

Bond Case Briefs

Municipal Finance Law Since 1971

BANKRUPTCY - PUERTO RICO

Assured Guaranty Corp. v. Garcia-Padilla

United States District Court, D. Puerto Rico - October 4, 2016 - F.Supp.3d - 2016 WL 5794715

Insurance companies brought actions against Puerto Rico officials seeking declaratory order that executive orders by Puerto Rico's governor that resulted in default on bonds they insured violated their rights under Takings, Due Process, and Contracts Clauses, and seeking injunction barring officials from enforcing those orders. Officials moved to dismiss.

The District Court held that:

- Eleventh Amendment did not bar actions;
- Puerto Rico's payment priority scheme and executive orders deferring payment on bonds were not barred by Bankruptcy Code provision forbidding involuntary compositions; and
- Companies stated plausible claims against president of Government Development Bank of Puerto Rico (GDB).

Eleventh Amendment did not bar insurance companies' actions against Puerto Rico officials seeking declaratory order that executive orders by Puerto Rico's governor that resulted in default on bonds they insured violated their rights under Takings, Due Process, and Contracts Clauses, and injunction barring officials from enforcing those orders.

Payment priority scheme established in Puerto Rico's Management and Budget Office Organic (OMB) Act and Puerto Rico governor's executive orders deferring payment on bonds did not prescribe method of composition, and thus were not barred by Bankruptcy Code provision forbidding involuntary compositions by municipalities, where scheme and orders did not relieve or reduce Puerto Rico's obligation to pay debt owed on bonds in full.

Insurance companies stated plausible claims against president of Government Development Bank of Puerto Rico (GDB) in her official capacity for violating their rights under Takings, Due Process, and Contracts Clauses as result of Puerto Rico's deferment of payment on bonds that companies had insured, in light of companies' allegations that GDB had prominent and extensive role in Commonwealth fiscal activities, that GDB was addressed or participated in documents regarding Puerto Rico's payment priority scheme and "clawing back" of funds, and that president was likely involved in those actions.