

THIRD DIVISION

[G.R. No. 189571, January 21, 2015]

**THE HONORABLE MONETARY BOARD AND GAIL U. FULE,
DIRECTOR, SUPERVISION AND EXAMINATION DEPARTMENT II,
AND BANGKO SENTRAL NG PILIPINAS, PETITIONERS, VS.
PHILIPPINE VETERANS BANK, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision^[1] dated June 15, 2009 and Order^[2] dated August 25, 2009 of the Regional Trial Court (RTC) of Makati City in Civil Case No. 07-271.

The factual antecedents follow.

Respondent established a pension loan product for *bona fide* veterans or their surviving spouses, as well as salary loan product for teachers and low-salaried employees pursuant to its mandate under Republic Act (RA) Nos. 3518^[3] and 7169^[4] to provide financial assistance to veterans and teachers.

As its clientele usually do not have real estate or security to cover their pension or salary loan, other than their continuing good health and/or employment, respondent devised a program by charging a premium in the form of a higher fee known as *Credit Redemption Fund (CRF)* from said borrowers. Resultantly, Special Trust Funds were established by respondent for the pension loans of the veteran-borrowers, salary loans of teachers and low-salaried employees. These trust funds were, in turn, managed by respondent's Trust and Investment Department, with respondent as beneficiary. The fees charged against the borrowers were credited to the respective trust funds, which would be used to fully pay the outstanding obligation of the borrowers in case of death.

On April 30, 2002, an examination was conducted by the Supervision and Examination Department (SED) II of the Bangko Sentral ng Pilipinas (BSP). It found, among other things, that respondent's collection of premiums from the proceeds of various salary and pension loans of borrowers to guarantee payment of outstanding loans violated Section 54 of RA No. 8791^[5] which states that banks shall not directly engage in insurance business as insurer.

Subsequently, respondent wrote a letter to petitioners justifying the existence of the CRF.

In a letter dated March 17, 2003, the BSP notified respondent about the Insurance Commission's opinion that the CRF is a form of insurance. Thus, respondent was

requested to discontinue the collection of said fees.

On February 24, 2004, respondent complied with the BSP's directive and discontinued the collection of fees for CRF.

On September 16, 2005, petitioners issued Monetary Board (MB) Resolution No. 1139 directing respondent's Trust and Investment Department to return to the borrowers all the balances of the CRF in the amount of P144,713,224.54 as of August 31, 2004, and to preserve the records of borrowers who were deducted CRFs from their loan proceeds pending resolution or ruling of the Office of the General Counsel of the BSP. Thus, respondent requested reconsideration of said MB Resolution. However, the same was denied in a letter dated December 5, 2006.

Accordingly, respondent filed a Petition for Declaratory Relief with the RTC of Makati City.

In response, petitioners filed a Motion to Dismiss alleging that the petition for declaratory relief cannot prosper due to respondent's prior breach of Section 54 of RA No. 8791.

In an Order^[6] dated September 24, 2007, the RTC dismissed respondent's petition for declaratory relief and held as follows:

Upon a thorough analysis of the allegations of the petition and the documents attached thereto as annexes, the arguments of both parties in support of their respective position on the incident up for resolution, the Court finds that an ordinary civil action or other else but certainly not the present action for declaratory relief, is the proper remedy.

Clearly, as gleaned from the very documents attached to the petition, and as correctly pointed out by the [petitioners], [respondent], as found by the BSP examiners and confirmed by the Monetary Board, violated Section 54 of RA No. 8791, subject matter of the instant case, by engaging in an insurance activity which is prohibited by such law. To be precise, the law so provides thus:

"SEC. 54. Prohibition to Act as Insurer. A bank shall not directly engaged (sic) in the business as the insurer."

Hence, the issue of whether or not petitioner violated the foregoing law can only be fittingly resolved thru an ordinary action. For which reason, the Court has no recourse but to put an end to this case.

In view of the foregoing, the Court deems it unnecessary to tackle the other grounds relied upon by [petitioners] in their motion to dismiss.

WHEREFORE, for reasons afore-stated, the petition is hereby DISMISSED.

SO ORDERED.

Almost a year later, respondent filed a Motion to Admit its Motion for Reconsideration against said order alleging that it did not receive a copy thereof until September 3, 2008.

Petitioners opposed said motion on the ground that per Certification of the Philippine Postal Office, an official copy of the RTC's Order was duly served and received by respondent on October 17, 2007.

Despite the foregoing, the RTC allowed respondent's motion for reconsideration and required petitioners to file their answer.

In a Decision dated June 15, 2009, the RTC of Makati City granted respondent's petition for declaratory relief disposing as follows:

WHEREFORE, premises considered, it is hereby DECLARED that [respondent], when it collected additional fees known as "Credit Redemption Fund (CRF)" from its loan borrowers was not directly engaged in insurance business as insurer; hence, it did not violate Sec. 54, R.A. 8791, otherwise known as the "General Banking Law of 2000."

The Monetary Board Resolution No. 1139 dated August 26, 2005 is hereby DECLARED null and void.

SO ORDERED.^[7]

Petitioners filed a motion for reconsideration against said decision, but the same was denied in an Order dated August 25, 2009.

Hence, the present petition wherein petitioners raise the following grounds to support their petition:

I.

THE COURT A *QUO* GRIEVOUSLY ERRED IN TAKING COGNIZANCE OF THE PETITION FOR DECLARATORY RELIEF DESPITE:

- (i) THE FINALITY OF THE BSP MB RESOLUTION: (a) DECLARING RESPONDENT VETERANS BANK'S CRF SCHEME AS VIOLATIVE OF SECTION 54 OF RA 8791; and (b) DIRECTING RESPONDENT TO RETURN THE ILLEGAL PROCEEDS THEREOF TO ITS BORROWERS; and
- (ii) THE BLATANT IMPROPRIETY OF RESORTING TO SUCH PETITION FOR DECLARATORY RELIEF, CONSIDERING RESPONDENT VETERANS BANK'S PRIOR BREACH OF THE MONETARY BOARD RESOLUTION SUBJECT THEREOF [ASSUMING

ARGUENDO THAT THE SUBJECT BSP RESOLUTION
HAS NOT BECOME FINAL];

II.

THE COURT A QUO'S ORDER, DISMISSING THE PETITION FOR
DECLARATORY RELIEF HAS LONG BECOME FINAL AND EXECUTORY AND
MAY NO LONGER BE DISTURBED.

III.

PETITIONERS' FINDING, THAT RESPONDENT VETERANS BANK IS
ENGAGED IN "INSURANCE BUSINESS," IS IN ACCORD WITH LAW.^[8]

In essence, the issue is whether or not the petition for declaratory relief is proper.

We rule in the negative.

Section 1, Rule 63 of the Rules of Court governs petitions for declaratory relief, viz.:

SECTION 1. *Who may file petition.* – Any person interested under a deed, will, contract or other written instrument, whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

Declaratory relief is defined as an action by any person interested in a deed, will, contract or other written instrument, executive order or resolution, to determine any question of construction or validity arising from the instrument, executive order or regulation, or statute; and for a declaration of his rights and duties thereunder. The only issue that may be raised in such a petition is the question of construction or validity of provisions in an instrument or statute.^[9]

Ergo, the Court, in *CJH Development Corporation v. Bureau of Internal Revenue*,^[10] held that in the same manner that court decisions cannot be the proper subjects of a petition for declaratory relief, decisions of quasi-judicial agencies cannot be subjects of a petition for declaratory relief for the simple reason that if a party is not agreeable to a decision either on questions of law or of fact, it may avail of the various remedies provided by the Rules of Court.

In view of the foregoing, the decision of the BSP Monetary Board cannot be a proper subject matter for a petition for declaratory relief since it was issued by the BSP Monetary Board in the exercise of its quasi-judicial powers or functions.

The authority of the petitioners to issue the questioned MB Resolution emanated from its powers under Section 37^[11] of RA No. 7653^[12] and Section 66^[13] of RA