



Republic of the Philippines  
Department of Finance  
Securities and Exchange Commission  
**COMMISSION EN BANC**

**DANILO L. CONCEPCION,**  
*Liquidator-Appellant,*

- versus -

**SEC En Banc Case No. 03-14- 320**  
**Promulgated: 04 March 2025**

**DEVELOPMENT BANK OF THE  
PHILIPPINES,**  
*Respondent-Appellee.*

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## **DECISION**

Before the Commission is the Memorandum on Appeal dated 21 March 2014 (the "Appeal") filed by the Liquidator of the EYCO Group of Companies (the "EYCO Group"), Danilo L. Concepcion (the "Liquidator-Appellant") assailing the Order dated 28 January 2014 (the "Assailed Order") issued by the Special Hearing Panel 2 (SHP 2) which denied his Motion to Stay Execution dated 19 February 2013, the dispositive portion of which reads:

**WHEREFORE**, premises considered, the Motion to Stay Execution filed by the Liquidator of EYCO Group dated 19 February 2013 is hereby **DENIED** for lack of merit.

## **THE RELEVANT FACTS**

On 11 December 1996, the Development Bank of the Philippines (DBP) granted a credit accommodation for Pesos: One Hundred Fifty Million (PhP150,000,000.00) to Nikkon Industrial Corporation (Nikkon) under the terms and conditions of the Credit Line Agreement executed by DBP and Nikkon.<sup>1</sup>

On 18 March 1997, the spouses Eulogio Yutingco and Wong Bee Kuan (the "Yutingco Spouses"), together with one Ten Leng Valencia executed a Deed of Assignment of Rights where they "*ceded, transferred and assigned unto and in favor of*" Nikkon, all their rights and interests

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<sup>1</sup> Manifestation dated 19 June 2020. See Annex "B".

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over a parcel of land located in Valenzuela City covered by Transfer Certificate of Title (TCT) No. V-39089 (the "Subject Property").<sup>2</sup>

On 16 September 1997, a Petition to be declared in a state of Suspension of Payments and Rehabilitation (the "Petition") was filed by the EYCO Group of Companies<sup>3</sup> (the "EYCO Group"), together with three (3) major stockholders, praying for the formation and appointment of a rehabilitation receiver/committee, and the approval of the rehabilitation plan; or in the alternative, the liquidation and dissolution of the corporations.<sup>4</sup>

On 19 September 1997, the Commission issued a *Stay Order* directing the suspension of all actions, claims and proceedings against the EYCO Group before any court, tribunal, office, board or commission; and enjoining the latter from disposing of its properties except in the ordinary course of business.<sup>5</sup>

On 10 November 1997, DBP filed a complaint (for collection of a sum of money with prayer for issuance of writ of preliminary attachment) against the Spouses Yutingco (Nikkon not being a party to the case) before the Regional Trial Court Branch 146 of Makati City (RTC-Makati) which was docketed as Civil Case No. 97-2653 (the "RTC Case").<sup>6</sup>

On 14 September 1999, the Commission *En Banc* issued an *Order* (in SEC Case No. 09-97-5764) declaring the EYCO Group insolvent, and ordering its liquidation and dissolution. Consequently, on 31 May 2001, the Liquidator-Appellant was appointed as the liquidator of the EYCO Group.<sup>7</sup>

On 13 January 1998, the RTC-Makati issued a writ of preliminary attachment over the Subject Property in favor of DBP.<sup>8</sup>

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<sup>2</sup> *Ibid.* (page 14)

<sup>3</sup> Nikon Industrial Corporation, Nikolite Industrial Corporation, 2000 Industries Corporation, Trade Hope Industrial Corporation, First Unibrands Food Corporation, Integrated Steel Corporation, Clarion Printing House Inc., Nikon Plaza Inc., Nikon Land Inc., EYCO Properties Inc. and Thames Philippines Inc.

<sup>4</sup> *Appeal*. Pars. 5 and 6.

<sup>5</sup> *Id.* Par. 7.

<sup>6</sup> *Manifestation* dated 19 June 2020. See Annex "B".

<sup>7</sup> *Id.* Par. 8.

<sup>8</sup> *Manifestation* dated 19 June 2020. See Annex "B".

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On 11 April 2002, the Commission issued an Order approving the Liquidation Plan (the “Plan”) submitted by the Liquidator-Appellant.<sup>9</sup>

The Consortium of Creditor Banks (the “Consortium”) and the EYCO Group forthwith entered into an Agreement dated 10 February 2003 designed to implement the Plan. In particular, the EYCO Group and the majority stockholders thereof i.e. the spouses Eulogio Yutingco and Wong Bee Kuan (the “Yutingco Spouses”) agreed to surrender certain properties to the Liquidator-Appellant. Included in the said properties is a parcel of land located in Valenzuela City covered by Transfer Certificate of Title (TCT) No. V-39089 which was cancelled, and TCT No. V-67571 (the “Subject Property”) was issued under the name of the Liquidator-Appellant, in trust for the creditors of the EYCO Group, in compliance with the Plan.<sup>10</sup>

On 31 January 2005, the RTC Makati rendered a *Decision* (the “RTC Decision”) ordering Yutingco Spouses to pay DBP the sum of P111,925,660.11 and the peso equivalent of \$1,565,075.35, plus interests and attorneys’ fees.<sup>11</sup>

The Decision of the RTC-Makati was affirmed by the Court of Appeals (CA), and subsequently by the Supreme Court (SC), in their Decisions dated 10 October 2011 and 27 June 2012, respectively.<sup>12</sup>

On 11 April 2013, Liquidator-Appellant filed with the RTC-Makati an *Affidavit of Third-Party Claim* maintaining that the preliminary attachment on the Subject Property, being a corporate asset of the EYCO Group which he was holding in trust for its creditors, should be lifted as it cannot be used to answer for any judgment in favor of DBP.<sup>13</sup>

On 15 April 2013, Liquidator-Appellant filed the *Motion to Stay Execution* (the “Motion”) with the SHP2 resulting in the issuance by the latter of the Assailed Order which is now the subject of the instant Appeal.

On 5 August 2015, the RTC-Makati, acting on the *Affidavit of Third-Party Claim* of Liquidator-Appellant, issued an Order (the “RTC Order”) which directed the lifting and release of the Subject Property after finding

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<sup>9</sup> *Appeal*. Par. 9.

<sup>10</sup> *Id.* (see Annex “E”).

<sup>11</sup> *Appeal*. Par. 11.

<sup>12</sup> *Ibid.* Pars. 11 and 12.

<sup>13</sup> *Ibid.* Par. 13 (see Annex “E”).

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that the levy on attachment upon the same was improper. The RTC-Makati ruled that at the time of attachment, the Spouses Yutingco had no more interest in the Subject Property which has already been transferred to Nikkon.<sup>14</sup>

The RTC Order was upheld by the Court of Appeals in its Decision dated 27 March 2018 (the “CA Decision”). The CA ruled that being the sole defendants in the RTC Case, “*only the properties belonging to them can rightfully and legally be subject to attachment*”. Thus, the lifting of the levy on attachment upon the Subject Property by the RTC-Makati was not attended by grave abuse of discretion.<sup>15</sup>

The Supreme Court (First Division), in its Resolution<sup>16</sup> promulgated on 26 November 2018 (the “SC Resolution”) agreed *in toto* with the ratiocination of the CA and affirmed the CA Decision.<sup>17</sup> The SC Decision became final and executory on 10 July 2018 as shown by the Entry of Judgment issued by the SC.

On 19 June 2020, DBP filed a Manifestation confirming that the RTC-Makati has lifted the writ of attachment on the Subject Property on the basis of the SC Resolution which has attained finality.

On 14 July 2023, the Liquidator-Appellant filed a Manifestation where he argued that with the finality of the SC Decision affirming the lifting of the attachment over the Subject Property, the issue presented in the Appeal has become moot and academic.

## ISSUE

Whether the SC Resolution has mooted the instant Appeal.

## RULING

We agree with Liquidator-Appellant and dismiss the Appeal.

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<sup>14</sup> Manifestation dated 19 June 2020. See Annex “A”.

<sup>14</sup> Appeal. Par. 11.

<sup>15</sup> Manifestation dated 19 June 2020. See Annex “B”.

<sup>16</sup> G.R. No. 241643

<sup>17</sup> Manifestation dated 19 June 2020. See Annex “B”

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It is a rule established in jurisprudence that a case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use. The existence of an actual case or controversy is an indispensable condition to the Commission's (as well as the courts') valid exercise of its power of adjudication. An actual case or controversy exists when there is a conflict of legal rights or an assertion of opposite legal claims between the parties that is susceptible or ripe for judicial resolution.<sup>18</sup> A justiciable controversy must neither be conjectural nor moot and academic. There must be a definite and concrete dispute touching on the legal relations of the parties who have adverse legal interests. The reason for this is that the courts and quasi-judicial bodies are not tasked to render an advisory opinion on what the law would be upon a hypothetical state of facts.<sup>19</sup>

In *Penafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration*<sup>20</sup>, the Supreme Court ruled that a case becomes moot when, as a consequence of the occurrence of a supervening event, a judgment thereon can no longer be enforced as the legal issue has ceased to exist, to wit:

**A case or issue is considered moot and academic when it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.** In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. **This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.** (Emphasis supplied)

The instant Appeal was filed for the purpose of securing from the Commission an Order directing the stay of the execution, to prevent DBP

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<sup>18</sup> Congressman vs The Executive Secretary (G.R. No. 157584, April 2, 2009)

<sup>19</sup> "This Court's constitutional mandate does not include the duty to answer all of life's questions. No question, no matter how interesting or compelling, can be answered by this Court if it cannot be shown that there is an "actual and an antagonistic assertion of rights by one party against the other in a controversy wherein judicial intervention is unavoidable."

This Court does not issue advisory opinions. We do not act to satisfy academic questions or dabble in thought experiments. We do not decide hypothetical, feigned, or abstract disputes, or those collusively arranged by parties without real adverse interests. If this Court were to do otherwise and jump headlong into ruling on every matter brought before us, we may close off avenues for opportune, future litigation." (Falcis v. Civil Registrar General. G.R. No. 217910, September 3, 2019)

<sup>20</sup> G.R. No. 208660, March 5, 2014 [Per J. Perlas-Bernabe, Second Division].

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from executing a levy on the Subject Property (pursuant to the RTC Decision) which was being held by the Liquidator-Appellant in trust for the creditors of the EYCO Group under the approved Plan. In other words, while the Liquidator-Appellant recognized that DBP was entitled to the payment of the amount provided in the RTC Decision, he equally maintained that the execution and satisfaction thereof should not involve the Subject Property since its debtors i.e. the Spouses Yutingco have no more interest over the same.

Relative thereto, We are cognizant of the fact that at the time of the filing of the Motion i.e. 15 April 2013, the RTC-Makati have not yet ruled on, and affirmed that the levy on attachment upon the Subject Property was improper. Without such determination and ruling from the RTC-Makati, We cannot fault the SHP 2 for denying the Motion especially that the annotation of the levy of the writ of preliminary attachment was carried over from the old title i.e. TCT No. V-39089 of the Subject Property to its new title i.e. TCT No. V-67571.

However, the issuance by the RTC-Makati of the RTC Order expressly lifting the writ of attachment on the basis of a finding that at the time of its issuance, the Spouses Yutingco had no more interest in the Subject Property, the position of Liquidator-Appellant i.e. the Subject Property pertains to the EYCO Group which was being held in trust for its creditors, was affirmed. Thus, when the SC Resolution, definitively affirming the propriety of the lifting of the writ of attachment over the Subject Property, has attained finality, the issue presented in the Motion which resulted in the instant Appeal i.e. whether the Subject Property can be attached to satisfy the obligation of the Spouses Yutingco in the RTC Decision, was finally laid to rest, and ceased to be justiciable. In other words, the finality of the SC Resolution which affirmed the lifting of the writ of attachment, and the exclusion of the Subject Property from the properties of the Spouses Yutingco that the DBP can run after in the RTC Case, will render an order directing the stay of the execution involving the Subject Property superfluous, and will no longer have any practical value because given the current situation, it cannot be enforced. The SC Resolution resulted in the cassation of the controversy which arose from the conflicting positions of the parties relating to the status of the Subject Property and its susceptibility of answering for the obligations of the Spouses Yutingco.

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On the basis of the supervening event relating to the issuance of the SC Resolution which affirmed the lifting of the writ of attachment over the Subject Property, the dismissal of the instant Appeal on the ground of mootness is therefore in order.

**WHEREFORE**, premises considered, the Memorandum on Appeal dated 21 March 2014 is hereby **DISMISSED** for having become moot and academic.

**SO ORDERED.**

Makati City, Philippines.

  
**EMILIO B. AQUINO**  
*Chairperson*

**JAVEY PAUL D. FRANCISCO\***  
*Commissioner*

  
**KARLO S. BELLO**  
*Commissioner*

  
**MCJILL BRYANT T. FERNANDEZ**  
*Commissioner*

**ROGELIO V. QUEVEDO\*\***  
*Commissioner*

\*On Official Business

\*\*Inhibited