THIRD DIVISION

G.R. No. 218390 – HONG KONG BANK INDEPENDENT LABOR UNION (HBILU), petitioner **v. HONG KONG AND SHANGHAI BANKING CORPORATION, LIMITED,** respondent.

Promulgated:
February 28, 2018

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DISSENTING OPINION

LEONEN, *J.*:

I dissent from the ponencia insofar as it accords primacy to the Collective Bargaining Agreement over the Financial Assistance Plan approved by the Bangko Sentral ng Pilipinas. A collective bargaining agreement cannot amend laws, regulations, or policies, especially when it involves the banking industry, which is impressed with public interest.

This is a Petition for Review on Certiorari under Rule 45 questioning the Decision dated October 23, 2014 and Resolution dated May 21, 2015 of the Court of Appeals, which ruled as valid the requirement of an external credit check before the approval of an employee's salary loan, although this requirement was not stated in the parties' Collective Bargaining Agreement.

I submit that the Petition should be denied.

A collective bargaining agreement is a contract between an employer and his or her employees, establishing particular arrangements between them with respect to wages, hours of work, grievances, and other terms and conditions of employment.[1]

A collective bargaining agreement is binding and is the law between its parties. Its terms and conditions must be respected and complied with until it expires. Article 253 of the Labor Code provides:

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[1] LABOR CODE, art. 263. [252] *Meaning of Duty to Bargain Collectively.* — The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession.

> Article 264. [253] *Duty to bargain collectively when there exists a collective bargaining agreement.* — When there is a collective bargaining agreement, the duty to bargain collectively shall also mean that *neither party shall terminate nor modify such agreement during its lifetime.* However, either party can serve a written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date. It shall be the duty of both parties to keep the *status quo* and to continue in full force and effect the terms and conditions of the existing agreement during the 60-day period and/or until a new agreement is reached by the parties.

In *Faculty Association of Mapua Institute of Technology v. Court of Appeals*,[2]

> Until a new CBA is executed by and between the parties, they are duty-bound to keep the *status quo* and to continue in full force and effect the terms and conditions of the existing agreement. The law does not provide for any exception nor qualification on which economic provisions of the existing agreement are to retain its force and effect. Therefore, it must be understood as encompassing all the terms and conditions in the said agreement.
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> The CBA during its lifetime binds all the parties. The provisions of the CBA must be respected since its terms and conditions "constitute the law between the parties." Those who are entitled to its benefits can invoke its provisions. In the event that an obligation therein imposed is not fulfilled, the aggrieved party has the right to go to court and ask redress. The CBA is the norm of conduct between petitioner and private respondent and compliance therewith is mandated by the express policy of the law.[3] (Citations omitted)

Nonetheless, a collective bargaining agreement is still subject to laws and public policy. It is still a contract limited by Article 1306 of the Civil Code, which states:

> Article 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to *law, morals, good customs, public order, or public policy.* (Emphasis supplied)

Thus, although it is not explicitly provided for, as in all contracts, laws, morals, good customs, public order, or public policy is deemed written in collective bargaining agreements.

In case a collective bargaining agreement runs contrary to these limitations, this Court has the power to strike down the violative provision.

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2 552 Phil. 77 (2007) [Per J. Quisumbing, Second Division].

3 Id. at 84.

In *PNCC Skyway Traffic Management and Security Division Workers Organization v. PNCC Skyway Corp.*:[4]

> Although it is a rule that a contract freely entered into between the parties should be respected, since a contract is the law between the parties, there are, however, certain exceptions to the rule, specifically Article 1306 of the Civil Code, which provides:
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> > The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy.
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> Moreover, the relations between capital and labor are not merely contractual. "They are so impressed with public interest that labor contracts *must yield to the common good* . . . ." The supremacy of the law over contracts is explained by the fact that labor contracts are not ordinary contracts; *they are imbued with public interest and therefore are subject to the police power of the state. However, it should not be taken to mean that provisions agreed upon in the CBA are absolutely beyond the ambit of judicial review and nullification. If the provisions in the CBA run contrary to law, public morals, or public policy, such provisions may very well be voided.*[5] (Citations omitted, emphasis supplied)

Thus, a collective bargaining agreement cannot reign supreme where it is inconsistent with laws and public policy. This is especially so when the laws and public policy pertain to industries impressed with public interests and which necessarily warrant the protection of the State, such as the banking industry.

It is of vital importance that the general public trusts and has confidence in the banking industry. It is impressed with public interest and is so tied together with national economy and development. Its fiduciary nature likewise requires it to be stable, consistent, and reliable, thus, calling for high standards of integrity and performance. Under Section 2 of Republic Act No. 8791 (General Banking Law),

> Section 2. *Declaration of Policy.* — The State recognizes the vital role of banks in providing an environment conducive to the sustained development of the national economy and the fiduciary nature of banking that requires high standards of integrity and performance. In furtherance thereof, the State shall promote and maintain a stable and efficient banking and financial system that is globally competitive, dynamic and responsive to the demands of a developing economy.

In *Banco de Oro-EPCI, Inc. v. JAPRL Development Corporation*:[6]

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4 626 Phil. 700 (2010) [Per J. Peralta, Third Division].
5 Id. at 715–716.
6 574 Phil. 495 (2008) [Per J. Corona, First Division].

> Banks are entities engaged in the lending of funds obtained through deposits from the public. They borrow the public's excess money (*i.e.*, deposits) and lend out the same. Banks therefore redistribute wealth in the economy by channeling idle savings to profitable investments.
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> Banks operate (and earn income) by extending credit facilities financed primarily by deposits from the public. They plough back the bulk of said deposits into the economy in the form of loans. Since banks deal with the public's money, their viability depends largely on their ability to return those deposits on demand. For this reason, banking is undeniably imbued with public interest. Consequently, much importance is given to sound lending practices and good corporate governance.
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> Protecting the integrity of the banking system has become, by large, the responsibility of banks. The role of the public, particularly individual borrowers, has not been emphasized. Nevertheless, we are not unaware of the rampant and unscrupulous practice of obtaining loans without intending to pay the same.[7] (Citations omitted)

As such, compared to other industries and businesses, the diligence required of banks is at its highest standard in all aspects—from granting loan applications to the hiring and supervision of its employees. In *Far East Bank and Trust Co. v. Tentmakers Group, Inc.*,[8]

> It cannot be over emphasized that the banking business is impressed with public interest. Of paramount importance is the trust and confidence of the public in general in the banking industry. Consequently, the diligence required of banks is more than that of a Roman *pater familias* or a good father of a family. *The highest degree of diligence* is expected. In handling loan transactions, banks are under obligation to ensure compliance by the clients with all the documentary requirements pertaining to the approval and release of the loan applications. For failure of its branch manager to exercise the requisite diligence in abiding by the [Manual of Regulations for Banks] and the banking rules and practices, [Far East Bank and Trust Co.] was negligent in the selection and supervision of its employees. In *Equitable PCI Bank v. Tan*, the Court ruled:
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> > . . . Banks handle daily transactions involving millions of pesos. By the very nature of their works the degree of responsibility, care and trustworthiness expected of their employees and officials is far greater than those of ordinary clerks and employees. Banks are expected to exercise the highest degree of diligence in the selection and supervision of their employees.[9] (Emphasis supplied, citations omitted)

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7 Id. at 506–507.

8 690 Phil. 134 (2012) [Per J. Mendoza, Third Division].

9 Id. at 145–146.

Bangko Sentral ng Pilipinas (Bangko Sentral) is the central authority that provides policies on money, banking, and credit, and supervises and regulates bank operations. Republic Act No. 7653 (New Central Bank Act) states:

> Section 1. *Declaration of Policy.* — The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. . . .
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> Section 2. *Creation of the Bangko Sentral.* — There is hereby established an independent central monetary authority, which shall be a body corporate known as the *Bangko Sentral ng Pilipinas,* hereafter referred to as the *Bangko Sentral.*
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> . . . .
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> Section 3. *Responsibility and Primary Objective.* — The *Bangko Sentral* shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, hereafter referred to as quasi-banks, and institutions performing similar functions.
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> The primary objective of the *Bangko Sentral* is to maintain price ability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso.[10]

The Bangko Sentral's supervisory powers under the General Banking Law include issuing rules, establishing standards for the operation of financial institutions based on sound business practice, and examining the institutions for compliance and irregularities:

> Section 4. *Supervisory Powers.* — The operations and activities of banks shall be subject to supervision of the Bangko Sentral. "Supervision" shall include the following:
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> 4.1. The issuance of rules of conduct or the establishment of standards of operation for uniform application to all institutions or functions covered, taking into consideration the distinctive character of the operations of institutions and the substantive similarities of specific functions to which such rules, modes or standards are to be applied;

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[10] *See also* Rep. Act No. 8791, sec. 5. *Policy Direction*; *Ratios, Ceilings and Limitations.* — The Bangko Sentral shall provide policy direction in the areas of money, banking and credit.

For this purpose, the Monetary Board may prescribe ratios, ceilings, limitations, or other forms of regulation on the different types of accounts and practices of banks and quasi-banks which shall, to the extent feasible, conform to internationally accepted standards, including those of the Bank for International Settlements (BIS). The Monetary Board may exempt particular categories of transactions from such ratios, ceilings and limitations, but not limited to exceptional cases or to enable a bank or quasi-bank under rehabilitation or during a merger or consolidation to continue in business with safety to its creditors, depositors and the general public.

> 4.2. The conduct of examination to determine compliance with laws and regulations if the circumstances so warrant as determined by the Monetary Board;
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> 4.3. Overseeing to ascertain that laws and regulations are complied with;
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> 4.4. Regular investigation which shall not be oftener than once a year from the last date of examination to determine whether an institution is conducting its business on a safe or sound basis: *Provided*, That the deficiencies/irregularities found by or discovered by an audit shall be immediately addressed;
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> 4.5. Inquiring into the solvency and liquidity of the institution (2-D); or
>
> 4.6. Enforcing prompt corrective action.

In line with its supervisory powers, the Bangko Sentral codified the rules, regulations, and policies in 1996 to implement the General Banking Law and other banking laws. The codification resulted in the Manual of Regulations of Banks (MORB).[11] This was prepared by a multi-departmental Ad Hoc Review Committee created under the Bangko Sentral Monetary Board Resolution No. 1203 dated December 7, 1994. The MORB serves "as the principal source of banking regulations issued by the Monetary Board and the Governor of the Bangko Sentral and shall be cited as the authority for enjoining compliance with the rules and regulations embodied therein."[12]

Pertinent to the case at bar is the following provision under the MORB:

> Sec. X338 Financial Assistance to Officers and Employees. Banks may provide financial assistance to their officers and employees, as part of their fringe benefits program, to meet the housing, transportation, household and personal needs of their officers and employees.
>
> Financing plans and amendments thereto, shall be with prior approval of the Bangko Sentral.

This provision states that banks may financially assist their employees for their housing, transportation, household, and personal needs, provided that a financing plan is approved first by the Bangko Sentral.[13]

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[11] Manual of Regulations for Banks (2017).

[12] The Committee has been reconstituted several times to update the MORB and to keep it consistent with banking legislative reforms, and its implementing rules and regulations, and amendments to existing policies.

[13] The minimum features of the financing plan is provided for in X338.1 and X338.3 of the Manual of Regulations for Banks:

In the case at bar, petitioner Hong Kong Bank Independent Labor Union (HBILU) insists that respondent Hong Kong and Shanghai Banking Corporation (HSBC) is violating their Collective Bargaining Agreement in

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§ X338.1 Mechanics. The mechanics of such financing plan shall have the following minimum features:

a. Participation shall be limited to fulltime and permanent officers and employees of the bank;

b. Financial assistance shall only be for the following purposes:

(1) The acquisition of a residential house and lot, or the construction, renovation or repair of a residential house on a lot owned and to be occupied by the officer or employee;

(2) The acquisition of vehicles, household equipment and appliances for the personal use of the officer or employee or his immediate family; or

(3) To meet expenses for the medical, maternity, education, emergency and other personal needs of the officer or employee or his immediate family;

c. Financial assistance for purposes mentioned in Items "b(1)" and "b(2)" of this Subsection shall be granted in the form of a loan, advance or other credit accommodation, installment sale, lease with option to purchase or lease-purchase arrangement where the lessee is obliged to purchase the real estate or equipment;

d. The amount and maturity of financial assistance for each purpose shall be determined by the bank in consonance with the normal requirements thereof: Provided, That the maximum amount shall be stated as percentage or multiple of the total monthly compensation of the officer or employee and shall be within the paying capacity of the borrowing officer or employee.

Total monthly compensation shall include the basic salary and all fixed and regular monthly allowances of the officer or employee. Payments for sickness benefits and other special emoluments which are not fixed or regular in nature, or the commutation into cash of unused leave credits shall not be included in the computation of total monthly compensation;

e. The amortization payment shall include amounts necessary to cover mortgage redemption insurance and fire insurance premiums, taxes, special assessments, and other related fees and charges;

f. Availment of the financing plan to construct or acquire a residential house and lot shall be allowed only once during the officer's or employee's tenure with the bank, except where the right over the real estate previously acquired or constructed under the financing plan is absolutely transferred or assigned to another officer or employee of the bank or to a third party: Provided, That the bank must be fully paid or reimbursed for the outstanding availment on the financing plan before the officer/employee is allowed to re-avail himself of the same financing plan.

An officer or employee (or his spouse) who already owns a residential house and lot shall not be qualified to avail himself of financial assistance for purposes of acquiring a residential house and/or lot.

These prohibitions notwithstanding, financial assistance for the repair or renovation of a residential house may be allowed subject to such limitation as may be prescribed by the bank pursuant to Item "d" of this Subsection;

g. Availment of the financing plan for the acquisition of a specific type of equipment or appliance shall be allowed not oftener than once every three (3) years: Provided, That re-availment shall be allowed only after previous obligations in connection with the acquisition of the same type of equipment or appliances have been fully liquidated; and

h. The bank shall adopt measures to protect itself from losses such as by incorporating in the plan or contract provisions requiring co-makers or co-signor, chattel, or real estate mortgages, fire insurance, mortgage redemption insurance, assignment of money value of leave credits, pension or retirement benefits.

. . . .

§ X338.3 Other conditions/limitations

a. The investment by a bank in equipment and other chattels under its fringe benefits program for officers and employees shall be included in determining the extent of the investment of the bank in real estate and equipment for purposes of Section 51 of R.A. No. 8791.

b. The investment by a bank in equipment and other chattels contemplated under these guidelines shall not be for the purpose of profits in the course of business for the bank.

c. *The aggregate outstanding loans and other credit accommodations granted under the bank's fringe benefits program, inclusive of those granted to officers in the nature of lease with option to purchase, shall not exceed five percent (5%) of the bank's total loan portfolio.*

Banks providing financial assistance to their officers/employees shall submit a regular report on "availments of financial assistance to officers and employees" to the BSP within fifteen (15) banking days after end of reference semester.

The appropriate department of the [Supervision and Examination Sector] may further require banks to submit such data or information as may be necessary to facilitate verification of such transactions by BSP examiners. (Emphasis supplied)

imposing an additional credit-checking requirement before granting a financial assistance loan to its members.

On the other hand, HSBC claims that the credit-checking requirement was provided for in its financing plan, which was duly approved by the Bangko Sentral, even before the execution of the parties' Collective Bargaining Agreement.

I find for HSBC.

Given the nature of the MORB, I opine that all its provisions are deemed incorporated in all pertinent Collective Bargaining Agreements. Necessarily, the financing plans required under the MORB and approved by the Bangko Sentral are also included in the Collective Bargaining Agreements. A financing plan is not a mere contract of a bank with any other entity. It is an arrangement that becomes part of the regulations of the Bangko Sentral by which the bank is bound. This is bolstered by X339.4, which requires banks to submit regular reports on their transactions under their financing plans:

> § X339.4 Reportorial requirements. Financing plans and amendments thereto shall be submitted to Bangko Sentral within thirty (30) calendar days from approval thereof by the bank's board of directors. The appropriate department of the [Supervision and Examination Sector] may require the banks concerned to submit a regular report monitoring the various transactions under the bank's financing plans for officers/employees.
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> All banks providing financial assistance to bank officers/employees shall submit a report on "Availments of Financial Assistance to Officers and Employees" to the Bangko Sentral within fifteen (15) banking days after end of reference semester.

Thus, the financing plan is not only a one-sided exercise of the bank's management prerogative. It is a requirement under the MORB by the Bangko Sentral. Thus, it takes on the form of a regulation by which HSBC is bound and must comply with.

The same can be said of credit checks in general. Consistent with sound banking practice and the public's interest in the banking system, banks are governed by guidelines before granting a loan to any obligor. Included in these guidelines is the requirement that a bank should first assess credit risks and ascertain the obligor's capacity to pay the loan. The General Banking Law provides:

> Section 40. *Requirement for Grant of Loans or Other Credit Accommodations.* — Before granting a loan or other credit accommodation, a bank *must ascertain that the debtor is capable of fulfilling his commitments to the bank.*
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> Toward this end, a bank may demand from its credit applicants a statement of their assets and liabilities and of their income and expenditures and *such information as may be prescribed by law or by rules and regulations of Monetary Board to enable the bank to properly evaluate the credit application* which includes the corresponding financial statements submitted for taxation purposes to the Bureau of Internal Revenue. Should such statements prove to be false or incorrect in any material detail, the bank may terminate any loan or other credit accommodation granted on the basis of said statements and shall have the right to demand immediate repayment or liquidation of the obligation.
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> In formulating rules and regulations under this Section, the Monetary Board shall recognize the peculiar characteristics of microfinancing, such as cash flow-based lending to the basic sectors that are not covered by traditional collateral. (Emphasis supplied)

Currently, the MORB provides:

> § X178.5 Credit policies, processes and procedures. [Financial institutions] (FIs) shall have in place a *sound, comprehensive and clearly defined credit policies, processes and procedures consistent with prudent standards, practices, and relevant regulatory requirements* adequate for the size, complexity and scope of an FI's operations. The board-approved policies, processes and procedures shall cover all phases of the credit risk management system.
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> a. FIs shall establish appropriate processes and procedures to implement the credit policy and strategy. These processes and procedures, as well as the credit policy, shall be documented in sufficient detail, effectively communicated throughout the organization to provide guidance to staff, and periodically reviewed and updated to take into account new activities and products, as well as new lending approaches. Subsequent major changes must be approved by the board.
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> b. The credit policy shall likewise provide for the maintenance of an audit trail documenting that the credit risk management process was properly observed and identifying the unit, individual(s) and/or committee(s) providing input into the process.
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> c. The credit culture, which reflects the FI's credit values, beliefs and behaviors, shall likewise be articulated in the credit policy and communicated to credit officers and staff at all levels through the strategic plan. The credit practices shall be assessed periodically to ensure that the officers and staff conform to the desired standard and value.[14]
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> B. Operating Under a Sound Credit Granting Process

[14] Manual of Regulations for Banks *citing* Circ. No. 855 (2014).

§ X178.6 Credit approval process. The *approval process for new credits* as well as the amendment, renewal and refinancing of existing credit exposures shall be *aligned with the credit risk management structure and clearly articulated in an FI's written credit policy.* The process shall include the different levels of appropriate approving authority and the corresponding approving authority limits, which shall be *commensurate with the risks of the credit exposures*, as well as expertise of the approving individuals involved. It shall also include an escalation process where approval for restructuring of credits, policy exceptions or excesses in internal limits is escalated to units/officer with higher authorities. Further, there shall be proper coordination of relevant units and individuals and sufficient controls to ensure acceptable credit quality at origination.[15]

§ X178.7 Credit granting and loan evaluation/analysis process and underwriting standards. *Consistent with safe and sound banking practice*, an FI shall grant credits only in amounts and for the periods of time essential for the effective completion of the activity to be financed and *after ascertaining that the obligor is capable of fulfilling his commitments to the FI.* Towards this end, an FI shall establish *well-defined credit-granting criteria and underwriting standards*, which shall include a clear indication of the FI's target market and a *thorough understanding of the obligor or counterparty*, as well as the purpose and structure of the credit and its source of repayment.

a. *FIs shall conduct comprehensive assessments of the creditworthiness of their obligors, and shall not put undue reliance on external credit assessments. Credit shall be granted on the basis of the primary source of loan repayment or cash flow, integrity and reputation of the obligor or counterparty as well as their legal capacity to assume the liability.*

b. Depending on the type of credit exposure and the nature of the credit relationship, the factors to be considered and documented in approving credits shall include, but are not limited to, the following:

(1) The purpose of the credit which shall be clearly stated in the credit application and in the contract between the FI and the obligor;

(2) The current *risk profile* (including the nature and aggregate amounts of risks, risk rating or credit score, pricing information) *of the borrower*, collateral, other credit enhancements and its sensitivity to economic and market developments;

(3) The *sources of repayment, repayment history and current capacity to repay based on financial analysis from historical financial trends and indicators* such as equity, profitability, turnover, leverage, and debt servicing ability via cash flow projections, under various scenarios;

(4) For commercial credits, the borrower's business expertise, its credit relationships including its shareholders

[15] Manual of Regulations for Banks *citing* Circ. No. 855 (2014).

> and company directors, as applicable, and the status of the borrower's economic sector and its track record vis-à-vis industry peers;
>
> (5) The proposed terms and conditions of the credit (i.e., type of financing, tenor, repayment structure, acceptable collateral) including covenants designed to limit changes in the future risk profile of the obligor;
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> . . . .
>
> f. When granting consumer credits, an FI shall conduct its credit assessment in a holistic and prudent manner, taking into account all relevant factors that could influence the prospect for the loan to be repaid according to its terms and conditions. This shall include an appropriate consideration of the potential obligor's other debt obligations and repayment history and an assessment of whether the loan can be expected to be repaid from the potential obligor's own resources without causing undue hardship and over-indebtedness. Adequate checkings, including with relevant credit bureaus, shall be made to verify the obligor's credit applications and repayment records.[16] (Emphasis supplied, citation omitted)

At the time the subject financing plan became an issue (i.e., when HBILU Member Vince Mananghaya applied for a loan in September 2012), the then 2011 MORB provided:

> § X304.1 General guidelines. Consistent with safe and sound banking practices, a bank shall grant loans or other credit accommodations only in amounts and for the periods of time essential for the effective completion of the operation to be financed.
>
> Before granting loans or other credit accommodations, *a bank must ascertain that the borrower, co-maker, endorser, surety and/or guarantor, if applicable, is/are financially capable of fulfilling his/their commitments to the bank. For this purpose, a bank shall obtain adequate information on his/their credit standing and financial capacities.*

These provisions, thus, show that in approving a loan in favor of an obligor, financial institutions must look into, among other things, the obligor's repayment history, creditworthiness, integrity, reputation, and capacity to assume the liability.

Thus, credit checks are a necessary component in loan approvals. They are required by all financial institutions that grant loans, taking into consideration credit risks and bearing in mind safe and sound banking practice.

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[16] 2017 Manual of Regulations for Banks *citing* Circ. No. 855 (2014).

Given that loans granted under a bank's fringe benefits program is not necessarily subject to the same terms and conditions imposed on the regular lending operations of the bank,[17] the Bangko Sentral still requires that it first approve a financial plan for such a case, thus, showing that these types of loans are still regulated.

In this case, the Bangko Sentral approved a financing plan that provides for credit checking of covered employees.

No malice was proved to have been committed by HSBC in requiring the credit checking. There is no showing that it was motivated by bad faith in imposing the requirements, and it is presumed to have been done so in good faith. In implementing the credit-checking requirement, the bank is simply guided by the financing plan required under the MORB and approved by the Bangko Sentral.

Thus, although the credit-checking requirement is not explicitly provided for in the parties' Collective Bargaining Agreement, it is deemed incorporated in it. Their Collective Bargaining Agreement cannot prevail over a Bangko Sentral-approved financing plan.

To reiterate, the signing of a collective bargaining agreement does not result in the amendment of laws and policies, especially where the policy pertains to an industry imbued with public interest. It cannot likewise undermine safe and sound banking practice. To reiterate, banks play a vital role in our economy and society as they deal with the public's money.

The ponencia cites the case of *Faculty Association of Mapua Institute of Technology v. Court of Appeals*[18] to support its claim that the Collective Bargaining Agreement must be respected. That case involves an employer trying to amend a collective bargaining agreement through the issuance of new rules and by adopting a new formula to determine the pay of its

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[17] BSP Circ. No. 423, series of 2004, subsec. X338.3 Other conditions/limitations

The investment by a bank in equipment and other chattels under its fringe benefits program for officers and employees shall be included in determining the extent of the investment of the bank in real estate and equipment for purposes of Section 51 of R.A. No. 8791.

The investment by a bank in equipment and other chattels contemplated under these guidelines shall not be for the purpose of profits in the course of business for the bank.

All loans or other credit accommodations to bank officers and employees, except those granted under the fringe benefit program of the bank, shall be subject to the same terms and conditions imposed on the regular lending operations of the bank. Loans or other credit accommodations granted to officers shall, in addition, be subject to the provisions of Section 36 of R.A. No. 8791 and Sections X326 to X336 but not to the individual ceilings where such loans or other credit accommodations are obtained under the bank's fringe benefits program.

The aggregate outstanding loans and other credit accommodations granted under the bank's fringe benefits program, inclusive of those granted to officers in the nature of lease with option to purchase, shall not exceed five percent (5%) of the bank's total loan portfolio.

[18] 552 Phil. 77 (2007) [Per J. Quisumbing, Second Division].

employees. However, this case does not involve the implementation of any law, or any conflict with any public policy.

Likewise, the ponencia cites *United Kimberly-Clark Employees Union v. Kimberly-Clark Phil., Inc.*[19] to support its contention on how a collective bargaining agreement must be interpreted. However, this case does not involve a business affected with public interest.

The cited cases do not involve the banking industry, which as stated, plays a vital role in the State's economy as it deals with the public's money. The highest standards are imposed on the banking industry because of its fiduciary nature and the necessity of its integrity, reliability, and high performance. These standards do not apply in the same manner as to other businesses. As such, the banking business is governed by more rules that must be strictly complied with. A bank's management prerogative is further limited by the Bangko Sentral's policies and regulations, which are issued to protect public interests and to maintain trust and confidence in banks. As such, banks may not simply choose to ignore these on a whim.

Thus, while the State emphasizes the primacy of free collective bargaining and negotiations, collective bargaining agreements must still be consistent with the banking industry's laws, standards, and policies.

Accordingly, I vote to **DENY** the Petition for Review on Certiorari.

MARVIC M.V.F. LEONEN
Associate Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAR 23 2018

[19] 519 Phil. 176 (2006) [Per J. Callejo, Sr., First Division].