

EN BANC

[A.M. No. RTJ-21-015 [Formerly OCA IPI No. 13-4162-RTJ], November 17, 2020]

**PHILIPPINE DEPOSIT INSURANCE CORPORATION,
COMPLAINANT, VS. JUDGE WINLOVE M. DUMAYAS PRESIDING
JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY,
BRANCH 59, RESPONDENT.**

[OCA IPI No. 15-4381-RTJ]

**FRANCIS R. YUSECO, JR., COMPLAINANT, VS. HONORABLE
WINLOVE M. DUMAYAS, PRESIDING JUDGE, BRANCH 59,
REGIONAL TRIAL COURT, MAKATI CITY, RESPONDENT.**

DECISION

ZALAMEDA, J.:

Before the Court are two (2) administrative cases filed against respondent Judge Winlove M. Dumayas (Judge Dumayas), Presiding Judge of Branch 59, Regional Trial Court (RTC) of Makati City.

In A.M. No. RTJ-21-015, the Philippine Deposit Insurance Corporation (PDIC) filed a Complaint^[1] against Judge Dumayas for gross ignorance of the law or procedure in connection with Spec. Proc. No. M-6069, entitled *In re: Petition for Assistance in the Liquidation of Unitrust Development Bank*.

Meanwhile, in OCA IPI No. 15-4381-RTJ, Francis R. Yuseco, Jr. (Yuseco) charged Judge Dumayas with gross ignorance of the law, gross incompetence and gross abuse of authority.^[2]

Antecedent Facts

On 04 January 2002, the Monetary Board (MB) of the Bangko Sentral ng Pilipinas (BSP) passed Resolution No. 19^[3] prohibiting Unitrust Development Bank (UDB) from doing business in the Philippines. In accordance with Section 30^[4] of Republic Act (RA) No. 7653,^[5] the assets and affairs of UDB were placed under receivership of PDIC.

Yuseco, Tooru Nagasawa (Nagasawa), Leopoldo Valcarcel, Pedro Montanez (collectively, oppositors), claiming to be stockholders of UDB, filed a class suit for injunction to challenge MB Resolution No. 19 on 31 July 2002. It was docketed as Civil Case No. 02-894 entitled, *Francisco Yuseco, Jr. et al. v. Philippine Deposit Insurance Corporation, and in their personal capacities: Norberta Nazareno, Rosalinda Casiguran, Jesus Clariza, Tereza Garcia, Sandra Diaz, and the Monetary*

Board of the Bangko Sentral ng Pilipinas. It was later amended on 02 August 2011, to include Bank Resumption of Operations, and a Petition for *Certiorari* on MB Resolution No. 64, issued on 20 January 2005, with Damages.^[6]

On 05 November 2002, then Presiding Judge Rebecca Mariano of Branch 136, RTC Makati City, issued a writ of preliminary injunction. However, the order was later annulled by the Court of Appeals (CA) in its 19 January 2004 Decision^[7] in CA-G.R. No. 76801. The CA's ruling became final and executory.

Accordingly, the MB passed Resolution No. 64^[8] on 20 January 2005, directing PDIC to proceed with the liquidation of UDB. The PDIC then filed before the RTC of Makati City a Petition for Assistance in the Liquidation of UDB,^[9] which was raffled to Judge Dumayas. Later, Judge Dumayas issued an Order^[10] dated 06 July 2005, giving due course to the petition, constituting his court as a liquidation court, and directing the creditors of UDB to file their claims either with the Deputy Liquidator or directly with the PDIC.

In the course of the proceedings, the PDIC filed a Motion for Approval of the Project for Distribution (POD) of the Assets of UDB,^[11] stating that all depositors and creditors of UDB, except itself and PLOT, shall be paid in cash because there were sufficient funds on hand. On 19 March 2007, Judge Dumayas issued an Order,^[12] approving the POD.

Meanwhile, the oppositors filed a series of motions in an attempt to suspend or stop the liquidation of UDB. These motions were denied by Judge Dumayas in the Orders dated 14 January 2009,^[13] 03 May 2011^[14] and 16 May 2011.^[15] Thereafter, Yuseco filed a Motion for Reconsideration^[16] of the Orders dated 03 May 2011 and 16 May 2011, relying on the case of *Banco Filipino Savings and Mortgage Bank v. The Monetary Board*,^[17] which was decided under the auspices of Section 29^[18] of RA No. 265 or the old Central Bank Act. Yuseco argued that the MB acted with arbitrariness and bad faith in ordering the closure of UDB without first fully complying with the mandatory requirements of RA No. 265.

On 25 August 2011, Judge Dumayas issued an Order,^[19] partially granting Yuseco's motion, setting aside the Order dated 03 May 2011, and directing the PDIC to cease and desist from further liquidating the UDB. The Order read in part:

The blatant disregard by the Monetary Board of the proper compliance with the said mandatory requirements, gives authority for this court to set aside the decision of the Monetary Board, it appearing that the latter's action is plainly arbitrary and made in bad faith. xxx The courts may interfere with the discretion of the Central Bank. Where the CB engaged to support the distressed bank in exchange for control of its management and additional mortgages in its favor, then courts may interfere with the CB's exercise of discretion in determining whether or not a distressed bank shall be supported or liquidated. Discretion has its limits and has never been held to include arbitrariness, discrimination or bad faith.

Finally, the healthy financial position of UDB was admitted by Atty. Gilroy

V. Billones, petitioner's counsel. This admission is duly supported by the Bank's Statement of Affairs as of June 2002, wherein it is reflected that the bank's combined capital assets is more than sufficient to answer for all the bank's liabilities. xxx

WHEREFORE, premise[s] considered, the Oppositor's Motion for Reconsideration of the Order of the Court dated May 3, 2011 [,] denying the oppositor's motion to place UDB under receivership is hereby GRANTED. The Order of the Court dated May 3, 2011 is reconsidered and set aside. Accordingly, petitioner PDIC is hereby ordered to cease and desist from further liquidating UDB. Anent the two [2] Orders dated May 16, 2011, the motion to reconsider the same is DENIED.

SO ORDERED. [20]

Subsequently, the PDIC filed a Motion for Partial Reconsideration, [21] arguing that under Section 30 of RA No. 7653, the liquidation court's jurisdiction is limited to the adjudication of claims of depositors and creditors of UDB, and in assisting liquidation efforts. Judge Dumayas granted the motion. [22]

Upon Yuseco's Motion for Partial Reconsideration, [23] however, Judge Dumayas made another about turn and reinstated his Order dated 25 August 2011, which prohibited the PDIC from further liquidating UDB. In the Order [24] dated 19 June 2012, he explained the reversal in this wise:

Considering that this Court has clearly found during the hearing of this petition, the healthy financial position of UDB based on the admission by petitioner's counsel, Atty. Gilroy Billones, whose admission is duly supported by the Bank Statement of Affairs as of June 2002, wherein it is reflected that the bank's combined capital assets is more than sufficient to answer for all the bank's liabilities this Court must take this into consideration. xxx Quite clearly, UDB had more assets as against liabilities and hence could not be, under any circumstance[,], be considered in the state of insolvency. Verily, petitioner PDIC should cease and desist from further implementing its liquidation.

Once again, PDIC filed a Motion for Partial Reconsideration, [25] pointing out the incongruity of being required by Judge Dumayas to desist from further liquidating the assets of UDB, while at the same time being compelled, under penalty of contempt, to do an act of liquidation by paying all of UDB 's depositors and creditors.

This time, however, Judge Dumayas finally stood firm, as he denied PDIC's motion in his Order [26] dated 17 December 2012. He explained that there is no conflict in allowing payments to all the bank depositors and creditors in accordance with his Orders dated 19 June 2012 and 22 June 2012. He disposed as follows:

WHEREFORE, based on the foregoing, the court hereby issues this Resolution as follows:

1. The court upholds its June 19, 2012 order, directing petitioner to cease

and desist from further liquidating the assets of UDB;

2. Petitioner is compelled under the penalty of contempt to strictly and promptly comply with its June 22, 2012 order to pay all UDB depositors and creditors xxx.

xxx

SO ORDERED.^[27]

Judge Dumayas' new Order prompted PDIC to file before the CA a Petition for *Certiorari*, docketed as CA-GR SP No. 128241.

In the *interim*, Judge Dumayas issued an Omnibus Order dated 10 July 2014,^[28] which reiterated his Order dated 17 December 2012. Subsequently, however, he reversed himself anew when he issued a Resolution dated 01 October 2014,^[29] authorizing the payment of the Receivership and Liquidation Expenses (RLE) in the amount of Php35,488,029.04, plus additional expenses in the amount of Php2,254,748.09.

Meanwhile, the CA rendered a Decision dated 28 November 2014,^[30] granting the Petition for *Certiorari* of PDIC, the dispositive portion of which reads as follow

WHEREFORE, premises considered, the Petition for *Certiorari* is GRANTED. The assailed Orders dated June 19, 2012 and December 17, 2012, issued by the Regional Trial Court, Branch 59, Makati City, in Spl. Pro. M-6069 are hereby ANNULLED and SET ASIDE. All Orders subsequently issued in furtherance of, or to implement the assailed Orders, and those issued with like or similar import as the assailed Orders, are declared void and of no force and effect. The court, in Spl. Pro. M-6069, is directed to PROCEED with and ASSIST the Philippine Deposit and Insurance Corporation in the liquidation of Unitrust Development Bank in accordance with the approved Liquidation Plan without delay.

SO ORDERED.^[31]

Pursuant to the CA decision, Judge Dumayas issued an Omnibus Order dated 26 January 2015,^[32] denying Yuseco and Nagasawa's Joint Motion for Partial Reconsideration of the Order dated 01 October 2014, which authorized the payment of RLE and additional expenses by PDIC. The Omnibus Order likewise denied their Motion for Issuance of Subpoena *Duces Tecum* and *Ad Testificandum*.

The oppositors then filed a Recusation with Motion for Reconsideration, seeking the reversal of the Omnibus Order and the inhibition of Judge Dumayas. In a Resolution^[33] dated 16 February 2015, Judge Dumayas voluntarily inhibited himself.

Meanwhile, the Motion for Reconsideration of the CA Decision filed by Yuseco and Nagasawa was denied in a Resolution^[34] dated 06 April 2015.

Yuseco and Nagasawa, thus, filed a petition for review before this Court, docketed

as G.R. No. 217899. In a Resolution dated 29 July 2015, the Court denied the petition on procedural ground. Subsequently, the Court issued a Resolution dated 02 September 2015, denying Yuseco and Nagasawa's motion for reconsideration.^[35]

Unperturbed, Yuseco and Nagasawa filed a motion to re-open the case and to refer the same to the Court *En Banc*. This was denied by the Second Division in its Resolution dated 02 November 2015, holding that aside from the procedural deficiencies in the petition, the petitioners failed to show any reversible error on the part of the CA to warrant the Court's exercise of its discretionary appellate jurisdiction.^[36]

Based on the foregoing events, PDIC filed an administrative complaint against Judge Dumayas for gross ignorance of the law on 20 November 2013. On the other hand, Yuseco charged Judge Dumayas with gross ignorance of the law, gross incompetence, and grave abuse of authority in his Complaint received by the OCA on 24 March 2015.

Evaluation Reports of the Office of the Court Administrator

In its Report^[37] dated 20 November 2017 in OCA IPI No. 13-4162-RTJ, the Office of the Court Administrator (OCA) found Judge Dumayas guilty of gross ignorance of the law or procedure, and recommended the re-docketing of the complaint as a regular administrative matter. As to penalty, the OCA recommended Judge Dumayas' dismissal from the service, with forfeiture of his retirement benefits, except accrued leave credits, and with prejudice to reinstatement in any branch of the government including government-owned and controlled corporations.^[38]

The OCA'S recommendation was based on the following evaluation:

Although a judge may be lauded for his effort to rectify his ruling which he realized to be erroneous, respondent Judge Dumayas must also heed his duty to know the law and to avoid any impression of ignorance thereof or badge of impropriety to protect the image and integrity of the judiciary. The constant flip-flopping in his rulings puts to question his probity and decisiveness, while betraying his lack of understanding of existing jurisprudence and applicable provisions of law, particularly Section 30 of the New Central Bank Act that expressly grants to the Monetary Board of the BSP the exclusive, original jurisdiction to determine whether a closed bank should be placed under receivership or liquidation. This provision of law is so basic that it behooves him to know the same. To be sure, his Orders dated 25 August 2011, 19 June 2012 and 17 December 2012, which directs complainant PDIC to "cease and desist from further liquidating UDB," effectively divested the Monetary Board of its sole and exclusive authority. In fine, respondent Judge Dumayas grossly ignored and arbitrarily encroached on the jurisdiction of the Monetary Board.

xxx While there is no finding of bad faith or corruption on the part of respondent Judge Dumayas, the provision of law he violated is so plain and simple that all magistrates, by the exalted position that they occupy in the judiciary, are presumed to know. In this particular instance, his