

EMERITO M. RAMOS, SR., ET AL., PETITIONERS, VS. CENTRAL BANK OF THE PHILIPPINES, RESPONDENT.

G.R. No. L-29352. October 23, 1974

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PER CURIAM:

The parties assisted by their respective counsel have filed under date of October 9, 1974 the following

"MOTION AND COMPLIANCE

"COME NOW the parties, assisted by their respective counsel, and to this Honorable Court most respectfully state:

"1. In a resolution dated February 24, 1972, respondent Central Bank was directed by this Honorable Court to seek practical solutions in all good faith for the rehabilitation of the Overseas Bank of Manila;

"2. Pursuant to this resolution, petitioners submitted to the Central Bank the attached 'Rehabilitation Plan of the Overseas Bank of Manila' in the preparation of which they have taken into account what was essential to rehabilitate the Bank and at the same time assure maximum protection to its depositors, creditors and the public interests. The Central Bank agrees to the implementation of this rehabilitation plan, which is attached as Annex 'A' hereof, to be effective only upon approval by this Court, in complete satisfaction of the decision dated October 4, 1971 and the resolution of February 24, 1972.

"IN VIEW HEREOF, it is respectfully prayed of this Honorable Court that the attached Program of Rehabilitation of the Overseas Bank of Manila (ANNEX 'A') be approved in complete satisfaction of the Decision dated October 4, 1971 and Resolution dated February 24, 1972.

"Manila, Philippines, October 9, 1974.

"CENTRAL BANK OF THE PHILIPPINES

By:

(Sgd.) AMADO R. BRIÑAS

(Sgd.) EMERITO M. RAMOS

Senior Deputy Governor

Assisted by:

(Sgd.) EMERITO B. RAMOS, JR

(Sgd.) ESTELITO P. MENDOZA

(Sgd.) HORACIO DE LA RAMA

Solicitor General

(Sgd.) FILOMENA R. LEDESMA

(Sgd.) REYNATO S. PUNO

Assistant Solicitor General

(Sgd.) VICTORIA R. TANJUATCO

(Sgd.) F. E. EVANGELISTA

(Sgd.) SUSANA B. RAMOS

Director, Legal, Dept.
Central Bank of the Philippines

(Sgd.) JOSEFA R. DE LA RAMA

(Sgd.) ANTONIO B. RAMOS

(Sgd.) RODOLFO LEDESMA

(Sgd.) TEOFILO TANJUATCO

Assisted by:

ARANETA, MENDOZA & PAPA,

FRANCISCO CARREON,

and FELICIANO C. TUMALE

Counsel for Petitioners

c/o Suite B 11th Floor, G.E. Antonio Bldg.

540 T. M. Kalaw, Ermita, Manila

By:

(Sgd.) FELICIANO C. TUMALE”

A copy of the Program of Rehabilitation of the Overseas Bank of Manila attached by the parties as Annex "A" of

their above "Motion and Compliance," (consisting of the cover page, a three-page foreword, ten pages of the text of the rehabilitation plan itself, and a two-page list of real estate properties attached thereto as "Annex 'A' to Rehabilitation Plan") as filed with the Court is hereinbelow incorporated* and provides as follows:

ANNEX "A"

REHABILITATION PLAN

of the

OVERSEAS BANK OF MANILA

FOREWORD

In compliance with the Resolution of the Supreme Court dated February 24, 1972 on Central Bank's (CB) Motion for Reconsideration, directing that CB "should in all good faith now seek practical solutions" for the rehabilitation of the Overseas Banks of Manila (OBM), respondent CB filed with this Honorable Court a "Compliance and Manifestation" dated May 14, 1973. In said "Compliance and Manifestation" respondent presented a three-year "Program of Rehabilitation" (Annex "1" – Compliance and Manifestation) under which OBM could be rehabilitated, if all conditions therein were complied with, with funds generated from its own resources.

Additionally, to give petitioners the benefit of the doubt in regard to their valuation of their properties, which valuations were considered by respondent as excessive compared to the PNB and DBP appraisals, respondent also presented an "Alternative Program of Rehabilitation" (Annex "2" - Compliance and Manifestation). The substantive phase of this alternative program, which was for a similar period of three years, gave petitioners the responsibility of paying OBM's depositors with properties belonging to petitioners, subject to existing liens, under a dacion en pogo transaction.

On August 6, 1973, petitioners submitted with this Honorable Court a "Comment and Manifestation", asserting acceptance of CB's alternative programs but with a couple of amendments, to which respondent replied on November 23, 1973 (Reply to Comment and Manifestation) pointing out that petitioners' proposed amendments substantially changed the two programs of rehabilitation prepared by CB.

In a series of conferences between petitioner Emerito M. Ramos on one hand and CB representatives on the other, said petitioner put forward the position of OBM's majority or principal stockholders (petitioners herein) that:

- The rehabilitation of OBM should be as it really is, the direct and primary concern of its stockholders who would, therefore, be most interested and determined to push through to a most successful conclusion any approved plan, program or effort for such rehabilitation;
- Notwithstanding CB sentiment in favor of PNB and DBP appraisal of petitioners' properties, which is to be accepted as a logical stance from point of view of a banking institution, petitioners are convinced of the validity of their own appraisal and valuation of such properties deemed to have been based on less restrictive non-bank-oriented criteria;

If given the opportunity to develop and improve aforesaid properties, which are presently under mortgage, they could make full use of the same to generate funds more than sufficient to meet the requirements for the rehabilitation of OBM.

- In consideration of the foregoing premises, petitioners should have the onus of proving their points by giving them full and immediate responsibility of rehabilitating their own bank; admittedly a risk, highly unprecedented, for CB to take, but considered by petitioners as hardly a risk for CB since it is the petitioners who would be most

affected by even a slight, not to say total, failure to rehabilitate OBM;

- Petitioners are willing and ready to assume such full and immediate responsibility within the framework of their own program of rehabilitation, subject to such safeguards as CB may deem fit to impose in the discharge of its own responsibilities under the law.

In consideration of the mandate of this Honorable Court to pursue a "practical solution" for the rehabilitation of OBM, and in order to break the impasse between the CB and the petitioners, respondent entertained petitioners' program of rehabilitation, adding procedural safeguards thereto for the protection of OBM's depositors and creditors, notwithstanding its reservations in its feasibility.

The *raison d'être* of petitioners' program of rehabilitation is the assumption by petitioners of full responsibility for the rehabilitation of OBM. Such a program, if adopted, terminates the Voting Trust Agreement of OBM.

PHASE I

REHABILITATION

1. The duration of the rehabilitation phase shall be three (3) years. During this period:

1.1. Transactions and operations of OBM shall be limited to the collection of all loans/accounts receivable which are due and demandable, and the conversion of risk assets to secured investments for purposes of acquiring enough liquid assets to meet OBM's obligations to depositors. Under no circumstance will any new loan or accommodation be granted by OBM during this period.

1.2. The petitioners, who are the principal stockholders of OBM, shall assume full responsibility for the rehabilitation of OBM, this being their principal obligation, and, for this purpose, shall be primarily responsible for the development, improvement and/or subdivision into lots of real estate belonging to them, and for the sale of such developed, improved and/or subdivided estate to the general public in order to generate funds to meet the requirements for the rehabilitation of OBM.

1.3. Deeds of absolute sale or contracts to sell covering the real properties mentioned in the next preceding paragraph shall be assigned to OBM by the principal stockholders and OBM shall credit amounts collected or received under the foregoing deeds or contracts, minus expenses disbursed for the development/improvement of the lots sold if these expenses did not come from the majority or principal stockholders, to the obligations of said stockholders to OBM.

1.4. Fifty per cent (50%) of all sales proceeds of the aforementioned lots, or such portion of said proceeds as may be equivalent to the loan value assigned by CB to the lots, whichever is higher, shall be turned over by OBM to the Central Bank and invested in CBCI's to be held by the Central Bank as its collateral to secure OBM liabilities to the Central Bank, with the interest income of said CBCI's to be applied to the liquidation of said OBM liabilities. The balance of said proceeds, if any, shall be deposited in an account with the Central Bank in the name of OBM, to be used for further developing real estate properties mortgaged to the Central Bank and/or to support OBM's operations.

1.5. Transfer Certificates of Title of properties which are mortgaged to CB shall be released only upon payment of the full assigned loan value of such properties.

1.6. OBM's liabilities to CB shall be restructured over a period of fifteen (15) years and shall bear interest of not less than six per cent (6%) per annum.

2. Within the context of the foregoing framework, the petitioners, in their own behalf and of OBM of which they

are the principal stockholders, and the Central Bank shall perform the following:

2.1 Upon approval of this rehabilitation plan by this Honorable Court, petitioners shall elect and appoint directors and officers of OBM, the Central Bank reserving the right to disapprove the election or appointment of any person who, in the judgment and discretion of the Central Bank, does not possess the requisite integrity, probity, or competence to be a director or officer of OBM; provided, however, that there shall be a director to represent the Government to safeguard the Government deposits in OBM and another director to represent: the depositors and creditors of OBM; provided, further, that the Central Bank shall have an ex officio director with powers and privileges of a director, including the power to vote.

2.2 The Central Bank shall designate a Comptroller who shall pass upon and approve all transactions, including disbursements, of OBM; and, under the supervision of said Comptroller, the OBM shall limit its banking transactions to the collection of all due and demandable receivables of OBM, including accrued interests thereon, and in pursuance thereof, exert all possible efforts and take such legal steps as may be necessary therefor, including foreclosure of mortgages, acceptance of payment in property valued accordingly to generally accepted normal banking standard, employment of collectors and/or collection attorneys under such terms as may be deemed advantageous to OBM, and such other acts allowable under existing laws.

2.3 The petitioners shall immediately, upon effectivity of this rehabilitation plan, develop, improve and/or subdivide, and sell to the general public, such of their real properties as will enable them to meet their obligations with OBM as specified in paragraph 2.4. hereof.

The real properties subject of this plan are specified and enumerated in Annex "A" hereof.

2.4 The petitioners shall, upon execution of any deed of absolute sale or contract to sell of real estate or subdivided lots, assign the same in full to OBM, with notice to the respective purchasers that all payments under their contracts shall be made directly to OBM.

Together with such assignments, the petitioners shall turn over to OBM any full or partial payment, if any, which may have been made by a purchaser upon execution of a contract. Upon actual receipt of proceeds from such sales, OBM shall credit the amounts so collected, minus expenses disbursed for development or improvement of the lots sold if these expenses did not come from the principal stockholders, to the following obligations of petitioners:

(a)

Their indebtedness to OBM in the aggregate amount of P48,033,657, plus interest due thereon, and extraordinary expenses incurred by OBM during its 3-year (1965-1966--1967) suspension from normal operation amounting to P39,828,173 which said stockholders are willing, ready and able to assume, as they hereby assume the obligation to pay such expenses to OBM; and

(b)

The amount of P10,101,000 representing their unpaid subscriptions to the authorized capital stock of OBM.

2.5 The petitioners commit that the sales proceeds which may be received by OBM and subsequently turned over to the Central Bank within the aforesaid three-year period, in accordance with the next preceding paragraph, shall not, in the aggregate, be less than the totality of their obligations with OBM as mentioned in the next preceding paragraph.

2.6 OBM shall:

(a)

Turn over to the Central Bank 50% of all sales proceeds, or such portion thereof as may be equivalent to the assigned loan value of the real estate or subdivided lots subject of the pertinent contract of sale or promise to sell, whichever is higher, to enable the Central Bank to invest the same in CBCI's which shall be assigned by OBM to, and be held by, the Central Bank as a substitute collateral to secure OBM's liability to the Central Bank; and

(b)

Open with the Central Bank an account in which shall be deposited the balance of the sales proceeds mentioned in the next preceding paragraph to be used exclusively for further developing real estate properties mortgaged to the Central Bank and/or to support OBM's operations.

2.7 No disbursement from OBM's account with CB under paragraph 2.6-(b) hereof shall be made unless approved by a committee-of--three composed of representatives of the depositors, the creditors (including CB), and the Government (on account of Government deposits); provided, however, that petitioners shall submit to said committee a monthly schedule of such disbursements.

Such committees shall also approve, on a quarterly basis, prices of lots or real estate which are to be sold to the general public under paragraph 2.3. hereof.

2.8 Upon payment to CB of the full assigned loan value of any property or upon assignment to CB of CBCI's equal to at least the amount equivalent to such assigned loan value, the corresponding Transfer Certificates of Title of such property shall be released from mortgage by the CB.

3. Underlying considerations of the rehabilitation phase are as follows:

3.1. Management of OBM shall remain in, and be the responsibility of, its Board of Directors.

3.2. The Comptroller-designate of the Central Bank shall discharge his functions and responsibilities of approval and supervision of all OBM transactions by passing upon and pre-auditing all such transactions to assure that the same are effected within the restrictive limits of the basic considerations specified in paragraph 1 hereof.

3.3 In assigning loan values to undivided parcels of land which are mortgaged to CB to secure OBM's liabilities, a tentative interest rate of 5% per annum shall be provisionally added to the outstanding amount of CB accommodation to OBM as of 1968.

3.4 Petitioners shall effect an agreement with OBM's depositors and creditors, singly or collectively, for the conversion of their deposits and claims into bills payable under plans mutually acceptable to the parties concerned, with the end in view that payments of all deposits and claims against OBM may be made after a period of three (3) years from date of resumption of normal banking operations.

3.5 The Central Bank shall restructure the payment of OBM's liability to it for a period of fifteen (15) years, at a rate of interest of not less than 6% per annum.

3.6 Collection efforts of OBM within the period are to be religiously exerted with the objective of reducing all loans/accounts receivable by at least 50% of the aggregate amount outstanding as of the start of the rehabilitation phase.

3.7 The period of the rehabilitation phase shall commence two (2) months from approval of this plan by the Supreme Court and, from such time, the CB shall conduct an appraisal at the end of the second year of the implementation of said plan. If, at the end of such appraisal, CB shall determine that petitioners have not implemented this rehabilitation plan to such an extent that, in the opinion of the CB, it would be improbable for petitioners to comply with their commitments thereunder, then petitioners and their successors-in-interest, hereby

agree:

(a)

Not to impede or oppose any action which CB may deem appropriate to take in accordance with law; or

(b)

If there be any Government and/or private firms or persons who may be interested and in a position, whether singly or collectively, to rehabilitate OBM, to sell at book value (to be determined by CB) such of their shares as may be necessary to transfer voting control in OBM to such firms and/or persons, whenever such action may be deemed by CB as practical and necessary under the circumstances,

Petitioners also agree not to impede or oppose in any way such action which CB may deem appropriate to take in accordance with law, or to transfer voting control in OBM in accordance with the above paragraph, if, at the end of the rehabilitation phase, CB finds that petitioners have not complied substantially with all their commitments under the plan or that OBM's condition is such that it cannot resume business with safety to its creditors.

3.8 The resolution of claims and counterclaims between petitioners and respondent such as waiver by CB of all penalties imposed on OBM and condonation of interests (on CB loans and advances to OBM) from August 2, 1968 up to the date of resumption of normal banking operations by OBM, shall be left for future negotiations and/or determination between them, either judicially or extrajudicially.

PHASE II

NORMALIZATION AND STABILIZATION

This phase shall be undertaken only when all the conditions for rehabilitation of OBM as specified in Phase I have been fulfilled and/or complied with by petitioners. Banking operations and transactions which OBM may be allowed to perform shall be in accordance with such authority as the Monetary Board, upon recommendation of the Director, Department of Commercial; & Savings Banks, may deem proper to extend OBM.

OBM may be allowed to resume normal banking operations only when, in addition to standard conditions prevailing in normal banking institutions:

- It has reduced its loans/accounts receivable by at least 75% of the aggregate amount outstanding as of the start of the rehabilitation phase;
- A program of paying depositors and creditors has been accepted singly or collectively by all such depositors and creditors, including Government instrumentalities and the Philippine National Bank;
- The issues relative to penalties and interests mentioned in paragraph 3.8 hereof have been resolved either judicially or extrajudicially.

The Comptroller-designate and the committee-of--three mentioned in paragraph 2.7, herein shall continue to function for as long as OBM has not been allowed to resume normal banking operations.

ANNEX "A"

to REHABILITATION PLAN

LIST OF REAL ESTATE PROPERTIES**A. Properties of Majority Stockholders –****LOCATION****TCT NO.****AREA (SQ.M.)**

1.

Holy Cross Subdivision, Up Diliman District, Quezon City

39181, 79318

270,807.0

2. Travellers Life Homes Tagaytay Highway Dasmarinas, Cavite 192135 to 19299 inclusive, 20806 3,682,868.5

3. Judge Luna St., San Francisco del Monte, Commercial-Industrial Area, Quezon City

81713,81714

11,196.0

4. Ortigas Avenue, Industrial Area, Cainta, Rizal 114020 4,000.0

5. Stanford St., Wack-Wack Subdivision, Mandaluyong, Rizal 36915 1,174.0

6. Bacood Street, Sta. Mesa District, Manila 45025 240.0

7. Castanas, Sariaya Townsite Subdivision, Quezon T-61068 39,353.0

8. Carmel Subdivision, San Jose del Monte, Bulacan T-40596 & T- 0597 94,296.0

9. Parang Subdivision, J. Panganiban, Camarines Norte T-1471 83,959.0

10. Sunburst Rice Mill & Lot Arayat, Pampanga 52905-R 4,044.0

11. Candaba Fishponds and Arayat Farms, Pampanga 8717 to 8722 & 50922-R 6,389,906.0

12. Payatas Subdivision, Capitol Site, Quezon City 28746 27,477.0

13. Varsity Hills lot, Loyola Heights (near Ateneo, Maryknoll, UP)
Quezon City
81648
1,000.0

14. Varsity Hills lot, Loyola Heights, Quezon City 34275 1,579.5

15. Xavierville lot, Loyola Heights, Quezon City 73169 555.5

16. Residential lot, Isabel Street Sta. Ana, Manila 3039 620.4

17. Residential lot, Azucena St., Sta. Ana, Manila 37893 676.9

18. Residential lot, Silang St., Sta. Ana, Manila 37894 1,551.7

19. San Jose Ice Plant & Lot, San Jose, Occ. Mindoro T-1458 4,951.0

20. Commercial lots, opposite Hilton Hotel, Kennon Road Baguio City T-7139 to)
T-7145;))
T-7246 to)
T-7254)
20,000.0

21. House & Lot, 6th Street New Manila, Quezon City 27850 806.0

22. House & Lot, Calderon St., Sta. Ana, Manila 83205 131.7

23. House & Lot, Sto. Tomas Road, Baguio City T-2663 1,071.0

24. Katipunan Lot, Loyola Heights, Quezon City 34274 1,410.6
25. Varsity Hills lot, Loyola Heights, Quezon City 33080 1,270.1
26. Varsity Hills Lot, Loyola Heights, Quezon City 48214 437.9
27. Residential Compound Vista Valley, Quezon City 42414, 26327, 26328 17,867.0
28. Residential Compound Vista Valley, Quezon City 31137, 58699, 74637, 54622 2,693.0
29. Phil-Am Laboratory-Office Bldg. Del Monte Avenue, Quezon City 63666 4,052.0
30. Manresa, Novaliches Quezon City 71360, 71361
71362, 106300
296,790.0
31. Manresa, Novaliches Quezon City 106298, 106336
103248, 106299
278,831.0
32. Recodo, Zamboanga City T-14102 38,181.0
33. Travellers Life Bldg. & lot T.M. Kalaw Ermita, Manila 80260 739.623
- B. Properties of OBM which may be included with OBM authorization –
- 1
- Xavierville Estate Subdivision
Loyola Heights, Quezon City
24027, 26743)
73317, 26555)
53933, 43726)
426,415.4

2

Padre Faura (adjoining Ateneo Cpd.
& Caltex Bldg.) Ermita, Manila

86693

6,076.7

The Court finds to be proper and in order the above Program of Rehabilitation of the Overseas Bank of Manila as agreed between the parties, after having "taken into account what was essential to rehabilitate the Bank and at the same time assure maximum protection to its depositors, creditors and the public interests."

ACCORDINGLY, as prayed for by the parties with the assistance of their respective counsels, the Court hereby approves the Program of Rehabilitation of the Overseas Bank of Manila as submitted by the parties and incorporated in the body of this Resolution in complete satisfaction of the Court's Decision dated October 4, 1971 and Resolution dated February 24, 1972.

Makalintal, C.J., Fernando, Teehankee, Antonio, Esguerra, Fernandez, Muñoz Palma and Aquino, JJ., concur.
Castro, Barredo, and Makasiar, JJ., took no part.

* To obviate the possibility of any clerical errors in the copying thereof.

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