



REPUBLIC OF THE PHILIPPINES
Supreme Court
Baguio
FIRST DIVISION

April 24, 2017

G.R. No. 224764

BUREAU OF INTERNAL REVENUE, ASSISTANT COMMISSIONER ALFREDO V. MISAJON, GROUP SUPERVISOR ROLANDO M. BALBIDO, and EXAMINER REYNANTE DP. MARTIREZ, Petitioners,
vs.
LEPANTO CERAMICS, INC., Respondent.

DECISION

PERLAS-BERNABE,, J.:

This is a direct recourse to the Court from the Regional Trial Court (RTC) of Calamba City, Province of Laguna, Branch 35 (RTC Br. 35), through a petition for review on *certiorari*,¹ raising a pure question of law. In particular, petitioners Bureau of Internal Revenue (BIR), Assistant Commissioner Alfredo V. Misajon (Misajon), Group Supervisor Rolando M. Balbido (Balbido), and Examiner Reynante DP. Martirez (Martirez; collectively, petitioners) assail the Decision² dated June 1, 2015 and the Order³ dated October 26, 2015 of the RTC Br. 35 in Civil Case No. 4813- 2014-C, which found Misajon, Balbido, and Martirez (Misajon, *et al.*) guilty of indirect contempt and, accordingly, ordered them to pay a fine of ₱5,000.00 each.

The Facts

On December 23, 2011, respondent Lepanto Ceramics, Inc. (LCI) - a corporation duly organized and existing under Philippine Laws with principal office address in Calamba City, Laguna - filed a petition⁴ for corporate rehabilitation pursuant to Republic Act No. (RA) 10142,⁵ otherwise known as the "Financial Rehabilitation and Insolvency Act (FRIA) of 2010," docketed before the RTC of Calamba City, Branch 34, the designated Special Commercial Court in Laguna (Rehabilitation Court). Essentially, LCI alleged that due to the financial difficulties it has been experiencing dating back to the Asian financial crisis, it had entered into a state of insolvency considering its inability to pay its obligations as they become due and that its total liabilities amounting to ₱4,213,682,715.00 far exceed its total assets worth ₱1,112,723,941.00. Notably, LCI admitted in the annexes attached to the aforesaid Petition its tax liabilities to the national government in the amount of at least ₱6,355,368.00.⁶

On January 13, 2012, the Rehabilitation Court issued a Commencement Order,⁷ which, *inter alia*: (a) declared LCI to be under corporate rehabilitation; (b) suspended all actions or proceedings, in court or otherwise, for the enforcement of claims against LCI; (c) prohibited LCI from making any payment of its liabilities outstanding as of even date, except as may be provided under RA 10142; and (d) directed the BIR to file and serve on LCI its comment or opposition to the petition, or its claims against LCI.⁸ Accordingly, the Commencement Order was published in a newspaper of general circulation and the same, together with the petition for corporate rehabilitation, were personally served upon LCI's creditors, including the BIR.⁹

Despite the foregoing, Misajon, *et al.*, acting as Assistant Commissioner, Group Supervisor, and Examiner, respectively, of the BIR's Large Taxpayers Service, sent LCI a notice of informal conference¹⁰ dated May 27, 2013, informing the latter of its deficiency internal tax liabilities for the Fiscal Year ending June 30, 2010. In response, LCI's court-appointed receiver, Roberto L. Mendoza, sent BIR a letter-reply, reminding the latter of the pendency of LCI's corporate rehabilitation proceedings, as well as the issuance of a Commencement Order in connection therewith. Undaunted, the BIR sent LCI a Formal Letter of Demand¹¹ dated May 9, 2014, requiring LCI to pay deficiency taxes in the amount of P567,519,348.39.¹² This prompted LCI to file a petition¹³ for indirect contempt dated August 13, 2014 against petitioners before RTC Br. 35. In said petition, LCI asserted that petitioners' act of pursuing the BIR's claims for deficiency taxes against LCI outside of the pending rehabilitation proceedings in spite of the Commencement Order issued by the Rehabilitation Court is a clear defiance of the aforesaid Order. As such, petitioners must be cited for indirect contempt in accordance with Rule 71 of the Rules of Court in relation to Section 16 of RA 10142.¹⁴

For their part, petitioners maintained that: (a) RTC Br. 35 had no jurisdiction to cite them in contempt as it is only the Rehabilitation Court, being the one that issued the Commencement Order, which has the authority to determine whether or not such Order was defied; (b) the instant petition had already been mooted by the Rehabilitation Court's Order¹⁵ dated August 28, 2014 which declared LCI to have been successfully rehabilitated resulting in the termination of the corporate rehabilitation proceedings; (c) their acts do not amount to a defiance of the Commencement Order as it was done merely to toll the prescriptive period in collecting deficiency taxes, and thus, sanctioned by the Rules of Procedure of the FRIA; (d) their acts of sending a Notice of Informal Conference and Formal Letter of Demand do not amount to a "legal action or other recourse" against LCI outside of the rehabilitation proceedings; and (e) the indirect contempt proceedings interferes with the exercise of their functions to collect taxes due to the government.¹⁶

The RTC Br. 35 Ruling

In a Decision¹⁷ dated June 1, 2015, the RTC Br. 35 found Misajon, *et al.* guilty of indirect contempt and, accordingly, ordered them to pay a fine of ₱5,000.00 each.¹⁸ Preliminarily, the RTC Br. 35 ruled that it has jurisdiction over LCI's petition for indirect contempt as it is docketed, heard, and decided separately from the principal action.¹⁹ Going to petitioners' other contentions, the RTC found that: (a) the supervening termination of the rehabilitation proceedings and the consequent lifting of the Commencement Order did not render moot the petition for indirect contempt as the acts complained of were already consummated; (b) petitioners' acts of sending LCI a notice of informal conference and Formal Letter of Demand are covered by the Commencement Order as they were for the purpose of pursuing and enforcing a claim for deficiency taxes, and thus, are in clear defiance of the Commencement Order; and (c) petitioners could have tolled the prescriptive period to collect deficiency taxes without violating the Commencement Order by simply ventilating their claim before the rehabilitation proceedings, which they were adequately notified of. In this relation, the RTC Br. 35 held that while the BIR is a juridical entity which can only act through its authorized intermediaries, it cannot be concluded that it authorized the latter to commit the contumacious acts complained of, *i.e.*, defiance of the Commencement Order. Thus, absent any contrary evidence, only those individuals who performed such acts, namely, Misajon, *et al.*, should be cited for indirect contempt of court.²⁰

Aggrieved, Misajon, *et al.* moved for reconsideration,²¹ which was, however, denied in an Order²² dated October 26, 2015; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the RTC Br. 35 correctly found Misajon, *et al.* to have defied the Commencement Order and, accordingly, cited them for indirect contempt.

The Court's Ruling

The petition is without merit.

Section 4 (gg) of RA 10142 states:

Section 4. *Definition of Terms.* - As used in this Act, the term:

x x x x

(gg) *Rehabilitation* shall refer to the restoration of the debtor to a condition of successful operation and solvency, if it is shown that its continuance of operation is economically feasible and its creditors can recover by way of the present value of payments projected in the plan, more if the debtor continues as a going concern than if it is immediately liquidated.

x x x x

"[C]ase law has defined corporate rehabilitation as an attempt to conserve and administer the assets of an insolvent corporation in the hope of its eventual return from financial stress to solvency. It contemplates the continuance of corporate life and activities in an effort to restore and reinstate the corporation to its former position of successful operation and liquidity."²³

Verily, the inherent purpose of rehabilitation is to find ways and means to minimize the expenses of the distressed corporation during the rehabilitation period by providing the best possible framework for the corporation to gradually regain or achieve a sustainable operating form.²⁴ "[I]t enable[s] the company to gain a new lease in life and thereby allow creditors to be paid [t]heir claims from its earnings. Thus, rehabilitation shall be undertaken when it is shown that the continued operation of the corporation is economically more feasible and its creditors can recover, by way of the present value of payments projected in the plan, more, if the corporation continues as a going concern than if it is immediately liquidated."²⁵

In order to achieve such objectives, Section 16 of RA 10142 provides, *inter alia*, that upon the issuance of a Commencement Order - which includes a Stay or Suspension Order - all actions or proceedings, in court or otherwise, for the enforcement of "claims" against the distressed company shall be suspended.²⁶ Under the same law, claim "shall refer to all claims or demands of whatever nature or character against the debtor or its property, whether for money or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, including, but not limited to; (1) **all claims of the government, whether national or local, including taxes, tariffs and customs duties**; and (2) claims against directors and officers of the debtor arising from acts done in the discharge of their functions falling within the scope of their authority: *Provided*, That, this inclusion does

not prohibit the creditors or third parties from filing cases against the directors and officers acting in their personal capacities."²⁷

To clarify, however, creditors of the distressed corporation are not without remedy as they may still submit their claims to the rehabilitation court for proper consideration so that they may participate in the proceedings, keeping in mind the general policy of the law "to ensure or maintain certainty and predictability in commercial affairs, preserve and maximize the value of the assets of these debtors, recognize creditor rights and respect priority of claims, and ensure equitable treatment of creditors who are similarly situated."²⁸ In other words, the creditors must ventilate their claims before the rehabilitation court, and any "[a]ttempts to seek legal or other resource against the distressed corporation shall be sufficient to support a finding of indirect contempt of court."²⁹

In the case at bar, it is undisputed that LCI filed a petition for corporate rehabilitation. Finding the same to be sufficient in form and substance, the Rehabilitation Court issued a Commencement Order³⁰ dated January 13, 2012 which, *inter alia*: (a) declared LCI to be under corporate rehabilitation; (b) suspended all actions or proceedings, in court or otherwise, for the enforcement of claims against LCI; (c) prohibited LCI from making any payment of its outstanding liabilities as of even date, except as may be provided under RA 10142; and (d) directed the BIR to file and serve on LCI its comment or opposition to the petition, or its claims against LCI. It is likewise undisputed that the BIR - personally and by publication - was notified of the rehabilitation proceedings involving LCI and the issuance of the Commencement Order related thereto. Despite the foregoing, the BIR, through Misajon, *et al.*, still opted to send LCI: (a) a notice of informal conference³¹ dated May 27, 2013, informing the latter of its deficiency internal tax liabilities for the Fiscal Year ending June 30, 2010; and (b) a Formal Letter of Demand³² dated May 9, 2014, requiring LCI to pay deficiency taxes in the amount of P567,519,348.39, notwithstanding the written reminder coming from LCI's court-appointed receiver of the pendency of rehabilitation proceedings concerning LCI and the issuance of a commencement order. Notably, the acts of sending a notice of informal conference and a Formal Letter of Demand are part and parcel of the entire process for the assessment and collection of deficiency taxes from a delinquent taxpayer,³³ - an action or proceeding for the enforcement of a claim which should have been suspended pursuant to the Commencement Order. Unmistakably, Misajon, *et al.*'s foregoing acts are in clear defiance of the Commencement Order.

Petitioners' insistence that: (a) Misajon, *et al.* only performed such acts to toll the prescriptive period for the collection of deficiency taxes; and (b) to cite them in indirect contempt would unduly interfere with their function of collecting taxes due to the government, cannot be given any credence. As aptly put by the RTC Br. 35, they could have easily tolled the running of such prescriptive period, and at the same time, perform their functions as officers of the BIR, without defying the Commencement Order and without violating the laudable purpose of RA 10142 by simply ventilating their claim before the Rehabilitation Court.³⁴ After all, they were adequately notified of the LCI's corporate rehabilitation and the issuance of the corresponding Commencement Order. In sum, it was improper for Misajon, *et al.* to collect, or even attempt to collect, deficiency taxes from LCI outside of the rehabilitation proceedings concerning the latter, and in the process, willfully disregard the Commencement Order lawfully issued by the Rehabilitation Court. Hence, the RTC Br. 35 correctly cited them for indirect contempt.³⁵

WHEREFORE, the petition is **DENIED**. The Decision dated June 1, 2015 and the Order dated October 26, 2015 of the Regional Trial Court of Calamba City, Province of Laguna, Branch 35 in Civil Case No. 4813-2014- C are hereby **AFFIRMED**.

SO ORDERED.

ESTELA M. PERLAS-BERNABE,
Associate Justice

WE CONCUR:

MARIA LOURDES P.A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

C E R T I F I C A T I O N

Pursuant to the Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

MARIA LOURDES P.A. SERENO
Chief Justice

Footnotes

¹*Rollo*, pp. 23-40.

² *Id.* at 47-53. Penned by Judge Gregorio M. Velasquez.

³ *Id.* at 54.

⁴*Id.* at 55-65.

⁵Entitled "AN ACT PROVIDING FOR THE REHABILITATION OR LIQUIDATION OF FINANCIALLY DISTRESSED ENTERPRISES AND INDIVIDUALS."

⁶See *rollo*, pp. 47 and 55-58.

⁷*Id.* at 66-68. Penned by Presiding Judge Maria Florencia B. Formes-Baculo.

⁸See *id.* at 67-68.

⁹ See *id.* at 47-48.

¹⁰ *Id.* at 69. Signed by Misajon.

¹¹ *Id.* at 70-72.

¹² See *id.* at 48.

¹³ *Id.* at 99-105.

¹⁴ See *id.* at 48-49 and 101-103.

¹⁵ *Id.* at 125-129.

¹⁶ See *id.* at 49. See also Comment (To the Petition for Indirect Contempt dated August 13, 2014) dated October 24, 2014; *id.* at 107-122.

¹⁷ *Id.* at 47-53.

¹⁸ *Id.* at 53.

¹⁹ See *id.* at 49-50.

²⁰ *Id.* at 50-53.

²¹ Not attached to the *rollo*.

²² *Rollo*, p. 54.

²³ *Bank of the Philippine Islands v. Sarabia Manor Hotel Corp.*, 715 Phil. 420, 435-436 (2013).

²⁴ See *id.* at 437-439.

²⁵ *Bank of the Philippine Islands v. Sarabia Manor Hotel Corp.*, *supra* note 23, at 436.

²⁶ See Section 16 (q) (1) of RA 10142.

²⁷ See Section 4 (c) of RA 10142.

²⁸ See Section 2 of RA 10142.

²⁹ See Section 17 of RA 10142.

³⁰ *Rollo*, pp. 66-68. Penned by Presiding Judge Maria Florencia B. Formes-Baculo.

³¹ *Id.* at 69.

³² *Id.* at 70-72.

³³See <<https://www.bir.gov.ph/index.php/taxpayer-bill-of-rights.html>> last accessed April 18, 2017. See also BIR Revenue Regulations Nos. 12-1999 and 18-2013 regarding the due process requirement in the issuance of a deficiency tax assessment.

³⁴ See *rollo*, pp. 52-53.

³⁵ "Contempt of court is defined as a disobedience to the Court by acting in opposition to its authority, justice and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or in some manner

to impede the due administration of justice. Contempt of court is a defiance of the authority, justice or dignity of the court; such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties-litigant or their witnesses during litigation." (*Roxas v. Tipon*, 688 Phil. 372, 382 [2012], citing *Lu Ym v. Mahinay*, 524 Phil. 564, 572 [2006])