

FIRST DIVISION

[G.R. No. 178696, July 30, 2018]

**BANGKO SENTRAL NG PILIPINAS AND ITS MONETARY BOARD,
PETITIONERS, VS. BANCO FILIPINO SAVINGS AND MORTGAGE
BANK, RESPONDENT.**

[G.R. No. 192607]

**BANCO FILIPINO SAVINGS AND MORTGAGE BANK, PETITIONER,
VS. CENTRAL BANK BOARD OF LIQUIDATORS, RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

For the Court's consideration are two consolidated^[1] petitions for review on *certiorari* both filed under Rule 45 of the Rules of Court, as amended.

G.R. No. 178696 assails the Decision^[2] and Resolution^[3] dated April 12, 2007 and June 26, 2007, respectively, of the Court of Appeals in CAG.R. SP No. 96831 entitled, "*Bangko Sentral ng Pilipinas and its Monetary Board v. The Hon. Presiding Judge, Regional Trial Court, Branch 62, Makati City and Banco Filipino Savings and Mortgage Bank.*"

G.R. No. 192607, on the other hand, seeks the reversal of the Decision^[4] and Resolution^[5] dated September 3, 2008 and June 17, 2010, respectively, of the Court of Appeals in CA-G.R. SP No. 96280 entitled, "*Central Bank Board of Liquidators v. The Regional Trial Court of Makati (Branch 62) and Banco Filipino Savings and Mortgage Bank.*"

CA-G.R SP Nos. 96831 and 96280 involved petitions for *certiorari* under Rule 65 of the Rules of Court, as amended, which similarly prayed for the nullification of the Orders dated July 22, 2005^[6] and August 25, 2006^[7] of the Regional Trial Court (RTC), Branch 62, Makati City in Civil Case No. 04-823 entitled, "*Banco Filipino Savings and Mortgage Bank v. The Monetary Board, Central Bank of the Philippines, now Central Bank Board of Liquidators, and The Monetary Board, Bangko Sentral ng Pilipinas,*" which, in turn, denied the separate motions to dismiss filed by the Bangko Sentral ng Pilipinas and its Monetary Board, and the Central Bank-Board of Liquidators, of Banco Filipino Savings and Mortgage Bank's (BFSMB) Petition for Revival of Judgment.

The Facts

The two consolidated petitions share the same set of facts as follows: Pursuant to Resolution No. 223 dated February 14, 1963 of the Monetary Board (MB) of the

Central Bank of the Philippines (CB), BFSMB commenced its operations as savings and mortgage bank on July 9, 1964.^[8]

In MB Resolution No. 955 dated July 27, 1984, however, the CB-MB placed BFSMB under conservatorship of one Basilio Estanislao. Eventually, pursuant to another resolution, MB Resolution No. 75 dated January 25, 1985, the CB-MB ordered the closure of BFSMB on the ground that the latter was found to be "*insolvent and that its continuance in business would involve probable loss to its depositors and creditors x x x.*"^[9]

On February 28, 1985, BFSMB filed before the Court a petition for *certiorari* and *mandamus* under Rule 65 of the Rules of Court seeking to annul MB Resolution No. 75 "*as made without or in excess of jurisdiction or with grave abuse of discretion x x.*"^[10] The petition was docketed as **G.R. No. 70054** entitled, "*Banco Filipino Savings and Mortgage Bank v. The Monetary Board, Central Bank of the Philippines, Jose B. Fernandez, Carlota P. Valenzuela, Arnulfo B. Aurellano and Ramon V. Tiaoqui,*" which was later consolidated with eight other cases.^[11] In a consolidated Decision dated December 11, 1991, the Court, among others, annulled and set aside MB Resolution No. 75, and ordered the CB-MB to allow BFSMB to resume business. The pertinent portion of the *fallo* of said decision reads:

ACCORDINGLY, decision is hereby rendered as follows:

x x x x

2. The petitions in G.R. No. 70054, 78767 and 78894 are GRANTED and the assailed order of the Central Bank and the Monetary Board dated January 25, 1985 is hereby ANNULLED AND SET ASIDE. The Central Bank and the Monetary Board are ordered **to reorganize petitioner Banco Filipino Savings and Mortgage Bank and allow the latter to resume business in the Philippines** under the comptrollership of both the Central Bank and the Monetary Board and **under such conditions as may be prescribed by the latter** in connection with its reorganization **until such time that petitioner bank can continue in business with safety to its creditors, depositors and the general public.**^[12] (Emphasis supplied.)

Less than two years thereafter, or on July 6, 1993, Republic Act No. 7653, otherwise known as ***The New Central Bank Act of 1993***, took effect.^[13] This new law abolished the CB and a *new* central monetary authority was established known as ***Bangko Sentral ng Pilipinas***.^[14] But also under the said law, the CB will continue to exist under the name Central Bank-Board of Liquidators^[15] (CB-BOL) for the *sole* purpose of administering and liquidating the assets and liabilities of the CB that were not transferred to the BSP.^[16]

During meeting held on November 6, 1993, the BSP-MB, resolved -

1. To allow the Banco Filipino Savings and Mortgage Bank (BFSMB) to reopen, subject to submission of its proposed organization including the list of officers and its plan of operations;

2. To instruct Management to write BFSMB officially, advising them of this decision and to ask the bank to collateralize its advances from the Bangko Sentral ng Pilipinas (BSP); and

3. To authorize Management to file a case in Court for the recovery of its advances including interest thereon and look for private a counsel to (a) advise the Monetary Board on the ancillary legal issues and (b) to act as counsel for the BSP Monetary Board in the filing of a civil case against the BFSMB for recovery of money.^[17]

Thus, on July 1, 1994, BFSMB reopened and resumed business under the comptrollership of the BSP.

On December 20, 1999, *Memorandum of Agreement*^[18] was entered into by and between the BSP and BFSMB. In said agreement, BFSMB was to repay to BSP the amount of P3,673,031,589.36 by way of *dacion en pago* of some of its real properties. The amount owed by BFSMB represented the so-called advances extended to it by the defunct CB.

Further, pursuant to the aforementioned Memorandum of Agreement, BSP has to lift its comptrollership over BFSMB on January 20, 2000, and deliver to the latter all collaterals in its custody, including government securities held by designated comptrollers.^[19]

Sometime in December 2002, BFSMB experienced massive withdrawals.^[20] Thus, BFSMB applied for emergency financial assistance from the BSP to maintain liquidity.

However, such assistance appeared to have been insufficient to stem the effects of the massive withdrawals. Thus, in letter^[21] dated October 9, 2003, BFSMB further requested BSP for financial assistance "*similar [to] arrangements*" that had been extended to other banks similarly situated.

In response thereto, the BSP, through a letter^[22] dated November 21, 2003 by Director Candon B. Guerrero, *Supervision and Examination Department III*, and Director Rolando Alejandro Q. Agustin, *Department of Loans and Credit*, advised BFSMB that because of "*strict requirements imposed by [Republic Act No. 7653], BSP is not in a position to assist BFSMB at this time.*" But they added that, "*should BFSMB be able to comply with all the legal requirements [relative to its requests], BSP would not hesitate to extend its support and assistance.*" One such requirement is "*BSP-approved rehabilitation program.*"

Taking its cue from the above-narrated letter, on April 14, 2004, BFSMB transmitted a long term business plan^[23] (business plan) for consideration of the BSP-MB. BFSMB's business plan was premised on the assertion that, having "*stepped into the shoes of the old Central Bank,*" the BSP was obligated to "reorganize" it (BFSMB) through the following: (i) restoring its 89 branches that used to operate prior to its closure in 1985; and (ii) extending financial support that are not subjected to stringent requirements.^[24]

In reply thereto, however, BSP-MB stated that it had no basis to act on the business

plan considering that the latter appeared to have been taken up and approved by BFSMB's Executive Committee, and not by its Board of Directors, and because of BFSMB's insistence that BSP-MB are the successors-in-interest of CB-MB, "*an allegation that [BSP-MB] have consistently denied in x x x previous communications x x x [and which issue] is still subject to contest in pending [court] proceedings.*"^[25]

Hence, on July 14, 2004, BFSMB filed ***Petition for Revival of Judgment***^[26] to enforce the Decision of the Court in G.R. No. 70054 that became final and executory on February 4, 1992. Said petition was filed against the CB-MB, represented by the CB-BOL, and the BSP-MB.

BFSMB alleged in said petition that:

5.1. Under the judgment herein sought to be revived, the respondents, having allowed Petitioner to resume business in the Philippines, are under mandate to reorganize Petitioner and place it in such a condition or footing that it can continue in business with safety to its depositors, creditors and the general public.

5.1.1. To reorganize the Petitioner means to put back on operational status its nationwide branch network, which consisted of 89 branches at the time of its illegal closure and the return or recoupment of its 3.8 million depositors which the Petitioner lost as a direct result of the predatory acts of then Central Bank Governor Jose B. Fernandez, the Central Bank and its Monetary Board. The reorganization of these branches will entail, among other things, the recovery of branch sites which were lost during the illegal closure, the recruitment of qualified personnel and the putting of the necessary infrastructure on and in each branch site. All these require substantial cash outlays. To date, Petitioner has not received any assistance whatsoever from the respondents in the restoration and reorganization of its damaged branch network. To date, exclusively on its own, with its own limited resources, Petitioner has managed to reopen and maintain operational only 60 out of its 89 branches prior to its illegal closure.

5.1.2. To put Petitioner in such a condition or footing that it can continue in business with safety to its depositors, creditors and the general public entails making its operations viable and stable. It includes, among other things, refraining from any act or pronouncement that would undermine the faith and confidence of the depositing public in the Bank or destabilize the bank, and providing it ready financial assistance for the restoration of its damaged organization.

5.2. As aforestated, the collection all at once by the Bangko Sentral via the Memorandum of Agreement x x x of the full amount of the "advances" of the Central Bank, together with interest thereon, depleted the Petitioners inventory of valuable real estate properties upon which it relied for its source of income for its operations and thus admittedly, as hereinabove pointed out, adversely affected the Bank's ability to operate with reasonable safety.

5.2.1. In addition, the *dacion* of real properties required by the

Memorandum of Agreement deprived the bank of the wherewithal with which to generate the resources to fund the reestablishment of its branch sites and its operations.

x x x x

5.3.1. Subsequently, however, BSP and Monetary Board refused altogether to grant Petitioner universal bank license unless and until the latter complies with stringent conditions which were made more so by the depletion of its resources occasioned by the settlement of the "advances" of the Central Bank by "dacion" under the Memorandum of Agreement x x x.

x x x x

5.7.4. This refusal to act at all on Petitioner's business plan is patently discriminating in the light of the financial assistance the BSP has extended with dispatch to a number of other banks which unlike Petitioner, were not even victims of injustice or, did not have in their favor Supreme Court decision declaring them as such. The Bangko Sentral had lent out total of P43 billion to bail out distressed banks, x x x, the most recent of which was to rehabilitate PBCom which included a "financial enhancement program" x x x.

5.8. The insistence by Bangko Sentral that it is not the successor-in-interest of the Central Bank of the Philippines, notwithstanding that:

- a) it reopened Petitioner and placed it under comptrollership in compliance with the judgment of the Supreme Court in G.R. No. 70054, to which it was not a party; and
- b) by its collection of the "advances" of the Central Bank as assignee thereof under the Memorandum of Agreement x x x;

does not augur well for its voluntary compliance with the mandate of the Supreme Court for the Central Bank and the Monetary Board to reorganize Petitioner and put it in such condition and footing as will enable it to continue to do business with safety to its depositors, creditors and the general public.

5.9. As herein earlier pointed out, upon effectivity of Republic Act No. 7653, all powers, duties and functions vested by law in the Central Bank of the Philippines were deemed transferred to the Bangko Sentral ng Pilipinas, and all references to the Central Bank in any law or charter were and shall be deemed to refer to the Bangko Sentral, (Sec. 136, R.A. 7653). All incumbent personnel in the Central Bank as of the date of approval of Republic Act 7653 were mandated to continue to exercise their duties and functions as personnel of the Bangko Sentral, (Sec. 131, last par., R.A. 7653). In light of these provisions of Republic Act No. 7653, there can be no doubt or question that the Bangko Sentral is in fact the successor-in-interest of the Central Bank which, though it continues to exist, is reduced to mere Board of Liquidators to liquidate