

Equality in Equity: Equal Footing of Secured and Unsecured Creditors in Suspension of Payments and Rehabilitation Proceedings

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The Article focuses on the “equality in equity principle,” placing secured and unsecured creditors on equal footing with each other during rehabilitation proceedings. The first part discusses the jurisprudential roots of the said principle. The Court applied the principle in *Alema’s Sibal and Sons v. Elbinias* to a company placed under rehabilitation receivership by the Securities and Exchange Commission. The reasoning is that all assets of a corporation under rehabilitation receivership are held in trust for the equal benefit of all creditors to preclude one from obtaining an advantage or preference over another by the expediency of attachment, execution, or otherwise. Not any one of the creditors should be paid ahead of the others. Thus, if a property is mortgaged, the secured creditor may not foreclose the property so as not to prejudice other creditors or cause discrimination among them. The Article argues that should a rehabilitation plan fail, the equality in equity principle” ceases to operate and the secured creditors cease to be on equal footing with unsecured ones. At that point, the security may be enforced. The Article concludes that secured creditors are entitled to adequate protection during the implementation of the plan to the extent of the value of their collateral.