

CENTRAL BANK OF THE PHILIPPINES, PETITIONER VS. COURT OF APPEALS AND PABLO R. ROMAN, VICTORIA B. ROMAN, LOURDES R. ABELLO, ARACELI R. MATHAY AND LUCILA R. REYES, FOR THEMSELVES ...

G.R. No. L-38224. December 10, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

After the petition herein was given due course by resolution of this Court dated March 4, 1974, and the Motion to Dismiss filed by the respondents had been denied in the resolution of March 11, 1974, the petitioners were required to file their brief. Several extensions for filing petitioners' brief were granted due to pressure of work on the part of the Solicitor General who represents the petitioner.

By motion of September 4, 1974, petitioner requested suspension of the running of the period for filing its brief on the ground that negotiations between the petitioner and the respondents were underway for the amicable settlement of this case and considerable time would be needed for the same to be carried out because of the intricacies of the terms of settlement, the amount involved, and the important public interest affected by the issues raised in the petition. By resolution dated September 29, 1974, this Court resolved to suspend the running of the period for filing petitioner's brief for a period of thirty (30) days counted from notice thereof. The said period was further suspended for thirty (30) days from October 23, 1974, pending completion of the agreement between the parties, which suspension was finally extended for twenty (20) days from November 22, 1974, by resolution dated November 25, 1974.

On December 4, 1974, or within the twenty-day extension period last granted by the resolution of November 25, 1974, both parties filed a motion dated December 3, 1974, submitting to this Court an agreement dated November 29, 1974, for the amicable settlement of this case (Central Bank of the Philippines vs. Court of Appeals, G.R. No. L-38224) and Civil Case No. 89689 pending before the Court of First Instance of Manila entitled, "Republic of the Philippines vs. Republic Bank", which agreement provides that the decision of the Court of First Instance of Manila dated February 27, 1970 in the case entitled, "Pablo R. Roman vs. Central Bank", Civil Case No. 68685; and the decision of the Court of Appeals in the same case, CA G.R. No. 49144-R, be vacated and in lieu thereof judgment be rendered in accordance with the terms and conditions of the aforesaid agreement.

The full text of the compromise agreement reads as follows:

"A G R E E M E N T

KNOW ALL MEN BY THESE PRESENTS:

This AGREEMENT entered into in the City of Manila, Philippines, this 29th day of November, 1974 among:

The CENTRAL BANK OF THE PHILIPPINES, with principal offices at Roxas Boulevard, Manila, Philippines, herein represented by its Governor, G.S. LICAROS;

The REPUBLIC BANK, a domestic banking corporation organized under the laws of the Philippines, with principal offices at 277 Escolta, Manila, Philippines, represented by its President, PABLO R. ROMAN;

PABLO R. ROMAN, VICTORIA B. ROMAN, LOURDES R. ABELLO, ARACELI R. MATHAY, LUCILA R. REYES, and the STOCKHOLDERS of the Republic Bank, who are all parties to Civil Case No. G.R. No. L-38224, entitled "Central Bank of the Philippines vs. Court of Appeals, et al.," all of legal age, with addresses at 78 Panay Avenue, Quezon City (for Spouses Pablo R. Roman and Victoria B. Roman); 37 Timog Avenue, Quezon City (for Lourdes R. Abello); 19 South 2, Quezon City (for Araceli R. Mathay); and 69 Macopa St., Quezon City (for Lucila R. Reyes), respectively;

- and -

The REPUBLIC OF THE PHILIPPINES, represented herein by its Secretary of Finance, CESAR VIRATA;

W I T N E S S E T H:

WHEREAS, there are now pending before the courts two (2) cases involving the Republic Bank and the Government, namely: (a) "Central Bank vs. Court of Appeals, et al.," G.R. No. L-38224, which is pending before the Supreme Court on an appeal taken by the Central Bank from adverse decisions of the Court of First Instance of Manila ("Pablo R. Roman vs. Central Bank," Civil Case No. 68685) and the Court of Appeals (CA-G.R. No. 49144-R); and (b) "Republic of the Philippines vs. Republic Bank," Civil Case No. 89689, which is pending before the Court of First Instance of Manila;

WHEREAS, the mere pendency of these cases imperils the continued operation of Republic Bank; worse, judgment for the Government in these cases would most likely result in the collapse of the Republic Bank, which occurrence would adversely affect the entire banking system and require the payment by the Philippine Deposit Insurance Corporation of a sizeable sum on its insurance liabilities, especially so since the bulk of deposits in Republic Bank is P10,000.00 and less;

WHEREAS, since the institution of the action entitled "Pablo R. Roman vs. Central Bank," Civil Case No. 68685 before the Court of First Instance of Manila, the decision in which case is now pending appeal before the Supreme Court (G.R. No. L-38224), Republic Bank has demonstrated its desire to meet its obligations and its ability to do business with relative safety to its clients; thus, Republic Bank has paid as of June 30, 1974 the amount of P41.023 million to the Central Bank on the principal of its emergency loans and from January 30, 1970 to June 30, 1974, P18.90 million to the National Treasurer on the deposits of the National Government, which latter amount has all been applied to interest;

WHEREAS, taking into account the above, the financial condition of Republic Bank, the broader interests of the entire banking system, as well as the economy of the nation, the parties to the above-mentioned cases have agreed on a compromise agreement, the conditions of which are set forth herein below;

NOW, THEREFORE, for and in consideration of the foregoing premises, the Central Bank of the Philippines, the Republic Bank, the respondent shareholders in G.R. No. L-38224, and the Republic of the Philippines, through the Secretary of Finance, have agreed as follows:

(a) The Republic Bank shall pay to the Central Bank and the National Government upon approval of this agreement the following:

To the Central Bank

In Million

1.

Outstanding principal of Central Bank emergency loans

P25.830

2.

By way of interest on emergency advances of the Central Bank and penalty on reserve deficiency, both as of June 30, 1974

4.035

and an additional amount of P625.98 per day as interest from July 1, 1974 up to the date of approval of this agreement; and, thereafter, Republic Bank shall pay interest on the emergency advances at the rate of twelve per cent (12%) per annum and such amounts which may be imposed by the Central Bank by way of penalty on reserve deficiency, both amounts to be likewise subject to paragraph (i) of this agreement, until the subscription by DBP to shares of stock to Republic Bank is made as provided therein.

To the National Government

1.

Outstanding time deposits of the National Treasurer

P32.998

2.

By way of interest on matured time deposit of the National Government as of June 30, 1974

4.588

and an additional amount of P5,921.26 per day as interest from July 1, 1974 to September 30, 1974; and, for as long as the subscription by DBP to shares of stock in Republic Bank as provided in sub-paragraph (i) hereof is not effected, an additional amount of P6,006.38 per day as interest from October 1, 1974 until December 31, 1974, and, thereafter, the interest payments shall be computed at the rate of 5.75% per annum, compounded quarterly.

T o t a l

(Exclusive of additional amounts as above indicated)

P67.451

(b) Furthermore, Republic Bank and/or its shareholders shall do, or cause the performance of, the following:

1. Collect from debtors of Republic Bank within one year from the date of approval of this agreement the amount of at least P30 million out of accounts classified by the Central Bank examiners as "doubtful" and "loss" as per Report of Examination as of October 5, 1973;
2. Sell for cash assets acquired as a result of non-payment of loans of borrowers in the amount of at least P5 million within one year from the date of the approval of this agreement;
3. Increase net deposits by at least P9 million within the same period of one year from approval of this agreement.

To the extent that actual collections of the "doubtful" and "loss" accounts referred to above is less than P30 million and/or the sale for cash of assets acquired as a result of non-payment of loans is less than P5 million or that net increase in deposits is less than P9 million, shareholders of the Republic Bank shall cover the deficiency by corresponding subscriptions to shares of stock; Provided that, in effecting such subscriptions the provisions under Sections 12-B and 12-D of the General Banking Act, as amended, shall be observed. The total

subscription shall be proportionately reduced and considered ineffectual by the total amount of loans collected (paragraph (b) [1] above) or acquired assets sold for cash (paragraph (b) [2] above) or by the net increase in deposits (paragraph (b) [3] above) provided that the reduction resulting from each item shall not exceed the amount provided herein as to each item. The remaining subscription that shall continue to be effective as determined by CB shall be paid in full without need of call or demand not later than one year from date of approval of this agreement;

(c) For the remaining uncollected accounts after deducting the projected collection of P30 million mentioned in paragraph (b) (1) above, Republic Bank shall set up a reserve for bad debts on a staggered basis within a period of five years in equal yearly amounts with provisions for annual review;

(d) It is further agreed that all present shareholders of Republic Bank holding preferred shares shall waive all dividends that have accumulated, vested and become due on such preferred shares up to such time that the Development Bank of the Philippines shall have acquired ten per cent (10%) cumulative preferred shares of stock of Republic Bank as stipulated under sub-paragraph (i) hereof;

(e) Republic Bank and/or its shareholders further agree that two (2) members of the Board of Directors of said Bank shall be elected upon nomination by the Development Bank of the Philippines (DBP). One fully paid common share of stock shall be assigned to each of the nominees by stockholder Pablo R. Roman;

(f) The Central Bank shall designate the Comptroller of the Republic Bank;

(g) The shareholders of the Republic Bank shall subscribe to an additional amount of shares of stock with a par value of P12 million, payable in full without need of call or demand within one year from the date of approval of this agreement; Provided, that, said shareholders shall, in effecting such subscription, comply with the provisions of Sections 12-B and 12-D of the General Banking Act, as amended;

(h) The sale of the Mariveles property (Porto del Sol subdivision) of the Republic Bank to Asiatic Integrated Corp. shall be for P52.6 million (acquisition costs plus interest of one per cent [1%] a month) on a five-year payment term with a down payment of P1.8 million and assignment of sales contract receivables;

(i) On the part of the Central Bank and the National Government, they shall loan or deposit, or cause to be loaned or deposited, to the DBP the amounts covered by paragraph (a) above which shall then acquire from the Republic Bank the corresponding amount of ten per cent (10%) cumulative preferred shares of stock of said Bank, which shares of stock shall be convertible into common shares at the option of the holder after seven and a half (7 1/2) years; provided that within said period, holders of record of common shares of Republic Bank may purchase from the DBP the aforesaid shares of stock at par value including dividends due at the time of purchase. Republic Bank further agrees not to issue any shares of stock with rights and preferences superior to these preferred shares or do any act which would in any way alter or modify the rights and preferences corresponding to such shares while held by DBP;

(j) Central Bank agrees that the balance of the special deposit account of the Republic Bank with the Central Bank representing deposits for the release of collaterals may be allowed to be used by the Republic Bank as part of its legal reserve upon approval of this agreement; provided that, collaterals for emergency advances consisting of real estate mortgages and assignments of credits shall not be released by CB to Republic Bank until such time as the subscription by DBP is effected as stipulated in sub-paragraph (i) hereof;

(k) The Republic Bank, Pablo R. Roman, Victoria B. Roman, Lourdes R. Abello, Araceli R. Mathay, Lucila Reyes, and Jose A. Rojas bind themselves to do, or cause to be done, all corporate and individual acts necessary to implement and complement this agreement;

(l) It is the essence of this agreement that the signatories hereto will comply with all the terms, conditions, and covenants hereof on a reciprocal basis, in all good faith, provided, however, that this agreement shall in no manner whatsoever affect the authority, powers, duties and functions of the Central Bank with respect to the

establishment, operation or liquidation of banking and credit institutions, and branches and agencies thereof, and all powers, duties and functions vested in it under Republic Act No. 265 and 337, both as amended, and other pertinent laws;

(m) The foregoing agreement has been approved by the Monetary Board of the Central Bank as shown by Resolution No. 2565 dated November 22, 1974, hereto attached as Annex "A", and by the Board of Directors of the Republic Bank as shown by Resolution No. 162-74 dated November 28, 1974, hereto attached as Annex "B". The signatories to this agreement further stipulate and represent that all consents and authorizations of persons which are necessary or essential for the implementation of this agreement have been obtained and secured.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and at the place first hereinabove written.

CENTRAL BANK OF THE PHILIPPINES

REPUBLIC BANK

Petitioner

Respondent

By:

By:

(S/) G.S. LICAROS

(S/) PABLO R. ROMAN

(T/) G.S. LICAROS

(T/) PABLO R. ROMAN

Governor

President

REPUBLIC OF THE PHILIPPINES

(S/) PABLO R. ROMAN

(T/) PABLO R. ROMAN

By:

(S/) CESAR VIRATA

(T/) CESAR VIRATA

Secretary of Finance

Respondent, Stockholder
and as Representative of
majority stockholders of

Republic Bank

Assisted by:

(S/) ESTELITO P. MENDOZA

(S/) LUCILA R. REYES

(T/) ESTELITO P. MENDOZA

(T/) LUCILA R. REYES

Solicitor General

Respondent

(S/) REYNATO S. PUNO

(S/) VICTORIA B. ROMAN

(T/) REYNATO S. PUNO

(T/) VICTORIA B. ROMAN

Assistant Solicitor General

Respondent

F.E. EVANGELISTA &

(S/) LOURDES R. ABELLO

CICERON B. ANGELES

(T/) LOURDES R. ABELLO

Respondent

By:

(S/) F.E. EVANGELISTA

(S/) ARACELI R. MATHAY

(T/) F.E. EVANGELISTA

(T/) ARACELI R. MATHAY

Director, CB Legal Department

Respondent

Assisted by:

(S/) NORBERTO J. QUISUMBING

(T/) NORBERTO J. QUISUMBING

WITH OUR AGREEMENT:

(S/) JOSE A. ROJAS

(T/) JOSE A. ROJAS

As Stockholder and representative
of majority stockholders of Republic Bank"

After considering the above-quoted compromise agreement and finding the same not contrary to law, the same is hereby approved and the parties thereto who are the parties in this case (L-38224), are enjoined to strictly comply with the terms and conditions thereof.

This being a compromise agreement voluntarily entered into by the parties, the same shall be effective and executed immediately. Let final judgment be entered.

SO ORDERED.

Castro, (Chairman), Teehankee, Makasiar, and Munoz Palma, JJ., concur.

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