E S O L U T I O N

**CARPIO, J.:**

#### The Case

This is a petition for review<sup>[1]</sup> of the 10 January 2006 Decision<sup>[2]</sup> and the 13 September 2006 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 82184. The 10 January 2006 Decision denied for lack of merit the petition for review filed by petitioners. The 13 September 2006 Resolution denied petitioners' motion for reconsideration and referred to the Securities and Exchange Commission petitioners' supplemental motion for reconsideration.

#### The Facts

The petitioners in this case are Nestle Philippines, Inc. and Nestle Waters Philippines, Inc., formerly Hidden Springs & Perrier Inc. The respondents are Uniwide Sales, Inc., Uniwide Holdings, Inc., Naic Resources and Development Corporation, Uniwide Sales Realty and Resources Club, Inc., First Paragon Corporation, and Uniwide Sales Warehouse Club, Inc.

On 25 June 1999, respondents filed in the Securities and Exchange Commission (SEC) a petition for declaration of suspension of payment, formation and appointment of rehabilitation receiver, and approval of rehabilitation plan. The petition was docketed as SEC Case No. 06-99-6340.<sup>[4]</sup> The SEC approved the petition on 29 June 1999.

On 18 October 1999, the newly appointed Interim Receivership Committee filed a rehabilitation plan in the SEC. The plan was anchored on return to core business of retailing; debt reduction via cash settlement and *dacion en pago*; loan restructuring; waiver of penalties and charges; freezing of interest payments; and restructuring of credit of suppliers, contractors, and private lenders.

On 14 February 2000, the Interim Receivership Committee filed in the SEC an Amended Rehabilitation Plan (ARP). The ARP took into account the planned entry of Casino Guichard Perrachon, envisioned to infuse P3.57 billion in fresh capital. On 11

April 2001, the SEC approved the ARP.

On 11 October 2001, the Interim Receivership Committee filed in the SEC a Second Amendment to the Rehabilitation Plan (SARP) in view of Casino Guichard Perrachon's withdrawal. In its Order dated 23 December 2002, the SEC approved the SARP.

Petitioners, as unsecured creditors of respondents, appealed to the SEC praying that the 23 December 2002 Order approving the SARP be set aside and a new one be issued directing the Interim Receivership Committee, in consultation with all the unsecured creditors, to improve the terms and conditions of the SARP.

### **The Ruling of the SEC**

In its 13 January 2004 Order, the SEC denied petitioners' appeal for lack of merit. Petitioners then filed in the Court of Appeals a petition for review of the 13 January 2004 Order of the SEC.

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

In its assailed 10 January 2006 Decision, the Court of Appeals denied for lack of merit the petition for review filed by petitioners, thus:

In reviewing administrative decisions, the findings of fact made therein must be respected as long as they are supported by substantial evidence, even if not overwhelming or preponderant; that it is not for the reviewing court to weigh the conflicting evidence, determine the credibility of the witnesses, or otherwise substitute its own judgment for that of the administrative agency on the sufficiency of the evidence; that the administrative decision in matters within the executive jurisdiction can only be set aside on proof of grave abuse of discretion, fraud, or error of law.

WHEREFORE, the petition for review is DENIED for lack of merit.

SO ORDERED. <sup>[5]</sup>

Petitioners moved for reconsideration. They also filed a supplemental motion for reconsideration alleging that they received a letter on 25 January 2006, from the president of the Uniwide Sales Group of Companies, informing them of the decision to transfer, by way of full concession, the operation of respondents' supermarkets to Suy Sing Commercial Corporation starting 1 March 2006.

In its questioned 13 September 2006 Resolution, the Court of Appeals denied for lack of merit petitioners' motion for reconsideration and referred to the SEC petitioners' supplemental motion for reconsideration.

Dissatisfied, petitioners filed in this Court on 3 November 2006 the present petition for review.

## **The Issue**

Before us, petitioners raise the issue of whether the SARP should be revoked and the rehabilitation proceedings terminated.

## **The Court's Ruling**

The petition lacks merit.

Petitioners contend that the transfer of respondents' supermarket operations to Suy Sing Commercial Corporation has made the SARP incapable of implementation. Petitioners point out that since the SARP may no longer be implemented, the rehabilitation case should be terminated pursuant to Section 4-26, Rule IV of the SEC Rules of Procedure on Corporate Recovery. Petitioners claim that the terms and conditions of the SARP are unreasonable, biased in favor of respondents, prejudicial to the interests of petitioners, and incapable of a determination of feasibility.

Respondents maintain that the SARP is feasible and that the SEC Hearing Panel did not violate any rule or law in approving it. Respondents stress that the lack of majority objection to the SARP bolsters the SEC's findings that the SARP is feasible. Respondents insist that the terms and conditions of the SARP are in accord with the Constitution and the law.

The Court takes judicial notice of the fact that from the time of the filing in this Court of the instant petition, supervening events have unfolded substantially changing the factual backdrop of this rehabilitation case.

As found by the SEC, several factors prevented the realization of the desired goals of the SARP, to wit: (1) unexpected refusal of some creditors to comply with all the terms of the SARP; (2) unexpected closure of Uniwide EDSA due to the renovation of EDSA Central Mall; (3) closure of Uniwide Cabuyao and Uniwide Baclaran; (4) lack of supplier support for supermarket operations; and (5) increased expenses.<sup>[6]</sup>

On 11 July 2007, the rehabilitation receiver filed in the SEC a Third Amendment to the Rehabilitation Plan (TARP). But before the SEC could act on the TARP, the rehabilitation receiver filed on 29 September 2008 a Revised Third Amendment to the Rehabilitation Plan (revised TARP).

A majority of the secured creditors strongly opposed the revised TARP, which focused on the immediate settlement of all the obligations accruing to the unsecured creditors through a *dacion* of part of respondents' Metro Mall property.<sup>[7]</sup> Since some creditors claimed that the value of the Metro Mall property had gone down since 1999, the Hearing Panel issued its 30 July 2009 Order directing the reappraisal of the Metro Mall property.<sup>[8]</sup>

In its 17 September 2009 Order, the Hearing Panel directed respondents to show cause why the rehabilitation case should not be terminated considering that the rehabilitation plan had undergone several revisions. The Hearing Panel also directed the creditors to manifest whether they still wanted the rehabilitation proceedings to continue.