

SECOND DIVISION

[G.R. No. 93397, March 03, 1997]

**TRADERS ROYAL BANK, PETITIONER, VS. COURT OF APPEALS,
FILRITERS GUARANTY ASSURANCE CORPORATION AND
CENTRAL BANK OF THE PHILIPPINES, RESPONDENTS.**

DECISION

TORRES, J.:

Assailed in this Petition for Review on Certiorari is the Decision of the respondent Court of Appeals dated January 29, 1990,^[1] affirming the nullity of the transfer of Central Bank Certificate of Indebtedness (CBCI) No. D891,^[2] with a face value of P500, 000, from the Philippine Underwriters Finance Corporation (Philfinance) to the petitioner Trader's Royal Bank (TRB), under a Repurchase Agreement^[3] dated February 4, 1981, and a Detached Assignment^[4] dated April 27, 1981.

Docketed as Civil Case No. 83-17966 in the Regional Trial Court of Manila, Branch 32, the action was originally filed as a Petition for Mandamus^[5] under Rule 65 of the Rules of Court, to compel the Central Bank of the Philippines to register the transfer of the subject CBCI to petitioner Traders Royal Bank (TRB).

In the said petition, TRB stated that:

"3. On November 27, 1979, Filriters Guaranty Assurance Corporation (Filriters) executed a 'Detached Assignment' xxx, whereby Filriters, as registered owner, sold, transferred, assigned and delivered unto Philippine Underwriters Finance Corporation (Philfinance) all its rights and title to Central Bank Certificates of Indebtedness (CBCI) Nos. D890 to D896, inclusive, each in the denomination of PESOS : FIVE HUNDRED THOUSAND (P500,000) and having an aggregate value of PESOS: THREE MILLION FIVE HUNDRED THOUSAND (P3,500,000.00);

4. The aforesaid Detached Assignment (Annex "A") contains an express authorization executed by the transferor intended to complete the assignment through the registration of the transfer in the name of PhilFinance, which authorization is specifically phrased as follows : '(Filriters) hereby irrevocably authorized the said issuer (Central Bank) to transfer the said bond/certificates on the books of its fiscal agent;

5. On February 4, 1981, petitioner entered into a Repurchase Agreement with PhilFinance xxx, whereby, for and in consideration of the sum of PESOS: FIVE HUNDRED THOUSAND (P500,000.00) , PhilFinance sold, transferred and delivered to petitioner CBCI 4-year, 8th series, Serial No. D891 with a face value of P500,000.00 xxx, which CBCI was among those previously acquired by PhilFinance from Filriters as averred in paragraph 3 of the Petition;

6. Pursuant to the aforesaid Repurchase Agreement (Annex 'B'), Philfinance agreed to repurchase CBCI Serial No. D891 (Annex 'C') , at the stipulated price of PESOS : FIVE HUNDRED NINETEEN THOUSAND THREE HUNDRED SIXTY-ONE & 11/100 (P519,361.11) on April 27, 1981;

7. PhilFinance failed to repurchase the CBCI on the agreed date of maturity, April 27, 1981, when the checks it issued in favor of petitioner were dishonored for insufficient funds;

8. Owing to the default of PhilFinance, it executed a Detached Assignment in favor of the Petitioner to enable the latter to have its title completed and registered in the books of the respondent. And by means of said Detachment Assignment, Philfinance transferred and assigned all its rights and title in the said CBCI (Annex 'C') to petitioner and, furthermore, it did thereby 'irrevocably authorize the said issuer (respondent herein) to transfer the said bond/certificate on the books of its fiscal agent.' xxx

9. Petitioner presented the CBCI (Annex 'C') , together with the two (2) aforementioned Detached Assignments (Annexes 'B' and 'D'), to the Securities Servicing Department of the respondent, and requested the latter to effect the transfer of the CBCI on its books and to issue a new certificate in the name of petitioner as absolute owner thereof;

10. Respondent failed and refused to register the transfer as requested, and continues to do so notwithstanding petitioner's valid and just title over the same and despite repeated demands in writing, the latest of which is hereto attached as Annex 'E' and made an integral part hereof;

11. The express provisions governing the transfer of the CBCI were substantially complied with in petitioner's request for registration, to wit:

'No transfer thereof shall be valid unless made at said office (where the Certificate has been registered) by the registered owner hereof, in person or by his attorney duly authorized in writing, and similarly noted hereon, and upon payment of a nominal transfer fee which may be required, a new Certificate shall be issued to the transferee of the registered holder thereof.'

and, without a doubt, the Detached Assignments presented to respondent were sufficient authorizations in writing executed by the registered owner, Filriters, and its transferee, PhilFinance, as required by the above-quoted provision;

12. Upon such compliance with the aforesaid requirements, the ministerial duties of registering a transfer of ownership over the CBCI and issuing a new certificate to the transferee devolves upon the respondent;"

Upon these assertions, TRB prayed for the registration by the Central Bank of the subject CBCI in its name.

On December 4, 1984, the Regional Trial Court trying the case took cognizance of the defendant Central Bank of the Philippines' Motion for Admission of Amended

Answer with Counter Claim for Interpleader,^[6] thereby calling to fore the respondent Filriters Guaranty Assurance Corporation (Filriters) , the registered owner of the subject CBCI as respondent.

For its part, Filriters interjected as Special Defenses the following:

"11. Respondent is the registered owner of CBCI No. 891;

12. The CBCI constitutes part of the reserve investment against liabilities required of respondent as an insurance company under the Insurance Code;

13. Without any consideration or benefit whatsoever to Filriters, in violation of law and the trust fund doctrine and to the prejudice of policyholders and to all who have present or future claim against policies issued by Filriters, Alfredo Banaria, then Senior Vice- President-Treasury of Filriters, without any board resolution, knowledge or consent of the board of directors of Filriters and without any clearance or authorization from the Insurance Commissioner, executed a detached assignment purportedly assigning CBCI No. 891 to Philfinance;

x x x

14. Subsequently, Alberto Fabella, Senior Vice-President-Comptroller and Pilar Jacobe, Vice-President-Treasury of Filriters (both of whom were holding the same positions in Philfinance) , without any consideration or benefit redounding to Filriters and to the grave prejudice of Filriters, its policy holders and all who have present or future claims against its policies, executed similar detached assignment forms transferring the CBCI to plaintiff;

x x x

15. The detached assignment is patently void and inoperative because the assignment is without the knowledge and consent of directors of Filriters, and not duly authorized in writing by the Board, as required by Article V, Section 3 of CB Circular No. 769;

16. The assignment of the CBCI to Philfinance is a personal act of Alfredo Banaria and not the corporate act of Filriters and as such null and void;

a) The assignment was executed without consideration and for that reason, the assignment is void from the beginning (Article 1409, Civil Code);

b) The assignment was executed without any knowledge and consent of the board of directors of Filriters;

c) The CBCI constitutes reserve investment of Filriters against liabilities, which is a requirement under the Insurance Code for its existence as an insurance company and the pursuit of its business operations. The assignment of the CBCI is illegal act, in the sense of malum in se or malum prohibitum, for anyone to make, either as corporate or personal act;

d) The transfer or diminution of reserve investments of Filriters is expressly prohibited by law, is immoral and against public policy;

e) The assignment of the CBCI has resulted in the capital impairment and in the solvency deficiency of Filriters (and has in fact helped in placing Filriters under conservatorship) , an inevitable result known to the officer who executed the detached assignment.

17. Plaintiff had acted in bad faith and with knowledge of the illegality and invalidity of the assignment;

a) The CBCI No. 891 is not a negotiable instrument and as a certificate of indebtedness is not payable to bearer but is registered in the name of Filriters;

b) The provision on transfer of the CBCIs, provides that the Central Bank shall treat the registered owner as the absolute owner and that the value of the registered certificates shall be payable only to the registered owner; a sufficient notice to plaintiff that the assignments do not give them the registered owner's right as absolute owner of the CBCIs;

c) CB Circular 769, Series of 1980 (Rules and Regulations Governing CBCIs) provides that registered certificates are payable only to the registered owner (Article II, Section 1).

18. Plaintiff knew full well that the assignment by Philfinance of CBCI No. 891 by Filriters is not a regular transaction made in the usual or ordinary course of business ;

a) The CBCI constitutes part of the reserve investments of Filriters against liabilities required by the Insurance Code and its assignment or transfer is expressly prohibited by law. There was no attempt to get any clearance or authorization from the Insurance Commissioner;

b) The assignment by Filriters of the CBCI is clearly not a transaction in the usual or regular course of its business;

c) The CBCI involved substantial amount and its assignment clearly constitutes disposition of 'all or substantially all' of the assets of Filriters, which requires the affirmative action of the stockholders (Section 40, Corporation [sic] Code).^[7]

In its Decision^[8] dated April 29, 1988, the Regional Trial Court of Manila, Branch XXXII found the assignment of CBCI No. D891 in favor of Philfinance, and the subsequent assignment of the same CBCI by Philfinance in favor of Traders Royal Bank null and void and of no force and effect. The dispositive portion of the decision reads:

"ACCORDINGLY, judgment is hereby rendered in favor of the respondent Filriters Guaranty Assurance Corporation and against the plaintiff Traders Royal Bank:

(a) Declaring the assignment of CBCI No. 891 in favor of PhilFinance, and the subsequent assignment of CBCI by PhilFinance in favor of the plaintiff Traders Royal Bank as null and void and of no force and effect;

(b) Ordering the respondent Central Bank of the Philippines to disregard the said assignment and to pay the value of the proceeds of the CBCI No. D891 to the Filriters Guaranty Assurance Corporation;

(c) Ordering the plaintiff Traders Royal Bank to pay respondent Filriters Guaranty Assurance Corp. The sum of P10,000 as attorney's fees; and

(d) to pay the costs.

SO ORDERED."^[9]

The petitioner assailed the decision of the trial court in the Court of Appeals,^[10] but their appeal likewise failed. The findings of fact of the said court are hereby reproduced:

"The records reveal that defendant Filriters is the registered owner of CBCI No. D891. Under a deed of assignment dated November 27, 1971, Filriters transferred CBCI No. D891 to Philippine Underwriters Finance Corporation (Philfinance). Subsequently, Philfinance transferred CBCI No. D891, which was still registered in the name of Filriters, to appellant Traders Royal Bank (TRB) . The transfer was made under a repurchase agreement dated February 4, 1981, granting Philfinance the right to repurchase the instrument on or before April 27, 1981. When Philfinance failed to buy back the note on maturity date, it executed a deed of assignment, dated April 27, 1981, conveying to appellant TRB all its rights and title to CBCI No. D891.

Armed with the deed of assignment, TRB then sought the transfer and registration of CBCI No. D891 in its name before the Security and Servicing Department of the Central Bank (CB). Central Bank, however, refused to effect the transfer and registration in view of an adverse claim filed by defendant Filriters.

Left with no other recourse, TRB filed a special civil action for mandamus against the Central Bank in the Regional Trial Court of Manila. The suit, however, was subsequently treated by the lower court as a case of interpleader when CB prayed in its amended answer that Filriters be impleaded as a respondent and the court adjudge which of them is entitled to the ownership of CBCI No. D891. Failing to get a favorable judgment. TRB now comes to this Court on appeal."^[11]

In the appellate court, petitioner argued that the subject CBCI was a negotiable instrument, and having acquired the said certificate from Philfinance as a holder in due course, its possession of the same is thus free from any defect of title of prior parties and from any defense available to prior parties among themselves, and it may thus, enforce payment of the instrument for the full amount thereof against all parties liable thereon.^[12]

In ignoring said argument, the appellate court said that the CBCI is not a negotiable instrument, since the instrument clearly stated that it was payable to Filriters, the registered owner, whose name was inscribed thereon, and that the certificate lacked the words of negotiability which serve as an expression of consent that the instrument may be transferred by negotiation.