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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

FAR EAST BANK AND TRUST  
COMPANY,

Petitioner,

- versus -

UNION BANK OF THE  
PHILIPPINES [now substituted by  
BAYAN DELINQUENT LOAN  
RECOVERY 1 (SPV-AMC), INC.],  
Respondent.

G.R. No. 196637

Present:

BERSAMIN, C.J., Chairperson,  
DEL CASTILLO,  
JARDELEZA,  
GESMUNDO, and  
CARANDANG,\* JJ.

Promulgated:

JUN 03 2019

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DECISION

GESMUNDO, J.:

This is an appeal by *certiorari* from the November 15, 2010 Decision<sup>1</sup> and April 19, 2011 Resolution<sup>2</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 86172 which reversed and set aside the March 22, 2005 and August 26, 2005 Orders<sup>3</sup> of the Regional Trial Court of Pasig City, Branch 157 (RTC) in Civil Case No. 66477.

\* On wellness leave.

<sup>1</sup> *Rollo*, pp. 37-65; penned by Associate Justice Amy C. Lazaro-Javier (now a Member of this Court), with Associate Justices Rebecca De Guia-Salvador and Sesinando E. Villon, concurring.

<sup>2</sup> *Id.* at 67.

<sup>3</sup> *Id.* at 81-84, 86; penned by Judge Esperanza Fabon-Victorino.

### *Antecedents*

On September 16, 1997, the EYCO Group of Companies<sup>4</sup> (*EYCO*) and its controlling stockholders, namely Eulogio O. Yutingco, Caroline Yutingco-Yao and Theresa<sup>5</sup> T. Lao (*the Yutingcos*) filed with the Securities and Exchange Commission (*SEC*) a “Petition for the Declaration of Suspension of Payment[s], Formation and Appointment of Rehabilitation Receiver/Committee, Approval of Rehabilitation Plan with Alternative Prayer for Liquidation and Dissolution of Corporations” (SEC Case No. 09-97-5764).<sup>6</sup>

On September 19, 1997, a consortium of EYCO’s creditors (*Consortium*) composed of 22 domestic banks, including Union Bank of the Philippines (*Union Bank*), convened for the purpose of deciding their options in the event that EYCO and its co-petitioners in SEC Case No. 09-97-5764 would invoke the provisions of Presidential Decree (*PD*) No. 902-A, as amended. Among the matters agreed upon during said meeting were the engagement of a lawyer to represent the creditors and composition of the management committee from seven banks with the highest exposures.<sup>7</sup>

However, Union Bank, without notifying the members of the Consortium, decided to break away from the group by suing EYCO and the Yutingcos in the regular courts. Among the several suits commenced by Union Bank was Civil Case No. 66477 (*Union Bank of the Philippines v. Eulogio and Bee Kuan Yutingco, Far East Bank and Trust Company and EYCO Properties*) filed in the RTC of Pasig City, Branch 157 on September 26, 1997.<sup>8</sup>

In its Complaint,<sup>9</sup> Union Bank alleged that Spouses Eulogio and Bee Kuan Yutingco (*Spouses Yutingco*) were its debtors by virtue of a Continuing Surety Agreement<sup>10</sup> dated September 12, 1996 to secure credit accommodations amounting to ₱110,000,000.00 granted to Nikon Industrial Corporation, Nikolite Industrial Corporation and 2000 Industries Corporation (collectively known as *NIKON*), which they owned. Upon investigation, Union Bank confirmed that majority of *NIKON*’s assets were used to purchase real estate properties through EYCO, purposely to shield *NIKON* from answering for its debts. EYCO owned condominium units and parking spaces in Tektite Tower and the Strata 200 Building Condominium Project.

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<sup>4</sup> Records, p. 1634, Vol. III; Nikon Industrial Corp., Nikolite Industrial Corp., 2000 Industries, Corp., Thames, Phil., Inc., EYCO Properties, Inc., TradeHope Industrial Corp., First Unibrands Food Corp., Integral Steel Corp., Clarion Printing House, Inc., Nikon Plaza, Inc., and Nikon Land, Inc.

<sup>5</sup> Referred to as Teresa in other parts of the *rollo*.

<sup>6</sup> See *Union Bank of the Philippines v. Court of Appeals, et al.*, 352 Phil. 808, 814-815 (1998).

<sup>7</sup> *Id.* at 815-817.

<sup>8</sup> *Id.* at 817.

<sup>9</sup> Records, pp. 2-13, Vol. I.

<sup>10</sup> *Id.* at 16-19.

On September 15, 1997, these properties were sold to herein petitioner, Far East Bank and Trust Company (*FEBTC*).<sup>11</sup>

Union Bank claimed that the sale of the properties was fraudulent and done in bad faith to prevent them from being levied upon; in fact, it was made a day before the Spouses Yutingco and NIKON filed a petition for suspension of payments with the SEC. The total purchase price for the Strata 200 condominium units was ₱32,000,000.00, which was grossly inadequate considering that they were situated in a prime area of Pasig City. In furtherance of its conspiracy with the Spouses Yutingco and NIKON, FEBTC supposedly authorized the purchase of various golf club shares and two more units and parking spaces in the same condominium buildings, assets of EYCO and NIKON registered in their respective names. It is clear that EYCO, in collusion with the Spouses Yutingco and FEBTC, intended to transfer all or nearly all of its properties because of its insolvency or great embarrassment financially. FEBTC, being a vendee in fraud of creditors, was deemed an implied trustee of the properties and should hold them for the benefit of those who are entitled thereto. Union Bank, as unpaid creditor of the true owner of the property, is entitled to nullify the sale in favor of FEBTC.<sup>12</sup>

*SEC Case No. 09-97-5764*

On September 19, 1997, an Order<sup>13</sup> was issued by the SEC enjoining the disposition of the debtor corporations' properties in any manner except in the ordinary course of business and payment outside of legitimate business expenses during the pendency of the proceedings and suspending all actions, claims and proceedings against EYCO until further orders from the SEC.

In an Omnibus Order dated October 27, 1997, the SEC Hearing Panel directed the creation of a Management Committee (*MANCOM*).<sup>14</sup>

Union Bank filed a petition for *certiorari* in the CA (CA-G.R. SP No. 45774) assailing the September 19, 1997 Order declaring the suspension of payments for EYCO and directing the creation of the MANCOM. Union Bank contended that these issuances were premature and would render the motion to dismiss filed before the RTC, in Civil Case No. 66477, as moot. The steering committee of the Consortium composed of the Philippine National Bank, FEBTC, Allied Bank, Traders Royal Bank, Philippine Commercial International Bank, Bank of Commerce and Westmont Bank, were allowed to intervene by the CA. However, in the same decision of the CA, the petition filed by Union Bank was dismissed for failure to exhaust administrative

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<sup>11</sup> Id. at 2-7, 20-35.

<sup>12</sup> Id. at 7-9.

<sup>13</sup> Id. at 476-479.

<sup>14</sup> *Union Bank of the Phils. v. CA*, supra note 6 at 819; Records, pp. 1199-1200, Vol. III.

remedies and forum shopping, prompting the latter to seek recourse in this Court (G.R. No. 131729).<sup>15</sup>

On May 19, 1998, this Court promulgated its Decision in *Union Bank of the Philippines v. Court of Appeals, et al.*<sup>16</sup> holding that the SEC's jurisdiction on matters of suspension of payments is confined only to those initiated by corporations, partnerships or associations. Consequently, the SEC exceeded its jurisdiction in declaring the Spouses Yutingco together with EYCO under suspension of payments. Nonetheless, based on our previous ruling in *Modern Paper Products, Inc., et al. v. Court of Appeals, et al.*,<sup>17</sup> the Rules of Court on misjoinder of parties may be applied. Thus, the proper remedy was not to dismiss the entire petition for suspension of payments but to dismiss it only as against the party upon whom the tribunal or court cannot acquire jurisdiction. Accordingly, this Court ordered the SEC "to drop from the petition for suspension of payments filed before it the names of Eulogio O. Yutingco, Caroline Yutingco-Yao and Theresa T. Lao without prejudice to their filing a separate petition in the Regional Trial Court."<sup>18</sup>

On December 18, 1998, the SEC issued an Order<sup>19</sup> adopting the Unsolicited Rehabilitation Proposal submitted by Strategies and Alliances Corporation (*SAC*) which was granted a period of six months within which to complete the groundwork for the effective implementation of the early "all-debt payment plan."

As described by the SEC, the SAC plan proposed to settle and extinguish all financial obligations of EYCO to its creditors, secured and unsecured, amounting to ₱5.2 Billion – ₱4 Billion by banks and ₱1.2 Billion by non-banks. The repayment of principal and interest thereon on stated due dates were guaranteed to be paid in cash by the Republic of the Philippines through the Home Insurance Guaranty Corporation (*HIGC*).

The SEC Order further barred all creditors from pursuing their respective claims until further orders.

The Consortium appealed the December 18, 1998 Order to the SEC *En Banc*. On September 14, 1999, the SEC *En Banc* rendered its Decision<sup>20</sup> finding the SAC plan not viable and feasible for the rehabilitation of EYCO. Accordingly, the SAC plan and suspension of payment proceedings were ordered terminated, the committees created dissolved and discharged. The SEC further ordered the dissolution and liquidation of the petitioning

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<sup>15</sup> Id. at 819-821.

<sup>16</sup> Id.

<sup>17</sup> 350 Phil. 402 (1998).

<sup>18</sup> *Union Bank of the Phils. v. CA*, supra note 6 at 832.

<sup>19</sup> Records, pp. 1399-1413, Vol. III.

<sup>20</sup> Id. at 1591-1597.

corporations. Subsequently, a Liquidator was appointed pursuant to the provisions of the Rules of Procedure on Corporate Rehabilitation.<sup>21</sup>

On October 10, 2000, the SEC issued an Order<sup>22</sup> directing all creditors claiming against EYCO to file their formal claims with the Liquidator. It likewise declared that all such claims shall be deemed barred if not filed within 30 days after publication of the said order in two newspapers of general circulation in the Philippines.

Due to disagreement on Liquidator's fee, a Liquidation Committee was formed to assume the duties of the Liquidator originally appointed by the SEC. On May 31, 2001, the said committee was dissolved and the SEC finally appointed Atty. Danilo L. Concepcion (*Atty. Concepcion*) as Liquidator pursuant to the provisions of the Rules of Procedure on Corporate Recovery.<sup>23</sup>

In March 2002, Atty. Concepcion submitted a proposed Liquidation Plan. Finding the said Liquidation Plan meritorious, the SEC approved it on April 11, 2002.<sup>24</sup>

#### ***Motions to Dismiss Civil Case No. 66477***

The Spouses Yutingco filed a Motion to Dismiss on the ground of pendency of the proceedings in the SEC which had acquired prior jurisdiction over the subject matter of the case.<sup>25</sup>

FEBTC also filed a motion to dismiss on the ground of Union Bank's failure to implead NIKON, which are indispensable parties. Accordingly, the court should suspend the trial until such parties are made either as plaintiffs or defendants. Moreover, since the complaint was for rescission of a contract of sale, it should have expressly alleged that Union Bank had no other legal means to collect its credits. Thus, the complaint failed to state a cause of action. There was also no allegation whether the credit accommodations extended by Union Bank were secured or unsecured. More important, Union Bank had no legal personality to sue for the enforcement of the rights and interests of the creditors as this is vested in the rehabilitation receiver. In view of the pending SEC proceedings, Union Bank had an available remedy by participating therein.<sup>26</sup> In a Manifestation, the Spouses Yutingco adopted the aforesaid arguments of FEBTC.<sup>27</sup>

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<sup>21</sup> Id. at 1598-1604.

<sup>22</sup> Id. at 1598-1599.

<sup>23</sup> Id. at 1600-1604.

<sup>24</sup> Id. at 1625-1670.

<sup>25</sup> Id. at 83-85, Vol. I.

<sup>26</sup> Id. at 511-518.

<sup>27</sup> Id. at 507-508.

In its Opposition,<sup>28</sup> Union Bank asserted that *litis pendentia* is not applicable in this case as it is not a party to the SEC proceedings for suspension of payments. Also, there is no identity of causes of action since the present case is founded on Union Bank's right to effect retention lien on the properties of EYCO pursuant to the provisions of the continuing surety agreement executed by the Spouses Yutingco. On the matter of jurisdiction, Union Bank contended that the court has the exclusive authority to hear Civil Case No. 66477.

In their Reply to Opposition,<sup>29</sup> EYCO and Spouses Yutingco reiterated that NIKON are indispensable parties considering that Union Bank claimed that the assets of said corporations were allegedly diverted to purchase real properties "under the name" of EYCO. Union Bank's theory is the true ownership of NIKON of the properties, the same being merely registered under EYCO. NIKON, being the actual sellers, were indispensable parties without whom no final determination of action can be had. Moreover, an action for rescission being subsidiary, cannot be instituted except "when the party suffering damages has no other legal means to obtain reparation of the same." No allegation of unavailability of other remedies was made by Union Bank in its complaint. Lastly, it was reiterated that it was now the SEC-appointed interim receiver who was given specific authority to take custody of all assets of the distressed corporations. Hence, Union Bank should bring its claims before the said receiver.

In a Supplemental Motion to Dismiss,<sup>30</sup> EYCO and Spouses Yutingco averred that Union Bank was guilty of forum shopping and the RTC had no jurisdiction over the subject matter. Union Bank's allegation of fraud was the same claim it made in the motion to dismiss it filed before the SEC. And, not waiting for the SEC to rule on the issue, Union Bank went to the CA in a petition for *certiorari* (CA-G.R. SP No. 45774), in which it again placed in issue the same allegations of fraud raised before the RTC and SEC. Aggravating its act of forum shopping, Union Bank raised the very same issues in the pending civil suits before RTC of Pasig City, Branch Nos. 158 and 159, and RTC of Valenzuela (Civil Case Nos. 66478 and 66479; 5360-V-97). This further shows the other legal remedies being availed of by Union Bank in seeking rescission of the sale of the properties of NIKON. Specifically, Union Bank had a pending collection case before the RTC of Makati City, Branch 148 (Civil Case No. 97-2184). Union Bank knew it could not simultaneously seek rescission and collection, but it did so anyway. Finally, it was emphasized that when PD No. 902-A vested SEC with jurisdiction over petitions for suspension of payments, the law necessarily

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<sup>28</sup> Id. at 521-526, Vol. II.

<sup>29</sup> Id. at 549-559.

<sup>30</sup> Id. at 761-774.

conferred exclusive jurisdiction to it over all incidents of the petition, including enforcement of claims.<sup>31</sup>

### RTC Ruling

On March 22, 2005, the RTC issued an Order<sup>32</sup> granting the motions to dismiss on the ground of *litis pendentia*, as follows:

It cannot be denied that there is a pending action between the same parties over the same transactions involving the same properties before the instant case was filed. Plaintiff as one of the creditors of defendants is a compulsory party in the Petition for Declaration of Suspension of Payments, Formation and Appointment of Rehabilitation Receiver/Committee filed by defendants with the SEC on September 16, 1997 or before the institution of instant case on October 16, 1997. By filing a motion to dismiss the petition, plaintiff made itself a party to the case and voluntarily submitted to the jurisdiction of the SEC. Further, it was conceded that among the properties subject of the order of suspension issued by the SEC are the properties subject of the instant controversy. Indubitably, all the elements of *litis pendentia* are present.

It must also be emphasized that even before the instant case was filed, the SEC has already acquired jurisdiction over the petition for declaration of suspension, which jurisdiction has been sustained by no less than the Supreme Court. In fact, the SEC had issued several directives for the rehabilitation of the petitioning corporations with the end in view of settling their obligations to all their creditors, plaintiff included. The actions taken by the SEC, including the issuance of an order of suspension and the creation of the Management Committee were all well in accord with Sec. 5 of P.D. No. 902-A, as amended.

With the MANCOM having been created by order of the SEC, plaintiff has been deprived of legal personality to impugn through the instant case the disposition of the properties in controversy made by defendant EYCO PROPERTIES, INC., which in the first place is not plaintiff's debtor.

Finally, the finding by the Court of Appeals and sustained by the Supreme Court, that plaintiff was guilty of forum shopping, is binding upon this Court.

WHEREFORE, the motions to dismiss separately filed by defendants Spouses Yutingco and EYCO PROPERTIES, INC[.] and FAR EAST BANK and TRUST COMPANY (FEBTC) are hereby [GRANTED]. This case is **DISMISSED**.

SO ORDERED.<sup>33</sup> (italics supplied)

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<sup>31</sup> Id. at 762-768.

<sup>32</sup> *Rollo*, pp. 81-84.

<sup>33</sup> Id. at 83-84.

Union Bank's motion for reconsideration was likewise denied under the RTC's Order<sup>34</sup> dated August 26, 2005.

### CA Ruling

On appeal to the CA, Union Bank argued that there was no *litis pendentia* as it never submitted itself to the jurisdiction of the SEC and even filed a motion to dismiss SEC Case No. 09-97-5764. There was also no identity of parties because Union Bank and the Spouses Yutingco were not parties to the SEC case. Citing this Court's Decision in *Union Bank of the Phils. v. Court of Appeals*,<sup>35</sup> Union Bank pointed out that the Spouses Yutingco were dropped as petitioners in the SEC for lack of jurisdiction over them as individual debtors. Identity of rights asserted and cause of action was likewise lacking because in the present civil action, Union Bank seeks to annul the fraudulent conveyances of real property made by Spouses Yutingco/EYCO to FEBTC, while its cause of action against NIKON was for collection of credit. There can be no *res judicata* since there was no identity of parties, subject matter and causes of action. Besides, the SEC had no jurisdiction over the case for annulment of sale.

By Decision dated November 15, 2010, the CA granted Union Bank's appeal and reversed the assailed orders of the RTC.

First, the CA found that there was no identity of parties between Civil Case No. 66477 and SEC Case No. 09-97-5764. In *Union Bank of the Phils. v. Court of Appeals*<sup>36</sup> this Court ruled that Eulogio O. Yutingco, Caroline Yutingco-Yao and Theresa T. Lao were not proper parties in the SEC case and should be dropped therefrom, not being corporations but individuals. In the case before the RTC, the Spouses Yutingco were sued as sureties for the collection of credit against the debtor companies (*NIKON*).

Second, there was no identity of rights asserted because Union Bank, in its complaint filed in the RTC, prayed for the rescission of the sale of the debtors' properties to FEBTC and reversion of their ownership to NIKON and/or Spouses Yutingco. As provided in Sec. 19 of *Batas Pambansa (BP) Blg. 129*, actions that are incapable of pecuniary estimation and those involving title of real property are within the exclusive jurisdiction of the RTC. Union Bank's foreclosure suit could therefore proceed, since it is not an *enforcement* of monetary claim but assails the validity of Spouses Yutingco /NIKON's sale of the subject properties of EYCO. There being absolutely no

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<sup>34</sup> *Rollo*, p. 86.

<sup>35</sup> *Supra* note 6.

<sup>36</sup> *Id.*

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identity of rights asserted and remedies sought in the present case and the SEC case, there was no *res judicata* to speak of.

Further, the appellate court rejected the contention of FEBTC and Spouses Yutingco that the payment of ₱34,270,570.21, representing Union Bank's share from the proceeds of the sale of EYCO's properties, has been approved and the balance of ₱88,975,716.72 has been written off under the SEC-approved Liquidation Plan submitted by SEC-appointed Liquidator Atty. Danilo Concepcion, and that such Liquidation Plan was binding on Union Bank. This was because the Liquidation Plan expressly provided that the parties' waivers and quitclaims shall cause the dismissal of all actions filed by the parties in relation to the SEC case. But FEBTC/Spouses Yutingco failed to show that Union Bank had issued such waiver or quitclaim and accepted the offer of payment. Thus, it cannot be said that Union Bank had accepted the terms of payment and had agreed to cease from pursuing its claims against the debtors.

On the issue of forum shopping, the CA said that a close reading of this Court's decision in *Union Bank of the Phils. v. Court of Appeals*<sup>37</sup> reveals that Union Bank was found guilty of forum shopping for filing a petition for *certiorari* in the CA when its motion to dismiss was still pending before the SEC, the two cases raising the same issues of whether SEC had jurisdiction and whether suspension of payments was proper. The decision did not delve into the complaints filed with the regular courts for rescission of contracts. In any event, Union Bank was not guilty of forum shopping because the elements of *litis pendentia* and *res judicata* were not present.

Finally, on the matter of Union Bank's alleged lack of personality to sue, the CA held that while the RTC used such term, the true reason for dismissal of the complaint was "lack of capacity to sue." When Union Bank filed its complaint on September 16, 1997, it was still qualified to do so. The authority of the Liquidator to recover all the properties of NIKON and EYCO in the hands of other persons had not yet been established. It was only on October 27, 1997 that the MANCOM was created and no law provides for the retroactive effect of its authority. However, substitution of parties may be effected in accordance with the procedure under the Rules if the circumstances so warrant.

Finding no legal obstacle in allowing full ventilation of the issues raised in the complaint filed in the RTC, the CA thus decreed:

**ACCORDINGLY**, the appeal is **GRANTED**. The twin Orders dated March 22, 2005 and August 26, 2005 of the Regional Trial Court, Branch 157, Pasig City, in Civil Case No. 66477 are **REVERSED** and **SET**

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<sup>37</sup> Id.

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**ASIDE** and a new one rendered **REMANDING** the case to the trial court for a full blown hearing and determination of the case on the merits.

**SO ORDERED.**<sup>38</sup> (citation omitted)

On March 14, 2011, BAYAN Delinquent Loan Recovery I (SPV-AMC, INC.) (*BAYAN*) filed a Motion for Substitution With Motion to Admit Comment, manifesting that under Deed of Assignment dated October 3, 2007, Union Bank assigned all its rights, title, interest and benefit, and all obligations arising out of or in connection with the loan obligation of NIKON, to BAYAN, including the bank's right to collect from Spouses Yutingco pursuant to the surety agreements and other security documents they executed in favor of Union Bank.<sup>39</sup>

In its Resolution dated April 19, 2011, the CA granted the motion for substitution and admitted the comment, but denied the motions for reconsideration respectively filed by FEBTC and Yutingcos/EYCO for lack of merit.<sup>40</sup>

The present petition was filed by FEBTC (now Bank of the Philippine Islands) on May 13, 2011. The Spouses Yutingco had earlier requested for extension of time to file in this Court a separate petition questioning the same CA ruling in CA-G.R. CV No. 86172, docketed as G.R. No. 196629 entitled "*Eulogio and Wong Bee Kuan Yutingco and Eyco Properties, Inc. vs. Union Bank of the Philippines and Bayan Delinquent and Loan Recovery 1 [SPV-AMC]*." However, G.R. No. 196629 was withdrawn by the Yutingcos under Manifestation dated July 6, 2011. Accordingly, this Court's Second Division issued, on August 3, 2011, a Resolution granting the said Manifestation and declaring G.R. No. 196629 closed and terminated.<sup>41</sup>

### *Issues*

For resolution are the following issues: 1) Whether Civil Case No. 66477 should be dismissed on the ground of *litis pendentia*; 2) Whether Union Bank was guilty of forum shopping; and 3) Whether Union Bank had the legal personality to file Civil Case No. 66477.

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<sup>38</sup> *Rollo*, pp. 64-65.

<sup>39</sup> *Id.* at 105-121.

<sup>40</sup> *Id.* at 122.

<sup>41</sup> *Records*, pp. 1839-1840, Vol. III.

*Petitioner's Arguments*

On the first issue, petitioner contends that the CA erred in not dismissing Civil Case No. 66477 in view of another pending case, SEC Case No. 09-97-5764 filed on September 16, 1997. The issue in the SEC case is precisely the settlement of EYCO's obligations to its creditors, which include herein respondent Union Bank. Here, Union Bank also seeks to collect from the distressed corporations of EYCO. The CA failed to consider the well-settled rule that all questions involving properties of an insolvent are properly cognizable by the insolvency court to the exclusion of all other courts. Civil Case No. 66477 is necessarily related to, and thus precluded by, the SEC Case which has exclusive jurisdiction "to decide all questions concerning the title or right of possession" over the properties of the distressed corporation. The issue of invalidity of the conveyance of property of EYCO will necessarily have to be threshed out in the SEC case.

Further, petitioner asserts that the CA incorrectly ruled that the parties in the two cases are different. The law does not require that there be absolute identity of parties with respect to a later case, but only substantial identity of parties. Union Bank, as one of the creditors of NIKON, is a compulsory party in the SEC case. Thus, judgment in the SEC case will bar the proceedings in Civil Case No. 66477 and vice-versa.

On the second issue, respondent was shown to have repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues either pending in, or already resolved by, some other court. In G.R. No. 131729 (*Union Bank of the Phils. v. Court of Appeals*),<sup>42</sup> both the CA and this Court found Union Bank guilty of forum shopping. The SEC already appointed a MANCOM or rehabilitation receiver, who was to have custody and control of all the assets of the corporation under receivership/rehabilitation.

On the third issue, petitioner argues that, insofar as the rights and interests of the creditors of corporations under a management committee, such as Union Bank, and the judicial enforcement of said rights are concerned, they are collectively vested upon the rehabilitation receiver. With the appointment of a MANCOM, Union Bank clearly has no legal personality to impugn the sale by EYCO to FEBTC. The proper party to institute such an action is the rehabilitation receiver.

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<sup>42</sup> Supra note 6.

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### *Respondent's Arguments*

Union Bank, substituted by [Deutsche Bank]<sup>43</sup>/Bayan Delinquent Loan Recovery 1 (SPV-AMC), Inc., submits the arguments set forth in the Comment/Opposition to FEBTC's motion for reconsideration (of the Decision dated November 15, 2010) filed in the CA.

On *litis pendentia*, respondent maintains that there is no identity of parties considering that this Court in *Union Bank of the Phils. v. Court of Appeals*<sup>44</sup> has ordered that the Spouses Yutingco be dropped as "party-defendants" in the SEC case due to lack of jurisdiction over their persons. Petitioner's argument that NIKON are indispensable parties in Civil Case No. 66477 is unavailing, inasmuch as the creditor has the right to proceed against the surety independent of the debtor. Here, the Continuing Surety Agreement executed by the Spouses Yutingco in favor of Union Bank, unequivocally provides that the former bind themselves solidarily with their principal (NIKON).

Neither is there identity in causes of action considering that it is the fraudulent conveyance of properties by the Spouses Yutingco through EYCO properties in favor of FEBTC that caused Union Bank's cause of action to accrue. Employing another test to determine the identity of causes of action, *i.e.*, whether the same evidence will sustain both actions, respondent points out that it will have to present evidence in the SEC case proving the Spouses Yutingcos' obligation to it and their consequent failure to abide by the same. Such evidence, however, is not needed in the annulment of sale case (Civil Case No. 66477).

As to petitioner's allegation that the approved Liquidation Plan is binding on the respondent, under which NIKON's obligation with Union Bank was extinguished, respondent asserts that such does not warrant the reversal of the CA Decision. As found by the CA, Union Bank is not a party to the SEC case and hence not bound by any order or proceeding therein. Petitioner's reliance of this Court's pronouncement in *Union Bank of the Phils. v. Court of Appeals*<sup>45</sup> is likewise misplaced. In said case, this Court merely held that the SEC's jurisdiction on matters of suspension of payments is confined only to those initiated by corporations, partnerships or associations and not those by individuals. In any event, from the very terms of the Liquidation Plan itself, it is not the approval of the Liquidation Plan but the execution of waivers and quitclaims and the dismissal of all pending cases arising from or related to the subject loan obligations that would extinguish the same. Lastly, judgment in Civil Case No. 66477 will not operate as *res*

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<sup>43</sup> *Rollo*, pp. 89-90, 94.

<sup>44</sup> *Supra* note 6.

<sup>45</sup> *Id.*

*judicata* in the SEC case, nor will the final disposition of the SEC case operate as *res judicata* in the former civil suit.

Respondent maintains that it is not guilty of forum shopping since there is no similarity of parties, issues, reliefs sought and evidence. As to this Court's pronouncement in *Union Bank of the Phils. v. Court of Appeals*,<sup>46</sup> the CA correctly pointed out that a close reading of the decision in that case reveals that Union Bank was found guilty of forum shopping for filing a petition for *certiorari* in the Supreme Court when its motion to dismiss was still pending with the SEC, and does not pertain to the complaints filed in the regular courts for rescission of contracts.

Finally, respondent contends that the CA correctly held that when Union Bank filed its complaint in the RTC against the Spouses Yutingco on September 26, 1997, the MANCOM was not yet created and no Liquidator had been appointed.

### The Court's Ruling

We deny the petition.

*Litis pendentia* as a ground for the dismissal of a civil action contemplates a situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious.<sup>47</sup> It is one of the grounds that authorizes a court to dismiss a case *motu proprio*, as provided in Sec. 1(e), Rule 16 of the 1997 Rules of Civil Procedure.<sup>48</sup>

For *litis pendentia* to exist, the following requisites or elements must concur: (a) identity of parties, or at least such parties who represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) identity with respect to the two (2) preceding particulars in the two (2) cases is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other case.<sup>49</sup>

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<sup>46</sup> Id.

<sup>47</sup> *Subic Telecommunications Company, Inc. v. Subic Bay Metropolitan Authority, et al.*, 618 Phil. 480, 493 (2009), citing *Guevara v. BPI Securities Corporation*, 530 Phil 342, 366 (2006).

<sup>48</sup> SECTION 1. *Grounds*. — Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

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(e) That there is another action pending between the same parties for the same cause[.]

<sup>49</sup> *Supra* note 47 at 494-495.

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We sustain the CA in holding that *litis pendentia* is not applicable to the present case.

On the first requisite, there is no identity of parties considering that the Yutingcos were ordered dropped from SEC Case No. 09-97-5764 pursuant to *Union Bank of the Phils. v. Court of Appeals*<sup>50</sup> which was decided in 1998. This Court ruled therein that the SEC cannot acquire jurisdiction over an individual filing a petition for suspension of payments together with a corporate entity.<sup>51</sup>

In Civil Case No. 66477 filed by Union Bank, the Spouses Yutingco are being sued as sureties for the loans obtained by NIKON from Union Bank, along with petitioner who is the present registered owner of the EYCO properties. SEC Case No. 09-97-5764 was initiated by EYCO and the Yutingcos, seeking a suspension of payments for its financially distressed companies, which included NIKON and petitioner. Notably, NIKON is not impleaded as defendants in Civil Case No. 09-97-5764, Union Bank having asserted that the Spouses Yutingco are the real parties in interest being the controlling stockholders of NIKON and EYCO, and sureties of NIKON's loans with Union Bank.<sup>52</sup> While petitioner and Union Bank are among the creditors affected by the filing of the SEC case, the proceedings therein are not adversarial.

The second requisite is likewise absent. In Civil Case No. 66477, Union Bank sought to rescind the sale of certain properties of EYCO to petitioner, on the theory that the Yutingcos/EYCO colluded with petitioner to divert the assets of NIKON to purchase real properties under the name of EYCO. Union Bank prayed that ownership of the properties be reverted to NIKON so that these can be used to pay for credit facilities extended to it by Union Bank, pursuant to the undertaking of the Yutingcos under the Continuing Surety Agreement.

On the other hand, SEC Case No. 09-97-5764 was initiated by EYCO seeking a declaration of suspension of payments under the provisions of P.D. No. 902-A. While it is true that EYCO's creditors have been directed to file its claims under existing contracts with the debtor-corporations – the ultimate objective being the equitable distribution of earnings from the business under rehabilitation -- the validity of the sale to petitioner of EYCO's properties is

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<sup>50</sup> *Supra* Note 6.

<sup>51</sup> *Id.* at 825, citing *Chung Ka Bio v. Intermediate Appellate Court, et al.*, 246 Phil. 556 (1988); *Modern Paper Products, Inc., et al. v. Court of Appeals, et al.*, 350 Phil. 402 (1998).

<sup>52</sup> Records, pp. 1685-1687, Vol. III.

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the principal issue in Civil Case No. 66477. Thus, it cannot be said that the rights asserted and the reliefs prayed for are the same.<sup>53</sup>

Moreover, SEC took cognizance of the petition for suspension of payments, having been vested with exclusive jurisdiction under P.D. No. 902-A over such recourse by financially distressed corporations. While a management committee or rehabilitation receiver may review or seek modification of existing contracts of the debtor-corporation, this is merely an incident of the specific powers granted by law and only for the purpose of maintaining the viability of the debtor-corporation which would ultimately benefit the creditors. The RTC, on the other hand, unquestionably has jurisdiction to hear and decide actions incapable of pecuniary estimation, such as the suit for rescission of sale (Civil Case No. 66477).

Finally, the third element is also lacking. Any judgment in Civil Case No. 66477 will not have the effect of *res judicata* to the proceedings in SEC Case No. 09-97-5764, and vice versa.<sup>54</sup> Any judgment or final disposition by the SEC on the claims against the debtor-corporations will not fully resolve the issues before the trial court (*i.e.*, validity of the sale of EYCO properties in favor of petitioner, real ownership of the properties and damages). The rulings issued by the SEC Hearing Panel in the course of rehabilitation will not settle the issue of whether the Spouses Yutingco, EYCO and petitioner connived to ensure that the properties of NIKON will not answer for the latter's huge loans obtained from Union Bank. Rehabilitation proceedings are summary in nature; they do not include adjudication of claims that require full trial on the merits.<sup>55</sup>

Conversely, the trial court's decision annulling the contract of sale in favor of petitioner will not in any way determine the viability of rehabilitation plan for EYCO, nor provide an equitable distribution of the assets of the debtor-corporations. It bears stressing that the properties subject of Civil Case No. 66477 were never included in the properties of EYCO placed in the custody of the MANCOM and eventually the Liquidator, for distribution to all claimants and creditors.

There being no *litis pendentia* or *res judicata*, we find Union Bank not guilty of forum shopping.

Jurisprudence has laid down the test for determining whether a party violated the rule against forum shopping. Forum shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case

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<sup>53</sup> See *Philippine Woman's Christian Temperance Union, Inc. v. Abiertas House of Friendship, Inc., et al.*, 354 Phil. 791, 801 (1998).

<sup>54</sup> *Id.* at 801.

<sup>55</sup> See *Steel Corporation of the Phils. v. Mapfre Insular Insurance Corporation, et al.*, 719 Phil. 638, 655-656 (2013), citing *Advent Capital and Finance Corporation v. Alcantara, et al.*, 680 Phil. 238, 246 (2012).

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will amount to *res judicata* in the other.<sup>56</sup> The requisites of *litis pendentia* not having concurred, and the issues presented in SEC Case No. 09-97-5764 and RTC not being identical, Union Bank is therefore not guilty of forum shopping.<sup>57</sup>

As already discussed, the main issue in the SEC petition is the viability of EYCO to continue their businesses. The debtor-corporations, who having allegedly sufficient assets to cover all its debts, foresees the impossibility of meeting those debts when they respectively fall due. In Civil Case No. 66477, the issue being litigated is the validity of the contract of sale of EYCO properties to petitioner, allegedly made in fraud of NIKON's creditor, Union Bank. Clearly, the issues in the two cases are not identical.

As correctly stated by the CA, the act of forum shopping raised in the present case should be distinguished from that adjudged in *Union Bank of the Phils. v. Court of Appeals*<sup>58</sup> where the charge of forum shopping arose from Union Bank's resort to a petition for *certiorari* in the CA, even as its motion to dismiss based on lack of jurisdiction of the SEC and propriety of suspension of payments was still pending in the SEC. Thus:

As to the issue of forum-shopping, we fully subscribe to the Court of Appeals in ruling that such violation existed when it declared:

Finally, the charge that petitioner is guilty of forum shopping – which is the institution of two or more actions or proceedings grounded on the same cause – cannot unceremoniously be glossed over. It is patent that the instant petition and the pending motion to dismiss before the SEC raise identical issues, namely, lack of jurisdiction and the propriety of the suspension of payments.<sup>59</sup> (underlining supplied, italics in the original)

Here, forum shopping was among the grounds raised in the motions to dismiss filed by EYCO and the Yutingcos who assailed Union Bank for having filed a motion to dismiss in the SEC case and for having earlier filed other complaints in different courts citing the same transactions and fraudulent dispositions of the same properties allegedly committed by them.<sup>60</sup> They contend that it is the SEC which has jurisdiction over all properties of the debtor-corporations under rehabilitation such that Union Bank should have filed its claim against EYCO and NIKON before the SEC.

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<sup>56</sup> *Rudecon Management Corporation v. Singson*, 494 Phil. 581 (2005); citing *Ayala Land Inc. v. Valisno*, 381 Phil. 518 (2000).

<sup>57</sup> See *Phil. Woman's Christian Temperance Union Inc. v. Abiertas House of Friendship, Inc. et al.*, supra note 53.

<sup>58</sup> Supra note 6.

<sup>59</sup> Id. at 831-832.

<sup>60</sup> *Rollo*, p. 82.

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As already mentioned, the properties subject of Civil Case No. 66477 were not included in the rehabilitation proceedings before the SEC. These properties were sold to petitioner one day before the filing of the petition with the SEC where EYCO sought the suspension of payments of debts to its creditors and the rehabilitation of its companies. Union Bank filed the rescission case in the trial court against EYCO, petitioner and the Yutingcos, the latter being sureties of NIKON who availed of Union Bank's credit facilities. Union Bank sought to rescind the allegedly fraudulent sale of EYCO's properties purchased out of NIKON's assets, and revert their ownership to NIKON. Clearly, the issues in the two cases are not the same, and the reliefs prayed for are different.

It may be mentioned that under the new law on corporate rehabilitation and insolvency, Republic Act No. 10142 (Financial Rehabilitation and Insolvency Act [*FRIA*] of 2010), among those exempted from the coverage of a Stay Order are actions filed against sureties or persons solidarily liable with the debtor.

**SECTION. 18.** *Exceptions to the Stay or Suspension Order.* — The Stay or Suspension Order shall not apply:

x x x x

(c) to the enforcement of **claims against sureties and other persons solidarily liable with the debtor**, and third party or accommodation mortgagors as well as issuers of letters of credit, unless the property subject of the third party or accommodation mortgage is necessary for the rehabilitation of the debtor as determined by the court upon recommendation by the rehabilitation receiver[.]<sup>61</sup> (emphasis supplied)

Petitioner nonetheless contends that the matter of interests and rights of the creditors of the debtor-corporations are vested on the management committee created pursuant to P.D. 902-A. With the appointment of a MANCOM, the proper party to file the action for rescission of the sale of EYCO properties to petitioner is clearly the rehabilitation receiver appointed by SEC. Union Bank thus has no legal personality to institute Civil Case No. 66477 involving the assets of the debtor-corporations under rehabilitation.

We find no reversible error in the CA's ruling that when Union Bank filed Civil Case No. 66477 on September 26, 1997, it still possessed the legal capacity (not legal personality) to do so. This is because it was only on October 27, 1997 that the MANCOM was created.

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<sup>61</sup> R.A. No. 10142, Sec. 18(c).

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Notwithstanding the CA's proper denial of the motion to dismiss Civil Case No. 66477, we hold that said case should have been *suspended* upon the constitution of the MANCOM.

The applicable law on the suspension of actions for claims against corporations is P.D. No. 902-A, which was in force at the time EYCO filed its petition for suspension of payments with the SEC.

The pertinent provisions of P.D. No. 902-A read:

**Section 5.** In addition to the regulatory adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving:

x x x x

d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree.<sup>62</sup>

**Section 6.** In order to effectively exercise such jurisdiction, the Commission shall possess the following:

x x x x

c) To appoint one or more receivers of the property, real or personal, which is the subject of the action pending before the Commission in accordance with the pertinent provisions of the Rules of Court in such other cases whenever necessary in order to preserve the rights of the parties-litigants and/or protect the interest of the investing public and creditors. x x x Provided, further, that **upon appointment of a management committee**, rehabilitation receiver, board or body, **pursuant to this Decree, all actions for claims against corporations, partnerships or associations under management or receivership pending before any court, tribunal, board or body shall be suspended accordingly.**<sup>63</sup> (emphasis supplied)

<sup>62</sup> Sec. 3 of P.D. No. 1758, s. 1981.

<sup>63</sup> Sec. 4 of P.D. No. 1758, s. 1981.

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In *Rizal Commercial Banking Corporation v. Intermediate Appellate Court, et al.*,<sup>64</sup> the Court held that once a management committee, rehabilitation receiver, board or body is appointed pursuant to P.D. 902-A, all actions for claims against a distressed corporation pending before any court, tribunal, board or body shall be suspended accordingly.

In *Castillo v. Uniwide Warehouse Club, Inc., et al.*,<sup>65</sup> we explained the coverage of the suspension order, thus:

Jurisprudence is settled that **the suspension of proceedings referred to in the law uniformly applies to "all actions for claims" filed against a corporation, partnership or association under management or receivership, without distinction**, except only those expenses incurred in the ordinary course of business. In the oft-cited case of *Rubberworld (Phils.), Inc. v. NLRC*, the Court noted that aside from the given exception, **the law is clear and makes no distinction as to the claims that are suspended once a management committee is created or a rehabilitation receiver is appointed**. Since the law makes no distinction or exemptions, neither should this Court. *Ubi lex non distinguit nec nos distinguere debemos*. *Philippine Airlines, Inc. v. Zamora* declares that the automatic suspension of an action for claims against a corporation under a rehabilitation receiver or management committee **embraces all phases of the suit, that is, the entire proceedings of an action or suit and not just the payment of claims**.

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At this juncture, it must be conceded that the date when the claim arose, or when the action was filed, has no bearing at all in deciding whether the given action or claim is covered by the stay or suspension order. What matters is that **as long as the corporation is under a management committee or a rehabilitation receiver, all actions for claims against it, whether for money or otherwise, must yield to the greater imperative of corporate revival, excepting only, as already mentioned, claims for payment of obligations incurred by the corporation in the ordinary course of business**.<sup>66</sup> (citations omitted, emphasis supplied)

In *Philippine Airlines Incorporated, et al. v. Zamora*,<sup>67</sup> the Court reiterated the reason for suspending claims during rehabilitation, *viz*:

The *raison d'être* behind the suspension of claims pending rehabilitation proceedings was explained in this wise:

In light of these powers, the reason for suspending actions for claims against the corporation should not be difficult to discover. It is not really to enable the

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<sup>64</sup> 378 Phil. 10, 21-22 (1999).

<sup>65</sup> 634 Phil. 41 (2010).

<sup>66</sup> *Id.* at 50-52.

<sup>67</sup> 543 Phil. 546 (2007).

management committee or the rehabilitation receiver to substitute the defendant in any pending action against it before any court, tribunal, board or body. **Obviously, the real justification is to enable the management committee or rehabilitation receiver to effectively exercise its/his powers free from any judicial or extra-judicial interference that might unduly hinder or prevent the “rescue” of the debtor company.** To allow such other action to continue would only add to the burden of the management committee or rehabilitation receiver, whose time, effort and resources would be wasted in defending claims against the corporation instead of being directed toward its restructuring and rehabilitation.<sup>68</sup> (italics in the original, emphasis supplied)

Thus, while the motions to dismiss Civil Case No. 66477 should have been denied by the trial court, said case should have also been suspended in view of the creation of the MANCOM on October 27, 1997. As borne by the records, the case did not go beyond pre-trial stage because of the long exchange of pleadings between the parties upon the sole incident of the motions to dismiss filed by EYCO and Yutingcos. It was only on March 22, 2005 that the trial court issued the order granting the motions to dismiss. Union Bank appealed to the CA, which resulted in more delays until the CA rendered the assailed decision reversing the trial court’s dismissal of the case.

Expectedly, the present controversy was overtaken by succeeding developments in SEC Case No. 09-97-5764.

The rehabilitation plan of a group of creditors earlier adopted by the SEC Hearing Panel, was disapproved on September 14, 1999 by the SEC *En Banc* which granted the appeal of the Consortium. The suspension of payment proceedings were terminated, the committees created dissolved and discharged, the dissolution and liquidation of the petitioning corporations were ordered, and a Liquidator appointed.

The case was remanded to the hearing panel for liquidation proceedings. On appeal by EYCO (CA-G.R. SP No. 55208), the CA upheld the SEC ruling. EYCO then filed a petition for *certiorari* before this Court, docketed as G.R. No. 145977, which case was eventually dismissed under Resolution dated May 3, 2005 upon joint manifestation and motion to dismiss filed by the parties. Said resolution became final and executory on June 16, 2005.<sup>69</sup>

By October 10, 2000, the SEC had directed all creditors/claimants of the companies belonging to EYCO to file their formal claims with the Liquidator. Atty. Concepcion took over as Liquidator on May 31, 2001 and

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<sup>68</sup> Id. at 564; citing *BF Homes, Incorporated v. Court of Appeals*, 268 Phil. 276, 284 (1990).

<sup>69</sup> See *Bank of Philippine Islands v. Hong, et al.*, 682 Phil. 66, 69 (2012).

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his proposed Liquidation Plan was eventually approved by the SEC on April 11, 2002.

While these developments in SEC Case No. 09-97-5764 were taking place, R.A. No. 8799 was passed by Congress, transferring all those cases enumerated in Sec. 5 of P.D. No. 902-A to the regional trial courts. As to the implications of the transfer of jurisdiction to the appropriate regional trial courts of cases formerly handled by the SEC, this Court has previously ruled that the proceedings in SEC Case No. 09-97-5764 was effectively terminated upon the disapproval of the SAC rehabilitation plan for the EYCO Group of Companies, and the order of dissolution and liquidation issued by the SEC *En Banc* on September 14, 1999.

In *Bank of the Philippine Islands v. Hong, et al.*,<sup>70</sup> a petition for review on *certiorari* was filed in this Court by BPI assailing the CA decision which affirmed the trial court's denial of its motion to dismiss the injunction suit filed by the respondent, an unsecured creditor of NIKON. BPI moved to dismiss the injunction case arguing that, by respondent's own submissions, it is the SEC which has jurisdiction over the reliefs prayed for in respondent's complaint, and that respondent actually resorted to forum shopping since he filed a claim with the SEC and the designated Liquidator in the ongoing liquidation of EYCO.

Before this Court, BPI as secured creditor of EYCO who initiated foreclosure proceedings, raised the sole issue of whether the RTC can take cognizance of the injunction suit despite the pendency of SEC Case No. 09-97-5764. We denied BPI's petition, as follows:

Previously, under the Rules of Procedure on Corporate Recovery, the SEC upon termination of cases involving petitions for suspension of payments or rehabilitation may, *motu proprio*, or on motion by any interested party, or on the basis of the findings and recommendation of the Management Committee that the continuance in business of the debtor is no longer feasible or profitable, or no longer works to the best interest of the stockholders, parties-litigants, creditors, or the general public, order the dissolution of the debtor and the liquidation of its remaining assets appointing a Liquidator for the purpose. The debtor's properties are then deemed to have been conveyed to the Liquidator in trust for the benefit of creditors, stockholders and other persons in interest. This notwithstanding, any lien or preference to any property shall be recognized by the Liquidator in favor of the security or lienholder, to the extent allowed by law, in the implementation of the liquidation plan.

However, R.A. No. 8799, which took effect on August 8, 2000, transferred to the appropriate regional trial courts the SEC's jurisdiction over those cases enumerated in Sec. 5 of P.D. No. 902-A. Section 5.2 of R.A. No. 8799 provides:

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<sup>70</sup> *Supra*.

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SEC. 5.2 The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: *Provided*, that the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. **The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.** x x x

**Upon the effectivity of R.A. No. 8799, SEC Case No. 09-97-5764 was no longer pending. The SEC finally disposed of said case when it rendered on September 14, 1999 the decision disapproving the petition for suspension of payments, terminating the proposed rehabilitation plan, and ordering the dissolution and liquidation of the petitioning corporation.** With the enactment of the new law, jurisdiction over the liquidation proceedings ordered in SEC Case No. 09-97-5764 was transferred to the RTC branch designated by the Supreme Court to exercise jurisdiction over cases formerly cognizable by the SEC. As this Court held in *Consuelo Metal Corporation v. Planters Development Bank*:

The SEC assumed jurisdiction over CMC's petition for suspension of payment and issued a suspension order on 2 April 1996 after it found CMC's petition to be sufficient in form and substance. While CMC's petition was still pending with the SEC as of 30 June 2000, it was finally disposed of on 29 November 2000 when the SEC issued its Omnibus Order directing the dissolution of CMC and the transfer of the liquidation proceedings before the appropriate trial court. **The SEC finally disposed of CMC's petition for suspension of payment when it determined that CMC could no longer be successfully rehabilitated.**

However, the SEC's jurisdiction does not extend to the liquidation of a corporation. **While the SEC has jurisdiction to order the dissolution of a corporation, jurisdiction over the liquidation of the corporation now pertains to the appropriate regional trial courts.** This is the reason why the SEC, in its 29 November 2000 Omnibus Order, directed that "the proceedings on and implementation of the order of liquidation be commenced at the Regional Trial Court to which this case shall be transferred." This is the correct procedure because the liquidation of a corporation requires the settlement of claims for and against the corporation, which clearly falls under the jurisdiction of the regular courts. The trial court is in the best position to convene all the creditors of the corporation, ascertain their claims, and determine their preferences. xxx

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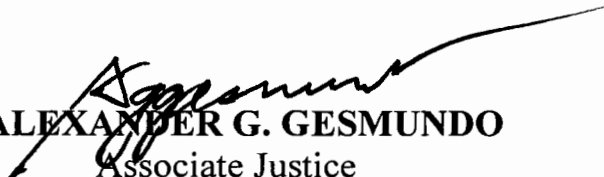
There is no showing in the records that SEC Case No. 09-97-5764 had been transferred to the appropriate RTC designated as Special Commercial Court at the time of the commencement of the injunction suit on December 18, 2000. Given the urgency of the situation and the proximity of the scheduled public auction of the mortgaged properties as per the Notice of Sheriff's Sale, respondent was constrained to seek relief from the same court having jurisdiction over the foreclosure proceedings – RTC of Valenzuela City. Respondent thus filed Civil Case No. 349-V-00 in the RTC of Valenzuela City on December 18, 2000 questioning the validity of and enjoining the extrajudicial foreclosure initiated by petitioner. Pursuant to its original jurisdiction over suits for injunction and damages, the RTC of Valenzuela City, Branch 75 properly took cognizance of the injunction case filed by the respondent. **No reversible error was therefore committed by the CA when it ruled that the RTC of Valenzuela City, Branch 75 had jurisdiction to hear and decide respondent's complaint for injunction and damages.**

Lastly, it may be mentioned that while the Consortium of Creditor Banks had agreed to end their opposition to the liquidation proceedings upon the execution of the Agreement dated February 10, 2003, on the basis of which the parties moved for the dismissal of G.R. No. 145977, it is to be noted that petitioner is not a party to the said agreement. Thus, even assuming that the SEC retained jurisdiction over SEC Case No. 09-97-5764, petitioner was not bound by the terms and conditions of the Agreement relative to the foreclosure of those mortgaged properties belonging to EYCO and/or other accommodation mortgagors.<sup>71</sup> (citations omitted, emphasis supplied)

Without delving into matters concerning the liquidation proceedings in SEC Case No. 09-97-5764, We hold that with the termination of suspension of payment proceedings in SEC Case No. 09-97-5764 on September 14, 1999, there is no more legal hindrance to the continuation of Civil Case No. 66477. Records show that the Spouses Yutingco already filed their Answer but BPI had requested for suspension of proceedings until the present petition is finally resolved.<sup>72</sup>

**WHEREFORE**, the petition is **DENIED**. The November 15, 2010 Decision and April 19, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 86172 are hereby **AFFIRMED**.

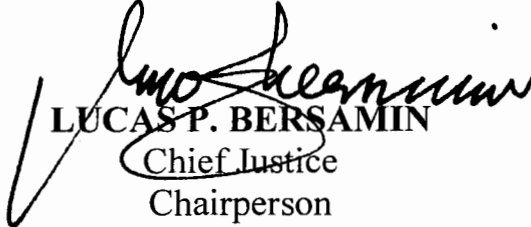
**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Associate Justice


<sup>71</sup> Id. at 74-77.

<sup>72</sup> Records, pp. 1867-1868, 1882-1894, Vol. III.

WE CONCUR:

  
LUCAS P. BERSAMIN  
Chief Justice  
Chairperson

  
MARIANO C. DEL CASTILLO  
Associate Justice

  
FRANCIS H. JARDELEZA  
Associate Justice

(On wellness leave)  
ROSMARI D. CARANDANG  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
LUCAS P. BERSAMIN  
Chief Justice