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

FCASH GLOBAL LENDING, INC.
Respondent-Appellant,

SEC *En Banc*. Case No. 12-20-480

CORPORATE GOVERNANCE AND FINANCE DEPARTMENT,
Petitioner-Appellee.
x---x

DECISION

Before the Commission *En Banc* is the Appeal Memorandum[1] filed by Respondent-Appellant FCash Global Lending, Inc. (Appellant FCash) assailing the SEC CGFD Order No. 111, Series of 2020 (the "Assailed Order)[2] issued by the Corporate Governance and Finance Department (CGFD) revoking Appellant FCash's Certificate of Authority to Operate as a Lending Company (CA), the dispositive portion of which reads:

> "**WHEREFORE**, in view of the foregoing, the Certificate of Authority to Operate as a Lending Company of FCash Global Lending Inc. (CA No. 2653) is hereby **REVOKED**."

RELEVANT FACTS

Appellant FCash is a corporation duly organized under the laws of the Philippines, having been issued a Certificate of Incorporation bearing Registration No. CS201803813 on 22 March 2018. Appellant FCash was also issued with a Certificate of Authority to Operate as a Lending Company bearing numbers 2653.

On various dates in September 2019, the CGFD received a number of complaints[3] against Appellant FCash for alleged violation of Section 1(h) of SEC Memorandum Circular No. 18 Series of 2019. Acting on the said complaints, the CGFD issued five (5) Show Cause Letters ("SCLs")

---

[1] Dated 14 December 2020
[2] Dated 25 August 2020; Annex "1" of the Appeal Memorandum
[3] (a) Complaint dated 09 September 2019 of Ma. Lovely Gabuay, (b) Complaint dated 14 September 2019 of Karen Alindayo, (c) Complaint dated 17 September 2019 of Genii M. Santos, (d) Complaint dated 09 September 2019 of Ms. Ma. Lovely Gabuay

directing Appellant FCash to explain why it should not be penalized for violating SEC Memorandum Circular No. 18, Series of 2019 - Prohibition on Unfair Debt Collection Practices of Financing Companies and Lending Companies ("MC No. 18").

On 25 September 2019, FCash filed its Compliance (To Show Cause Order)[4] alleging that it did not intend to violate MC No. 18, and that the complaints filed against it were brought about by the recent issuance and implementation of MC No. 18, which prompted the company to correct and update its programs and processes for it to comply with the regulation.

In its Letter-Order dated 25 September 2019, CGFD found no merit in the justification proffered by Appellant FCash and imposed a penalty of Pesos: Twenty-five Thousand (Php25,000.00) after a finding that the latter violated MC No. 18. Appellant FCash paid the Php25,000.00 penalty on 04 October 2019.

On 26 September 2019, CGFD issued another Letter-Order imposing a higher penalty of Pesos: Fifty Thousand (Php50,000.00) against Appellant FCash on the basis of a finding of a second violation of MC No. 18. Appellant FCash paid the Php50,000.00 penalty on 06 July 2020.

On 04 October 2019, Appellant FCash filed a Motion for Reconsideration on the 26 September 2019 Letter-Order but the same was denied by the CGFD in its Letter[5] on the basis of a finding that the former was not able to trounce the allegations in the complaint of Ms. Santos.

On 15 October 2019, Appellant FCash filed a letter proposing a settlement of the cases with the Commission pursuant to Rule 55.1 of the Securities Regulation Code (SRC) in relation to Rule V of the 2016 Rules of Procedure of the SEC (the "Settlement Offer").

Acting on the complaints that were filed against it with the Commission, Appellant FCash, through its Collection Department, issued a Memo (Re: Zero Tolerance Policy on SEC/ NPC and Data Privacy Violation) dated 17 October 2019 (the "2019 Memo"), implementing a policy of imposing a penalty of immediate termination from service for

---

[4] Annex "3" of the Appeal Memorandum
[5] Annex "4" of the Appeal Memorandum

violation of MC No. 18.[6] Appellant FCash also conducted orientation and training seminars for its employees to fully apprise them of the provisions of MC No. 18 and the consequences of any violation thereof.[7]

On 12 December 2019, the CGFD issued a Formal Charge against Appellant FCash directing the latter to explain why its CA as a Lending Company should not be revoked for violation of MC No. 18. Instead of filing an answer, Appellant FCash furnished CGFD with its letter proposing a Settlement Offer which at this time, remained unacted.

In a Letter dated 30 January 2020, the Enforcement and Investor Protection Department (EIPD) denied the proposal of Appellant FCash for a Settlement Offer on the ground that Section 5-1, Rule V of the 2016 Rules of Procedure of the SEC (2016 Rules) applies only to violations of the SRC, and not to violations of MC No. 18.

On 5 February 2020, after the conduct of the required investigation and hearing, Appellant FCash started terminating employees who have been found to violate MC No. 18 pursuant to the 2019 Memo.[8]

On 25 August 2020, the CGFD issued the Assailed Order revoking Appellant FCash's CA.

On 07 September 2020, Appellant FCash filed its Motion for Reconsideration praying for the reconsideration and setting aside of the Assailed Order.[9]

On 5 November 2020, Appellant FCash filed its Supplemental Motion for Reconsideration praying that the Assailed Decision be reconsidered on the basis of the evidence presented which showed its intent to fully comply with the provisions of MC No. 18.

On 03 December 2020, the CGFD issued a Resolution denying Appellant FCash's Motion for Reconsideration for lack of merit. Appellee CGFD also found the Supplemental Motion for Reconsideration wanting in any legal basis.

Hence, on 14 December 2020, FCash filed the instant Appeal, therein praying that the same be given due course, and that a judgment

---

[6] Annex "A" of the Supplemental Motion for Reconsideration. The penalty of immediate termination is imposed upon an employee who insults, threatens, harasses a client.
[7] Annexes "C", "D", "E", "F" and "G" of the Supplemental Motion for Reconsideration
[8] Annexes "I", "J", and "K" of the Supplemental Motion for Reconsideration
[9] Annex "6" of the Appeal Memorandum

be rendered reversing and setting aside the Assailed Decision, and reinstating its CA as a Lending Company.

On 20 January 2021, the CGFD filed its Comment/Opposition alleging that the penalty of revocation is warranted on the ground that Appellant FCash violated MC No. 18 more than three (3) times as shown by the complaints that it received. The CGFD maintained that the foregoing exhibited Appellant FCash's utter lack of regard for the laws, rules and regulations implemented by the Commission, and its abuse of the special privilege granted to it by the State which justifies the immediate revocation of its CA.

ISSUES

(A) Was Appellant FCash denied of its right to due process?

(B) Whether the revocation of FCash's CA as a Lending Company is warranted by the evidence on record.

RULING

The Commission partly grants the Appeal.

I. There was no denial of Appellant FCash's right to due process.

In its Appeal, Appellant FCash claimed that it was denied of due process when the CGFD imposed upon it the most severe penalty of revocation on the basis of a single formal charge. Appellant FCash specifically took exception on the act of CGFD in giving due course to the unverified complaints filed against it, and decided on the basis thereof. This, according to Appellant FCash violated the 2016 Rules of Procedure of the SEC and its right to due process.

We do not subscribe to Appellant FCash's position and arguments.

The essence of due process in administrative proceedings is simply an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of. For as long as the parties were given fair and reasonable opportunity to be heard before judgment/decision was rendered, the demands of due process were sufficiently met.[10] It must also be emphasized that one may be heard, not only by verbal presentation but also through pleadings. As such, a formal or trial type hearing is not, at all times, necessary.[11] In *Power Homes Unlimited Corporation vs Securities and Exchange Corporation*[12], the Supreme Court applied the foregoing rule, to wit:

> "Trite to state, **a formal trial or hearing is not necessary to comply with the requirements of due process**. Its essence is simply the opportunity to explain one's position. Public respondent SEC abundantly allowed petitioner to prove its side." (Emphasis supplied)

The relaxation of the strict implementation of the rules of procedure in proceedings before administrative bodies was intended to promote public interest and assist the parties in obtaining a just, prompt, expeditious, and inexpensive resolution, settlement or disposition of any action brought before the Commission and to carry out the objectives of the laws it is mandated to implement.[13]

In the instant case, the records show that Appellant FCash was informed and duly apprised of the complaints that were used by CGFD as basis in determining whether the former violated the provisions of MC No. 18. More importantly, the CGFD afforded Appellant FCash the opportunity to rebut the allegations in the complaints, as evidenced by the Compliance that it submitted, before the appropriate penalties were imposed.

Granting *ex gratia* that Appellant FCash was not afforded an opportunity to present its defense prior to the imposition of the appropriate penalties under MC No. 18, the fact Appellant FCash filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration which were duly considered by the CGFD, negates the allegation that it was deprived of due process.

In the case of *Montemayor v. Bundalian, et al.*,[14] the Supreme Court ruled that the demands of due process is satisfied if a party is given an opportunity to present its defense through a motion for reconsideration filed with the Commission, to wit:

> **"The essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of. As long as the parties are given the**

---

[10] Magcamit vs Internal Affairs Service-PDEA. (GR No.198140, January 25, 2016)
[11] Samalio v. Court of Appeals,
[12] G.R. No. 164182, February 26, 2008
[13] *Police Commission v. Lood*, G.R. No. L-34637, [February 24, 1984]
[14] G.R. No. 149335, 01 July 2003

> **opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met**. In the case at bar, the PCAGC exerted efforts to notify the complainant of the proceedings but his Philippine residence could not be located. Be that as it may, petitioner cannot argue that he was deprived of due process because he failed to confront and cross-examine the complainant. Petitioner voluntarily submitted to the jurisdiction of the PCAGC by participating in the proceedings before it. He was duly represented by counsel. He filed his counter-affidavit, submitted documentary evidence, attended the hearings, moved for a reconsideration of Administrative Order No. 12 issued by the President and eventually filed his appeal before the Court of Appeals. **His active participation in every step of the investigation effectively removed any badge of procedural deficiency, if there was any, and satisfied the due process requirement**. He cannot now be allowed to challenge the procedure adopted by the PCAGC in the investigation." (Emphasis supplied)

The filing of the Motion for Reconsideration and the Supplemental Motion for Reconsideration which were considered by the CGFD negates Appellant FCash's allegation that it was deprived of due process because through the said pleadings, the latter was able to present its defense.

Moreover, we agree with the finding of CGFD that the suspension of the implementation of the 2016 Rules did not result in the denial of due process as it was made pursuant to the authority of the Commission to issue rules and regulations designed to fully and effectively carry out the policies and objectives of the laws that it is mandated to administer and implement.[15] The CGFD correctly pointed out that SEC Resolution No. 781A, Series of 2019 was issued by the Commission to address the increasing number of complaints filed against lending and financing companies which repeatedly violated MC No. 18. More importantly, the records show, as correctly pointed by CGFD, that Appellant FCash was given an ample opportunity to be heard, notwithstanding the suspension of the 2016 Rules.

On the basis of the foregoing, the act of CGFD in giving due course to, and in imposing the appropriate penalties under MC No. 18 based on

---

[15] Section 5.1(g) of the SRC provides:
"Powers and Functions of the Commission. — 5.1. The Commission shall act with transparency and shall have the powers and functions provided by this Code, Presidential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto the Commission shall have, among others, the following powers and functions:

xxx xxx xxx

(g) Prepare, approve, amend or repeal rules, regulations and orders, and issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders;"

the unverified complaints filed against Appellant FCash, as well as in issuing only one formal charge for the third offense, did not constitute or amount to a violation of Appellant FCash's right to hearing and to present evidence. The fact that the arguments, allegations and the evidence presented by Appellant FCash in all the pleadings that it filed with the CGFD (and with the Commission in relation to the instant Appeal) have formed part of the records of the case and have been duly considered, negates the allegation that FCash was denied of its day in court.

II. The imposition of the supreme penalty of revocation of Appellant FCash's CA is not warranted by the evidence on record.

In its Appeal, Appellant FCash maintained that the company, having been organized only on 22 March 2018, "*deserves to be guided and reformed rather than pilloried and condemned*" as it had shown every good intention to do its business in a legitimate and upright manner. In support thereof, it alleged that it voluntarily placed itself under the regulatory authority of the SEC by securing a CA as a lending company, and exhibited a resolve to comply with the provisions of MC No. 18, especially after its attention was called on the complaints filed against it, by adapting and incorporating the provisions thereof in its own internal policies and conducting training and seminars/orientations to guide and inform its employees.

In its Comment/Opposition, the CGFD maintained its position that the revocation of Appellant FCash's CA should be sustained by the Commission on the basis of the complaints that it received for alleged violation of MC No. 18. The CGFD argued that Appellant FCash failed to prove its good intentions to do business in a legitimate and upright manner which, according to CGFD, should not start and end with its registration with the Commission.

The power and authority of the Commission to impose the appropriate sanctions for violations of the Revised Corporation Code (RCC)[16], the SRC[17] and its rules and regulations, including the revocation of a corporate franchise and/or license are provided in Section 5.1 (f) of the SRC, to wit:

---

[16] Republic Act No. 11232
[17] Republic Act No. 8799

"Sec. 5. *Powers and Functions of the Commission.* — 5.1. The Commission shall act with transparency and shall have the powers and functions provided by this Code, Presidential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto the Commission shall have, among others, the following powers and functions:

xxx xxx xxx

(f) Impose sanctions for the violation of laws and the rules, regulations and orders issued pursuant thereto;"[18]

At the outset, it should be stressed that MC No. 18 was issued to effectively address the abusive, unethical and unfair collection practices of lending and/or financing companies, specifically those who purposely engage the services of third party service providers to avoid liability for client harassment.[19] The issuance and implementation of MC No. 18 was made pursuant to a valid exercise of the regulatory and supervisory power of the Commission over lending and financing companies, to carry out its mandate, among others, of placing their operations on a sound, competitive, stable and efficient basis, and in preventing acts or practices prejudicial to the public interest.[20]

MC No. 18 was not issued to prevent lending or financing companies from enforcing a contractual obligation against its borrowers for debts lawfully made. After all, it is established both in law and jurisprudence[21] that a loan obligation should be paid. The state in fact fully recognizes the critical role of lending and financing companies in providing medium and long-term credit for investments, and as additional source of credit.[22] MC No. 18 was issued to ensure that the collection of loans by lending and/or financing companies is made within

---

[18] Section 6 (l) of Presidential Decree No. 902-A, as amended, also provides:

"Sec. 6. In order to effectively exercise such jurisdiction, the Commission shall possess the following powers:

xxx xxx xxx

(l) To impose fines and/or penalties for violation of this Decree or any other laws being implemented by the Commission, the pertinent rules and regulations, its orders, decisions and/or rulings;"

[19] See First and Second WHEREAS Clauses of the MC No. 18

[20] See Section 2 of Republic Act No. 8556, otherwise known as the "Financing Company Act of 1998" and Section 2 of Republic Act No. 9474, otherwise known as the "Lending Company Regulation Act of 2007"

[21] "Jurisprudence tells us that one who pleads payment has the burden of proving it; the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment. **Indeed, once the existence of an indebtedness is duly established by evidence, the burden of showing with legal certainty that the obligation has been discharged by payment rests on the debtor.**" (*Bognot vs RRI Lending Corporation.* G.R. No. 180144, September 24, 2014)

[22] Ibid

the bounds of law, and to protect or safeguard the privacy, dignity and well-being of borrowers.

Section 5 of MC No. 18 specifically provides, in part, that "***subject to the facts, circumstances and gravity of the offense***, *the Commission, at its discretion,* ***may impose*** *a fine of not less than twice the fine for the second offense but not more than P1 Million (1,000,000) Pesos; or suspension of lending or financing activities for a period of sixty (60) days; or Revocation of Certificate of Authority to operate as a Financing or Lending Company,* ***as appropriate for each circumstance.***"

The word "may" in the afore-quoted provision was intentionally and deliberately used to grant the Commission the discretion to impose the appropriate penalty based on its assessment of the "*facts, circumstances and gravity of the offense*" borne in the records of the case. Moreover, the exercise by the Commission of the discretion in choosing the penalty to impose is qualified by the appropriateness of such penalty in the specific circumstance(s) attendant in each case. The foregoing is consistent with the concept of discretion which was explained by the Supreme Court in Roble Arrastre, Inc. vs Villaflor[23], to wit:

> **"Discretion," when applied to public functionaries, means a power or right conferred upon them by law or acting officially, under certain circumstances, uncontrolled by the judgment or conscience of others.** A purely ministerial act or duty in contradiction to a discretional act is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment." (Emphasis supplied)

It bears emphasis that in proceedings before administrative agencies, the quantum of evidence required is substantial evidence or "*such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.*"[24]

In the instant case, the records show that Appellant FCash was among the lending companies that were complained of for allegedly violating Section 1(h) of MC No. 18. Specifically, the complaints filed with

[23] G.R. No. 128509, August 22, 2006

[24] *Travelaire & Tours Corp. and/or Christine B. Ojeda vs. National Labor Relations Commission and Nenita I. Medelyn*, G.R. No. 131523, August 20, 1998

the CGFD alleged that Appellant FCash's employees used abusive and threatening words in exacting payment from its borrowers. CGFD's finding of violation by Appellant FCash of Section 1(h) of MC No. 18 was thus based on substantial evidence; a fact that was impliedly admitted by Appellant FCash itself.

However, the records also show that Appellant FCash's allegation that it had no intent to violate MC No. 18 and that it was serious in complying with the provisions thereof is supported by its issuance and implementation of its 2019 Memo where it actually terminated erring employees. Moreover, there is no evidence on record that Appellant FCash purposely engages the services of third party service providers to avoid liability for client harassment. These circumstances constitute substantial evidence showing of Appellant FCash's good intentions to do business in a legitimate and upright manner.

The importance of considering the evidence presented by Appellant FCash cannot be overemphasized. In a situation where the Commission is called upon to exercise its discretion of whether to impose the harshest penalty of revocation, all evidence on record should be made available and considered by it to ensure that the ends of justice are met. This will ensure that the exercise of discretion is carried out properly, and that the same is removed from any doubt that it is tainted with irregularity or abuse. In *Pascual vs Burgos*[25], the Supreme Court explained what constitutes grave abuse of discretion which results in the ouster by a court or tribunal of jurisdiction to wit:

> "**By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction**. The abuse of discretion must be grave as **where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility** and must be so patent and gross **as to amount to an evasion of positive duty** or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law." (Emphasis supplied)

In the same case, the Supreme Court also emphasized that only factual findings that are not attended by abuse of discretion are considered conclusive and are not subject to the review, to wit:

> "However, these rules do admit exceptions. Over time, the exceptions to these rules have expanded. At present, there are 10 recognized exceptions that were first listed in Medina v. Mayor Asistio, Jr.:

---

[25] G.R. No. 171722, January 11, 2016

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.
>
> xxx xxx xxx
>
> A question of fact requires this court to review the truthfulness or falsity of the allegations of the parties. This review includes assessment of the "probative value of the evidence presented." There is also a question of fact when the issue presented before this court is the correctness of the lower courts' appreciation of the evidence presented by the parties.
>
> xxx xxx xxx
>
> <u>Grave abuse of discretion, to be an exception to the rule, must have attended the evaluation of the facts and evidence presented by the parties</u>. In *Cariño v. Court of Appeals*, the issue presented before this court was "whether the respondent Court of Appeals committed grave abuse of discretion in concluding that the Deed of Sale of House and Transfer of Rights (Exhibit 'D-1'), on which the petitioners have based their application over the questioned lot, is simulated and, therefore, an inexistent deed of sale." To resolve the issue, this court examined whether there was substantial and convincing evidence to support the factual findings of the Court of Appeals.[26] (Emphasis supplied)

In relation to the foregoing, the Supreme Court has recognized and sanctioned the act of administrative agencies in accepting and considering pieces of evidence which are otherwise inadmissible in court proceedings if only to ensure that the ends of justice are met, thus:

> "The general rule that administrative agencies are not bound by the technical rules of evidence. **It can accept documents which cannot be admitted in a judicial proceeding where the Rules of Court are**

[26] *Ibid*

strictly observed. It can choose to give weight or disregard such evidence, depending on its trustworthiness."[27] (Emphasis supplied)

It bears emphasis that in our jurisdiction, the prevailing rule is that the drastic remedy of dissolving a corporation or revoking a franchise/license must be exercised with great caution,[28] and that all remedies must be exhausted before imposing the harsh penalty of dissolution/revocation. The foregoing rule was applied by the Commission in the case of *Marbel Institute of Technical College, et al. vs. Agapito Lubaton, et al.*[29], where We held that revocation will only be resorted to if all available remedies have already been exhausted, to wit:

> "Finally, the Commission has consistently ruled that not every casual infraction would be a valid ground for revocation. The **drastic remedy of dissolving a corporation must be exercised with great caution and not in doubtful cases. Revocation will only be resorted if all the available remedies have been exhausted**. In the instant case, Petitioner's allegation and evidence does not warrant the revocation of Respondents Marbel and Marvelous' Certificate of Incorporation. xxx." (Emphasis supplied)

In another case where the Commission applied the same rule, the importance of affording the erring corporation with an opportunity to correct the misdeed, if there are other remedies available before imposing the penalty of dissolution was emphasized, to wit:

> "The drastic remedy of dissolving a corporation must be exercised with great caution and not in doubtful cases. This holds true in case where an individual's interest and not of the public is involved. In any event, all remedies must be exhausted before imposing the harsh penalty of dissolution. **Also, the corporation must be given an opportunity to correct any misdeed or comply with the law** since a dissolution will not be decreed unless no other adequate remedy is available."[30] (Emphasis supplied)

Applying the foregoing rule and policies to the instant case, We hold that while the imposition of a heavier penalty(ies) provided under MC No. 18 is warranted based on the number of violations committed by Appellant FCash, the penalty of revocation which was imposed by the CGFD is too harsh, considering the efforts that Appellant FCash has made to fully comply with the provisions of MC No. 18. An errant corporation which has exhibited serious resolve and efforts to comply with the

---

[27] *Sugar Regulatory Administration v. Tormon* (G.R. No. 195640, December 4, 2012)
[28] 16A Fletcher *Cyc Corp* [Perm Ed] sec. 8035 at p. 155
[29] SEC Case No. 05-09-0336, October 18, 2016.
[30] In the Matter of the Petition for Involuntary Dissolution of Starconnection, Inc., SEC Case No. 06-09-271, January 7, 2010.

regulations of the Commission, as what FCash did in the instant case, deserves a final chance to reform and to show that it is worthy to continue enjoying the privilege of operating as a lending company, and in effect, of keeping its corporate franchise.

Relative thereto, the old case of *Government of the Philippine Islands v. El Hogar Filipino*[31] is instructive and applicable, to wit:

> "Upon consideration of the facts above set forth it is evident that the strict letter of the law was violated by the respondent; but it is equally obvious that its conduct has not been characterized by obduracy or pertinacity in contempt of the law.
>
> This provision clearly shows that the court has a discretion with respect to the infliction of capital punishment upon corporations and that there are certain misdemeanors and misusers of franchises which should not be recognized as requiring their dissolution. In Government of the Philippine Islands vs. Philippine Sugar Estates Development Co. (38 Phil., 15), it was found that the offending corporation had been largely (though indirectly) engaged in the buying and holding of real property for speculative purposes in contravention of its charter and contrary to the express provisions of law. Moreover, in that case the offending corporation was found to be still interested in the properties so purchased for speculative purposes at the time the action was brought Nevertheless, instead of making an absolute and unconditional order for the dissolution of the corporation, the judgment of ouster was made conditional upon the failure of the corporation to discontinue its unlawful conduct within six months after final decision. In the case before us the respondent appears to have rid itself of the San Clemente property many months prior to the institution of this action. It is evident from this that the dissolution of the respondent would not be an appropriate remedy in this case. We do not of course undertake to say that a corporation might not be dissolved for offenses of this nature perpetrated in the past, especially if its conduct had exhibited a willful obduracy and contempt of law. We content ourselves with holding that upon the facts here before us the penalty of dissolution would be excessively severe and fraught with consequences altogether disproportionate to the offense committed."

On the basis thereof, We find that the revocation of Appellant FCash's CA is too harsh a penalty considering all the attendant circumstances borne in the records of the case, and the fact that there are sanctions that may be imposed under MC No. 18 which will not diminish nor render trivial the gravity of the offenses/violations that were already committed.[32]

---

[31] G.R. No. 26649, [July 13, 1927]
[32] *Id.*

WHEREFORE, premises considered, the instant Appeal is hereby **GRANTED**. The Assailed Order of CGFD is hereby **MODIFIED**. On the basis of a finding of its third violation of MC No. 18, the following penalties are hereby imposed upon FCASH GLOBAL LENDING INC.:

(A) The Certificate of Authority to Operate as a Lending Company of FCASH GLOBAL LENDING INC. is hereby SUSPENDED for a period of Sixty (60) Days from receipt of this Decision; and
(B) FCASH GLOBAL LENDING INC. is hereby ordered to pay the FINE of Pesos: One Million (PhP1,000,000.00).

FCASH GLOBAL LENDING INC. is further directed to:

(1) Inform the Commission of the date of its receipt of this Decision;
(2) Settle in full the fine of Pesos: One Million (PhP1,000,000.00);
(3) Discontinue operations until after the lapse of the suspension period; and
(4) Submit proof of compliance with this Decision.

A subsequent violation by FCASH GLOBAL LENDING INC. of MC No. 18 shall be meted with the penalty of revocation.

SO ORDERED.

Pasay City, Philippines; 02 March 2021.

EMILIO B. AQUINO
Chairperson

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner