

LETICIA G. MIRANDA, G.R. NO. 169334 PETITIONER, VS. PHILIPPINE DEPOSIT INSURANCE CORPORATION, BANGKO SENTRAL NG PILIPINAS AND PRIME SAVINGS BANK, RESPONDENTS.

G.R. NO. 169334. September 08, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court seeks a reversal of the Decision[1] of the Court of Appeals dated February 23, 2005 in CA-G.R. CV No. 77556 which reversed and set aside the Decision[2] of the Regional Trial Court of Santiago City, Branch 35, in Civil Case No. 35-2844 and the July 7, 2005 Resolution denying petitioner's Motion for Reconsideration.[3]

Petitioner Leticia G. Miranda was a depositor of Prime Savings Bank, Santiago City Branch. On June 3, 1999, she withdrew substantial amounts from her account, but instead of cash she opted to be issued a crossed cashier's check. She was thus issued cashier's check no. 0000000518 in the sum of P2,500,000.00 and cashier's check no. 0000000514 in the amount of P3,002,000.00.[4]

Petitioner deposited the two checks into her account in another bank on the same day, however, Bangko Sentral ng Pilipinas (BSP) suspended the clearing privileges of Prime Savings Bank effective 2:00 p.m. of June 3, 1999. The two checks of petitioner were returned to her unpaid.[5]

On June 4, 1999, Prime Savings Bank declared a bank holiday. On January 7, 2000, the BSP placed Prime Savings Bank under the receivership of the Philippine Deposit Insurance Corporation (PDIC).[6]

Petitioner filed a civil action for sum of money in the Regional Trial Court of Santiago City, Isabela to recover the funds from her unpaid checks against Prime Savings Bank, PDIC and the BSP. Judgment on the pleadings was rendered on March 1, 2001, the dispositive portion of which reads:

WHEREFORE, judgment is rendered against defendants namely: Philippine Deposit Insurance Corporation, Bangko Sentral ng Pilipinas and Prime Bank, to pay jointly and solidarily the amount of P5,502,000.00 to the plaintiff.

SO ORDERED.[7]

On appeal, the Court of Appeals reversed the trial court and ruled in favor of the PDIC and BSP, dismissing the case against them, without prejudice to the right of petitioner to file her claim before the court designated to adjudicate on claims against Prime Savings Bank. The dispositive portion of the appellate court's decision dated February 23, 2005 thus reads:

WHEREFORE, the appeal is GRANTED and the decision appealed from is REVERSED and SET ASIDE and the case is DISMISSED, without prejudice to the right of Miranda to file her claim before the court designated to adjudicate on claims against Prime Savings Bank.

SO ORDERED.[8]

Petitioner's motion for reconsideration was denied,[9] hence, this petition.

The issues presented by the petitioner before this Court can be summarized as follows: (1) Whether the two cashier's checks operate as an assignment of funds in the hands of the petitioner; (2) Whether the claim lodged by the petitioner is a disputed claim under Section 30 of Republic Act (R.A.) No. 7653, otherwise known as the New Central Bank Act, and therefore, under the jurisdiction of the liquidation court; and (3) Whether the respondents are solidarily liable to the petitioner.

Petitioner contends that she ceased to be a depositor upon withdrawal of her deposit and the issuance of the two cashier's checks to her. As a holder in due course of the cashier's checks as defined under Sections 52 and 191 of the Negotiable Instruments Law, she is an assignee of the funds of Prime Savings Bank as drawer thereof and entitled to its immediate payment.[10]

Petitioner next argues that the present claim is not a disputed claim in contemplation of Section 30 of the New Central Bank Act. Since disputed claims refer to all claims, whether they be against the assets of the insolvent bank, for specific performance, breach of contract, or damages, it is manifest that petitioner's claim cannot fall within the purview of a disputed claim because she is recovering assigned funds which are segregated monies of Prime Savings Bank.[11]

Petitioner further states that by the mere issuance of the cashier's check, the funds represented by the check are transferred from the credit of the maker to that of the payee or holder. Hence, petitioner alleges that she cannot be placed on the same footing with the ordinary creditors of the bank because Section 30 of R.A. No. 7653 is for equality among creditors. She avers that she is not a creditor thus is entitled to the immediate payment of her claim, pursuant to Section 189 of the Negotiable Instruments Law and existing jurisprudence. She argues that putting her on equal footing with ordinary creditors, would contravene the provisions of the Negotiable Instruments Law and would greatly diminish her rights as a holder in due course of said two cashier's checks.[12]

Petitioner also argues that respondents PDIC and BSP contrary to Sections 185 and 189 of the Negotiable Instruments Law have caused damage to the petitioner and should be held solidarily liable by indemnifying the petitioner for the value of the two cashier's checks.[13]

Respondents, on the other hand, state that the mere issuance of the cashier's checks did not operate as assignment of funds in favor of the petitioner. They argue that even prior to the issuance of the cashier's checks, the bank was already cash-strapped, which negates petitioner's claim that there was an assignment of funds in her favor.[14] There can be no assignment of funds when there is no funds to speak of in the first place.

They likewise argue that the cashier's checks issued to petitioner were not certified but crossed, hence, there was no assignment of funds made by the cashier or manager of respondent Prime Savings Bank-Santiago City Branch as it had insufficient funds to meet the said checks either in its cash vault or with respondent BSP to clear the said checks.[15]

Respondents argue that the instant case involves a disputed claim of sum of money against a closed financial institution. Sections 30 and 31 of R.A. No. 7653, exclusively vests the authority to assess, evaluate and determine the condition of any bank with the BSP, while the PDIC has the primary responsibility of acting as receiver or liquidator of the closed financial institution.[16] Since the relationship between petitioner and Prime Savings Bank is one of creditor and debtor, petitioner should file her claim with the liquidation court constituted precisely for purposes of adjudicating claims against the bank in accordance with the rules on concurrence and preference of credits.[17]

Respondent PDIC alleges that it was impleaded in its representative capacity as the receiver/liquidator of the closed institution, therefore, it has no direct, personal and solidary liability for the payment of the two cashier's checks. Its involvement came about only because a bank under receivership or liquidation cannot sue or be sued except through its receiver or liquidator.[18]

Respondent BSP also insists that not being a party to the said checks nor for imposing sanctions on co-respondent Prime Savings Bank, is not liable on the said crossed cashier's checks.[19]

Anent the first issue, the two cashier's checks issued by Prime Savings Bank do not constitute an assignment of funds in the hands of the petitioner as there were no funds to speak of in the first place. The bank was financially insolvent for sometime, even before the issuance of the checks on June 3, 1999. As the Court of Appeals correctly ruled, the issuance of the cashier's checks to petitioner did not constitute an

assignment of funds, of which there was practically none at the time these were issued, as the bank was in dire financial straits for some time.[20]

As regards the second issue, the claim lodged by the petitioner qualifies as a disputed claim subject to the jurisdiction of the liquidation court. Regular courts do not have jurisdiction over actions filed by claimants against an insolvent bank, unless there is a clear showing that the action taken by the BSP, through the Monetary Board in the closure of financial institutions was in excess of jurisdiction, or with grave abuse of discretion.

The power and authority of the Monetary Board to close banks and liquidate them thereafter when public interest so requires is an exercise of the police power of the State. Police power, however, is subject to judicial inquiry. It may not be exercised arbitrarily or unreasonably and could be set aside if it is either capricious, discriminatory, whimsical, arbitrary, unjust, or is tantamount to a denial of due process and equal protection clauses of the Constitution.[21]

"Disputed claims" refer to all claims, whether they be against the assets of the insolvent bank, for specific performance, breach of contract, damages, or whatever.[22] Petitioner's claim which involved the payment of the two cashier's checks that were not honored by Prime Savings Bank due to its closure falls within the ambit of a claim against the assets of the insolvent bank. The issuance of the cashier's checks by Prime Savings Bank to the petitioner created a debtor/creditor relationship between them. This

disputed claim should therefore be lodged in the liquidation proceedings by the petitioner as creditor, since the closure of Prime Savings Bank has rendered all claims subsisting at that time moot which can best be threshed out by the liquidation court and not the regular courts.

It is well-settled in both law and jurisprudence that the Central Monetary Authority, through the Monetary Board, is vested with exclusive authority to assess, evaluate and determine the condition of any bank, and finding such condition to be one of insolvency, or that its continuance in business would involve a probable loss to its depositors or creditors, forbid bank or non-bank financial institution to do business in the Philippines; and shall designate an official of the BSP or other competent person as receiver to immediately take charge of its assets and liabilities.[23]

In *Central Bank of the Philippines v. De la Cruz*,[24] we held that the actions of the Monetary Board in proceedings on insolvency are explicitly declared by law to be "final and executory." They may not be set aside, or restrained, or enjoined by the courts, except upon "convincing proof that the action is plainly arbitrary and made in bad faith.

Hence, as clearly laid down in *Ong v. Court of Appeals*,[25] the rationale behind judicial liquidation is intended to

prevent multiplicity of actions against the insolvent bank. It is a pragmatic arrangement designed to establish due process and orderliness in the liquidation of the bank, to obviate the proliferation of litigations and to avoid injustice and arbitrariness. The lawmaking body contemplated that for convenience, only one court, if possible, should pass upon the claims against the insolvent bank and that the liquidation court should assist the Superintendent of Banks and regulate his operations.

Regarding the third issue, it is only Prime Savings Bank that is liable to pay for the amount of the two cashier's checks. Solidary liability cannot attach to the BSP, in its capacity as government regulator of banks, and the PDIC as statutory receiver under R.A. No. 7653, because they are the principal government agencies mandated by law to determine the financial viability of banks and quasi-banks, and facilitate receivership and liquidation of closed financial institutions, upon a factual determination of the latter's insolvency.

As correctly pointed out by the Court of Appeals, the BSP should not be held liable on the crossed cashier's checks for it was not a party to the issuance of the same; nor can it be held liable for imposing the sanctions on Prime Savings Bank which indirectly affected Miranda, since it is mandated under Sec. 37 of R.A. No. 7653 to act accordingly.[26] The BSP, through the Monetary Board was well within its discretion to exercise this power granted by law to issue a resolution suspending the interbank clearing privileges of Prime Savings Bank, having made a factual determination that the bank had deficient cash reserves deposited before the BSP. There is no showing that the BSP abused this discretionary power conferred upon it by law.

In addition, co-respondent PDIC was impleaded as a party-litigant only in its representative capacity as the receiver/liquidator of Prime Savings Bank. Both BSP and PDIC cannot therefore be held directly and solidarily liable for the payment of the two cashier's checks. Sole liability rests with Prime Savings Bank.

In the absence of fraud, the purchase of a cashier's check, like the purchase of a draft on a correspondent bank, creates the relation of creditor and debtor, not that of principal and agent, with the result that the purchaser or holder thereof is not entitled to a preference over general creditors in the assets of the bank issuing the check, when it fails before payment of the check. However, in a situation involving the element of fraud, where a cashier's check is purchased from a bank at a time when it is insolvent, as its officers know or are bound to know by the exercise of reasonable diligence, it has been held that the purchase is entitled to a preference in the assets of the bank on its liquidation before the check is paid.[27]

As correctly found by the Court of Appeals:

Prime Savings as a bank did not collapse overnight but was hemorrhaging and in financial extremis for some time, a fact which could not have gone unnoticed by the bank officers. They could not have issued in good faith checks for the total sum of P5,502,000.00 knowing that the bank's coffers could not meet this.[28]

Clearly, there was fraud or the intent to deceive when the two cashier's checks dated June 3, 1999 were issued by Prime Savings Bank to the petitioner.

In the distribution of assets of Prime Savings Bank, Section 31 of the New Central Bank Act which provides that "[i]n case of liquidation of a bank or quasi-bank, after payment of the cost of proceedings, including reasonable expenses and fees of the receiver to be allowed by the court, the receiver shall pay the debts of such institution, under order of the court, in accordance with the rules on concurrence and preference of credit as provided in the Civil Code," should apply.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated February 23, 2005 and the Resolution dated July 7, 2005, in CA-G.R. CV No. 77556, are AFFIRMED with the MODIFICATION that petitioner Leticia G. Miranda is entitled to a preference in the assets of Prime Savings Bank in its liquidation for

the amounts of P3,002,000.00 and P2,500,000.00, respectively stated in Cashier's Check No. 0000000514 and 0000000518 dated June 3, 1999 in the proceedings before the liquidation court designated to adjudicate on all claims against Prime Savings Bank, in accordance with the rules on concurrence and preference of credits as provided in the Civil Code.

SO ORDERED.

Panganiban, C. J., (Chairperson), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 62-67. Penned by Associate Justice Roberto A. Barrios and concurred in by Associate Justices Amelita G. Tolentino and Vicente S.E. Veloso.

[2] Id. at 29-37. Penned by Judge Demetrio D. Calinag, Jr.

[3] Id. at 69-71.

[4] Id. at 38-39.

[5] Id. at 39.

[6] Id.

[7] Id. at 37.

[8] Id. at 67.

[9] Id. at 70.

[10] Id. at 8-9.

[11] Id. at 15.

[12] Id. at 16.

[13] Id. at 17-18.

[14] Id. at 110.

[15] Id. at 57.

[16] Id. at 100-101.

[17] Id. at 107.

[18] Id. at 111.

[19] Id. at 59.

[20] Rollo, p. 65.

[21] Banco Filipino Savings and Mortgage Bank v. Monetary Board, Central Bank of the Philippines, G.R. Nos. 70054, 68878, 77255-58, 78766, 78767, 78894, 81303, 81304, 90473, December 11, 1991, 204 SCRA 767, 798.

[22] Ong v. Court of Appeals, 323 Phil. 126, 131 (1996).

[23] R.A. No. 7653, Secs. 30 and 31. See also Central Bank of the Philippines v. Court of Appeals, G.R. No. 76118, March 30, 1993, 220 SCRA 536, 543.

[24] G.R. No. 59957, November 12, 1990, 191 SCRA 346, 354.

[25] Supra note 22 at 133.

[26] Sec. 37. Administrative Sanctions on Banks and Quasi- banks. - Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank or quasi- bank, their directors and/or officers, for any willful violation of its charter or by-laws x x x the following administrative sanctions, whenever applicable:

x x x x

(d) suspension of interbank clearing privileges;

x x x x

[27] 11 Am. Jur. 2d, -1146, pp. 237-238 (1997).

[28] Rollo, p. 41.

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