

THIRD DIVISION

[G.R. No. 170290, April 11, 2012]

**PHILIPPINE DEPOSIT INSURANCE CORPORATION, PETITIONER,
VS. CITIBANK, N.A. AND BANK OF AMERICA, S.T. & N.A.,
RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review under Rule 45 of the 1997 Revised Rules of Civil Procedure, assailing the October 27, 2005 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 61316, entitled "*Citibank, N.A. and Bank of America, S.T. & N.A. v. Philippine Deposit Insurance Corporation.*"

The Facts

Petitioner Philippine Deposit Insurance Corporation (PDIC) is a government instrumentality created by virtue of Republic Act (R.A.) No. 3591, as amended by R.A. No. 9302.^[2]

Respondent Citibank, N.A. (*Citibank*) is a banking corporation while respondent Bank of America, S.T. & N.A. (*BA*) is a national banking association, both of which are duly organized and existing under the laws of the United States of America and duly licensed to do business in the Philippines, with offices in Makati City.^[3]

In 1977, PDIC conducted an examination of the books of account of Citibank. It discovered that Citibank, in the course of its banking business, from September 30, 1974 to June 30, 1977, received from its head office and other foreign branches a total of P11,923,163,908.00 in dollars, covered by Certificates of Dollar Time Deposit that were interest-bearing with corresponding maturity dates.^[4] These funds, which were lodged in the books of Citibank under the account "Their Account-Head Office/Branches-Foreign Currency," were not reported to PDIC as deposit liabilities that were subject to assessment for insurance.^[5] As such, in a letter dated March 16, 1978, PDIC assessed Citibank for deficiency in the sum of P1,595,081.96.^[6]

Similarly, sometime in 1979, PDIC examined the books of accounts of BA which revealed that from September 30, 1976 to June 30, 1978, BA received from its head office and its other foreign branches a total of P629,311,869.10 in dollars, covered by Certificates of Dollar Time Deposit that were interest-bearing with corresponding maturity dates and lodged in their books under the account "Due to Head Office/Branches."^[7] Because BA also excluded these from its deposit liabilities, PDIC wrote to BA on October 9, 1979, seeking the remittance of P109,264.83 representing deficiency premium assessments for dollar deposits.^[8]

Believing that litigation would inevitably arise from this dispute, Citibank and BA each filed a petition for declaratory relief before the Court of First Instance (now the Regional Trial Court) of Rizal on July 19, 1979 and December 11, 1979, respectively.

[9] In their petitions, Citibank and BA sought a declaratory judgment stating that the money placements they received from their head office and other foreign branches were not deposits and did not give rise to insurable deposit liabilities under Sections 3 and 4 of R.A. No. 3591 (*the PDIC Charter*) and, as a consequence, the deficiency assessments made by PDIC were improper and erroneous.[10] The cases were then consolidated.[11]

On June 29, 1998, the Regional Trial Court, Branch 163, Pasig City (*RTC*) promulgated its Decision[12] in favor of Citibank and BA, ruling that the subject money placements were not deposits and did not give rise to insurable deposit liabilities, and that the deficiency assessments issued by PDIC were improper and erroneous. Therefore, Citibank and BA were not liable to pay the same. The RTC reasoned out that the money placements subject of the petitions were not assessable for insurance purposes under the PDIC Charter because said placements were deposits made outside of the Philippines and, under Section 3.05(b) of the PDIC Rules and Regulations,[13] such deposits are excluded from the computation of deposit liabilities. Section 3(f) of the PDIC Charter likewise excludes from the definition of the term "deposit" any obligation of a bank payable at the office of the bank located outside the Philippines. The RTC further stated that there was no depositor-depository relationship between the respondents and their head office or other branches. As a result, such deposits were not included as third-party deposits that must be insured. Rather, they were considered inter-branch deposits which were excluded from the assessment base, in accordance with the practice of the United States Federal Deposit Insurance Corporation (*FDIC*) after which PDIC was patterned.

Aggrieved, PDIC appealed to the CA which affirmed the ruling of the RTC in its October 27, 2005 Decision. In so ruling, the CA found that the money placements were received as part of the bank's internal dealings by Citibank and BA as agents of their respective head offices. This showed that the head office and the Philippine branch were considered as the same entity. Thus, no bank deposit could have arisen from the transactions between the Philippine branch and the head office because there did not exist two separate contracting parties to act as depositor and depository.[14] Secondly, the CA called attention to the purpose for the creation of PDIC which was to protect the deposits of depositors in the Philippines and not the deposits of the same bank through its head office or foreign branches.[15] Thirdly, because there was no law or jurisprudence on the treatment of inter-branch deposits between the Philippine branch of a foreign bank and its head office and other branches for purposes of insurance, the CA was guided by the procedure observed by the FDIC which considered inter-branch deposits as non-assessable.[16] Finally, the CA cited Section 3(f) of R.A. No. 3591, which specifically excludes obligations payable at the office of the bank located outside the Philippines from the definition of a deposit or an insured deposit. Since the subject money placements were made in the respective head offices of Citibank and BA located outside the Philippines, then such placements could not be subject to assessment under the PDIC Charter.[17]

Hence, this petition.

The Issues

PDIC raises the issue of whether or not the subject dollar deposits are assessable for insurance purposes under the PDIC Charter with the following assigned errors:

A.

The appellate court erred in ruling that the subject dollar deposits are money placements, thus, they are not subject to the provisions of Republic Act No. 6426 otherwise known as the "Foreign Currency Deposit Act of the Philippines."

B.

The appellate court erred in ruling that the subject dollar deposits are not covered by the PDIC insurance.^[18]

Respondents similarly identify only one issue in this case:

Whether or not the money placements subject matter of these petitions are assessable for insurance purposes under the PDIC Act.^[19]

The sole question to be resolved in this case is whether the funds placed in the Philippine branch by the head office and foreign branches of Citibank and BA are insurable deposits under the PDIC Charter and, as such, are subject to assessment for insurance premiums.

The Court's Ruling

The Court rules in the negative.

*A branch has no separate legal personality;
Purpose of the PDIC*

PDIC argues that the head offices of Citibank and BA and their individual foreign branches are separate and independent entities. It insists that under American jurisprudence, a bank's head office and its branches have a principal-agent relationship only if they operate in the same jurisdiction. In the case of foreign branches, however, no such relationship exists because the head office and said foreign branches are deemed to be two distinct entities.^[20] Under Philippine law, specifically, Section 3(b) of R.A. No. 3591, which defines the terms "bank" and "banking institutions," PDIC contends that the law treats a branch of a foreign bank as a separate and independent banking unit.^[21]

The respondents, on the other hand, initially point out that the factual findings of the RTC and the CA, with regard to the nature of the money placements, the capacity in which the same were received by the respondents and the exclusion of inter-branch deposits from assessment, can no longer be disturbed and should be accorded great weight by this Court.^[22] They also argue that the money placements are not deposits. They postulate that for a deposit to exist, there must be at least two parties – a depositor and a depository – each with a legal personality distinct from the other. Because the respondents’ respective head offices and their branches form only a single legal entity, there is no creditor-debtor relationship and the funds placed in the Philippine branch belong to one and the same bank. A bank cannot have a deposit with itself.^[23]

This Court is of the opinion that the key to the resolution of this controversy is the relationship of the Philippine branches of Citibank and BA to their respective head offices and their other foreign branches.

The Court begins by examining the manner by which a foreign corporation can establish its presence in the Philippines. It may choose to incorporate its own subsidiary as a domestic corporation, in which case such subsidiary would have its own separate and independent legal personality to conduct business in the country. In the alternative, it may create a branch in the Philippines, which would not be a legally independent unit, and simply obtain a license to do business in the Philippines.^[24]

In the case of Citibank and BA, it is apparent that they *both did not incorporate* a separate domestic corporation to represent its business interests in the Philippines. Their Philippine branches are, as the name implies, merely branches, without a separate legal personality from their parent company, Citibank and BA. Thus, being one and the same entity, the funds placed by the respondents in their respective branches in the Philippines should not be treated as deposits made by third parties subject to deposit insurance under the PDIC Charter.

For lack of judicial precedents on this issue, the Court seeks guidance from American jurisprudence. In the leading case of *Sokoloff v. The National City Bank of New York*,^[25] where the Supreme Court of New York held:

Where a bank maintains branches, each branch becomes a separate business entity with separate books of account. A depositor in one branch cannot issue checks or drafts upon another branch or demand payment from such other branch, and in many other respects the branches are considered separate corporate entities and as distinct from one another as any other bank. **Nevertheless, when considered with relation to the parent bank they are not independent agencies; they are, what their name imports, merely branches, and are subject to the supervision and control of the parent bank,** and are instrumentalities whereby the parent bank carries on its business, and are established for its own particular purposes, and their business conduct and policies are controlled by the parent bank and their property and assets belong to the parent bank, although nominally held in the names of the particular branches. **Ultimate liability for a**

debt of a branch would rest upon the parent bank. [Emphases supplied]

This ruling was later reiterated in the more recent case of *United States v. BCCI Holdings Luxembourg*^[26] where the United States Court of Appeals, District of Columbia Circuit, emphasized that “while individual bank branches may be treated as independent of one another, each branch, unless separately incorporated, must be viewed as a part of the parent bank rather than as an independent entity.”

In addition, Philippine banking laws also support the conclusion that the head office of a foreign bank and its branches are considered as one legal entity. Section 75 of R.A. No. 8791 (The General Banking Law of 2000) and Section 5 of R.A. No. 7221 (An Act Liberalizing the Entry of Foreign Banks) both require the head office of a foreign bank to guarantee the prompt payment of all the liabilities of its Philippine branch, to wit:

Republic Act No. 8791:

Sec. 75. Head Office Guarantee. – In order to provide effective protection of the interests of the depositors and other creditors of Philippine branches of a foreign bank, the head office of such branches shall fully guarantee the prompt payment of all liabilities of its Philippine branch.

Residents and citizens of the Philippines who are creditors of a branch in the Philippines of foreign bank shall have preferential rights to the assets of such branch in accordance with the existing laws.

Republic Act No. 7221:

Sec. 5. Head Office Guarantee. – The head office of foreign bank branches shall guarantee prompt payment of all liabilities of its Philippine branches.

Moreover, PDIC must be reminded of the purpose for its creation, as espoused in Section 1 of R.A. No. 3591 (The PDIC Charter) which provides:

Section 1. There is hereby created a Philippine Deposit Insurance Corporation hereinafter referred to as the “Corporation” which shall insure, as herein provided, the deposits of all banks which are entitled to the benefits of insurance under this Act, and which shall have the powers hereinafter granted.

The Corporation shall, as a basic policy, promote and safeguard the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits.

R.A. No. 9576, which amended the PDIC Charter, reaffirmed the rationale for the