

## FIRST DIVISION

[ G.R. No. 172302, February 04, 2008 ]

**PRYCE CORPORATION, Petitioner, vs. THE COURT OF APPEALS  
and CHINA BANKING CORPORATION, Respondents.**

### DECISION

**SANDOVAL-GUTIERREZ, J.:**

For our resolution is a petition for review on *certiorari* seeking to reverse the Decision<sup>[1]</sup> of the Court of Appeals (Seventh Division) dated July 28, 2005 in CA-G.R. SP No. 88479.

Pryce Corporation, petitioner, was incorporated under Philippine laws on September 7, 1989. Its primary purpose was to develop real estate in Mindanao. It engaged in the development of memorial parks, operated a major hotel in Cagayan de Oro City, and produced industrial gases.

The 1997 Asian financial crisis, however, badly affected petitioner's operations, resulting in heavy losses. It could not meet its obligations as they became due. It incurred losses of P943.09 million in 2001, P479.05 million in 2002, and P125.86 million in 2003.

Thus, on July 12, 2004, petitioner filed with the Regional Trial Court (RTC), Branch 138, Makati City, acting as Commercial Court, a petition for rehabilitation,<sup>[2]</sup> docketed as Special Proceedings No. M-5901. Petitioner prayed for the appointment of a Rehabilitation Receiver from among the nominees named therein and the staying of the enforcement of all claims, monetary or otherwise against it. Petitioner also prayed that after due hearing, its proposed Rehabilitation Plan be approved. The salient features of the proposed Rehabilitation Plan<sup>[3]</sup> are:

[1] the bank creditors will be paid through *dacion en pago* of assets already mortgaged to them, to the extent sufficient to pay off the outstanding obligations. The excess assets, if any, will be freed from liens and encumbrances and released to the petitioner.

[2] in case the value of the mortgaged assets for *dacion* is less than the amount of the obligation to be paid, the deficiency shall be settled by way of *dacion* of memorial park lots owned by the petitioner.

[3] pricing of the assets for *dacion* shall be based on the average of two valuation appraisals from independent third-party appraisers accredited with the *Bangko Sentral ng Pilipinas* (BSP) to be chosen by the creditors and acceptable to the petitioner, except for memorial park lots which shall be valued at P16,000 per lot.

[4] all penalties shall be waived by the creditors.

[5] interest on the loans shall be accrued only up to June 30, 2003.

[6] titles of properties and sales documents held by the bank as additional security but without actual mortgage on the properties will also be released to the petitioner after the *dacion*.

[7] memorial park mother titles mortgaged to a creditor bank shall be priced based on the value of individual memorial lots comprising those titles, the mother titles shall be released to the petitioner.

[8] for purpose of the *dacion*, the foreign currency loan from China Banking Corporation, the only US Dollar-denominated obligation, will be converted to peso based on the average exchange rate for the year 2003 (P54.2033 to US\$1.00), being the mean of 12 monthly averages, as quoted on the statistics web page of the *Bangko Sentral ng Pilipinas*.

[9] the bank creditors will avail of the tax exemption and benefits offered under the Special Purpose Vehicle (SPV) Law or R.A. No. 9182 to minimize the *dacion*-related costs for all parties concerned. Any concerned bank or financial institution which does not avail of said tax exemption through its own fault will shoulder the applicable taxes and related fees for the *dacion* transaction.

[10] trade creditors will be paid through *dacion* of memorial park lots.

[11] any other debt not covered by mortgaged (sic) of assets or not falling under the aforementioned categories shall be paid through *dacion* of memorial park lots.

On July 13, 2004, the RTC issued a "Stay Order"<sup>[4]</sup> directing that: all claims against petitioner be deferred; the initial hearing of the petition for rehabilitation be set on September 1, 2004; and all creditors and interested parties should file their respective comments/oppositions to the petition. In the same Order, the RTC then appointed Gener T. Mendoza as Rehabilitation Receiver.

The petition was opposed by petitioner's bank-creditors. The Bank of the Philippine Islands claimed that the petition and the proposed Rehabilitation Plan are coercive and violative of the contract. The Land Bank of the Philippines contended, among others, that the petition is unacceptable because of the unrealistic valuation of the properties subject of the *dacion en pago*.

The China Banking Corporation, respondent herein, alleged in its opposition that petitioner is solvent and that it filed the petition to force its creditors to accept *dacion* payments. In effect, petitioner passed on to the creditors the burden of marketing and financing unwanted memorial lots, while exempting it (petitioner) from paying interests and penalties.

On September 13, 2004, the RTC issued an Order,<sup>[5]</sup> the dispositive portion of which reads:

WHEREFORE, the Petition is given due course. Let the Rehabilitation Plan, Annex J, Petition, be referred to Mr. Gener Mendoza, Rehabilitation Receiver, for evaluation and recommendation to be submitted not later than December 15, 2004.

SO ORDERED.

On December 6, 2004, the Rehabilitation Receiver, in compliance with the above Order, submitted an Amended Rehabilitation Plan, recommending the following:

1. Payment of all bank loans and long-term commercial papers (LTCP) through *dacion en pago* of PC's real estate assets;
2. Payment of all non-bank, trade and other payables amounting to at least P500,000 each through a *dacion* of memorial park lots; and
3. Payment in cash over a three-year period, without interest, of all non-bank, trade and other payables amounting to less than P500,000 each. There are 290 of these creditors but their aggregate exposure to PC is only P7.64 million.

The Rehabilitation Receiver further proposed the following amendments with respect to the *dacion* payments to petitioner's bank creditors:

1. The asset base from which the creditors may choose to be paid has been broadened. Each creditor will no longer be limited to assets already mortgaged to it and may elect to be paid from the many other assets of the company, including even those mortgaged to other creditors. Any secured creditor, however, shall have priority to acquire the assets mortgaged to it.
2. A third appraiser has been added to the two proposed by PC to undertake valuation of assets earmarked for *dacion*. With three appraisers, more representative values are likely to be obtained.
3. Valuation of the memorial lots has been configured to dovetail with values approved in the corporate rehabilitation of Pryce Gases, Inc. (PGI), a subsidiary of PC. Thus, any memorial lot ceded to secured creditors shall be valued at P13,125 per lot, and P17,500/lot for unsecured creditors.

On January 17, 2005, the RTC issued an Order approving the Amended Rehabilitation Plan and finding petitioner eligible to be placed in a state of corporate rehabilitation; and directing that its assets shall be held and disposed of and its liabilities paid and liquidated in the manner specified in the said Order.

Consequently, on February 23, 2005, respondent filed with the Court of Appeals a petition for review, docketed as CA-G.R. SP No. 88479. Respondent alleged that in approving the Amended Rehabilitation Plan, the RTC impaired the obligations of contracts, voided contractual stipulation and contravened the "avowed policy of the State" to maintain a competitive financial system.