Republic of the Philippines
Department of Finance
Securities and Exchange Commission
PICC Secretariat Building, PICC Complex, Pasay City

COMMISSION EN BANC

IN RE: PETITION FOR REHABILITATION AND FOR DECLARATION IN A STATE OF SUSPENSION OF PAYMENTS

STANDFORD RESOURCES AND DEVELOPMENT CORP.,
Appellant,
x----------x

SEC EB Case No. 02-18-438
SHP-1's Dismissal of Petition due to Lack of Jurisdiction

DECISION

This resolves the Appeal of the **Orders dated 18 October 2017 and 29 January 2018** of the Commission's SPECIAL HEARING PANEL 1 (SHP-1), where Appellant STANDFORD RESOURCES AND DEVELOPMENT CORP. (STANDFORD)'s *Petition for Rehabilitation and for Declaration in a State of Suspension of Payments* was **dismissed for lack of jurisdiction**.

RELEVANT FACTS

PART 1 – PROCEEDINGS FROM 1999-2002

On **3 March 1999,** STANDFORD filed its *Petition for Rehabilitation and for Declaration in a State of Suspension of Payments* with the Commission.

On **9 March 1999**, the Commission En Banc issued an **Order** suspending all actions pending against STANDFORD before "any court, tribunal, office, board, body, and/or commission" until further notice (SUSPENSION ORDER).

On **14 April 1999**, the Commission En Banc issued an **Order** extending the suspension of all pending actions against STANDFORD.

On **8 August 2000**, the **Securities Regulation Code of 2000 (SRC)**, which was signed into law on 19 July 2000, became effective. **Section 5.2 of the SRC** transferred jurisdiction over Petitions for Rehabilitation and Suspension of Payments to the regular courts, with the exception of **pending cases as of 30 June 2000**, viz.

> The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: Provided, That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over the cases.

> The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payment/rehabilitation cases filed as of 30 June 2000 until finally disposed. (Emphasis supplied)

On **13 October 2000**, the Commission En Banc issued an **Order** declaring STANDFORD "technically insolvent," thus precluding corporate rehabilitation. The Commission consequently **dismissed the Petition for Rehabilitation and, instead, placed the corporation under Liquidation**, viz.

> It appearing from the records of this case that the inability of petitioner [STANDFORD] to pay, although temporary, will last for a period longer than one (1) year from the filing of this Petition, petitioner corporation [STANDFORD] is considered technically insolvent, therefore this Petition is hereby DISMISSED (Sec. 3-12 Rules on Corporate Recovery)
>
> Accordingly, petitioner corporation [STANDFORD] is now considered for liquidation with the appointment of Atty. MANUEL D. YNGSON, Jr. Receivers and Liquidators, Inc. xxx as the liquidator of the corporation [STANDFORD] xxx

On **18 December 2001**, the Commission En Banc issued an **Order** declaring that "Commission-supervised **Liquidation is no longer necessary**," viz.

> [T]he services of the SEC-Appointed Liquidator was already terminated as early as May 31, 2001. Hence, any act on his part from such date onward on behalf of the corporation would be coated with legal uncertainties. In the absence of a Liquidator, the corporation (or its board of directors) would assume the obligation of liquidating itself, until and unless a new liquidator is appointed and qualified. Hence, the petitioner through its corporate officers may, from May 31, 2001, subject to the approval of this Commission, enter into negotiations and agreements with the creditors, as long as their acts would not be prejudicial to the corporation, its creditors, and [its] stockholders.
>
> Considering that all major creditors [have] already agreed to *dacion en pago* settlement and/or restructuring of loan, and considering further that conformity to such arrangements would be more beneficial and advantageous to the petitioner corporation [STANDFORD] as well as the creditors, the Commission rules that a Commission-supervised Liquidation is no longer necessary. (Emphasis supplied)

On **15 February 2002**, PROSPERITY CREDIT RESOURCES, INC. (PROSPERITY), a creditor of STANDFORD, filed a **Motion for Reconsideration** before the Commission En Banc, assailing the Order dated 18 December 2001. PROSPERITY's Motion was denied under the then-prevailing **Section 16-11 of 2000 SEC Revised Rules of Procedure**, viz.

> No motion for reconsideration of the Order or Decision of the Commission En Banc shall be entertained.[1]

PART 2 – PROCEEDINGS FROM 2002-2018

Despite the **Orders of the Commission En Banc dated 13 October 2000 and 18 December 2001**, the Liquidation of STANDFORD continued. In turn, the Commission continued to supervise the Liquidation. The matter was eventually delegated to the Commission's **Special Hearing Panel 1 (SHP-1).**

PART 3 – PROCEEDINGS FROM 2016-2018

On **19 February 2016**, PROSPERITY filed a **Motion to Terminate Proceedings and to Dismiss the Petition** [for Rehabilitation and Suspension of Payments] with the SHP-1. It argued that since STANDFORD was declared "technically insolvent," the Insolvency Law[2] should have been applied, pursuant to which jurisdiction over Liquidation is vested in the regular courts.

On **15 March 2016**, the Liquidator filed a **Comment/Opposition**, arguing that the Commission has jurisdiction, since this case was filed on 3 March 1999 and was pending as of 30 June 2000.

Between March and October 2017, the SHP-1 directed all of STANDFORD's creditors to file their separate Comment/Opposition to PROSPERITY's Motion to Terminate, but none of them filed such with the Commission. The SHP-1 also called STANDFORD, PROSPERITY, the Liquidator, and the creditors to a Conference, but not all of the Creditors attended.

On **18 October 2017,** the SHP-1 issued an **Order** dismissing STANDFORD's Petition due to lack of jurisdiction, viz.

> As borne by the records of this case, STANDFORD filed a *Petition for Rehabilitation and for Declaration in a State of Suspension of Payments* with the Commission on 3 March 1999. On 9 March 1999, the Commission granted the Petition for Suspension of [STANDFORD]. In such manner, the action was pending as of 30 June 2000 and the Commission retained jurisdiction over such Petition for Suspension.
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> However, on 13 October 2000, the Commission issued an Order dismissing the Petition. xxx

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[1] This rule has been retained. **SEC. 3-12 of RULE III of the 2016 SEC Rules of Procedure** explicitly states: "No motion for reconsideration of the Decision of the Commission En Banc shall be entertained."

[2] Repealed by R.A. 10142, the Financial Rehabilitation and Insolvency Act of 2010 (FRIA).

For its part, PROSPERITY contends that when the Commission issued the Order declaring STANDFORD technically insolvent and placed the corporation under Liquidation, the case was deemed finally disposed.

We agree with the contention of [PROSPERITY].

In the case of **Consuelo Metal Corporation vs. Planters Development Bank [*Consuelo Metal case*]**,[3] the Supreme Court held that:

> However, the SEC's jurisdiction does not extend to the liquidation of a corporation. While the SEC has jurisdiction **to order the liquidation** of the corporation, jurisdiction **over the liquidation** now pertains to the appropriate regional trial courts.[4]
>
> xxx xxx xxx

xxx [I]t is clear that [STANDFORD] filed its Petition for Rehabilitation and Suspension of Payments on 3 March 1999. Likewise, [STANDFORD] filed an Urgent Motion for Extension of Suspension Order [which] was granted on 14 April 1999 until 9 May 1999. When the Commission [discovered] [STANDFORD]'s inability to pay, it then considered the corporation as technically insolvent. [Hence, the Commission] dismissed the Petition and placed [STANDFORD] under Liquidation. **It is undeniable from the time the Commission issued the questioned Order dated 13 October 2000, the Commission no longer had jurisdiction to supervise the Liquidation proceedings of [STANDFORD].**

Further, the Order of the Commission dated 18 December 2001 xxx clearly states:

> We have noted that in the Order dated October 13, 2000, the hearing officer declared the petitioner corporation [STANDFORD] "technically insolvent" xxx Hence, the issue on the propriety of a rehabilitation plan is now irrelevant.
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> xxx xxx xxx
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> xxx [T]he Commission rules that a Commission supervised liquidation is no longer necessary.

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[3] G.R. No. 152580, 26 June 2008.
[4] Page 6 of SHP-1's Order dated 18 October 2017.

> Records of the case prove that **the Commission had already lost its jurisdiction to supervise the Liquidation** of [STANDFORD] when it issued the Orders on 13 October 2000 and 18 December 2001.[5]

Citing the Supreme Court decision in Heirs of Del Rosario v. Del Rosario,[6] SHP-1 further ruled that jurisdiction is "conferred only by law" and that "estoppel does not apply.

On **7 November 2017**, STANDFORD filed a **Motion for Reconsideration** with the SHP-1.

On **29 January 2018**, the SHP-1 issued an **Order** denying STANDFORD's Motion for Reconsideration.

On **13 February 2018**, STANDFORD filed its **Appeal Memorandum** with the Commission En Banc. It argued that the Commission retains jurisdiction over the liquidation proceedings, because it had earlier asserted its jurisdiction (to the exclusion of the regular courts) when it ordered the very same liquidation proceedings to commence, viz.

> **It is well-settled that, once a court acquires jurisdiction, it does so to the exclusion of other courts. This jurisdiction shall continue until the termination of the proceedings.**
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> [PROSPERITY claims it its [Motion] that when this Honorable Commission dismissed the Petition [for Rehabilitation and Suspension of Payments] in its **Order dated 13 October 2000**, it should have referred the liquidation proceedings to the Regional Trial Court. We again quote hereunder the dispositive portion for easy reference:
>
> > It appearing from the records of this case that the inability of petitioner [STANDFORD] to pay, although temporary, will last for a period longer than one (1) year from the filing of this Petition, petitioner corporation [STANDFORD] is considered **technically insolvent**, therefore this Petition is hereby DISMISSED (Sec. 3-12 Rules on Corporate Recovery)
> >
> > Accordingly, petitioner corporation [STANDFORD] is now **considered for liquidation** with the appointment of Atty. MANUEL D. YNGSON, Jr. Receivers and

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[5] Page 7-8 of SHP-1's Order dated 18 October 2017.
[6] G.R. No. 181548, 20 June 2012.

> Liquidators, Inc. xxx as the liquidator of the corporation [STANDFORD] xxx
>
> It will be noticed that the above-quoted Order of this Honorable Commission has **two parts**. The first part involves the declaration that the appellant [STANDFORD] was **technically insolvent**. The second part involves the declaration that the petitioner [STANDFORD] [was] **considered for liquidation** and the appointment of Atty. Yngson as liquidator.
>
> In other words, **this Honorable Commission took cognizance of the liquidation proceedings and did not refer it to the Regional Trial Court.** (Emphasis supplied)

On **22 May 2018**, PROSPERITY filed a **Manifestation with Prayer for Dismissal of Appeal.** It argued that the Appeal should be dismissed outright for being a prohibited pleading under the 2016 SEC Rules of Procedure, viz.

> Considering that the Appeal taken by STANDFORD is on the **Order dated 18 October 2017** (granting the Motion to Terminate Proceedings on the ground of Lack of Jurisdiction), **and the Order dated 29 January 2018** which upheld the previous order xxx then the present Appeal should be dismissed [outright].
>
> It is evident from the above-cited sections in the 2016 SEC Rules of Procedure that **Orders dismissing an action on [the] ground of absence of jurisdiction is not appealable to the SEC En Banc.** As such, the present [Appeal] should be dismissed outright.[7] (Emphasis supplied)

On **5 July 2018**, PROSPERITY filed a **Motion to Act on the Appeal**.

On **11 July 2018**, the Commission En Banc issued an **Order to File Comment** to the SHP-1.

On **13 July 2018**, a copy of the Order was received by the SHP-1. However, no timely Comment was filed.

On **28 September 2018**, PROSPERITY filed a **Letter-Request for Early Resolution Due to Meritorious Reason on Grounds of Lack of Jurisdiction**, highlighting that this matter has been pending for 19 years to the prejudice of STANDFORD's creditors, viz.

> The Petition for Rehabilitation and [Suspension of Payments] was filed by [STANDFORD]. **While the Petition has been ultimately dismissed for lack of jurisdiction [by the Commission], it languished for nineteen (19) long years through various devices**

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[7] Page 7 of PROSPERITY's Manifestation filed 22 May 2018.

> **employed by [STANDFORD] to defeat the rights and claims of its creditors.** Three liquidators were appointed without anyone [of them] successfully getting control over the corporation. **Instead, STANDFORD used the [Suspension Order] issued by the SEC [during the pendency of the case] to parry the claims of their creditors and put the company assets beyond their reach.**[8] (Emphasis supplied)

PROSPERITY's Letter-Request invoked **Section 3-1(g), Rule III, Part V of the 2016 SEC Rules of Procedure (2016 Rules)**, viz.

> **SEC. 3-1. Subject of Appeal to the Commission En Banc.** – A party to an action may appeal to the Commission En Banc an adverse decision, final order or resolution of a Director of an Operating Department, the members of a **Special Hearing Panel** or a Self-Regulatory Organization, if there are (i) questions of fact, or (ii) questions of law, or (iii) questions of rule implementation, or (iv) mixed questions of fact, law and rule implementation.
>
> No appeal may be taken from:
>
> xxx xxx xxx
>
> **g. An order dismissing an action on the ground of absence of authority or jurisdiction of the Operating Department to act over the subject matter.** (Emphasis supplied)

Since the 2016 Rules place an Operating Department, a Special Hearing Panel, and a Self-Regulatory Organization on the same level (i.e. their Decisions are appealable to the Commission En Banc), it follows that the above provision must be deemed to include **an order dismissing an action on the ground of absence of authority or jurisdiction of the Special Hearing Panel to act over the subject matter.**

Hence this Appeal.

DISCUSSION

Although PROSPERITY has presented a valid procedural argument, in the interest of substantial justice, we shall resolve this case on the merits.

The SHP-1 correctly ruled that **the Commission has no jurisdiction over the liquidation proceedings**. The ***Consuelo Metal* case** is indeed applicable here, because (1) a Suspension Order was issued prior to 30 June 2000 and so jurisdiction was retained by the SEC despite the passage of the Securities Regulation Code, but

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[8] Page 1-2 of PROSPERITY's Letter-Request filed 28 September 2018.

(2) the SEC later determined that the corporation could no longer be rehabilitated and should be liquidated instead, viz.

> The SEC assumed jurisdiction over CMCs petition for suspension of payment and issued a **suspension order** on 2 April 1996 after it found CMCs petition to be sufficient in form and substance. While CMCs petition was **still pending with the SEC as of 30 June 2000**, it was finally disposed of on 29 November 2000 when the SEC issued its Omnibus Order directing the dissolution of CMC and the transfer of the liquidation proceedings before the appropriate trial court. **The SEC finally disposed of CMCs petition for suspension of payment when it determined that CMC could no longer be successfully rehabilitated.**
>
> However, **the SECs jurisdiction does not extend to the liquidation of a corporation.** While the SEC has jurisdiction to order the dissolution of a corporation, jurisdiction over **the liquidation of the corporation now pertains to the appropriate regional trial courts.** This is the reason why the SEC, in its 29 November 2000 Omnibus Order, directed that the proceedings on and implementation of the order of liquidation be commenced at the Regional Trial Court to which this case shall be transferred. This is the correct procedure **because the liquidation of a corporation requires the settlement of claims for and against the corporation, which clearly falls under the jurisdiction of the regular courts.** The trial court is in the best position to convene all the creditors of the corporation, ascertain their claims, and determine their preferences.[9]

Unlike the ***Consuelo Metals*** **case**, however, the Commission did not refer the matter to the regular courts and, in the same Order, appointed a liquidator.

We rule that the Commission had no jurisdiction to appoint any of the liquidators, beginning with Atty. Yngson, and should have instead referred the entire liquidation proceedings to the regular courts. The Commission's jurisdiction only extended to the termination of the Rehabilitation proceedings. As correctly pointed out by the SHP-1 in its Order dated 18 October 2017, viz.

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[9] Supra note 3.

> It is undeniable from the time the Commission issued the questioned Order dated 13 October 2000, the Commission no longer had jurisdiction to supervise the Liquidation proceedings of [STANDFORD].[10]

It was correct for the SHP-1 to dismiss this case because jurisdiction is conferred by law.[11] The Commission cannot vest itself with powers over a liquidation case which belongs within the exclusive jurisdiction of the regular courts, regardless of the actions already taken by the liquidators and the lapse of time. Perhaps it is fortunate, in hindsight, that the SEC-appointed liquidators were prevented by STANDFORD from gaining control of the corporate assets and thus failed to complete a task that was never theirs to perform.

Moreover, the SHP-1 was correct to dismiss this Petition for Rehabilitation and Suspension of Payments, because the liquidation proceedings **cannot be construed as an *extension* of the rehabilitation proceedings** which ended on 13 October 2000. Liquidation is the *alternative* to Rehabilitation—one presupposes that the corporation is certainly dying and cannot recover, while the other presupposes that the corporation can eventually recover.

Finally, PROSPERITY alleges that STANDFORD has been invoking the Suspension Orders dated 9 March 1999 and 4 April 1999, issued during the pendency of the rehabilitation case, to frustrate the efforts of its creditors. Since the rehabilitation proceedings have long been terminated, it follows that such orders are no longer effective.

WHEREFORE, premises considered, the Appeal is hereby **DENIED**.

SO ORDERED.

Pasay City, Philippines; 16 November 2018.

EMILIO B. AQUINO
Chairperson

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

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[10] Supra note 5.
[11] Citing *Del Rosario v. Del Rosario*, supra note 6.