

THIRD DIVISION

[G.R. No. 162196, February 27, 2012]

SAN JOSE TIMBER CORPORATION AND CASILAYAN SOFTWOOD DEVELOPMENT CORPORATION, PETITIONERS, VS. SECURITIES AND EXCHANGE COMMISSION, TIERRA FACTOR CORPORATION AND OTHER CREDITORS OF SAN JOSE TIMBER CORPORATION AND CASILAYAN SOFTWOOD DEVELOPMENT CORPORATION, RESPONDENTS.

DECISION

MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 seeking to set aside the September 22, 2003 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 70898, entitled "*San Jose Timber Corporation, et al. v. Securities and Exchange Commission, et al.*," which affirmed the May 6, 2002 Decision^[2] of the Securities and Exchange Commission (SEC), in SEC Case No. 3843, dismissing the petition for appointment of a rehabilitation receiver and suspension of payments filed by San Jose Timber Corporation (SJTC) and Casilayan Softwood Development Corporation (CSDC) and ordering the dissolution and liquidation of SJTC.

The Facts

Petitioner CSDC is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines and the controlling stockholder and creditor of petitioner SJTC, being the owner of more than 99% of its outstanding capital stock.

Petitioner SJTC is primarily engaged in the operation of a logging concession with a base camp in Pabanog, Wright, Western Samar, under and by virtue of a Timber License Agreement (TLA) No. 118 issued by the Department of Environment and Natural Resources (DENR). The TLA was to expire in 2007.

On February 8, 1989, the DENR issued a Moratorium Order (MO) suspending all logging operations in the island of Samar effective February 1989 up to May 30, 1989.

As a consequence, SJTC was constrained to cease operations effective February 8, 1989, despite the fact that the expiration of the period set forth in the MO was still up to May 30, 1989.

The cessation of its operations caused SJTC to lose all its income. Thus, on August 7, 1990, SJTC and CSDC filed with the SEC a petition for the appointment of a rehabilitation receiver and for suspension of payments entitled, "*In Re: Petition for the Appointment of a Rehabilitation Receiver for SJTC Timber Corporation and For*

Suspension of Payments," which was docketed as SEC Case No. 3843.

After due hearing, the SEC Hearing Panel, in its Order dated March 14, 1991, granted the appointment of a rehabilitation receiver and suspension of payments with the condition that SJTC would "*resuscitate its operations and properly service its liabilities in accordance with the duly approved schedule to be submitted by the Rehabilitation Receiver*"^[3] within a one (1) year period.

On February 26, 1992, the petitioners submitted their *Motion to Approve Revised Rehabilitation Plan and Urgent Motion to Extend Waiting Period for Commencement of Rehabilitation* dated February 24, 1992 to allow the proper government authorities to deliberate on and approve the lifting of the existing logging moratorium in Samar. The petitioners prayed that the waiting period be extended by one (1) year and five (5) months from March 15, 1992.

The SEC Hearing Panel extended the waiting period up to August 15, 1992 but held in abeyance its approval of the revised rehabilitation plan.

Upon subsequent motions of petitioners, SJTC and CSDC, the SEC Hearing Panel extended the waiting period several times.

Meanwhile, on March 4, 1996, prior to the expiration of the waiting period to commence rehabilitation, the petitioners filed their *Motion For Settlement of Claims Against Petitioner San Jose* dated February 21, 1996. Considering that the lifting of the logging moratorium in Samar did not appear to be close to fulfillment at that juncture, the petitioners offered to either (1) pay the claims of the creditor in full provided they await the rehabilitation of SJTC; or (2) immediately settle the claims of the creditors by paying them 30% of their substantiated claims. They alleged that:

1. The Honorable Hearing Panel's Order of 6 March 1995 extended the waiting period for the commencement of the rehabilitation of petitioner San Jose Timber Corporation ("San Jose") for one year, or up to 6 March 1996.

- 1.1 However, with barely a week before the lapse of this deadline, the precondition for the commencement of the rehabilitation as set forth in the proposed rehabilitation plan, i.e., the lifting of the logging moratorium in the place where the timber concession is located either by the enactment of a selective logging law or the administrative cessation of the moratorium, does not appear to be close to fulfillment soon.

- 1.2 The claimants thus face the uninviting prospect of seeing petitioner San Jose being dissolved and its few remaining assets, worth no more than P15 Million, being fought over by supposed creditors whose combined claim exceeds P54 Million. Even if these assets are prorated among the creditors, each one of them will get less than 25% of his claim.^[4]

In its Order^[5] dated July 30, 1996, the SEC granted the motion for settlement of claims subject to certain conditions specifically stated in the dispositive portion of the said order, which reads:

WHEREFORE, it appearing that the approval of the proposal of petitioner is to the best interest of all the creditors of SJTC, and considering that the same is not contrary to law, morals or public policy the proposal that SJTC shall pay the interested claimants 30% of the principal claims is hereby APPROVED, and shall be binding upon all those interested claimants subject to the following conditions:

1. That the claims of the interested claimants are sufficiently substantiated and the same are confirmed by the Rehabilitation Receiver;
2. That the funding for the settlement will be sourced from the advances to be made by corporate creditors Jaka Equities Corporation, Royal Match, Inc., Eurasia Carriers Company, Inc. and Casilayan Softwood Development Corporation, which corporate creditors will be reimbursed the full amount of their advances plus interests at the same rates applicable to the remaining creditors upon the rehabilitation of SJTC;
3. That those who objected to the 30% settlement offer and those who while failing to object, deem it appropriate not to accept the offer now, still have the option to wait for the eventual rehabilitation of SJTC and be paid in the manner and to the extent set forth in the rehabilitation plan that will be approved by this Hearing Panel; and
4. That the rehabilitation of SJTC will commence upon the lifting of the logging moratorium in its logging concession either by the enactment of a statute allowing selective logging or the lifting of the said moratorium.

Petitioners are hereby directed to furnish the creditors of this Order at their own expense.

SO ORDERED.

Subsequently, the petitioners filed their *Motion to Dispose of Personal Properties* dated May 7, 1997 which was granted by the SEC in its Order dated November 26, 1997. The SEC ordered the proceeds of the sale be deposited in an escrow account to be withdrawn only for the settlement of petitioners' obligation.^[6]

On May 6, 2002, however, the SEC En Banc *motu proprio* handed down its decision terminating the rehabilitation proceedings and dismissing the petition for rehabilitation. The SEC opined that SJTC could no longer be rehabilitated because the logging moratorium/ban, which was crucial for its rehabilitation, had not been lifted. The SEC decision, in its pertinent parts, reads:

Based on the foregoing, it is evident that the instant petition should have been dismissed long ago. It is quite obvious that San Jose can no longer be rehabilitated. In fact, the prospect for its rehabilitation has been dim from the very beginning in the light of the uncertainty surrounding the lifting of the logging moratorium. If the previous Hearing Panel had been lenient and accommodating, it could only have been because of its honest belief that it would be in the best interest of all parties, particularly the creditors who would not be able to collect fully on their claims, to attempt to rehabilitate San Jose. But even the best of intentions cannot prop an unachievable aspiration ad infinitum. It has been more than thirteen years since the DENR imposed the logging moratorium and the same is still effective. Xx x.

The hopelessness and futility of petitioners' cause is further made manifest in the petitioners' and the rehabilitation receiver's silence and inaction for almost five years. The only thing that keeps petitioners interested in the instant petition is San Jose's Timber Licensing Agreement (TLA) that is set to expire in 2007, the preservation of which appears to still be of some value to petitioners. X x x.^[7]

The May 6, 2002 Decision of the SEC was affirmed by the CA in its September 22, 2003 Decision stating, among others, that:

" . . . Adequately clear from the records is that the proposed rehabilitation plan submitted by the petitioners depends entirely on the lifting of the logging ban either because of the lifting of the moratorium on logging activities in Samar issued by the DENR, or by the enactment of a law on selective logging. Needless to say, the lifting of the logging ban is indispensable to the rehabilitation of petitioners' logging company. However, other than the petitioners' bare assertion that the lifting of the logging moratorium or the enactment of a law on selective logging is 'foreseeable' and is likely to happen in the near future, there is simply no evidence on record to show, with certainty that it is indeed, going to take place in the immediate future. Verily, to sustain petitioners' assertions could result to an unjust situation wherein the corporate rehabilitation will continually be held in abeyance pending the approval of the law on selective logging or the lifting of logging moratorium, the happening of which is uncertain considering the absence of evidence to prove that there is an imminent likelihood of its occurrence. Such a situation is definitely prejudicial to the interests of the creditors and the investors whose rights the law is precisely designed to protect."^[8]

The petitioners filed a motion for reconsideration of the aforesaid decision but it was denied in the CA Resolution dated January 29, 2004.

On March 8, 2004, the petitioners filed this petition for review before this Court on the ground that the CA erred in affirming the dissolution of SJTC when the vast majority of the creditors had agreed to await the rehabilitation of SJTC. They believe that the rehabilitation was still feasible considering that the TLA was still

valid up to 2007 and under the proposed revised rehabilitation plan of SJTC, the latter would only need 24 months after the lifting of the logging moratorium to fully settle the claims of the creditors, except those of the affiliates.

Significantly, except for the Social Security System (SSS), which incidentally had no more claims against SJTC, none of the creditors filed an opposition to or comment on the petition.

Meanwhile, during the pendency of the petition before the Court, the DENR issued an Order dated August 15, 2005, allowing SJTC to resume operations and extending the term of the TLA up to **2021**. The dispositive portion of the Order reads:

WHEREFORE, in light of the foregoing, the Moratorium Order dated 8 February 1998 is hereby recognized as having lapsed on 30 May 1989. San Jose Timber Corporation is hereby allowed to pursue its rights and activities under its TLA No. 118 until 30 June 2007, with an extension of the period of said TLA equivalent to the time that elapsed from 31 May 1989 until promulgation of this Order.

SO ORDERED.^[9]

Consequently, on October 14, 2005, the petitioners filed their *Supplemental Petition*^[10] with the Court citing the August 15, 2005 DENR Order praying for the reversal of the CA decision and the remand of the case to the SEC for the immediate approval and implementation of the rehabilitation plan.

On July 9, 2008, the Court resolved to dispense with the comments of the other respondent creditors, gave due course to the petition and directed the parties to submit their respective memoranda within thirty (30) days from notice.^[11]

Records disclose that on October 6, 2008, SJTC and CSDC filed their Memorandum. Thereafter, the SEC and the SSS filed their respective memoranda. On January 29, 2009, petitioners SJTC and CSDC filed their Reply Memorandum.

In its Resolution dated March 30, 2009, the Court resolved to note the filing of the Reply Memorandum and to await the memoranda of the other respondent creditors.

To date, no other memorandum has been filed.

In their Memorandum, the petitioners advanced the following

ARGUMENTS

A. THE COURT OF APPEALS GRAVELY ERRED AND ACTED CONTRARY TO LAW WHEN IT UPHELD THE DECISION DATED 6 MAY 2002 OF THE SECURITIES AND EXCHANGE COMMISSION WHICH ORDERED THE IMMEDIATE DISSOLUTION OF PETITIONER SAN JOSE, CONSIDERING THAT: