

## SECOND DIVISION

**[ G.R. No. 124185-87, January 20, 1998 ]**

**RUBY INDUSTRIAL CORPORATION AND BENHAR INTERNATIONAL, INC. PETITIONERS, VS. COURT OF APPEALS, MIGUEL LIM, ALLIED LEASING AND FINANCE CORPORATION, AND THE MANAGEMENT COMMITTEE OF RUBY INDUSTRIAL CORPORATION, RESPONDENTS.**

### DECISION

**PUNO, J.:**

Petitioners seek the reversal of the Court of Appeals Decision, <sup>[1]</sup> setting aside the Orders of the Securities and Exchange Commission (SEC), dated July 30, 1993 and October 15, 1993, which approved the Revised Rehabilitation Plan of Ruby Industrial Corporation (RUBY) and appointed Benhar International, Inc. (BENHAR) as member of RUBY's Management Committee.

The facts: Petitioner Ruby Industrial Corporation (RUBY) is a domestic corporation engaged in glass manufacturing, while petitioner Benhar International, Inc. (BENHAR) is a domestic corporation engaged in importation and sale of vehicle spare parts. BENHAR is wholly-owned by the Yu family and headed by Henry Yu who is also a director and majority stockholder of RUBY.

In 1983, RUBY suffered severe liquidity problems. Thus, on December 13, 1983, it filed a Petition for Suspension of Payments with the Securities and Exchange Commission (SEC). <sup>[2]</sup>

On December 20, 1983, the SEC issued an Order<sup>[3]</sup> declaring RUBY under suspension of payments. Pending hearing of its petition, the SEC enjoined RUBY from disposing its property, except insofar as necessary in its ordinary operations. It also enjoined RUBY from making payments outside of the necessary or legitimate expenses of its business.

On August 10, 1984, the SEC Hearing Panel<sup>[4]</sup> created a management committee<sup>[5]</sup> for RUBY to: (1) undertake the management of RUBY; (2) take custody of and control over all existing assets and liabilities of RUBY; (3) evaluate RUBY's existing assets and liabilities, earnings and operations; (4) determine the best way to salvage and protect the interest of its investors and creditors; and (5) study, review and evaluate the proposed rehabilitation plan for RUBY.<sup>[6]</sup>

Subsequently, at RUBY's special stockholders meeting, its majority stockholders led by Yu Kim Giang presented the BENHAR/RUBY Rehabilitation Plan to be submitted to SEC. Under the plan, BENHAR shall lend its P60 million credit line in China Bank to RUBY, payable within ten (10) years. Moreover, BENHAR shall purchase the credits

of RUBY's creditors and mortgage RUBY's properties to obtain credit facilities for RUBY.<sup>[7]</sup> Upon approval of the rehabilitation plan, BENHAR shall control and manage RUBY'S operations. For its service, BENHAR shall receive a management fee equivalent to 7.5% of RUBY's net sales.<sup>[8]</sup>

Some 40% of the stockholders opposed the BENHAR/RUBY Plan, including private respondent MIGUEL LIM, a minority shareholder of RUBY. Private respondent Allied Leasing and Finance Corporation, the biggest unsecured creditor of RUBY and chairman of the management committee, also objected to the plan as it would transfer RUBY's assets beyond the reach and to the prejudice of its unsecured creditors. Despite the oppositions, the majority stockholders still submitted the BENHAR/RUBY Plan to the SEC for approval.

Upon the other hand, RUBY's minority stockholders, represented by private respondent Lim, submitted their own rehabilitation plan (the ALTERNATIVE PLAN) to the SEC where they proposed to: (1) pay all RUBY'S creditors without securing any bank loan; (2) run and operate RUBY without charging management fees; (3) buy-out the majority shares or sell their shares to the majority stockholders; (4) rehabilitate RUBY's two plants; and (5) secure a loan at 25% interest, as against the 28% interest charged in the loan under the BENHAR/RUBY Plan.<sup>[9]</sup>

Both plans were endorsed by the SEC to RUBY's management committee for evaluation.

On October 28, 1988, the SEC Hearing Panel approved the BENHAR/RUBY Plan.<sup>[10]</sup> The minority stockholders, thru private respondent Lim, appealed the approval to the SEC en banc. On November 15, 1988, the SEC en banc temporarily enjoined the implementation of the BENHAR/RUBY Plan. On December 20, 1988, after the expiration of the TRO, the SEC en banc granted the writ of preliminary injunction against the enforcement of the BENHAR/RUBY Plan.<sup>[11]</sup>

Thereafter, BENHAR and Henry Yu, later joined by RUBY and Yu Kim Giang, appealed to the Court of Appeals (CA-G.R. SP No. 16798) questioning the issuance of the writ. Their appeal was denied.<sup>[12]</sup>

BENHAR and company elevated the matter to this Court. In a minute Resolution,<sup>[13]</sup> dated February 28, 1990, we denied the petition and upheld the injunction against the implementation of the BENHAR/RUBY Plan.

However, it appears that before the SEC Hearing Panel approved the BENHAR/RUBY Plan on October 28, 1988, BENHAR had already implemented part of the plan by paying off Far East Bank & Trust Company (FEBTC), one of RUBY's secured creditors. Thus, by May 30, 1988, FEBTC had already executed a deed of assignment of credit and mortgage rights in favor of BENHAR. Moreover, despite the SEC en banc's TRO and injunction, BENHAR still paid RUBY's other secured creditors who, in turn, assigned their credits in favor of BENHAR.

Hence, RUBY's biggest unsecured creditor, Allied Leasing and Finance Corporation, and private respondent Lim moved to nullify the deeds of assignment executed in favor of BENHAR and cite the parties thereto in contempt for willful violation of the

December 20, 1983 SEC Order enjoining RUBY from disposing its properties and making payments pending the hearing of its petition for suspension of payments. Private respondents Lim and Allied Leasing charged that in paying off FEBTC's credits, FEBTC was given undue preference over the other creditors of RUBY.

Acting on private respondents' motions, the SEC Hearing Panel nullified the deeds of assignment executed by RUBY's creditors in favor of BENHAR and declared the parties thereto guilty of indirect contempt.<sup>[14]</sup>

Petitioners appealed to the SEC en banc. Their appeal was denied.<sup>[15]</sup> It was ruled that, pending approval of the BENHAR/RUBY plan, BENHAR had no authority to pay off FEBTC, one of RUBY's creditors. In prematurely implementing the BENHAR/RUBY plan, BENHAR defied the SEC Order declaring RUBY under suspension of payments and directing the management committee to preserve its assets.

Petitioners RUBY and BENHAR, joined by Henry Yu and Yu Kim Giang, appealed to the Court of Appeals (CA-G.R. SP No. 18310). On August 29, 1990, the Court of Appeals affirmed the SEC ruling nullifying the deeds of assignment.<sup>[16]</sup> It also declared that its decision is final and executory as to RUBY and Yu Kim Giang for their failure to file their pleadings within the reglementary period. This Court affirmed the Court of Appeals' decision in G.R. No. 96675.<sup>[17]</sup>

Earlier, on May 29, 1990, after the SEC *en banc* enjoined the implementation of BENHAR/RUBY Plan, RUBY filed with the SEC *en banc* an *ex-parte* petition to create a new management committee and to approve its revised rehabilitation plan (Revised BENHAR/RUBY Plan). Under the revised plan, BENHAR shall receive P34.068 Million of the P60.437 Million credit facility to be extended to RUBY, as reimbursement for BENHAR's payment to some of RUBY's creditors.

The SEC *en banc* directed RUBY to submit the Revised BENHAR/RUBY Plan to its creditors for comment and approval. The petition for the creation of a new management committee was remanded for further proceedings to the SEC Hearing Panel. The Alternative Plan of RUBY's minority stockholders was also forwarded to the hearing panel for evaluation.

On April 26, 1991, over ninety (90%) percent of RUBY's creditors objected to the Revised BENHAR/RUBY Plan and the creation of a new management committee. Instead, they endorsed the minority stockholders' Alternative Plan.

At the hearing of the petition for the creation of a new management committee, three (3) members of the original management committee<sup>[18]</sup> opposed the Revised BENHAR/RUBY Plan on the following grounds:

- (1) the Revised BENHAR/RUBY Plan would legitimize the entry of BENHAR, a total stranger, to RUBY as BENHAR would become the biggest creditor of RUBY;
- (2) the revised plan would put RUBY's assets beyond the reach of the unsecured creditors and the minority stockholders; and,

- (3) the revised plan was not approved by RUBY's stockholders in a meeting called for the purpose.

However, on September 18, 1991, despite the objections of over 90% of RUBY's creditors and three (3) members of the management committee, the SEC Hearing Panel approved the revised plan and dissolved the existing management committee. It also created a new management committee and appointed BENHAR as one of its members.<sup>[19]</sup> In addition to the powers originally conferred to the management committee under P.D. No. 902-A, the new management committee was tasked to oversee the implementation by the Board of Directors of the revised rehabilitation plan for RUBY.

Consequently, the original management committee, Lim, and the Allied Leasing Corporation appealed to the SEC en banc. On July 30, 1993, the SEC *En Banc* affirmed the approval of the Revised BENHAR/RUBY Plan and the creation of a new management committee.<sup>[20]</sup> To avoid any group from controlling the management of RUBY, the SEC appointed SEC lawyers Ruben C. Ladia and Teresita R. Siao as additional members of the new management committee. Further, it declared that BENHAR's membership in the new management committee is subject to the condition that BENHAR will extend its credit facilities to RUBY without using the latter's assets as security or collateral.

Private respondents Lim, Allied Leasing Corporation and the original management committee moved for reconsideration. Petitioners, on the other hand, asked the SEC to reconsider the portion of its Order prohibiting BENHAR from utilizing RUBY's assets as collateral.

On October 15, 1993, the SEC denied private respondents' motions for reconsideration. However, it granted petitioners' motion and allowed BENHAR to use RUBY's assets as collateral for loans, subject to the approval of the majority of all the members of the new management committee.<sup>[21]</sup>

On appeal by private respondents, the Court of Appeals set aside<sup>[22]</sup> SEC's approval of the Revised BENHAR/RUBY plan and remanded the case to the SEC for further proceedings. It ruled that the revised plan circumvented its earlier decision (CA-G.R. SP No. 18310) nullifying the deeds of assignment executed by RUBY's creditors in favor of BENHAR. Under the revised plan, BENHAR was to receive P34.068 Million of the P60.437 Million credit facility to be extended to RUBY, as settlement for its advance payment to RUBY's seven (7) secured creditors. In effect, the payments made by BENHAR under the void Deeds of Assignment were recognized as payable to BENHAR under the revised plan. Petitioners' motion for reconsideration was denied.<sup>[23]</sup>

Hence, this petition where petitioners aver that:

"I. THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR, GRAVELY ABUSED ITS DISCRETION AND EXCEEDED ITS JURISDICTION WHEN IT WENT AGAINST THE FACTS AS FOUND BY THE SEC AND, THEREAFTER, SUBSTITUTED ITS JUDGMENT FOR THAT OF THE SEC.

"II. THE COURT OF APPEALS COMMITTED AN ERROR REVIEWABLE ON APPEAL AND ALSO A PROPER SUBJECT OF CERTIORARI WHEN IT ALLOWED PRIVATE RESPONDENTS TO FILE SEPARATE PETITIONS PREPARED BY LAWYERS REPRESENTING THEMSELVES AS BELONGING TO DIFFERENT LAW FIRMS."

We find no merit in the petition.

Petitioners first contend that, in reversing the SEC's approval of the Revised BENHAR/RUBY Plan, the Court of Appeals exceeded its jurisdiction and disregarded the SEC's expertise in resolving corporate controversies.

The settled doctrine is that factual findings of an administrative agency are accorded respect and, at times, finality for they have acquired the expertise inasmuch as their jurisdiction is confined to specific matters.<sup>[24]</sup> Nonetheless, these doctrines do not apply when the board or official has gone beyond his statutory authority, exercised unconstitutional powers or clearly acted arbitrarily and without regard to his duty or with grave abuse of discretion.<sup>[25]</sup> In *Leongson vs. Court of Appeals*,<sup>[26]</sup> we held: "once the actuation of the administrative official or administrative board or agency is tainted by a failure to abide by the command of the law, then it is incumbent on the courts of justice to set matters right, with this Tribunal having the last say on the matter."

We hold that the SEC acted arbitrarily when it approved the Revised BENHAR/RUBY Plan. As found by the Court of Appeals, the plan contained provisions which circumvented its final decision<sup>[27]</sup> in CA-G.R. SP No. 18310, nullifying the deeds of assignment of credits and mortgages executed by RUBY's creditors in favor of BENHAR, as well as this Court's resolution in G.R. No. 96675, affirming said Court of Appeals' decision. Specifically, the Revised BENHAR/RUBY Plan considered as valid the advance payments made by BENHAR in favor of some of RUBY'S creditors. The nullity of BENHAR's unauthorized dealings with RUBY's creditors is settled. The deeds of assignment between BENHAR and RUBY's creditors had been categorically declared void by the SEC Hearing Panel in two (2) orders issued on January 12, 1989 and March 15, 1989.<sup>[28]</sup> The dispositive portion of the Order, dated January 12, 1989, held:

"WHEREFORE, the motion for reconsideration of the Order dated October 7, 1988, insofar as it relates to the motion of Allied Leasing and Finance Corporation to cite for contempt and to annul deed of assignment is hereby GRANTED. ... The Deed of Assignment of Receivables and Mortgages, Rights, Credits and Interest Without Recourse having been executed in violation of the Order dated December 20, 1988 is hereby declared NULL and VOID.

"SO ORDERED."

The dispositive portion of the Order dated March 15, 1989, similarly provided:

"WHEREFORE, Mr. Yu Kim Giang and others are hereby found guilty of indirect contempt and a penalty of P500.00 each is hereby imposed on them. The Deed of Assignment of Receivables and Mortgages, Rights, Credits and Interest Without Recourse, in favor of Benhar International, Inc., by Florence Danon, Philippine Bank