

CENTRAL BANK OF THE PHILIPPINES, PETITIONER, VS. THE TAYUG RURAL BANK, INC., JUAN A. DE VERA, REMEDIOS M. ALLAS, JESUS S. MAXION, TEOFILO Z. ALMONDOVAR, FELOGENIA ALMONDOVAR, WI...

G.R. No. L-23952. February 27, 1971

Ponente: CASTRO, J.

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CASTRO, J.:

This is an original petition for mandamus and preliminary mandatory injunction.

During the period from May 19 to August 8, 1964, a general examination of the books and records of the respondent Tayug Rural Bank was conducted by a team of examiners of the petitioner Central Bank of the Philippines. This examination, the Central Bank asserts, is conducted on all rural banks, pursuant to the authority of section 10 of Republic Act 720, as amended, which states:

"The director and examiners of the Department of the Central Bank charged with the supervision of Rural Banks are hereby authorized to ... compel the presentation of all books, documents, papers or records necessary in his or their judgment to ascertain the facts relative to the true condition of any Rural Bank or to any loan."

The examination of the corporate books of the respondent bank disclosed, according to the petitioner, the commission of "serious irregularities, anomalies and violations," namely, (1) the grant of irregular loans, viz, loans which, according to the sworn statements of "borrowers," were not received by them, loans against non-existing collaterals or projects, padded loans, and loans made through commission agents; (2) high percentage (45% of total outstanding loans) of past due items; (3) delinquency in the payment of the rural bank's rediscounted notes to the Central Bank totalling 585,429; (4) re-lending collections from its rediscounted promissory notes totalling 410,009 as of May 18, 1964; (5) excessive or unnecessary expenditures; and (6) accumulation of unliquidated advances made to the rural bank's officials and employees.

As a result of this study of the respondent bank's books and the consequent recommendation of the Director of the petitioner's Department of Rural Banks, the Central Bank Governor wrote a letter dated October 27, 1964, to the board of directors of the rural bank, directing it (1) to suspend immediately the rural bank's lending operations and direct all efforts toward the collection of past-due and maturing loans; (2) to keep intact all collections, use them for normal operating expenses only, and remit any balance in such collections to the Central Bank as partial payment of the rural bank's rediscounted notes; and (3) to make regular weekly remittances to the Central Bank. The CB Governor also informed the rural bank that the CB Monetary Board had decided to assign immediately a team of examiners to supervise the rural bank's operations and enforce the suspension of its lending activities.

Consequently, on November 24, 1964, a team of CB exam-iners went to the respondent bank and asked to be allowed to conduct a special examination of its books and records as directed by the CB Monetary Board. The team also brought with them a letter of the Director of Rural Banks of the Central Bank informing the respondent

bank that the request of its counsel for a deferment of the said special examination had been denied. Apparently, the request of the investigating team was not granted, because on December 24, 1964 the petitioner Central Bank came to this Court and filed the instant petition for mandamus to compel the respondent bank to open its books for examination by the petitioner's officials.

On December 24, 1964, by virtue of a cash bond in the amount of 1,000 posted by the petitioner, we granted and issued the writ of preliminary mandatory injunction prayed for.

On February 2, 1965, all the respondents submitted to this Court their consolidated answer, admitting some of the allegations of the petition and disputing certain averments of fact contained therein, particularly those making reference to the commission of "serious irregularities, anomalies and violations." The respondents also presented two affirmative defenses, the first of which is that this Court should remand this case to the proper court of first instance for reception of evidence on the disputed averments of fact.

There is probably some merit to this first affirmative defense of the respondents. However, they also raised the defense that this case has already been rendered moot and academic by the subsequent turn of events, and were we wont to disagree with this contention, we would indeed resolve their first defense with the thoughtfulness it deserves. This notwithstanding, it must be stated that according to the petitioner, it "has chosen to file the instant action with this Honorable Court in view of very extreme urgency and considering that at present the Court of First Instance Branch at Tayug, Pangasinan is vacant; that only a question of law is herein involved, consisting of compelling respondents to allow petitioner to exercise its right to examine and supervise rural banks under Sec. 10 of R.A. 720, as amended, and R.A. 265."

We now turn to the threshold question posed by the respondents. In their answer, the respondents state --

"... that on or about December 28, 1964, the respondent Tayug Rural Bank, even without having been served officially with the writ of preliminary mandatory injunction, issued by the Honorable Court, permitted and allowed another team of the petitioner Central Bank headed by a certain Mr. Damo, and said team of examiners and investigators, up to this date [February 1, 1965], are still at the Tayug Rural Bank examining and investigating the affairs of the respondent, Tayug Rural Bank, hence the respondents herein respectfully submit that the question being raised by the petitioner herein before this Honorable Supreme Court, in the above entitled case, has already become academic and a moot question."

The petitioner Central Bank has not, in any manner, or at any time until the present, controverted this crucial claim of the respondents. The respondents, on the other hand, recognize the right of the Central Bank to conduct examinations of the respondent bank's books and affairs pursuant to R.A. 720, as amended, and have not, since February 1, 1965 up to the present, in any way impeded the exercise by the Central Bank of the said right. Additionally, the Central Bank, since 1965 up to the present, has uninterruptedly been allowed to supervise and examine the operations and corporate records of the respondent bank, and the latter's financial affairs have been and still are in the process of being adjusted on to a firm footing under the aegis of the Central Bank. Consequently, we are of the view, and we so hold, that this case is now moot and academic.

ACCORDINGLY, this case is dismissed; the cash bond filed by the petitioner Central Bank is ordered returned. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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