

**PHILIPPINE DEPOSIT INSURANCE CORPORATION, AS THE
STATUTORY LIQUIDATOR OF UNITRUST DEVELOPMENT BANK
(UDB), PETITIONER, VS. THE HON. WINLOVE M. DUMAYAS,
PRESIDING JUDGE OF THE REG...**

Ponente: PAREDES, J.

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PAREDES, J.:

THE CASE

THIS IS A PETITION FOR CERTIORARI[1] filed by petitioner Philippine Deposit Insurance Corporation (PDIC) which seeks to reverse and set aside the Orders[2] dated June 19, 2012 and December 17, 2012, issued by the Regional Trial Court, Branch 59, Makati City (RTC-Branch 59 or court a quo, as the case may be), in Spl. Pro. M-6069 directing the PDIC to cease and desist from further liquidating Unitrust Development Bank (Unitrust).

THE ANTECEDENTS

PDIC is a government-owned and controlled corporation created under Republic Act No. 3591[3] (RA 3591), as amended by RA 9302[4]. The Monetary Board, acting pursuant to Section 30 of RA 7653[5] through Resolutions no. 19 and no. 64, designated PDIC as the statutory receiver and liquidator, respectively, of Unitrust.

Unitrust is a domestic banking corporation operating, since July 8, 1980, as a thrift bank. Private respondents Francisco R. Yuseco, Jr., Leopoldo Valcarcel, Pedro Montañez, and two Japanese firms – Minamoto Saiken Kaishu Co., Ltd. and G. Universal Co., Ltd. – acquired[6] ownership of Unitrust on September 21, 2001. Thereafter, on January 4, 2002, Unitrust declared a bank holiday[7]. As a consequence, on January 4, 2002, the Monetary Board issued Resolution no. 19 which prohibited Unitrust from doing business and placed it under the receivership of PDIC[8]. Meanwhile, respondent Tooru Nagasawa was appointed trustee of the two Japanese Firms (Minamoto Saiken Kaishu Co., Ltd. and G. Universal Co., Ltd.) which had been declared bankrupt[9] in Japan.

While PDIC was performing its tasks as receiver of Unitrust, private respondents, on July 31, 2002, filed a class suit for Injunction with Damages before the RTC-Branch 136, Makati City, alleging that:

At the time the bank (Unitrust) was placed under receivership it was essentially solvent and liquid; the financial ratios were still within industry standard and there were sufficient assets to pay off all obligations. As of January 31, 2002, the statement of Condition of the Bank as audited by the PDIC showed a healthy financial status. However, for reasons known to PDIC and its officers, they have offered the bank for sale to interested parties. x x x.[10]

PDIC refuted private respondents' allegations, while the Bangko Sentral ng Pilipinas (BSP) filed a motion to dismiss the suit. On November 5, 2002, RTC-Branch 136 issued a writ of preliminary injunction. PDIC's motion for reconsideration having been denied, PDIC raised the questioned writ of preliminary injunction to this Court through CA-G.R. SP No. 76801 (SP No. 76801). On January 19, 2004, the Seventeenth (17[th]) Division of this

Court, promulgated a Decision[11] granting PDIC's petition, the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the present petition is hereby GIVEN DUE COURSE and the challenged Orders dated November 5, 2002 and February 26, 2003 of the court a quo are hereby ANNULLED and SET ASIDE. Respondent Judge is hereby directed to RESOLVE without any further delay the Motion to Dismiss filed by the Bangko Sentral ng Pilipinas (BSP) in accordance with Sec. 3, Rule 16 of the 1997 Rules of Civil Procedure, as amended.

No pronouncement as to costs.

SO ORDERED.

Private respondent Yuseco moved for reconsideration, which was, however, denied[12]. Thereafter, the Decision and the Resolution of this Court became final and executory[13].

On January 20, 2005, the Monetary Board issued Resolution no. 64 which reads, "64. Decision to direct the Philippine Deposit Insurance Corporation to proceed with the liquidation of the Unitrust Development Bank in accordance with Section 30 of Republic Act No. 7653"[14]. Pursuant to the said Resolution, on April 25, 2005, PDIC filed an ex-parte Petition for Assistance in the Liquidation of Unitrust, docketed as Sp. Pro. No. M-6069, and raffled to RTC-Branch 59. The court gave due course to the Petition and constituted RTC-Branch 59 as the liquidation court of Unitrust. On November 10, 2005, private respondent Yuseco opposed the Petition and filed a Motion to Dismiss the Liquidation Proceeding[15] of Unitrust.

On February 5, 2007, PDIC filed a Motion for Approval of the Partial Distribution Plan of the distributable assets of Unitrust which had an estimated realizable value of P299,437,957.78, of which P146,250,408 is in cash[16]; the Motion was approved by Order dated March 19, 2007. Private respondents moved for reconsideration of the said order which was denied on July 20, 2011. Meanwhile, because of the pendency of private respondents' motion for reconsideration of the order, PDIC was only able to pay[17], as of March 31, 2012, a total of P29,715,010.47, to the trust claimants, depositors and creditors.

During the pendency of the resolution of their motion for reconsideration, private respondents also filed an Omnibus Motion[18] praying that PDIC be directed to submit the latest financial statement of Unitrust and suspend the liquidation of the assets of the bank. The Omnibus Motion was denied in the January 14, 2009 Order, stating[19], in pertinent part, that:

On the motion to suspend the liquidations of Unitrust's assets, as correctly pointed out by the petitioner in its comment, the Court has no jurisdiction to suspend the liquidation of the affairs of Unitrust.

On August 22, 2008, private respondents also filed a motion to revert Unitrust to receivership; this was denied on May 3, 2011.

On September 14, 2009, private respondent Yuseco filed a supplemental pleading to the Motion to Dismiss which he filed on November 10, 2005. The Motion to Dismiss was eventually denied in the Order[20] dated May 16, 2011, the pertinent portion of which, reads:

The Motion is not impressed with merit.

The issue raised by oppositors-movants pertain to the propriety of UDB's liquidation. Records show that the same issue has been resolved in the following instances:

(1) In the Decision of the Court of Appeals in CA-GR Sp. No. 76801 dated January 19, 2004, when the CA lifted the writ of preliminary injunction issued by RTC Branch 136, enjoining PDIC from proceeding with the liquidation of UDB. This decision rendered by CA was not elevated to the Supreme Court hence, the same has

become final.

(2) The Monetary Board Resolution No. 64 rendered on January 20, 2005 where the liquidation of UDB was ordered and PDIC was directed to proceed with the liquidation;

Pursuant to Sec. 30 of RA 7653, of the New Central Bank Act. "actions of the Monetary Board regarding the liquidation of banks are final and executory. It may be restrained or set aside by the court except only thru petition for certiorari within ten (10) days from receipt thereof. No petition for certiorari assailing Monetary Board Resolution No. 64 was ever filed, rendering the same final and executory.

(3) The Order of this Court dated January 14, 2009, when the oppositors' motion to suspend the liquidation of UDB was denied on the ground of lack of jurisdiction of this Court to suspend the liquidation of the affairs of UDB. Oppositors likewise did not assail the Order of the Court rendering the same.

It appears that in all three instances afore-enumerated, the issue on the propriety of the liquidation of UDB was upheld. Therefore, when petitioner PDIC filed the instant petition for assistance in the liquidation of UDB, the determination of the propriety of placing UDB under liquidation is not necessary.

Finally, we must be reminded that this Court is a liquidation Court, whose task is to assist in the implementation of the liquidation of UDB, as defined and mandated under Section 30 of RA 7653, the function of this Court are:

- 1) adjudicate disputed claims against the institution;
- 2) assist the enforcement of individual liabilities of stockholders, directors and officers; and
- 3) decide on other issues as may be material to implement the liquidation plan adopted.

The afore-enumerated tasks of a liquidation Court limit this Court only to the actual implementation of the liquidation. Considering that petitioner is not assailing the propriety of the liquidation of the UDB, the determination of whether there is fraud, misrepresentation and violation of pertinent laws attendant to the filing of this petition to justify the dismissal of the petition, is immaterial. Movants-oppositors could have sought the setting aside of MB Resolution No. 64 via petition for certiorari, instead. To seek the dismissal of the instant petition on alleged fraud, misrepresentation and violation of pertinent laws from this Court is useless effort, because this Court in its function as a liquidation court, has no jurisdiction to dismiss the petition.

Private respondents filed a motion for reconsideration of the afore-quoted Order, which was granted on August 25, 2011. PDIC moved for a reconsideration of the August 25, 2011 Order, which, in the Order dated December 5, 2011, was found to be well taken by the court a quo, thereby setting aside the directive for the PDIC to cease and desist from liquidating Unitrust. Private respondents moved for reconsideration; thus, in the first assailed Order of June 19, 2012, the court a quo granted[21] private respondents' motion, stating inter alia, that:

Under consideration and resolution are Oppositor Yuseco's Motion for Partial Reconsideration of the Order dated December 5, 2011, which was adopted by Petitioner-Intervenor Nagasawa, and the Comment thereto filed by the herein petitioner.

It must be recalled that the instant motion stemmed from the Oppositor's motion to place Unitrust Development Bank under receivership status which was eventually granted by this Court. After hearing though, the Court reconsidered the same.

After a thorough reconsideration of the incidents and proceedings herein, this court is inclined to grant the motion and reinstate the Order dated August 25, 2011 pursuant to Section 14 of Article VIII of the Constitution and for the reasons correctly pointed out by the Oppositors.

As we all know, a petition for liquidation is indubitably directed to an insolvent bank as PDIC claims Unitrust to be insolvent which was later on found to be untrue. Thus, the circumstances surrounding the subject bank's

alleged insolvency prove (sic) otherwise, this Court will not close its eyes and confine itself to such allegations to the prejudice of the bank and its depositors.

Considering that this Court has clearly (sic) found during the hearing of this petition, the healthy financial position of UDB based on the admission by petitioner's counsel, Atty. Gilroy V. Billiones, whose admission is duly supported by the Bank Statement of Affairs as of June 2002, wherein it is reflected that the bank's combined capital assets is more than sufficient to answer for all the bank's liabilities this Court must take this into consideration. [TSN dated September 10, 2007, p. 21]. Quite clearly, UDB had more assets as against liabilities and hence could not be, under any circumstance be considered in the state of insolvency, Verily, petitioner PDIC should cease and desist from further implementing its liquidation.

WHEREFORE, finding the foregoing Motion meritorious, this Court hereby resolves to GRANT Oppositor's Motion for Partial Reconsideration dated January 19, 2011 is REVERSED AND SET ASIDE, and the Order dated August 25, 2011 is accordingly REINSTATED.

Furthermore, Petitioner is directed to proceed with the validation and payment of all depositor's claim of the remaining balance constituting the 55.5725% of their respective deposit accounts.

SO ORDERED.

PDIC moved for reconsideration of the said assailed Order which was denied[22] in the second assailed Order dated December 17, 2012, thus :

In so far as Petitioner's Motion for Reconsideration to the June 19, 2012 Order of this Court ordering Petitioner to cease and desist from further liquidating the bank as it found the bank still solvent, the Court upholds its June 19, 2012 Order. The Court finds no conflict in allowing payments to all the bank depositors and creditors in accordance with the Court's June 22, 2012 and June 19, 2012 orders.

Liquidation, by definition, is a process undertaken to liquidate as much as possible the assets of bankrupt or insolvent banks. These bankrupt or insolvent banks have such less assets than their liabilities. In the end, the depositors and creditors of the bankrupt or insolvent banks as a rule, have to content themselves in receiving amounts much less than 100% of their respective claims, deposits or credits.

In the instant case, Unitrust Development Bank (UDB) depositors and creditors will be receiving the full value of their deposits and credits per the Statement of Condition (SOC) itself provided by the petitioner. While it is true, that the depositors will be getting the balance of their deposits and credits with a combination of 62% cash and 38% real estate based on 100% of their fair market value, they are still receiving the full value of the deposits and credits.

Receiving the full value of deposits and credits is rare in cases where banks are already found bankrupt or insolvent. As a general rule, these depositors and creditors receive far less than the full value of their deposits and credits. If subsequently, a number of depositors and creditors will have to share among themselves certain real properties, these depositors and creditors can always assign a Trustee bank or to manage these real properties.

When the petitioner first sought the assistance of this court for the liquidation of the bank's assets, the court did give the presumption of the regularity to the petitioner. It gave credence to the petitioner's declarations that the bank was already insolvent. It also believed that the pending case to determine whether the bank is solvent or not still pending with the Branch 66, Regional Trial Court of Makati City, presided over by the honorable Judge Joselito C. Villarosa was already final and executory, in order to allow the bank's liquidation. However, none of these declarations turned out to be true. The court also turned its back and ignored the oppositors continuing objections of how and why the petitioner could have sold the bank's main building without this court's permission, much more knowledge. This court can no longer and will no longer allow these transgressions to be repeated by the petitioner.

Amidst all these, the court also notes that five depositors of UDB themselves filed their respective Urgent Motion to Compel Compliance for the petitioner to comply with the June 22, 2012 order. All five (5) namely: Intervenor Maritess Pangan and the four (4) others are very much aware of the payment breakdown and conditions of the court's June 22, 2012 order as all five (5) are active intervenors in this case. The latter four (4) namely: depositors Bon Gavino Gautier, Teodita Gabino Gautier, Isabel Gavino and Ma. Farab B. Felizardo could not have expressed their positions more plainly and clearly in gist as follows: That the June 22, 2012 Order of the court was based on Oppositor Yuseco's Manifestation and Motion to pay depositors with the breakdown as follows: 62% cash, 38% real properties at 100% of their fair market values sans interest or dividends as the bank was not allowed to operate during the last ten years....(not readable).... depositor will sign a quit claim in favor of the petitioner, UDB and UDB shareholders.

Aggrieved, PDIC ascribes grave abuse of discretion on the part of respondent Judge based on the following grounds:

I.RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE ISSUED THE FIRST AND SECOND ASSAILED ORDERS SETTING ASIDE MONETARY BOARD RESOLUTION NO. 64 PLACING UDB UNDER LIQUIDATION SOLELY ON THE BASIS OF THE FOLLOWING:

A. A MERE MOTION FILED BY PRIVATE RESPONDENTS BEYOND THE 10-DAYS REGLEMENTARY PERIOD;

B. A MOTION WHICH FAILED TO IMPEAL THE MONETARY BOARD AS AN INDISPENSABLE PARTY AND WHICH FAILED TO ALLEGE THAT THE MONETARY BOARD, IN DIRECTING THE PLACEMENT OF UDB UNDER LIQUIDATION, WAS TAKEN IN EXCESS OF JURISDICTION OR WITH SUCH GRAVE ABUSE OF DISCRETION AS TO AMOUNT TO LACK OR EXCESS OF JURISDICTION.

II.RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE ISSUED THE FIRST AND SECOND ASSAILED ORDERS SETTING ASIDE MONETARY BOARD RESOLUTION NO. 64 PLACING UDB, WHICH A) MAY ONLY BE REVIEWED BY THE HONORABLE COURT OF APPEALS IN THE EXERCISE OF ITS APPELLATE JURISDICTION; AND, B) IS CLEARLY OUTSIDE THE JURISDICTION OF THE LIQUIDATION COURT OF UDB WHICH IS LIMITED TO PROVIDING ASSISTANCE IN THE LIQUIDATION OF A CLOSED BANK.

III.RESPONDENT JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE ISSUED THE FIRST AND SECOND ASSAILED ORDERS SETTING ASIDE MONETARY BOARD RESOLUTION NO. 64 PLACING UDB UNDER LIQUIDATION THIS AFTER HAVING PREVIOUSLY DETERMINED AND UPHELD IN THREE INSTANCES THE VALIDITY OF THE LIQUIDATION OF UDB.

IV.THE GRAVE AND SERIOUS ERRORS OF RESPONDENT JUDGE IN HIS ISSUANCE OF THE FIRST AND SECOND ASSAILED ORDERS HINT OF GROSS IGNORANCE OF BASIC LAW ON BANK LIQUIDATION.

A) FIRST GRAVE AND SERIOUS ERROR: LIQUIDATION APPLIES ONLY TO BANKRUPT OR INSOLVENT BANKS;

B) SECOND GRAVE AND SERIOUS ERROR: DIRECTIVE TO PAY CLAIMS OF THE CREDITORS AND DEPOSITORS OF UDB IS NOT INCONSISTENT WITH DIRECTIVE TO CEASE AND DESIST FROM LIQUIDATION OF UDB;

C) THIRD GRAVE AND SERIOUS ERROR: USURPATION BY RESPONDENT JUDGE OF THE AUTHORITY OF PETITIONER PDIC BY DIRECTING PAYMENT TO DEPOSITORS AND CREDITORS OF UDB UNDER UNJUST AND OPPRESSIVE TERMS PURPOSELY TO BENEFIT PRIVATE RESPONDENTS AS UDB SHAREHOLDERS.

The (original) ponente of the now Former First Division of this Court which handled this case, held in abeyance[23] the resolution of the injunctive relief in deference to this present Division's resolution thereon. After receipt of this case, We deemed it prudent to defer the resolution of the injunctive relief as its resolution is closely related to the resolution of the instant Petition. Hence, We resolve.

THE ISSUE

The core issue for resolution is whether or not Judge Dumayas gravely abused his discretion when he issued the assailed Orders directing PDIC to cease and desist from liquidating Unitrust.

THE COURT'S RULING

The petition is impressed with merit.

Liquidation, in corporation law, connotes a winding up or settling with creditors and debtors. It is the winding up of a corporation so that assets are distributed to those entitled to receive them. It is the process of reducing assets to cash, discharging liabilities and dividing surplus or loss[24].

The entity under liquidation in this case is Unitrust Development Bank, a banking institution and, as such, the governing law is Section 30 of RA 7653 which reads, thus:

SECTION 30. Proceedings in Receivership and Liquidation. — Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank or quasi-bank:

(a) is unable to pay its liabilities as they become due in the ordinary course of business: Provided, That this shall not include inability to pay caused by extraordinary demands induced by financial panic in the banking community;

(b) has insufficient realizable assets, as determined by the Bangko Sentral, to meet its liabilities; or

(c) cannot continue in business without involving probable losses to its depositors or creditors; or

(d) has willfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution; in which cases, the Monetary Board may summarily and without need for prior hearing forbid the institution from doing business in the Philippines and designate the Philippine Deposit Insurance Corporation as receiver of the banking institution.

For a quasi-bank, any person of recognized competence in banking or finance may be designed as receiver.

The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: Provided, That the receiver may deposit or place the funds of the institution in non-speculative investments. The receiver shall determine as soon as possible, but not later than ninety (90) days from take-over, whether the institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its depositors and creditors and the general public: Provided, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board.

If the receiver determines that the institution cannot be rehabilitated or permitted to resume business in

accordance with the next preceding paragraph, the Monetary Board shall notify in writing the board of directors of its findings and direct the receiver to proceed with the liquidation of the institution. The receiver shall:

(1) file ex-parte with the proper regional trial court, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the institution pursuant to a liquidation plan adopted by the Philippine Deposit Insurance Corporation for general application to all closed banks. In case of quasi-banks, the liquidation plan shall be adopted by the Monetary Board. Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice, adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide on other issues as may be material to implement the liquidation plan adopted. The receiver shall pay the cost of the proceedings from the assets of the institution.

(2) convert the assets of the institution to money, dispose of the same to creditors and other parties, for the purpose of paying the debts of such institution in accordance with the rules on concurrence and preference of credit under the Civil Code of the Philippines and he may, in the name of the institution, and with the assistance of counsel as he may retain, institute such actions as may be necessary to collect and recover accounts and assets of, or defend any action against, the institution. The assets of an institution under receivership or liquidation shall be deemed in custodia legis in the hands of the receiver and shall, from the moment the institution was placed under such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.

The actions of the Monetary Board taken under this section or under Section 29 of this Act shall be final and executory, and may not be restrained or set aside by the court except on petition for certiorari on the ground that the action taken was in excess of jurisdiction or with such grave abuse of discretion as to amount to lack or excess of jurisdiction. The petition for certiorari may only be filed by the stockholders of record representing the majority of the capital stock within ten (10) days from receipt by the board of directors of the institution of the order directing receivership, liquidation or conservatorship.

The designation of a conservator under Section 29 of this Act or the appointment of a receiver under this section shall be vested exclusively with the Monetary Board. Furthermore, the designation of a conservator is not a precondition to the designation of a receiver. (Underscoring ours)

Based on the above provision, the actions of the court a quo, sitting as a liquidation court, are limited to the adjudication of claims against Unitrust. The issue regarding the propriety of the liquidation of Unitrust had been laid to rest in this Court's Decision in SP No. 76801, when the Seventeenth (17[th]) Division held that the liquidation of Unitrust is within the exclusive, original jurisdiction of the Monetary Board to decide on, as provided under the special law, RA 7653. Thus, when the court a quo enjoined the PDIC from performing the tasks reposed upon it by the Monetary Board in Resolution no. 19 and no. 64, it gravely abused its discretion by acting arbitrarily in utter disregard of case and statute law. The Court of Appeals' disquisition is, that:

In seeking to enjoin the PDIC from further proceeding with the liquidation of Unitrust after determining that rehabilitation is no longer viable under Resolution no. 2002-10-146 dated October 21, 2002, private respondents have filed the injunction suit prematurely because such determination or resolution is still subject to approval by the Monetary Board which is the sole agency vested with authority to order the liquidation of a closed bank in accordance with Sec. 30 of RA No. 7653. Actually, prior to such decision to recommend the liquidation of Unitrust, private respondents have already filed the present injunction suit against the PDIC as it is intended to judicially bar the PDIC from such course of action which is clearly within its discretion to decide. Well established is the principle that courts cannot compel an agency to do a particular act or to enjoin such act within its prerogative except when in the exercise of its authority it gravely abuses or exceeds its jurisdiction.

x x x

In directing the PDIC to give Unitrust a chance to rehabilitate, allow the private respondents to participate in the submission of a rehabilitation proposal which should be considered by the petitioners before choosing the winning bidder, respondent judge clearly acted without or in excess of jurisdiction not only because the allegation of grave abuse of discretion is patently bereft of basis (private respondents having been given equal chance to participate in the bidding for rehabilitation) but more so because the injunctive writ unlawfully encroached into the exclusive authority of the Monetary Board to make a final judgment on such determination or recommendation made by the PDIC under Sec. 30 of RA No. 7653. Furthermore, the law itself has clearly provided for the remedy of a petition for certiorari and not injunction for the proper parties (majority stockholders of record) to question the acts of the Monetary Board and not the PDIC whose actions subject of the injunction suit by private respondents are merely in implementation of the statutory procedure on receivership proceedings and still subject to final approval of the Monetary Board. Without doubt, not only is the court action taken by private respondents premature, it is also and more significantly, the wrong remedy (Underscoring supplied).

The above discussion of the Seventeenth (17[th]) Division, is crystal clear--PDIC, as a receiver, and now, as a liquidator, cannot be enjoined from acting as such in any action other than a petition for certiorari; and such action should be filed, not against the PDIC, but against the Monetary Board. It is beyond question that the assailed Orders were clearly issued without an iota of legal basis.

An Order which is against the law is issued with grave abuse of discretion; manifest disregard of the basic rules and procedures constitutes a grave abuse of discretion.

The Court held as inexcusable abuse of authority the trial judge's "obstinate disregard of basic and established rule of law or procedure." Such level of ignorance is not a mere error of judgment. It amounts to "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law," or in essence, grave abuse of discretion amounting to lack of jurisdiction.

Needless to say, judges are expected to exhibit more than just a cursory acquaintance with statutes and procedural laws. They must know the laws and apply them properly in good faith as judicial competence requires no less.[25]

A cursory reading of the RTC's Orders show that these were issued clearly and patently without legal basis. The Orders dated: (a) August 25, 2011, where private respondents' motion for reconsideration of the May 16, 2011 Order was granted; (b) June 19, 2012, where, after finding that PDIC's motion for reconsideration was well taken in the Order dated December 5, 2011, reversed itself yet again, granted private respondent's motion for reconsideration, abrogated the Monetary Board's resolution directing the PDIC to liquidate Unitrust, and reinstated the August 25, 2011 Order; and (c) December 17, 2012, denying the motion for reconsideration of PDIC. It would be well to note that the parties and their circumstances had remained the same as it was in SP No. 76801, and which case had attained finality. As such, We cannot fathom why the court a quo flipped-flopped on matters and issues laid to rest in this Court's final and executory Decision dated January 19, 2004. On this point alone, it is crystal clear that the RTC gravely abused its discretion when it stepped out of its bounds, and arrogated upon itself the prerogatives exclusively and originally reposed upon the Monetary Board.

Moreover, as underscored by PDIC, the assailed orders were issued without basis and in contravention of Section 30 of RA 7653. We reviewed the Orders and found that the court a quo had been contradicting itself and was indecisive in the Orders it issued. The confusion may have stemmed from the issue of what law to apply regarding the liquidation of Unitrust.

In this regard, and to clarify, In re: Petition for Assistance in the Liquidation of the Rural Bank of Bokod

(Benguet), Inc., Philippine Deposit Insurance Corporation vs. Bureau of Internal Revenue[26] is instructive, thus:

It should be noted that there are substantial differences in the procedure for involuntary dissolution and liquidation of a corporation under the Corporation Code, and that of a banking corporation under the New Central Bank Act [RA 7653], so that the requirements in one cannot simply be imposed in the other.

Under the Corporation Code, the SEC may dissolve a corporation, upon the filing of a verified complaint and after proper notice and hearing, on grounds provided under existing laws, rules and regulations. xxx

In contrast, the Monetary Board may summarily and without need for prior hearing, forbid the banking corporation from doing business in the Philippines, for causes enumerated in Section 30 of the New Central Bank Act; and appoint the PDIC as receiver of the bank. PDIC shall immediately gather and take charge of all the assets and liabilities of the closed bank and administer the same for the benefit of its creditors. The summary nature of the procedure for the involuntary closure of a bank is especially stressed in Section 30 of the New Central Bank Act, which explicitly states that the actions of the Monetary Board under the said Section or Section 29 shall be final and executory, and may not be restrained or set aside by the court except on a Petition for Certiorari filed by the stockholders of record of the bank representing a majority of the capital stock. PDIC, as the appointed receiver, shall file ex-parte with the proper RTC, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the bank. The bank is not given the option to undertake its own liquidation. (*Italics in the original*)

WHEREFORE, premises considered, the Petition for Certiorari is GRANTED. The assailed Orders dated June 19, 2012 and December 17, 2012, issued by the Regional Trial Court, Branch 59, Makati City, in Spl. Pro. M-6069 are hereby ANNULLED and SET ASIDE. All Orders subsequently issued in furtherance of, or to implement the assailed Orders, and those issued with like or similar import as the assailed Orders, are declared void and of no force and effect. The court, in Spl. Pro. M-6069, is directed to PROCEED with and ASSIST the Philippine Deposit and Insurance Corporation in the liquidation of Unitrust Development Bank in accordance with the approved Liquidation Plan without delay.

SO ORDERED.

Dicdican, (Chairperson), and [*]Lazaro-Javier, JJ., concur.

[*] Acting Senior Member vice J. Michael P. Elbinias per Office Order No. 487-14-RSF dated November 26, 2014.

[1] Rollo, pp. 3-64

[2] Ibid., pp. 65-6 and 67-9.

[3] An act establishing the Philippine Deposit Insurance Corporation, defining its powers and duties and for other purposes.

[4] An Act Amending Republic Act Numbered Three Thousand Five Hundred Ninety-One, as amended, otherwise known as the "Charter of the Philippine Deposit Insurance Corporation" and for other purposes.

[5] New Central Bank Act.

[6] PDIC v. Hon. Rebecca R. Mariano, et. al., CA-G.R. SP No. 76801, January 19, 2004, rollo, p .84.

[7] Ibid.

[8] Ibid.

[9] Ibid.

[10] Ibid., p. 86.

[11] Ibid., pp. 83-102, 101.

[12] Ibid., p. 103.

[13] Ibid., p. 104.

[14] Ibid., p. 105.

[15] Ibid., p. 18.

[16] Petition, rollo, p. 15.

[17] Ibid., p. 16.

[18] Rollo, pp. 166-7.

[19] Ibid., p. 70.

[20] Ibid., pp. 72-3.

[21] Rollo, pp. 65-6.

[22] Rollo, pp. 68-9.

[23] See Resolution of the First Division dated January 29, 2014, rollo, pp. 666-8.

[24] Philippine Veterans Bank Employees union-N.U.B.E. and Perfecto V. Fernandez vs. Honorable Benjamin Vega, Presiding Judge of Branch 39 of the Regional Trial Court of Manila, the Central Bank of the Philippines and the Liquidator of the Philippine Veterans Bank, G.R. No. 105364, June 28, 2001.

[25] Jesus G. Crisologo and Nanette B. Crisologo vs. JEWM Agro-industrial Corporation, G.R. No. 196894, March 3, 2014 citing the case of State Prosecutors II Comilang and Lagman v. Judge Medel Belen, A.M. No. RTJ-10-2216, June 26, 2012.

[26] G.R. No. 158261, December 18, 2006.

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