

## THIRD DIVISION

[ G.R. No. 184778, October 02, 2009 ]

**BANGKO SENTRAL NG PILIPINAS MONETARY BOARD AND  
CHUCHI FONACIER, PETITIONERS, VS. HON. NINA G. ANTONIO-  
VALENZUELA, IN HER CAPACITY AS REGIONAL TRIAL COURT  
JUDGE OF MANILA, BRANCH 28; RURAL BANK OF PARAÑAQUE,  
INC.; RURAL BANK OF SAN JOSE (BATANGAS), INC.; RURAL  
BANK OF CARMEN (CEBU), INC.; PILIPINO RURAL BANK, INC.;  
PHILIPPINE COUNTRYSIDE RURAL BANK, INC.; RURAL BANK OF  
CALATAGAN (BATANGAS), INC. (NOW DYNAMIC RURAL BANK);  
RURAL BANK OF DARBCI, INC.; RURAL BANK OF KANANGA  
(LEYTE), INC. (NOW FIRST INTERSTATE RURAL BANK); RURAL  
BANK OF BISAYAS MINGLANILLA (NOW BANK OF EAST ASIA);  
AND SAN PABLO CITY DEVELOPMENT BANK, INC.,  
RESPONDENTS.**

### DECISION

**VELASCO JR., J.:**

#### The Case

This is a Petition for Review on Certiorari under Rule 45 with Prayer for Issuance of a Temporary Restraining Order (TRO)/Writ of Preliminary Injunction, questioning the Decision dated September 30, 2008<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 103935. The CA Decision upheld the Order<sup>[2]</sup> dated June 4, 2008 of the Regional Trial Court (RTC), Branch 28 in Manila, issuing writs of preliminary injunction in Civil Case Nos. 08-119243, 08-119244, 08-119245, 08-119246, 08-119247, 08-119248, 08-119249, 08-119250, 08-119251, and 08-119273, and the Order dated May 21, 2008 that consolidated the civil cases.

#### The Facts

In September of 2007, the Supervision and Examination Department (SED) of the *Bangko Sentral ng Pilipinas* (BSP) conducted examinations of the books of the following banks: Rural Bank of Parañaque, Inc. (RBPI), Rural Bank of San Jose (Batangas), Inc., Rural Bank of Carmen (Cebu), Inc., Pilipino Rural Bank, Inc., Philippine Countryside Rural Bank, Inc., Rural Bank of Calatagan (Batangas), Inc. (now Dynamic Rural Bank), Rural Bank of Darbci, Inc., Rural Bank of Kananga (Leyte), Inc. (now First Interstate Rural Bank), Rural Bank de Bisayas Minglanilla (now Bank of East Asia), and San Pablo City Development Bank, Inc.

After the examinations, exit conferences were held with the officers or representatives of the banks wherein the SED examiners provided them with copies

of Lists of Findings/Exceptions containing the deficiencies discovered during the examinations. These banks were then required to comment and to undertake the remedial measures stated in these lists within 30 days from their receipt of the lists, which remedial measures included the infusion of additional capital. Though the banks claimed that they made the additional capital infusions, petitioner Chuchi Fonacier, officer-in-charge of the SED, sent separate letters to the Board of Directors of each bank, informing them that the SED found that the banks failed to carry out the required remedial measures. In response, the banks requested that they be given time to obtain BSP approval to amend their Articles of Incorporation, that they have an opportunity to seek investors. They requested as well that the basis for the capital infusion figures be disclosed, and noted that none of them had received the Report of Examination (ROE) which finalizes the audit findings. They also requested meetings with the BSP audit teams to reconcile audit figures. In response, Fonacier reiterated the banks' failure to comply with the directive for additional capital infusions.

On May 12, 2008, the RBPI filed a complaint for nullification of the BSP ROE with application for a TRO and writ of preliminary injunction before the RTC docketed as Civil Case No. 08-119243 against Fonacier, the BSP, Amado M. Tetangco, Jr., Romulo L. Neri, Vicente B. Valdepenas, Jr., Raul A. Boncan, Juanita D. Amatong, Alfredo C. Antonio, and Nelly F. Villafuerte. RBPI prayed that Fonacier, her subordinates, agents, or any other person acting in her behalf be enjoined from submitting the ROE or any similar report to the Monetary Board (MB), or if the ROE had already been submitted, the MB be enjoined from acting on the basis of said ROE, on the allegation that the failure to furnish the bank with a copy of the ROE violated its right to due process.

The Rural Bank of San Jose (Batangas), Inc., Rural Bank of Carmen (Cebu), Inc., Pilipino Rural Bank, Inc., Philippine Countryside Rural Bank, Inc., Rural Bank of Calatagan (Batangas), Inc., Rural Bank of Darbci, Inc., Rural Bank of Kananga (Leyte), Inc., and Rural Bank de Bisayas Minglanilla followed suit, filing complaints with the RTC substantially similar to that of RBPI, including the reliefs prayed for, which were raffled to different branches and docketed as Civil Cases Nos. 08-119244, 08-119245, 08-119246, 08-119247, 08-119248, 08-119249, 08-119250, and 08-119251, respectively.

On May 13, 2008, the RTC denied the prayer for a TRO of Pilipino Rural Bank, Inc. The bank filed a motion for reconsideration the next day.

On May 14, 2008, Fonacier and the BSP filed their opposition to the application for a TRO and writ of preliminary injunction in Civil Case No. 08-119243 with the RTC. Respondent Judge Nina Antonio-Valenzuela of Branch 28 granted RBPI's prayer for the issuance of a TRO.

The other banks separately filed motions for consolidation of their cases in Branch 28, which motions were granted. Judge Valenzuela set the complaint of Rural Bank of San Jose (Batangas), Inc. for hearing on May 15, 2008. Petitioners assailed the validity of the consolidation of the nine cases before the RTC, alleging that the court had already prejudged the case by the earlier issuance of a TRO in Civil Case No. 08-119243, and moved for the inhibition of respondent judge. Petitioners filed a motion for reconsideration regarding the consolidation of the subject cases.

On May 16, 2008, San Pablo City Development Bank, Inc. filed a similar complaint against the same defendants with the RTC, and this was docketed as Civil Case No. 08-119273 that was later on consolidated with Civil Case No. 08-119243. Petitioners filed an Urgent Motion to Lift/Dissolve the TRO and an Opposition to the earlier motion for reconsideration of Pilipino Rural Bank, Inc.

On May 19, 2008, Judge Valenzuela issued an Order granting the prayer for the issuance of TROs for the other seven cases consolidated with Civil Case No. 08-119243. On May 21, 2008, Judge Valenzuela issued an Order denying petitioners' motion for reconsideration regarding the consolidation of cases in Branch 28. On May 22, 2008, Judge Valenzuela granted the urgent motion for reconsideration of Pilipino Rural Bank, Inc. and issued a TRO similar to the ones earlier issued.

On May 26, 2008, petitioners filed a Motion to Dismiss against all the complaints (except that of the San Pablo City Development Bank, Inc.), on the grounds that the complaints stated no cause of action and that a condition precedent for filing the cases had not been complied with. On May 29, 2008, a hearing was conducted on the application for a TRO and for a writ of preliminary injunction of San Pablo City Development Bank, Inc.

### **The Ruling of the RTC**

After the parties filed their respective memoranda, the RTC, on June 4, 2008, ruled that the banks were entitled to the writs of preliminary injunction prayed for. It held that it had been the practice of the SED to provide the ROEs to the banks before submission to the MB. It further held that as the banks are the subjects of examinations, they are entitled to copies of the ROEs. The denial by petitioners of the banks' requests for copies of the ROEs was held to be a denial of the banks' right to due process.

The dispositive portion of the RTC's order reads:

WHEREFORE, the Court rules as follows:

1) Re: Civil Case No. 08-119243. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Rural Bank of Paranaque Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

2) Re: Civil Case No. 08-119244. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Rural Bank of San Jose (Batangas), Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

3) Re: Civil Case No. 08-119245. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Rural Bank of Carmen (Cebu), Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

4) Re: Civil Case No. 08-119246. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Pilipino Rural Bank Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

5) Re: Civil Case No. 08-119247. Pursuant to Rule 58, Section 4(b) of the

Revised Rules of Court, plaintiff Philippine Countryside Rural Bank Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

6) Re: Civil Case No. 08-119248. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Dynamic Bank Inc. (Rural Bank of Calatagan) is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

7) Re: Civil Case No. 08-119249. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Rural Bank of DARBCI, Inc. is directed to post a bond executed to the defendants, in the amount of P500,000.00 to the effect that the plaintiff will pay to the defendants all damages which they may sustain by reason of the injunction if the Court should finally decide that the plaintiff was not entitled thereto. After posting of the bond and approval thereof, let a writ of preliminary injunction be issued to enjoin and restrain the defendants from submitting the Report of Examination or any other similar report prepared in connection with the examination conducted on the plaintiff, to the Monetary Board. In case such a Report on Examination [sic] or any other similar report prepared in connection with the examination conducted on the plaintiff has been submitted to the Monetary Board, the latter and its members (i.e. defendants Tetangco, Neri, Valdepenas, Boncan, Amatong, Antonio, and Villafuerte) are enjoined and restrained from acting on the basis of said report.

8) Re: Civil Case No. 08-119250. Pursuant to Rule 58, Section 4(b) of the Revised Rules of Court, plaintiff Rural Bank of Kananga Inc. (First