

SECOND DIVISION

[G.R. No. 188146, February 01, 2017]

**PILIPINAS SHELL PETROLEUM CORPORATION, PETITIONER, VS.
ROYAL FERRY SERVICES, INC., RESPONDENT.**

DECISION

LEONEN, J.:

The venue for a petition for voluntary insolvency proceeding under the Insolvency Law is the Court of First Instance of the province or city where the insolvent debtor resides. A corporation is considered a resident of the place where its principal office is located as stated in its Articles of Incorporation. However, when it is uncontroverted that the insolvent corporation abandoned the old principal office, the corporation is considered a resident of the city where its actual principal office is currently found.

This resolves a Petition for Review on Certiorari^[1] assailing the Court of Appeals' January 30, 2009 Decision^[2] and May 26, 2009 Resolution^[3] in CA-G.R. CV No. 88320, which reinstated the Order^[4] that declared Royal Ferry Services Inc. insolvent made by the Regional Trial Court of Manila, Branch 24 (Regional Trial Court).

Royal Ferry Services Inc. (Royal Ferry) is a corporation duly organized and existing under Philippine law.^[5] According to its Articles of Incorporation, Royal Ferry's principal place of business is located at 2521 A. Bonifacio Street, Bangkal, Makati City.^[6] However, it currently holds office at Room 203, BF Condominium Building, Andres Soriano corner Solano Streets, Intramuros, Manila.^[7]

On August 28, 2005, Royal Ferry filed a verified Petition for Voluntary Insolvency before the Regional Trial Court of Manila.^[8] It alleged that in 2000, it suffered serious business losses that led to heavy debts.^[9] Efforts to revive the company's finances failed, and almost all assets were either foreclosed or sold to satisfy the liabilities incurred.^[10] Royal Ferry ceased its operations on February 28, 2002.^[11] In a special meeting on August 25, 2005, its Board of Directors approved and authorized the filing of a petition for voluntary insolvency in court.^[12]

The Regional Trial Court declared Royal Ferry insolvent in its Order^[13] dated December 19, 2005, the relevant portion of which reads:

Finding the petition sufficient in form and substance and pursuant to the provisions of Act No. 1956, petitioner Royal Ferry Services, Inc., is hereby declared insolvent.

The Court hereby further directs and orders:

1. The Branch Sheriff to take possession of, and safely keep until the appointment, of an Assignee all the deeds, vouchers, books of accounts, papers, notes, bills and securities of the petitioner and all its real and personal properties, estates and effects not exempt from execution;
2. All persons and entities owing money to petitioner are hereby forbidden to make payment for its accounts or to deliver or transfer any property to petitioner except to the duly elected Assignee;
3. All civil proceedings against petitioner are deemed stayed;
4. For purposes of electing an Assignee, a meeting of all creditors of the petitioner is hereby set on February 24, 2006 at 8:30 a.m. before this Court, at Room 435, Fourth Floor, Manila City Hall Building.

Let this Order be published in a newspaper of general circulation in the Philippines, once a week for three (3) consecutive weeks, and copies thereof be furnished all creditors listed in the schedule of creditors at the expense of petitioner.

SO ORDERED.^[14]

On December 23, 2005, Pilipinas Shell Petroleum Corporation (Pilipinas Shell) filed before the Regional Trial Court of Manila a Formal Notice of Claim^[15] and a Motion to Dismiss.^[16] In the Notice of Claim, Pilipinas Shell asserted that Royal Ferry owed them the amount of P2,769,387.67.^[17] In its Motion to Dismiss, Pilipinas Shell alleged that the Petition was filed in the wrong venue.^[18] It argued that the Insolvency Law provides that a petition for insolvency should be filed before the court with territorial jurisdiction over the corporation's residence.^[19] Since Royal Ferry's Articles of Incorporation stated that the corporation's principal office is located at 2521 A. Bonifacio St., Bangkal, Makati City, the Petition should have been filed before the Regional Trial Court of Makati and not before the Regional Trial Court of Manila.^[20]

On January 30, 2006, the Regional Trial Court of Manila issued the Order^[21] denying Pilipinas Shell's Motion to Dismiss for lack of merit. It found Royal Ferry to have sufficiently shown full compliance with the requirements of the Insolvency Law on venue and that it had abandoned its Makati office and moved to Manila. The Regional Trial Court also noted that when the Branch Sheriff confiscated Royal Ferry's books and personal assets, the properties were taken from a Manila address, at Room 203, BF Condominium Building, Andres Soriano corner Streets, Intramuros, Manila.

Pilipinas Shell moved for reconsideration on February 24, 2006.^[22]

In the Order^[23] dated June 15, 2006, the Regional Trial Court reconsidered the denial of Pilipinas Shell's Motion to Dismiss. It held that a corporation cannot change its place of business without amending its Articles of Incorporation.^[24] Without the

amendment, Royal Ferry's transfer did not produce any legal effect on its residence.
[25] The Regional Trial Court granted the dismissal of the Petition for Voluntary Insolvency. The dispositive portion of the Order reads:

Accordingly, the Order of this court dated January 30, 2006 denying the claimant-movant's motion to dismiss is hereby reconsidered. The Motion to Dismiss is granted. The Petition for Voluntary Insolvency is hereby ordered DISMISSED.

SO ORDERED.[26]

Aggrieved, Royal Ferry filed a Notice of Appeal[27] on October 26, 2006. On November 7, 2006, the Regional Trial Court forwarded the records of the case to the Court of Appeals.[28]

In the Decision[29] dated January 30, 2009, the Court of Appeals reinstated the insolvency proceedings. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the instant appeal is **GRANTED**. Accordingly, the following Orders of the Regional Trial Court of Manila (Branch 24) in Civil Case No. 05-113384 are **SET ASIDE**: 1) Order dated 15 June 2006, which granted Pilipinas Shell's "*Motion to Dismiss the Petition for Voluntary Insolvency*;" and 2) Order dated 16 October 2006, which denied Royal Ferry's Motion for Reconsideration. On the other hand, the Orders of the trial court dated 5 September 2005 and 19 December 2005, granting an adjudication of insolvency in favor of Royal Ferry are **REINSTATED**.

SO ORDERED.[30] (Emphasis in the original)

The Court of Appeals held that the Motion to Dismiss failed to comply with Section 81[31] of the Insolvency Law, which required the written consent of all creditors before a petition for insolvency can be dismissed. It overturned the grant of the Motion to Dismiss since Pilipinas Shell failed to secure the written consent of all the creditors of Royal Ferry.

On the alleged jurisdictional defects of Royal Ferry's Petition for Voluntary Insolvency, the Court of Appeals found that "the [Manila Regional Trial Court] has jurisdiction over the instant case, and therefore, has the authority to render a decision on it." [32] It likewise found that Manila was the proper venue for the case because "the cities of Makati and Manila are part of one region, or even a province, city or municipality, if Section 51 of the Corporation Code of the Philippines is taken by analogy." [33] The Court of Appeals stated that Section 82 [34] of the Insolvency Law dictates that an order granting an adjudication of insolvency is appealable only to the Supreme Court. [35]

Pilipinas Shell moved for reconsideration, but the Motion was denied on May 26, 2009. [36] Hence, this Petition was filed on July 20, 2009.

Petitioner contended that the Court of Appeals should not have taken cognizance of respondent Royal Ferry's appeal because it "failed to comply with Section 13,

paragraphs (a), (c), (d), (e), (f), and (h), Rule 44 of the Rules of Court."^[37] Petitioner claimed that the Court of Appeals erred when it held that the "petition for voluntary insolvency [was filed] in the proper venue since the cities of Makati and Manila are part of one region[.]"^[38] According to petitioner, there was no reason to consider Makati and Manila as part of one region or province for the purpose of determining venue.^[39]

Moreover, petitioner argued that since respondent's Articles of Incorporation stated that its principal office was located at 2521 A. Bonifacio St., Bangkal, Makati City,^[40] the Petition for Voluntary Insolvency should have been filed in Makati, not in Manila. Petitioner cited *Hyatt Elevators and Escalators Corporation v. Goldstar Elevators Phils., Inc.*,^[41] where this Court held that a corporation's residence was the place where its principal office was located as stated in its Articles of Incorporation.^[42] Thus, the address in respondent's Articles of Incorporation should control the venue.

Finally, petitioner claimed that Section 81 of the Insolvency Law is inapplicable to this case as it contemplated a situation where the trial court had jurisdiction over the case.^[43] Petitioner reiterated that because the venue was improperly laid, the trial court could not issue a final order declaring respondent insolvent.

In its Comment,^[44] respondent averred that jurisdiction over the subject was determined by the allegations in the pleading.^[45] Respondent argued that because it stated in its Petition that it held office in Manila, the Regional Trial Court of Manila had jurisdiction over the case.^[46] It further asserted that the fiction of a corporation's residence must give way to fact.

On April 29, 2016, respondent moved to dismiss the case.^[47] Respondent stated that it entered into a Compromise Agreement^[48] with petitioner, which resulted in the Court of Appeals' judgment based on the compromise agreement.^[49] It argued that the Judgment, promulgated in a related case docketed as CA-G.R. CV No. 102522,^[50] made the present Petition moot and academic.^[51] In CA-G.R. CV No. 102522, the Court of Appeals deemed the stipulations of the Compromise Agreement valid and not contrary to law, morals, good customs, public order, or public policy.^[52] The dispositive portion of the Judgment reads:

WHEREFORE, the foregoing premises considered, the Compromise Agreement is hereby **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are hereby enjoined to comply with and abide by the said terms and conditions thereof. By virtue of such approval, this case is now deemed **CLOSED** and **TERMINATED**.

SO ORDERED.^[53] (Emphasis in the original)

On September 23, 2016, petitioner filed a Comment^[54] to respondent's Motion to Dismiss. It claimed that the Compromise Agreement was only between Pilipinas Shell, and Antonino R. Gascon, Jr., and Jonathan D. Gascon (the Gascons).^[55] Respondent was not a party to the agreement.^[56] Petitioner argued that it had agreed to waive any action against respondent's officers, directors, employees,

stockholders, and successors-in-interest, but that it did not agree to waive its claim against respondent.^[57]

On October 25, 2016, respondent filed a Reply^[58] stating that petitioner was held solidarity liable with the Gascons in CA-G.R. CV No. 102522. Thus, when petitioner "released the Gascons, two (2) of the solidary debtors, of all their obligations",^[59] petitioner effectively extinguished the entire obligation under Article 1215^[60] of the Civil Code.

The issues for resolution are:

First, whether this Petition is moot and academic in light of the Compromise Agreement dated August 4, 2015;

Second, whether the Court of Appeals erred in taking cognizance of Royal Ferry's appeal despite its violation of Rule 44, Section 13 of the Rules of Court; and

Lastly, whether the Petition for Insolvency was properly filed.

I

Respondent argues that the Petition is moot and academic in light of the Compromise Agreement. It alleges that petitioner has abandoned its claim against respondent and, consequently, lost its status as respondent's creditor. Thus, petitioner has no more interest in the case and can no longer question the insolvency proceeding.^[61]

For its part, petitioner contends that it has waived only its claims against "[respondent's] Antonino R. Gascon, Jr. and Jonathan D. Gascon and its other officers, directors, employees, stockholders, successors-in-interest and did **not** waive or abandon any of its claims against [respondent]."^[62] (Emphasis in the original).

Petitioner has not abandoned its claim against respondent. Paragraphs 4 and 5 of the Compromise Agreement provide:

4. The FIRST PARTY waives any further action of whatsoever nature, whether past, present or contingent, in connection with the causes of action against the SECOND PARTY and THIRD PARTY alleged in its complaint in Civil Case No. 05-773, entitled "*Pilipinas Shell Petroleum Corporation vs. Royal Ferry Services, Inc., Antonino R. Gascon, Jr. and Jonathan D. Gascon*" already partially resolved by the Regional Trial Court of Makati, Branch 141 in its Partial Decision dated 20 May 2013 and Order dated 3 December 2013;

5. Should the Supreme Court of the Philippines rule in favor of the FIRST PARTY in "*Pilipinas Shell Petroleum Corporation vs. Royal Ferry Services, Inc.*" (G.R. No. 188146), or otherwise reinstate the Orders dated 15 June 2006 and 16 October 2006 of the Regional Trial Court of Manila, Branch 24, dismissing the Petition for Voluntary Insolvency filed by Royal Ferry Services, Inc., the FIRST PARTY agrees not to hold the officers, directors,