



Republic of the Philippines
Department of Finance
INSURANCE COMMISSION
1071 United Nations Avenue
Manila



PRESS RELEASE
7 June 2021

**SC TELLS REHABILITATION COURT AND CAPPI:
“HANDS-OFF CAP PENSION AND ITS ASSETS!”**

In a thirty (30)-page Decision penned by Associate Justice Marvic Leonen, the Supreme Court’s Third (3rd) Division affirmed the position of the Insurance Commission (“IC”) by enjoining College Assurance Plans Philippines, Inc. (“CAPPI”) from including the properties of Comprehensive Annuity Plans and Pension (“CAP Pension”) in CAPPI’s corporate rehabilitation proceedings pending before the Regional Trial Court of the City of Makati, Branch 149 (“Rehabilitation Court”).

The Supreme Court held that while CAPPI owns 86% of CAP Pension’s stock, the latter “retained a [legal] personality separate and distinct from [CAPPI] throughout its rehabilitation proceedings”. The high court maintained that “CAP Pension may own properties and incur liabilities independently of [CAPPI]”; and that, “[a]s a subsidiary, [CAP Pension] is not liable for the obligations of [CAPPI]”.

“With this ruling of the Honorable Supreme Court, the IC can proudly state that it was able to protect the rights and interests of the planholders of CAP Pension, consistent with our mandate under the Pre-Need Code of the Philippines,” said Insurance Commissioner Dennis Funa. “The Insurance Commission will now proceed with the conservatorship of the company”, Commissioner Funa clarified. “But first we will examine the financial condition of CAP Pension as of today to see what assets of the company remains, we will then appoint a conservator to recommend the direction that we will take,” Commissioner Funa added.

The two (2) cases (i.e., G.R. Nos. 218193 and 213130) jointly decided by the high court stemmed from the Rehabilitation Court’s issuance of a Resolution on 8 November 2006 ordering the sale and disposition of “subsidiaries and affiliates” of CAPPI, which included CAP Pension.

On 13 September 2010, following the effectivity of the Pre-Need Code of the Philippines on 4 December 2009, IC placed CAP Pension under conservatorship due to capital impairment and trust fund deficiencies. The IC’s action placing CAP Pension under conservatorship led to the Rehabilitation Court’s issuance of an Order dated 15 April 2011 “reiterating its jurisdiction over CAPPI and all its assets, including CAP Pension, through the approved rehabilitation plan”. Subsequently, the IC moved for the reconsideration of said Order dated 15 April 2011, opposing the motion of CAPPI’s rehabilitation receiver to include the sale of CAP Pension’s properties to pay CAPPI’s obligations. The IC’s motion for reconsideration was subsequently denied, which was later effectively affirmed by the Court of Appeals in a Decision dated 28 April 2015. This Decision dated 28 April 2015 was assailed by the IC in G.R. No. 218193.

In the other case filed before the Supreme Court (G.R. No. 213130), the IC, together with the Securities and Exchange Commission (“SEC”), appealed another Decision of the Court of Appeals dated 18 June 2014 upholding the Rehabilitation Court’s Order dated 5 September 2013. The IC and SEC jointly opposed said Order that approved the extension of the corporate rehabilitation proceedings of CAPPI and the modification of the rehabilitation plan. The

modified rehabilitation plan again entailed the sale and disposition of CAP Pension's assets to pay CAPPI's obligations.

In the Supreme Court's Decision, it clarified that the Rehabilitation Court's Resolution issued on 8 November 2006 can only mean that CAPPI's board of directors, stockholders, and officers were directed to dispose of the company's equities or stockholdings in CAP Pension. Moreover, the Rehabilitation Court could not have validly ordered the sale of CAP Pension itself as if the company was one of CAPPI's assets to be disposed.

The high court also clearly distinguished CAP Pension's conservatorship proceedings from CAPPI's rehabilitation proceedings in the Decision as separate remedies that are under two (2) separate jurisdictions. CAPPI's rehabilitation is a court-supervised proceeding that is presently ongoing, while CAP Pension's conservatorship is a proceeding undertaken in the exercise of the IC's authority under the Pre-Need Code of the Philippines. The Supreme Court categorically stated in the Decision that the IC, "as the primary agency governing pre-need companies, should not be restrained from fulfilling its mandate".

The Supreme Court also explained in the Decision that "[t]o rule that CAP Pension was placed under custodia legis by the order of the rehabilitation court is prejudicial to the interests of CAP Pension's planholders" and that "CAP Pension's planholders need protection in the same manner and degree as [CAPPI's] planholders who had been amply protected through the rehabilitation proceedings".

Notwithstanding the foregoing, the Supreme Court dismissed the IC and SEC's opposition to the 5 September 2013 Order of the Rehabilitation Court extending the period of CAPPI's corporate rehabilitation and modifying the rehabilitation plan. Denying the IC and SEC's Petition in G.R. No. 213130, the Supreme Court ruled that it cannot entertain said agencies' objections to said Order because the same will entail a review of evidence, which the high court cannot do in appeals. However, even as the Supreme Court dismissed the IC and SEC's opposition, it stressed that "CAP Pension's assets are not and should not be included in the rehabilitation plan".

Acknowledging that the Decision "will affect thousands of planholders", the Supreme Court stated in closing that "to dismiss the rehabilitation proceedings because of the erroneous assumption that CAP Pension and its assets were placed under the rehabilitation court's jurisdiction would severely frustrate justice". Finally ordering the IC to proceed with the conservatorship of CAP Pension and the Rehabilitation Court to "continue its rehabilitation efforts", the high court stated that "this ruling is ultimately aimed at protecting the interests of the planholders of both pre-need companies".

CAPPI's questionable real estate investments, even exceeding the limitations set by the company's previous regulator, SEC, led to the company's downfall beginning in the early 2000s. It will be recalled that during the 1980s until the 1990s, CAPPI was considered a pioneer in the pre-need industry and was widely known for its educational plans that guaranteed payment of tuition fees due when the beneficiaries of the plans entered college. CAP Pension, on the other hand, was one of CAPPI's subsidiaries that was also known for its pension plans that provided for pension benefits to its beneficiaries upon the plans' maturity.



ATTY. ALWYN FRANZ P. VILLARUEL
Media Relations Officer
afp.villaruel@insurance.gov.ph