

RURAL BANK OF LUCENA, INC., PETITIONER, VS. HON. FRANCISCO ARCA, AS JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH I AND CENTRAL BANK OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 21146. September 20, 1965*

Ponente: REYES, J.B.L., J.

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The Rural Bank of Lucena, Inc., a banking corporation organized under Republic Act No. 720, instituted, on June 22, 1961, in the Court of First Instance of Manila (Civil Case No. 47345) an action to collect damages and to enjoin the Central Bank from enforcing Resolution No. 928 of its Monetary Board, finding that the Rural Bank of Lucena (Lucena for short), through its officers, directors, and employees, had committed acts substantially prejudicial to the Government, depositors, and creditors, and directing Lucena to reorganize its board of directors; to refrain from granting or renewing loans, or accept new deposits, and not to issue drafts or make disbursements without the approval of the supervising Central Bank examiners; and threatening Lucena that its management would be taken over if the latter should fail to comply with the resolution. After issue joined and trial of the case, and while the litigation was still undecided by the Court of First Instance, the Monetary Board, having been informed that the Director of its Department of Rural Banks recommended the liquidation of the Rural Bank of Lucena, adopted on February 2, 1962 its Resolution No. 122 (Petition, Annex "C")

"To request the Solicitor General, pursuant to section 29 of Republic Act No. 265, to file a petition in the proper courts for the liquidation of the affairs of the Rural Bank of Lucena, Inc."

Notice was given by Central Bank officials on February 10, 1962 that the Lucena bank was temporarily closed pending final decision of the Court, and that business be transacted with Central Bank representatives only.

Two days later (February 12, 1962), the Lucena bank filed suit in the Court of First Instance of Quezon (Tayabas) to annul Resolution 122 of the Monetary Board (Case No. 6471) and enjoin its enforcement; and on February 14 the court issued ex parte a writ of preliminary injunction to such effect.

On the same day, the Court of First Instance of Manila, per Judge, now Court of Appeals Justice, Magno Gatmaitan of Branch XIV, decided Case No. 47345, enjoining enforcement of Resolution No. 928 of the Monetary Board, for having been issued without the prior hearing prescribed by section 10 of the Rural Bank Act, and ordering the Central Bank to pay P5,000.00 damages and costs. The Central Bank appealed.

Upon the other hand, the Court of First Instance of Quezon Province, in its Case No. 6741, on February 24, 1962, dissolved its preliminary injunction against the enforcement of Resolution 122 of the Monetary Board. Other than filing a motion for reconsideration (ultimately denied on January 9, 1963) the Lucena bank took no other steps to prosecute the case it had filed.

On the 31st of March 1962, invoking section 29 of Republic Act 265, the Central Bank, as liquidator, petitioned the Court of First Instance of Manila for assistance in the liquidation of the Lucena bank (Civil Case No. 50019).

Upon motion, and after hearing the parties, Judge Area issued an interlocutory order on March 28, 1963, the dispositive portion of which is to the following effect (Petition, Annex "D"):

"The Rural Bank of Lucena, thru its duly authorized officers or representatives, is hereby ordered to turn over to the Central Bank, thru its duly authorized representative, within a period of five (5) days from receipt of copy of this order, the physical possession of all of said Rural Bank of Lucena's assets, properties and papers. Should the Rural Bank of Lucena or its officers fail to comply with the above order within the period indicated herein, the Central Bank, thru its authorized representatives, is hereby authorized to take actual and physical possession of all of said assets, properties and papers of the Rural Bank of Lucena, duly inventoried in the presence of the Provincial Fiscal, the Provincial Commander, the Provincial Treasurer, and the Provincial Auditor of Quezon province, or their duly authorized representatives."

The Rural Bank of Lucena resorted to this Court on certiorari, claiming that Judge Arca gravely abused his discretion in issuing the above order, in that -

- (a) it interferes with the immediately executory judgment of Judge Gatmaitan in Case No. 47345 of the Court of First Instance of Manila;
- (b) Section 29 of the Central Bank Act (R. A. 265) does not apply;
- (c) there was no prior valid take over of assets nor due hearing of the liquidated Bank;
- (d) Judge Gatmaitan's decision constitutes a judicial review of the Monetary Board's action that can not be nullified by the challenged order of Judge Arca; and
- (e) the turn over should not be ordered before trial on the merits.

This Court issued a temporary restraining order until April 25, 1963, but the same was not renewed when it expired.

We see no irreconcilable conflict between section 10 (as amended) of Republic Act No. 720 (Rural Banks Act) and section 29 of Republic Act No. 265 (Central Bank Act). The former provides in substance as follows:

"The Director of the Department of the Central Bank designated by the Monetary Board to supervise Rural Banks x x x upon proof that the Rural Bank or its board of directors or officers are conducting and managing the affairs of the bank in a manner contrary to laws, orders, instructions, rules and regulations promulgated by the Monetary Board or in any manner substantially prejudicial to the interests of the government, depositor or creditors, to take over the management of such bank when specifically authorized to do so by the Monetary Board after due hearing until a new board of directors and officers are elected and qualified x x x."

It is easily seen that what this section authorized is the take over of the management by the Central Bank, until the governing body of the offending Rural Bank is recognized with a view to assuring compliance by it with the laws and regulations.

Upon the other hand, section 29 of the Central Bank Act; (R. A. 265) has in view a much more drastic step, the liquidation of a rural bank by taking over its assets and converting them into money to pay off its creditors. Said section prescribes:

"SEC. 29. Proceedings upon insolvency.-Whenever, upon examination by the Superintendent or his examiners or agents into the condition of any banking institution, it shall be disclosed that the condition of the same is one of insolvency, or that its continuance in business would involve probable loss to its depositors or creditors, it shall be the duty of the Superintendent forthwith, in writing to inform the Monetary Board of the facts, and the Board, upon finding the statements of the Superintendent to be true, shall forthwith forbid the institution to do business in the Philippines and shall take charge of its assets and proceeds according to law.

The Monetary Board shall thereupon determine within thirty days whether the institution may be reorganized or otherwise placed in such a condition so that it may be permitted to resume business with safety to its creditors and shall prescribe the conditions under which such resumption of business shall take place. In such case the expenses and fees in the administration of the institution shall be determined by the Board and shall be paid to the Central Bank out of the assets of such banking institution.

At any time within ten days after the Monetary Board has taken charge of the assets of any banking institution, such institution may apply to the Court of First Instance for an order requiring the Monetary Board to show cause why it should not be enjoined from continuing such charge of its assets, and the court may direct the Board to refrain from further proceedings and to surrender charge of its assets.

If the Monetary Board shall determine that the banking institution cannot resume business with safety to its creditors, it shall, by the Solicitor General, file a petition in the Court of First Instance reciting the proceedings which have been taken and praying the assistance and supervision of the court in the liquidation of the affairs of the same. The Superintendent shall thereafter, upon order of the Monetary Board and under the supervision of the court and with all convenient speed, convert the assets of the banking institution to money."

Considering that section 27 of the Rural Banks (R. A. No. 720) expressly declares that -

"The provisions of Republic Acts numbered 265 and 337, in so far as applicable and not in conflict with, any provision of this Act, are hereby made a part of this Act",

We find no room for questioning the applicability of section 29 of Republic Act No. 265 (Central Bank Act) to rural banks organized under Republic Act 720, whenever the Monetary Board should find that the rural bank affected, is insolvent, or that its continuance in business would involve probable loss to its depositors or creditors, and that it can not resume business with safety.

It follows that on the assumption that under section 10 of the Rural Banks Act the Monetary Board may not take over the management of a rural bank without giving the latter a hearing, i.e., an opportunity to rebut the charge that it has contravened applicable laws, rules and regulations, to the substantial prejudice of the government, its depositors and creditors, such a previous hearing is nowhere required by section 29 of the Central Bank law. Manifestly, whether a rural bank's continuance in business would involve probable loss to its clients or creditors, and that "it can not resume business with safety", is a matter of appreciation and judgment that the law entrusts primarily to the Monetary Board. Equally apparent is that if the rural bank affected is in the condition previously adverted to, every minute of delay in securing its assets from dissipation inevitably increases the danger to the creditors. For this reason, the statute has provided for a subsequent judicial review of the Monetary Board, in lieu of a previous hearing.

In point of fact, the petitioner Rural Bank of Lucena did file a petition (Annex "G") for judicial review in the Court of First Instance of Quezon Province, dated February 12, 1962, and challenged the validity of Resolution No. 122 of the Monetary Board (Case No. 6471); but the Court of First Instance of Quezon dissolved the preliminary injunction issued in that case and allowed Resolution No. 122 to take effect, without any steps being taken for a review of such action. This being the case, and in view of the manifest reluctance of the Lucena bank's officials to comply with the Monetary Board's resolution, the Central Bank had caused to seek judicial assistance for the discharge of its duties as liquidator.

The petitioner rural bank seems to take the view that the proceedings had before Judge Gatmaitan in case No. 47345, Branch XIV, of the Court of First Instance of Manila, constituted the judicial review required by section 29 of Republic Act No. 265, the Central Bank Act. Such a stand is untenable, for the case tried and decided by judge Gatmaitan concerned an attempt by the Central Bank to take over management under section 10 of the Rural Banks law (R.A. No. 720) in connection with the Monetary Board's resolution No. 928 of June 16, 1961.

Even more conclusive is the consideration that said action (Case No. 47345) was filed on June 22, 1961, and could not possibly be a judicial review of the Resolution No. 122 adopted eight months later, on February 2, 1962. A review can not precede the adoption of the resolution being reviewed. This proposition requires no demonstration.

The narrated events also rebut the contention that the order of Judge Arca, issued on March 28, 1963, in Case No. 50019, constitutes unlawful interference with the enforcement of Judge Gatmaitan's decision of February 14, 1962, the issues involved being different in each case. As heretofore pointed out, one involved a take over of management under section 10 of the Rural Banks Act, and the other a seizure of assets and liquidation under section 29 of the Central Bank law (R. A. 265).

Nor can the proceedings before Judge Arca be deemed a judicial review of the 1962 Resolution No. 122 of the Monetary Board, if only because by law (section 29, R.A. 265) such review must be asked within 10 days from notice of the resolution of the Board. Between the adoption of Resolution No. 122 and the challenged order of Judge Arca, more than one year had elapsed. Hence, the validity of the Monetary Board's resolution can no longer be litigated before Judge Arca, whose role under the fourth paragraph of section 29 is confined to assisting and supervising the liquidation of the Lucena bank.

Whether or not the Central Bank acted with arbitrariness or bad faith in decreeing that circumstances called for the liquidation of the Lucena Rural Bank, and should be answerable in damages, should be threshed out and determined, not by Judge Arca but in Case No. 6471 of the Court of First Instance of Quezon Province, which was filed within the 10-day period prescribed by the Central Bank law, and which appears to be still pending, unless the Lucena bank had abandoned such litigation, a fact that we need not decide at present. Suffice it to say that Judge Arca had no reason to inquire into the merits of the case before issuing the disputed order requiring the surrender of the assets and papers of the Lucena bank, because: (1) neither the statute (sec. 29, R. A. 265) nor the constitutional requirement of due process demand that the correctness of the Monetary Board's resolution to stop operations and proceed to the liquidation of the Lucena Rural Bank should first be adjudged before making the resolution effective, it being enough that a subsequent Judicial review be provided (section 29, R. A. 265; 12 Am. Jur., p.305, sec. 611; *Bourjois vs. Chapman*, 301 U. S. 183, 81 Law Ed. 1027, 1032; *American Surety Co. vs. Baldwin*, 77 Law, Ed. 231, 86 ALR 307; *Wilson vs. Standing*, 46 Law Ed. 612); (2) the period for asking such Judicial review had elapsed with excess between the adoption of the Monetary Board Resolution No. 122 and the filing of the case by the Central Bank in the Court of First Instance of Manila; (3) the correctness of said resolution had already been put in issue before the Court of Quezon Province; (4) because the latter court had refused to stop implementation of the Resolution of the Monetary Board when it dissolved its own preliminary injunction; and (5) because the Lucena Bank had apparently acquiesced in the action taken by the Court of Quezon Province, since the Rural Bank had not sought that the action of the Quezon court be set aside by a higher court.

In view of the foregoing, the writ applied for is denied, with, costs against the petitioner Lucena Rural Bank, Inc.

Bengzon, C. J., Bautista Angelo, Concepcion, Dizon, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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