

### Title: BCD Foreign Exchange Corp. v. Republic of the Philippines (AMLC) and Metropolitan Bank and Trust Company

### Facts:

The Republic of the Philippines, represented by the Anti-Money Laundering Council (AMLC), initiated an Ex-Parte Petition for the Issuance of a Freeze Order against various accounts under investigation for involvement in unlawful activities, including those related to drug trafficking. Among these were accounts held or associated with Powleean Electronics Marketing, Inc. and its incorporators and directors. Investigations linked these accounts to suspicious transactions amounting to billions of pesos, far exceeding the legitimate operational scope of the named entities and individuals.

Subsequent to the issuance of the Freeze Order by the Court of Appeals (CA), Metrobank identified two accounts associated with BCD Foreign Exchange Corp. (BCD) as being recipients of funds from the accounts under the Freeze Order. BCD, not initially a respondent in the Ex-Parte Petition, contested the inclusion of their accounts in the Freeze Order, arguing against Metrobank's authority to freeze their accounts merely based on the alleged linkage determined by Metrobank itself. After Metrobank's submission, which included BCD's accounts as related to those under scrutiny, the CA denied BCD's Motion to Lift the Freeze Order, concordant with the Anti-Money Laundering Act (AMLA) regulations. This led BCD to escalate the matter to the Supreme Court through a Petition for Review on Certiorari.

### Issues:

1. Whether the Court of Appeals erred in denying BCD's Motion to Lift the Freeze Order over its account.
2. Whether Metrobank had the legal authority to freeze BCD's account based on its determination of the account being "materially linked" to the accounts under the Ex-Parte Petition.
3. Whether the action violated the Bank Secrecy Law.
4. Whether the petition became moot with the institution of a civil forfeiture case that included the Subject BCD Account.

### Court's Decision:

The Supreme Court deemed the petition unmeritorious, affirming the CA's resolutions. It highlighted that the Freeze Order itself and the subsequent identification of BCD's accounts as related were based on probable cause, aligned with AMLA's aims. The decision

underscored the distinction between Metrobank's role in implementing the CA's directives versus independently determining the linkage of BCD's accounts to illicit activities. The Court clarified that Metrobank's action stemmed from compliance with AMLA provisions, not from an autonomous judgment of BCD's accounts' involvement in unlawful activities. Moreover, BCD's appeal to the Bank Secrecy Act was dismissed due to exceptions under AMLA allowing for the examination of accounts believed to be linked to unlawful activities. Lastly, despite BCD's claims of mootness following the initiation of a civil forfeiture case encompassing the disputed account, the Supreme Court chose to address the matter substantively to forestall future legal quandaries concerning the application of Freeze Orders.

### ### Doctrine:

This case reiterates the doctrine that the issuance of a Freeze Order under the Anti-Money Laundering Act only requires the presence of probable cause to believe that the account is in any way related to or involved in unlawful activity. There's an exception to the Bank Secrecy Law when probable cause exists that the deposits are related to unlawful activities, specifically under sections of the AMLA concerning the procedure for freezing assets suspected of connection to such activities.

### ### Class Notes:

- **Probable Cause for Freeze Orders:** A Freeze Order under AMLA requires probable cause, aimed at preventing the disposal of assets pending litigation on their legality.
- **Bank Secrecy Act Exceptions:** The Bank Secrecy Law has designated exceptions under AMLA, particularly where there's probable cause linking bank accounts to unlawful activities.
- **Role of Financial Institutions:** When a court issues a Freeze Order, covered institutions like banks are mandated to comply and report related accounts, without independently determining the linkage to criminal activity.

### ### Historical Background:

This case encapsulates the challenges of implementing anti-money-laundering measures within the banking sector, demonstrating the dynamic between regulatory compliance and individual rights under the Bank Secrecy Law. It highlights the evolving legal and operational frameworks developed to combat money laundering and associated crimes in the Philippines, reflecting a broader global push against financial crimes and terrorism financing.