

SECOND DIVISION

[G.R. No. 154499, March 14, 2003]

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.

DECISION

MENDOZA, J.:

Petitioners are officials of the Bangko Sentral ng Pilipinas (BSP). At the time material to this case, Alberto V. Reyes was Deputy Governor and Head of the Supervision and Examination Sector (SES), Wilfredo B. Domo-ong was Director of the Department of Rural Banks (DRB), while Herminio Principio was an Examiner of the DRB. They filed this petition for review on certiorari of the decision^[1] of the Court of Appeals which found them administratively liable for unprofessionalism under the Code of Conduct and Ethical Standards on Public Officials and Employees and imposed upon each of them a fine equivalent to six months of their salaries.

The case arose from a letter,^[2] dated May 19, 1999, which respondent Rural Bank of San Miguel (Bulacan), Inc. (RBSMI) sent to then BSP Governor Gabriel Singson. In its letter, RBSMI charged petitioners with violations of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees). The Monetary Board of the BSP created a committee to investigate the matter.

The ensuing investigation revealed that RBSMI had had a history of major violations/exceptions dating back to 1995. The Report of Examination^[3] on RBSMI as of July 31, 1995, submitted by BSP Examiner Danilo J. Castillo, cited 10 major exceptions/violations and deficiencies of RBSMI, for which reason the latter was directed to immediately desist from conducting business in an unsound and unsafe manner. On March 15, 1996, RBSMI undertook to take corrective measures and/or comply with the instructions/recommendations of the BSP.^[4]

In 1996, RBSMI was again examined. The examination team was led by petitioner Principio who, in a "Report of Examination^[5] on RBSMI as of September 15, 1996," noted 20 serious exceptions/violations and deficiencies of RBSMI. On January 9, 1997, upon her request, Rose Ilagan, an RBSMI director, was given a copy of the list of exceptions/deficiencies found by petitioner Principio. Ms. Ilagan, however, in a sworn affidavit,^[6] dated August 10, 1999, claimed that the copy she was given was unreadable, "making it impossible for RBSMI to immediately react to said list of exceptions."

The exit conference on the September 1996 General Examination on RBSMI was

originally scheduled on January 13, 1997, but on that date, RBSMI's Legal Counsel and Corporate Secretary requested a rescheduling of the conference "to allow RBSMI to review the findings/ exceptions and thereafter, prepare their comments/observations on the same."^[7] In a letter, dated January 14, 1997, petitioner Domo-ong granted the request and the conference was reset to January 21, 1997.

It is claimed that the board of RBSMI discussed the exceptions noted in the list given to them on January 21, 1997, but as the copy sent to them was unreadable, "it was unable to understand many exceptions." As the members of the board were furnished clear copies only during the exit conference, RBSMI asked for 30 days within which to submit its answer to the exceptions.

Meanwhile, an advance copy of the report of petitioner Principio was submitted to the Monetary Board (MB) after review of said report by petitioner Domo-ong. The report, which was dated January 23, 1997, was signed by petitioner Reyes and submitted to the MB on January 27, 1997. Acting on this memorandum, the MB issued Resolution No. 96^[8] requiring RBSMI to explain in writing within 15 days the findings of the examiner. It also directed the DRB to verify, monitor, and report to the Deputy Governor, petitioner Reyes, the findings/exceptions noted until the same had been corrected.

On February 26, 1997, RBSMI submitted its comments on the exceptions/deficiencies/findings noted by petitioners in a paper entitled "Concurrence, Corrections and Comments on the Exceptions, Deficiencies and Recommendations of BSP in its 'General Examination of RBSMI's Books of Accounts as of September 15, 1996 as contained in the Report of Examiner Herminio C. Principio, dated December 23, 1996, initially discussed on January 21, 1997.'"^[9]

Pursuant to the MB's directive in Resolution No. 96, another examination team conducted a special examination on RBSMI from March 4, 1997 to March 26, 1997, with February 28, 1997 as the cut-off date of examination. The special examination team, headed by petitioner Principio and assisted by Ms. Carmelita Reyes, was introduced to RBSMI through a letter of petitioner Domo-ong dated February 14, 1997.

RBSMI president Hilario Soriano claims that he was pressured on March 4, 1997 into issuing a memorandum to the bank employees authorizing petitioner Principio and Ms. Reyes to review the bank's accounting and internal control system. He likewise claims that sometime in March 1997, petitioner Reyes urged him (Soriano) to consider selling the bank. Soriano says that on or about May 28, 1997, Soriano, through a telephone introduction made by petitioner Reyes the day before, met with Exequiel Villacorta, President and Chief Executive Officer of TA Bank. In his sworn affidavit,^[10] Villacorta confirmed that he and Soriano indeed met to discuss a possible corporate combination of RBSMI and TA Bank. The talks between TA Bank and RBSMI never got past the exploratory stage. Their discussions were cut short as Soriano wanted a "sell-out," while Villacorta was interested in a "buy-in."

Soriano continues: Around the last week of May, petitioner Reyes asked him (Soriano) whether he wanted another buyer. When told that he did, petitioner Reyes introduced Soriano by telephone to Benjamin P. Castillo of the Export and Industry

Bank (EIB). Hence, he and Castillo met on June 26, 1997, but their talks ended then and there because, as per his affidavit^[11] dated July 12, 1999, Castillo alleged that Soriano insisted on an RBSMI sell-out while he wanted a mere EIB buy-in and take-over of the management.

Meanwhile, on June 13, 1997, the MB approved Resolution No. 724^[12] noting the Report on the examination of RBSMI submitted by petitioner Domo-ong. The MB confirmed the steps taken or to be taken by the DRB. It also ordered RBSMI to correct the major exceptions noted within 30 days from receipt of the advice and to remit to the BSP the amount of ₱2,538,483.00 as fines and penalties for incurring deficiencies in reserves against deposit liabilities.

In accordance with the MB resolution, petitioner Domo-ong wrote the bank on June 25, 1997, informing it of the prescriptions of the resolution. On July 21, 1997, Soriano submitted RBSMI's answers to the BSP exceptions/findings mentioned. Soriano said in the letter 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." With regard to the fines and penalties amounting to ₱2,538,483.00, RBSMI requested the director of the DRB to debit its demand deposit with the amount.^[13]

On September 22, 1997, nearly six months after MB Resolution No. 96 had been issued, RBSMI wrote petitioner Domo-ong seeking clarification of two specific issues:

1. May the scope/coverage of monitoring be expanded as to include verifications of bank transactions, before and beyond the cut-off date of the general examinations as of September 15, 1996? If so, to what extent?
2. Was there no pre-empting of the Monetary Board directive which was approved under Resolution No. 96 dated January 29, 1997?^[14]

In a letter, dated November 13, 1997, petitioner Domo-ong explained that "DRB's monitoring of the extent of corrective measures must necessarily cover bank transactions after the examination cut-off date to be assured that the same exceptions have not been repeated." As to the second issue, he explained that "there was no pre-empting of the MB directive as it was approved on January 29, 1997, way ahead of the initial monitoring which was undertaken from March 4 to 26, 1997 with a cut-off date of February 26, 1997." In conclusion, petitioner Domo-ong said that "considering that 'monitoring' in this regard simply means overseeing, observing or keeping track of the corrective measures being made by the bank on the serious findings/exceptions noted, we do not see any reason for your apprehensions on the matter. As soon as said findings/exceptions have been fully corrected, then the DRB can immediately recommend the lifting of said monitoring."^[15]

Meanwhile, petitioner Principio allegedly requested RBSMI on October 6, 1997 to authorize him and a new BSP examiner, Ms. Zeny Cabais, to visit the bank from time to time to review accounting and control systems. This was before a letter of introduction, dated October 10, 1997, was issued by DRB introducing the new examination team of petitioner Principio and Ms. Cabais. The letter of instruction

stated that both examiners were authorized, pursuant to MB Resolution No. 96, to verify and monitor the corrective measures taken by RBSMI on the findings/exceptions noted in the general examination of September 15, 1996.

When petitioner Principio presented the letter to Ms. Ilagan on October 22, 1997, the latter allegedly asked for a specification of the scope of his examination. However, Ms. Ilagan claimed in her sworn affidavit that on October 22, 1997 Soriano asked petitioner Principio to make a formal request for the records which he wanted to examine in order to avoid confusion. Nevertheless, Soriano subsequently allowed petitioner Principio to conduct the examination without the formal request.

Soriano claims that sometime in November 1997, he accidentally met petitioner Reyes who allegedly told him to sell out or RBSMI would suffer a bank run and it would be placed under conservatorship. Early that month, the Monetary Board issued Resolution No. 1473,^[16] dated November 5, 1997, ordering the continuous verification/monitoring of RBSMI until the major exceptions were substantially corrected. It likewise warned the officers of the bank that unless they ceased from conducting business in such an unsafe and unsound manner, drastic actions might be taken against the bank, including the take-over of management without prejudice to the prosecution of parties responsible pursuant to § 36 of R.A. No. 7653.

The action of the MB was followed on March 20, 1998 by the MB's notation of DRB's report on the corrective measures taken by complainant on the serious findings/exceptions in the September 15, 1996 General Examination. However, as there were some major and/or serious exceptions/findings which remained uncorrected, the MB again ordered its DRB to continue the verification/monitoring of RBSMI until the exceptions/findings were fully corrected.

In another development, the Manila Electric Company (MERALCO) issued a memorandum,^[17] dated April 6, 1998, to all of its collection officers enjoining them not to accept RBSMI checks from customers and other payees of bills, service deposit, and other payments until further advice from the Treasury. MERALCO thought that RBSMI had declared a "bank holiday." The next day (April 7, 1998), MERALCO issued another memorandum^[18] to its collection officers, informing them that RBSMI's alleged bank holiday was not true and instructing them to accept RBSMI checks from customers and other payees. This was after the BSP had denied the news of pending RBSMI bank holiday. On the same date, MERALCO issued a letter of apology to RBSMI Chairman Atty. Sedfrey A. Ordoñez.

Thereafter, more than one year after authorizing the BSP to debit its demand deposit up to the extent of the fines and penalties imposed by BSP, RBSMI, through its counsel Atty. Rene Saguisag, in a letter,^[19] dated November 4, 1998, appealed to the MB to reverse the imposition of the ₱2.5 million penalty on the ground that "no Board Resolution [had been] adopted to authorize the debit in the Demand Deposit maintained by the bank with the Bangko Sentral ng Pilipinas."

RBSMI reiterated its request for the reversal of the imposition of penalty in another letter.^[20] Atty. Saguisag said that "as for the letter of Mr. Hilario requesting the Bangko Sentral ng Pilipinas to debit the account of our client, I would like to state that, at that time, he was under a state of extreme pressure to sell the bank at an

unreasonably low price, hence, the reason for the said measure of desperation.” The aforesaid letters of Atty. Saguisag were answered by the BSP in its letter^[21] dated November 18, 1998, explaining to Atty. Saguisag the bases for BSP’s imposition of the penalty on RBSMI.

On January 21, 1999, the MB, through Resolution No. 71, authorized the conditional reversal of sixty percent (60%) of the penalty debited against RBSMI pending resolution of the dispute on the findings on reserve deficiency. The conditional reversal was communicated to RBSMI by petitioner Reyes through a letter, dated February 8, 1999. In a letter, dated March 29, 1999, RBSMI agreed to “the interim reversal of the penalty, such that said ₱2.5 million will be credited to RBSMI, without prejudice to the outcome of the legal study regarding the propriety of the imposition of the penalty.” Later, 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.” Accordingly, the BSP credited RBSMI’s demand deposit account to the extent of the remaining forty percent (40%) of the penalty.

On February 3, 1999, Atty. Sedfrey A. Ordoñez, RBSMI Chairman, and Soriano wrote the MB regarding the release of the remaining proceeds of the emergency loans granted to RBSMI. Later on, RBSMI would claim that this letter was somehow leaked to the press. The *Manila Times* issue of March 10, 1999 carried a news article by Jun T. Ebias entitled “2 rural banks seek emergency loans, investors,”^[22] which quoted certain portions of the February 3, 1999 letter of RBSMI to the MB. In addition, RBSMI alleged that supposedly forged directives from Soriano addressed to all directors of the rural bank were faxed to the municipal mayors of Bulacan. The undated fax message announced a special board meeting of the directors of RBSMI on February 20, 1999 to discuss internal and external audit findings, unpaid savings deposit withdrawals and matured time deposits, and the possible closure of the bank due to insolvency.

In a letter, dated March 10, 1999, Soriano asked for an inquiry into the alleged leak of sensitive information which can “logically be traced [to] Bangko Sentral ng Pilipinas sources.” After investigating the matter, BSP, through petitioner Reyes and BSP Deputy Governor and General Counsel Armando L. Suratos, informed RBSMI in a letter, dated March 23, 1999, that the BSP was unable to determine the source of information of the *Manila Times*.

On the basis of the foregoing, RBSMI, through counsel, filed its letter-complaint of May 19, 1999, which was referred by the MB to an *Ad Hoc* Committee it had created. After the parties had submitted their respective pleadings, documents and memoranda, the *Ad Hoc* Committee issued a resolution,^[23] dated February 16, 2000, the pertinent part of which reads:

CONCLUSION AND RECOMMENDATION:

After a thorough review of the records, we find that complainant has not substantiated its allegations of respondents’ unprofessionalism. It has failed to present sufficient factual and legal bases to administratively charge respondents with the violation of any provision of R.A. No. 3019 and/or R.A. No. 6713. The acts complained of were done by respondents