Bond Case Briefs

Municipal Finance Law Since 1971

BANKRUPTCY - PUERTO RICO

In re Financial Oversight and Management Board for Puerto Rico

United States Court of Appeals, First Circuit - March 26, 2019 - F.3d - 2019 WL 1349221

In the debt adjustment cases of the Commonwealth of Puerto Rico and related governmental entities under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), beneficial owners of general obligation bonds that were either issued or guaranteed by the Commonwealth, and that allegedly constituted "Constitutional Debt" entitled to unique protections under the Puerto Rico Constitution, commenced adversary proceeding against the Commonwealth and the Financial Oversight and Management Board for Puerto Rico, seeking declaratory and injunctive relief regarding the Commonwealth's use of certain "Special Property Tax Revenues" and "Clawback Revenues."

Defendants filed motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief could be granted. The United States District Court granted motion. Bondholders appealed.

The Court of Appeals held that:

- Bondholders' request for declaratory judgments that they, and not the Commonwealth, possessed an equitable and beneficial property interest in, as well as a statutory lien over, the "Restricted Revenues," was non-justiciable;
- Bondholders' Takings Clause claim was not ripe for adjudication; and
- PROMESA precluded the court from granting the relief sought in those counts of the complaint seeking declarations that the Commonwealth could not use or collect, or had to segregate, the "Restricted Revenues."

In debt adjustment cases of the Commonwealth of Puerto Rico and related governmental entities under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), request of Puerto Rico general obligation bondholders for declaratory judgments that they, not the Commonwealth, possessed an equitable and beneficial property interest in, as well as a statutory lien over, certain "Restricted Revenues" comprised of "Special Property Tax Revenues" and "Clawback Revenues," was non-justiciable; though bondholders demonstrated existence of substantial controversy, such controversy was not sufficiently immediate or real to warrant declaratory relief, as bondholders failed to show that, if granted, the requested relief would settle some dispute which affected the Commonwealth's behavior towards them, and they instead sought abstract declarations that were unrelated to any current concrete dispute and that likely could be addressed prior to plan confirmation.

In debt adjustment cases of the Commonwealth of Puerto Rico and related governmental entities under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), Takings Clause claim asserted by Puerto Rico general obligation bondholders, that is, their request for a declaration that the Commonwealth's diversion, without just compensation, of certain

“Restricted Revenues” comprised of “Special Property Tax Revenues” and “Clawback Revenues” for purposes other than the payment of “Constitutional Debt” would constitute an unlawful taking of property under the Takings Clause, was not ripe for adjudication; bondholders’ request was hypothetical, as a taking had yet to occur, absent any allegation that the Commonwealth had arrived at a definitive position or final decision regarding any disbursement of “Restricted Revenues” that might inflict an actual concrete injury upon them.

In debt adjustment cases of the Commonwealth of Puerto Rico and related governmental entities under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), PROMESA precluded the court from granting the relief sought in those counts of Puerto Rico general obligation bondholders’ complaint seeking declarations that the Commonwealth could not use or collect certain “Restricted Revenues” comprised of “Special Property Tax Revenues” and “Clawback Revenues” for any purpose other than payment of “Constitutional Debt” allegedly owed to bondholders, or that the Commonwealth had to segregate such revenues; absent consent of the Financial Oversight and Management Board for Puerto Rico or authorization in a plan of adjustment, the requested declarations would have constituted decrees that unlawfully interfered with the autonomy of the Commonwealth and its entities in the use of the “Restricted Revenues.”

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com