

FIRST DIVISION

[G.R. No. 151925, February 06, 2003]

**CHAS REALTY AND DEVELOPMENT CORPORATION, PETITIONER,
VS. HON. TOMAS B. TALAVERA, IN HIS CAPACITY AS PRESIDING
JUDGE OF THE REGIONAL TRIAL COURT OF CABANATUAN CITY,
BRANCH 28, AND ANGEL D. CONCEPCION, SR., RESPONDENTS.**

D E C I S I O N

VITUG, J.:

Petitioner Chas Realty and Development Corporation (CRDC) is a domestic corporation engaged in property development and management. It is the owner and developer of a three-hectare shopping complex, also known as the Megacenter Mall (Megacenter), in Cabanatuan City.

The construction of Megacenter commenced in January 1996, but by the time of its so-called "soft opening" in July 1998, it was only partly completed due to lack of funds, said to have been brought about by construction overages due to the massive devaluation of the peso during the economic crisis in 1997, low occupancy, and rental arrearages of tenants. The opening of the upper ground floor and the second floor of the building followed, respectively, in August 1998 and towards the end of 1998. Eventually, Megacenter opened its third floor in 1999.

Purportedly on account of factors beyond the control of CRDC, such as high interest rates on its loans, unpaid rentals of tenants, low occupancy rate, sluggishness of the economy and the freezing of its bank account by its main creditor, the Land Bank of the Philippines, CRDC encountered difficulty in paying its obligations as and when they fell due and had to contend with collection suits and related cases.

On 04 June 2001, CRDC filed a petition for rehabilitation attaching thereto a proposed rehabilitation plan, accompanied by a secretary's certificate, consonantly with paragraph 2(k), Section 2, Rule 4, of the Interim Rules of Procedure on Corporate Rehabilitation. CRDC claimed that it had sufficient assets and a workable rehabilitation plan both of which showed that the continuance of its business was still feasible. It alleged that, prior to the filing of the petition for rehabilitation, a special meeting of its stockholders was held on 18 April 2001 during which the majority of the outstanding capital stock of CRDC approved the resolution authorizing the filing of a petition for rehabilitation.

On 08 June 2001, the Regional Trial Court, Branch 28, of Cabanatuan City, to which the petition was assigned, issued an order staying all claims against CRDC and prohibited it from making any payment on its outstanding obligations and selling, or otherwise disposing or encumbering, its property. Forthwith, the court appointed a rehabilitation receiver.

On 20 July 2001, Angel D. Concepcion, Sr., herein private respondent, filed a complaint in intervention opposing the appointment of CRDC's nominee for the post of rehabilitation receiver. He belied CRDC's factual allegations and claimed that the predicament of the corporation was due to serious "mismanagement, fraud, embezzlement, misappropriation and gross/evident violation of the fiduciary duties of CHAS officers." Concepcion moved to dismiss and/or to deny the petition for rehabilitation on the ground that there was no approval by the stockholders representing at least two-thirds (2/3) of the outstanding capital stock which, according to him, would be essential under paragraph 2(k), Section 2, Rule 4, of the Interim Rules on Corporate Rehabilitation. Concepcion further asserted that the supposed approval of the directors of the filing of the petition for rehabilitation was inaccurate considering that the membership of petitioner CRDC's board of directors was still then being contested and pending final resolution.

On 10 August 2001, CRDC submitted its opposition *ex abundante cautelam* contending that the complaint in intervention was a prohibited pleading and that there was no need for it to secure the irrevocable consent and approval of its stockholders representing at least two-thirds (2/3) of its outstanding capital stock because the petition did not include in its plan for rehabilitation acts that would need any amendment of its articles of incorporation and/or by-laws, increase or decrease in the authorized capital stock, issuance of bonded indebtedness, or the like, where such two-thirds (2/3) vote would be required.

The trial court issued an order, dated 15 October 2001, the decretal portion of which was to the following effect; *viz*:

"WHEREFORE, premises considered, in the absence of any showing that the petitioner has complied with the certification required under Section 2, Rule 4(K) of the Interim Rules of Procedure on Corporate Rehabilitation, the petitioner is hereby given a period of 15 days from receipt of a copy of this order to secure from its directors and stockholders the desired certification and submit the same to this Court in accordance with the above-mentioned provision of the Interim Rules of Procedure on Corporate Rehabilitation.

"With respect to the other oppositions to the petition for rehabilitation including the opposition to the appointment of the rehabilitation receiver, opposition filed by the land bank and the EEI, Inc., the resolution of the same is hereby held in abeyance till after the period given to the petitioner to comply with this order as it may become moot and academic after the expiration of the period given to the petitioner."^[1]

On 29 October 2001, CRDC filed before the Court of Appeals a petition for certiorari, with prayer for temporary restraining order and/or preliminary injunction, which sought to have the 15th October 2001 order of the trial court set aside.

The Court of Appeals rendered a decision on 18 January 2002 and held:

"WHEREFORE, the foregoing premises considered, the petition for certiorari, with prayer for temporary restraining order and/or writ of preliminary injunction, is DENIED for lack of merit."^[2]

Hence, the instant petition on the following grounds:

"I

"Public respondent acted with grave abuse of discretion amounting to lack and/or excess of jurisdiction in issuing the assailed order considering that:

- "A. The petition for rehabilitation and the proposed rehabilitation plan do not require extraordinary corporate actions.
- "B. Since no extraordinary corporate actions are required or even contemplated as necessary and desirable for the rehabilitation of CRDC, the requirements of the corporation code for the approval of such actions cannot be complied with.
- "C. The rehab rules and the corporation code do not allow or intend blind blanket approvals of extraordinary corporate actions.
- "D. To require 2/3 stockholders' approval for corporate actions requiring only a majority violates the right of the majority stockholders.

"II

"Public respondent acted with grave abuse of discretion amounting to lack and/or excess of jurisdiction in requiring CRDC's compliance with paragraph 2(k), Section 2, Rule 4 of the Rehab rules when CRDC already complied therewith."^[3]

Rule 4, Section 2(k), of the Interim Rules on Corporate Rehabilitation provides:

"Sec. 2. Contents of the Petition. – The petition filed by the debtor must be verified and must set forth with sufficient particularity all the following material facts: (a) the name and business of the debtor; (b) the nature of the business of the debtor; (c) the history of the debtor; (d) the cause of its inability to pay its debts; (e) all the pending actions or proceedings known to the debtor and the courts or tribunals where they are pending; (f) threats or demands to enforce claims or liens against the debtor; and (g) the manner by which the debtor may be rehabilitated and how such rehabilitation may benefit the general body of creditors, employees, and stockholders.

"The petitioner shall be accompanied by the following documents:

"x x x x x x x x x.

"k. A Certificate attesting, under oath, that (a) the filing of the petition has been duly authorized; and (b) the directors and stockholders have irrevocably approved and/or consented to, in accordance with existing laws, all actions or matters necessary and desirable to rehabilitate the debtor including, but not limited to, amendments to the articles of