

BANGKO SENTRAL NG PILIPINAS AND ITS MONETARY BOARD, PETITIONERS, VS. BANCO FILIPINO SAVINGS AND MORTGAGE BANK, RESPONDENT.

G.R. No. 178696. July 30, 2018

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

For the Court's consideration are two consolidated[1] petitions for review on certiorari both filed under Rule 45 of the Rules of Court, as amended.

G.R. No. 178696 assails the Decision[2] and Resolution[3] dated April 12, 2007 and June 26, 2007, respectively, of the Court of Appeals in CA-G.R. SP No. 96831 entitled, "Bangko Sentral ng Pilipinas and its Monetary Board v. The Han. Presiding Judge, Regional Trial Court, Branch 62, Makati City and Banco Filipino Savings and Mortgage Bank."

G.R. No. 192607, on the other hand, seeks the reversal of the Decision[4] and Resolution[5] dated September 3, 2008 and June 17, 2010, respectively, of the Court of Appeals in CA-G.R. SP No. 96280 entitled, "Central Bank Board of Liquidators v. The Regional Trial Court of Makati (Branch 62) and Banco Filipino Savings and Mortgage Bank."

CA-G.R SP Nos. 96831 and 96280 involved petitions for certiorari under Rule 65 of the Rules of Court, as amended, which similarly prayed for the nullification of the Orders dated July 22, 2005[6] and August 25, 2006[7] of the Regional Trial Court (RTC), Branch 62, Makati City in Civil Case No. 04-823 entitled, "Banco Filipino Savings and Mortgage Bank v. The Monetary Board, Central Bank of the Philippines, now Central Bank Board of Liquidators, and The Monetary Board, Bangko Sentral ng Pilipinas," which, in turn, denied the separate motions to dismiss filed by the Bangko Sentral ng Pilipinas and its Monetary Board, and the Central Bank-Board of Liquidators, of Banco Filipino Savings and Mortgage Bank's (BFSMB) Petition for Revival of Judgment.

The Facts

The two consolidated petitions share the same set of facts as follows: Pursuant to Resolution No. 223 dated February 14, 1963 of the Monetary Board (MB) of the Central Bank of the Philippines (CB), BFSMB commenced its operations as savings and mortgage bank on July 9, 1964.[8]

In MB Resolution No. 955 dated July 27, 1984, however, the CB-MB placed BFSMB under conservatorship of one Basilio Estanislao. Eventually, pursuant to another resolution, MB Resolution No. 75 dated January 25, 1985, the CB-MB ordered the closure of BFSMB on the ground that the latter was found to be "insolvent and that its continuance in business would involve probable loss to its depositors and creditors x x x." [9]

On February 28, 1985, BFSMB filed before the Court a petition for certiorari and mandamus under Rule 65 of the Rules of Court seeking to annul MB Resolution No. 75 "as made without or in excess of jurisdiction or with grave abuse of discretion x x x." [10] The petition was docketed as G.R. No. 70054 entitled, "Banco Filipino Savings and

Mortgage Bank v. The Monetary Board, Central Bank of the Philippines, Jose B. Fernandez, Carlota P. Valenzuela, Arnulfo B. Aurellano and Ramon V. Tiaoqui," which was later consolidated with eight other cases.[11] In a consolidated Decision dated December 11, 1991, the Court, among others, annulled and set aside MB Resolution No. 75, and ordered the CB-MB to allow BFSMB to resume business. The pertinent portion of the fallo of said decision reads:

ACCORDINGLY, decision is hereby rendered as follows:

x x x x

2. The petitions in G.R. No. 70054, 78767 and 78894 are GRANTED and the assailed order of the Central Bank and the Monetary Board dated January 25, 1985 is hereby ANNULLED AND SET ASIDE. The Central Bank and the Monetary Board are ordered to reorganize petitioner Banco Filipino Savings and Mortgage Bank and allow the latter to resume business in the Philippines under the comptrollership of both the Central Bank and the Monetary Board and under such conditions as may be prescribed by the latter in connection with its reorganization until such time that petitioner bank can continue in business with safety to its creditors, depositors and the general public.[12] (Emphasis supplied.)

Less than two years thereafter, or on July 6, 1993, Republic Act No. 7653, otherwise known as The New Central Bank Act of 1993, took effect.[13] This new law abolished the CB and a new central monetary authority was established known as Bangko Sentral ng Pilipinas.[14] But also under the said law, the CB will continue to exist under the name Central Bank-Board of Liquidators[15] (CB-BOL) for the sole purpose of administering and liquidating the assets and liabilities of the CB that were not transferred to the BSP.[16]

During meeting held on November 6, 1993, the BSP-MB, resolved -

1. To allow the Banco Filipino Savings and Mortgage Bank (BFSMB) to reopen, subject to submission of its proposed organization including the list of officers and its plan of operations;
2. To instruct Management to write BFSMB officially, advising them of this decision and to ask the bank to collateralize its advances from the Bangko Sentral ng Pilipinas (BSP); and
3. To authorize Management to file a case in Court for the recovery of its advances including interest thereon and look for private a counsel to (a) advise the Monetary Board on the ancillary legal issues and (b) to act as counsel for the BSP Monetary Board in the filing of a civil case against the BFSMB for recovery of money.[17]

Thus, on July 1, 1994, BFSMB reopened and resumed business under the comptrollership of the BSP.

On December 20, 1999, Memorandum of Agreement[18] was entered into by and between the BSP and BFSMB. In said agreement, BFSMB was to repay to BSP the amount of P3,673,031,589.36 by way of dacion en pago of some of its real properties. The amount owed by BFSMB represented the so-called advances extended to it by the defunct CB.

Further, pursuant to the aforementioned Memorandum of Agreement, BSP has to lift its comptrollership over BFSMB on January 20, 2000, and deliver to the latter all collaterals in its custody, including government securities held by designated comptrollers.[19]

Sometime in December 2002, BFSMB experienced massive withdrawals.[20] Thus, BFSMB applied for emergency financial assistance from the BSP to maintain liquidity.

However, such assistance appeared to have been insufficient to stem the effects of the massive withdrawals. Thus, in letter[21] dated October 9, 2003, BFSMB further requested BSP for financial assistance "similar [to]

arrangements" that had been extended to other banks similarly situated.

In response thereto, the BSP, through a letter[22] dated November 21, 2003 by Director Candon B. Guerrero, Supervision and Examination Department III, and Director Rolando Alejandro Q. Agustin, Department of Loans and Credit, advised BFSMB that because of "strict requirements imposed by [Republic Act No. 7653], BSP is not in a position to assist BFSMB at this time." But they added that, "should BFSMB be able to comply with all the legal requirements [relative to its requests], ESP would not hesitate to extend its support and assistance." One such requirement is "BSP-approved rehabilitation program."

Taking its cue from the above-narrated letter, on April 14, 2004, BFSMB transmitted a long term business plan[23] (business plan) for consideration of the BSP-MB. BFSMB's business plan was premised on the assertion that, having "stepped into the shoes of the old Central Bank," the BSP was obligated to "reorganize" it (BFSMB) through the following: (i) restoring its 89 branches that used to operate prior to its closure in 1985; and (ii) extending financial support that are not subjected to stringent requirements.[24]

In reply thereto, however, BSP-MB stated that it had no basis to act on the business plan considering that the latter appeared to have been taken up and approved by BFSMB's Executive Committee, and not by its Board of Directors, and because of BFSMB's insistence that BSP-MB are the successors-in-interest of CB-MB, "an allegation that [BSP-MB] have consistently denied in x x x previous communications x x x [and which issue] is still subject to contest in pending [court] proceedings." [25]

Hence, on July 14, 2004, BFSMB filed Petition for Revival of Judgment[26] to enforce the Decision of the Court in G.R. No. 70054 that became final and executory on February 4, 1992. Said petition was filed against the CB-MB, represented by the CB-BOL, and the BSP-MB.

BFSMB alleged in said petition that:

5.1. Under the judgment herein sought to be revived, the respondents, having allowed Petitioner to resume business in the Philippines, are under mandate to reorganize Petitioner and place it in such a condition or footing that it can continue in business with safety to its depositors, creditors and the general public.

5.1.1. To reorganize the Petitioner means to put back on operational status its nationwide branch network, which consisted of 89 branches at the time of its illegal closure and the return or recoupment of its 3.8 million depositors which the Petitioner lost as a direct result of the predatory acts of then Central Bank Governor Jose B. Fernandez, the Central Bank and its Monetary Board. The reorganization of these branches will entail, among other things, the recovery of branch sites which were lost during the illegal closure, the recruitment of qualified personnel and the putting of the necessary infrastructure on and in each branch site. All these require substantial cash outlays. To date, Petitioner has not received any assistance whatsoever from the respondents in the restoration and reorganization of its damaged branch network. To date, exclusively on its own, with its own limited resources, Petitioner has managed to reopen and maintain operational only 60 out of its 89 branches prior to its illegal closure.

5.1.2. To put Petitioner in such a condition or footing that it can continue in business with safety to its depositors, creditors and the general public entails making its operations viable and stable. It includes, among other things, refraining from any act or pronouncement that would undermine the faith and confidence of the depositing public in the Bank or destabilize the bank, and providing it ready financial assistance for the restoration of its damaged organization.

5.2. As aforesated, the collection all at once by the Bangko Sentral via the Memorandum of Agreement x x x of the full amount of the "advances" of the Central Bank, together with interest thereon, depleted the Petitioner's inventory of valuable real estate properties upon which it relied for its source of income for its operations and thus admittedly, as hereinabove pointed out, adversely affected the Bank's ability to operate

with reasonable safety.

5.2.1. In addition, the dacion of real properties required by the Memorandum of Agreement deprived the bank of the wherewithal with which to generate the resources to fund the reestablishment of its branch sites and its operations.

x x x x

5.3.1. Subsequently, however, BSP and Monetary Board refused altogether to grant Petitioner universal bank license unless and until the latter complies with stringent conditions which were made more so by the depletion of its resources occasioned by the settlement of the "advances" of the Central Bank by "dacion" under the Memorandum of Agreement x x x.

x x x x

5.7.4. This refusal to act at all on Petitioner's business plan is patently discriminating in the light of the financial assistance the BSP has extended with dispatch to a number of other banks which unlike Petitioner, were not even victims of injustice or, did not have in their favor Supreme Court decision declaring them as such. The Bangko Sentral had lent out total of P43 billion to bail out distressed banks, x x x, the most recent of which was to rehabilitate PBCom which included a "financial enhancement program" x x x.

5.8. The insistence by Bangko Sentral that it is not the successor-in-interest of the Central Bank of the Philippines, notwithstanding that:

a)

it reopened Petitioner and placed it under comptrollership in compliance with the judgment of the Supreme Court in G.R. No. 70054, to which it was not a party; and

b)

by its collection of the "advances" of the Central Bank as assignee thereof under the Memorandum of Agreement x x x;

does not augur well for its voluntary compliance with the mandate of the Supreme Court for the Central Bank and the Monetary Board to reorganize Petitioner and put it in such condition and footing as will enable it to continue to do business with safety to its depositors, creditors and the general public.

5.9. As herein earlier pointed out, upon effectivity of Republic Act No. 7653, all powers, duties and functions vested by law in the Central Bank of the Philippines were deemed transferred to the Bangko Sentral ng Pilipinas, and all references to the Central Bank in any law or charter were and shall be deemed to refer to the Bangko Sentral, (Sec. 136, R.A. 7653). All incumbent personnel in the Central Bank as of the date of approval of Republic Act 7653 were mandated to continue to exercise their duties and functions as personnel of the Bangko Sentral, (Sec. 131, last par., R.A. 7653). In light of these provisions of Republic Act No. 7653, there can be no doubt or question that the Bangko Sentral is in fact the successor-in-interest of the Central Bank which, though it continues to exist, is reduced to mere Board of Liquidators to liquidate the affairs of the Central Bank for period not exceeding 25 years, (Sec. 132, R.A. 7653).[27]

BFSMB prayed for the following reliefs, viz.:

1)

Reviving the judgment of the Supreme Court in G.R. No. 70054 dated December 11, 1991 x x x; and

2)

Directing and enjoining the herein respondents to comply with each and all mandates therein, most particularly that of putting Petitioner in such condition and footing to continue in business with safety to its depositors, creditors and the general public, until Petitioner's damage claims are fully settled;

3)

Directing and enjoining the respondents, as part of the mandate of the Supreme Court in its aforementioned judgment, to approve the Petitioner's Business Plan x x x, and to extend to Petitioner the financial arrangements similarly granted to other banks;

4)

Granting such other reliefs as may be just and equitable in the premises.[28]

BSP-MB moved to dismiss the petition on the following grounds:

(i)

For failure of BFSMB to pay the necessary docket fees given that one of the reliefs prayed for in its petition for revival of judgment is the release to it by the respondents therein the amount of P9,000,000,000.00 as embodied in the proposed Business Plan;

(ii)

The cause of action is barred by prescription - the petition for revival of judgment was filed only on July 15, 2004, or more than 12 years from the time the Court's Decision in G.R. No. 70054 became final and executory;

(iii)

There is no cause of action against BSP-MB considering that they were neither parties to G.R. No. 70054, nor the successors- in-interest of CB-MB;

(iv)

The petition for revival of judgment is actually one for mandamus;

(v)

The BSP-MB's obligation under the Decision in G.R. No. 70054, pursuant to its Charter, i.e., Republic Act No. 7653, had already been extinguished or complied with when the latter allowed BFSMB to resume its operations;

(vi)

There is another case involving the same cause of action and the same parties, which is pending before another court, i.e., Civil Case Nos. 8108, 9675 and 10183, consolidated actions for damages filed by BFSMB against several defendants, including BSP-MB;

(vii)

The signatories of the petition for revival of judgment have not been properly authorized to file the said petition, but merely to represent BFSMB during the Pre-Trial stage; and

(viii)

The petition's Certification of Non-Forum Shopping contained false allegations as it failed to disclose the pendency of Civil Case Nos. 8108, 9675 and 10183.

The CB-BOL likewise filed a motion to dismiss said petition. In its motion, it argued that:

(i)

BFSMB deliberately engaged in forum shopping in filing the petition for revival of judgment;

(ii)

BFSMB no longer has cause of action with its admission that it had already resumed its operations starting July 1, 1994, but in any case, it has no authority to "place the petitioner in such condition and footing to continue in business with safety to its depositors, creditors and the general public, until petitioner's damage claims are fully settled" and "to approve petitioner's business plan and extend financial arrangements similarly granted to other banks to petitioner,"[29] because its powers under Republic Act No. 7653 is limited to administering, disposing of and liquidating any assets/liabilities of the CB not transferred to the BSP;

(iii)

The CB-BOL is an unincorporated government agency without any separate juridical personality; thus, any suit against it would be one filed against the Government that would require its consent to be sued;

(iv)

The petition is filed beyond the 10-year period allowed under Article 1144 of the Civil Code;

(v)

The petition is an unauthorized pleading as the signatories thereto had not been properly authorized by the Board of Directors of BFSMB to file the same; and

(vi)

The summonses were not properly served upon the respondents.

RTC Order dated July 22, 2005

In an Order dated July 22, 2005, the RTC denied the separate motions to dismiss, viz.:

WHEREFORE, in light of all the foregoing, both respondents' The Monetary Board, Bangko Sentral ng Pilipinas and the Central Bank-Board of Liquidators['] Motions to Dismiss are both DENIED. Both respondents are directed to file their responsive pleading within fifteen (15) days from notice hereof.[30]

The RTC reasoned that:

In dealing with the first issue which is the alleged nonpayment of the required docket fee x x x this is not an action for the recovery of sum of money and/or for damages. The aforestated sum is merely projected amount which the respondents may extend in the event this Court shall adjudge that the judgment of the Supreme Court be revived as part of its directive to rehabilitate BF with safety to its creditors x x x.

Anent the matter of prescription, there is no dispute that an action [to] revive judgment should be filed within ten years from entry thereof x x x.

x x x x

The issues concerning the allegation that the petition fails to state cause of action, respondents are not real party-in-interest and that person who caused the filing of the petition for and in behalf of BF had no authority to do so x x x boil down to one ground for the dismissal of the petition that is no cause of action.

x x x x

A careful analysis of the Petition readily showed that it pleaded well the causes of action against both respondents. Petitioner's legal right is to secure full and complete satisfaction of the judgment in its favor in G.R. No. 70054. The corresponding duty or obligation of the respondents is to provide such full and complete satisfaction. The act or omission of the respondents in violation of Petitioner's legal right consists of their failure and/or-refusal to provide such full and complete satisfaction of the judgment in G.R. No. 70054.

Anent the matter regarding the assertion of respondent BSP that it was not party to G.R. No. 70054, it cannot be denied that the BSP and the Monetary Board was the transferee of the assets and liabilities of the Central Bank pursuant to Sec. 132 of R.A. 7653 including all the powers, duties and functions vested by law in the Central Bank not inconsistent with the provisions of R.A. 7653 are also deemed transferred to the BSP, and all references to the Central Bank in any law or special charters shall be deemed to refer to the BSP. It is safe to conclude that the BSP is the successor-in-interest of then Central Bank x x x. CB-BOL's evasion likewise cannot be sustained. The judgment sought to be revived directed the Central Bank to reorganize petitioner Banco Filipino Savings and Mortgage Bank [and] allow the latter to resume business in the Philippines under the comptrollership of both Central Bank and the [Monetary] Board and under such conditions as may be prescribed by the latter in connection with its reorganization until such time that petitioner bank can continue in business with safety to its creditors, depositors and the general public. By force of R.A. 7653, the Central Bank and the Monetary Board is now known as the CB-Board of Liquidators for limited period of time, and the contention that it is an unincorporated agency has no leg to stand on. Clearly, it is real party-in-interest.

On the issue of lack of authority to file the instant petition x x x.

x x x [P]erforce, the authority granted in the Board Resolution is actually to represent the Bank at the pre-trial conference and all other stages of any case involving Banco Filipino. Suffice it to state that indeed the phrase "all other stages of any case" is broad enough to cover any stage from commencement to termination of any case involving BF, including filing, initiating and prosecuting any such case. BF submitted [a new] Secretary's Certificate later executed x x x clarifying the concern of CB-BOL x x x.

x x x x

The ground of *litis pendencia* is likewise unavailing in this case x x x.

There is no dispute that in the three (3) civil cases pending before Branch 136 of the Makati RTC filed by petitioner, BF is the plaintiff in all three cases, with the same *Bangko Sentral ng Pilipinas*, Monetary Board, and the Central Bank of the Philippines (Central Bank Board of Liquidators) as the defendants. However, record likewise showed that there is no similarity in reliefs sought in the instant case and Civil [Case] Nos. 8108, 9675 and 10183. Here, the nature of the action of BF is the revival of the judgment in G.R. No. 70054 so that the *fallo* thereof may be implemented. The relief sought in the above-entitled cases, on the other hand, is principally the award of damages in its favor to the extent necessary to restore the Petitioner to its full operational status as if it had never been closed. There is therefore, no identity of the reliefs prayed for x x x.

x x x x

Anent CB-BOL's protestation that summons intended for it was not served upon its president, managing partner, general manager, corporate secretary, treasurer or in-house counsel pursuant to Section 11[,] Rule 14 of the Revised Rules of Court. By mere oversight or an intentional attempt to mislead this Court, it invoked a rule specifically applicable to domestic private juridical entity and certainly it can never be private corporation x x x. Since, CB-BOL is the name given by R.A. 7653 to the Central Bank, as such the provision that squarely appl[ies] is [S]ection 13 of the same rule which says service may be effected on the solicitor general; x x x or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct. It appearing further that summons addressed to CB-BOL was received at the

Office of the General Counsel, BSP Complex that the case was made known to them hence the filing of its motion to dismiss and no undue prejudice was sustained by it with the procedural lapse, this Court shall uphold the service of summons unto it. However, in the interest of justice and fair play, CB-BOL shall be afforded [fresh] period within which it could plead.[31]

Citing A.M. No. 03-1-09-SC[32] dated August 16, 2004, the RTC further observed that "[BSP-MB and CB-BOL] should have at the very least incorporated the issues now under consideration in their respective responsive pleadings as their affirmative defenses pursuant to the Supreme Court Administrative [i]ssuance. Especially so in this particular case where it appearing that almost if not all the grounds specified under the rules were advanced." [33]

RTC Order dated August 25, 2006

The subsequent motions for reconsideration were likewise denied by the RTC in another Order dated August 25, 2006, to wit:

WHEREFORE, premises considered, finding no cogent reason to disturb the challenged Order dated July 22, 2005, the instant Motions for Reconsideration separately filed by Respondents CB-BOL and BSP and The Monetary Board, the Motion to Se[t] Case for Preliminary Hearing on the Affirmative Defenses and Summary Judgment are all DENIED for utter lack of merit.

ACCORDINGLY, CB-BOL is given another inextendible period of fifteen (15) days from notice hereof within which it could plead. The Court noted that the last pleading to be served and filed between BF and BSP was already placed on Record on October 12, 2005 (Petitioner's Answer to BSP's Counterclaim), there is thus tender of issues as between them. However, in order to have an orderly proceedings in this case, joint pre-trial and trial should be conducted. Meantime, the Pre-trial Conference is held in abeyance until CB-BOL and BF has (sic) filed it (sic) Answer and Reply, respectively.[34]

Aggrieved, BSP-MB and CB-BOL went to the Court of Appeals via separate petitions for certiorari. The petition filed by the BSP-MB was docketed as CA-G.R. SP No. 96831 entitled, "Bangko Sentral ng Pilipinas and its Monetary Board v. The Hon. Presiding Judge, Regional Trial Court, Branch 62, Makati City and Banco Filipino Savings and Mortgage Bank"; while the one filed by the CB-BOL was docketed as CA-G.R. SP No. 96280 entitled, "Central Bank Board of Liquidators v. The Regional Trial Court of Makati (Branch 62) and Banco Filipino Savings and Mortgage Bank."

The Court of Appeals Decisions

CA-G.R. SP NO. 96831

In Decision dated April 12, 2007, the Court of Appeals dismissed the petition for certiorari, to wit:

WHEREFORE, in view of the foregoing, the petition is hereby DENIED and accordingly DISMISSED for lack of merit.[35]

The Court of Appeals held that BSP-MB failed to show that the RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the same.

Specifically, the Court of Appeals held that the "prayer for the release of Nine Billion Pesos x x x loan is only incidental to its prayer to revive the subject decision[,] which ordered the defunct [CB-MB] to reorganize and assist [BFSMB] until such time that it can already operate safely to its creditors." [36]

As to the alleged defective Verification and Certification of Non--Forum Shopping, the Court of Appeals considered the allegation in the Secretary's Certificate stating that "the President or the Executive Vice--President

is hereby authorized to represent. the Bank at the pre-trial conference and all other stages of any case involving Banco Filipino,"[37] to be broad enough to cover any stage from commencement to termination of any case, i.e., filing, initiating and prosecuting any case.

As to the matter of prescription, the Court of Appeals held that the allegations of the petition showed that the enactment of Republic Act No. 7653 effectively suspended the running of the prescription period to enforce the subject judgment, i.e., the said law appears to have rendered the enforceability of the subject judgment uncertain as the CB was "downgraded" into a mere board of liquidators, while at the same time giving its powers, duties and functions to new entity not a party to G.R. No. 70054.

On the issue of the supposed lack of cause of action against BSP-MB, the latter not having been a party to G.R. No. 70054, the Court of Appeals agreed with the RTC that BSP-MB are estopped from denying that they are successors-in-interest and/or transferees pendente lite of CB-MB given that BSP-MB "sought to collect, and eventually collected, from [BFSMB] the so called 'advances' [by] the [CB] which BSP conceded were among the assets transferred to [BSP-MB] from [CB] x x x." [38]

The Court of Appeals likewise held that the reliefs sought by the petition for revival were not similar to those prayed for in Civil Case Nos. 8108,[39] 9675,[40] and 10183.[41] Hence, there was no *litis pendencia*.

BSP-MB's subsequent motion for reconsideration was denied in Resolution dated June 26, 2007; thus, the instant petition docketed as G.R. No. 178696.

CA-G.R. SP NO. 96280

In contrast to the aforequoted ruling, another Division of the Court of Appeals ordered the dismissal of BFSMB's Petition for Revival of Judgment in a Decision promulgated on September 3, 2008, the *fallo* of which reads:

WHEREFORE, the assailed Orders of respondent court dated July 22, 2005 and August 25, 2006 are ANNULLED and SET ASIDE. Private respondent's Petition for Revival of Judgment is hereby DISMISSED for having been filed beyond the reglementary period.[42]

The Court of Appeals held that the petition for revival of judgment was already "time-barred" as it was "filed beyond the period allowed by substantive law and procedural rules." [43] It explained that -

Thus, going by BF's logic, the five-year period for executing the judgment sought to be revived by motion, which started to run on February 4, 1992, and was tolled on July 6, 1993 when R.A. 7653 became a law and took effect, started to run again on December 21, 1999. The five-year period, therefore, ended on July 17, 2003. Correspondingly, the ten-year period to revive the subject judgment will allegedly expire five (5) years from July 17, 2003, or on July 16, 2008.

We do not agree with BF's contentions.

First of all, contrary to BF's proposal, there was no vacuum created with the passage of R.A. 7653 that would render BF uncertain as against whom it can enforce its rights. All powers, duties and functions vested by law in the Central Bank of the Philippines were deemed transferred to the BSP. The law provides that all references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the BSP. Further, R.A. 7653 states that any asset or liability of the Central Bank not transferred to the Bangko Sentral shall be retained and administered, disposed of and liquidated by the Central Bank itself which shall continue to exist as the CB Board of Liquidators or CB-BOL. In other words, the entities where the assets and liabilities of the Central Bank have been transferred are readily identifiable. There is, thus, no reason for BF to use, as an excuse for its delay to file an action to revive judgment, the creation of the BSP as the new central monetary authority. It is apparent that there has been merely a transfer of interest between the two entities, with the

organization made more efficient by the creation of a body known as the CB-BOL.

Second, the provision relied on by BF is inapplicable primarily because according to jurisprudence, Article 1155 of the Civil Code refers to actions to collect debt under contract or upon the law and not to one confirmed by judgment of court. According to the Supreme Court, Article 1155 refers to the tolling of the period of prescription of the action to collect, not to the action to enforce or revive judgment x x x.

x x x x

Since BF's Petition for Revival of Judgment does not refer to any debt or contract between the parties, Article 1155 invoked by BF as a defense against a bar by extinctive prescription is not applicable.[44]

The Court of Appeals concluded that BFSMB only had until February 4, 2002, or 10 years from February 4, 1992, within which to file an action for revival of the judgment in G.R. No. 70054.

BFSMB's subsequent motion for reconsideration was denied in a Resolution dated June 17, 2010; hence, the present petition docketed as G.R. No. 192607.

The Issues

G.R. No. 178696

BSP-MB anchor their petition on the following issues, viz.:

I

WHETHER THE COURT OF APPEALS ACTED NOT IN ACCORD WITH THE CONSTITUTION, LAW AND ESTABLISHED JURISPRUDENCE, BY RULING THAT PETITIONER BANGKO SENTRAL SUCCEEDS IN THE ALLEGED LIABILITIES OF THEN CENTRAL BANK TO BANCO FILIPINO, INSTEAD OF THE CENTRAL BANK-BOARD OF LIQUIDATORS, PURSUANT TO SECTION 132 (E) OF RA NO. 7653.

II

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT BANCO FILIPINO'S PETITION FOR REVIVAL DATED 08 JULY 2004 STATED CAUSE OF ACTION AGAINST PETITIONERS BSP-MB, WHEN PETITIONERS ARE NEITHER PARTIES TO G.R. NO. 70054, NOR TRANSFEREES PENDENTE LITE OF THEN CENTRAL BANK.

III

WHETHER THE COURT OF APPEALS GRAVELY ERRED BY RULING THAT PRIVATE RESPONDENT'S FILING OF ITS PETITION FOR REVIVAL DATED 08 JULY 2004 IS ALLEGEDLY NOT BARRED BY PRESCRIPTION, WHEN IT IS READILY APPARENT THAT THE REMEDY TO REVIVE THE DECISION DATED 11 DECEMBER 1991 RENDERED BY THE HONORABLE COURT IN G.R. NO. 70054 HAS ALREADY PRESCRIBED.

IV

WHETHER THE RELIEFS SOUGHT BY PRIVATE RESPONDENT BANCO FILIPINO ARE BEYOND THE AMBIT OF THE JUDGMENT SOUGHT TO BE REVIVED.

V

WHETHER THE RELIEFS LIE PURELY WITHIN THE DISCRETION OF PETITIONERS BSP-MB AND, THUS, CANNOT BE MANDATED BY JUDICIAL COMPULSION THROUGH MERE REVIVAL OF JUDGMENT.

VI

WHETHER THE COURT OF APPEALS GRAVELY ERRED BY RULING THAT THE PRAYER OF PRIVATE RESPONDENT BANCO FILIPINO IN ITS PETITION FOR REVIVAL DATED 08 JULY 2004 FOR APPROVAL OF ITS BUSINESS PLAN HAS ALLEGEDLY NOT BEEN RENDERED MOOT BY PRIVATE RESPONDENT'S SUBMISSION TO PETITIONERS OF REVISED BUSINESS PLAN ON 07 APRIL 2005.

VII

WHETHER THE COURT OF APPEALS GRAVELY ERRED AND DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE COURT WHEN IT FAILED TO APPRECIATE THAT THE OBLIGATIONS MANDATED BY THE DECISION DATED 11 DECEMBER 1991 RENDERED IN G.R. NO. 70054 HAD OBVIOUSLY BEEN PERFORMED.

VIII

WHETHER THE COURT OF APPEALS GRAVELY ERRED AND DECIDED QUESTIONS OF SUBSTANCE IN A WAY NOT IN ACCORDANCE WITH LAW AND THE APPLICABLE DECISIONS OF THE HONORABLE COURT WHEN IT RULED THAT THE COURT A QUO HAS ACQUIRED JURISDICTION OVER THE SUBJECT MATTER OF THE PETITION FOR REVIVAL DATED 08 JULY 2004, NOTWITHSTANDING PRIVATE RESPONDENT BANCO FILIPINO'S DELIBERATE FAILURE TO PAY THE PROPER DOCKET FEES.

IX

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT PRIVATE RESPONDENT BANCO FILIPINO IS ALLEGEDLY NOT GUILTY OF FORUM SHOPPING.

X

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT PRIVATE RESPONDENT BANCO FILIPINO'S SIGNATORIES ARE PROPERLY AUTHORIZED TO FILE THE CASE A QUO AND SIGN THE CERTIFICATION AGAINST FORUM SHOPPING.[45]

G.R. No. 192607

BFSMB raises the following issues for the Court's resolution, viz.:

I

THE COURT OF APPEALS HAS SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS AND ACTED IN WAY NOT IN ACCORD WITH LAW OR THE RULES OR THE APPLICABLE DECISIONS OF THIS HONORABLE SUPREME COURT WHEN IT GAVE DUE COURSE TO AND GRANTED THE HEREIN RESPONDENT'S PETITION FOR CERTIORARI AND PROHIBITION UNDER RULE 65 OF THE RULES OF COURT, TO ANNUL AND SET ASIDE THE TRIAL COURT'S DENIAL OF RESPONDENT'S MOTION TO DISMISS THE PETITION FOR REVIVAL OF JUDGMENT THEREIN, AND WITHOUT ANY SHOWING OR FINDING OF GRAVE ABUSE OF DISCRETION ON THE PART OF THE TRIAL COURT.

II

THE COURT OF APPEALS HAS RESOLVED IN A WAY NOT IN ACCORD WITH LAW OR THE RULES OR THE APPLICABLE DECISIONS OF THIS HONORABLE SUPREME COURT, OR WITH GRAVE ABUSE OF DISCRETION BLATANTLY DISREGARDED OR CAVALIERLY GLOSSED OVER

AND BRUSHED ASIDE, THE FOLLOWING MATTERS OF SUBSTANCE IN THE INSTANT CASE, TO WIT:

- THE CAPACITY OF HEREIN RESPONDENT TO INITIATE THE PETITION IN CA-G.R. SP NO. 96280, GIVEN ITS ADMISSION AND CONFESSION THAT IT IS AN UNINCORPORATED GOVERNMENT AGENCY;
- THE TOLLING OF THE PERIOD OF PRESCRIPTION AND THE ALLEGATIONS OF FACTS RELATIVE THERETO IN THE PETITION IN THE TRIAL COURT WHICH RESPONDENT SOUGHT TO HAVE DISMISSED;
- THE DOCTRINE OF STARE DECISIS RELATIVE TO THE EARLIER DECISION OF THE COURT OF APPEALS IN CA-G.R. SP NO. 96831; AND
- THE ABANDONMENT BY HEREIN RESPONDENT OF ITS PETITION IN CA-G.R. SP NO. 96280 AND OF THE HEREIN ASSAILED DECISION RENDERED THEREIN BY ITS FILING WITH THE TRIAL COURT OF ITS ANSWER TO THE PETITION THEREIN AFTER THE COURT OF APPEALS HAD ORDERED IN ITS AFORECIDED DECISION THE DISMISSAL THEREOF.[46]

The Court's Ruling

BSP-MB's petition in G.R. No. 178696 is meritorious, while BFSMB's petition in G.R. No. 192607 lacks merit.

Section Rule 39 of the Rules of Court, as amended, provides the two ways of executing a final and executory judgment, viz.:

Sec. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action x x x.

The foregoing provision, however, must be read in conjunction with Articles 1144 (paragraph 3) and 1152, both of the Civil Code, which provide:

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

x x x x

(3) Upon judgment.

Article 1152. The period for prescription of actions to demand the fulfillment of obligation declared by a judgment commences from the time the judgment became final. (Emphases supplied.)

Accordingly, the prevailing party may move for the execution of a final and executory judgment as a matter of right within five years from the entry of judgment. If no motion is filed within this period, the judgment is converted to a mere right of action and can only be enforced by instituting a complaint for the revival of judgment in regular court within 10 years from finality of judgment.[47]

In this case, our Decision in G.R. No. 70054 attained finality and was entered in the Book of Entries of Judgment on February 4, 1992. Hence, with respect to its right of action, BFSMB only had ten years from February 4, 1992 within which to file its petition for revival of judgment. That it only filed the said petition on July 14, 2004, or more than 12 years from February 4, 1992, it is evident that the subject action was filed out of time.

BFSMB insists that the passage of RA No. 7653 tolled the period of prescription because it rendered the enforceability of the judgment sought to be revived uncertain, i.e., when the enforceability of a final judgment becomes uncertain, the period for such purpose is tolled and prescription does not operate. Further, it asserts that

the partial performance by BSP of the subject judgment obligation further tolled the running period.

We disagree.

As correctly held by the Court of Appeals in CA-G.R. SP No. 96280 -

First of all, contrary to BF's proposal, there was no vacuum created with the passage of R.A. 7653 that would render BF uncertain as against whom it can enforce its rights. All powers, duties and functions vested by law in the Central Bank of the Philippines were deemed transferred to the BSP. The law provides that all references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the BSP. Further, R.A. 7653 states that any asset or liability of the Central Bank not transferred to the Bangko Sentral shall be retained and administered, disposed of and liquidated by the Central Bank itself which shall continue to exist as the CB Board of Liquidators or CB-BOL. In other words, the entities where the assets and liabilities of the Central Bank have been transferred are readily identifiable. There is, thus, no reason for BF to use, as an excuse for its delay to file an action to revive judgment, the creation of the BSP as the new central monetary authority. It is apparent that there has been merely transfer of interest between the two entities, with the organization made more efficient by the creation of a body known as the CB-BOL.[48]

And worth noting is the fact that when BFSMB finally filed the petition for revival of judgment in 2004, it filed it against both the BSP-MB and CB-BOL. BFSMB could have done the same and filed the action against both entities anytime within the ten year prescriptive period if it was really unsure which of the two to go against.

Therefore, the petition for revival of judgment filed on July 14, 2004 should be dismissed for having been filed beyond the prescriptive period of ten years from the finality of our judgment in G.R. No. 70054 on February 4, 1992, or more than 12 years later.

In any event, even if we were to disregard the issue of prescription, the petition for revival of judgment filed by BFSMB must still be dismissed as the judgment obligation had already been extinguished through performance.

An action to revive judgment is one whose exclusive purpose is to enforce judgment which could no longer be enforced by mere motion.[49]

Being a mere right of action, the petition for revival of judgment is subject to defenses and counter claims which may have arisen subsequent to the date it became effective, as for instance, prescription, which bars an action upon judgment after ten years or payment; or counterclaims arising out of transactions not connected with the former controversy.[50]

In the present petitions, the judgment sought to be revived pertains to paragraph of the dispositive of the Court's Decision dated December 11, 1991 in G.R. Nos. 70054, 68878, 77255-58, 78766, 78767, 78894, 81303, 81304, and 90473 entitled, "Banco Filipino Savings and Mortgage Bank v. The Monetary Board,"[51] which, again, states:

ACCORDINGLY, decision is hereby rendered as follows:

x x x x

2. The petitions in G.R. No. 70054, 78767 and 78894 are GRANTED and the assailed order of the Central Bank and the Monetary Board dated January 25, 1985 is hereby ANNULLED AND SET ASIDE. The Central Bank and the Monetary Board are ordered to reorganize petitioner Banco Filipino Savings and Mortgage Bank and allow the latter to resume business in the Philippines under the comptrollership of both the Central Bank and the Monetary Board and under such conditions as may be prescribed by the latter in connection with its reorganization until such time that petitioner bank can continue business with safety to its creditors, depositors and the general public.

In filing the petition for revival of the above-quoted decision, BFSMB alleges that its reopening was just in partial fulfillment of what the Court mandated upon CB-MB, now BSP-MB. BFSMB still had to be reorganized and put in such "condition and footing to continue in business with safety to its depositors, creditors and the general public, until [its] damage claims are fully settled."

BSP-MB and CB-BOL, however, counter-argue that (i) the petition for revival stated no cause of action against them because they are neither the successors-in-interest of the defunct CB-MB, nor parties to G.R. No. 70054, and further, as to CB-BOL, that the latter has no authority under Republic Act No. 7653 other than to administer, dispose and liquidate assets/liabilities of the CB not already transferred to the BSP; (ii) the judgment obligation had already been extinguished by performance, when BSP-MB reopened and reorganized BFSMB under the former's comptrollership; and (iii) the action for revival of judgment had already prescribed. In other words, BSP-MB and CB-BOL advance the following grounds as basis for their respective motions to dismiss - failure to state cause of action, extinguishment of the obligation and prescription are valid grounds for the dismissal of an action - paragraphs (f), (g) and (h) of Section 1, Rule 16 of the Rules of Court, as amended, which read:

Rule 16

MOTION TO DISMISS

SECTION 1. Grounds. - Within the time for but before filing the answer to the complaint or pleading asserting a claim, a motion to dismiss may be made on any of the following grounds:

x x x x

(f) That the cause of action is barred by a prior judgment or by the statute of limitations;

(g) That the pleading asserting the claim states no cause of action;

(h) That the claim or demand set forth in the plaintiffs pleading has been paid, waived, abandoned, or otherwise extinguished[.]

Instead of settling the issue, however, the Court of Appeals (in CA--G.R. SP No. 96831) hedged and reasoned that the matter of performance, among others, "[cannot] be settled by simple evaluation of the petition for revival and the motion to dismiss but, require thorough thumbing of the records as well as judicious evaluation of the evidence that would be submitted by the parties during trial." [52]

We disagree.

A judgment sought to be revived is one that is already final (and executory); therefore, it is conclusive as to the controversy between the parties up to the time of its rendition. In other words, the new action is an action the purpose of which is not to re-examine and re-try issues already decided but to revive the judgment.[53] The cause of action of the petition for revival is the judgment to be revived,[54] i.e., the cause of action is the decision itself and not the merits of the action upon which the judgment sought to be enforced is rendered.

In these cases, the subject Decision in G.R. No. 70054 being the very cause of action of the petition for revival, it was deemed written into the petition. There is no need to go into the records of the case or await evidence to be presented at trial to determine whether or not such obligation had already been performed.

In filing the motions to dismiss, however, the Court of Appeals (in CA-G.R. SP No. 96831) considered BSP-MB to have admitted the truth of all the allegations of the petition for revival. BSP-MB should now establish by concrete and convincing evidence, in full-blown trial, any assertion to the contrary.

The general rule is that in a motion to dismiss, a defendant hypothetically admits the truth of the material

allegations of the ultimate facts contained in the plaintiffs complaint.[55] But this principle of hypothetical admission admits of exceptions. In *Tan v. Court of Appeals*,[56] this Court held:

The flaw in this conclusion is that, while conveniently echoing the general rule that averments in the complaint are deemed hypothetically admitted upon the filing of motion to dismiss grounded on the failure to state a cause of action, it did not take into account the equally established limitations to such rule, i.e., that motion to dismiss does not admit the truth of mere epithets of fraud; nor allegations of legal conclusions; nor an erroneous statement of law; nor mere inferences or conclusions from facts not stated; nor mere conclusions of law; nor allegations of fact the falsity of which is subject to judicial notice; nor matters of evidence; nor surplusage and irrelevant matter; nor scandalous matter inserted merely to insult the opposing party; nor to legally impossible facts; nor to facts which appear unfounded by record incorporated in the pleading, or by document referred to; and, nor to general averments contradicted by more specific averments. A more judicious resolution of motion to dismiss, therefore, necessitates that the court be not restricted to the consideration of the facts alleged in the complaint and inferences fairly deducible therefrom. Courts may consider other facts within the range of judicial notice as well as relevant laws and jurisprudence which the courts are bound to take into account, and they are also fairly entitled to examine records/documents duly incorporated into the complaint by the pleader himself in ruling on the demurrer to the complaint. (Emphases supplied.)

BFSMB's assertions that the judgment obligation includes the following undertakings:

- (1) to put BFSMB in such condition and footing to continue in business with safety to its depositors, creditors and the general public, until [its] damage claims in Civil Case Nos. 8108, 9675 and 10183 are fully settled;
- (2) to approve BFSMB's proposed business plan,
- (3) to put back in operational status BFSMB's nationwide branch network consisting of 89 branches and recoup its 3.8 Million depositor base; and
- (4) to extend to BFSMB the same financial arrangements granted to other banks.[57]

appear unfounded from a record incorporated in the petition, or by a document referred therein, i.e., the Decision in G.R. No. 70054.

To be sure, in G.R. No. 70054, when this Court declared null and void MB Resolution No. 75 ordering the closure of BFSMB and putting it on receivership, this Court directed the defunct CB-MB -

[T]o reorganize petitioner Banco Filipino Savings and Mortgage Bank and allow x x x to resume business in the Philippines under the comptrollership of both the Central Bank and the Monetary Board and under such conditions as may be prescribed by the latter in connection with its reorganization until such time that petitioner bank can continue in business with safety to its creditors, depositors and the general public.[58]

Thus, what this Court obliged CB-MB to do was: (1) to reorganize, and (2) to reopen - BFSMB. Such reorganization and reopening, however, were imposed with conditions, to wit: (1) that they be done under the comptrollership of the CB-MB; and (2) the reorganization of BFSMB should be done under conditions to be prescribed by the CB-MB. Note further, that the comptrollership and imposition of certain conditions by CB-MB were to be accomplished within a period, i.e., "until such time that petitioner bank can continue in business with safety to its creditors, depositors and the general public." But most importantly, nothing in the dispositive of the subject decision specified and enumerated how CB-MB was to reorganize BFSMB, or what conditions would be imposed in furtherance thereof. Hence, it cannot be said that the above-enumerated undertakings claimed by BFSMB to be accomplished by BSP-MB are supported by the Decision in G.R. No. 70054.

Consequently, it was incorrect to state that because BSP-MB and CB--BOL were deemed to have hypothetically

admitted the ultimate facts of the petition for revival, they are now obligated to present clear and convincing evidence in full-blown trial to counter the admission that the judgment obligation had only been partially fulfilled. More importantly, it was grave error for the trial and appellate courts to restrict themselves to the examination of the petition for revival of judgment alone, sans the Decision in G.R. No. 70054, in determining whether or not to dismiss the petition for revival.

At any rate, the above-enumerated undertakings prayed for by BFSMB in its petition go beyond the four corners of the Decision sought to be revived. This is not allowed. An action for revival of judgment cannot modify, alter or reverse the original judgment, which is already final and executory.[59]

To clarify, the obligation imposed upon CB-MB in the dispositive portion of the Decision in G.R. No. 70054 stemmed from what was provided in Section 29 of Republic Act No. 265, otherwise known as The Central Bank Act - that a closed bank may be reorganized or otherwise placed in such condition that it may be permitted to resume business with safety to its depositors, creditors and the general public. Specifically, We stated therein that

-

We are aware of the Central Bank's concern for the safety of Banco Filipino's depositors as well as its creditors including itself which had granted substantial financial assistance up to the time of the latter's closure. But there are alternatives to permanent closure and liquidation to safeguard those interests as well as those of the general public for the failure of Banco Filipino or any bank for that matter may be viewed as an irreversible decline of the country's entire banking system and ultimately, it may reflect on the Central Bank's own viability. For one thing, the Central Bank and the Monetary Board should exercise strict supervision over Banco Filipino. They should take all the necessary steps not violative of the laws that will fully secure the repayment of the total financial assistance that the Central Bank had already granted or would grant in the future.[60] [Emphases supplied.]

From the foregoing, there is nothing in our Decision in G.R. No. 70054 which empowers the RTC and the Court of Appeals to fetter the discretion of BSP-MB regarding the conditions to impose and/or concessions to extend during the reorganization of BFSMB.

That this. Court purposely left the finer details of the reorganization and the conditions thereof to the sound discretion of then CB-MB was an acknowledgment of the fact that the CB alone was vested by statute with the power and/or authority to determine or prescribe the conditions under which such resumption of business shall take place.[61] On this point, We agree with BSP-MB that, "the reliefs prayed for by BFSMB cannot be mandated by judicial compulsion through a mere revival of judgment considering that they lie within the discretion of the BSP-MB taking into account sound banking principles."

Verily, nothing changed with the enactment of Republic Act No. 7653. BSP, the independent central monetary authority established by the law, is still given sufficient independence and latitude to carry out its mandate. Sections to of Republic Act No. 7653 bear this out, viz.:

SECTION 1. Declaration of Policy. - The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, while being government-owned corporation, shall enjoy fiscal and administrative autonomy.

SECTION 2. Creation of the Bangko Sentral. - There is hereby established an independent central monetary authority, which shall be a body corporate known as the Bangko Sentral ng Pilipinas, hereafter referred to as the Bangko Sentral.

The capital of the Bangko Sentral shall be Fifty billion pesos (P50,000,000,000), to be fully subscribed by the Government of the Republic, hereafter referred to as the Government, Ten billion pesos (P10,000,000,000) of which shall be fully paid for by the Government upon the effectivity of this Act and the balance to be paid for within a period of two (2) years from the effectivity of this Act in such manner and form as the Government, through the Secretary of Finance and the Secretary of Budget and Management, may thereafter determine.

SECTION 3. Responsibility and Primary Objective. - The Bangko Sentral shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of finance companies and non--bank financial institutions performing quasi-banking functions, hereafter referred to as quasi-banks, and institutions performing similar functions.

The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso. (Emphases supplied.)

Accordingly, given that the reliefs prayed for by BFSMB are outside the ambit of the judgment sought to be revived, coupled with BFSMB's admission in its petition that -

On November 6, 1993, the Monetary Board of the Bangko Sentral adopted Resolution No. 427 x x x, allowing herein Petitioner to reopen and resume business in the Philippines, subject to compliance with certain conditions. After meeting the preconditions of the Bangko Sentral, Petitioner reopened its doors to the public and resumed business on July 1, 1994 under the comptrollership of Bangko Sentral.[62] (Emphasis supplied.)

and the Whereas or preambular clause of the Memorandum of Agreement[63] dated December 20, 1999 entered into and executed by the authorized representatives of BFSMB and BSP, which categorically stated the fact that the latter had already complied with the Decision in G.R. No. 70054, viz.:

WHEREAS, on December 6, 1993, the BANGKO SENTRAL, through its Monetary Board, complied with the decision of the Supreme Court by authorizing BANCO FILIPINO to resume business under BANGKO SENTRAL comptrollership, and that on July 1, 1994, BANCO FILIPINO re-opened its doors to the public and has, since then, been publicly and actively engaged in the banking business[.][64] (Emphasis supplied.)

it is evident that the judgment obligation imposed by the Decision in G.R. No. 70054 had already been extinguished through its performance - BFSMB had been reopened and reorganized under the comptrollership of the BSP--MB, which comptrollership lasted until January 20, 2000, upon the agreement of BSP-MB and BFSMB to implement the Memorandum of Agreement dated December 20, 1999, to wit:

- IMPLEMENTATION The parties undertake to perform the following acts to implement this AGREEMENT and its purposes:

(a)

Within thirty (30) days from execution of this AGREEMENT, BANGKO SENTRAL shall lift the comptrollership over BANCO FILIPINO and deliver to the latter all collaterals in its custody. The government securities remaining in the custody of the designated comptrollers shall be released upon the signing of this AGREEMENT.[65]

From all the foregoing, any discussion on the other procedural matters raised in these cases is already moot and academic.

Furthermore, due to the above findings, this Court need not make determination at this time whether or not BSP-MB is the successor-in--interest and/or transferee-pendente lite of CB-MB. Though in G.R. No. 173399

entitled, "Central Bank-Board of Liquidators v. Banco Filipino Savings and Mortgage Bank," this Court made a categorical pronouncement that BSP and its MB have different legal personalities from those of the defunct CB and its MB,[66] we also recognized therein that any determination of the status of BSP-MB and CB-BOL will likely preempt the resolution of Civil Case Nos. 8108, 9675 and 10183, which relate to BSP-MB and CB-BOL's potential liability for the causes of action originally levelled by BFSMB against CB-MB. Similarly, we shall not pass upon issues related to these civil cases.

A Word on Proper Appellate Court Procedure

It cannot be denied that the instant petitions, including the two petitions filed in the Court of Appeals, showed that they involved the same parties, set of facts and issues raised; and basically assailed the same orders of the RTC. Thus, there was no reason why CA-G.R SP Nos. 96280 and 96831 should not have been consolidated at the first instance. It is apropos to remind the Court of Appeals and the parties of our pronouncement in A.M. No. CA-13-51-J entitled, "Re: Letter Complaint of Merlita B. Fabiana Against Presiding Justice Andres B. Reyes, Jr., Associate Justices Isaias P. Dicdican and Stephen C. Cruz; Carag Jamora Somera and Villareal Law Offices and its Lawyers Attys. Elpidio C. Jamora, Jr. and Beatriz O. Geronilla-Villegas, Lawyers for Magsaysay Maritime Corporation and Visayan Surety and Insurance Corporation,"[67] that -

In the appellate stage, therefore, the rigid policy is to make the consolidation of all cases and proceedings resting on the same set of facts, or involving identical claims or interests or parties mandatory. Such consolidation should be made regardless of whether or not the parties or any of them requests it. A mandatory policy eliminates conflicting results concerning similar or like issues between the same parties or interests even as it enhances the administration of justice.

And the counsels of the parties herein, that -

In this connection, the Court reminds all attorneys appearing as counsel for the initiating parties of their direct responsibility to give prompt notice of any related cases pending in the courts, and to move for the consolidation of such related cases in the proper courts. This responsibility proceeds from their express undertakings in the certifications against forum-shopping that accompany their initiatory pleadings pursuant to Section of Rule and related rules in the Rules of Court, to the effect that they have not theretofore commenced any actions or filed any claims involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of their knowledge, no such other actions or claims are pending therein; that if there were such other pending actions or claims, to render complete statements of the present status thereof; and if they should thereafter learn that the same or similar actions or claims have been filed or are pending, they shall report that fact within five days therefrom to the courts wherein the said complaints or initiatory pleadings have been filed.[68]

Precisely, the very evil that the rule against forum shopping seeks to forestall, the rendition of the two diametrically opposed decisions by the Court of Appeals in CA-G.R. Nos. 96280 and 96831, could have been prevented by the consolidation of the two petitions for certiorari.

WHEREFORE, the Decision and Resolution dated April 12, 2007 and June 26, 2007, respectively, of the Court of Appeals in CA-G.R. SP No. 96831 entitled, "Bangko Sentral ng Pilipinas and its Monetary Board v. The Hon. Presiding Judge, Regional Trial Court, Branch 62, Makati City and Banco Filipino Savings and Mortgage Bank," are REVERSED and SET ASIDE. While the Decision and Resolution dated September 3, 2008 and June 17, 2010, respectively, of the Court of Appeals in CA-G.R. SP No. 96280 entitled, "Central Bank Board of Liquidators v. The Regional Trial Court of Makati (Branch 62) and Banco Filipino Savings and Mortgage Bank" are AFFIRMED.

Consequently, the Petition for Revival of Judgment docketed as Civil Case No..04-823 entitled, "Banco Filipino

Savings and Mortgage Bank v. The Monetary Board, Central Bank of the Philippines, now Central Bank Board of Liquidators, and The Monetary Board, Bangko Sentral ng Pilipinas," is DISMISSED for lack of merit.

No pronouncement as to costs.

SO ORDERED.

Peralta,[*] Del Castillo, Tijam, and Gesmundo,**] JJ., concur.

[*] Per Raffle dated June 20, 2018.

[**] Per Special Order No. 2560 dated May 11, 2018.

[1] In a Resolution dated October 6, 2010, the Court resolved to consolidate G.R. No. 192607 with G.R. No. 178696 considering that both cases arose from the same factual background and involving the same subject matter and issues, thus, to avoid conflicting decisions; and in order to facilitate work of the Court. (Rollo [G.R. No. 192607], p. 1091.)

[2] Rollo (G.R. No. 178696), pp. 122-160; penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Rosalinda Asuncion-Vicente and Enrico A. Lanzanas concurring.

[3] Id. at 231-232.

[4] Rollo (G.R. No. 192607), pp. 81-92; penned by Associate Justice Magdangal M. De Leon with Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia concurring.

[5] Id. at 94-102.

[6] Rollo (G.R. No. 178696), pp. 327-348.

[7] Id. at 321-325.

[8] Banco Filipino Savings and Mortgage Bank v. The Monetary Board, 281 Phil. 842 (1991).

[9] Id. at 866.

[10] Id. at 867.

[11] G.R. Nos. 68878 (Banco Filipino Savings and Mortgage Bank v. Hon. Intermediate Appellate Court and Celestina S. Pahimuntung, assisted by her husband), 77255-58 (Top Management Programs Corporation and Pilar Development Corporation v. The Court of Appeals, et al.), 78766 (El Grande Corporation v. The Court of Appeals, et al.), 78767 (Metropolis Development Corporation v. Court of Appeals, et al.), 78894 (Banco Filipino Savings and Mortgage Bank v. Court of Appeals, et al.), 81303 (Pilar Development Corporation v. Court of Appeals, et al.), 81304 (BF Homes Development Corporation v. The Court of Appeals, et al.) and 90473 (El Grande Development Corporation v. The Court of Appeals, et al.).

[12] Banco Filipino Savings and Mortgage Bank v. The Monetary Board, supra note 8 at 893.

[13] Republic Act No. 7653 was signed into law on June 14, 1993.

[14] Id., Section 2.

[15] Referred to in the title of the petition as "Central Board of Liquidators" but interchanged with "Central Bank-Board of Liquidators" or "CB-BOL in the body of the petition and other parts of the record.

[16] Id., Section 132(e).

[17] Rollo (G.R. No. 178696), p. 450.

[18] Id. at 453-460.

[19] Id. at 458-459.

[20] Id. at 360.

[21] Id. at 465-466.

[22] Id. at 467-469.

[23] Id. at 476-487.

[24] Id. at 470-475.

[25] Id. at 488.

[26] Id. at 349-366.

[27] Id. at 358-363.

[28] Id. at 364.

[29] Id. at 602.

[30] Id. at 348.

[31] Id. at 340-348.

[32] Entitled, "RE: PROPOSED RULE ON GUIDELINES TO BE OBSERVED BY TRIAL COURT JUDGES AND CLERKS OF COURT IN THE CONDUCT OF PRE-TRIAL AND USE OF DEPOSITION-DISCOVERY MEASURES."

[33] Rollo (G.R. No. 178696), p. 339.

[34] Id. at 325.

[35] Id. at 160.

[36] Id. at 144.

[37] Id. at 145.

[38] Id. at 152.

[39] A complaint for the annulment of MB Resolution No. 955 (with damages) placing BFSMB under conservatorship, filed sometime in 1984.

[40] A complaint for the annulment of MB Resolution No. 75 (with damages) ordering the closure of BFSMB and placing the latter under receivership, filed in 1985.

[41] A complaint for the annulment of the CB-MB's order directing the liquidation of BFSMB (with damages), filed in 1985.

[42] Rollo (G.R. No. 192607), p. 91.

- [43] Id.
- [44] Id. at 88-90.
- [45] Rollo (G.R. No. 178696), pp. 26-27.
- [46] Rollo (G.R. No. 192607), pp. 24-25.
- [47] *Villeza v. German Management and Services, Inc.*, 641 Phil. 544, 550 (2010).
- [48] Rollo (G.R. No. 192607), pp. 88-90.
- [49] *Caiña v. Court of Appeals*, 309 Phil. 241, 249 (1994).
- [50] *Compania General de Tabacos v. Martinez*, 29 Phil. 515, 520-521 (1915).
- [51] 281 Phil. 847, 893 (1991).
- [52] Rollo (G.R. No. 178696), p. 1426.
- [53] *Azotes v. Blanco*, 85 Phil. 90, 91 (1949).
- [54] *Estonina v. Southern Marketing Corp.*, 249 Phil. 562, 567 (1988).
- [55] *Pioneer Concrete Philippines, Inc. v. Todaro*, 551 Phil. 589 (2007).
- [56] 356 Phil. 555, 563-564 (1998).
- [57] Rollo (G.R. No. 178696), pp. 358-359.
- [58] *Banco Filipino Savings and Mortgage Bank v. Monetary Board*, *supra* note 8 at 893.
- [59] *Heirs of Numeriano Miranda, Sr. v. Miranda*, 713 Phil. 541, 551 (2013).
- [60] *Banco Filipino Savings and Mortgage Bank v. Monetary Board*, *supra* note 8 at 892-893.
- [61] Republic Act No. 265, Section 29.
- [62] Petition for Revival of Judgment, p. 6; rollo (G.R. No. 178696), p. 354.
- [63] Annex "G" of the Petition for Revival.
- [64] Rollo (G.R. No. 178696), pp. 453-454.
- [65] Id. at 458.
- [66] Because the CB was abolished by Republic Act No. 7653, and the BSP created in its stead; and because the members of each MB are natural persons - these factors make the BSP and its MB different from the CB and its MB.
- [67] 713 Phil. 161, 177 (2013).
- [68] Id.

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