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Oppenheimer AMT-Free Municipals v. ACA Financial Guar. Corp.

Supreme Court, Appellate Division, First Department, New York - September 3, 2013 - 110 A.D.3d 280 - 971 N.Y.S.2d 95 - 2013 N.Y. Slip Op. 05768

Municipal bond holders brought action against financial guaranty insurer, seeking declaration that insurer was still obligated to pay in the event that issuer, which had filed for Chapter 9 bankruptcy, defaulted. Bond holders and insurer filed cross-motions for summary judgment. The Supreme Court, New York County, granted bond holders' motion and denied insurer's motion. Insurer appealed.

The Supreme Court, Appellate Division, held that financial guaranty insurer was not relieved of its obligation to make payments to municipal bond holders in the event of issuer's default by cancellation of original bonds and replacement with new bonds as result of restructuring plan in issuer's Chapter 9 bankruptcy proceedings.

Certificates of bond insurance (CBI) required insurer to unconditionally guarantee payment and were noncancellable, with no exclusion for bankruptcy. Bankruptcy filing was an event of default under trust agreement and served to accelerate holders' claims against issuer, and restructuring of bonds and reissuance in lower principal amount with longer payment period represented that holders sustained a loss.

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