

THIRD DIVISION

[G.R. No. 195687, April 14, 2014]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. DAVID G. NAVAL, JR., JOSE SALVANTE S. ANTE, ALVIN O. ARRIZA, JACINTO Y. MANALO, RAMON D. SIAO, AND ALLAN E. BENUSA, IN THEIR OWN NAMES AND IN BEHALF OF THE OFFICERS AND EMPLOYEES, BOTH INCUMBENT AND RETIRED, OF LAND BANK OF THE PHILIPPINES, RESPONDENTS.

GENEROSO DAVID AND OTHER LAND BANK OFFICERS AND EMPLOYEES, REPRESENTED BY DAVID CUI-DAVID BUENAVENTURA AND ANG LAW OFFICES, INTERVENORS.

EDWIN A. ILAGAN, MARY GRACE L. SALTING, IMELDA B. MOLOD, MA. CARMEN B. BERAQUIT, MA. SOCORRO N. REGALA, GERRY P. SALTING, REGGIE D. ABIOG, ESTHER S. VILLAR, GWENDOLYN B. DOMETITA, THERESA G. ENDAYA, MERFE F. DAGNALAN, ANTONETTE F. BALGEMINO, CELESTE R. CABATINGAN, AMELIA G. JIMENEZ, CARLOS B. FLORIN JR., DOROTHY MAY E. EMPLEO, JESUS D. EMPLEO, MILDRED BONOS, MARIBEL G. HALDOS, CHOLITA B. SESNO, CHONA LUDDIE BARELA, AND GRACE L. CRUZ, INTERVENORS.

R E S O L U T I O N

VELASCO JR., J.:

Before this Court is an Omnibus Motion^[1] interposed by petitioner Land Bank of the Philippines (LBP) praying, *inter alia*, that we set aside our Resolution dated July 25, 2011^[2] which denied its Petition for Review on Certiorari. The petition assailed the Decision^[3] and Resolution^[4] dated October 11, 2010 and February 22, 2011, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 99154, which in turn affirmed with modification the June 7, 2004 Decision of the Regional Trial Court (RTC) of Manila, Branch 40.

The Facts

In accordance with Letters of Implementation No. (LOI) 104 dated October 12, 1979,^[5] petitioner LBP granted its officers and employees Cost of Living Allowance (COLA) equivalent to three hundred pesos (PhP 300) or forty percent (40%) of their monthly basic salary, whichever is higher, every month.

Further, pursuant to LOI 116 dated May 12, 1980,^[6] LBP gave its employees a monthly allowance called a "Bank Equity Pay" (BEP). For employees whose monthly basic salary is one thousand five hundred and one pesos (PhP 1,501) and above, the

amount of BEP is five hundred pesos (Php 500), while for those with a basic pay of one thousand five hundred pesos (Php 1,500) and below, the monthly BEP is five hundred fifty pesos (Php 550).^[7]

On July 6, 1988, the LBP Board of Directors issued Resolution No. '88-109^[8] integrating the COLA into the basic pay of LBP employees. The Resolution took effect on May 16, 1989^[9] supposedly without any opposition from the employees of LBP.

On August 21, 1989, Republic Act No. (RA) 6758, entitled "An Act Prescribing a Revised Compensation and Position Classification System in the Government and For Other Purposes," which is otherwise known as the Salary Standardization Law (SSL), was enacted. Section 12 of said law provides, *inter alia*, for the integration/consolidation of allowances and additional compensation into the standardized salary rates save for certain additional compensation enumerated therein and others that the Department of Budget and Management (DBM) is mandated to determine, viz:

Section 12. *Consolidation of Allowances and Compensation.* – **All allowances**, except for representation and transportation allowances; clothing and laundry allowances; subsistence allowance of marine officers and crew on board government vessels and hospital personnel; hazard pay; allowances of foreign service personnel stationed abroad; and such other additional compensation not otherwise specified herein as may be determined by the DBM, **shall be deemed included in the standardized salary rates herein prescribed**. Such other additional compensation, whether in cash or in kind, being received by incumbents only as of July 1, 1989 not integrated into the standardized salary rates shall continue to be authorized.

Existing additional compensation of any national government official or employee paid from local funds of a local government unit shall be absorbed into the basic salary of said official or employee and shall be paid by the National Government. (underscoring supplied)

In compliance with the mandate contained in the SSL, DBM issued on October 2, 1989 Corporate Compensation Circular No. 10 (DBM-CCC No. 10),^[10] entitled "Rules and Regulations for Implementation of the Revised Compensation and Position Classification System Prescribed under R.A. No. 6758 for Government-Owned and/or Controlled Corporations (GOCCs) and Government Financial Institutions (GFIs)."

DBM-CCC No. 10 specifically stated that the COLA and BEP granted to employees of GOCCs and GFIs shall be deemed integrated into the basic salary effective July 1, 1989.^[11] Thus, in conformity with the provisions of DBM-CCC No. 10, LBP likewise integrated the BEP into the basic pay of its employees effective as of July 1, 1989.

On February 23, 1995, RA 7907 removed petitioner LBP from the coverage of the SSL.^[12]

On August 12, 1998, this Court nullified DBM-CCC No. 10 in *De Jesus v. Commission on Audit*^[13] for the reason that it was not published in the Official Gazette or in a newspaper of general circulation, as required by law.

The DBM remedied its circular's defect by publishing DBM-CCC No. 10 in the Official Gazette in March 1999, which was released on July 1, 1999. Hence, DBM-CCC No. 10, as published, took effect on July 16, 1999.

It appears that after the publication of the Decision in *De Jesus*, respondents started negotiating with petitioner LBP for the payment of their COLA and BEP benefits over and above their monthly basic salaries, and back payment of the same from the time that LBP stopped to extend them until the finality of the Decision in *De Jesus*.

On May 17, 2002,^[14] respondents wrote then LBP President Margarito Teves appealing for the restoration of their COLA and BEP. Receiving no immediate response, respondents sent a final demand letter dated June 21, 2002 reiterating the claim for the payment of their COLA and BEP from July 1, 1989 to March 15, 1999, inclusive.^[15]

Petitioner LBP, however, in a letter dated June 25, 2002 denied respondents' appeal based on a Civil Service Commission (CSC) ruling citing DBM Budget Circular 2001-03 which prohibits the payment of COLA and similar allowances on top of the basic salary on the ground that it would constitute double compensation.^[16]

Thus, on August 30, 2002, respondents instituted a Petition for Mandamus^[17] before the RTC of Manila, Branch 40, docketed as Civil Case No. 02-104483 to compel LBP to pay their COLA and the BEP allowances over and above their basic salaries because of their alleged clear legal right to receive these allowances under LOI Nos. 104 and 116.^[18]

On June 7, 2004, the trial court issued a Decision^[19] in respondents' favor, granting the petition for mandamus and ordering LBP to pay herein respondents' claim. The decretal portion of the RTC's Decision states:

WHEREFORE, Judgment is rendered requiring respondents to pass and issue a board resolution:

1. Directing the payment of Cost of Living Allowance (COLA) in the amount of P300.00 or forty percent (40%) of the respective basic salaries of petitioners per month whichever is higher, effective May 16, 1989 up to the present;
2. Directing the payment of Bank Equity Pay (BEP) amounting to ? 550.00 per month for those receiving P1,500.00 and below as basic salary per month and ?500.00 per month for those receiving more than P1,500.00 per month from July 1, 1989 up to the present; and
3. Directing the payment of interest amounting to six percent (6%) per year on all the amounts due to petitioners effective May 16, 1989 in the case of COLA and July 1, 1989 in the case of BEP up to

August 18, 1999, (the date of extra-judicial demand), and twelve (12%) from August 19, 1999 up to the present or until fully paid.
[20]

When its Motion for Reconsideration^[21] was denied by the court a quo,^[22] petitioner LBP interposed an appeal with the CA,^[23] the recourse docketed as CA-G.R. SP No. 99154. Petitioner LBP filed its Memorandum on June 13, 2007.^[24] Respondents, on the other hand, opted to file a Motion to Dismiss Appeal^[25] supposedly because LBP's resort was the wrong mode and the appeal is wanting of material dates.

Eventually, the appellate court issued a Decision dated October 11, 2010^[26] affirming with modification the RTC Decision. The CA ruled, thus:

WHEREFORE, the assailed Decision dated June 7, 2004 rendered by the Regional Trial Court (RTC) of Manila (Branch 40), in Special Civil Action No. 02-104483, is hereby AFFIRMED with modification that:

Land Bank of the Philippines is hereby DIRECTED to pay an interest of six percent (6%) per annum on all the amounts due to petitioners-appellees effective May 16, 1989, in the case of Cost of Living Allowance (COLA), and July 1, 1989, in the case of Bank Equity Pay (BEP), up to the finality of this Decision, which interest rate should become twelve percent (12%) per annum from the finality of this Decision up to its satisfaction.

In sustaining the decision of the RTC, the appellate court held that while LOI Nos. 104 and 116 mandate the payment of additional compensation, evidence shows that "the salaries of [LBP's] officers and employees before and after the alleged integration shows that the latter hardly received said financial incentives at all"^[27] and that there is "an apparent diminution in the net pay [of LBP employees and officers] **even if the COLA and BEP are already incorporated therein.**"^[28]

The CA further stated the observation that, while DBM-CCC No. 10 expressly allowed the integration of the COLA and BEP into the basic pay, the circular cannot operate to validate the acts of petitioner LBP as the issuance was subsequently nullified for non-publication.^[29]

The CA also pointed out that LBP officers and employees were already taken out of the coverage of SSL by RA 7907 on February 23, 1995, or more than four (4) years before the publication of DBM CCC No. 10; thus, the LBP officers and employees shall continue to receive their COLA and BEP on top of their basic salaries, as there has been no law that effectively repealed LOI Nos. 104 and 116.

LBP moved for, but was denied, reconsideration^[30] per the CA's Resolution dated February 22, 2011.^[31]

On April 15, 2011, LBP filed a Petition for Review before this Court, ascribing to the

appellate court the commission of serious reversible errors. LBP argues that the integration/consolidation of COLA and BEP undertaken by LBP cannot be considered a circumvention of LOI Nos. 104 and 116 as it was validated and confirmed as a state policy under the SSL barely two months after the integration of the COLA was implemented. [32] Citing *Gutierrez v. DBM*, [33] LBP maintains that based on Section 12 of the SSL, the COLA and BEP are among those falling into the general category of allowances that shall be "deemed included" in the standardized salary rates prescribed in it. [34]

The appellate court also grievously erred, so LBP argued, in ruling that there was no law that repealed LOI Nos. 104 and 116 considering that the SSL expressly repealed the law upon which LOI Nos. 104 and 116 were made, Presidential Decree No. (PD) 985. Thus, so petitioner maintains, it is erroneous to conclude that the integration of COLA and BEP into the basic pay continues to violate the provisions of these repealed laws. Further, since the issuance of RA 7907, LBP is now allowed to draw up its own compensation plan independent of the provisions of either the SSL or LOI Nos. 104 and 116. [35]

The Court, in a minute resolution, denied the petition on July 25, 2011. [36] Hence, this Omnibus Motion. [37]

LBP specifically emphasized in its motion that LOI Nos. 104 and 116 have been repealed by the SSL and that LBP itself was excluded from the SSL's coverage even before its implementing rules were invalidated by the court. Thus, it is petitioner's position that it cannot be legally compelled to pay the COLA and the BEP up to the present. LBP further cites *Galang v. Land Bank of the Philippines* [38] (*Galang*) where this Court supposedly recognized that the COLA had been replaced by Personnel Economic Relief Allowance (PERA), which is now extended to all LBP employees. [39] To petitioner, these are all established facts that significantly demolish the conclusion reached by the appellate court to the effect that the COLA and the BEP should be given to respondents up to the present because LOI Nos. 104 and 116 remain to be the governing laws on the matter.

On October 3, 2011, this Court received a Motion to Intervene dated September 28, 2011 [40] filed by LBP employees, represented by Engr. Generoso David (David), who claim being in the same circumstance and situation as respondents in the instant case, having a claim on the same benefits as that claimed by respondents.

In a Resolution dated October 12, 2011, [41] this Court granted LBP's motion for reconsideration as incorporated in its Omnibus Motion and reinstated its basic petition. The Court likewise granted the LBP employees' Motion for Intervention and required both respondents and the intervenors led by David to file their respective comments on the Petition and the motion for reconsideration.

On November 16, 2011, respondents filed their Comments and/or Opposition to the Omnibus Motion [42] of Petitioner-Movant and the Motion to Intervene filed by David dated November 11, 2011. [43] Respondents argued the SSL has not repealed LOI Nos. 104 and 116. Also, LBP Board Resolution '88-109, which occasioned the COLA integration, was implemented without a formal approval from the DBM, as required by LOI No. 104. Hence, the integration cannot be sustained as valid.