



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
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THIRD DIVISION

**BANCO FILIPINO SAVINGS  
AND MORTGAGE BANK**

*Petitioner,*

- versus -

**G.R. No. 200642**

Present:

LEONEN, J.,

*Chairperson,*

HERNANDO,

INTING,

DELOS SANTOS, and

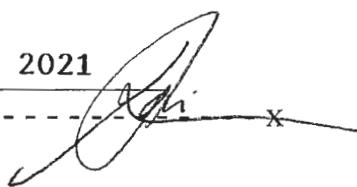
LOPEZ, J.Y., *JJ.*

**BANGKO SENTRAL NG  
PILIPINAS and THE  
MONETARY BOARD,**

*Respondents.*

Promulgated:

April 26, 2021

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**DECISION**

**HERNANDO, J.:**

Banco Filipino Savings and Mortgage Bank (Banco Filipino) assails in this Petition for Review<sup>1</sup> on *Certiorari* the October 3, 2011 Decision<sup>2</sup> and February 14, 2012 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 116627, which set aside the issuance of the temporary restraining order (TRO) and writ of preliminary injunction (WPI) by the Regional Trial Court (RTC) of Makati City, Branch 66 in Civil Case No. 10-1042.

Banco Filipino is a juridical entity authorized to operate as a banking institution. It was ordered closed on January 25, 1985 until this Court rendered a Decision on December 11, 1991 which declared the closure to be tainted with grave abuse of discretion.<sup>4</sup>

<sup>1</sup> *Rollo*, Vol. 1, pp. 65-132.

<sup>2</sup> *Id.* at 8-52; penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Manuel M. Barrios.

<sup>3</sup> *Id.* at. 54-62.

<sup>4</sup> *Banco Filipino Savings & Mortgage Bank v. Monetary Board and Central Bank of the Philippines*, 281 Phil. 847, 892 (1991).

Respondent Bangko Sentral ng Pilipinas (Bangko Sentral) is the central monetary authority of the Republic of the Philippines pursuant to Republic Act No. 7653 (RA 7653; New Central Bank Act).<sup>5</sup> It supervises the operations of banks and exercises regulatory powers over non-bank financial institutions with quasi-banking functions.<sup>6</sup> It also exercises its powers through respondent Monetary Board. These include the power to place banks under receivership under certain conditions and impose administrative sanctions on banks and their directors and/or officers upon violation of banking laws and regulations and orders issued by the Monetary Board, commission of irregularities, conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, among others.<sup>7</sup>

### **The Factual Antecedents:**

The instant case originated from the same factual background as another case filed with this Court, i.e., G.R. No. 200678 (*Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas*),<sup>8</sup> which disposed of a Rule 45 petition involving the RTC's denial of the Motion to Dismiss of Bangko Sentral and the Monetary Board in Civil Case No. 10-1042. This Court's Decision in G.R. No. 200678 was promulgated on June 4, 2018, became final and executory, and was entered in the Book of Entries of Judgments on April 8, 2019.<sup>9</sup> Accordingly, we adopt a portion of the factual antecedents in the said case:

On December 11, 1991, this Court promulgated *Banco Filipino Savings & Mortgage Bank v. Monetary Board and Central Bank of the Philippines*, which declared void the Monetary Board's order for closure and receivership of Banco Filipino Savings & Mortgage Bank (Banco Filipino). This Court also directed the Central Bank of the Philippines and the Monetary Board to reorganize Banco Filipino and to allow it to resume business under the comptrollership of both the Central Bank and the Monetary Board.

Banco Filipino subsequently filed several Complaints before the Regional Trial Court, among them a claim for damages in the total amount of P18,800,000,000.00.

On June 14, 1993, Congress passed Republic Act No. 7653, providing for the establishment and organization of Bangko Sentral as the new monetary authority.

On November 6, 1993, pursuant to this Court's 1991 *Banco Filipino* Decision, the Monetary Board issued Resolution No. 427, which allowed Banco Filipino to resume its business.

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<sup>5</sup> Section 2, New Central Bank Act.

<sup>6</sup> Section 3, New Central Bank Act.

<sup>7</sup> Sections 29, 30, 37, New Central Bank Act.

<sup>8</sup> 832 Phil 27 (2018).

<sup>9</sup> Entry of Judgment dated April 8, 2019 issued by the Deputy Clerk of Court and Chief Judicial Records Officer of the Supreme Court of the Philippines.

In 2002, Banco Filipino suffered from heavy withdrawals, prompting it to seek the help of Bangko Sentral. In a letter dated October 9, 2003, Banco Filipino asked for financial assistance of more than P3,000,000,000.00 through emergency loans and credit easement terms. In a letter dated November 21, 2003, Bangko Sentral informed Banco Filipino that it should first comply with certain conditions imposed by Republic Act No. 7653 before financial assistance could be extended. Banco Filipino was also required to submit a rehabilitation plan approved by Bangko Sentral before emergency loans could be granted.

In a letter dated April 14, 2004, Banco Filipino submitted its Long-Term Business Plan to Bangko Sentral. It also claimed that Bangko Sentral already extended similar arrangements to other banks and that it was still awaiting the payment of P18,800,000,000.00 in damage claims, "the entitlement to which the Supreme Court has already decided with finality."

In response, Bangko Sentral informed Banco Filipino that its business plan could not be acted upon since it was neither "confirmed nor approved by [Banco Filipino's Board of Directors]."

On July 8, 2004, Banco Filipino filed a Petition for Revival of Judgment with the Regional Trial Court of Makati to compel Bangko Sentral to approve its business plan. The case was docketed as Civil Case No. 04-823 and was raffled to Branch 62.

During the pendency of its Petition, Banco Filipino entered into discussions and negotiations with Bangko Sentral, which resulted [in] seven (7) revisions in the business plan. Thus, Banco Filipino filed a Proposal for Settlement dated September 21, 2007 before Branch 62, Regional Trial Court, Makati City to settle the issues between the parties.

On April 8, 2009, Banco Filipino submitted its 8th Revised Business Plan to Bangko Sentral for evaluation. In this business plan, Banco Filipino requested, among others, a P25,000,000,000.00 income enhancement loan. Unable to come to an agreement, the parties constituted an *Ad Hoc* Committee composed of representatives from both parties to study and act on the proposals. The *Ad Hoc* Committee produced an Alternative Business Plan, which was accepted by Banco Filipino, but was subject to the Monetary Board's approval.

In a letter dated December 4, 2009, Bangko Sentral informed Banco Filipino that the Monetary Board issued Resolution No. 1668 granting its request for the P25,000,000,000.00 Financial Assistance and Regulatory Reliefs to form part of its Revised Business Plan and Alternative Business Plan. The approval was also subject to certain terms and conditions, among which was the withdrawal or dismissal with prejudice to all pending cases filed by Banco Filipino against Bangko Sentral and its officials. The terms also included the execution of necessary quitclaims and commitments to be given by Banco Filipino's principal stockholders, Board of Directors, and duly authorized officers "not to revive or refile such similar cases in the future."

In a letter dated January 20, 2010, Banco Filipino requested reconsideration of the terms and conditions of the P25,000,000,000.00 Financial Assistance and Regulatory Reliefs package, noting that the salient features of the Alternative Business Plan were materially modified. However,

in a letter dated April 8, 2010, Banco Filipino informed Bangko Sentral that it was constrained to accept the “unilaterally whittled down version of the [P25,000,000,000.00] Financial Assistance Package and Regulatory Reliefs.” It, however, asserted that it did not agree with the condition to dismiss and withdraw its cases since this would require a separate discussion.

In a letter dated April 19, 2010, Bangko Sentral informed Banco Filipino that it was surprised by the latter’s hesitation in accepting the terms and conditions, in particular, the withdrawal of the cases against it, since this condition had already been discussed from the start of the negotiations between the parties.

In a letter dated June 21, 2010, Banco Filipino informed Bangko Sentral that it never accepted the condition of the withdrawal of the cases in prior negotiations but was willing to discuss this condition as a separate and distinct matter.

In a letter dated August 10, 2010, Bangko Sentral and the Monetary Board, through counsel CVC Law, informed Banco Filipino that its rejection of certain portions of Resolution No. 1668, particularly its refusal to withdraw all cases filed against Bangko Sentral, was deemed as a failure to reach a mutually acceptable settlement.

In a letter dated August 13, 2010, Banco Filipino questioned the legality of referring the matter to private counsel and stated that it had not been notified of the action taken on the acceptance of its Business Plan.

In a letter dated September 13, 2010, CVC Law told Banco Filipino that the matter was referred to it as an incident of Civil Case No. 04-823, which it was handling on behalf of Bangko Sentral. It also informed Banco Filipino that the latter's rejection of the terms and conditions of Resolution No. 1668 made this Resolution legally unenforceable.

Banco Filipino sent letters dated September 22, 2010 and September 28, 2010, questioning the legality of Bangko Sentral's referral to private counsel and reiterating that the terms and conditions embodied in Resolution No. 1668 were not meant to be a settlement of its P18,800,000,000.00 damage claim against Bangko Sentral.

In a letter dated October 4, 2010, Bangko Sentral reiterated that its referral of the matter to CVC Law was due to the matter being incidental to the civil case pending before the Regional Trial Court.<sup>10</sup> (Citations omitted)

On October 20, 2010, Banco Filipino filed a Petition for *Certiorari* and *Mandamus* with prayer for issuance of TRO and WPI against Bangko Sentral and the Monetary Board, docketed as Civil Case No. 10-1042.<sup>11</sup> Banco Filipino alleged, in essence, that respondents committed grave abuse of discretion in requiring it to withdraw its cases and waive all future claims as a condition to the approval of the business plan.

<sup>10</sup> *Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas*, supra note 8, at 31-36.

<sup>11</sup> *Rollo*, Vol. 1, pp. 285-326.

Thus, the bank prayed that the trial court: (a) render judgment declaring the condition illegal and therefore void, and making the writ of preliminary mandatory and preventive injunction permanent; (b) issue a writ of *certiorari*, finding grave abuse of discretion amounting to lack of or excess of jurisdiction on the part of respondents; and (c) issue a writ of *mandamus* to compel Bangko Sentral and the Monetary Board to approve and implement its business plan and release its financial assistance and regulatory reliefs package.<sup>12</sup>

In addition, Banco Filipino prayed for the issuance of a TRO and a WPI, restraining respondents from (a) employing acts inimical to the enforcement and implementation of the business plan, (b) continuing and committing acts prejudicial to Banco Filipino's operations, (c) withdrawing or threatening to withdraw the approval of the business plan containing financial assistance and package of regulatory reliefs, and (d) otherwise enforcing other regulatory measures and abuses calculated to coerce Banco Filipino into agreeing to the condition.<sup>13</sup>

Respondents filed a Motion to Dismiss *Ad Cautelam*, assailing the RTC's jurisdiction over the subject matter and over the persons of Bangko Sentral and the Monetary Board.

#### **Ruling of the Regional Trial Court:**

After hearing, the RTC in an October 28, 2010 Order<sup>14</sup> granted the request for the issuance of a TRO against Bangko Sentral and the Monetary Board. The *fallo* of its Order reads:

WHEREFORE, premises considered and pursuant to Rule 58 of the Revised Rules of Court, Petitioner's prayer for a Temporary Restraining Order is hereby GRANTED. Respondent[s] Ban[gk]o Sentral ng Pilipinas and [t]he Monetary Board, as well as [their] representatives, agents, assigns and/or third person or entity acting for and [their] behalf are hereby enjoined from (a) employing acts inimical to the enforcement and implementation of the approv[ed] Business Plan, (b) continuing and committing acts prejudicial to Petitioner's operations, (c) withdrawing or threatening to withdraw the approval of the Business Plan containing financial assistance, and package of regulatory reliefs, and (d) otherwise enforcing other regulatory measures and abuses calculated to coerce Banco Filipino Savings and Mortgage Bank into agreeing to drop and/or withdraw its suits and damage claims against BSP and MB, and to waive future claims against Respondents or their official[s] and employees.

Further, the Court directs Sheriff Leodel N. Roxas to personally serve a copy of this Order to the herein Respondent Ban[gk]o Sentral ng Pilipinas and [t]he Monetary Board. Finally, let this case be set on November 11, 2010 and

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<sup>12</sup> Id. at 324.

<sup>13</sup> Id. at 322,

<sup>14</sup> Id. at 381-383.

November 12, 2010 both at 2:00 in the afternoon for hearing on the prayer for issuance of a Writ of Preliminary Mandatory Injunction.

SO ORDERED.<sup>15</sup>

The RTC issued a November 17, 2010 Order<sup>16</sup> denying respondents' motion to dismiss.

Respondents assailed the RTC's denial of the motion to dismiss before the CA via a Petition for *Certiorari* with a prayer for issuance of a TRO and WPI. The case was docketed as CA-G.R. SP No. 116905.<sup>17</sup>

On November 3, 2010, respondents filed a Petition for *Certiorari* with prayer for issuance of a TRO and/or WPI with the CA, assailing the issuance of the TRO for having been issued without jurisdiction. The Petition was docketed as CA-G.R. SP No. 116627.<sup>18</sup>

In the meantime, proceedings with the RTC continued, where Banco Filipino's application for the issuance of a WPI was heard by the RTC. Thereafter, the trial court granted Banco Filipino's application for a WPI on November 18, 2010.<sup>19</sup> The *fallo* of the November 18, 2010 Order reads:

WHEREFORE, premises considered and pursuant to Rule 58 of the Revised Rules of Court, the application for a writ of preliminary mandatory and preventive injunction is hereby GRANTED. Respondents Bangko Sentral Ng Pilipinas and the Monetary Board, their officers, employees, representatives, and all persons acting for and in their behalf are hereby **mandated** to immediately implement petitioner's approved Business Plan by releasing its financial assistance and package of regulatory reliefs without delay. Further Respondents are **enjoined** from enforcing other regulatory measures and abuses calculated to coerce petitioner Bangko Filipino Savings and Mortgage Bank into agreeing to drop and/or withdraw its suits and damage claims against herein respondents and to waive future claims against the latter or their officer, employees, representatives and all persons acting in their behalf and from continuing and committing acts prejudicial to Petitioner's operations, until the final disposition of the instant case. Finally let the corresponding Writ of Preliminary Mandatory and Preventive injunction be issued upon Petitioner's posting of sufficient bond herein fixed in the amount of PESOS FIFTY MILLION (Php50,000,000.00), executed in favor of herein respondents to the effect that said Petitioner will pay said respondents all damages that it may sustain by reason of this injunction if the Court should finally decide that petitioner is not entitled thereto.

SO ORDERED.<sup>20</sup> (Emphasis in the original)

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<sup>15</sup> Id. at 383.

<sup>16</sup> Id. at 680-683.

<sup>17</sup> *Rollo*, Vol. II, pp. 1895-1977.

<sup>18</sup> *Rollo*, Vol. I, pp. 384-471.

<sup>19</sup> Id. at 472-474.

<sup>20</sup> Id. at 474.

On November 24, 2010, respondents filed their Motion to Admit Attached Supplemental Petition in CA-G.R. SP No. 116627 to include the trial court's issuance of the WPI in the same proceedings.<sup>21</sup> Petitioner filed its Opposition to the November 3, 2010 Petition<sup>22</sup> and November 24, 2010 Supplemental Petition,<sup>23</sup> respectively.

### **Banco Filipino's Receivership Case:**

Meanwhile, on March 17, 2011, the Monetary Board issued Monetary Board Resolution No. 372.A (MB Resolution 372.A), which, after having determined the inability of petitioner Banco Filipino to continue operating with safety to its depositors and creditors, prohibited the bank from doing business in the Philippines, placing it under receivership and designating the Philippine Deposit Insurance Corporation (PDIC) as its receiver.<sup>24</sup> Banco Filipino thereafter assailed MB Resolution 372.A *via* a petition for *certiorari* and *mandamus* with the CA docketed as CA-G.R. SP No. 118599.<sup>25</sup>

On November 21, 2012, the CA rendered a Decision in CA-G.R. SP No. 118599, granting the Petition.<sup>26</sup> Respondents moved for reconsideration. The CA rendered the November 21, 2012 Amended Decision, granting the Motion for Reconsideration filed by respondents.<sup>27</sup> The case is currently pending with this Court and docketed as G.R. No. 210249.

### **Ruling of the Court of Appeals:**

In its October 3, 2011 Decision, the CA reversed and set aside the RTC's grant of the TRO and WPI in favor of Banco Filipino.<sup>28</sup> The dispositive portion of the CA Decision reads:

**WHEREFORE**, in light of the foregoing discussions, the Petition is **GRANTED**. The Orders dated October 28, 2010 and November 18, 2010 of public respondent in Civil Case No. 10-1042 are hereby **ANNULLED and NULLIFIED**.

For lack of jurisdiction, the Regional Trial Court, Branch 66, Makati City is **DIRECTED to STOP and DESIST** from continuing with the proceedings of Civil Case No. 10-1042, other than to dismiss the case.

**SO ORDERED.**<sup>29</sup> (Emphasis in the original)

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<sup>21</sup> Id. 475-608.

<sup>22</sup> Id. at 609-666.

<sup>23</sup> Id. at 671-679.

<sup>24</sup> *Rollo*, Vol. III, pp. 2820-2893.

<sup>25</sup> Id. at 2904-2950.

<sup>26</sup> Id. at 2952-3001.

<sup>27</sup> Id. at 3119-3136.

<sup>28</sup> *Rollo*, Vol. I, pp. 8-52.

<sup>29</sup> Id at 51-52.

In so ruling, the CA stressed that the trial court acted with grave abuse of discretion in issuing the TRO and WPI. It held that since the trial court had no jurisdiction over Civil Case No. 10-1042, in line with Rule 65, Section 4 of the Rules of Court, which provides that petitions for *certiorari*, prohibition, or *mandamus* involving the acts or omissions of a quasi-judicial agency shall be filed in and be cognizable only by the CA unless otherwise provided by law or the Rules of Court.<sup>30</sup>

The appellate court likewise noted, among others, that the trial court had no jurisdiction over the persons of respondents at the time of issuance of the TRO. For this, it held that there was no valid service of summons on respondents, that the TRO was issued in clear violation of the New Central Bank Act and public policy, and that Banco Filipino failed to show that it had a clear legal right to the writs nor would it suffer grave and irreparable injury if the writs were not issued.<sup>31</sup>

The bank moved for reconsideration of the October 3, 2011 Decision, which was denied by the CA in its February 14, 2012 Resolution.<sup>32</sup>

Hence, this Petition.

### Issues

The parties advance several issues for the resolution of the Court, including (a) whether the trial court had jurisdiction over the subject matter of the petition and over respondents; (b) whether respondents should have filed a motion for reconsideration before the trial court before elevating the same to the CA; (c) whether the issuance of the TRO and WPI was proper; (d) whether both parties were guilty of forum shopping against both parties; and (e) whether petitioner failed to secure authorization from the PDIC to file the instant Petition.

### Our Ruling

After a careful review of the records and applicable law and jurisprudence, the Petition is denied on grounds of mootness and lack of jurisdiction.

**Cases involving the propriety of the issuance of ancillary writs, as mere adjuncts to the main suit, become moot and academic upon disposal of the main action.**

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<sup>30</sup> Id. at 38-41.

<sup>31</sup> Id. at 40-48.

<sup>32</sup> Id. at 54-62.

At the outset, We stress that the core issue in this case is the propriety of the trial court's issuance of a TRO and WPI against respondents in Civil Case No. 10-1042. In fact, the prayer in the instant Petition is for the reversal of the October 3, 2011 and February 14, 2012 Resolution of the CA, thereby allowing the writ of injunction issued by the trial court to remain in force and effect.

TROs and WPis “constitute temporary measures availed of during the pendency of the action” and are “preservative remedies for the protection of substantive rights” of the parties. They are *ancillary* because “they are mere incidents in and are dependent upon the result of the main action.”<sup>33</sup> Ancillary writs are not causes of action in themselves; they are mere adjuncts to the main suit with the sole object of preserving the status quo until the merits of the case can be heard. Being ancillary in nature, the existence of a main action or proceeding is a condition *sine qua non* before a WPI or TRO may lie:

In our jurisdiction, writs of preliminary injunction and TROs are considered as provisional injunctive reliefs that are only permitted to be issued in connection with — or as an ancillary to — a main action or proceeding pending in court. **It is settled that the office of a writ of preliminary injunction is limited only to the preservation of the *status quo* until an action or proceeding could be fully decided; whereas a TRO is merely the maintenance of such status until an application for a writ of preliminary injunction can be heard. Evidently, the existence of a main action or proceeding is a condition *sine qua non* before a writ of preliminary injunction or TRO may lie.**

The ancillary character of the writs of preliminary injunction and TROs also finds black letter support in our rules of procedure. Sections 1, 2 and 5, Rule 58 of the Rules of Court — which define and describe the precise circumstances under which a writ of preliminary injunction and TRO may be granted — all assume the prior existence of a main action or proceeding before such writ and order may be granted[.]<sup>34</sup>(Emphasis supplied; citations omitted)

Thus, any preliminary writ cannot survive the resolution of the main case of which it is an incident because an ancillary writ “loses its force and effect after the decision in the main petition.”<sup>35</sup> When a main action is dismissed, any provisional remedy in this case is dissolved. It then follows that once a decision disposing of the main case becomes final and executory, any disposition by a court on the propriety of a TRO and WPI issued in the case serves no practical purpose and renders such a disposition moot and academic.

“An issue becomes moot when it ceases to present a justifiable controversy so that a determination thereof would be without practical value. In such cases, there is no actual substantial relief to which petitioner would be

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<sup>33</sup> *Carpio-Morales v. Court of Appeals*, 772 Phil. 672, 736 (2015).

<sup>34</sup> *Perucho v. Valencia II*, G.R. No. 231971, July 10, 2019.

<sup>35</sup> *Zuneca Pharmaceutical v. Natrapharm, Inc.*, 773 Phil. 60, 70 (2015).

entitled to and which would be negated by the dismissal of the petition.”<sup>36</sup> “It is well-settled that courts will not determine questions that have become moot and academic because there is no longer any justiciable controversy to speak of. The judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.”<sup>37</sup>

Hence, this Court, in *City of Manila v. Grecia-Cuerdo*,<sup>38</sup> dismissed a Rule 65 petition involving only the propriety of the issuance of a WPI in view of the trial court’s final and executory Decision disposing of the main case. This Court ruled therein that the WPI was merely an incident in the main case and has thus been rendered moot and academic in view of the disposition of the main action.

In the same vein, this Court discovered in the course of its review of the records that its Decision in G.R. No. 200678 (*MTD Case*) already disposed of the main action in Civil Case No. 10-1042. It denied Banco Filipino’s petition and found, among others, that the CA did not err in dismissing the case before the trial court, which did not have jurisdiction over the Petition for *Certiorari* filed by petitioner against respondents in Civil Case No. 10-1042.<sup>39</sup> The said Decision has already attained finality and was entered in the Book of Entries of Judgment on April 8, 2019.

There being no actual substantial relief to which the parties will be entitled to even if the Petition is granted, this Court finds that the instant Petition must be dismissed for being moot and academic.

Assuming *arguendo* that the instant Petition has not been rendered moot by this Court’s final and executory Decision in G.R. No. 200678, the Petition must still be dismissed for (a) petitioner’s failure to show that it has been authorized by the PDIC to file the instant Petition and (b) the trial court’s lack of jurisdiction over the subject matter of the case.

**A bank under receivership can only sue or be sued through its receiver, the PDIC. Thus, a petition filed on behalf of a bank under receivership that is neither filed through nor authorized by the PDIC must be dismissed for want of jurisdiction.**

When a bank is ordered closed and placed under the receivership of PDIC by the Monetary Board, PDIC is mandated to proceed with the takeover

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<sup>36</sup> *Lee Hiong Wee v. Dee Ping Wee*, 526 Phil. 739, 758 (2006).

<sup>37</sup> *Philippine Savings Bank v. Senate Impeachment Court*, 699 Phil. 34, 36 (2012).

<sup>38</sup> 726 Phil. 9 (2014).

<sup>39</sup> *Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas*, supra note 8.

and liquidation of the closed bank.<sup>40</sup> PDIC shall immediately gather and take charge of all the assets and liabilities of the bank, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court.<sup>41</sup>

In its capacity as the receiver of the closed bank, the PDIC is authorized to perform several functions in its behalf, including bringing suits to enforce liabilities to or recoveries of the closed banks, hiring or retaining private counsels as may be necessary, and exercising such other powers as are inherent and necessary for the effective discharge of the duties of the corporation as a receiver.<sup>42</sup> In contrast, the powers and functions of the directors, officers, and stockholders of a closed bank under receivership are deemed suspended upon takeover by the PDIC:

b. The Corporation as receiver shall control, manage and administer the affairs of the closed bank. **Effective immediately upon takeover as receiver of such bank, the powers, functions and duties, as well as all allowances, remunerations and prerequisites of the directors, officers, and stockholders of such bank are suspended**, and the relevant provisions of the Articles of Incorporation and By-laws of the closed bank are likewise deemed suspended. (Emphasis supplied)<sup>43</sup>

<sup>40</sup> Section 12(a), R.A. 3591, as amended by Section 25, RA No. 10846 provides:

SEC. 12. (a) Whenever a bank is ordered closed by the Monetary Board, the Corporation shall be designated as receiver and it shall proceed with the takeover and liquidation of the closed bank in accordance with this Act. For this purpose, banks closed by the Monetary Board shall no longer be rehabilitated.

<sup>41</sup> Section 30, New Central Bank Act provides:

Section 30. *Proceedings in Receivership and Liquidation.* - Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank or quasi-bank:

x x x x

**The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court** but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: Provided, That the receiver may deposit or place the funds of the institution in non-speculative investments. The receiver shall determine as soon as possible, but not later than ninety (90) days from take over, whether the institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its depositors and creditors and the general public: Provided, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board." [Emphasis supplied]

<sup>42</sup> Section 10 (c), R.A. No. 9302, amending Section 9-A, R.A. No. 3591 provides:

(c) In addition to the powers of a receiver pursuant to existing laws, the Corporation is empowered to:

(1) bring suits to enforce liabilities to or recoveries of the closed bank;

x x x x

(6) hire or retain private counsels as may be necessary;

x x x x

(9) exercise such other powers as are inherent and necessary for the effective discharge of the duties of the Corporation as receiver."

<sup>43</sup> Section 10 (b), R.A. No. 9302, amending Section 9-A, R.A. No. 3591.

Moreover, in *Balayan Bay Rural Bank, Inc. v. National Livelihood Development Corp.*,<sup>44</sup> We held that the PDIC, as the fiduciary of the properties of a closed bank, may prosecute or defend the case by or against the said bank as a representative party while the bank will remain as the real party in interest, and that actions should be brought for or against the closed bank through the statutory receiver. We explained that the mandatory inclusion of the PDIC as a representative party is grounded on its statutory role as the fiduciary of the closed bank which, under the New Central Bank Act, is authorized to conserve the latter's property for the benefit of its creditors.

This Court further clarified in *Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas (MTD Case)*<sup>45</sup> that a closed bank under receivership can only sue or be sued through its receiver, the PDIC. In the said case, this Court ratiocinated that as receiver of Banco Filipino at the time of the filing of the petition therein, PDIC should have been joined or at the very least, its authorization to file the petition should have been secured:

**It was speculative on petitioner's part to presume that it could file this Petition without joining its receiver** on the ground that Philippine Deposit Insurance Corporation might not allow the suit. **At the very least, petitioner should have shown that it attempted to seek Philippine Deposit Insurance Corporation's authorization to file suit.** It was possible that Philippine Deposit Insurance Corporation could have granted its permission to be joined in the suit. If it had refused to allow petitioner to file its suit, petitioner still had a remedy available to it. Under Rule 3, Section 10 of the Rules of Court, petitioner could have made Philippine Deposit Insurance Corporation an unwilling co-petitioner and be joined as a respondent to this case.

**Petitioner's suit concerned its Business Plan, a matter that could have affected the status of its insolvency. Philippine Deposit Insurance Corporation's participation would have been necessary, as it had the duty to conserve petitioner's assets and to examine any possible liability that petitioner might undertake under the Business Plan.**

Philippine Deposit Insurance Corporation also safeguards the interests of the depositors in all legal proceedings. Most bank depositors are ordinary people who have entrusted their money to banks in the hopes of growing their savings. When banks become insolvent, depositors are secure in the knowledge that they can still recoup some part of their savings through Philippine Deposit Insurance Corporation. **Thus, Philippine Deposit Insurance Corporation's participation in all suits involving the insolvent bank is necessary and imbued with the public interest.**<sup>46</sup> (Emphasis supplied; citations omitted)

Moreover, if a complaint is filed by one who claims to represent a party as plaintiff but who, in fact, is not authorized to do so, such complaint is not deemed filed and the court does not acquire jurisdiction over the complaint. It

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<sup>44</sup> 770 Phil. 30 (2015).

<sup>45</sup> Supra note 8.

<sup>46</sup> Id. at 53-54.

bears stressing that “[a]n unauthorized complaint does not produce any legal effect.”<sup>47</sup> Thus, in the *MTD Case*, the Court held that it did not acquire jurisdiction over the case filed before it. It considered the fact that petitioner’s verification and certification of non-forum shopping were signed by its executive vice presidents, as authorized by its board of directors (BOD), which could not have validly authorized the said individuals to file the suit on behalf of Banco Filipino in view of the suspension of the BOD’s powers over Banco Filipino.

The aforecited rulings squarely apply to the instant case. To recall, Banco Filipino was placed under the receivership of PDIC on March 17, 2011 under MB Resolution No. 372.A. While MB Resolution No. 372.A was admittedly assailed in court, the instant Petition was filed with this Court on April 10, 2012 during the pendency of the said proceedings in CA-G.R. SP No. 118599.

This notwithstanding, a perusal of the Petition and court records does not indicate any authority from the PDIC, petitioner’s statutory receiver, for the filing of the Petition. In fact, the verification and certification of forum shopping submitted by petitioner were likewise signed by the very same executive vice presidents in the *MTD Case* whose purported authority sprang from the BOD and which, in turn, could not have validly authorized the said individuals to file the suit on behalf of Banco Filipino in line with Section 10 (b) of RA 9302.

Thus, even assuming *arguendo* that the instant Petition has not been rendered moot, the instant Petition should not be deemed filed and this Court did not acquire jurisdiction over the instant case.

**A TRO and WPI issued by a court without jurisdiction over the main case are void for want of jurisdiction.**

Unless otherwise provided by the law or the Rules of Court, petitions for *certiorari*, prohibition, and *mandamus* involving acts or omissions of a quasi-judicial agency are cognizable only by the appellate court pursuant to Section 4, Rule 65 of the Rules of Court, *viz.*:

**Section 4. *When and where petition filed.*** — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as

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<sup>47</sup> *Tamondong v. Court of Appeals*, 486 Phil. 729, 741 (2004).

defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. **If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.** [Emphasis supplied]

This Court has ruled in several cases that Bangko Sentral's Monetary Board is a quasi-judicial agency exercising quasi-judicial functions.<sup>48</sup> Hence, Banco Filipino's petition for *certiorari* and *mandamus* should have been filed before the CA instead of the trial court. It is the duty of the court to dismiss an action whenever it appears that the court has no jurisdiction over the subject matter.<sup>49</sup> As such, and as found by this Court in the *MTD Case*, the CA did not err in dismissing the case before the trial court since the latter did not have jurisdiction over the petition for *certiorari* filed by petitioner against respondents in Civil Case No. 10-1042.<sup>50</sup>

“Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case.”<sup>51</sup> “The proceedings before a court without jurisdiction, including its decision, are null and void.”<sup>52</sup> “And when the court lacks jurisdiction to take cognizance of a case, it lacks authority over the whole case and all its aspects.”<sup>53</sup> The court's lack of jurisdiction likewise extends to ancillary writs, such as a preliminary injunction, which exist only as an incident to an independent action. A trial court with no jurisdiction over the petition filed therein is likewise devoid of any authority to act on the application for the issuance of a WPI contained in the same petition.<sup>54</sup>

Applying the foregoing, the RTC lacked jurisdiction over Civil Case No. 10-1042 and the void nature of all proceedings arising therefrom extends to the issuance of any ancillary writs, such as the TRO and WPI in the instant case. Thus, even assuming *arguendo* that the instant Petition has not been rendered moot, it should still be dismissed since the TRO and WPI issued by the trial court are void for want of jurisdiction.

In view of the foregoing, the Court no longer finds it necessary to discuss the other issues raised by the parties.

**WHEREFORE**, the Petition is **DISMISSED** for being moot and academic and for lack of jurisdiction.

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<sup>48</sup> *Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas*, supra note 8; *Monetary Board v. Phil. Veterans Bank*, 751 Phil. 176 (2015); *United Coconut Planters Bank v. E. Ganzon, Inc.*, 609 Phil. 104 (2009).

<sup>49</sup> Section 2, Rule 9 of the Rules of Court.

<sup>50</sup> *Banco Filipino Savings and Mortgage Bank v. Bangko Sentral ng Pilipinas*, supra note 8.

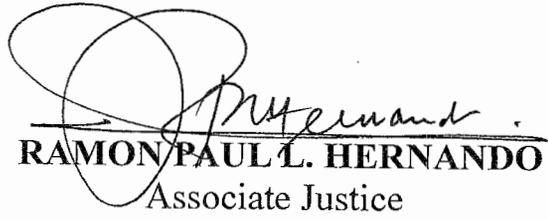
<sup>51</sup> *Presidential Commission on Good Government v. Dumayas*, 766 Phil. 33, 58 (2015).

<sup>52</sup> *Tagalog v. Vda. de Gonzales*, 739 Phil. 180, 189 (2014).

<sup>53</sup> *Republic v. Court of Appeals*, 306 Phil. 453, 458 (1994).

<sup>54</sup> *BF Homes, Inc. v. Manila Electric Co.*, 651 Phil. 211, 233-234 (2010).

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson

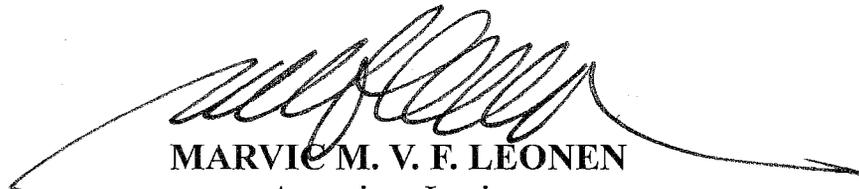
  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ALEXANDER G. GESMUNDO**  
Chief Justice