

FIRST DIVISION

[G.R. No. 181556, December 14, 2009]

IN RE: PETITION FOR ASSISTANCE IN THE LIQUIDATION OF INTERCITY SAVINGS AND LOAN BANK, INC. PHILIPPINE DEPOSIT INSURANCE CORPORATION, PETITIONER, VS. STOCKHOLDERS OF INTERCITY SAVINGS AND LOAN BANK, INC., RESPONDENTS.

DECISION

CARPIO MORALES, J.:

The Central Bank of the Philippines, now known as *Bangko Sentral ng Pilipinas*, filed on June 17, 1987 with the Regional Trial Court (RTC) of Makati a Petition for Assistance in the Liquidation of Intercity Savings and Loan Bank, Inc. (Intercity Bank) alleging that, *inter alia*, said bank was already insolvent and its continuance in business would involve probable loss to depositors, creditors and the general public.^[1]

Finding the petition sufficient in form and substance, the trial court gave it due course.^[2] Petitioner Philippine Deposit Insurance Corporation (PDIC) was eventually substituted as the therein petitioner, liquidator of Intercity Bank.^[3]

In the meantime, Republic Act No. 9302 (RA 9302)^[4] was enacted, Section 12 of which provides:

SECTION 12. Before any distribution of the assets of the closed bank in accordance with the preferences established by law, the Corporation shall periodically charge against said assets reasonable receivership expenses and subject to approval by the proper court, reasonable liquidation expenses, it has incurred as part of the cost of receivership/liquidation proceedings and collect payment therefor from available assets.

After the payment of all liabilities and claims against the closed bank, the Corporation shall pay any surplus dividends at the legal rate of interest, from date of takeover to date of distribution, to creditors and claimants of the closed bank in accordance with legal priority before distribution to the shareholders of

the closed bank. (emphasis supplied)

Relying thereon, PDIC filed on August 8, 2005 a Motion for Approval of the Final Distribution of Assets and Termination of the Liquidation Proceedings,^[5] praying that an Order be issued for:

1. The reimbursement of the liquidation fees and expenses incurred and/or advanced by herein petitioner, PDIC, in the amount of P3,795,096.05;
2. The provision of P700,000.00 for future expenses in the implementation of this distribution and the winding-up of the liquidation of Intercity Savings and Loan Bank, Inc.;
3. The write-off of assets in the total amount of P8,270,789.99, as set forth in par. 2.1 hereof;
4. The write-off of liabilities in the total amount of P1,562,185.35, as set forth in par. 8 hereof;
5. The Final Project of Distribution of Intercity Savings and Loan Bank as set forth in Annex "Q" hereof;
6. Authorizing petitioner to hold as trustee the liquidating and surplus dividends allocated in the project of distribution for creditors who shall have a period of three (3) years from date of last notice within which to claim payment therefor. After the lapse of said period, unclaimed payments shall be escheated to the Republic of the Philippines in accordance with Rule 91 of the Rules of Court;
7. Authorizing the disposal of all the pertinent bank records in accordance with applicable laws, rules and regulations after the lapse of one (1) year from the approval of the instant Motion.

By Order of July 5, 2006,^[6] Branch 134 of the Makati RTC granted the motion except the above-quoted paragraphs 5 and 6 of its prayer, respectively praying for the approval of the Final Project of Distribution and for authority for PDIC "to hold as trustee the liquidating and surplus dividends allocated . . . for creditors" of Intercity Bank.

In granting the motion, the trial court resolved in the negative the sole issue of whether Section 12 of RA 9302 should be applied *retroactively* in order to entitle Intercity Bank creditors to surplus dividends, it otherwise holding that to so resolve would run counter to prevailing jurisprudence and unduly prejudice Intercity Bank shareholders, the creditors

having been paid their principal claim in 2002 or before the passage of RA 9302 in 2004.

PDIC appealed to the Court of Appeals^[7] before which respondent Stockholders of Intercity Bank (the Stockholders) moved to dismiss the appeal, arguing principally that the proper recourse should be to this Court through a petition for review on certiorari since the question involved was purely one of law.^[8]

By Resolution of October 17, 2007,^[9] the appellate court dismissed the appeal, sustaining in the main the position of the Stockholders. Its Motion for Reconsideration having been denied by Resolution dated January 24, 2008,^[10] PDIC filed the present Petition for Review on Certiorari.

PDIC contends that the appellate court disregarded the issue of the trial court's disapproval of the payment of additional liquidating dividends to Intercity Bank creditors, which involved a question of fact that entailed a review of the evidence; that the prayer for surplus dividends involved another question of fact as there must first be a factual finding that all claims against Intercity Bank have been paid; and that there having been previously approved but unclaimed liquidating dividends, the denial of its prayer for appointment as trustee therefor resulted in an anomalous situation where no one has the authority to handle them until they are claimed.^[11]

The Stockholders, for their part, maintain that only a question of law was brought to the appellate court, the parties having stipulated in the trial court that the sole issue for determination was whether RA 9302 may be applied retroactively; that the payment of additional liquidating dividends should be deemed approved since they never opposed it and the trial court specifically disapproved only the payment of surplus dividends; and that in any event, RA 9302 cannot be given retroactive effect absent a provision therein providing for it.^[12]

The petition lacks merit.

Indeed, PDIC's appeal to the appellate court raised the lone issue of whether Section 12 of RA 9302 may be applied retroactively in order to award surplus dividends to Intercity Bank creditors, which was, as stated above, what the parties had stipulated upon as the sole legal issue in PDIC's Motion for Approval of the Final Distribution of Assets and Termination of the Liquidation Proceedings.

Whether a statute has retroactive effect is undeniably a pure question of law. PDIC should thus have directly appealed to this Court by filing a petition for review on certiorari under Rule 45, not an ordinary appeal with the appellate court under Rule 41. The appellate court did not err, thus, in holding that PDIC availed of the wrong mode of appeal.^[13]

In the interest of justice, however, and in order to write *finis* to this controversy, the Court

relaxes the rules and decides the petition on the merits.^[14]

A perusal of RA 9302 shows that nothing indeed therein authorizes its retroactive application. In fact, its effectivity clause indicates a clear legislative intent to the contrary:

Section 28. Effectivity Clause. - This Act shall **take effect fifteen (15) days following the completion of its publication** in the Official Gazette or in two (2) newspapers of general circulation. (emphasis supplied)

Statutes are prospective and not retroactive in their operation, they being the formulation of rules for the future, not the past. Hence, the legal maxim *lex de futuro, judex de praeterito* — the law provides for the future, the judge for the past, which is articulated in Article 4 of the Civil Code: "Laws shall have no retroactive effect, unless the contrary is provided." The reason for the rule is the tendency of retroactive legislation to be unjust and oppressive on account of its liability to unsettle vested rights or disturb the legal effect of prior transactions.^[15]

En passant, PDIC's citation of foreign jurisprudence that supports the award of surplus dividends is unavailing. Resort to foreign jurisprudence is proper only if no local law or jurisprudence exists to settle the controversy. And even then, it is only persuasive.^[16]

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., concur.

^[1] Records, pp. 1-7.

^[2] *Id.* at 22.

^[3] *Id.* at 84.

^[4] An Act Amending Republic Act No. 3591, As Amended, Otherwise Known as the "Charter of the Philippine Deposit Insurance Corporation" and for Other Purposes; Approved on July 27, 2004.

^[5] Records, pp. 304-314.

[6] Id. at 432-435.

[7] Id. at 441, 451.

[8] *CA rollo*, pp. 12-17.

[9] Penned by Associate Justice Ricardo R. Rosario, with the concurrence of Associate Justices Rebecca De Guia Salvador and Magdangal M. De Leon; id. at 86-96.

[10] Id. at 146-147.

[11] *Vide* Petition, *rollo*, pp. 3-36.

[12] *Vide* Comment, id. at 241-256.

[13] *Quezon City v. ABS-CBN Broadcasting Corporation*, G.R. No. 166408, October 6, 2008, 567 SCRA 496, 507.

[14] *Vide Municipality of Pateros v. Court of Appeals*, G.R. No. 157714, June 16, 2009.

[15] *Curata v. Philippine Ports Authority*, G.R. Nos. 154211-12, June 22, 2009.

[16] *Vide Philippine Airlines, Inc. v. Court of Appeals*, G.R. No. 54470, May 8, 1990, 185 SCRA 110, 121.