

MANUEL M. SERRANO, PETITIONER, VS. CENTRAL BANK OF THE PHILIPPINES; OVERSEAS BANK OF MANILA: EMERITO M. RAMOS, SUSANA B. RAMOS, EMERITO B. RAMOS, JR., JOSEFA RAMOS DELA RAMA, HO...

G.R. No. L-30511. February 14, 1980

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for mandamus and prohibition, with preliminary injunction, that seeks the establishment of joint and solidary liability to the amount of Three Hundred Fifty Thousand Pesos, with interest, against respondent Central Bank of the Philippines and Overseas Bank of Manila and its stockholders, on the alleged failure of the Overseas Bank of Manila to return the time deposits made by petitioner and assigned to him, on the ground that respondent Central Bank failed in its duty to exercise strict supervision over respondent Overseas Bank of Manila to protect depositors and the general public.[1] Petitioner also prays that both respondent banks be ordered to execute the proper and necessary documents to constitute all properties listed in Annex "7" of the Answer of respondent Central Bank of the Philippines in G.R. No. L-29352, entitled "Emerito M. Ramos, et al. vs. Central Bank of the Philippines," into a trust fund in favor of petitioner and all other depositors of respondent Overseas Bank of Manila. It is also prayed that the respondents be prohibited permanently from honoring, implementing, or doing any act predicated upon the validity or efficacy of the deeds of mortgage, assignment, and/or conveyance or transfer of whatever nature of the properties listed in Annex "7" of the Answer of respondent Central Bank in G.R. No. 29352.[2]

A sought for ex-parte preliminary injunction against both respondent banks was not given by this Court.

Undisputed pertinent facts are:

On October 13, 1966 and December 12, 1966, petitioner made a time deposit, for one year with 6% interest, of One Hundred Fifty Thousand Pesos (P150,000.00) with the respondent Overseas Bank of Manila.[3] Concepcion Maneja also made a time deposit, for one year with 6-1/2% interest, on March 6, 1967, of Two Hundred Thousand Pesos (P200,000.00) with the same respondent Overseas Bank of Manila.[4]

On August 31, 1968, Concepcion Maneja, married to Felixberto M. Serrano, assigned and conveyed to petitioner Manuel M. Serrano, her time deposit of P200,000.00 with respondent Overseas Bank of Manila.[5]

Notwithstanding series of demands for encashment of the aforementioned time deposits from the respondent Overseas Bank of Manila, dating from December 6, 1967 up to March 4, 1968, not a single one of the time deposit certificates was honored by respondent Overseas Bank of Manila.[6]

Respondent Central Bank admits that it is charged with the duty of administering the banking system of the Republic and it exercises supervision over all banks doing business in the Philippines, but denies the petitioner's allegation that the Central Bank has the duty to exercise a most rigid and stringent supervision of banks, implying

that respondent Central Bank has to watch every move or activity of all banks, including respondent Overseas Bank of Manila. Respondent Central Bank claims that as of March 12, 1965, the Overseas Bank of Manila, while operating, was only on a limited degree of banking operations since the Monetary Board decided in its Resolution No. 322, dated March 12, 1965, to prohibit the Overseas Bank of Manila from making new loans and investments in view of its chronic reserve deficiencies against its deposit liabilities. This limited operation of respondent Overseas Bank of Manila continued up to 1968.[7]

Respondent Central Bank also denied that it is a guarantor of the permanent solvency of any banking institution as claimed by petitioner. It claims that neither the law nor sound banking supervision requires respondent Central Bank to advertise or represent to the public any remedial measures it may impose upon chronic delinquent banks as such action may inevitably result to panic or bank "runs". In the years 1966-1967, there were no findings to declare the respondent Overseas Bank of Manila as insolvent.[8]

Respondent Central Bank likewise denied that a constructive trust was created in favor of petitioner and his pre-decessor in interest Concepcion Maneja when their time deposits were made in 1966 and 1967 with the respondent Overseas Bank of Manila as during that time the latter was not an insolvent bank and its operation as a banking institution was being salvaged by the respondent Central Bank.[9]

Respondent Central Bank avers no knowledge of petitioner's claim that the properties given by respondent Overseas Bank of Manila as additional collaterals to respondent Central Bank of the Philippines for the former's overdrafts and emergency loans were acquired through the use of depositors' money, including that of the petitioner and Concepcion Maneja.[10]

In G.R. No. L-29352, entitled "Emerito M. Ramos, et al. vs. Central Bank of the Philippines," a case was filed by the petitioner Ramos, wherein respondent Overseas Bank of Manila sought to prevent respondent Central Bank from closing, declaring the former insolvent, and liquidating its assets. Petitioner Manuel Serrano in this case, filed on September 6, 1968, a motion to intervene in G.R. No. L-29352, on the ground that Serrano had a real and legal interest as depositor of the Overseas Bank of Manila in the matter in litigation in that case. Respondent Central Bank in G.R. No. L-29352 opposed petitioner Manuel Serrano's motion to intervene in that case, on the ground that his claim as depositor of the Overseas Bank of Manila should properly be ventilated in the Court of First Instance, and if this Court were to allow Serrano to intervene as depositor in G.R. No. L-29352, thousands of other depositors would follow and thus cause an avalanche of cases in this Court. In the resolution dated October 4, 1968, this Court denied Serrano's motion to intervene. The contents of said motion to intervene are substantially the same as those of the present petition.[11]

This Court rendered decision in G.R. No. L-29352 on October 4, 1971, which became final and executory on March 3, 1972, favorable to the respondent Overseas Bank of Manila, with the dispositive portion to wit:

"WHEREFORE, the writs prayed for in the petition are hereby granted and respondent Central Bank's resolution Nos. 1263, 1290 and 1333 (that prohibit the Overseas Bank of Manila to participate in clearing, direct the suspension of its operation, and ordering the liquidation of said bank) are hereby annulled and set aside; and said respondent Central Bank of the Philippines is directed to comply with its obligations under the Voting Trust Agreement, and to desist from taking action in violation thereof. Costs against respondent Central Bank of the Philippines." [12]

Because of the above decision, petitioner in this case filed a motion for judgment in this case, praying for a decision on the merits, adjudging respondent Central Bank jointly and severally liable with respondent Overseas Bank of Manila to the petitioner for the P350,000 time deposit made with the latter bank, with all interests due therein; and declaring all assets assigned or mortgaged by the respondents Overseas Bank of Manila and the

Ramos groups in favor of the Central Bank as trust funds for the benefit of petitioner and other depositors.[13]

By the very nature of the claims and causes of action against respondents, they in reality are recovery of time deposits plus interest from respondent Overseas Bank of Manila, and recovery of damages against respondent Central Bank for its alleged failure to strictly supervise the acts of the other respondent Bank and protect the interests of its depositors by virtue of the constructive trust created when respondent Central Bank required the other respondent to increase its collaterals for its overdrafts and emergency loans, said collaterals allegedly acquired through the use of depositors' money. These claims should be ventilated in the Court of First Instance of proper jurisdiction as We already pointed out when this Court denied petitioner's motion to intervene in G.R. No. L-29352. Claims of these nature are not proper in actions for mandamus and prohibition as there is no shown clear abuse of discretion by the Central Bank in its exercise of supervision over the other respondent Overseas Bank of Manila, and if there was, petitioner here is not the proper party to raise that question, but rather the Overseas Bank of Manila, as it did in G.R. No. L-29352. Neither is there anything to prohibit in this case, since the questioned acts of the respondent Central Bank (the acts of dissolving and liquidating the Overseas Bank of Manila), which petitioner here intends to use as his basis for claims of damages against respondent Central Bank, had been accomplished a long time ago.

Furthermore, both parties overlooked one fundamental principle in the nature of bank deposits when the petitioner claimed that there should be created a constructive trust in his favor when the respondent Overseas Bank of Manila increased its collaterals in favor of respondent Central Bank for the former's overdrafts and emergency loans, since these collaterals were acquired by the use of depositors' money.

Bank deposits are in the nature of irregular deposits. They are really loans because they earn interest. All kinds of bank deposits, whether fixed, savings, or current are to be treated as loans and are to be covered by the law on loans.[14] Current and savings deposits are loans to a bank because it can use the same. The petitioner here in making time deposits that earn interests with respondent Overseas Bank of Manila was in reality a creditor of the respondent Bank and not a depositor. The respondent Bank was in turn a debtor of petitioner. Failure of the respondent Bank to honor the time deposit is failure to pay its obligation as a debtor and not a breach of trust arising from a depositary's failure to return the subject matter of the deposit.

WHEREFORE, the petition is dismissed for lack of merit, with costs against petitioner.

SO ORDERED.

Abad Santos, J., concurs.

Barredo, (Chairman), J., concurs in the judgment on the basis of the concurring opinion of Justice Aquino.

Antonio, J., in the result.

Aquino, J., see concurring opinion.

[1] pp. 1-10, rollo.

[2] p. 10, Id.

[3] pp. 12-13, Id.

[4] pp. 12-13, Id.

[5] p. 14, Id.

[6] p. 15, Id.

[7] pp. 18-19, Id.

[8] pp. 19-20, Id.

[9] pp. 22-24, Id.

[10] pp. 24-25, Id.

[11] pp. 26-27, Id.

[12] p. 193, Id.

[13] pp. 183-187, Id.

[14] Art. 1980, Civil Code; Gullas vs. Phil. National Bank, 62 Phil. 519.

CONCURRING OPINION

AQUINO, J.:

I concur in the result. The petitioner prayed that the Central Bank be ordered to pay his time deposits of P350,000, plus interests, which he could not recover from the distressed Overseas Bank of Manila, and to declare all the assets assigned or mortgaged by that bank and the Ramos group to the Central Bank as trust properties for the benefit of the petitioner and other depositors.

The petitioner has no causes of action against the Central Bank to obtain those reliefs. They cannot be granted in petitioner's instant original actions in this Court for mandamus and prohibition. It is not the Central Bank's ministerial duty to pay petitioner's time deposits or to hold the mortgaged properties in trust for the depositors of the Overseas Bank of Manila. The petitioner has no cause of action for prohibition, a remedy usually available against any tribunal, board, corporation or person exercising judicial or ministerial functions.

Since the Overseas Bank of Manila was found to be insolvent and the Superintendent of Banks was ordered to take over its assets preparatory to its liquidation under section 29 of Republic Act No. 265 (p. 197, Rollo, Manifestation of September 19, 1973), petitioner's remedy is to file his claim in the liquidation proceeding (Central Bank vs. Morfe, L-38427, March 12, 1975, 63 SCRA 114; Hernandez vs. Rural Bank of Lucena, Inc., L-29791, January 10, 1978, 81 SCRA 75).

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