

## SECOND DIVISION

**[ G.R. No. 206150, August 09, 2017 ]**

**LAND BANK OF THE PHILIPPINES, PETITIONER, VS. FASTECH SYNERGY PHILIPPINES, INC. (FORMERLY FIRST ASIA SYSTEM TECHNOLOGY, INC.), FASTECH MICROASSEMBLY & TEST, INC., FASTECH ELECTRONIQUE, INC., AND FASTECH PROPERTIES, INC., RESPONDENTS.**

### DECISION

**LEONEN, J.:**

Courts will not render judgment on a moot and academic case unless any of the following circumstances exists: "(1) [g]rave constitutional violations; (2) [e]xceptional character of the case; (3) [p]aramount public interest; (4) [t]he case presents an opportunity to guide the bench, the bar, and the public; or (5) [t]he case is capable of repetition yet evading review."<sup>[1]</sup>

This is a Petition for Review on Certiorari<sup>[2]</sup> under Rule 45 of the 1997 Rules of Civil Procedure, praying that the Court of Appeals September 28, 2012 Decision<sup>[3]</sup> and March 5, 2013 Resolution<sup>[4]</sup> be modified to consider the concerns raised by Land Bank of the Philippines (petitioner).<sup>[5]</sup> These concerns pertain to the rehabilitation of respondents Fastech Synergy Philippines, Inc. (Fastech Synergy),<sup>[6]</sup> Fastech Microassembly & Test, Inc. (Fastech Microassembly), Fastech Electronique, Inc. (Fastech Electronique), and Fastech Properties, Inc. (Fastech Properties) (collectively, Fastech Corporations). In its September 28, 2012 Decision, the Court of Appeals set aside the December 9, 2011 Resolution<sup>[7]</sup> of Branch 149, Regional Trial Court, Makati City (Rehabilitation Court), which dismissed respondents' Joint Petition for corporate rehabilitation (Rehabilitation Petition).<sup>[8]</sup> In this Decision, the Court of Appeals approved respondents' Rehabilitation Plan, which was attached to their Rehabilitation Petition filed under Republic Act No. 10142,<sup>[9]</sup> on April 8, 2011,<sup>[10]</sup> and remanded the case back to the Rehabilitation Court.<sup>[11]</sup>

The Fastech Corporations claimed that they filed a joint petition since they have common managers, assets, and creditors.<sup>[12]</sup> Due to financial losses, their assets would not be enough to pay their peso and dollar debts from the following creditors:

<b>Creditors</b>	<b>Peso debts</b>	<b>Dollar debts</b>
1. Planters Development Bank (Planters Bank)	P55,175.00	N/A
2. Penta Capita], Investment Corporation	P10,260,00.00	US\$1,638,669.00

(Penta Capital)		
3. Union Bank of the Philippines (UnionBank)	P9,000,000.00	US\$370,000.00
4. Bank of the Philippine Islands (BPI)	P54,653,431.00	N/A
5. Land Bank of the Philippines (Landbank)	N/A	US\$340,000.00
<b>TOTAL:</b>	P73,968,606.00	US\$2,348,669,00 <sup>[13]</sup>

They prayed for the approval of their Rehabilitation Plan, which they submitted together with their Rehabilitation Petition. The terms and conditions of the Rehabilitation Plan provided for a two (2)-year grace period for the payment of the Fastech Corporations' outstanding loans and a waiver of accumulated interests and penalties. Likewise, they indicated a 12-year period from the end of the grace period for the payment of interests accrued during the grace period. Finally, they stipulated an interest of four percent (4%) per annum for real estate-secured creditors and two percent (2%) per annum for chattel mortgage-secured creditors.<sup>[14]</sup>

On April 19, 2011, the Rehabilitation Court acted on the Rehabilitation Petition by issuing a Commencement Order with Stay Order. It appointed Atty. Rosario Bernaldo (Atty. Bernaldo) as Rehabilitation Receiver.<sup>[15]</sup>

On May 18, 2011, the Rehabilitation Petition was heard and the Rehabilitation Court eventually gave it due course to it. The creditors—Planters Bank, UnionBank, BPI, and Landbank—later filed their respective Notices of Claims and Comments.<sup>[16]</sup>

After the Fastech Corporations' presentation of their Rehabilitation Plan to Atty. Bernaldo and their creditors, the Rehabilitation Court issued its June 22, 2011 Order requiring them to submit a revised rehabilitation plan. The Fastech Corporations submitted their Revised Rehabilitation Plan and their creditors filed their respective comments and oppositions to it.<sup>[17]</sup>

In the meantime, Atty. Bernaldo submitted her Preliminary Report and opined that the Fastech Corporations' original Rehabilitation Plan was viable.<sup>[18]</sup> She stated that the Fastech Corporations "may be successfully rehabilitated, considering the sufficiency of their assets to cover their liabilities and the underlying assumptions, financial projections and procedures to accomplish said goals in their Rehabilitation Plan."<sup>[19]</sup>

External auditors of the Fastech Corporations gave comments on the financial statements.<sup>[20]</sup> They issued qualified audit opinions on the 2008 financial statements of Fastech Microassembly and Fastech Electronique but noted that these companies were unable to prove financial support from their respective major stockholders.<sup>[21]</sup> However, the auditors were unable to provide opinions on Fastech

Synergy's and Fastech Properties' 2008 financial statements due to insufficient audit evidence.<sup>[22]</sup> Finally, they were also unable to give audit opinions on the 2009 financial statements of the Fastech Corporations for lack of appropriate audit evidence.<sup>[23]</sup>

The Rehabilitation Court directed the Fastech Corporations to submit their Reply on the comments and oppositions presented by their creditors, to which they complied with on September 30, 2011.<sup>[24]</sup>

On December 9, 2011, the Rehabilitation Court issued a Resolution<sup>[25]</sup> dismissing the Rehabilitation Petition based on the following:

1. The Singapore Stock Exchange has already deleted one of the petitioners. Yet, petitioners did not even bother to explain and/or inform this court the status of such deletion; or the steps being taken by the petitioners to resolve the incident.

It must be noted here, then and now, that listed corporations in the stock exchange has an easy access to the public for their contributions to the capital built up to finance corporate business transactions including CAPEX and working capital. Thus, the public is always a very good source of money for business ventures of corporations. Petitioners had lost such good source of cheap money.

2. Petitioners miserably failed to overcome the unqualified adverse opinions of their external auditors. Petitioners did not explain what had happened to those adverse observations of the auditors. Thus, petitioners submitted before this court unreliable financial statements amounting to non-compliance of the basic requirements of the Law and the Rules for rehabilitation purposes.
3. Petitioners denied this court of its fair determination of the feasibility of the submitted rehabilitation plan by withholding from this court its basic assumptions of its rehabilitation plan.
4. Petitioners miserably failed to demonstrate before this court that they will have a better future business financial results [sic] of operation after their failures to meet the various restructuring plans they have secured from these creditors' banks.
5. The new way of doing business, i.e. niche manner of manufacturing its products or customers built design and needs, will be experimental, hence it will be completely and entirely dependent upon the number of customers petitioners may have. There is a great deal of competition in the petitioners' field of business, hence such new business venture becomes unreliable and uncertain. Thus, the possibility of success is quite uncertain, hence it is not feasible. There is [sic] no historical reliable facts and figures for this court to begin with for evaluation and study!<sup>[26]</sup>

The Rehabilitation Court noted that there were no credible bases to determine if the Fastech Corporations could be rehabilitated since they failed to submit the bases for their positive financial projections due to confidentiality.<sup>[27]</sup> The dispositive portion of its December 9, 2011 Resolution read:

WHEREFORE, premises considered, the petition is hereby DISMISSED for unreliable facts and figures submitted for evaluation and study by this court, hence this court could not arrive at the feasibility that petitioners could be rehabilitated. Thus, the petition is being DISMISSED for reason that its attachments, i.e. the financial statements and balance sheets of the petitioners contained materially false and misleading facts and figures. (Section 25, (b), (3) of R.A. No. 10142).

Moreover, considering that the facts and figures submitted by petitioners are unreliable and not credible, this court could not also declare that petitioners be placed under liquidation.

SO ORDERED.<sup>[28]</sup>

The Fastech Corporations elevated the case before the Court of Appeals by filing a Petition for Review<sup>[29]</sup> under Rule 43 of the 1997 Rules of Civil Procedure. The case was docketed as CA-G.R. SP No. 122836. The Fastech Corporations prayed that a Writ of Preliminary Injunction and/or a Temporary Restraining Order be issued.<sup>[30]</sup> They argued that their rehabilitation was feasible and that the Rehabilitation Court erred in ruling that they "[would] not have a better future due to their failures to meet various restructuring plans."<sup>[31]</sup>

On January 24, 2012, the Court of Appeals issued a Temporary Restraining Order to prevent the case from being moot and academic considering the Ex Parte Petition for Issuance of a Writ of Possession filed by Planters Bank over the properties of the Fastech Corporations.<sup>[32]</sup> A Writ of Preliminary Injunction was issued by the Court of Appeals on March 22, 2012.<sup>[33]</sup>

On April 30, 2012, Atty. Bernaldo filed her Manifestation before the Court of Appeals.<sup>[34]</sup> She maintained that the Fastech Corporations' rehabilitation was viable as "the financial projections and procedures set forth to accomplish the goals in their Rehabilitation Plan [were] attainable."<sup>[35]</sup>

On September 28, 2012, the Court of Appeals issued a Decision,<sup>[36]</sup> granting the Fastech Corporations' Petition for Review, which it found to have "serve[d] the purpose of corporate rehabilitation."<sup>[37]</sup> The rehabilitation would allow the continued employment of its more than 100 employees and would assure payment to creditors, which would all equally participate in the Fastech Corporations' rehabilitation. Further, stockholders would benefit in the long run if the Rehabilitation Plan was successful. Finally, the general public would likewise gain

considering that the Fastech Corporations would open the Philippine market to new opportunities.<sup>[38]</sup>

The Court of Appeals ruled that the Rehabilitation Court erred in disregarding the opinion of Atty. Bernaldo that the Fastech Corporations "may be successfully rehabilitated."<sup>[39]</sup> The Rehabilitation Court "failed to distinguish the difference between an adverse or negative opinion and a disclaimer or when an auditor [could not] formulate an opinion with exactitude for lack of sufficient data."<sup>[40]</sup>

The dispositive portion of the Court of Appeals September 28, 2012 Decision read:

**WHEREFORE**, the instant petition is **GRANTED**. The assailed issuance is **REVERSED** and **SET ASIDE**. The Joint Petition in SP Case No. M-7130 is **REINSTATED** and the Rehabilitation Plan attached thereto is **APPROVED**. Respondent Planters Development Bank is permanently **ENJOINED** from effecting the foreclosure of [the Fastech Corporations'] property during the pendency of the implementation of the Rehabilitation Plan.

The petition is **REMANDED** to the Regional Trial Court, National Capital Judicial Region, Br. 149, Makati City, for its supervision in the implementation of the Rehabilitation Plan.

**SO ORDERED.**<sup>[41]</sup> (Emphasis in the original)

Landbank and Planters Bank separately moved for reconsideration. Landbank argued that the Rehabilitation Plan should not have been approved since it would not benefit the Fastech Corporations' creditors, while Planters Bank averred that the rehabilitation of the Fastech Corporations could no longer be obtained.<sup>[42]</sup>

On March 5, 2013, the Court of Appeals issued a Resolution<sup>[43]</sup> denying both motions. It added that Atty. Bernaldo's Manifestation bolstered its finding that the rehabilitation was possible if "implemented in accordance with the Rehabilitation Plan."<sup>[44]</sup>

On April 18, 2013, Planters Bank and its successor-in-interest, Philippine Asset Growth Two, Inc. (PAGTI), filed a Petition for Review before this Court. This Petition assailed the September 28, 2012 Decision and March 5, 2013 Resolution of the Court of Appeals. The case, docketed as G.R. No. 206528, was entitled *Philippine Asset Growth Two, Inc. (Successor-In-Interest of Planters Development Bank) and Planters Development Bank v. Fastech Synergy Philippines, Inc. (Formerly First Asia System Technology, Inc.), Fastech Microassembly & Test, Inc., Fastech Electronique, Inc., and Fastech Properties, Inc.*<sup>[45]</sup>

On April 25, 2013, Landbank also filed a Petition for Review before this Court against the Fastech Corporations. Petitioner likewise assails the September 28, 2012 Decision and March 5, 2013 Resolution of the Court of Appeals.<sup>[46]</sup> It questions the correctness of the Court of Appeals' application of Republic Act No. 10142 without