



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

HERMOSA SAVINGS AND
 LOAN BANK, INC. represented
 by its Statutory Liquidator, the
 PHILIPPINE DEPOSIT
 INSURANCE CORPORATION
 (PDIC),

Petitioner,

- versus -

DEVELOPMENT BANK OF
 THE PHILIPPINES (DBP),

Respondent.

G.R. No. 222972

Present:

LEONEN, J., *Chairperson,*
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 LOPEZ, J., *JJ.*

Promulgated:

February 10, 2021

Misdebat

X-----X

DECISION

INTING, J.:

Before the Court is a Petition¹ for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision² dated February 26, 2015 and the Resolution³ dated February 15, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 98170. The CA reversed and set aside the Orders dated April 30, 2010⁴ of Branch 136 and October 18, 2011⁵ of Branch 57, both of the Regional Trial Court (RTC), Makati City in Civil Case No. 01-1438 dismissing the complaint for sum of money and damages (complaint) filed by the Development Bank of the Philippines (DBP) against Hermosa Savings and Loan Bank, Inc. (Hermosa Bank).

¹ *Rollo*, pp. 11-36.

² *Id.* at 38-48; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Manuel M. Barrios and Maria Elisa Sempio Diy, concurring.

³ *Id.* at 49-50.

⁴ *Id.* at 220-223; penned by Presiding Judge Rico Sebastian D. Liwanag.

⁵ *Id.* at 225-227; penned by Presiding Judge Honorio E. Guanlao, Jr.

The Antecedents

The facts are stated in the Decision of the CA.

DBP obtained a loan from the National Economic Development Authority (NEDA) through the Industrial Guarantee and Loan Fund (IGLF). DBP made the IGLF proceeds available to participating financial institutions by way of subsidiary loans. Hermosa Bank applied for and was accredited by DBP as a participating financial institution. Hermosa Bank, through its President and General Manager Benjamin Cruz (Benjamin), executed Subsidiary Loan Agreements in favor of DBP. Thereafter, Hermosa Bank, on various dates, applied for IGLF loans for relending to several sub-borrowers or investment enterprises, submitting to the DBP the IGLF loan applications together with supporting documents. DBP subsequently approved Hermosa Bank's loans and released the proceeds of each loan to the bank. In turn, Hermosa Bank issued and submitted to DBP the corresponding certificates of time deposit/promissory notes, deeds of undertaking, and other loan documents.⁶

On September 25, 2001, DBP filed a complaint against Hermosa Bank and its officers, namely: Benjamin, Ligaya Cruz, Rodolfo Buenaventura, Librada Dio, Nilda Fajardo, and Lelaine Fernandez (Bank Officers). The case was raffled to Branch 136, RTC, Makati City (RTC Branch 136) and docketed as Civil Case No. 01-1438. In the complaint, DBP alleged that Hermosa Bank failed to remit the amortizations due on its IGLF loans despite demand; and that its subsidiary loan was declared in default.⁷

Meanwhile, the Bangko Sentral ng Pilipinas (BSP) examined the account of Hermosa Bank. The BSP then sent a letter to DBP stating that a regular examination of Hermosa Bank's loan portfolio aroused suspicions of tampering and alterations of various loan documents and certificates of title evidencing ownership of the collaterals.⁸

DBP conducted its own verification of the loan portfolio. DBP discovered and alleged that: there were several fraudulent, deceitful, and unlawful acts in the preparation and execution of the loans and their

⁶ *Id.* at 38-39.

⁷ *Id.* at 39.

⁸ *Id.*

collateral documents. Hermosa Bank, through the indispensable cooperation of its directors, officers, and employees had submitted fictitious and falsified documents relative to the IGLF loans with the intent to defraud DBP. The fraudulent acts constituted sufficient grounds for the issuance of a writ of preliminary attachment in its favor. As of June 30, 2001, Hermosa Bank's aggregate availment of the IGLF loan facility amounted to ₱438,235,392.60. Thus, DBP prayed for the issuance *ex parte* of a writ of preliminary attachment against the properties of all the defendants named in the complaint and a judgment ordering them, jointly and severally, to pay the amount of ₱438,235,392.60, exemplary damages, attorney's fees, and costs of the proceedings.⁹

On November 13, 2001, RTC Branch 136 issued a Writ of Preliminary Attachment upon DBP's posting of a bond. A notice of garnishment was subsequently served. In an Order dated October 14, 2003, RTC Branch 136 lifted and discharged the Writ of Preliminary Attachment upon the instance of Hermosa Bank. However, pursuant to the Decision¹⁰ of the CA in CA-GR SP No. 84762, RTC Branch 136 reinstated the Writ of Preliminary Attachment.¹¹

On February 5, 2005, the Monetary Board of the BSP closed Hermosa Bank and placed it under receivership with the Philippine Deposit Insurance Corporation (PDIC) as the appointed receiver.¹²

On June 7, 2005, PDIC filed a petition for assistance in the liquidation of Hermosa Bank (Petition) which was raffled to Branch 5, RTC, Dinalupihan, Bataan (Liquidation Court) docketed as SP No. DH-025-05. The counsel for Hermosa Bank withdrew his appearance and was substituted by the Office of the General Counsel of the PDIC. The Bank Officers then filed a motion to dismiss the complaint before the RTC Branch 136 on the ground that the case should be filed before the Liquidation Court.¹³ Hermosa Bank, likewise, filed a motion to dismiss alleging that RTC Branch 136 has no jurisdiction over the case pursuant to Section 30 of Republic Act No. (RA) 7653.¹⁴

⁹ *Id.* at 39-40.

¹⁰ *Id.* at 208-217; penned by Associate Justice Ramon M. Bato, Jr. with Associate Justices Andres B. Reyes, Jr. (now a retired member of the Court) and Jose C. Mendoza, concurring.

¹¹ *Id.* at 40.

¹² *Id.*

¹³ *Id.*

¹⁴ The New Central Bank Act, approved on June 14, 1993.

The Rulings of the RTC

The RTC Branch 136 initially dismissed the Complaint in its Order¹⁵ dated October 6, 2008, but reinstated it in an Order dated March 18, 2009 upon DBP's motion for reconsideration. Both Hermosa Bank and the Bank Officers filed their respective motions for reconsideration of the Order dated March 18, 2009.¹⁶

In an Order¹⁷ dated April 30, 2010, RTC Branch 136 again dismissed the Complaint for lack of jurisdiction. It ruled that the Liquidation Court has the exclusive jurisdiction over all claims against Hermosa Bank.

DBP filed a motion for reconsideration.

Meanwhile, RTC Branch 136 was designated as a Family Court and could no longer continue with the proceedings. Hence, the case was re-raffled to Branch 57, RTC (RTC Branch 57), Makati City.

In its Order¹⁸ dated October 18, 2011, RTC Branch 57 denied DBP's motion for reconsideration. RTC Branch 57 ruled that all the assets of Hermosa Bank are deemed to be in *custodia legis* in the hands of its receiver, the PDIC. As such, all claims against Hermosa Bank should be exclusively lodged with the Liquidation Court to avoid multiplicity of suits.

DBP filed an appeal before the CA against the Order dated April 30, 2010 of RTC Branch 136 and Order dated October 18, 2011 of RTC Branch 57.

The Ruling of the CA

In the assailed Decision¹⁹ dated February 26, 2015, the CA reversed and set aside the Order dated April 30, 2010 of RTC Branch

¹⁵ *Rollo*, pp. 266-267.

¹⁶ *Id.* at 41.

¹⁷ *Id.* at 220-223.

¹⁸ *Id.* at 225-227.

¹⁹ *Id.* at 38-48.

136 and Order dated October 18, 2011 of RTC Branch 57.²⁰

The CA ruled that jurisdiction, once acquired, is not lost upon the instance of the parties; thus, it continues until the case is terminated; that while Hermosa Bank was placed under receivership by the Monetary Board of the BSP on February 5, 2005, the case filed by DBP has been pending with the RTC Branch 136 since September 25, 2001.²¹

The CA further ruled that DBP's complaint is not among the claims that could properly be resolved by the Liquidation Court. It held that the case was filed not only against Hermosa Bank, but also against the Bank Officers who were impleaded in their personal capacities for their alleged bad faith and gross negligence in the performance of their duties and for their connivance with each other in perpetrating the fraudulent acts and deceitful schemes against the DBP; and that there should be a definitive ruling on the liabilities of the Bank Officers.²²

The CA likewise held that the Writ of Preliminary Attachment should be reinstated because its dissolution was premised on the dismissal of DBP's complaint.²³

The dispositive portion of the CA Decision dated February 26, 2015 reads:

WHEREFORE, the appeal is *GRANTED*. The Orders dated April 30, 2010 and October 18, 2011 issued by the Regional Trial Court of Makati City, Branch 136 and Branch 57, respectively, in Civil Case No. 01-1438, are hereby *REVERSED* and *SET ASIDE*. The DBP's Complaint for Sum of Money and Damages against Hermosa Bank and defendants-appellees is hereby *REINSTATED*. The Writ of Attachment dated November 13, 2001 is likewise *REINSTATED*. The Regional Trial Court [Branch 57, Makati City] is ordered to proceed and resolve the case with dispatch.

SO ORDERED.²⁴

Hermosa Bank and the Bank Officers filed their respective

²⁰ *Id.* at 47.

²¹ *Id.* at 43.

²² *Id.* at 44-45.

²³ *Id.* at 46.

²⁴ *Id.* at 47.

motions for reconsideration. In its assailed Resolution²⁵ dated February 15, 2016, the CA denied the motions for lack of merit.

Hence, the petition before the Court.

The Issue

Whether RTC Branch 136 and RTC Branch 57 retained jurisdiction over the complaint despite the pendency of the petition for assistance in the liquidation of Hermosa Bank before the Liquidation Court.

The Ruling of the Court

The petition has merit.

The CA ruled that the complaint filed by DBP against Hermosa Bank and the Bank Officers had been pending with the RTC long before Hermosa Bank was placed under liquidation. Thus, the CA held that RTC Branch 136 and later, RTC Branch 57, retained jurisdiction of the case on the ground that jurisdiction, once acquired, is not lost but continues until the termination of the case.

The Court rules otherwise.

The Court held in *Barrameda v. Rural Bank of Canaman, Inc.*²⁶ that the rule on adherence of jurisdiction is not absolute.²⁷ One of the exceptions to the rule is when the change in jurisdiction is curative in character.²⁸ According to the Court, Section 30²⁹ of RA 7653 “is curative

²⁵ *Id.* at 49-50.

²⁶ 650 Phil. 476 (2010).

²⁷ *Id.* at 486.

²⁸ *Id.*, citing *Garcia v. Judge Martinez*, 179 Phil. 263, 265 (1979); *Calderon, Sr. v. Court of Appeals*, 188 Phil. 489, 496 (1980); *Atlas Fertilizer Corp. v. Judge Navarro*, 233 Phil. 446, 453 (1987); *Abad v. Judge Nitafan, RTC, Manila, Br. LII*, 238 Phil. 650, 657 (1987).

²⁹ Section 30 of Republic Act No. 7653 provides:

SECTION 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 to 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;

in character when it declared that the liquidation court shall have jurisdiction in the same proceedings to assist in the adjudication of the disputed claims against the Bank."³⁰ The Court explained that the *rationale* for consolidating all claims against the bank with the liquidation court is "to prevent multiplicity of actions against the insolvent bank and x x x to establish due process and orderliness in the liquidation of the bank, to obviate the proliferation of litigations and to avoid injustice and arbitrariness."³¹ The Court stated that it was the intention of the lawmaking body "that for convenience only one court, if

- (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 willfully 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 designed 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 so 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.

possible, should pass upon the claims against the insolvent bank and that the liquidation court should assist the Superintendent of Banks and regulate his operations."³²

It is of no moment that the complaint was filed by DBP before the Hermosa Bank was placed under receivership. The Court had ruled that the time of the filing of the complaint is immaterial as it is the execution that will obviously prejudice the bank's other depositors and creditors.³³ To allow the complaint of DBP to proceed outside the Liquidation Court could result to iniquity not only to Hermosa Bank's depositors who were the most directly affected by its closure, but also to its other creditors because it would prioritize DBP's claim over their claims.

The CA also committed a reversible error in ruling that the Liquidation Court has no jurisdiction over the bank employees who are being sued in their personal capacities. Section 30 of RA 7653 gives the liquidation court the authority to "*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.*" Hence, the Liquidation Court may resolve the respective liabilities, if any, of Hermosa Bank's officers pursuant to Section 30 of RA 7653.

Finally, the Writ of Preliminary Attachment issued by the RTC Branch 136 is a provisional or ancillary remedy resorted to by a litigant to protect and preserve certain rights and interests pending final judgment.³⁴ With the dismissal of DBP's complaint, the Writ of Preliminary Attachment no longer has a leg to stand on and should correctly be dissolved.

The actions of the Monetary Board taken under this section or under Section 29 of this Act shall be final and executory, and may not be restrained or set aside by the court except on petition for *certiorari* on the ground that the action taken was in excess of jurisdiction or with such grave abuse of discretion as to amount to lack or excess of jurisdiction. The petition for *certiorari* may only be filed by the stockholders of record representing the majority of the capital stock within ten (10) days from receipt by the board of directors of the institution of the order directing receivership, liquidation or conservatorship.

The designation of a conservator under Section 29 of this Act or the appointment of a receiver under this section shall be vested exclusively with the Monetary Board. Furthermore, the designation of a conservator is not a precondition to the designation of a receiver.

³⁰ *Barrameda v. Rural Bank of Canaman, Inc.*, *supra* note 26 at 486.

³¹ *Id.*, citing *Ong v. Court of Appeals*, 323 Phil. 126, 133 (1996).

³² *Id.*, citing *Central Bank of the Philippines v. Court of Appeals*, 246 Phil. 496, 502 (1988).

³³ *Sps. Lipana v. Development Bank of Rizal*, 238 Phil. 246, 252 (1987).

³⁴ See *Lim, Jr. v. Sps. Lazaro*, 713 Phil. 356 (2013).

WHEREFORE, the petition is **GRANTED**. The Decision dated February 26, 2015 and the Resolution dated February 15, 2016 of the Court of Appeals in CA-G.R. CV No. 98170 are **REVERSED** and **SET ASIDE**.


The Orders dated April 30, 2010 of Branch 136 and October 18, 2011 of Branch 57, both of the Regional Trial Court, Makati City dismissing the complaint for sum of money and damages are **REINSTATED** without prejudice on the part of respondent Development Bank of the Philippines to file its claim before Branch 5, Regional Trial Court, Dinalupihan, Bataan acting as a liquidation court.

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice



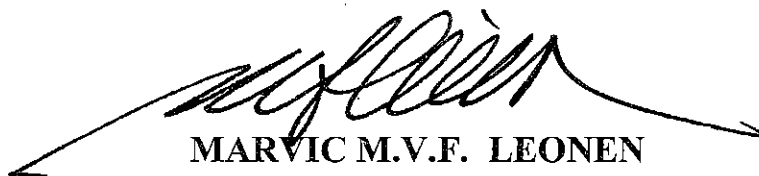
EDGARDO L. DELOS SANTOS
Associate Justice



JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



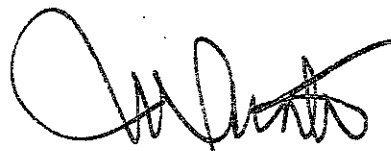
MARVIC M.V.F. LEONEN

Associate Justice

Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA

Chief Justice

