

THIRD DIVISION

[G.R. No. 218390, February 28, 2018]

**HONGKONG BANK INDEPENDENT LABOR UNION (HBILU),
PETITIONER, VS. HONGKONG AND SHANGHAI BANKING
CORPORATION LIMITED, RESPONDENT.**

DECISION

VELASCO JR., J.:

The Case

For consideration is a Petition for Review on Certiorari under Rule 45 of the Rules of Court questioning the Decision^[1] and Resolution of the Court of Appeals (CA), dated October 23, 2014 and May 21, 2015, respectively, in CA-G.R. SP No. 130798. The challenged rulings sustained the validity of the external credit check as a condition before respondent could grant the application for salary loans of petitioner's members. This is notwithstanding the non-mention of the said condition in the parties' Collective Bargaining Agreement (CBA).

The Facts

In 2001, the Bangko Sentral ng Pilipinas (BSP) issued the Manual of Regulations for Banks (MoRB). Relevant to the instant case is Section X338 thereof which reads:

Banks may provide financial assistance to their officers and employees, as part of their fringe benefits program, to meet housing, transportation, household and personal needs of their officers and employees.
Financing plans and amendments thereto shall be with prior approval of the BSP. (emphasis added)

Pursuant to the above-cited provision, respondent Hongkong and Shanghai Banking Corporation Limited (HSBC), on March 12, 2003, submitted its Financial Assistance Plan (Plan) to the BSP for approval. The Plan allegedly contained a credit checking proviso stating that "[r]epayment defaults on existing loans and adverse information on outside loans will be considered in the evaluation of loan applications." The BSP approved the Plan on May 5, 2003.^[2] Said Plan was later amended thrice,^[3] all of which amendments were approved by the BSP.^[4]

Meanwhile, petitioner Hongkong Bank Independent Labor Union (HBILU), the incumbent bargaining agent of HSBC's rank-and-file employees, entered into a CBA

with the bank covering the period from April 1, 2010 to March 31, 2012. Pertinent to the instant petition is Article XI thereof, which reads:

Article XI
Salary Loans

Section 1. Housing/house Improvement Loan. The BANK, or other financial institution when appropriate, shall extend housing loan to qualified employees with at least three (3) YEARS OF SERVICE, UP TO One Million Five Hundred Thousand Pesos (P1,500,000.00) payable in twenty-five (25) years or up to the retirement date of the employee, whichever comes first. Subject to BSP approval, an additional Five Hundred Thousand Pesos (P500,000.00) can be availed subject to the terms above with interest rate at the BLR less 3% but not less than six percent (6%) per annum.

Section 2. Personal Loans. The BANK, or the Retirement Trust Fund Inc. or other financial institutions, when appropriate, shall extend personal loan to qualified employees, with at least 1 year service, up to six months basic pay of the employees at six percent (6%) interest per annum, payable in three years.

Section 3. Car Loans. The BANK, or the Retirement Trust Fund Inc. or other financial institutions when appropriate, shall extend a car loan to qualified employees with at least 3 years service up to Five Hundred Fifty Thousand Pesos (PHP550,000.00) payable in seven (7) years. Interest rate shall be six percent (6%) per annum.

Section 4. Credit Ratio. The availment of any of the foregoing loans shall be subject to the BANK's credit ratio policy.

When the CBA was about to expire, the parties started negotiations for a new one to cover the period from April 1, 2012 to March 31, 2017. During the said negotiations, HSBC proposed amendments to the above quoted Article XI allegedly to align the wordings of the CBA with its BSP approved Plan. Particularly, HSBC proposed the deletion of Article XI, Section 4 (Credit Ratio) of the CBA, and the amendment of Sections 1 to 3 of the same Article to read as follows:

Article XI
Salary Loans

Section 1. Housing/house Improvement Loan. **Based on the Financial Assistance Plan duly approved by Bangko Sentral ng Pilipinas (BSP)**, the BANK, or other financial institution when appropriate, shall extend housing loan to qualified employees with at least three (3) YEARS OF SERVICE UP TO One Million Five Hundred Thousand Pesos (P1,500,000.00) payable in twenty-five (25) years or up to the retirement date of the employee, whichever comes first, **subject to employee's credit ratio**. An additional Five hundred thousand Pesos

(P500,000.00) can be availed subject to the terms above with interest rates at the BLR less 3% but not less than six percent (6%) per annum.

Section 2. Personal Loans. **Based on the financial Assistance Plan duly approved by Bangko Sentral ng Pilipinas (BSP)**, the BANK, or other financial institutions when appropriate, shall extend personal loan to qualified employees, with at least 1 year service, up to six months basic pay of the employees at six percent (6%) interest per annum, payable in three (3) years, **subject to employee's credit ratio.**

Section 3. Car loans. **Based on the Financial Assistance Plan duly approved by Bangko Sentral ng Pilipinas (BSP)**, the BANK, or other financial institutions when appropriate, shall extend a car loan to qualified employees with at least three years service, up to Five Hundred Fifty Thousand Pesos (PHP550,000.00) payable in seven (7) years. Interest rate shall be six percent (6%) per annum. (emphasis added)

HBILU vigorously objected to the proposed amendments, claiming that their insertions would curtail its members' availment of salary loans. This, according to the Union, violates the existing exceptions set forth in BSP Circular 423, Series of 2004,^[5] and Section X338.3^[6] of the MoRB. In view of HBILU's objection, HSBC withdrew its proposed amendments and, consequently, Article XI remained unchanged.

Despite the withdrawal of the proposal, HSBC sent an e-mail to its employees on April 20, 2012 concerning the enforcement of the Plan, including the Credit Checking provisions thereof. The e-mail reads:

Dear All

We wish to reiterate the following provisions included in the Financial Assistance Plan (FAP) as approved by Bangko Sentral ng Pilipinas (BSP). Note that the FAP is the official guideline and policy governing Staff Loans and Credit Cards.

>>>>CREDIT CHECKING

Below are the specific provisions included in the FAP regarding credit checking.

Housing Loan, Car Loan, Personal Loan & Computer/Club Membership/Medical Equipment Loan	Repayment defaults on existing loans and adverse information considered in the evaluation of loan applications.
Credit Card	Repayment defaults on existing loans and adverse information considered in the evaluation of loan applications.

With the strict implementation of these provisions, adverse credit findings may result to disapproval of loan or credit card applications. These findings will include the following:

- (1) Frequency of confirmed ADA failure on staff/commercial loans and credit cards (3 consecutive incidents within the past 6 months or 6 incidents within the past 12 months). Note that applications with pending ADA for investigation will only be processed upon confirmation of status (Confirmed or Reprieved);
- (2) Adverse findings on HSBC cards; or
- (3) Adverse findings from external credit checks.^[7]

Thereafter, in September 2012, HBILU member Vince Mananghaya (Mananghaya) applied for a loan under the provisions of Article XI of the CBA. His first loan application in March 2012 was approved, but adverse findings from the external checks on his credit background resulted in the denial of his September application.

^[8] HBILU then raised the denial as a grievance issue with the National Conciliation Mediation Board (NCMB). It argued that the imposition of an additional requirement—the external credit checking prior to approval of any loan application under Article XI of the CBA—is not sanctioned under the CBA. The Union emphasized that under the terms of Article XI, there is no such requirement and that it cannot, therefore, be unilaterally imposed by HSBC.

Justifying its denial of the loan application, HSBC countered that the external credit check conducted in line with Mananghaya's loan application was merely an implementation of the BSP-approved Plan. The adoption of the Plan, HSBC stressed, is a condition *sine qua non* for any loan grant under Section X338 of the MoRB. Moreover, the Credit Check policy has been in place since 2003, and is a sound practice in the banking industry to protect the interests of the public and preserve confidence in banks.

The issue was then submitted for resolution by the NCMB Panel of Accredited Voluntary Arbitrators (the Panel).^[9] In the interim, the parties, on September 29, 2012, inked a new CBA for the period covering April 1, 2012 up to March 31, 2017.^[10]

NCMB-PVA Decision

On May 17, 2013, the Panel rendered a Decision finding for HSBC. It held that herein respondent, as an employer, has the right to issue and implement guidelines for the availment of loan accommodations under the CBA as part of its management prerogative. The repeated use of the term "qualified employees" in Article XI of the CBA was deemed indicative of room for the adoption of further guidelines in the availment of the benefits thereunder. The Panel also agreed that HSBC's Plan is not a new policy as it has already been approved by the BSP as early as 2003. Thus, the

Panel ruled that the salary loan provisions under Article XI of the CBA must be read in conjunction with the provisions of the Plan.

The Panel further discussed that HSBC's adoption of the Plan was not done for any whimsical or arbitrary reason, but because the bank was constrained to comply with Section X338 of the MoRB. As a banking institution, HSBC cannot divorce itself from the regulatory powers of the BSP. Observance of Section X338 of the MoRB was then necessary before the bank could have been allowed to extend loan accommodations to its officers and employees.

On the basis thereof, the Panel held that they are not ready to rule that HSBC's Plan violates Article XI of the CBA.

Aggrieved, HBILU elevated the case to the CA.

CA Decision

The CA sustained the findings and conclusions of the NCMB-PVA *in toto* on the ratiocination that HSBC was merely complying with Section X338 of the MoRB when it submitted the Plan to BSP. When BSP, in turn, approved the said Plan, HSBC became legally bound to enforce its provisions, including the conduct of external credit checks on its loan applicants.^[11] The appellate court further ruled that the Plan should be deemed incorporated in the CBA because it is a regulatory requirement of BSP without which the salary loan provisions of the CBA are rendered inoperative.

Petitioner's motion for reconsideration having been denied by the CA thru its May 21, 2015 Resolution, HBILU now seeks recourse from this Court.

The Issues

HBILU presents the following grounds to warrant the reversal of the assailed Decision, viz:

The decisions and resolutions of the Hon. Panel of Voluntary Arbitrators and the Hon. Court of Appeals are tainted with grave abuse of discretion and it showed patent errors in the appreciation of facts which led to wrong conclusions of law; or stated otherwise;

The Hon. Panel of Voluntary Arbitrators and Court of Appeals committed serious, reversible and gross error in law in ruling that the Bank's Financial Assistance Plan as not in violation of Article XI of the Parties' CBA revision on Salary Loans (Article XII of the new and existing CBA)

^[12]

Simply put, the issue for OUI resolution is whether or not HSBC could validly enforce the credit-checking requirement under its BSP-approved Plan in processing the salary loan applications of covered employees even when the said requirement is not recognized under the CBA.