

TAYUG RURAL BANK, PLAINTIFF-APPELLEE, VS. CENTRAL BANK OF THE PHILIPPINES, DEFENDANT-APPELLANT.

G.R. No. L-46158. November 28, 1986

Ponente: PARAS, J.

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PARAS, J.:

Submitted on May 20, 1977 for decision by this Court is this appeal from the decision dated January 6, 1971 rendered by the Court of First Instance of Manila, Branch III in Civil Case No. 76920, the decretal portion of which states as follows:

"WHEREFORE, judgment is rendered for the plaintiff on the complaint and the defendant is ordered to further credit the plaintiff the amounts collected as 10% penalty in the sum of P19,335.88 or up to July 15, 1969 and to refrain from collecting the said 10% penalty on the remaining past due loans of plaintiff with the defendant.

With respect to defendant's counterclaim, judgment is hereby rendered against the plaintiff and the defendant is ordered to pay the Central Bank of the Philippines the outstanding balance of its past overdue accounts in the sum of P444,809.45 plus accrued interest at the rate of 1/2 of 1% per annum with respect to the promissory notes (Annexes 1 to 1-E of defendant's Answer) and 2-1/2% per annum with respect to the promissory notes (Annexes 1-f to 1-i of the Answer). From this amount shall be deducted the sum of P19,335.88 collected as 10% penalty."

The facts of the case based on the parties' stipulation of facts (Record on Appeal, p. 67), are as follows:

Plaintiff-Appellee, Tayug Rural Bank, Inc., is a bank-ing corporation in Tayug, Pangasinan. During the period from December 28, 1962 to July 30, 1963, it obtained thirteen (13) loans from Defendant-Appellant, Central Bank of the Philippines, by way of rediscounting, at the rate of 1/2 of 1% per annum from 1962 to March 28, 1963 and thereafter at the rate of 2-1/2% per annum. The loans, amounting to P813,000.00 as of July 30, 1963, were all covered by corresponding pro-missory notes prescribing the terms and conditions of the aforesaid loans (Record on Appeal, pp. 15-53). As of July 15, 1969, the outstanding balance was P444,809.45 (Record on Appeal, p. 56).

On December 23, 1964, Appellant, thru the Director of the Department of Loans and Credit, issued Memorandum Circular No. DLC-8, informing all rural banks that an additional penalty interest rate of ten per cent (10%) per annum would be assessed on all past due loans beginning January 4, 1965. Said Memorandum Circular was actually enforced on all rural banks effective July 4, 1965.

On June 27, 1969, Appellee Rural Bank sued Appellant in the Court of First Instance of Manila, Branch III, to recover the 10% penalty imposed by Appellant amounting to P16,874.97, as of September 27, 1968 and to restrain Appellant from continuing the imposition of the penalty. Appellant filed a counterclaim for the outstanding balance and overdue accounts of Appellee in the total amount of P444,809.45 plus accrued interest and penalty at 10% per annum on the outstanding balance until full payment. (Record on Appeal p. 13). Appellant justified the imposition of the penalty by way of affirmative and special defenses, stating that it was legally imposed under the provisions of Section 147 and 148 of the Rules and Regulations Governing Rural Banks

promulgated by the Monetary Board on September 5, 1958, under authority of Section 3 of Republic Act No. 720, as amended (Record on Appeal, p. 8, Affirmative and Special Defenses Nos. 2 and 3).

In its answer to the counterclaim, Appellee prayed for the dismissal of the counterclaim, denying Appellant's allegations, stating that if Appellee has any unpaid obligations with Appellant, it was due to the latter's fault on account of its flexible and double standard policy in the granting of rediscounting privileges to Appellee and its subsequent arbitrary and illegal imposition of the 10% penalty (Record on Appeal, p. 57). In its Memorandum filed on November 11, 1970, Appellee also asserts that Appellant had no basis to impose the penalty interest inasmuch as the promissory notes covering the loans executed by Appellee in favor of Appellants do not provide for penalty interest rate of 10% per annum on just due loans beginning January 4, 1965 (Record on Appeal, p. 96).

The lower court, in its Order dated March 3, 1970, stated that "only a legal question has been raised in the pleadings" and upholding the stand of plaintiff Rural Bank, decided the case in its favor. (Rollo p. 34).

Appellant appealed the decision of the trial court to the Court of Appeals, for determination of questions of facts and of law. However, in its decision promulgated April 13, 1977, the Court of Appeals, finding no controverted facts and taking note of the statement of the lower court in its pre-trial Order dated March 3, 1970 that only a legal question has been raised in the pleadings, (Record on Appeal, p. 61), ruled that the resolution of the appeal will solely depend on the legal issue of whether or not the Monetary Board had authority to authorize Appellant Central Bank to impose a penalty rate of 10% per annum on past due loans of rural banks which had failed to pay their accounts on time and ordered the certification of this case to this Court for proper determination (Rollo, pp. 34-35).

On April 20, 1977, the entire record of the case was forwarded to this Court (Rollo, p. 36). In the resolution of May 20, 1977, the First Division of this Court, ordered the case docketed and as already stated declared the same submitted for decision (Rollo, p. 38).

In its Brief, Appellant assigns the following errors:

- THE LOWER COURT ERRED IN HOLDING THAT IT IS BEYOND THE REACH OF THE MONETARY BOARD TO METE OUT PENALTIES ON PAST DUE LOANS OF RURAL BANKS ESPECIALLY SINCE NO PENAL CLAUSE HAS BEEN INCLUDED IN THE PROMISSORY NOTES.
- THE LOWER COURT ERRED IN HOLDING THAT THE IMPOSITION OF THE PENALTY IS AN IMPAIRMENT OF THE OBLIGATION OF CONTRACT WITHOUT DUE PROCESS.
- THE LOWER COURT ERRED IN NOT FINDING JUDGMENT AGAINST PLAINTIFF FOR 10% COST OF COLLECTION OF THE PROMISSORY NOTE AS PROVIDED THEREIN.

It is undisputed that no penal clause has been included in the promissory notes. For this reason, the trial court is of the view that Memorandum Circular DLC-8 issued on December 23, 1964 prescribing retroactive effect on all past due loans, impairs the obligation of contract and deprives the plaintiff of its property without due process of law. (Record on Appeal, p. 40).

On the other hand appellant without opposing appellee's right against impairment of contracts, contends that when the promissory notes were signed by appellee, it was chargeable with knowledge of Sections 147 and 148 of the rules and re-gulations authorizing the Central Bank to impose additional reasonable penalties, which became part of the agreement. (ibid)

Accordingly, the issue is reduced to the sole question as to whether or not the Central Bank can validly impose the 10% penalty on Appellee's past overdue loans beginning July 4, 1965, by virtue of Memorandum Circular No.

DLC-8 dated December 23, 1964.

The answer is in the negative.

Memorandum Circular No. DLC-8 issued by the Director of Appellant's Department of Loans and Credit on December 23, 1964, reads as follows:

"Pursuant to Monetary Board Resolution No. 1813 dated December 18, 1964, and in consonance with Section 147 and 148 of the Rules and Regulations Governing Rural Banks concerning the responsibility of a rural bank to remit immediately to the Central Bank payments received on papers rediscounted with the latter including the loan value of rediscounted papers as they mature, and to liquidate fully its maturing loan obligations with the Central Bank, personal checks, for purposes of repayment, shall be considered only after such personal checks shall have been honored at clearing.

In addition, rural banks which shall default in their loan obligations, thus incurring past due accounts with the Central Bank, shall be assessed an additional penalty interest rate of ten per cent (10%) per annum on such past due accounts with the Central Bank over and above the customary interest rate(s) at which such loans were originally secured from the Central Bank." (Record on Appeal, p. 135).

The above-quoted Memorandum Circular was issued on the basis of Sections 147 and 148 of the Rules and Regulations Governing Rural Banks of the Philippines approved on September 5, 1958, which provide:

"Section 147. Duty of rural Bank to turn over payment received for papers discounted or used for collateral. A Rural Bank receiving any payment on account of papers discounted or used for collateral must turn the same over to the creditor bank before the close of the banking day next following the receipt of payment, as long as the aggregate discounting on loan amount is not fully paid, unless the Rural Bank substitutes the same with another eligible paper with at least the same or earlier maturity and the same or greater value.

A Rural Bank failing to comply with the provisions of the preceding paragraph shall ipso facto lose its right to the rediscounting or loan period, without prejudice to the Central Bank imposing additional reasonable penalties, including curtailment or withdrawal of financial assistance.

"Sec. 148. Default and other violations of obligation by Rural Bank, effect. A Rural Bank becomes in default upon the expiration of the maturity period of its note, or that of the papers discounted or used as collateral, without the necessity of demand.

A Rural Bank incurring default, or in any other manner, violating any of the stipulations in its note, shall suffer the consequences provided in the second paragraph of the preceding section." (Record on Appeal, p. 136.)

The "Rules and Regulations Governing Rural Banks" was published in the Official Gazette, 55 O.G., on June 13, 1959, pp. 5186-5259. It is by virtue of these same Rules that Rural Banks rediscount their loan papers with the Central Bank at 2-1/2% interest per annum and in turn lend the money to the public at 12% interest per annum (Defendant's Reply to Plaintiff's Memorandum, Record on Appeal, p. 130).

Appellant maintains that it is pursuant to Section 3 of R.A. No. 720, as amended, that the Monetary Board has adopted the set of Rules and Regulations Governing Rural Banks. It reads:

"SEC. 3. In furtherance of this policy, the Monetary Board of the Central Bank of the Philippines shall formulate the necessary rules and regulations governing the establishment and operations of Rural Banks for the purpose of providing adequate credit facilities to small farmers and merchants, or to cooperatives of such farmers or merchants and to supervise the operation of such banks."

The specific provision under the law claimed as basis for Sections 147 and 148 of the Rules and Regulations

Governing Rural Banks, that is, on Appellant's authority to extend loans to Rural Banks by way of rediscounting is Section 13 of R.A. 720, as amended, which provides:

"SEC. 13. In an emergency or when a financial crisis is imminent, the Central Bank may give a loan to any Rural Bank against assets of the Rural Bank which may be considered acceptable by a concurrent vote of at least five members of the Monetary Board.

In normal times, the Central Bank may rediscount against papers evidencing a loan granted by a Rural Bank to any of its customers which can be liquidated within a period of two hundred and seventy days: PROVIDED, HOWEVER, That for the purpose of implementing a nationwide program of agricultural and industrial development, Rural Banks are hereby authorized under such terms and conditions as the Central Bank shall prescribe to borrow on a medium or long term basis, funds that the Central Bank or any other government financing institutions shall borrow from the International Bank for Reconstruction and Development or other international or foreign lending institutions for the specific purpose of financing the above stated agricultural and industrial program. Repayment of loans obtained by the Central Bank of the Philippines or any other government financing institution from said foreign lending institutions under this section shall be guaranteed by the Republic of the Philippines."

As to the supervising authority of the Monetary Board of the Central Bank over Rural Banks, the same is spelled-out under Section 10 of R.A. 720, as follows:

"SEC. 10. The power to supervise the operation of any Rural Bank by the Monetary Board of the Central Bank as herein indicated, shall consist in placing limits to the maximum credit allowed any individual borrower; in prescribing the interest rate; in determining the loan period and loan procedure; in indicating the manner in which technical assistance shall be extended to Rural Banks; in imposing a uniform accounting system and manner of keeping the accounts and records of the Rural Banks; in undertaking regular credit examination of the Rural Banks; in instituting periodic surveys of loan and lending procedures, audits, test check of cash and other transactions of the Rural Banks; in conducting training courses for personnel of Rural Banks; and, in general, in supervising the business operation of the Rural Banks."

Nowhere in any of the above-quoted pertinent provisions of R.A. 720 nor in any other provision of R.A. 720 for that matter, is the Monetary Board authorized to mete out on rural banks an additional penalty rate on their past due accounts with Appellant. As correctly stated by the trial court, while the Monetary Board possesses broad supervisory powers, nonetheless, the retroactive imposition of administrative penalties cannot be taken as a measure supervisory in character (Record on Appeal, p. 141).

Administrative rules and regulations have the force and effect of law (*Valerio v. Hon. Secretary of Agriculture and Natural Resources*, 7 SCRA 719; *Commissioner of Civil Service v. Cruz*, 15 SCRA 638; *R.B. Industrial Development Company, Ltd. v. Enage*, 24 SCRA 365; *Director of Forestry v. Muñoz*, 23 SCRA 1183; *Gonzalo Sy v. Central Bank of the Philippines*, 70 SCRA 570).

There are, however limitations to the rule-making power of administrative agencies. A rule shaped out by jurisprudence is that when Congress authorizes promulgation of administrative rules and regulations to implement given legislation, all that is required is that the regulation be not in contradiction with it, but conform to the standards that the law prescribes (*Director of Forestry v. Muñoz*, 23 SCRA 1183). The rule delineating the extent of the binding force to be given to administrative rules and regulations was explained by the Court in *Teoxon v. Member of the Board of Administrators* (33 SCRA 588), thus: "The recognition of the power of administrative officials to promulgate rules in the implementation of the statute, as necessarily limited to what is provided for in the legislative enactment, may be found as early as 1908 in the case of *United States v. Barrias* (11 Phil. 327) in 1914 *U.S. v. Tupasi Molina* (29 Phil. 119), in 1936 *People v. Santos* (63 Phil. 300), in 1951 *Chinese Flour Importers Ass. v. Price Stabilization Board* (89 Phil. 439), and in 1962 *Victorias Milling Co., Inc. v. Social*

Security Commission (4 SCRA 627). The Court held in the same case that "A rule is binding on the courts so long as the procedure fixed for its promulgation is followed and its scope is within the statute granted by the legislature, even if the courts are not in agreement with the policy stated therein or its innate wisdom x x x." On the other hand, "administrative interpretation of the law is at best merely advisory, for it is the courts that finally determine what the law means." Indeed, it cannot be otherwise as the Constitution limits the authority of the President, in whom all executive power resides, to take care that the laws be faithfully executed. No lesser administrative, executive office, or agency then can, contrary to the express language of the Constitution, assert for itself a more extensive prerogative. Necessarily, it is bound to observe the constitutional mandate. There must be strict compliance with the legislative enactment. The rule has prevailed over the years, the latest restatement of which was made by the Court in the case of *Bautista v. Junio* (L-50908, January 31, 1984, 127 SCRA 342).

In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic law prevails because said rule or regulation cannot go beyond the terms and provisions of the basic law (*People v. Lim*, 108 Phil. 1091). Rules that subvert the statute cannot be sanctioned (*University of St. Tomas v. Board of Tax Appeals*, 93 Phil. 376; *Del Mar v. Phil. Veterans Administration*, 51 SCRA 340). Except for constitutional officials who can trace their competence to act to the fundamental law itself, a public official must locate in the statute relied upon a grant of power before he can exercise it. Department zeal may not be permitted to outrun the authority conferred by statute (*Radio Communications of the Philippines, Inc. v. Santiago*, L-29236, August 21, 1974, 58 SCRA 493).

When promulgated in pursuance of the procedure or authority conferred upon the administrative agency by law, the rules and regulations partake of the nature of a statute, and compliance therewith may be enforced by a penal sanction provided in the law (*Victorias Milling Co., Inc. v. Social Security Commission*, 114 Phil. 555; *People v. Maceren*, L-32166, October 18, 1977, 79 SCRA 462; *Daza v. Republic*, L-43276, September 28, 1984, 132 SCRA 267). Con-versely, the rule is likewise clear. Hence an administra-tive agency cannot impose a penalty not so provided in the law authorizing the promulgation of the rules and regulations, much less one that is applied retroactively.

The records show that DLC Form No. 11 (Folder of Exhibits, p. 16) was revised December 23, 1964 to include the penal clause, as follows:

"In the event that this note becomes past due, the undersigned shall pay a pe-nalty at the rate of _____ per cent () per annum on such past due account over and above the interest rate at which such loan was originally secured from the Central Bank."

Such clause was not a part of the promissory notes executed by Appellee to secure its loans. Appellant inserted the clause in the revised DLC Form No. 11 to make it a part of the contractual obligation of rural banks securing loans from the Central Bank, after December 23, 1964. Thus, while there is now a basis for the imposition of the 10% penalty rate on overdue accounts of rural banks, there was none during the period that Appellee contracted its loans from Appellant, the last of which loan was on July 30, 1963. Surely, the rule cannot be given retroactive effect.

Finally, on March 31, 1970, the Monetary Board in its Resolution No. 475 effective April 1, 1970, revoked its Resolution No. 1813, dated December 18, 1964 imposing the questioned 10% per annum penalty rate on past due loans of rural banks and amended sub-paragraph (a), Section 10 of the existing guidelines governing rural banks' applications for a loan or rediscount, dated May 7, 1969 (Folder of Exhibits, p. 19). As stated by the trial court, this move on the part of the Monetary Board clearly shows an admission that it has no power to impose the 10% penalty interest through its rules and regulations but only through the terms and conditions of the promissory notes executed by the bor-rowing rural banks. Appellant evidently hoped that the de-fect could be adequately

accomplished by the revision of DLC Form No. 11.

The contention that Appellant is entitled to the 10% cost of collection in case of suit and should therefore, have been awarded the same by the court below, is well taken. It is provided in all the promissory notes signed by Appellee that in case of suit for the collection of the amount of the note or any unpaid balance thereof, the Appellee Rural Bank shall pay the Central Bank of the Philippines a sum equivalent to ten (10%) per cent of the amount unpaid not in any case less than five hundred (P500.00) pesos as attorney's fees and costs of suit and collection. Thus, Appellee cannot be allowed to come to Court seeking redress for an alleged wrong done against it and then be allowed to renege on its corresponding obligations.

PREMISES CONSIDERED, the decision of the trial court is hereby **AFFIRMED** with modification that Appellee Rural Bank is ordered to pay a sum equivalent to 10% of the outstanding balance of its past overdue accounts, but not in any case less than P500.00 as attorney's fees and costs of suit and collection.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

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