

THIRD DIVISION

[G.R. No. 123240, August 11, 1997]

STATE INVESTMENT HOUSE, PETITIONER, VS. THE COURT OF APPEALS, THE SECURITIES & EXCHANGE COMMISSION AND PHILIPPINE BLOOMING MILLS, CO., INC., RESPONDENTS.

RESOLUTION

MELO, J.:

In a minute resolution we issued on February 5, 1996, the petition at bench was denied due course for its failure to show that respondent court committed any reversible error (p. 114, Rollo).

On March 1, 1996, petitioner filed a motion for reconsideration imputing upon this Court the principal error of having that the doctrine in *PCIB vs. Court of Appeals* (172 SCRA 436 [1989]), had already been abrogated by the rulings of this Court in the cases of *Aleamar's Sibal & Sons vs. Elbinias* (186 SCRA 94 [1990]); *BF Homes Inc. vs. Court of Appeals*, 190 SCRA 262 [1990]; *Araneta vs. Court of Appeals*, 211 SCRA 390 [1992]; and *RCBC vs. Court of Appeals*, 213 SCRA 830 [1992]), where we ruled that whenever a distressed corporation asks the Securities and Exchange Commission (SEC) for rehabilitation and suspension of payments, preferred creditors may no longer asserts such preference, but shall stand on equal footing with other creditors. Petitioner points out two main matters for consideration: (1) that the above-cited cases of *Aleamar's BF Homes*, *Araneta*, and *BPI vs. Court of Appeals* (229 SCRA 223 [1994]) all involved unsecured creditors and are, therefore, not relevant to the resolution of this case, and (2) that of the above-cited cases where the Court ruled contrary to *PCIB*, thereby abandoning the ruling in said case, only the *RCBC Case* could have complied with the Constitutional requirement that no doctrine or principle of law rendered en banc or in division may be modified or reversed except by the Court sitting en banc (Par. 3, Section 4, Article VIII, 1987 Constitution), because only the *RCBC Case* was rendered by the Court en banc. Nonetheless, petitioner submits that the judgment in *RCBC* has not yet attained finality as the motion for reconsideration therein up to the present time, has remained pending and unresolved, and could, therefore, not be relied upon in the instant case as a precedent.

After review of the arguments presented in the motion for reconsideration, we find no cogent reason to reverse our previous dismissal of the instant case. However, if only to clarify matters for the guidance of the bench and the bar, we shall discuss the applicable law on the matter.

To put case at hand in its proper factual perspective, it is worthy to note that what petitioner filed with the SEC in the pending action for settlement of claims of the various creditors of respondent Philippine Blooming Mills Co., Inc. (PBM) was a "Motion to Declare and Confirm the Highest Preference of Movant's First Mortgage

Lien.” The SEC hearing officer denied said motion. Petitioner appealed this denial to the SEC en banc, which dismissed the appeal. Then on appeal before respondent court, the Court of Appeals affirmed the SEC decision. Finally, finding no reversible error committed by respondent Court of Appeals, we denied due course to the instant petition. Now, the present motion for reconsideration.

Stated plainly, the issue squarely raised in the main petition is whether or not petitioner SIHI, as mortgagee of respondent PBM, may be declared to have highest preference over specific property subject of the mortgage, despite the pendency of rehabilitation/receivership proceeding pending before the SEC.

Under the factual circumstances of obtaining in the instant case, as well as the applicable provisions of the law, the Court is duty bound to resolve this issue in the negative.

In any rehabilitation/receivership proceedings where claims of several creditors shall have to be resolved, the provisions of the Title XIX of the Civil Code – “Concurrence and Preference of Credits” applies. In the present case where a mortgage piece of realty is involved, the following relevant articles govern, to wit:

Art. 2242 - With reference to specific immovable property and real rights of the debtor, the following claims, mortgages and liens shall be preferred and shall constitute an encumbrance on the immovable or real right:

- (1) Taxes due upon the land or building;
- (2) For unpaid price of real property, sold upon the immovable sold;
- (3) Claims of laborers, mason, mechanics and other workmen, as well as architects, engineers and contractors, engaged in the construction, reconstitution or repair of buildings, canals or other works, upon said buildings, canals or other works;
- (4) Claims of furnishers of materials used in the construction, reconstruction, or repair of buildings, canals or other works, upon said buildings, canals or other works;
- (5) Mortgage credits recorded in the Registry of Property, upon the real estate mortgaged;
- (6) Expenses for the preservation or improvement of real property when the law authorizes reimbursement, upon the immovable preserved or improved;
- (7) Credits annotated in the Registry of Property in virtue of a judicial order, by attachment or execution, upon the property affected, and only as to the latter credits;
- (8) Claims of co-heirs for warranty in the partition of an immovable among them, upon the real property thus divided;