

TWELFTH DIVISION

[CA-G.R. SP NO. 132874, October 28, 2014]

INSURANCE COMMISSION, PETITIONER, VS. HON. JOSELITO C. VILLAROSA, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 66, MR. BERNARDITO TORRES, PERMANENT PLANS, INC., AND MR. FERNANDO G. MATE, JR., IN HIS CAPACITY AS THE COURT-APPOINTED LIQUIDATOR, RESPONDENTS.

DECISION

SALANDANAN-MANAHAN, J.:

The Case

This *Petition for Certiorari* seeks to reverse and set aside the following issuances of the public respondent Regional Trial Court of Makati City, Branch 66, in Special Proceedings Case No. M-6802 entitled "*In the Matter of Petition for Corporate Rehabilitation, Permanent Plans, Inc., Petitioner*":

- (1) The *Order* dated August 14, 2013^[1] ordering the United Coconut Planters Bank-Valero Branch and/or its Branch Manager to release from the Trust Fund of Permanent Plans, Inc., the sum of P2,000,000.00 to Bernardito M. Torres; and
- (2) The *Order* dated September 23, 2013^[2] denying the petitioner's *Motion for Reconsideration*.

The Antecedents

The petitioner Insurance Commission (IC) is the regulatory Agency vested with the primary and exclusive supervision and regulation of all pre-need companies pursuant to Republic Act No. 9829 (RA 9829) also known as the "*Pre-Need Code of the Philippines*."

The private respondent Permanent Plans, Inc. (PPI) is a corporation duly organized and existing in accordance with and by virtue of the laws of the Philippines. It is engaged in the business of selling pre-need plans in the Philippines.

Private respondent Bernardito M. Torres (Torres) is the transferee/assignee and successor-in-interest of planholders Benita and Felix Nocedas (the Nocedas) of their policies, JPA 5/15 Policy Nos. 0017712 and 0017713 having a face value of P1,000,000.00 each, subject of the assailed *Orders*.

On the other hand, the private respondent Fernando G. Mate, Jr. (Mate) is the then Court-Appointed Receiver and thereafter, the Court-Appointed Liquidator in Special

Proceedings No. M-6802, vested with the powers and duties effecting the winding up and liquidation of the private respondent PPI and its Trust Fund.

On May 21, 2009, the private respondent PPI filed a *Petition for Rehabilitation*^[3] with the Regional Trial Court of Makati City, which was raffled off to Branch 66 thereof, presided by herein public respondent Judge. It was docketed as Special Proceedings No. M-6802.

Eventually, the said *Petition* became one for dissolution and liquidation upon finding out that the private respondent PPI was already insolvent and that rehabilitation is no longer feasible.

In an *Order*^[4] dated March 11, 2011, the public respondent Judge granted the *Joint Motion to Approve Proposed Liquidation Program for Petitioner's Trust Fund* filed by the private respondents PPI and Mate.

On April 4, 2011, the petitioner IC together with the Securities and Exchange Commission (SEC) filed a *Motion for Partial Reconsideration*^[5] of the *Order* dated March 11, 2011, insofar as the approved liquidation program excluded PPI's planholders, now in their capacity as PPI's ordinary creditors, from participating in the liquidation of PPI's remaining corporate assets, with respect to the unsatisfied portion of their respective policies from the Trust Fund.

On August 19, 2011, the public respondent Judge issued an *Order*^[6] which denied the said *Motion for Partial Reconsideration* and disposed as follows:

"WHEREFORE, premises considered, the Motion for Partial Reconsideration is hereby DENIED for lack of merit as well as for failure to comply with Sections 4 and 5, Rule 15.

xxx xxx xxx

With regard the Manifestation with Motion, the same is hereby GRANTED. Consequently and pursuant to R.A. 9828, petitioner and the Court-Appointed Liquidator are hereby AUTHORIZED to turn over to the Insurance Commission, for its proper disposition, the complete planholder records, the assets and accounts covering the Trust Fund, within a non-extendible period of thirty (30) days from receipt hereof.

Finally, the Urgent Ex-Parte Motion to Approve attached Deed of Assignment is hereby GRANTED. Accordingly, the assignment by Felix G. Noceda and Benita G. Noceda of all their rights, interest and participation over the JPA 5/15 Policy Nos. 0017712 and 0017713 issued by petitioner is hereby NOTED and approved.

SO ORDERED."^[7]

The petitioner IC together with the SEC assailed the *Orders* dated March 11, 2011 and August 19, 2011 before this Court by way of *Petition for Certiorari*^[8] entitled

"Securities and Exchange Commission and Insurance Commission vs. Hon. Joselito Villarosa, in his capacity as Presiding Judge of the Regional Trial Court, National Capital Judicial Region, Makati City, Branch 66, Permanent Plans, Inc., and Mr. Ferdinand G. Mate, Jr., in his capacity as the Court-Appointed Liquidator." It was docketed as CA-G.R. No. 121908.

On July 31, 2012, the Sixth Division of this Court rendered a *Decision*,^[9] the dispositive portion thereof reads as follows:

"WHEREFORE, premises considered, the instant petition is granted and the March 11, 2011 and August 19, 2011 Orders of the Public Respondent Honorable Joselito C. Villarosa, Presiding Judge of the Regional Trial Court of Makati City, Branch 66 insofar as the assailed provision of the Approved Liquidation Program of Private Respondents is concerned are hereby ANNULED and SET ASIDE.

SO ORDERED."^[10]

In the meantime, the private respondent Torres, as the transferee/assignee of planholders Benita and Felix Noceda, with respect to the latter's JPA 5/15 Policy Nos. 0017712 and 0717713 issued by PPI filed a *Motion for Execution*^[11] dated April 19, 2013 with the RTC of Makati City, Branch 66, praying that an order be issued directing petitioner IC or in the alternative, the United Coconut Planter's Bank (UCPB)-Valero Branch, to release from private respondent PPI's Trust Fund the sum of P2,000,000.00.

On April 26, 2013, the private respondents PPI and Mate, the Court-Appointed Liquidator filed a *Manifestation*,^[12] which stated, among others, that the private respondent *"Mr. Torres and the other planholders/creditors of Permanent Plans, Inc. could have been paid and their claims settled if only the Insurance Commission has complied with the letter of herein petitioner [PPI] and Court-Appointed Liquidator dated July 25, 2012. In that Letter, the Insurance Commission was requested to release the amount of P18,981,532.61 so that Permanent Plans, Inc. can pay off claims against it (including that of the Spouses Noceda/Mr. Torres) in the amount of P17,331.982.00."*

On April 26, 2013, the public respondent Judge issued an *Order*^[13] which granted the *Motion for Execution* filed by the private respondent claimant Torres, but at the same time, directed the petitioner IC to comment on the same motion filed by the claimant.

On June 5, 2013, the petitioner IC filed a *Motion for Clarification*^[14] of the *Order* dated April 26, 2013, its *Comment*^[15] on the *Motion for Execution* dated April 19, 2013, and *Manifestation* dated April 26, 2013.

In an *Order*^[16] dated June 25, 2013, the public respondent Judge set for hearing on June 28, 2013, the petitioner's *Motion for Clarification* of the *Order* dated April 26, 2013.

On June 28, 2013, after the parties clarified matters regarding the *Petition for Rehabilitation* of the private respondent PPI, the public respondent Judge issued an *Order*^[17] directing the petitioner IC to inform and submit to the Court, copy furnished the private respondents PPI and Mate, the Court-Appointed Liquidator, of whatever will be the findings of the CRL-SEC Team as regards the implementation of the approved plan for the immediate distribution and release of the obligation to the planholders.

Thereafter, on August 14, 2013, the public respondent issued the **first** assailed *Order*,^[18] which granted the private respondent Torres' *Motion for Execution*. The full text of the said *Order* is quoted as follows, *to wit*:

"Before this Court are the following:

- a) Motion for Execution filed by Assignee Bernardito M. Torres;*
- b) Manifestation filed by Petitioner and Court Appointed Liquidator;*
- c) Comment (on the Motion for Execution dated April 19, 2013 and Manifestation dated April 26, 2013) filed by the Office of the Solicitor General;*
- d) Reply filed by Assignee Bernardito M. Torres.*

Above all, the Court directs the parties attention to its April 26, 2013 Order, which provides:

"Considering that Petitioner Permanent Plans, Inc., has no objection to the Motion for Execution filed by claimant Bernardito Torres, the Motion is hereby GRANTED.

The Insurance Commission is given 10 days to Comment on the Motion filed by the claimant."

A painstaking reading of the Comment of the OSG reveals that it does not interpose any objection on the issue at hand. The said comment expounded and explained the delays in the distribution of the Trust Fund as well as the administrative payment done.

In view of the fact that no party interpose any objection on the Motion for Execution, the same is hereby GRANTED.

WHEREFORE, *premises considered, United Coconut Planters Bank-Valero Branch and/or its Branch Manager is ORDERED to release from the Trust Fund of Permanent Plans, Inc., the sum of Php2,000,000.00 to Bernardito M. Torres.*

SO ORDERED."

Not satisfied, the petitioner Insurance Commission moved for reconsideration. On September 23, 2013, the public respondent Judge issued the **second** assailed *Order*^[19] which denied the *Motion for Reconsideration* and the pertinent portions of