

**BALAYAN BAY RURAL BANK, INC., REPRESENTED BY ITS
STATUTORY LIQUIDATOR, THE PHILIPPINE DEPOSIT INSURANCE
CORPORATION, PETITIONER, VS. NATIONAL LIVELIHOOD
DEVELOPMENT CORPORATION,...***G.R. No. 194589. September 21, 2015*

Ponente: PEREZ, J.

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This is a Petition for Review on Certiorari[1] filed by petitioner Balayan Bay Rural Bank (Batangas), Inc. (petitioner bank), seeking to reverse and set aside the 11 June 2010 Order[2] of the Regional Trial Court (RTC) of Makati City, Branch 147. In its assailed Order, the RTC granted the Motion for Substitution of parties filed by respondent National Livelihood Development Corporation (NLDC) and ordered that the Philippine Deposit Insurance Corporation (PDIC) be substituted or joined as co-defendant in Civil Case No. 09-917. The dispositive portion of the assailed RTC Order reads:

WHEREFORE, premises considered, the Motion for Substitution of Part is hereby GRANTED. Accordingly, PDIC is hereby ordered substituted or joined as co-defendant in this case.[3]

The Facts

Petitioner bank is a banking institution duly authorized by the Central Bank to engage in banking business before it was placed under receivership by the Bangko Sentral ng Pilipinas on 26 November 2009.

NLDC, on the other hand, is a government institution created to promote and generate the development of livelihood and community-based enterprises by virtue of Executive Order No. 715 (1981).

On 12 October 2009, NLDC filed a complaint for collection of sum of money against petitioner bank for the latter's unpaid obligation in the amount of P1,603,179.86 before the RTC of Makati City. The case was docketed as Civil Case No. 09-917 and was raffled to Branch 147 of the trial court.[4]

During the pendency of the case before the RTC, the Bangko Sentral ng Pilipinas, thru the Monetary Board, issued MIN-70-26 November 2009,[5] placing the petitioner bank under receivership and appointed the PDIC as receiver of the bank pursuant to Section 30 of Republic Act (R.A.) No. 7653.[6]

After the petitioner bank was placed under receivership, NLDC filed a Motion for Substitution of Party and Set the Case for Pre-Trial.[7] Invoking Section 19, Rule 3 of the Revised Rules of Court, the NLDC claimed that by virtue of transfer of interest of the petitioner bank to the PDIC, the latter may be substituted as party or joined with the original party.

The motion was duly opposed by the petitioner bank contending that the PDIC is not the real party in interest in the instant case because it does not stand to be benefited or injured by the judgment in the suit. It argued that the PDIC is merely the Statutory Receiver/Liquidator of all banks placed by the Monetary Board under receivership

and is merely a representative of the petitioner bank which remains as the real party in interest. The substitution of the PDIC as defendant in this case is therefore not proper.[8]

On 11 June 2010, the RTC issued an Order granting the Motion for Substitution filed by NLDC and directed that the PDIC be substituted or joined as co-defendant in the case. In sustaining the NLDC, the court a quo ruled that the prosecution or defense of the action must be done thru the liquidator, lest, no suit for or against the insolvent entity would prosper.

Arguing that the substitution is not proper in the instant case since the PDIC is not the real party in interest but was merely tasked to conserve the assets of the bank for the benefit of its creditors, petitioner bank elevated the matter before the Court on question of law via this instant Petition for Review on Certiorari.[9]

In the interregnum, the RTC issued a Decision[10] in Civil Case No. 09-917 dated 18 June 2010 in favor of the NLDC thereby ordering the petitioner bank to pay the former the amount of P1,603,179.86 representing its unpaid loan obligation. The RTC disposed in this wise:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the [NLDC] and against [petitioner bank], ordering the [petitioner bank] to pay [NLDC] the amount of P1,603,179.86 inclusive of interest and surcharges as actual damages and P30,000.00 as attorney's fees.[11]

While the petitioner bank made no objection to the afore-quoted ruling, it maintained that the lower court committed an error of law in issuing the 11 June 2010 Order.[12] For the resolution of the Court is the sole issue of:

Issue

WHETHER OR NOT THE 11 JUNE 2010 RTC ORDER WHICH DIRECTED THE SUBSTITUTION OF THE PDIC AS DEFENDANT OR ITS INCLUSION THEREIN AS CO-DEFENDANT IS CONTRARY TO LAW.

The Court's Ruling

We deny the petition.

The instant case involves a disputed claim of sum of money against a closed financial institution. After the Monetary Board has declared that a bank is insolvent and has ordered it to cease operations, the Board becomes the trustee of its assets for the equal benefit of all the creditors, including depositors.[13] The assets of the insolvent banking institution are held in trust for the equal benefit of all creditors, and after its insolvency, one cannot obtain an advantage or a preference over another by an attachment, execution or otherwise.[14] Towards this end, the PDIC, as the statutory receiver/liquidator of the bank, is mandated to immediately gather and take charge of all the assets and liabilities of the institution and administer the same for the benefit of its creditors.[15]

As the fiduciary of the properties of a closed bank, the PDIC may prosecute or defend the case by or against the said bank as a representative party while the bank will remain as the real party in interest pursuant to Section 3, Rule 3 of the Revised Rules of Court which provides:

SEC. 3. Representatives as parties.- Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

The inclusion of the PDIC as a representative party in the case is therefore grounded on its statutory role as the fiduciary of the closed bank which, under Section 30[16] of R.A. 7653 (New Central Bank Act), is authorized to conserve the latter's property for the benefit of its creditors.

While we agree with the conclusion reached by the RTC that the PDIC should be included in Civil Case No. 09-917, its reliance on Section 19, Rule 3 of the Revised Rules of Court on transfer of interest pendente lite as justification for its directive to include the PDIC in the case is erroneous.

For one, the properties of an insolvent bank are not transferred by operation of law to the statutory receiver/liquidator but rather these assets are just held in trust to be distributed to its creditors after the liquidation proceedings in accordance with the rules on concurrence and preference of credits.[17] The debtors properties are then deemed to have been conveyed to the Liquidator in trust for the benefit of creditors, stockholders and other persons in interest.[18] This notwithstanding, any lien or preference to any property shall be recognized by the Liquidator in favor of the security or lienholder, to the extent allowed by law, in the implementation of the liquidation plan.[19]

In addition, the insolvent bank's legal personality is not dissolved by virtue of being placed under receivership by the Monetary Board. It must be stressed here that a bank retains its juridical personality even if placed under conservatorship; it is neither replaced nor substituted by the conservator who shall only take charge of the assets, liabilities and the management of the institution.[20]

It being the fact that the PDIC should not be considered as a substitute or as a co-defendant of the petitioner bank but rather as a representative party or someone acting in fiduciary capacity, the insolvent institution shall remain in the case and shall be deemed as the real party in interest.[21] Nowhere in Section 3, Rule 3 of the Revised Rules of Court is it stated or, at the very least implied, that the representative is likewise deemed as the real party in interest.[22] The said rule simply states that, in actions which are allowed to be prosecuted or defended by a representative, the beneficiary shall be deemed the real party in interest and, hence, should be included in the title of the case.

In *Manalo v. Court of Appeals*,[23] the Court validated the right of a bank which was placed under receivership to continue litigating the petition for the issuance of writ of possession and dismissed the position assumed by petitioner therein that a closed bank cannot maintain a suit against its debtor, thus:

Petitioner next casts doubt on the capacity of the respondent to continue litigating the petition for the issuance of the writ. He asserts that, being under liquidation, respondent bank is already a "dead" corporation that cannot maintain the suit in the RTC. Hence, no writ may be issued in its favor.

The argument is devoid of merit. A bank which had been ordered closed by the monetary board retains its juridical personality which can sue and be sued through its liquidator. The only limitation being that the prosecution or defense of the action must be done through the liquidator. Otherwise, no suit for or against an insolvent entity would prosper. In such situation, banks in liquidation would lose what justly belongs to them through a mere technicality.[24] (Emphasis supplied)

In fine, the legal personality of the petitioner bank is not ipso facto dissolved by insolvency; it is not divested of its capacity to sue and be sued after it was ordered by the Monetary Board to cease operation. The law mandated, however, that the action should be brought through its statutory liquidator/receiver which in this case is the PDIC. The authority of the PDIC to represent the insolvent bank in legal actions emanates from the fiduciary relation created by statute which reposed upon the receiver the task of preserving and conserving the properties of the insolvent for the benefit of its creditors.

WHEREFORE, premises considered, the instant petition is hereby DENIED.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Jardeleza,[*] JJ., concur.

[*] Acting Member per Special Order No. 2188 dated 16 September 2015.

[1] Rollo, pp. 13-38.

[2] Id. at 42-43; Penned by Acting Presiding Judge Oscar Pimentel.

[3] Id. at 43.

[4] Id. at 45-49.

[5] Id. at 52.

[6] New Central Bank Act.

[7] Id. at 53-57.

[8] Id. at 59-63.

[9] Id. at 13-36.

[10] Id. at 39-41.

[11] Id. at 41.

[12] Id. at 25.

[13] *Barrameda v. Rural Bank of Canaman, Inc.*, 650 Phil. 476, 487 (2010).

[14] Id.

[15] Section 30 of R.A. No. 7653.

[16] Sec. 30. Proceedings in Receivership and Liquidation. - Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank or quasi-bank:

(a) is unable to pay its liabilities as they become due in the ordinary course of business: Provided, That this shall not include inability to pay caused by extraordinary demands induced by financial panic in the banking community;

(b) has insufficient realizable assets, as determined by the Bangko Sentral, to meet its liabilities; or

(c) cannot continue in business without involving probable losses to its depositors or creditors; or

(d) has wilfully violated a cease and desist order under Section 37 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution; in which cases, the Monetary Board may summarily and without need for prior hearing forbid the institution from doing business in the Philippines and designate the Philippine Deposit Insurance Corporation as receiver of the banking institution.

For a quasi-bank, any person of recognized competence in banking or finance may be designated as receiver.

The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of

Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: Provided, That the receiver may deposit or place the funds of the institution in non-speculative investments. The receiver shall determine as soon as possible, but not later than ninety (90) days from take over, whether the institution may be rehabilitated or otherwise placed in such a condition that it may be permitted to resume business with safety to its depositors and creditors and the general public: Provided, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board.

If the receiver determines that the institution cannot be rehabilitated or permitted to resume business in accordance with the next preceding paragraph, the Monetary Board shall notify in writing the board of directors of its findings and direct the receiver to proceed with the liquidation of the institution. The receiver shall:

(1) file ex parte with the proper regional trial court, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the institution pursuant to a liquidation plan adopted by the Philippine Deposit Insurance Corporation for general application to all closed banks. In case of quasi-banks, the liquidation plan shall be adopted by the Monetary Board. Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice, adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide on other issues as may be material to implement the liquidation plan adopted. The receiver shall pay the cost of the proceedings from the assets of the institution.

(2) convert the assets of the institution to money, dispose of the same to creditors and other parties, for the purpose of paying the debts of such institution in accordance with the rules on concurrence and preference of credit under the Civil Code of the Philippines and he may, in the name of the institution, and with the assistance of counsel as he may retain, institute such actions as may be necessary to collect and recover accounts and assets of, or defend any action against, the institution. The assets of an institution under receivership or liquidation shall be deemed in custodia legis in the hands of the receiver and shall, from the moment the institution was placed under such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.

[17] In any rehabilitation/receivership proceedings where claims of several creditors shall have to be resolved, the provisions of the Title XIX of the Civil Code - "Concurrence and Preference of Credits."

Art. 2242. With reference to specific immovable property and real rights of the debtor, the following claims, mortgages and liens shall be preferred and shall constitute an encumbrance on the immovable or real right:

- (1) Taxes due upon the land or building;
- (2) For unpaid price of real property, sold upon the immovable sold;
- (3) Claims of laborers, mason, mechanics and other workmen, as well as architects, engineers and contractors, engaged in the construction, reconstitution or repair of buildings, canals or other works, upon said buildings, canals or other works;
- (4) Claims of furnishers of materials used in the construction, reconstruction, or repair of buildings, canals or other works, upon said buildings, canals or other works;
- (5) Mortgage credits recorded in the Registry of Property, upon the real estate mortgaged;
- (6) Expenses for the preservation or improvement of real property when the law authorizes reimbursement, upon the immovable preserved or improved;
- (7) Credits annotated in the Registry of Property in virtue of a judicial order, by attachment or execution, upon

the property affected, and only as to the latter credits;

(8) Claims of co-heirs for warranty in the partition of an immovable among them, upon the real property thus divided;

(9) Claims of donors of real property of pecuniary charges or other conditions imposed upon the donee, upon the immovable donated;

(10) Credits of insurers, upon the property insured, for the insurance premium for two years.

Art. 2243. The claims of credits enumerated in the two preceding articles shall be considered as mortgagees or pledges of real or personal property, or liens within the purview of legal provisions governing insolvency. Taxes mentioned in No. 1, article 2241, and No. 1, article 2242, shall first be satisfied. [State Investment House, Inc. v. Court of Appeals, 342 Phil. 893, 897-898 (1997)].

[18] Bank of the Philippine Islands v. Hong, G.R. No. 161771, 15 February 2012, 666 SCRA 71, 80.

[19] Id.

[20] Central Bank of the Philippines v. Court of Appeals, G.R. No. 88353, 8 May 1992, 208 SCRA 652, 679.

[21] Section 3, Rule 3 of the Revised Rules of Court.

[22] Ang v. Ang, G.R. No. 186993, 22 August 2012, 678 SCRA 699, 708-709.

[23] 419 Phil. 215 (2001).

[24] Id. at 230-231.

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