

EN BANC

[G.R. No. 139998, October 29, 2002]

PHILIPPINE DEPOSIT INSURANCE CORPORATION (PDIC), AS LIQUIDATOR OF CLOSED RURAL BANK OF MUNTINLUPA, INC., PETITIONER, VS. HON. COURT OF APPEALS, SPECIAL SIXTH DIVISION, HON. ALBERTO L. LERMA, PRESIDING JUDGE, RTC OF MUNTINLUPA CITY, BRANCH 256, AND JOSE EMMANUEL JALANDONI, RESPONDENTS.

R E S O L U T I O N

QUISUMBING, J.:

In this special civil action for certiorari, petitioner seeks to annul the resolution^[1] of the Court of Appeals, dated June 18, 1999, in CA-G.R. SP No. 53094, as well as its resolution^[2] dated August 4, 1999, denying the motion for reconsideration.

The antecedent facts, as culled from records, are as follows:

On February 3, 1978, the Monetary Board (MB) of the then Central Bank of the Philippines (now *Bangko Sentral ng Pilipinas*), through Resolution No. 213,^[3] closed the Rural Bank of Muntinlupa, Inc. (RBMI) due to insolvency and placed it under receivership. Petitioner Philippine Deposit Insurance Corp. (PDIC) was duly appointed as receiver. The MB found that RBMI's total assets of P4.4 million were insufficient to meet its liabilities of P8.2 million.

On August 28, 1981, the MB, after confirming the insolvent status of RBMI, issued Resolution No. 1523, ordering the liquidation of said bank.^[4]

On April 6, 1982, petitioner filed a petition for assistance in the liquidation of RBMI, docketed as Sp. Proc. No. 9697, with the then Court of First Instance of Pasig, Branch 25 (hereinafter Liquidation Court). This was pursuant to Section 29 of R.A. No. 265,^[5] (now Section 30^[6] of R.A. No. 7653).^[7] Private respondent opposed the liquidation, alleging that the bank was not insolvent but capable of rehabilitation.

On June 6, 1983, the Liquidation Court dismissed Sp. Proc. No. 9697 on a finding that RBMI merely had liquidity problems, but was not in a state of insolvency.

The Central Bank filed a special civil action for certiorari, docketed as AC-G.R. SP No. 03808, with the appellate court alleging that in dismissing Sp. Proc. No. 9697, the Liquidation Court acted with grave abuse of discretion.

On November 22, 1984, the appellate court decided AC-G.R. SP No. 03808 in favor of Central Bank and remanded Sp. Proc. No. 9697 to the Liquidation Court for further proceedings. Dissatisfied with a mere order to remand, the Central Bank moved for reconsideration. This caused the Court of Appeals, on January 4, 1985, to amend the decretal portion of its order. It granted the writ of certiorari, nullified the

challenged orders of the Liquidation Court, and ordered the latter to approve the petition in Sp. Proc. No. 9697 and assist in the liquidation of RBMI.

Private respondent Jose Emmanuel Jalandoni filed a motion for reconsideration of the aforementioned resolution, which the appellate court denied on July 23, 1985.

Private respondent then elevated the matter to this Court in *Apollo Salud, et al. vs. Central Bank of the Philippines, et al.*^[8] docketed as G.R. No. 71630. On August 19, 1986, we decided it as follows:

WHEREFORE, the Resolutions of the Intermediate Appellate Court in AC-G.R. No. SP-03808 dated January 4, 1985 and July 23, 1985 are set aside and the Decision dated November 22, 1984 is reinstated and affirmed. No costs.

SO ORDERED.^[9]

Sp. Proc. No. 9697 was then remanded to the Liquidation Court to determine whether the continuation in business by RBMI would cause probable losses to its clients and creditors and if Board Resolutions No. 213 and 1523 had been issued with bad faith and arbitrariness.

On August 9, 1994, the Liquidation Court dismissed Sp. Proc. No. 9697 without prejudice, in view of the proposal by some stockholders of the bank to rehabilitate it.

On October 26, 1995, petitioner filed anew a petition for assistance in the liquidation of RBMI with the Regional Trial Court (RTC) of Muntinlupa City, Branch 256, docketed as Sp. Proc. No. 95-076. Private respondent opposed on the ground that as controlling stockholder of RBMI, he is the party with the preferential right to rehabilitate the bank. It is this action which gave rise to the instant case.

On July 11, 1996, the RTC granted the petition. Private respondent moved for reconsideration but this was denied on January 8, 1997.

Private respondent then filed a motion to declare petitioner in contempt and to suspend the liquidation proceedings pending submission of a rehabilitation plan. He likewise moved for the issuance of a writ of preliminary injunction. Petitioner opposed it, relying on Section 30 of R.A. No. 7653, which explicitly declares insolvency proceedings as "final and executory," and thus may not be enjoined, restrained, or set aside by the courts.

On December 15, 1998, the trial court granted private respondent's application for the issuance of a writ of preliminary injunction, thus:

WHEREFORE, the motion is hereby granted. Let a Writ of Preliminary Injunction issue against Petitioner or its representatives, enjoining them to desist from disposing of the assets of the Rural Bank of Muntinlupa, Inc., until final Orders from the Court, upon Movant's filing of a bond in the amount of Two Hundred Thousand Pesos (P200,000.00), to answer for any damages. Petitioner may sustain by reason of the injunction, should the Court find that Movant is not entitled thereto.

SO ORDERED.^[10]

In enjoining the disposal of the bank's assets, the trial court noted that a rehabilitation plan submitted by private respondent was still being deliberated upon. Petitioner moved for reconsideration of the abovesited order, but it was denied in an order of March 16, 1999.

On June 4, 1999, petitioner filed a special civil action for certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 53094, challenging the trial court's orders of December 15, 1998 and March 16, 1999. On June 18, 1999, the appellate court dismissed it for having been filed outside of the reglementary period provided for in Section 4, Rule 65 of the Rules of Court, thus:

In this case, petitioner alleged that it received a copy of the Order dated December 15, 1998 on JANUARY 6, 1999. On February 5, 1999 - or thirty (30) days thereafter - it filed its Motion for Reconsideration thereof. It received the Order denying its Motion for Reconsideration on April 5, 1999.

Applying the foregoing rule, petitioner has a remaining period of thirty (30) days from April 5, 1999 or until May 5, 1999 within which to file petition for certiorari. However, petitioner filed its petition on June 4, 1999. Clearly, the same was filed out of time.

WHEREFORE, foregoing considered, the instant petition is hereby DENIED DUE COURSE and is ordered DISMISSED.

SO ORDERED.^[11]

Petitioner duly filed a motion for reconsideration, which the Court of Appeals denied on August 4, 1999. Hence, the instant petition.

The pertinent issue for our resolution is whether the Court of Appeals acted with grave abuse of discretion amounting to want or excess of jurisdiction in dismissing petitioner's petition for certiorari under Rule 65 of the Rules of Court for having been filed beyond the reglementary period.

At the outset, we note that on June 4, 1999, when CA-G.R. SP No. 53094 was filed, the prevailing rule, Section 4, Rule 65 of the Rules of Court as amended by Circular No. 39-98, provided that:

SEC. 4. *Where and when petition to be filed.* — The petition may be filed not later than sixty (60) days from notice of the judgment, order or resolution sought to be assailed xxx.

If the petitioner had filed a motion for new trial or reconsideration in due time after notice of said judgment, order or resolution, the period herein fixed shall be interrupted. If the motion is denied, the aggrieved party may file the petition within the remaining period, but which shall not be less than five (5) days in any event, reckoned from notice of such denial. No extension of time to file the petition shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Petitioner allegedly received the order of the lower court granting the writ of preliminary injunction on January 6, 1999. On February 5, 1999, it moved for reconsideration, which interrupted the running of the 60-day period. At this point, 29 days of the reglementary period to file a petition for certiorari had already