

SECOND DIVISION

[G.R. No. 154499, February 27, 2004]

ALBERTO V. REYES, WILFREDO B. DOMO-ONG AND HERMINIO C. PRINCIPIO, PETITIONERS, VS. RURAL BANK OF SAN MIGUEL (BULACAN), INC., REPRESENTED BY HILARIO P. SORIANO, PRESIDENT AND PRINCIPAL STOCKHOLDER, RESPONDENT.

R E S O L U T I O N

TINGA, J.:

This deals with the *Motion for Reconsideration* of petitioners Alberto V. Reyes and Wilfredo B. Domo-ong, both *Bangko Sentral ng Pilipinas* (BSP) officials,^[1] and the *Motion for Partial Reconsideration* of respondent Rural Bank of San Miguel (Bulacan), Inc.

In the *Decision*^[2] of March 14, 2003, this Court found Deputy Governor Reyes and Director Domo-ong liable for violation of the "standards of professionalism" prescribed by the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713) in that they used the distressed financial condition of respondent Rural Bank of San Miguel (Bulacan), Inc. (RBSMI) as the subject of a case study in one of the BSP seminars and did the "brokering" of the sale of RBSMI. The Court modified the *Decision* of the Court of Appeals in CA-GR SP No. 60184^[3] by reducing the penalty imposed by the appellate court from a fine equivalent to six months' salary to a fine of two months' salary for Reyes and one month salary for Domo-ong.

In the *Decision*, the Court exonerated petitioner Herminio C. Principio^[4] of the administrative charges. The exoneration is the subject of RBSMI's *Motion For Partial Reconsideration*.

The *Motion for Reconsideration* of Reyes and Domo-ong is anchored on the following grounds: (1) it was not under their auspices that the seminar which used training materials containing two case studies on RBSMI's financial distress was conducted but under that of another department and other officials of BSP; and, (2) they did not do any act which constituted "brokering" of the sale of RBSMI or deviated from the standards of professionalism.

A brief revisit of the operative milieu is warranted to gain the needed perspective.

In a letter dated May 19, 1999, addressed to then BSP Governor Singson, RBSMI charged the petitioners with violation of *Republic Act No. 6713* (Code of Conduct and Ethical Standards for Public Officials and Employees). The Monetary Board (MB) of the BSP created an *Ad Hoc* Committee to investigate the matter.

The ensuing investigation disclosed that sometime in September 1996, RBSMI,

which had a history of major violations/exceptions dating back to 1995, underwent periodic examination by the BSP. The examination team headed by Principio noted 20 serious exceptions/violations and deficiencies of RBSMI.^[5]

Through *Resolution No. 96*, the MB required RBSMI to submit within 15 days a written explanation with respect to the findings of the examiner. It also directed the Department of Rural Banks (DRB), to verify, monitor and report to the Deputy Governor, Supervision and Examination Sector (SES) on the findings/exceptions noted, until the same shall have been corrected.

As directed by the MB, another examination team conducted a special examination on RBSMI. RBSMI President Hilario Soriano claimed that he was pressured into issuing a memorandum to the bank employees authorizing the team to review the bank's accounting and internal control system.

Soriano also alleged that sometime in March 1997, Reyes started urging him to consider selling the bank. He specified that on May 28, 1997, Reyes introduced him through telephone to Mr. Exequiel Villacorta, President and Chief Executive Officer of the TA Bank. They agreed to meet on the following day. In his *Affidavit*,^[6] Villacorta confirmed that he and Soriano indeed met but the meeting never got past the exploratory stage since he (Villacorta) immediately expressed disinterest because Soriano wanted to sell all his equity shares while he was merely contemplating a possible buy-in.

Soriano further alleged that when the talks with Villacorta failed, Reyes asked him whether he wanted to meet another buyer, to which he answered in the affirmative. Thereafter, Reyes introduced him by telephone to Benjamin P. Castillo of the Export and Industry Bank (EIB), whom he met on June 26, 1997. No negotiation took place because Soriano desired a total sale while EIB merely desired a joint venture arrangement or a buy-in to allow EIB to gain control of RBSMI.

Meanwhile, on June 13, 1997, the MB approved *Resolution No. 724*^[7] ordering RBSMI to correct the major exceptions noted within 30 days from receipt of the advice, and to remit to the BSP the amount of P2,538,483.00 as fines and penalties for incurring deficiencies in reserves against deposit liabilities.

On July 21, 1997, Soriano submitted RBSMI's answers to the BSP exceptions/findings mentioned. He stated that "the actions taken or to be taken by the bank (RBSMI) were deliberated and ratified by the Board of Directors in its regular meeting held on July 9, 1997." Among the board approved actions was the bank's request addressed to Domo-ong for BSP "to debit the demand deposit of the bank in the amount of P2,538,483.00" representing the payment of fines and penalties.

More than a year after, however, the RBSMI asked for a reconsideration of MB *Resolution No. 724* insofar as the imposition of fine amounting to P2,538,483.00.

On January 21, 1999, the MB adopted *Resolution No. 71*,^[8] authorizing the conditional reversal of sixty percent (60%) of the penalty pending resolution of the dispute on the findings on reserve deficiency. Subsequently, on April 7, 1999, the MB approved the interim reversal of the entire amount of the penalty "pending the outcome of the study on the legal and factual basis for the imposition of the

penalty.”

The above incidents, particularly the alleged “brokering” by Reyes and the petitioners’ “unsupported” recommendation to impose a penalty of P2,538,483.00 for legal reserve deficiency, prompted the respondent to file the letter-complaint charging the petitioners with “unprofessionalism.”

The *Motion for Reconsideration* bid of Reyes and Domo-ong is meritorious.

In pinning liability on Reyes and Domo-ong for the seminar which used the rural bank as a case study, the court made this ratiocination, viz:

“(W)hile there was indeed **no evidence** showing that either petitioner Reyes or petitioner Domo-ong distributed or used the materials, the very fact that the seminar was conducted under their auspices is enough to make them **liable to a certain extent**. Petitioner Reyes, as Head of the BSP Supervision and Examination Sector, and petitioner Domo-ong, as Director of the BSP Department of Rural Banks, **should have exercised** their power of control and supervision **so that the incident could have been prevented or at the very least remedied.**” (Emphasis supplied)

Plainly, conclusion on petitioners’ culpability is grounded, *not on an established fact but on a mere inference that the seminar was conducted under their auspices*. Indeed, the pronouncement on the petitioners’ role is evidently conjectural and evaluation of the extent of their responsibility admittedly uncertain.

It is conceded that there was no evidence that the seminar was conducted under petitioners’ patronage. And it was assumed, as indeed there was absolutely paucity of proof, that they exercised supervision and control over the persons responsible in organizing the seminar. On the contrary, as shown in the *Motion For Reconsideration*, it was the Bangko Sentral ng Pilipinas Institute (BSPI), an office separate and independent from the SES which is directly under the control and supervision of **another Deputy Governor**, that for the Resource Management Sector (RMS)^[9] which is charged with conducting seminars and lectures for the BSP, including the seminar involved in this case.

In its *Comment*,^[10] RBSMI argues that since information on the state of its finances found its way as a training material of RMS, the event could have transpired only because the SES permitted it. Even if the subordinates of petitioners were the source of information, RBSMI further claims in ostensible reference to the principle of command responsibility, petitioners could be held liable for negligence.

It is noteworthy again that petitioners’ alleged role in the disclosure of information is not anchored on any concrete piece of evidence. That explains the RBSMI’s effort to cast liability vicariously on the petitioners by a superficial resort to the principle of command responsibility which this Court did not reject. But neither the principle itself which is an accepted notion in military or police structural dynamics or its counterpart of *respondent superior* in the law on quasi-delicts^[11] would be relevant in this case, involving as it does the actual performance in office of the petitioners and given the fact that petitioners are high ranking officers of the country’s central monetary authority. Indeed, as such officers, petitioners cannot be expected to monitor the activities of their subalterns. In *Arias v. Sandiganbayan*,^[12] this Court