

## SECOND DIVISION

[ G.R. Nos. 154470-71, September 24, 2012 ]

**BANK OF COMMERCE, PETITIONER, VS. PLANTERS  
DEVELOPMENT BANK AND BANGKO SENTRAL NG PILIPINAS,  
RESPONDENTS.**

[G.R. NOS. 154589-90]

**BANGKO SENTRAL NG PILIPINAS, PETITIONER, VS. PLANTERS  
DEVELOPMENT BANK, RESPONDENT.**

### D E C I S I O N

**BRION, J.:**

Before the Court are two consolidated petitions for review on *certiorari* under Rule 45,<sup>[1]</sup> on pure questions of law, filed by the petitioners Bank of Commerce (BOC) and the Bangko Sentral ng Pilipinas (BSP). They assail the January 10, 2002 and July 23, 2002 Orders (*assailed orders*) of the Regional Trial Court (RTC) of Makati City, Branch 143, in Civil Case Nos. 94-3233 and 94-3254. These orders dismissed (i) the petition filed by the Planters Development Bank (PDB), (ii) the “counterclaim” filed by the BOC, and (iii) the counter-complaint/cross-claim for interpleader filed by the BSP; and denied the BOC’s and the BSP’s motions for reconsideration.

#### THE ANTECEDENTS

##### ***The Central Bank bills***

##### ***I. First set of CB bills***

The Rizal Commercial Banking Corporation (RCBC) was the registered owner of seven Central Bank (CB) bills **with a total face value of P70 million**, issued on January 2, 1994 and would mature on January 2, 1995.<sup>[2]</sup> As evidenced by a “Detached Assignment” dated **April 8, 1994**,<sup>[3]</sup> **the RCBC sold these CB bills to the BOC.**<sup>[4]</sup> As evidenced by another “Detached Assignment”<sup>[5]</sup> of even date, **the BOC, in turn, sold these CB bills to the PDB.**<sup>[6]</sup> The BOC delivered the Detached Assignments to the PDB.<sup>[7]</sup>

On **April 15, 1994** (*April 15 transaction*), **the PDB, in turn, sold to the BOC** Treasury Bills worth P70 million, with maturity date of June 29, 1994, as evidenced by a Trading Order<sup>[8]</sup> and a Confirmation of Sale.<sup>[9]</sup> However, instead of delivering the Treasury Bills, the PDB delivered the seven CB bills to the BOC, as evidenced by a PDB Security Delivery Receipt, bearing a “note: \*\* substitution in lieu of 06-29-94” – referring to the Treasury Bills.<sup>[10]</sup> Nevertheless, the PDB retained possession of the Detached Assignments. **It is basically the nature of this April 15**

**transaction that the PDB and the BOC cannot agree on.**

***The transfer of the first set of seven CB bills***

***i. CB bill nos. 45351-53***

On April 20, 1994, according to the BOC, it "sold back"<sup>[11]</sup> to the PDB three of the seven CB bills. In turn, the PDB transferred these three CB bills to Bancapital Development Corporation (*Bancap*). On April 25, 1994, the BOC bought the three CB bills from Bancap – so, ultimately, the BOC reacquired these three CB bills,<sup>[12]</sup> particularly described as follows:

Serial No.:	2BB XM 045351
	2BB XM 045352
	2BB XM 045353
Quantity:	Three (3)
Denomination:	Php 10 million
Total Face Value:	Php 30 million

***ii. CB bill nos. 45347-50***

On April 20, 1994, the BOC sold the remaining four (4) CB bills to Capital One Equities Corporation<sup>[13]</sup> which transferred them to All-Asia Capital and Trust Corporation (*All Asia*). On September 30, 1994, All Asia further transferred the four CB bills back to the RCBC.<sup>[14]</sup>

On November 16, 1994, the RCBC sold back to All Asia one of these 4 CB bills. When the BSP refused to release the amount of this CB bill on maturity, the BOC purchased from All Asia this lone CB bill,<sup>[15]</sup> particularly described as follows:<sup>[16]</sup>

Serial No.:	2BB XM 045348
Quantity:	One (1)
Denomination:	Php 10 million
Total Face Value:	Php 10 million

As the registered owner of the remaining three CB bills, the RCBC sold them to IVI Capital and Insular Savings Bank. Again, when the BSP refused to release the amount of this CB bill on maturity, the RCBC paid back its transferees, reacquired these three CB bills and sold them to the BOC – ultimately, the BOC acquired these three CB bills.

All in all, the BOC acquired the first set of seven CB bills.

***II. Second set of CB bills***

On April 19, 1994, the RCBC, as registered owner, (i) sold two CB bills with a total face value of P20 million to the PDB and (ii) delivered to the PDB the corresponding Detached Assignment.<sup>[17]</sup> The two CB bills were particularly described as follows:

Serial No.:	BB XM 045373
-------------	--------------

	BB XM 045374
Issue date:	January 3, 1994
Maturity date:	January 2, 1995
Denomination:	Php 10 million
Total Face value:	Php 20 million

On even date, the PDB delivered to Bancap the two CB bills<sup>[18]</sup> (*April 19 transaction*). In turn, Bancap sold the CB bills to Al-Amanah Islamic Investment Bank of the Philippines, which in turn sold it to the BOC.<sup>[19]</sup>

***PDB's move against the transfer of the first and second sets of CB bills***

On June 30, 1994, upon learning of the transfers involving the CB bills, the PDB informed<sup>[20]</sup> the Officer-in-Charge of the BSP's Government Securities Department, <sup>[21]</sup> Lagrimas Nuqui, of the PDB's claim over these CB bills, based on the Detached Assignments in its possession. The PDB requested the BSP<sup>[22]</sup> to record its claim in the BSP's books, explaining that its non-possession of the CB bills is "on account of imperfect negotiations thereof and/or subsequent setoff or transfer."<sup>[23]</sup>

Nuqui denied the request, invoking Section 8 of CB Circular No. 28 (*Regulations Governing Open Market Operations, Stabilization of the Securities Market, Issue, Servicing and Redemption of the Public Debt*)<sup>[24]</sup> which requires the presentation of the bond before a registered bond may be transferred on the books of the BSP.<sup>[25]</sup>

In a July 25, 1994 letter, the PDB clarified to Nuqui that it was not "asking for the transfer of the CB Bills.... [rather] it [intends] to put the [BSP] on formal notice that whoever is in possession of said bills is not a holder in due course," and, therefore the BSP should not make payment upon the presentation of the CB bills on maturity.<sup>[26]</sup> Nuqui responded that the BSP was "not in a position at [that] point in time to determine who is and who is not the holder in due course [since it] is not privy to all acts and time involving the transfers or negotiation" of the CB bills. Nuqui added that the BSP's action shall be governed by CB Circular No. 28, as amended.<sup>[27]</sup>

On November 17, 1994, the PDB also asked BSP Deputy Governor Edgardo Zialcita that (i) a notation in the BSP's books be made against the transfer, exchange, or payment of the bonds and the payment of interest thereon; and (ii) the presenter of the bonds upon maturity be required to submit proof as a holder in due course (of the first set of CB bills). The PDB relied on Section 10 (d) 4 of CB Circular No. 28.<sup>[28]</sup> This provision reads:

(4) Assignments effected by fraud – Where the assignment of a registered bond is secured by fraudulent representations, the Central Bank can grant no relief if the assignment has been honored without notice of fraud. Otherwise, the Central Bank, **upon receipt of notice that the assignment is claimed to have been secured by fraudulent representations, or payment of the bond the payment of interest thereon, and when the bond is presented, will call upon the owner and the person presenting the bond to**

**substantiate their respective claims.** If it then appears that the person presenting the bond stands in the position of bonafide holder for value, the Central Bank, after giving the owner an opportunity to assert his claim, will pass the bond for transfer, exchange or payments, as the case may be, without further question.

In a December 29, 1994 letter, Nuqui again denied the request, reiterating the BSP's previous stand.

In light of these BSP responses and the impending maturity of the CB bills, the PDB filed<sup>[29]</sup> with the RTC two separate petitions for *Mandamus*, Prohibition and Injunction with prayer for Preliminary Injunction and Temporary Restraining Order, docketed as Civil Case No. 94-3233 (covering the first set of CB bills) and Civil Case 94-3254 (covering the second set of CB bills) against Nuqui, the BSP and the RCBC.<sup>[30]</sup>

The PDB essentially claims that in both the April 15 transaction (involving the first set of CB bills) and the April 19 transaction (involving the second set of CB bills), there was no intent on its part to transfer title of the CB bills, as shown by its non-issuance of a detached assignment in favor of the BOC and Bancap, respectively. The PDB particularly alleges that it merely "warehoused"<sup>[31]</sup> the first set of CB bills with the BOC, as security collateral.

On December 28, 1994, the RTC temporarily enjoined Nuqui and the BSP from paying the face value of the CB bills on maturity.<sup>[32]</sup> On January 10, 1995, the PDB filed an Amended Petition, additionally impleading the BOC and All Asia.<sup>[33]</sup> In a January 13, 1995 Order, the cases were consolidated.<sup>[34]</sup> On January 17, 1995, the RTC granted the PDB's application for a writ of preliminary prohibitory injunction.<sup>[35]</sup> In both petitions, the PDB identically prayed:

WHEREFORE, it is respectfully prayed x x x that, after due notice and hearing, the Writs of Mandamus, Prohibition and Injunction, be issued;  
(i) commanding the [BSP] and [Nuqui], or whoever may take her place -

(a) to record forthwith in the books of BSP the claim of x x x PDB on the [two sets of] CB Bills in accordance with Section 10 (d) (4) of revised C.B. Circular No. 28; and

(b) also pursuant thereto, when the bills are presented on maturity date for payment, to call (i) x x x PDB[,], (ii) x x x RCBC x x x, (iii) x x x BOC x x x, and (iv) x x x ALL-ASIA x x x; or whoever will present the [first and second sets of] CB Bills for payment, to submit proof as to who stands as the holder in due course of said bills, and, thereafter, act accordingly;

and (ii) [ordering the BSP and Nuqui] to pay jointly and severally to x x x PDB the following:

(a) the sum of P100,000.00, as and for exemplary damages;

(b) the sum of at least P500,000.00, or such amount as shall be proved at the trial, as and for attorney's fees;

(c) the legal rate of interest from the filing of this Petition until full payment of the sums mentioned in this Petition; and

(d) the costs of suit.<sup>[36]</sup>

After the petitions were filed, the BOC acquired/reacquired all the nine CB bills – the first and second sets of CB bills (*collectively, subject CB bills*).

### **Defenses of the BSP and of the BOC<sup>[37]</sup>**

The BOC filed its Answer, praying for the dismissal of the petition. It argued that the PDB has no cause of action against it since the PDB is no longer the owner of the CB bills. Contrary to the PDB's "warehousing theory,"<sup>[38]</sup> the BOC asserted that the (i) April 15 transaction and the (ii) April 19 transaction – covering both sets of CB bills – were valid contracts of sale, followed by a transfer of title (i) to the BOC (in the April 15 transaction) upon the PDB's delivery of the 1<sup>st</sup> set of CB bills *in substitution* of the Treasury Bills the PDB originally intended to sell, and (ii) to Bancap (in the April 19 transaction) upon the PDB's delivery of the 2<sup>nd</sup> set of CB bills to Bancap, likewise by way of substitution.

The BOC adds that Section 10 (d) 4 of CB Circular No. 28 cannot apply to the PDB's case because (i) the PDB is not in possession of the CB bills and (ii) the BOC acquired these bills from the PDB, as to the 1<sup>st</sup> set of CB bills, and from Bancap, as to the 2<sup>nd</sup> set of CB bills, in good faith and for value. The BOC also asserted a compulsory counterclaim for damages and attorney's fees.

On the other hand, the BSP countered that the PDB cannot invoke Section 10 (d) 4 of CB Circular No. 28 because this section applies only to an "owner" and a "person presenting the bond," of which the PDB is neither. The PDB has not presented to the BSP any assignment of the subject CB bills, duly recorded in the BSP's books, in its favor to clothe it with the status of an "owner."<sup>[39]</sup> According to the BSP –

Section 10 d. (4) applies only to a registered bond which is assigned. And the issuance of CB Bills x x x are required to be recorded/registered in BSP's books. In this regard, Section 4 a. (1) of CB Circular 28 provides that registered bonds "may be transferred only by an assignment thereon duly executed by the registered owner or his duly authorized representative x x x and duly recorded on the books of the Central Bank."

x x x x

The alleged assignment of subject CB Bills in PDB's favor is not recorded/registered in BSP's books.<sup>[40]</sup> (underscoring supplied)

Consequently, when Nuqui and the BSP refused the PDB's request (to record its