

TATALON BARRIO COUNCIL, THROUGH ITS CHAIRMAN, RAYMUNDO FAMILARA, ERLANDO ESPELETA, ET AL., PETITIONERS AND APPELLANTS, VS. THE CHIEF ACCOUNTANT OF THE BANK OF THE PHILIPPINE ISL...

G. R. No. L-18360. January 31, 1963

Ponente: LABRADOR, J.

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LABRADOR, J.:

Appeal seeking the reversal of an order of the Court of First Instance of Manila, Hon. Higinio B. Macadaeg, presiding, dismissing the action brought by petitioners to compel the cashier or treasurer of the Bank of the Philippine Islands to produce the statement of accounts called for in a subpoena duces tecum issued by the investigating fiscal, Hon. Manuel Pamaran.

It appears that petitioners are complainants against the respondents (the Bank excluded), in a criminal action for violation of the provisions of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) and of Article 216 of the Revised Penal Code, filed before the city fiscal of Manila on August 30, 1960. Upon the filing of the complaint, the investigating fiscal required the cashier or treasurer of the Bank of the Philippine Islands to appear at the investigation of the aforementioned offenses set for August 5, 1960, and to bring and produce the savings and current accounts of the respondent J. M. Tuason & Co., Inc. for the period comprising April 1, 1955 to September 5, 1960, as well as the savings and current accounts of the law offices of Tuason, Caluag and Sison for the same period. Notwithstanding service of the subpoena duces tecum, said bank official failed and refused to bring and produce the documents asked for, invoking as ground for his refusal the provision of Republic Act No. 1405 which prohibits any official or employee of a banking institution to disclose to any person, other than those mentioned in section 2 of said act, any information concerning said deposits.

Because of such refusal petitioners filed Civil Case No. 44178 for a writ of mandamus in the Court of First Instance of Manila, praying for an order to compel the respondent bank official to produce and cause the production of the statement of accounts called for in the subpoena duces tecum issued by the investigating fiscal. On a motion to dismiss filed by the respondents the petition for mandamus was dismissed by the lower court; hence this

The essence of petitioners' assignments of error before us is that the investigating fiscal stands in the position of one who will determine whether a prima facie case exists to warrant the filing of an information in court, and he can only make such a determination by means of a coercive order compelling the respondent chief accountant of the Bank of the Philippine Islands or his representative to bring and produce before the fiscal the savings and current accounts of the respondents J. M. Tuason & Co., Inc. as well as the savings and current accounts of the law offices of Tuason, Caluag and Sison. They cite in support of their stand the provisions of Rule 21 and Rule 29 of the Rules of Court.

Petitioners' position untenable. Under the very rules invoked by them, the court in which an action is pending may

order any party to appear before it or at any investigation conducted under the laws of the Philippines, and produce and permit the inspection and copying of any designated documents, papers, books, accounts, etc., not privileged, which constitute or contain evidence material to any matter involved in the action which are in his possession, custody or control. The documents called for by the petitioners herein are definitely privileged documents falling within the protection of Republic Act No. 1405, section 2 of which prohibits disclosure of or inquiry into, deposits with any banking institution, thus:

"All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation."

The motivation for the enactment of Republic Act No. 1405 is to encourage people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country (Sec. 1).

Certainly the case of petitioners does not fall under any of the exceptions enumerated in the above-quoted provision to warrant the disclosure by the bank representative of the books of account of the respondents involved in the criminal action filed before the city fiscal.

It appearing that the bank official did not neglect the performance of an act which the law specifically enjoins as a duty resulting from his office, trust, or station, but is, on the other hand, being compelled to disclose a matter that is privileged under the provisions of Republic Act No. 1405, we hereby hold that the lower court acted correctly when it dismissed the petition for mandamus for lack of jurisdiction.

In view of all the foregoing, the order appealed from is affirmed, with costs against petitioners.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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