

GONZALO L. MANUEL & CO., INC., PETITIONER-APPELLANT, VS. CENTRAL BANK OF THE PHILIPPINES, RODRIGO PEREZ, AS CHAIRMAN OF THE MONETARY BOARD; ANTONIO DE LEON, AS SECRETARY OF THE ...

G.R. No. L-21789. April 30, 1971

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c9b73aa29f72/>

MAKALINTAL, J.:

Based on the partial stipulation entered into by the parties on November 28, 1962 and approved by the court below on January 22, 1963, the pertinent facts which gave rise to the instant case may be restated as follows:

On April 25, 1960 respondent Central Bank, acting through the Monetary Board, issued Circular No. 105, primarily to provide a means for the gradual lifting of the restrictions theretofore enforced on transactions involving gold and foreign exchange. The circular limited the sales of exchange by the Central Bank at the official rate of P2.00 to \$1.00 to certain specified transactions; with respect to transactions other than those enumerated and to transactions in excess of exchange licenses granted by the Central Bank, the sales of foreign exchange were pegged at the free market rate. Complementing Circular No. 105 was Circular No. 106, also issued on the same day, containing the pertinent regulations that should govern sales by agent banks of foreign exchange in the free market.

On April 26, 1960, to clarify certain points raised by the representatives of the Bankers Association of the Philippines in connection with the proper implementation of Circulars Nos. 105 and 106, the Monetary Board passed resolution No. 641 pegging the buying and selling rate of dollars for all transactions in the free market at P3.20 to \$1.00, plus 25% margin levy, effective April 25, 1960. A few months later - on September 9, 1960 to be exact - the Monetary Board, in its resolution No. 1341, reduced the free market rate from P3.20 to P3.00 per \$1.00, effective September 12, 1960. The material portion of the resolution reads:

"3. Sales of dollars heretofore authorized at the free market rate of P3.20 to \$1.00 plus the exchange margin of 25% shall, beginning September 12, 1960, be allowed at the new market rate of P3.00 to \$1.00 plus the 25% margin levy."

This resolution was formally made known to Central Bank's authorized agents (banks) in a memorandum dated September 12, 1960. Subsequently the margin levy was reduced, first to 20% and then to 15%, by Circular Nos. 118 and 122, respectively.

On October 26, December 8 and December 12, 1961, petitioner, a mercantile corporation engaged in the import business, purchased United States dollars from respondent Central Bank through its duly authorized agent bank, the Philippine Bank of Communications, at the rate of P3.00 to \$1.00, plus the margin levy of 15%. For \$17,524.49 thus purchased, petitioner paid P52,573.47, plus P7,896.02 as margin fee.

On January 22, 1962 petitioner filed a formal claim with the Central Bank for the refund of P20,153.16, allegedly

paid in excess of the amount which the law allowed, based on the statutory par value of P2.00 to \$1.00. The Central Bank turned down the claim, explaining its stand as follows:

"Up to the present time, there is no devaluation of the Philippine peso. Devaluation or a change in the par value of the peso needs legislation. The par value of the peso is defined in Section 48 of Republic Act No. 265, with further reference to Section 6 of Commonwealth Act No. 699. Under Section 49 of Republic Act No. 265, a change in the par value of the peso, i. e., a devaluation, can take place only if, among other things, the following conditions have been met: (1) Five members of the Monetary Board must recommend such a change; (2) The modification shall be made only by the President of the Republic; and (3) It must have the approval of Congress. Devaluation must not be confused with the rate of exchange or how much a certain currency may be bought or sold in terms of another currency - in the case of Philippines, how many pesos can buy a U.S. dollar or for how many pesos U.S. dollar may be sold.

"The recent decontrol program adopted under Central Bank Circulars Nos. 105, 106, 117, 121 and 133 was instituted not under Section 49 of Republic Act No. 265, but under Republic Act No. 2609, in conjunction with Section 74 of the Central Bank Charter (R.A. No. 265). Section 1 of Republic Act No. 2609 provides, as follows:

'Sec. 1. x x x In implementing the provisions of this Act, along with other monetary, credit fiscal measures to stabilize the economy, the monetary authorities shall take steps for the adoption of a four-year program of gradual decontrol.'

"Since there has been no change in the par value of the peso, and since Section 76 of Republic Act No. 265 is applicable only during normal operations of the Central Bank, and not under an emergency or foreign exchange crisis under Section 74 of said Act which was invoked and resorted to by the Central Bank and the government when exchange controls or restrictions were imposed as provided for Circular No. 20 issued on December 9, 1949, and implementing circular, the claim for refund has no merit."

Petitioner afterwards filed a petition for certiorari in the Court of First Instance of Manila, praying that resolutions Nos. 641 and 1341 of the Monetary Board, as well as the implementing memorandum it issued to authorized agent banks, be declared null and void; and that the sum of P20,153.16 be refunded.

On June 29, 1963 the court below dismissed the petition, in effect sustaining respondent Central Bank's position that "it acted in accordance with and within its statutory authority when it required petitioner to pay a rate higher than the par value of two pesos to every American dollar, since the subject transactions did not effect, intend and involve a change in the par value of the Philippine peso, (but) merely effected, intended and involved a change in the rate of exchange between the Philippine peso and the American dollar, by way of implementing respondent Bank's statutory mandate and authority to adopt a four-year program of gradual decontrol (Sec. 1, Republic Act No. 2609, in relation to Sec. 2, Art. XIV, Articles of Agreement of the International Monetary Fund, as amplified in the IMF policy statement contained on page 71, IMF Annual Reports, 1947 to 1952, and Secs. 2 and 79, Republic Act No. 265), which action, respondent Central Bank of the Philippines may undertake without further presidential or congressional authorization." The court below further stated:

"On the basis of the records before this Court, there seems to be no evidence of any government step or steps to adopt and implement a change in the par value of the Philippine peso as fixed by statute (Sec. 48, Republic Act No. 265 in relation to Sec. 6, Commonwealth Act No. 699), in the sense that the procedure for such change set forth in Sec. 49 Republic Act No. 265 has been attempted. There is only the fact of petitioner purchasing American dollars at a rate higher than the par value of two to one under the sanction if not requirement by respondent Central Bank. x x x The apparently equivocal fact, therefore, of purchase and sale of American dollars, under sanction and/or requirement by respondent Central Bank at the rate higher than two to one, is attempted to be labelled by petitioner as a change in par value, while the respondent Central Bank takes the

position that the same is merely a change in the rate of exchange.

x x x

"Before this Court, therefore, is a contest properly to denominate and characterize the equivocal fact of purchase and sale of American dollars at a rate higher than the par of two to one. Against the naked assertion of petitioner that such fact should be denominated and characterized as a change in the par value, stands respondent Central Bank's assertion, supported by the aforesaid testimonial and documentary evidence, and the further fact that the government never attempted the statutory procedure to change the par value, but the official action from the start had always been upon the initiative, solely and exclusively, as intended from the beginning by the latter to change the rate of exchange as a mechanism for decontrol. The (lower) court, on the basis of the facts before it, is constrained to uphold respondent Central Bank's position that not par value, but rate of exchange was changed through its circulars Nos. 105, 106, 111, as amplified and implemented by its Resolutions Nos. 641 and 1341."

Petitioner moved to reconsider and upon denial of the motion appealed directly to this Court.

The main issue, as otherwise stated in the decision appealed from, is whether or not the questioned resolutions of the Central Bank, under which petitioner was charged at the rate of three pesos to the dollar, plus a margin levy of 15%, were within the Bank's power and authority to pass and, of course, whether or not said resolutions involved a change in the par value of the peso in relation to the U.S. dollar.

The par value of the peso is defined in Section 48 of the Central Bank Act (Republic Act No. 265) in relation to Section 6 of Commonwealth Act No. 699, to wit:

"Sec. 48. Par Value: The gold value of the peso is seven and thirteen-twenty first (7-13/21) grains of gold, nineteenth (0.900) fine, which is equivalent to the United States dollar parity of the peso as provided in Section 6 of Commonwealth Act No. 699." (Republic Act 265)

"When the Commonwealth of the Philippines is requested by the Fund to communicate the par value of the Philippine Peso, such par value shall not be communicated as other than one half of a United States dollar of the weight and fineness in effect on July 1, 1944." (Commonwealth Act No. 699, approved Oct. 15, 1945)

Under Section 49 of Republic Act No. 265 any modification in the gold or dollar value of the peso shall be made only by the President upon the proposal of the Monetary Board and with the approval of Congress and the proposal of the Monetary Board shall require the concurrence of at least five of the members. In the light of this provision it is clear that if the resolutions in question were meant to change, and did change, the par value of the peso then they were null and void, not having complied with all the requisites just mentioned.

The position of the Central Bank, as to which we believe there can hardly be any disagreement, is that until now there has been no change in the par or dollar value of the peso as defined by law. Section 48 of the Central Bank Act has not been amended. The questioned resolutions themselves speak not of par value but of "the buying and selling rates of the Central Bank for all transactions in the free market," which rates were first pegged at P3.20 to \$1.00 and later on at P3.00 to \$1.00. "Par value" and "rate of exchange" are not necessarily synonymous. The first, variously termed "legal exchange rate" or "par of exchange," is "the official rate of exchange, established by a government, in contrast to the free market rate."^[1] It signifies "the amount it takes of one currency (for example, based on gold) to buy a unit in another currency (also based on gold) that is, how many pieces of the one unit (or their gold content) are necessary to equal the gold content of the other unit . . ."^[2] "The par value of a currency is the value as officially defined in terms of gold or, under the silver standard, where there was such a standard, in terms of silver. The 'par of exchange' therefore applies only between countries having a fixed metallic content for their currency units. It would be possible to define a currency's par value in terms of another

currency such as the dollar or pound sterling, but usage confines the meaning of par to the official value in terms of gold.”[3]

The "rate of exchange" or "exchange rate," on the other hand, is "the price, or the indication of the price, at which one can sell or buy with one's own domestic currency a foreign currency unit. Normally, the rate is determined by the law of supply and demand for a particular currency.”[4] "The price of one currency in terms of another is known as the rate of exchange. Thus, the rate of exchange in New York or London has at various times been \$4.86, \$4.03, \$2.89, etc. The rate is the amount of American money required to pay £1.[5]

There is also the so-called "free market rate" of foreign exchange, which means the "free prevailing rate, in contrast to the official or legal rate.”[6] Thus there is a difference between par value and rate of exchange: the first is defined by law, and (as in the case of the peso) is based upon its gold content. The second is conditioned by prevailing economic factors which bear upon the demand for a particular currency and its availability in the market.

This duality in the state of the relative values of two currencies for purposes of exchange is a fact which cannot be ignored, and which moved the Government to adopt a series of measures designed to solve the resulting foreign exchange crisis. Thus, as early as 1949, Central Bank Circular No. 20 was promulgated with the approval of the President, restricting sales of exchange by the Central Bank, subjecting all transactions in gold or foreign exchange to licensing, and requiring the surrender of foreign exchange acquisitions to the authorized agents of the Central Bank. The Circular introduced a system of full exchange control. Then on July 16, 1959, Republic Act No. 2609 was approved, authorizing the Central Bank to establish a margin of not more than 40% over bank's selling rates of foreign exchange, and directing it to take steps for the adoption of a four-year program of gradual decontrol.

Among the steps taken by the Central Bank in compliance with that mandate of Republic Act No. 2609 are the resolutions now in question, Nos. 641 and 1341, for the proper implementation of Central Bank Circulars Nos. 105 and 106, issued on April 25, 1960, as stated in the earlier part of this decision. Circular No. 105 required 75% of export receipts to be surrendered to the Central Bank at the official parity rate of P2.00 to U.S. \$1.00 and the balance of 25% at the "free market rate." The retention rate of 75% was subsequently reduced to 70% (Circular No. 111, Sept. 12, 1960); to 50% (Circular No. 117, Nov. 28, 1960); to 25% (Circular No. 121, March 2, 1961); and to 20% (Circular No. 133, Jan. 21, 1962). The portion of export receipts paid for at the "free market rate" was increased correspondingly. After the termination of the four-year period envisaged in Republic Act No. 2609 for the gradual lifting of decontrol, the Monetary Board of the Central Bank, with the approval of the President, issued Circular No. 171, continuing the retention rate of 20% fixed in Circular No. 133.

The legality of Circular No. 171, particularly with respect to the maintenance of the partial retention of export receipts thereunder, was assailed before this Court in the case of Chamber of Agriculture & Natural Resources vs. Central Bank (14 SCRA 630, June 30, 1965). This Court, speaking through Justice Jose B.L. Reyes, upheld its validity. Indirectly, at least, that decision also recognized the validity of the sale of the balance of export receipts at the free market rate, the authority for which was an integral provision of the circular there in question. It was not considered as a violation of the Central Bank Charter (Sec. 48, Rep. Act No. 265) fixing the par value of the Philippine peso. Indeed it was essential to and inseparable from the program of gradual decontrol (lifting of exchange and import controls) which the Central Bank was directed to undertake by Republic Act No. 2609, for the express purpose, among others, of "effectively coping with the problem and achieving of domestic and international stability of our currency." We are convinced that the means adopted to carry out that purpose was well within the broad authority granted. That the exchange rates were administratively fixed in Resolutions Nos. 641 and 1341 at P3.20 and P3.00 to the dollar, respectively, instead of allowing them to seek their own level

freely is of no material bearing in this case; it was done in response to the demand of the banks themselves in order to cushion importers from whatever adverse effects decontrol might cause; and at any rate, according to the evidence on record, it took into account the prevailing free market exchange rate at the time.

Wherefore, the order appealed from, dismissing the petition, is hereby affirmed.

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

Castro, J., in the result.

[1] Dictionary of Foreign Trade, Henius, p. 294.

[2] Id., p. 467.

[3] The International Economy by John Parker Young, 3rd Ed. p. 78 (1951).

[4] Dictionary of Foreign Trade, Henius, p. 294.

[5] The International Economy, supra, pp. 72-73.

[6] Henius, supra, p. 323.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.