

SPECIAL ELEVENTH DIVISION

[CA-G.R. SP No. 128241, November 28, 2014]

PHILIPPINE DEPOSIT INSURANCE CORPORATION, AS THE STATUTORY LIQUIDATOR OF UNITRUST DEVELOPMENT BANK (UDB), PETITIONER, VS. THE HON. WINLOVE M. DUMAYAS, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 59, FRANCISCO R. YUSECO, JR., LEOPOLDO VALCARCEL, PEDRO MONTAÑEZ, AND TOORU NAGASAWA, IN HIS CAPACITY AS THE APPOINTED TRUSTEE-IN-BANKRUPTCY OF THE TOKYO DISTRICT COURT, DIVISION 20, JAPAN, REPRESENTING THE CREDITORS OF THE INSOLVENT GENTA OGAMI, WHO IS A SHAREHOLDER OF UDB, RESPONDENTS.

DECISION

PAREDES, J.:

THE CASE

THIS IS A PETITION FOR CERTIORARI^[1] filed by petitioner Philippine Deposit Insurance Corporation (PDIC) which seeks to reverse and set aside the Orders^[2] dated June 19, 2012 and December 17, 2012, issued by the Regional Trial Court, Branch 59, Makati City (RTC-Branch 59 or court *a quo*, as the case may be), in Spl. Pro. M-6069 directing the PDIC to cease and desist from further liquidating Unitrust Development Bank (Unitrust).

THE ANTECEDENTS

PDIC is a government-owned and controlled corporation created under Republic Act No. 3591^[3] (RA 3591), as amended by RA 9302^[4]. The Monetary Board, acting pursuant to Section 30 of RA 7653^[5] through Resolutions no. 19 and no. 64, designated PDIC as the statutory receiver and liquidator, respectively, of Unitrust.

Unitrust is a domestic banking corporation operating, since July 8, 1980, as a thrift bank. Private respondents Francisco R. Yuseco, Jr., Leopoldo Valcarcel, Pedro Montañez, and two Japanese firms – Minamoto Saiken Kaishu Co., Ltd. and G. Universal Co., Ltd. – acquired^[6] ownership of Unitrust on September 21, 2001. Thereafter, on January 4, 2002, Unitrust declared a bank holiday^[7]. As a consequence, on January 4, 2002, the Monetary Board issued Resolution no. 19 which prohibited Unitrust from doing business and placed it under the receivership of PDIC^[8]. Meanwhile, respondent Tooru Nagasawa was appointed trustee of the two Japanese Firms (Minamoto Saiken Kaishu Co., Ltd. and G. Universal Co., Ltd.) which had been declared bankrupt^[9] in Japan.

While PDIC was performing its tasks as receiver of Unitrust, private respondents, on

July 31, 2002, filed a class suit for Injunction with Damages before the RTC-Branch 136, Makati City, alleging that:

At the time the bank (*Unitrust*) was placed under receivership it was essentially solvent and liquid; the financial ratios were still within industry standard and there were sufficient assets to pay off all obligations. As of January 31, 2002, the statement of Condition of the Bank as audited by the PDIC showed a healthy financial status. However, for reasons known to PDIC and its officers, they have offered the bank for sale to interested parties. x x x.^[10]

PDIC refuted private respondents' allegations, while the Bangko Sentral ng Pilipinas (BSP) filed a motion to dismiss the suit. On November 5, 2002, RTC-Branch 136 issued a writ of preliminary injunction. PDIC's motion for reconsideration having been denied, PDIC raised the questioned writ of preliminary injunction to this Court through CA-G.R. SP No. 76801 (SP No. 76801). On January 19, 2004, the Seventeenth (17th) Division of this Court, promulgated a Decision^[11] granting PDIC's petition, the dispositive portion of which reads, as follows:

WHEREFORE, premises considered, the present petition is hereby GIVEN DUE COURSE and the challenged Orders dated November 5, 2002 and February 26, 2003 of the court a quo are hereby ANNULLED and SET ASIDE. Respondent Judge is hereby directed to RESOLVE without any further delay the Motion to Dismiss filed by the Bangko Sentral ng Pilipinas (BSP) in accordance with Sec. 3, Rule 16 of the 1997 Rules of Civil Procedure, as amended.

No pronouncement as to costs.

SO ORDERED.

Private respondent Yuseco moved for reconsideration, which was, however, denied^[12]. Thereafter, the Decision and the Resolution of this Court became final and executory^[13].

On January 20, 2005, the Monetary Board issued Resolution no. 64 which reads, "64. Decision to direct the Philippine Deposit Insurance Corporation to proceed with the liquidation of the Unitrust Development Bank in accordance with Section 30 of Republic Act No. 7653"^[14]. Pursuant to the said Resolution, on April 25, 2005, PDIC filed an ex-parte Petition for Assistance in the Liquidation of Unitrust, docketed as Sp. Pro. No. M-6069, and raffled to RTC-Branch 59. The court gave due course to the Petition and constituted RTC-Branch 59 as the liquidation court of Unitrust. On November 10, 2005, private respondent Yuseco opposed the Petition and filed a Motion to Dismiss the Liquidation Proceeding^[15] of Unitrust.

On February 5, 2007, PDIC filed a Motion for Approval of the Partial Distribution Plan of the distributable assets of Unitrust which had an estimated realizable value of P299,437,957.78, of which P146,250,408 is in cash^[16]; the Motion was approved

by Order dated March 19, 2007. Private respondents moved for reconsideration of the said order which was denied on July 20, 2011. Meanwhile, because of the pendency of private respondents' motion for reconsideration of the order, PDIC was only able to pay^[17], as of March 31, 2012, a total of P29,715,010.47, to the trust claimants, depositors and creditors.

During the pendency of the resolution of their motion for reconsideration, private respondents also filed an Omnibus Motion^[18] praying that PDIC be directed to submit the latest financial statement of Unitrust and suspend the liquidation of the assets of the bank. The Omnibus Motion was denied in the January 14, 2009 Order, stating^[19], in pertinent part, that:

On the motion to suspend the liquidations of Unitrust's assets, as correctly pointed out by the petitioner in its comment, the Court has no jurisdiction to suspend the liquidation of the affairs of Unitrust.

On August 22, 2008, private respondents also filed a motion to revert Unitrust to receivership; this was denied on May 3, 2011.

On September 14, 2009, private respondent Yuseco filed a supplemental pleading to the Motion to Dismiss which he filed on November 10, 2005. The Motion to Dismiss was eventually denied in the Order^[20] dated May 16, 2011, the pertinent portion of which, reads:

The Motion is not impressed with merit.

The issue raised by oppositors-movants pertain to the propriety of UDB's liquidation. Records show that the same issue has been resolved in the following instances:

(1) In the Decision of the Court of Appeals in CA-GR Sp. No. 76801 dated January 19, 2004, when the CA lifted the writ of preliminary injunction issued by RTC Branch 136, enjoining PDIC from proceeding with the liquidation of UDB. This decision rendered by CA was not elevated to the Supreme Court hence, the same has become final.

(2) The Monetary Board Resolution No. 64 rendered on January 20, 2005 where the liquidation of UDB was ordered and PDIC was directed to proceed with the liquidation;

Pursuant to Sec. 30 of RA 7653, of the New Central Bank Act. "actions of the Monetary Board regarding the liquidation of banks are final and executory. It may be restrained or set aside by the court except only thru petition for certiorari within ten (10) days from receipt thereof. No petition for certiorari assailing Monetary Board Resolution No. 64 was ever filed, rendering the same final and executory.

(3) The Order of this Court dated January 14, 2009, when the oppositors' motion to suspend the liquidation of UDB was denied on the ground of

lack of jurisdiction of this Court to suspend the liquidation of the affairs of UDB. Oppositors likewise did not assail the Order of the Court rendering the same.

It appears that in all three instances afore-enumerated, the issue on the propriety of the liquidation of UDB was upheld. Therefore, when petitioner PDIC filed the instant petition for assistance in the liquidation of UDB, the determination of the propriety of placing UDB under liquidation is not necessary.

Finally, we must be reminded that this Court is a liquidation Court, whose task is to assist in the implementation of the liquidation of UDB, as defined and mandated under Section 30 of RA 7653, the function of this Court are:

- 1) adjudicate disputed claims against the institution;
- 2) assist the enforcement of individual liabilities of stockholders, directors and officers; and
- 3) decide on other issues as may be material to implement the liquidation plan adopted.

The afore-enumerated tasks of a liquidation Court limit this Court only to the actual implementation of the liquidation. Considering that petitioner is not assailing the propriety of the liquidation of the UDB, the determination of whether there is fraud, misrepresentation and violation of pertinent laws attendant to the filing of this petition to justify the dismissal of the petition, is immaterial. Movants-oppositors could have sought the setting aside of MB Resolution No. 64 via petition for certiorari, instead. To seek the dismissal of the instant petition on alleged fraud, misrepresentation and violation of pertinent laws from this Court is useless effort, because this Court in its function as a liquidation court, has no jurisdiction to dismiss the petition.

Private respondents filed a motion for reconsideration of the afore-quoted Order, which was granted on August 25, 2011. PDIC moved for a reconsideration of the August 25, 2011 Order, which, in the Order dated December 5, 2011, was found to be well taken by the court *a quo*, thereby setting aside the directive for the PDIC to cease and desist from liquidating Unitrust. Private respondents moved for reconsideration; thus, in the first assailed Order of June 19, 2012, the court *a quo* granted^[21] private respondents' motion, stating *inter alia*, that:

Under consideration and resolution are Oppositor Yuseco's Motion for Partial Reconsideration of the Order dated December 5, 2011, which was adopted by Petitioner-Intervenor Nagasawa, and the Comment thereto filed by the herein petitioner.

It must be recalled that the instant motion stemmed from the Oppositor's motion to place Unitrust Development Bank under receivership status which was eventually granted by this Court. After hearing though, the Court reconsidered the same.

After a thorough reconsideration of the incidents and proceedings herein, this court is inclined to grant the motion and reinstate the Order dated August 25, 2011 pursuant to Section 14 of Article VIII of the Constitution and for the reasons correctly pointed out by the Oppositors.

As we all know, a petition for liquidation is indubitably directed to an insolvent bank as PDIC claims Unitrust to be insolvent which was later on found to be untrue. Thus, the circumstances surrounding the subject bank's alleged insolvency prove (sic) otherwise, this Court will not close its eyes and confine itself to such allegations to the prejudice of the bank and its depositors.

Considering that this Court has clerally (sic) found during the hearing of this petition, the healthy financial position of UDB based on the admission by petitioner's counsel, Atty. Gilroy V. Billiones, whose admission is duly supported by the Bank Statement of Affairs as of June 2002, wherein it is reflected that the bank's combined capital assets is more than sufficient to answer for all the bank's liabilities this Court must take this into consideration. [TSN dated September 10, 2007, p. 21]. Quite clearly, UDB had more assets as against liabilities and hence could not be, under any circumstance be considered in the state of insolvency, Verily, petitioner PDIC should cease and desist from further implementing its liquidation.

WHEREFORE, finding the foregoing Motion meritorious, this Court hereby resolves to GRANT Oppositor's Motion for Partial Reconsideration dated January 19, 2011 is REVERSED AND SET ASIDE, and the Order dated August 25, 2011 is accordingly REINSTATED.

Furthermore, Petitioner is directed to proceed with the validation and payment of all depositor's claim of the remaining balance constituting the 55.5725% of their respective deposit accounts.

SO ORDERED.

PDIC moved for reconsideration of the said assailed Order which was denied^[22] in the second assailed Order dated December 17, 2012, thus :

In so far as Petitioner's Motion for Reconsideration to the June 19, 2012 Order of this Court ordering Petitioner to cease and desist from further liquidating the bank as it found the bank still solvent, the Court upholds its June 19, 2012 Order. The Court finds no conflict in allowing payments to all the bank depositors and creditors in accordance with the Court's June 22, 2012 and June 19, 2012 orders.

Liquidation, by definition, is a process undertaken to liquidate as much as possible the assets of bankrupt or insolvent banks. These bankrupt or insolvent banks have such less assets than their liabilities. In the end, the depostiors and creditors of the bankrupt or insolvent banks as a rule,