

THIRD DIVISION

[G.R. No. 200678, June 04, 2018]

**BANCO FILIPINO SAVINGS AND MORTGAGE BANK, PETITIONER,
V. BANGKO SENTRAL NG PILIPINAS AND THE MONETARY
BOARD, RESPONDENTS.**

D E C I S I O N

LEONEN, J.:

A bank which has been ordered closed by the Bangko Sentral ng Pilipinas (Bangko Sentral) is placed under the receivership of the Philippine Deposit Insurance Corporation. As a consequence of the receivership, the closed bank may sue and be sued only through its receiver, the Philippine Deposit Insurance Corporation. Any action filed by the closed bank without its receiver may be dismissed.

This is a Petition for Review on Certiorari^[1] assailing the Court of Appeals July 28, 2011 Decision^[2] and February 16, 2012 Resolution^[3] in CA-G.R. SP No. 116905, which dismissed Civil Case No. 10-1042 and held that the trial court had no jurisdiction over Bangko Sentral and the Monetary Board.

On December 11, 1991, this Court promulgated *Banco Filipino Savings & Mortgage Bank v. Monetary Board and Central Bank of the Philippines*,^[4] which declared void the Monetary Board's order for closure and receivership of Banco Filipino Savings & Mortgage Bank (Banco Filipino). This Court also directed the Central Bank of the Philippines and the Monetary Board to reorganize Banco Filipino and to allow it to resume business under the comptrollership of both the Central Bank and the Monetary Board.^[5]

Banco Filipino subsequently filed several Complaints before the Regional Trial Court, among them a claim for damages in the total amount of P18,800,000,000.00.^[6]

On June 14, 1993, Congress passed Republic Act No. 7653,^[7] providing for the establishment and organization of Bangko Sentral as the new monetary authority.

On November 6, 1993, pursuant to this Court's 1991 *Banco Filipino* Decision, the Monetary Board issued Resolution No. 427, which allowed Banco Filipino to resume its business.^[8]

In 2002, Banco Filipino suffered from heavy withdrawals, prompting it to seek the help of Bangko Sentral. In a letter dated October 9, 2003, Banco Filipino asked for financial assistance of more than P3,000,000,000.00 through emergency loans and credit easement terms.^[9] In a letter^[10] dated November 21, 2003, Bangko Sentral informed Banco Filipino that it should first comply with certain conditions imposed by Republic Act No. 7653 before financial assistance could be extended. Banco

Filipino was also required to submit a rehabilitation plan approved by Bangko Sentral before emergency loans could be granted.

In a letter^[11] dated April 14, 2004, Banco Filipino submitted its Long-Term Business Plan to Bangko Sentral. It also claimed that Bangko Sentral already extended similar arrangements to other banks and that it was still awaiting the payment of P18,800,000,000.00 in damage claims, "the entitlement to which the Supreme Court has already decided with finality."^[12]

In response, Bangko Sentral informed Banco Filipino that its business plan could not be acted upon since it was neither "confirmed nor approved by [Banco Filipino's Board of Directors]."^[13]

On July 8, 2004, Banco Filipino filed a Petition for Revival of Judgment with the Regional Trial Court of Makati to compel Bangko Sentral to approve its business plan. The case was docketed as Civil Case No. 04-823 and was raffled to Branch 62.^[14]

During the pendency of its Petition, Banco Filipino entered into discussions and negotiations with Bangko Sentral, which resulted to seven (7) revisions in the business plan. Thus, Banco Filipino filed a Proposal for Settlement dated September 21, 2007 before Branch 62, Regional Trial Court, Makati City to settle the issues between the parties.^[15]

On April 8, 2009, Banco Filipino submitted its 8th Revised Business Plan to Bangko Sentral for evaluation.^[16] In this business plan, Banco Filipino requested, among others, a P25,000,000,000.00 income enhancement loan. Unable to come to an agreement, the parties constituted an Ad Hoc Committee composed of representatives from both parties to study and act on the proposals. The Ad Hoc Committee produced an Alternative Business Plan, which was accepted by Banco Filipino, but was subject to the Monetary Board's approval.^[17]

In a letter^[18] dated December 4, 2009, Bangko Sentral informed Banco Filipino that the Monetary Board issued Resolution No. 1668 granting its request for the P25,000,000,000.00 Financial Assistance and Regulatory Reliefs to form part of its Revised Business Plan and Alternative Business Plan. The approval was also subject to certain terms and conditions, among which was the withdrawal or dismissal with prejudice to all pending cases filed by Banco Filipino against Bangko Sentral and its officials.^[19] The terms also included the execution of necessary quitclaims and commitments to be given by Banco Filipino's principal stockholders, Board of Directors, and duly authorized officers "not to revive or refile such similar cases in the future."^[20]

In a letter^[21] dated January 20, 2010, Banco Filipino requested reconsideration of the terms and conditions of the P25,000,000,000.00 Financial Assistance and Regulatory Reliefs package, noting that the salient features of the Alternative Business Plan were materially modified.^[22] However, in a letter^[23] dated April 8, 2010, Banco Filipino informed Bangko Sentral that it was constrained to accept the "unilaterally whittled down version of the [P25,000,000,000.00] Financial Assistance Package and Regulatory Reliefs."^[24] It, however, asserted that it did not agree with

the condition to dismiss and withdraw its cases since this would require a separate discussion.^[25]

In a letter^[26] dated April 19, 2010, Bangko Sentral informed Banco Filipino that it was surprised by the latter's hesitation in accepting the terms and conditions, in particular, the withdrawal of the cases against it, since this condition had already been discussed from the start of the negotiations between the parties.^[27]

In a letter^[28] dated June 21, 2010, Banco Filipino informed Bangko Sentral that it never accepted the condition of the withdrawal of the cases in prior negotiations but was willing to discuss this condition as a separate and distinct matter.

In a letter^[29] dated August 10, 2010, Bangko Sentral and the Monetary Board, through counsel CVC Law, informed Banco Filipino that its rejection of certain portions of Resolution No. 1668, particularly its refusal to withdraw all cases filed against Bangko Sentral, was deemed as a failure to reach a mutually acceptable settlement.

In a letter^[30] dated August 13, 2010, Banco Filipino questioned the legality of referring the matter to private counsel and stated that it had not been notified of the action taken on the acceptance of its Business Plan.

In a letter^[31] dated September 13, 2010, CVC Law told Banco Filipino that the matter was referred to it as an incident of Civil Case No. 04-823, which it was handling on behalf of Bangko Sentral. It also informed Banco Filipino that the latter's rejection of the terms and conditions of Resolution No. 1668 made this Resolution legally unenforceable.

Banco Filipino sent letters^[32] dated September 22, 2010 and September 28, 2010, questioning the legality of Bangko Sentral's referral to private counsel and reiterating that the terms and conditions embodied in Resolution No. 1668 were not meant to be a settlement of its P18,800,000,000.00 damage claim against Bangko Sentral.

In a letter^[33] dated October 4, 2010, Bangko Sentral reiterated that its referral of the matter to CVC Law was due to the matter being incidental to the civil case pending before the Regional Trial Court.

On October 20, 2010, Banco Filipino filed a Petition For Certiorari and Mandamus with prayer for issuance of a temporary restraining order and writ of preliminary injunction^[34] before Branch 66, Regional Trial Court, Makati City, docketed as Civil Case No. 10-1042. It assailed the alleged "arbitrary, capricious and illegal acts"^[35] of Bangko Sentral and of the Monetary Board in coercing Banco Filipino to withdraw all its present suits in exchange of the approval of its Business Plan. In particular, Banco Filipino alleged that Bangko Sentral and the Monetary Board committed grave abuse of discretion in imposing an additional condition in Resolution No. 1668 requiring it to withdraw its cases and waive all future cases since it was unconstitutional and contrary to public policy. It prayed that a writ of mandamus be issued to compel Bangko Sentral and the Monetary Board to approve and implement its business plan and release its Financial Assistance and Regulatory Reliefs package.^[36]

The trial court issued a Notice of Hearing on the prayer for a temporary restraining order on the same day, setting the hearing on October 27, 2010.^[37]

On October 27, 2010, Bangko Sentral and the Monetary Board filed their Motion to Dismiss Ad Cautelam,^[38] assailing the Regional Trial Court's jurisdiction over the subject matter and over the persons of Bangko Sentral and the Monetary Board. Banco Filipino, on the other hand, filed its Opposition^[39] to this Petition.

In its October 28, 2010 Order,^[40] the Regional Trial Court granted the request for the issuance of a temporary restraining order against Bangko Sentral and the Monetary Board. The dispositive portion of this Order read:

WHEREFORE, premises considered and pursuant to Rule 58 of the Revised Rules of Court, Petitioner's prayer for a Temporary Restraining Order is hereby GRANTED. Respondent[s] Ban[gk]o Sentral ng Pilipinas and [t]he Monetary Board, as well as [their] representatives, agents, assigns and/or third person or entity acting for and [their] behalf are hereby enjoined from (a) employing acts inimical to the enforcement and implementation of the approv[ed] Business Plan, (b) continuing and committing acts prejudicial to Petitioner's operations, (c) withdrawing or threatening to withdraw the approval of the Business Plan containing financial assistance, and package of regulatory reliefs, and (d) otherwise enforcing other regulatory measures and abuses calculated to coerce Banco Filipino Savings and Mortgage Bank into agreeing to drop and/or withdraw its suits and damage claims against BSP and MB, and to waive future claims against Respondents or their official[s] and employees.

Further, the Court directs Sheriff Leodel N. Roxas to personally serve a copy of this Order to the herein Respondent Ban[gk]o Sentral ng Pilipinas and [t]he Monetary Board. Finally, let this case be set on November 11, 2010 and November 12, 2010 both at 2:00 in the afternoon for hearing on the prayer for issuance of a Writ of Preliminary Mandatory Injunction.

SO ORDERED.^[41]

On the same day or on October 28, 2010, summons was served on Bangko Sentral through a staff member of the Office of the Governor, as certified by the Process Server's Return dated November 4, 2010.^[42]

On November 5, 2010, Bangko Sentral and the Monetary Board filed a Petition For Certiorari with prayer for temporary restraining order and/or writ of preliminary injunction^[43] with the Court of Appeals, assailing the Regional Trial Court's October 28, 2010 Order for having been issued without jurisdiction. The Petition was docketed as CA-G.R. SP No. 116627.^[44]

On November 17, 2010, the trial court issued an Order^[45] denying the Bangko Sentral and the Monetary Board's Motion to Dismiss Ad Cautelam, stating that the acts complained of pertained to Bangko Sentral 's regulatory functions, not its adjudicatory functions.^[46] It likewise stated that as requested in the handwritten letter^[47] dated October 21, 2010 by Bangko Sentral's general counsel requesting for an advanced copy of Banco Filipino's Petition, it furnished Bangko Sentral a copy of the Petition. It also held that Bangko Sentral's subsequent participation in the

preliminary hearing and its receipt of the summons on October 28, 2010 satisfied the requirements of procedural due process.^[48]

The trial court likewise found that *litis pendencia* and forum shopping were not present in the case, that Bangko Sentral's verification and certification of non-forum shopping were validly signed by the Executive Committee, and that Banco Filipino's Petition did not fail to state a cause of action.^[49]

On November 25, 2010, Bangko Sentral and the Monetary Board filed another Petition for Certiorari^[50] with prayer for temporary restraining order and writ of preliminary injunction with the Court of Appeals, this time assailing the November 17, 2010 Order. The case was docketed as CA-G.R. SP No. 116905. However, the trial court issued a writ of preliminary injunction on November 18, 2010^[51] so they filed their Urgent Motion to Admit Attached Amended Petition^[52] with the Court of Appeals to include the Issuance.

In the meantime, or on November 23, 2010, Bangko Sentral and the Monetary Board filed a Motion to Admit Attached Supplemental Petition for Certiorari with Application for Interim Relief^[53] in CA-G.R. SP No. 116627 seeking to include the trial court's October 28, 2010 Order.

In its December 28, 2010 Resolution,^[54] the Court of Appeals granted^[55] Bangko Sentral and the Monetary Board's Urgent Motion to Admit Attached Amended Petition in CA-G.R. SP No. 116905.

Meanwhile, Banco Filipino filed its Opposition dated January 18, 2011 in CA-G.R. SP No. 116905.^[56]

After oral arguments were held on February 7, 2011,^[57] the Court of Appeals issued its February 14, 2011 Resolution^[58] in CA-G.R. SP No. 116905. It granted the application for a writ of preliminary injunction and enjoined the trial court from conducting further proceedings in Civil Case No. 10-1042 pending a decision on the merits.

On February 16, 2011, Banco Filipino filed an Urgent Motion for Consolidation^[59] in CA-G.R. SP No. 116905, requesting for the consolidation of the two (2) Petitions for Certiorari filed by Bangko Sentral and the Monetary Board before the Court of Appeals. On March 1, 2011, it also filed a Motion for Reconsideration^[60] of the Court of Appeals February 14, 2011 Resolution.

In its June 2, 2011 Resolution,^[61] the Court of Appeals in CA-G.R. SP No. 116905 denied Banco Filipino's Motion for Reconsideration, holding that special civil actions against quasi-judicial agencies should be filed before the Court of Appeals, not before a trial court.^[62] The Court of Appeals also denied the Urgent Motion for Consolidation for the following reasons:

- 1) [I]t would cause not only further congestion of the already congested docket of the *ponente* of CA-G.R. SP No. 116627, but also in the delay in the disposition of both cases; 2) the subject matters and issues raised in the instant petition are different from those set forth in CA-G.R. SP No. 116627, hence, they can be the subject of separate: petitions; and 3) Since a writ of preliminary injunction was earlier issued, Section 2 (d),