

CENTRAL BANK OF THE PHILIPPINES, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT, ARTEX DEVELOPMENT CO., INC., EASTERN TEXTILE MILLS, INC., CENTRAL MANUFACTURING CORP., PACIFI...

G.R. No. 69078. December 04, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition for review seeks to annul the decision of the then Intermediate Appellate Court (now Court of Appeals) which upheld the right of private respondents to purchase foreign exchange from petitioner Central Bank at the preferred exchange rate of P2.00 to US \$1.00, and, (for the prejudice consequenced upon them) the payment of interests at the legal rate, on the amounts respectively due private respondents (Artex Development Co., Inc., Eastern Textile Mills, Inc., Central Manufacturing Corp., Pacific Knitting Mills, Inc. and Atlas Textile Development Corporation, hereafter, "private respondents"), computed from December 21, 1970, until the said amounts are paid.

On the basis of a Partial Stipulation of Facts submitted to, approved and condensed by the trial court, and quoted in the Court of Appeals' decision, the antecedent facts are as follows:

"Plaintiffs (private respondents) are private domestic corporations engaged in the operation of textile mills.

"On December 9, 1949, defendant Central Bank (petitioner) issued Circular No. 20, restricting the sale of foreign exchange and subjecting all foreign exchange transactions to licensing.

"As early as 1954-1955, the Monetary Board of defendant Central Bank set the policy on integration of local textile mills, with the avowed 'objective of maximizing the benefits that could be yielded by the textile industry in terms of intensified investment, full employment opportunities, incentives to development of local resources, like cotton growing, and greater savings in foreign exchange.'

"However, defendant Central Bank's aforestated policy on integration of Local Textile Mills, established through its Monetary Board, was subsequently 'liberalized x x x in view of technical difficulties and financial demands of immediate integrated textile manufacture, considering specially local inexperience in the field. Textile mills were thus allowed to begin with finishing operations (the least complicated phase of production), supplemented in some cases by limited weaving and spinning. x x x.'

"Still later, in 1958, 'the recent availability of raw cotton, payable in pesos, from the United States under U.S. Public Law 480 of IGA aid x x x prompted a re-examination of the status of the local textile industry to determine the advisability of immediately requiring the mills to line up to original and standing, commitments to integrate.'

"Among U.S. surpluses made available by U.S. Public Law 480 was raw cotton and the pesos generated from the sale of that surplus raw cotton would be loaned to the Philippine government for long-term economic development. To generate those pesos from the sale of surplus raw cotton, local demand had to be created by

requiring the local textile mills to put up and install spinning mills to manufacture yarn from raw cotton. 'With this end in view, local textile mills companies were requested to submit their schedule[d] of integration over a two-and-a-half period from second semester 1958 to second semester 1960. These schedules were employed as the pattern and base of the proposed overall integration program, the Import-Export Committee through its 'Memorandum on Integration Program of Local Textile Mills' dated May 30, 1958 (which) were approved by the Monetary Board.

"Plaintiffs incurred contractual obligations, payable in foreign currency on deferred payment terms, in the purchase of capital machineries needed for the integration of their textile mills, the project studies and tax exemption applications pertinent to which were previously submitted to the Tax Committee composed of representatives of the Department of Finance, the defendant Central Bank, and the National Economic Council.

"To cover the importation of their textile mill machineries, equipment, accessories and spare parts under the deferred payment plan, the plaintiffs filed applications for the corresponding foreign exchange allocations, plaintiffs' said applications approved by defendant Central Bank under several Resolutions of its Monetary Board on sundry dates, all prior to April 23, 1960.

"On July 16, 1959, Republic Act 2609 was approved, directing 'the monetary authorities' to take steps for the adoption of a four-year program of gradual decontrol' and empowering the Monetary Board to promulgate rules and regulations necessary to carry out the law's provisions.

"Accordingly, on April 22, 1960, the Monetary Board of defendant Central Bank approved Resolution No. 632 adopting a 'program of Gradual Decontrol', and further approved, on April 25, 1960, CB Circular No. 105 which established a decontrol rate of P3.20 to \$1.00 but specifically excluded from the operation of said decontrol rate 'existing contractual obligations previously approved by the Monetary Board.'

"On November 28, 1960, defendant Central Bank issued CB Circular No. 117 amending Circular No. 105 but still alleged servicing at the P2.00 to \$1.00 rate of 'special financing items previously approved by the Monetary Board.'

"On March 2, 1961, defendant Central Bank issued CB Circular No. 121 which eliminated 'existing contractual obligations previously approved by the Monetary Board' from among the enumerated foreign exchange transactions within the coverage of the P2.00 to \$1.00 preferred exchange rate.

"Thenceforth, despite their protestations, plaintiffs were denied purchases of foreign exchanges at the P2.00 to \$1.00 exchange rate with which to service their aforesaid foreign exchange obligations, incurred in the importation of capital machinery needed to effect integration of their textile mills. Instead, plaintiffs were made to purchase, as they did, but under protest, foreign exchange needed to service their obligations at the 'free market' rate." (pp. 91-93, Rollo)

On January 2, 1964, private respondents filed a complaint for declaratory relief. Petitioner filed a motion to dismiss. Before the resolution of the motion, private respondents filed, and the court admitted an amended complaint, wherein they additionally prayed the trial court to:

"x x x declare their rights x x x to the end that they be declared with right to purchase from defendant Central Bank, and the defendant Central Bank be declared with duty to sell plaintiffs, foreign exchange as may be necessary to meet the deferred payments at the rate of P2 to \$1, to the end that defendant Central Bank should be ordered to pay plaintiffs the increased costs of the deferred payments already made and to be made on their imported capital machinery represented by the peso difference between the actual rates paid for the foreign exchange and P2 to \$1 x x x and thereafter sell to the plaintiffs all the foreign exchange needed to meet the subsequent deferred payments as they fall due at P2 to \$1 x x x." (p. 106, Rollo; pp. 577-578, Record on Appeal)

On December 3, 1973, the trial court[1] rendered judgment, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered:

(1) Declaring the plaintiffs to have the right to purchase from defendant Central Bank, and the latter to have the duty to sell to the former, the foreign exchange needed to pay the obligations incurred by plaintiffs to cover the importation of the capital machinery, equipment, spare parts and accessories for their integrated textile mills operations at the preferred rate of P2.00 to \$1.00; and

(2) Ordering defendant Central Bank to pay plaintiffs the amounts opposite their names, to wit:

(a) Artex Development Company. P3,795,839.11

(b) Atlas Textile Development Co. P1,000,995.71

(c) Central Manufacturing Corp. P3,947,161.59

(d) Eastern Textile Mills P6,279,071.93

(e) Pacific Knitting Mills. P 831,880.75

as well as interest on the said amounts, at the legal rate from December 21, 1970 until said amounts are paid, and to pay the costs.

"SO ORDERED." (Record on Appeal, pp. 625-626) (pp. 95-96, Rollo)

On January 5, 1979, petitioner filed a Notice of Appeal. Also, on the same date, private respondents filed a motion for reconsideration of the decision, insofar as it ordered petitioner to pay private respondents, interests on the amounts at the legal rate, from December 21, 1970 only until said amounts are paid, which was denied by the trial court for lack of merit.

Upon denial of their motion for reconsideration, private respondents likewise interposed an appeal to the Court of Appeals (pp. 640-642, Record on Appeal).

On October 19, 1984, the Court of Appeals rendered judgment, the decretal portion of which reads:

"WHEREFORE, modified in the sense that the payment of interests on the amounts which the defendant is ordered to respectively pay the plaintiffs should commence from January 2, 1964, the date of the filing of the original complaint (p. 1, RA), the decision appealed from is hereby affirmed in all other respects, it being in full accord with the evidence and the law, without costs." (p. 58, Rollo)

The sole issue in this case is whether or not petitioner made an enforceable promise or assurance to sell foreign exchange to private respondents at the preferred rate of P2.00 to US \$1.00 to service the deferred payment of private respondents' imported machinery and equipment.

The instant petition is devoid of merit.

Under the doctrine of promissory estoppel:

"x x x an estoppel may arise from the making of a promise, even though without consideration, if it was intended that the promise should be relied upon and in fact it was relied upon, and if a refusal to enforce it would be virtually to sanction the perpetration of fraud or would result in other injustice. In this respect, the reliance by the promisee is generally evidenced by action or forbearance on his part, and the idea has been expressed that such action or forbearance would reasonably have been expected by the promisor. Mere omission by the promisee to do whatever the promisor promised to do has been held insufficient 'forbearance' to give rise to a promissory estoppel." (19 Am. Jur., loc. cit.)." (Emerito Ramos v. Central Bank of the

Philippines, G.R. No. L-29352, October 4, 1971; 41 SCRA 565 at p. 588, also *Go Ong v. Court of Appeals*, G.R. No. 75884, September 24, 1987; 154 SCRA 270).

"x x x.

"x x x after the Central Bank has made express commitments to petitioners therein that it would support the Overseas Bank of Manila, and avoid its liquidation if the petitioners would execute (a) the Voting Trust Agreement turning over the management of OBM to the CB or its nominees, and (b) mortgage or assign their properties to the Central Bank to cover the overdraft balance of OBM, which petitioners did, the Central Bank may not retreat from its representations and liquidate the Overseas Bank of Manila, to the prejudice of petitioners, depositors and other creditors, under the rule of 'promissory estoppel.' The Central Bank cannot just unilaterally disregard its representations and promises to rehabilitate and normalize the financial condition of the OBM without violating Article 1159 of the Civil Code of the Philippines, which provides that '(o)bligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith,' as well as Article 1315, stating that '(c)ontracts are perfected by mere consent, and from that moment the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.' In other words, by making the foregoing representations and commitments to the OBM, the Central Bank had thereby assumed a contractual obligation in favor of the OBM such that it cannot unceremoniously ignore the same." (See *Gonzalo Sy Trading v. Central Bank*, G.R. No. 41480, April 30, 1976, 70 SCRA 570, at p. 585)

In the present case, the trial court summed up certain antecedents to justify the application of the doctrine of promissory estoppel as adopted in the Ramos case:

"The records show that pursuant to a policy established by the Monetary Board as early as 1954-1955 in order to 'maximize benefits x x x in terms of intensified investment, full employment opportunities and incentives to development of local reserves,' plaintiffs were required to integrate their textile mills. In line with this directive, plaintiffs filed applications for authority to purchase needed foreign exchange to cover importation of the requisite capital machinery. Acting on plaintiffs' applications, defendant Central Bank directed plaintiffs:

(a) to submit cost estimates of their respective textile mill integration projects, with defendant Central Bank making it understood that, under prevailing policy, authorization of capital machinery importation by plaintiffs was to be conditioned on approval of the foreign currency costs of the project, as well as the schedules of corresponding peso payments; and

(b) to contract for the importation of the needed capital machinery only on a deferred payment basis.

Plaintiffs complied with defendant Central Bank's directives. They submitted the required cost estimates for the integration of their textile mills based on the rate of exchange of P2.00 to US \$1.00. They likewise submitted the schedules of the counterpart peso payments on deferred payment terms. Defendant Central Bank approved both.

Then came Central Bank Circulars issued purportedly in implementation of Republic Act No. 2609, to wit, Circular No. 105, dated April 26, 1960, Circular No. 117, dated November 29, 1960, Circular No. 121 dated March 2, 1961 and Circular No. 133, dated January 21, 1962. As may be noted from a reading of these circulars:

(a) C.B. Circular No. 105 specifically exempted from the decontrol rate 'existing contractual obligations previously approved by the Monetary Board; accordingly, these existing and previously approved contractual obligations continued to enjoy the preferred P2.00 to US \$1.00 rate.

(b) C.B. Circular No. 106, while no longer retaining the aforementioned exemption found in C.B. Circular No.

105, still allowed the preferred P2.00 to US \$1.00 rate for special financing items previously approved by the Monetary Board.

(c) C.B. Circular No. 121 eliminated 'special financing items previously approved by the Monetary Board' from P2.00 to US \$1.00 preferred rate coverage, and in lieu thereof, added 'forward exchange contracts with Monetary Board Approval.'

(d) C.B. Circular No. 133 provided inter alia that the 'free market rate shall not be administratively fixed but shall be determined through transactions in the free market.'

The record further show[n] that to clarify the free market system established by C.B. No. 133, defendant Central Bank, on March 9, 1962, issued its 'memorandum to Authorized Agent Banks No. 7' definitely specifying who are allowed to purchase dollars from Authorized Agent Banks at the preferred exchange rate of exchange of P2.00 to U.S. \$1.00. Paragraph 4 of said Memorandum provided that:

'4. Outstanding letters of credit and/or obligations without forward exchange contracts but which were established pursuant to specific Monetary Board approval or letter- authority, as those obligations covered by dollar promissory notes executed by the commercial banks in favor of the Central Bank, with a ceiling conversion rate of P3.20 to \$1.00 may be serviced, at the option of the importer, either at such stipulated rate, subject to the payment of the margin fee, whenever applicable, or at the prevailing free market under Central Bank Circular No. 133.'

Prior to C.B. Circular No. 117, and even after C.B. Circular No. 105, plaintiffs paid the amortizations on the obligations incurred for the purchase of their textile mill integration machinery in the stipulated foreign currency which defendant Central Bank authorized them to purchase at the P2.00 to U.S. \$1.00 preferred rate. Thenceforth, the preferred rate was denied to plaintiffs.

Under the foregoing facts, the Court is of the view and so holds that plaintiffs, under the doctrine of 'promissory estoppel' adopted in this jurisdiction in the Overseas Bank of Manila and/or by virtue of their having hitherto complied with the directives of defendant Central Bank, had previously acquired rights which remained subsisting at the time of the issuance of the aforesaid CB Circulars. (Record on Appeal, pp. 591-595)." (pp. 98-100, Rollo; emphasis ours)

Witness Benigno Zialcita, Senior Executive of Artex Development Co., Inc. provides a resume of the resultant injustice to private respondents:

"If we had known at the time that we would have to pay a higher rate than we do for the machinery which we (sic) required to integrate, we definitely would not have gone to the integration program; at least we would not have acquired the machinery on a deferred payment plan because we will be subjected to great financial risk. At least what we would have done was to acquire only a portion of the machinery that we could afford to pay at that time without necessary exchange risk and not on the long-term obligation. x x x In one of the circulars in the Central Bank issued during the period of gradual decontrol, there was specifically stated that no acceleration of payment will be allowed. Even if we had the money, we could not pay in full the obligation. (pp. 25-26, tsn., May 15, 1967)." (p. 106, Rollo; p. 597, Record on Appeal)

Petitioner sought to extricate itself from any commitment and/or obligation to service private respondents' foreign exchange allocation for the importation of their textile machineries, equipment, accessories and spare parts at the preferred rate of P2.00 to U.S. \$1.00, claiming that there was no perfected contract between the parties since what it did merely was to issue in pursuance of its rule-making power the resolutions relied upon. It invoked the case of *Batchelder v. Central Bank* (G.R. No. L-25071, March 29, 1972; 44 SCRA 54) the facts of which are as follows:

"In July, 1959, the Republic of the Philippines adopted a gradual decontrol program through the enactment of Republic Act No. 2609. To implement this legislation Central Bank issued Circulars Nos. 105 and 106 both

dated April 25, 1960. The exchange rate under the decontrol program was higher than the prevailing rate before decontrol of P2.00 per US \$1.00. On March 30, 1960, Batchelder entered into a contract with the United States Navy for the construction of a weather station in Bukidnon, Mindanao covered by U.S. Navy Contract No. NBy-13374. On June 17, 1960, the Central Bank through its governing Monetary Board promulgated Resolution No. 857 and implemented this resolution through its Memorandum to Authorized Agent Banks, I.D.-FM No. 11 dated June 23, 1960. Under Resolution No. 857 and the implementing circular aforesaid, Filipino and American resident contractors for constructions in U.S. military bases in the Philippines whose contracts antedated April 25, 1960 were required to surrender to the Central Bank their dollar earnings under their respective contracts but were entitled to utilize 90% of their surrendered dollars for importation at the preferred rate of commodities for use within or outside said U.S. military bases. The Central Bank pursuant to the decontrol program also promulgated Circulars Nos. 111, 117 and 121, dated September 12, 1960; November 28, 1960; and March 2, 1961, respectively, and finally adopted full decontrol through its Circular No. 133 dated January 21, 1962. The Central Bank also promulgated Monetary Board Resolution No. 695 dated April 28, 1961 amending MB Resolution No. 857 of June 23, 1960, and implementing the former through Memorandum ID-FM No. 30 on May 18, 1961.

"Thereafter, Batchelder applied with the Central Bank for a license to utilize 90% of his surrendered earnings in the sum of U.S. \$179,969.40 but was allowed the amount of U.S. \$25,874.84 only, or 21.41% of the amount applied for. Batchelder sued to be allowed to utilize the balance of the 90% of his surrendered dollar earnings."

We ruled that the Monetary Board Resolutions merely laid down a general policy on the utilization of the dollar earnings of Filipino and resident American contractors undertaking projects in U.S. military bases. They "are not contracts that give rise to obligations which must be fulfilled by the Central Bank in favor of affected parties."

Moreover, it is clear that "not all imports against proceeds of contracts entered into prior to April 25, 1960 are entitled to the preferred buying rate of exchange. Only imports against proceeds of contracts entered into prior to April 25, 1960, not otherwise classified as dollar-to-dollar transactions, are entitled to the preferred rate of exchange, in which case CB would issue the corresponding license to the contractor for authority to buy foreign exchange at the preferred rate for the payment of said imports.

Unlike the Batchelder case, however, private respondents were required to integrate and thereafter authorized to import capital machinery only upon CB approval of the foreign currency costs of the project, as well as the corresponding peso payments, aside from being directed to undertake importation only on a deferred payment basis. In short, private respondents merely complied with rules and regulations of the CB, as participants of the textile mills integration program. As a result, they should not now be deprived of rights acquired by reason thereof.

Admittedly, petitioner is duly committed to maintain the stability of the country's foreign exchange reserve position. Underlying this commitment, however, is the government's strict and faithful adherence to basic principles of fairness and decency under the Bill of Rights. Hence, CB circulars/memoranda must be implemented in a manner that would not only safeguard or harmonize them with government programs designed to uplift or promote the country's level of production and employment, but at the same time avoid irreparable or grave prejudice to participants of said program.

We, therefore, rule that since private respondents faithfully complied with petitioner's directives as participants of the textile mills integration program, petitioner is now estopped from enforcing the disputed circulars that would deny private respondents their right to purchase foreign exchange at the preferred rate of P2.00 to US \$1.00.

ACCORDINGLY, the petition is hereby DENIED, and the decision of the Court of Appeals is hereby AFFIRMED in toto, without costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, and Griño-Aquino, JJ., concur.
Cruz, J., on leave.

[1] Presiding Judge, Ricardo J. Francisco, CFI, Br. 6, 7th Judicial Branch, Pasig, Rizal.

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