

FIRST DIVISION

[G.R. No. 181556, December 14, 2009]

**IN RE: PETITION FOR ASSISTANCE IN THE LIQUIDATION OF
INTERCITY SAVINGS AND LOAN BANK, INC. PHILIPPINE
DEPOSIT INSURANCE CORPORATION, PETITIONER, VS.
STOCKHOLDERS OF INTERCITY SAVINGS AND LOAN BANK, INC.,
RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

The Central Bank of the Philippines, now known as *Bangko Sentral ng Pilipinas*, filed on June 17, 1987 with the Regional Trial Court (RTC) of Makati a Petition for Assistance in the Liquidation of Intercity Savings and Loan Bank, Inc. (Intercity Bank) alleging that, *inter alia*, said bank was already insolvent and its continuance in business would involve probable loss to depositors, creditors and the general public.^[1]

Finding the petition sufficient in form and substance, the trial court gave it due course.^[2] Petitioner Philippine Deposit Insurance Corporation (PDIC) was eventually substituted as the therein petitioner, liquidator of Intercity Bank.^[3]

In the meantime, Republic Act No. 9302 (RA 9302)^[4] was enacted, Section 12 of which provides:

SECTION 12. Before any distribution of the assets of the closed bank in accordance with the preferences established by law, the Corporation shall periodically charge against said assets reasonable receivership expenses and subject to approval by the proper court, reasonable liquidation expenses, it has incurred as part of the cost of receivership/liquidation proceedings and collect payment therefor from available assets.

After the payment of all liabilities and claims against the closed bank, the Corporation shall pay any surplus dividends at the legal rate of interest, from date of takeover to date of distribution, **to creditors** and claimants of the closed bank in accordance with legal priority before distribution to the shareholders of the closed bank. (emphasis supplied)

Relying thereon, PDIC filed on August 8, 2005 a Motion for Approval of the Final Distribution of Assets and Termination of the Liquidation Proceedings,^[5] praying that an Order be issued for:

1. The reimbursement of the liquidation fees and expenses incurred and/or advanced by herein petitioner, PDIC, in the amount of P3,795,096.05;
2. The provision of P700,000.00 for future expenses in the implementation of this distribution and the winding-up of the liquidation of Intercity Savings and Loan Bank, Inc.;
3. The write-off of assets in the total amount of P8,270,789.99, as set forth in par. 2.1 hereof;
4. The write-off of liabilities in the total amount of P1,562,185.35, as set forth in par. 8 hereof;
5. The Final Project of Distribution of Intercity Savings and Loan Bank as set forth in Annex "Q" hereof;
6. Authorizing petitioner to hold as trustee the liquidating and surplus dividends allocated in the project of distribution for creditors who shall have a period of three (3) years from date of last notice within which to claim payment therefor. After the lapse of said period, unclaimed payments shall be escheated to the Republic of the Philippines in accordance with Rule 91 of the Rules of Court;
7. Authorizing the disposal of all the pertinent bank records in accordance with applicable laws, rules and regulations after the lapse of one (1) year from the approval of the instant Motion.

By Order of July 5, 2006,^[6] Branch 134 of the Makati RTC granted the motion except the above-quoted paragraphs 5 and 6 of its prayer, respectively praying for the approval of the Final Project of Distribution and for authority for PDIC "to hold as trustee the liquidating and surplus dividends allocated . . . for creditors" of Intercity Bank.

In granting the motion, the trial court resolved in the negative the sole issue of whether Section 12 of RA 9302 should be applied *retroactively* in order to entitle Intercity Bank creditors to surplus dividends, it otherwise holding that to so resolve would run counter to prevailing jurisprudence and unduly prejudice Intercity Bank shareholders, the creditors having been paid their principal claim in 2002 or before the passage of RA 9302 in 2004.

PDIC appealed to the Court of Appeals^[7] before which respondent Stockholders of Intercity Bank (the Stockholders) moved to dismiss the appeal, arguing principally that the proper recourse should be to this Court through a petition for review on certiorari since the question involved was purely one of law.^[8]

By Resolution of October 17, 2007,^[9] the appellate court dismissed the appeal, sustaining in the main the position of the Stockholders. Its Motion for Reconsideration having been denied by Resolution dated January 24, 2008,^[10] PDIC