

PHILIPPINE VETERANS BANK, PETITIONER, VS. INTERMEDIATE APPELLATE COURT (NOW COURT OF APPEALS), HON. ANGEL DAQUIGAN, DEPUTY SHERIFF OSCAR GUASCH AND EMILIANA DOBLON, RESPONDENTS.

G.R. No. 73162. October 23, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari filed by the Philippine Veterans Bank seeking the reversal of the decision of the respondent Intermediate Appellate Court (now Court of Appeals) dated November 6, 1985, dismissing for lack of merit the special civil action for certiorari docketed as A.C.-G.R. S.P. No. 06558, entitled "Philippine Veterans Bank v. Hon. Angel Daquigan, as Judge of the Regional Trial Court of Manila, et al.", and its resolution dated December 5, 1985 denying petitioner's motion for reconsideration.

The antecedent facts in the instant case are as follows:

On March 29, 1984, private respondent Emiliana C. Doblón filed an action against petitioner Philippine Veterans Bank for reformation of instrument and damages with prayer for a writ of preliminary injunction. The complaint was docketed as Civil Case No. 84-23585 with the Regional Trial Court, National Capital Region, Branch 13, Manila.

After petitioner bank had filed its answer, the court, on September 20, 1984, rendered a summary judgment, the dispositive portion of which states, inter alia:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant:

x x x.

b) condemning the defendant to pay the plaintiff the amount of P221,000.00, with legal interest, representing actual damages suffered by the plaintiff on account of the forfeiture of the same amount by Majait Construction which plaintiff paid to the latter as evidenced by Exhibit 'N', 'N-1', 'N-2' and 'N-3';

c) directing the defendant to pay the plaintiff the amount of P2,500.00 a day equivalent to twenty-five (25%) per cent of P10,000.00 representing loss of income or profit to the plaintiff starting April 1, 1984, up to the time the latter shall have been physically placed or restored to the peaceful and adequate enjoyment and possession of the unfinished market building complex included in the lease;

x x x.

"SO ORDERED" (pp. 83-84, Rollo).

The petitioner bank moved to reconsider the decision of the lower court. On December 28, 1984, the respondent judge denied the said motion for reconsideration.

On January 24, 1985, petitioner filed its notice of appeal with the respondent court. The latter denied the petitioner's appeal on February 20, 1985 and ordered the issuance of the writ of execution for the enforcement of the summary judgment.

On February 26, 1985, the petitioner filed with the then Intermediate Appellate Court (IAC), now Court of Appeals (CA), a petition for certiorari, prohibition and mandamus (A.C.-G.R. 05529) to set aside the orders of respondent trial judge.

On March 26, 1985, the appellate court dismissed the petition for lack of merit. The case was thereafter elevated to this court thru a petition for review (G.R. 70482), which We denied in a resolution dated May 8, 1985.

Meanwhile, the Monetary Board of the Central Bank issued M.B. Resolution No. 364 dated April 25, 1985, thereby placing Philippine Veterans Bank under receivership pursuant to Section 29 of R.A. No. 265, as amended, otherwise known as The Central Bank Act (See pp. 139 and 264, Rollo).

On May 15, 1985, private respondent Emiliana Doblón filed an ex-parte motion for alias writ of execution which was opposed by the petitioner bank on the ground that the latter is under receivership and that all claims against it cannot be enforced until after liquidation. On the same date, the respondent judge granted the said motion for the writ of execution.

On June 7, 1985, the Monetary Board of the Central Bank issued a report on the receivership of Philippine Veterans Bank as of May 31, 1985, and confirmed that the latter can no longer resume business with safety to its depositors, creditors and the general public. It also ordered the liquidation of PVB pursuant to Section 29 of R.A. No. 265, as amended, in accordance with the liquidation plan and rules and regulations approved under Resolution No. 364 dated April 25, 1985.

On July 8 and 9, 1985, the deputy Sheriff proceeded to conduct the sales at public auction of the real properties of petitioner PVB pursuant to the order of alias writ of execution issued by the respondent judge on May 15, 1985. Corresponding certificates of sale were issued to the highest bidders at said auction sales.

On July 10, 1985, petitioner PVB filed with the Intermediate Appellate Court a petition for prohibition, mandamus and certiorari (AC-G.R. SP No. 06558) to nullify and set aside the sales at public auction of petitioner's properties conducted by respondent deputy sheriff on July 8 and 9, 1985 and to enjoin the respondent judge from taking cognizance of or taking any future action in Civil Case No. 84-23585.

In the meantime, the Central Bank filed with the Regional Trial Court of Manila, a petition for assistance in the liquidation of the Philippine Veterans Bank. On September 4, 1986, private respondent Emiliana Doblón filed a motion for payment or satisfaction of deficiency judgment. Acting on the motion, the liquidation court ordered Doblón to submit her claim with the committee on claims.

On September 6, 1985, the trial court approved and granted the petition of the Central Bank for assistance in the liquidation of petitioner and ordered all claimants on September 17, 1985 to file their claims with the Liquidator Antonio Castro of the Supervision and Examination Sector of the Central Bank.

On November 6, 1985, the respondent Intermediate Appellate Court in AC-G.R. SP No. 06558 rendered a decision, the dispositive portion of which provides:

"WHEREFORE, the petition is DISMISSED for lack of merit. The restraining order previously issued is lifted, dissolved and set aside. Quadruple costs against petitioner.

"SO ORDERED" (p. 157, Rollo).

The petitioner filed a motion for reconsideration of the aforementioned decision. On December 5, 1985, the respondent appellate court denied the said motion.

Hence, the present petition was filed on January 28, 1986, to review and reverse the decisions of the respondent appellate court in not setting aside the public sales of petitioner's properties conducted by respondent sheriff on July 8 and 9, 1985.

The main issue in this case is whether or not the judgment of the Regional Trial Court of Manila in Civil Case No. 84-23585 which awarded damages to private respondent Emiliana Doblon, can be legally enforced against petitioner by execution, after petitioner has been placed under liquidation by the Monetary Board of the Central Bank.

Petitioner contends that the final judgment in Civil Case No. 84-23585 must be satisfied in the liquidation proceedings considering that the assets of petitioners are already in custodia legis of the liquidator, and that the sales at public auction conducted by the respondent sheriff to enforce the writ of execution issued by respondent judge are illegal and void.

The respondent appellate court, in its decision, stated, inter alia:

"A review of the facts of this case reveals that the judgment rendered has long become final and executory. This fact was confirmed by this Court in AC-G.R. SP No. 05529 (Annex "E", Petition) and even by the High Court in G.R. No. 70482 (Annex "G", Petition). It is so elementary that once a judgment has become final and executory, it is a mandatory and ministerial duty of a court to issue the writ of execution to enforce the judgment (Far Eastern Insurance Company vs. De Fernandez, L-30359, October 8, 1978, Sec. 1, Rule 39, Revised Rules of Court). The trial court was therefore correct in granting the motion for an alias writ of execution.

"Finally, it could not escape the attention of this Court that all the motions filed by the private respondent and the opposition and counter motions of the petitioner have been duly acted upon by the respondent court. This is evidently clear in the order issued by the court on July 3, 1985 (See recitations of facts). Petitioner has no basis again in claiming that no motion was ever acted upon by the respondent court.

"In the main, this court finds this petition to be sham and frivolous and was instituted merely for the purpose of delaying a just and valid execution of a judgment. As was found by this court in AC-G.R. SP. No. 05529, petitioner's counsels were grossly negligent and appear afflicted in the present petition with the virus of bad faith and deserve the condemnation of this court. (p. 157, Rollo)

The instant petition is impressed with merit.

The rule that once a decision has become final and executory, it is the ministerial duty of the court to order its execution, admits of certain exceptions as in cases of special and exceptional nature where it becomes imperative in the higher interest of justice to direct the suspension of its execution; or whenever it is necessary to accomplish the aims of justice; or when certain facts and circumstances transpired after the judgment became final which would render the execution of the judgment unjust (Lipana v. Development Bank of Rizal, No. L-73884, September 24, 1987, 154 SCRA 257; emphasis ours).

In the instant case, there is no doubt that the decision of the trial court in Civil Case No. 84-23585 has become final and executory, which fact was affirmed by the Intermediate Appellate Court on March 26, 1985, and by this Court on May 8, 1985. It is significant to note, however, that respondent judge issued on May 15, 1985, a writ of execution to enforce the judgment against petitioner, after the petitioner Philippine Veterans Bank has already been placed under receivership by the Monetary Board of the Central Bank by virtue of Resolution No. 364 on April 25, 1985, pursuant to Section 29 of the Central Bank Act on insolvency of banks. The fact that petitioner

was placed under receivership is a supervening event that renders a judgment, notwithstanding its finality, unenforceable by attachment or execution.

Section 29 of Republic Act No. 265 otherwise known as the Central Bank Act, as amended by Executive Order No. 289 on July 25, 1987 provides for the proceedings upon insolvency of banks, as follows:

"Section 29. Proceedings upon Insolvency - Whenever, upon examination by the head of the appropriate supervising or examining department or his examiners or agents into the condition of any bank or non-bank financial intermediary performing quasi-banking functions, 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 department head concerned forthwith, in writing, to inform the Monetary Board of the facts. The Board may, upon finding the statements of the department head to be true, forbid the institution to do business in the Philippines and designate an official of the Central Bank or a person of recognized competence in banking or finance, as receiver to immediately take charge of its assets and liabilities, as expeditiously as possible, collect and gather all the assets and administer the same for the benefit of its creditors, and represent the bank personally or through counsel as he may retain in all actions or proceedings for or against the institution, exercising all the powers necessary for these purposes including, but not limited to, bringing and foreclosing mortgages in the name of the bank or non-bank financial intermediary performing quasi-banking functions.

"The Monetary Board shall thereupon determine within sixty 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 depositors and creditors and the general public and shall prescribe the conditions under which such resumption of business shall take place as well as the time for fulfillment of such conditions. In such case, the expenses and fees in the collection and administration of the assets of the institution shall be determined by the Board and shall be paid to the Central Bank out of the assets of such institution.

"If the Monetary Board shall determine and confirm within the said period that the bank or non-bank financial intermediary performing quasi-banking functions is insolvent or cannot resume business with safety to its depositors, creditors, and the general public, it shall, if the public interest requires, order its liquidation, indicate the manner of its liquidation and approved a liquidation plan which may, when warranted, involve disposition of any or all assets in consideration for the assumption of equivalent liabilities. The liquidator designated as hereunder provided shall, by the Solicitor General file a petition in the regional trial court reciting the proceedings which have been taken and praying the assistance of the court in the liquidation of such institution. The court shall have jurisdiction in the same proceedings to assist in the adjudication of the disputed claims against the bank or non-bank financial intermediary performing quasi-banking functions and in the enforcement of individual liabilities of the stockholders, and do all that is necessary to preserve the assets of such institution and to implement the liquidation plan approved by the Monetary Board. The Monetary Board shall designate an official of the Central Bank, or a person of recognized competence in banking or finance, as liquidator who shall take over and continue the functions of the receiver previously appointed by the Monetary Board under this Section. The liquidator shall with all convenient speed, convert the assets of the banking institution or non-bank financial intermediary performing quasi-banking functions to money or sell, assign, or otherwise dispose of the same to creditors and other parties for the purpose of paying the debts of such institutions and he may, in the name of the bank or non-bank financial intermediary performing quasi-banking functions and with the assistance of counsel as he may retain, institute such actions as may be necessary in the appropriate court to collect and recover accounts and assets of such institution or defend any action filed against the institutions: Provided, However, That after having reasonably established all claims against the institution, the liquidator may, with the approval of the court, effect partial payments of such claims from assets of the institution in accordance with their legal priority." (Emphasis ours)

The aforequoted section 29 of the Central Bank's charter explicitly provides that when a bank is found to be

insolvent, the Monetary Board shall forbid it to do business and shall take charge of all its assets. The Board in its Resolution No. 364 banned the bank from pursuing its business and placed it under a receiver. Furthermore, the Board, ordered the liquidation of the bank's properties on June 7, 1985 upon confirming that it can no longer do business with safety to its depositors, creditors and general public. This has the effect of placing the bank's properties under the custody and jurisdiction of the Monetary Board, thereby removing it from the jurisdiction and authority of the trial court to enforce its judgment. Evidently, the sale at public auction of the properties of petitioner conducted by respondent sheriff on July 8 and 9, 1985, while it is in the process of liquidation, is not authorized under the law.

This rule is based on the other pertinent provisions of Section 29 of the Central Bank Act, as amended by E.O. 289:

"Sec. 29. x x x.

x x x.

The assets of an institution under receivership or liquidation shall be deemed in custodia legis in the hands of the receiver or liquidator and shall, from the moment of such receivership or liquidation be exempt from any order of garnishment, levy, attachment, or execution." (Emphasis ours)

Well-established is the doctrine enunciated in the case of *Central Bank v. Morfo* No. L-38427, March 12, 1975, 63 SCRA 114, that the stay of an execution of judgment is justified and warranted by the fact that respondent bank was placed under receivership. To execute the judgment would unduly deplete the assets of respondent bank to the obvious prejudice of other creditors. 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 depositors and creditors. After its insolvency, one creditor cannot obtain an advantage or preference over another by an attachment, execution or otherwise.

In the later case of *Spouses Lipana v. Development Bank of Rizal*, (supra) this Court likewise upheld the stay of the execution of a final judgment against a bank after it was placed on receivership. It brushed aside the contention that the placing under receivership of respondent bank long after the filing of the complaint removed it from the doctrine in the said *Morfe* case. We held that:

"This contention is untenable. The time of the filing of the complaint is immaterial. It is the execution that will obviously prejudice the other depositors and creditors. Moreover, as stated in the said *Morfe* case, the effect of the judgment is only to fix the amount of the debt, and not give priority over other depositors and creditors." (*Lipana v. DBP*, 154 SCRA 262; emphasis ours)

ACCORDINGLY, the petition is hereby GRANTED and the decision of the respondent Intermediate Appellate Court (now Court of Appeals) dated November 6, 1985 and December 5, 1985 are REVERSED and SET ASIDE; and the sales at public auction of the real properties belonging to the petitioner conducted by the respondent deputy sheriff on July 8 and 9, 1985 are hereby declared null and void. The private respondent Emiliana Doblón is ordered to file her judgment claim in the liquidation proceedings in the lower court.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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