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to a failure to post the bond as required by law. What is even more salient is the fact that the NLRC had stressed that petitioners had, for more than a month from receipt of its 24 February 2006 Order, to comply with the conditions set forth therein for the posting of the property bond. It cannot be gainsaid that the NLRC had given petitioners a period of 10 days from receipt of the Order with a warning that non-compliance would result in the dismissal of their appeal for failure to perfect the same. Petitioners therefore disregarded the rudiments of the law in the perfection of their appeal. We are without recourse but to take petitioners' failure against their interest.

WHEREFORE, the Petition is *DENIED.* The Resolutions dated 24 August 2006 and 14 November 2006 of the Court of Appeals in CA-G.R. SP. No. 95665 are *AFFIRMED.* Costs against petitioners.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Nachura, and *Reyes, JJ.,* concur.

FIRST DIVISION

[G.R. No. 179901. April 14, 2008]

BANCO DE ORO-EPCI, INC.,[*] *petitioner, vs.* **JAPRL DEVELOPMENT CORPORATION, RAPID FORMING CORPORATION and JOSE U. AROLLADO,** *respondents.*

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[*] Formerly Equitable PCI Bank, Inc.

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SYLLABUS

1. MERCANTILE LAW; CORPORATIONS; INTERIM RULES OF PROCEDURE ON CORPORATE REHABILITATION; STAY ORDER; EFFECT.— Under the Interim Rules of Procedure on Corporate Rehabilitation, a stay order defers all actions or claims against the corporation seeking rehabilitation from the date of its issuance until the dismissal of the petition or termination of the rehabilitation proceedings.

2. ID.; ID.; A CREDITOR CAN DEMAND PAYMENT FROM THE SURETY SOLIDARILY LIABLE WITH THE CORPORATION SEEKING REHABILITATION.— A creditor can demand payment from the surety solidarily liable with the corporation seeking rehabilitation.

3. ID.; GENERAL BANKING LAW; BANKS; NATURE.— 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. 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. 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.

4. ID.; ID.; ID.; HAVE THE RIGHT TO ANNUL ANY CREDIT ACCOMMODATION OR LOAN, AND DEMAND IMMEDIATE PAYMENT THEREOF, FROM BORROWERS PROVEN TO BE GUILTY OF FRAUD.— Section 40 of the General Banking Law x x x states: "Section 40. *Requirement for Grant of Loans or Other Credit Accommodations*. Before granting a loan or other credit

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accommodation, a bank must ascertain that the debtor is capable of fulfilling his commitments to the bank. Towards 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 the 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 credit accommodation granted on the basis of said statements and shall have the right to demand immediate repayment or liquidation of the obligation.** In formulating the 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." Under this provision, banks have the right to annul any credit accommodation or loan, and demand the immediate payment thereof, from borrowers proven to be guilty of fraud.

APPEARANCES OF COUNSEL

Siguion Reyna Montecillo & Ongsiako for petitioner.

Joselito B. Flores for respondents.

D E C I S I O N

CORONA, *J.*:

This petition for review on *certiorari*[1] seeks to set aside the decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 95659 and its resolution[3] denying reconsideration.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Jose C. Reyes, Jr. and Myrna Dimaranan-Vidal of the Tenth Division of the Court of Appeals. Dated June 7, 2007. *Rollo,* pp. 49-59.

[3] Dated August 31, 2007. *Id*., p. 60.

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After evaluating the financial statements of respondent JAPRL Development Corporation (JAPRL) for fiscal years 1998, 1999 and 2000,[4] petitioner Banco de Oro-EPCI, Inc. extended credit facilities to it amounting to ₱230,000,000[5] on March 28, 2003. Respondents Rapid Forming Corporation (RFC) and Jose U. Arollado acted as JAPRL's sureties.

Despite its seemingly strong financial position, JAPRL defaulted in the payment of four trust receipts soon after the approval of its loan.[6] Petitioner later learned from MRM Management, JAPRL's financial adviser, that JAPRL had altered and falsified its financial statements. It allegedly bloated its sales revenues to post a big income from operations for the concerned fiscal years to project itself as a viable investment.[7] The information alarmed petitioner. Citing relevant provisions of the Trust Receipt Agreement,[8] it

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[4] *Id*., pp. 62-63.

[5] *Id*., p. 63.

[6] JAPRL failed to pay the value of trust receipt nos. 114505, 1000006285, 1000006305 and 1000006325. *Id.*

[7] *Id*., pp. 62-66.

[8] Paragraph 16 of the Trust Receipt Agreement provided:

> 16. If any of the following Events of Default shall have occurred:
>
> x x x x x x x x x
>
> b. The Entrustee shall default in the due performance or observance of any other covenant contained herein on in any agreement under which the Entruster issued the letter of credit under the terms of which the Trust Property was purchased, and such default shall remain unremedied for a period of five (5) calendar days after the Entrustee shall have received written notice thereof from the Entruster; or,
>
> c. Any statement, representation or warranty made by the Entrustee, hereunder, in its application with the Entruster or in other document delivered or made pursuant thereto shall prove to be incorrect or untrue in the any material respect; or,
>
> d. The Entrustee/ any of its subsidiary or affiliate fails to pay or default in the payment of any installment of the principal or interests relative to, or fails to comply with or to perform, any other obligation or commits a breach or violation of any of the terms, conditions or stipulations, of any agreement, contract

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demanded immediate payment of JAPRL's outstanding obligations amounting to ₱194,493,388.98.[9]

SP PROC. NO. Q-03-064

On August 30, 2003, JAPRL (and its subsidiary, RFC) filed a petition for rehabilitation in the Regional Trial Court (RTC)

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or document with Entruster or any third person or persons to which the Entruster or any of its subsidiary or affiliate is a party or privy, whether executed prior to or after the date hereof under which credit has or may have been extended to such Entrustee/ subsidisiary or affiliate by the Entruster or such third person or persons or under which the Entrustee has agreed to act as guarantor, surety or accommodation party, which, under the terms of such agreement, contract, document, guaranty or suretyship, including any agreement similar or analogous thereto, shall constitute a default or is defined as an event of default thereunder; or,

x x x x x x x x x

j. Any adverse circumstance occurs, which in the reasonable opinion of the Entruster, materially or adversely affects the ability of the Entrustee to perform its obligation hereunder; or

x x x x x x x x x

Id., pp. 65-66.

[9] JAPRL's outstanding liabilities were broken down as follows:

LETTER OF CREDIT	TRUST RECEIPT	OUTSTANDING BALANCE
9185863	114505	₱ 4,818,784.50
9186617	115613	10,002,405.35
9186263	115099	24,421,786.32
9188618	115612	17,742,002.53
9187128	116067	7,718,059.80
14913	1000006285	1,734,837.50
14927	1000006305	3,235,780.00
14952	1000006325	2,809,031.24
14969	1000006330	3,739,312.50
14982	1000006339	4,142,952.24
15144	1000006532	7,080,696.00
15168	1000006558	4,889,034.00
15181	1000006571	5,104,317.50
15186	1000006574	10,129,035.00
15207	1000006599	7,183,010.00

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of Quezon City, Branch 90 (Quezon City RTC).[10] It disclosed that it had been experiencing a decline in sales for the three preceding years and a staggering loss in 2002.[11]

15236	1000006646	6,730,310.00
15244	1000006648	3,481,760.00
15251	1000006652	6,353,342.50
15273	1000006670	10,781,095.00
15320	1000006723	9,043,803.00
15340	1000006749	8,974,180.00
15374	1000006781	5,344,652.00
15387	1000006801	10,545,120.00
	1000006808	6,454,320.00
	1000006809	5,837,680.00
15413	1000006824	6,196,080.00
TOTAL		₱194,493,388.98

Id., p. 64.

[10] *Id*., pp. 83-84.

[11] *Id*., p. 63.

According to the affidavit of general financial condition executed by Peter Paul Limson, concurrent chairman and chief executive officer of JAPRL and RFC, both corporations have been suffering staggering losses since the year 2000:

	2002	2001	2000
SALES			
JAPRL	₱210,570,962	₱ 233,064,377	₱303,661,262
RFC	284,828,246	294,940,656	248,013,118
PROFIT/LOSSES			
JAPRL	(₱14,536,976)	₱ 269,958	₱ 516,359
RFC	215,747	327,462	503,112

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Because the petition was sufficient in form and substance, a stay order[12] was issued on September 28, 2003.[13] However, the proposed rehabilitation plan for JAPRL and RFC was eventually rejected by the Quezon City RTC in an order dated May 9, 2005.[14]

CIVIL CASE NO. 03-991

Because JAPRL ignored its demand for payment, petitioner filed a complaint for sum of money with an application for the

[12] See Interim Rules of Procedure on Corporate Rehabilitation (A.M. No. 00-8-10-SC), Sec. 6 which provides:

Section 6. *Stay Order*. - **If the court finds the petition to be sufficient in form and substance, it shall, not later than five (5) days from the filing of the petition, issue an Order**: (a) applying a Rehabilitation Receiver and fixing his bond; (b) **staying enforcement of all claims, whether for money or otherwise and whether such enforcement is by court action or otherwise, against the debtor, its guarantors and sureties not solidarily liable with the debtor**; (c) prohibiting the debtor from selling,encumbering, transferring, or disposing in any manner any of its properties except in the ordinary course of business; (d) **prohibiting the debtor from making any payment of its liabilities outstanding as at the date of filing of the petition**; (e) prohibiting the debtor's suppliers of goods or services from withholding supply of goods and services in the ordinary course of business for as long as the debtor makes payments for the services and goods supplied after the issuance of the stay order; (f) directing the payment in full of all administrative expenses incurred after the issuance of the stay order; (g) fixing the initial hearing on the petition not earlier than forty-five (45) days but not later than sixty (60) days from the filing thereof; (h) directing the petitioner to publish the Order in a newspaper of general circulation in the Philippines once a week for two (2) consecutive weeks; (i) **directing all creditors and all interested parties** (including the Securities and Exchange Commission) **to file and serve on the debtor a verified comment on or opposition to the petition, with supporting affidavits and documents, not later than ten (10) days before the date of the initial hearing and putting them on notice that their failure to do so will bar them from participating in the proceedings**; and (j) directing the creditors and interested parties to secure from the court copies of the petition and its annexes within such time as to enable themselves to file their comment on or opposition to the petition and to prepare for the initial hearing of the petition. (emphasis supplied)

[13] Issued by Presiding Judge Reynaldo B. Daway. *Rollo*, pp. 83-84.

[14] *Id.*, p. 127.

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issuance of a writ of preliminary attachment against respondents in the RTC of Makati City, Branch 145 (Makati RTC) on August 21, 2003.[15] Petitioner essentially asserted that JAPRL was guilty of fraud because it (JAPRL) altered and falsified its financial statements.[16]

The Makati RTC subsequently denied the application (for the issuance of a writ of preliminary attachment) for lack of merit as petitioner was unable to substantiate its allegations. Nevertheless, it ordered the service of summons on respondents.[17] Pursuant to the said order, summonses were issued against respondents and were served upon them.

Respondents moved to dismiss the complaint due to an allegedly invalid service of summons.[18] Because the officer's return stated that an "administrative assistant" had received the summons,[19] JAPRL and RFC argued that Section 11, Rule 14 of the Rules of Court[20] contained an exclusive list of persons on whom

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[15] Annex "F", *id*., pp. 61-71.

[16] *Id*., p. 67.

[17] Issued by Presiding Judge Cesar D. Santamaria. Dated September 23, 2003. Annex "G", *id*., pp. 73-74.

[18] Annex "K", *id*., pp. 92-94.

[19] Annex "J", *id*., p. 91. It stated:

> I HEREBY CERTIFY that on July 9, 2004 a copy of summons dated May 5, 2004 issued by the Honorable Court in connection with [Civil Case No. 03-991], the undersigned served upon [JAPRL], 2/F Vasquez Madrigal Plaza, 51 Annapolis St., Greenhills, San Juan, Metro Manila, [RFC and Arollado]; **thru Ms. GRACE CANO, administrative assistant** who acknowledged receipt as evidenced by her signature at the original copy of summons.
>
> DULY SERVED.
>
> City of Makati, 12 July 2004. (emphasis supplied)

[20] RULES OF COURT, Rule 14, Sec. 11 provides:

> Section 11. *Service upon domestic private juridical entity*. When the defendant is a **corporation,** partnership or association organized under the laws of the Philippines with a juridical personality, **service may be made on the president, managing partner**, **general manager**, **corporate secretary**, **treasurer**, or **in-house counsel**. (emphasis supplied)

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summons against a corporation must be served.[21] An "administrative assistant" was not one of them. Arollado, on the other hand, cited Section 6, Rule 14 thereof [22] which mandated personal service of summons on an individual defendant.[23]

The Makati RTC, in its October 10, 2005 order,[24] noted that because corporate officers are often busy, summonses to corporations are usually received only by administrative assistants or secretaries of corporate officers in the regular course of business. Hence, it denied the motion for lack of merit.

Respondents moved for reconsideration[25] but withdrew it before the Makati RTC could resolve the matter.[26]

RTC SEC Case No. 68-2008-C

On February 20, 2006, JAPRL (and its subsidiary, RFC) filed a petition for rehabilitation in the RTC of Calamba, Laguna, Branch 34 (Calamba RTC). Finding JAPRL's petition sufficient in form and in substance, the Calamba RTC issued a stay order[27] on March 13, 2006.

In view of the said order, respondents hastily moved to suspend the proceedings in Civil Case No. 03-991 pending in the Makati RTC.[28]

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[21] Annex "K", *rollo,* pp. 92-94. See *Mason v. Court of Appeals*, 459 Phil. 689, 698-699 (2003).

[22] RULES OF COURT, Sec. 6, Rule 14 provides:

Section 6. *Service in person on defendant.* Whenever practicable, **the summons shall be served by handing a copy thereof to the defendant in person**, or if he refuses to receive and sign for it, by tendering it to him. (emphasis supplied)

[23] *Rollo,* p. 93.

[24] Annex "M", *id.*, pp. 102-103.

[25] Annex "N", *id*., pp. 104-112.

[26] Annex, "O", *id.*, pp. 113-115.

[27] Issued by Judge Jesus A. Santiago. Dated September 11, 2006. *Id.*, pp. 126-129.

[28] Annex "Q", *id*., pp. 124-125.

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On July 7, 2006, the Makati RTC granted the motion with regard to JAPRL and RFC but ordered Arollado to file an answer. It ruled that, because he was jointly and solidarily liable with JAPRL and RFC, the proceedings against him should continue.[29] Respondents moved for reconsideration[30] but it was denied.[31]

On August 11, 2006, respondents filed a petition for *certiorari*[32] in the CA alleging that the Makati RTC committed grave abuse of discretion in issuing the October 10, 2005 and July 7, 2006 orders.[33] They asserted that the court did not acquire jurisdiction over their persons due to defective service of summons. Thus, the Makati RTC could not hear the complaint for sum of money.[34]

In its June 7, 2007 decision, the CA held that because the summonses were served on a mere administrative assistant, the Makati RTC never acquired jurisdiction over respondents. Thus, it granted the petition.[35]

Petitioner moved for reconsideration but it was denied.[36] Hence, this petition.

Petitioner asserts that respondents maliciously evaded the service of summonses to prevent the Makati RTC from acquiring jurisdiction over their persons. Furthermore, they employed bad faith to delay proceedings by cunningly exploiting procedural technicalities to avoid the payment of their obligations.[37]

We grant the petition.

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[29] Annex "R", *id*., p. 130.

[30] Annex "S", *id*., pp. 131-134.

[31] Annex "T", *id*., p. 135.

[32] Under Rule 65 of the Rules of Court.

[33] Respondents' motion for reconsideration was pending in the Makati RTC when they filed the petition for *certiorari* in the CA. It (petition) should have been dismissed for being filed prematurely.

[34] Annex "U", *rollo*, pp. 136-149.

[35] *Supra* note 2.

[36] *Supra* note 3.

[37] *Id*., pp. 10-35.

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Respondents, in their petition for *certiorari* in the CA, questioned the jurisdiction of the Makati RTC over their persons (*i.e.*, whether or not the service of summons was validly made). Therefore, it was only the October 10, 2005 order of the said trial court which they in effect assailed.[38] However, because they withdrew their motion for reconsideration of the said order, it became final. Moreover, the petition was filed 10 months and 1 day after the assailed order was issued by the Makati RTC,[39] way past the 60 days allowed by the Rules of Court. For these reasons, the said petition should have been dismissed outright by the CA.

More importantly, when respondents moved for the suspension of proceedings in Civil Case No. 03-991 before the Makati RTC (on the basis of the March 13, 2006 order of the Calamba RTC), they waived whatever defect there was in the service of summons and were deemed to have submitted themselves voluntarily to the jurisdiction of the Makati RTC.[40]

We withhold judgment for the moment on the July 7, 2006 order of the Makati RTC suspending the proceedings in Civil Case No. 03-991 insofar as JAPRL and RFC are concerned. Under the Interim Rules of Procedure on Corporate Rehabilitation, a stay order defers all actions or claims against the corporation seeking rehabilitation[41] from the date of its issuance until the dismissal of the petition or termination of the rehabilitation proceedings.[42]

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[38] The July 7, 2006 and September 11, 2006 orders of the Makati RTC resolved whether or not the proceedings in Civil Case No. 03-991 should be suspended in view of the March 13, 2006 order of the Calamba RTC in RTC SEC Case No. 68-2008-C.

[39] See RULES OF COURT, Sec. 4, Rule 65 which provides:

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

x x x x x x x x x

[40] See *Orosa v. Court of Appeals,* 330 Phil. 67 (1996).

[41] *Philippine Airlines v. Kurangking,* 438 Phil. 375, 381 (2002).

[42] *Id.*

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The Makati RTC may proceed to hear Civil Case No. 03-991 only against Arollado if there is no ground to go after JAPRL and RFC (as will later be discussed). A creditor can demand payment from the surety solidarily liable with the corporation seeking rehabilitation.[43]

Respondents abused procedural technicalities (albeit unsuccessfully) for the sole purpose of preventing, or at least delaying, the collection of their legitimate obligations. Their reprehensible scheme impeded the speedy dispensation of justice. More importantly, however, considering the amount involved, respondents utterly disregarded the significance of a stable and efficient banking system to the national economy.[44]

Banks are entities engaged in the lending of funds obtained through deposits[45] from the public.[46] They borrow the public's

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See A.M. No. 00-8-10-SC, Sec. 11 provides:

> Section 11. *Period of Stay Order.* **The stay order shall be effective from the date of its issuance until the dismissal of the petition or termination of the rehabilitation proceedings**.
>
> The petition shall be dismissed if no rehabilitation is approved by the court upon the lapse of one hundred eighty (180) days from the date of the initial hearing. The court may grant an extension beyond this periodonly if it appears by convincing and compelling evidence that the debtor may successfully be rehabilitated. In no instance, however, shall the period for approving or disapproving a rehabilitation plan exceed eighteen (18) months from the date of filing of the petition. (emphasis supplied)

[43] *Philippine Blooming Mills v. Court of Appeals*, 459 Phil. 875, 892 (2003) citing *Traders Royal Bank v. Court of Appeals*, G.R. No. 78412, 26 September 1989, 177 SCRA 788, 792.

[44] GEN. BANKING LAW, Sec. 2 provides:

> Section 2. *Declaration of Policy.* The State recognizes the **vital role of banks 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 a stable and efficient banking and financial system that is globally competitive, dynamic and responsive to the demands of a developing economy.** (emphasis supplied)

[45] GEN. BANKING LAW, Sec. 3.1.

[46] Gen. Banking Law, Sec. 8.2.

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excess money (*i.e.,* deposits) and lend out the same.[47] Banks therefore redistribute wealth in the economy by channeling idle savings to profitable investments.

Banks operate (and earn income) by extending credit facilities financed primarily by deposits from the public.[48] They plough back the bulk of said deposits into the economy in the form of loans.[49] 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.[50]

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.

In this case, petitioner alleged that JAPRL fraudulently altered and falsified its financial statements in order to obtain its credit facilities. Considering the amount of petitioner's exposure in JAPRL, justice and fairness dictate that the Makati RTC hear whether or not respondents indeed committed fraud in securing the credit accomodation.

A finding of fraud will change the whole picture. In this event, petitioner can use the finding of fraud to move for the dismissal of the rehabilitation case in the Calamba RTC.

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[47] Frederic Mishkin, *THE ECONOMICS OF MONEY, BANKING AND FINANCIAL MATTERS*, 5th ed., pp. 231-238.

See also Vicente Valdepeñas, Jr., *THE BANGKO SENTRAL AND THE PHILIPPINE ECONOMY*, pp. 123-124.

[48] Valdepeñas, *id*., p. 125.

[49] The Bangko Sentral ng Pilipinas (BSP) controls bank lending by imposing reserve requirements which may be increased or reduced, subject to the financing needs of the economy.

[50] Valdepeñas, *supra* note 47 at 125-126.

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The protective remedy of rehabilitation was never intended to be a refuge of a debtor guilty of fraud.

Meanwhile, the Makati RTC should proceed to hear Civil Case No. 03-991 against the three respondents guided by Section 40 of the General Banking Law which states:

> 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.
>
> Towards 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 the 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 credit accommodation granted on the basis of said statements and shall have the right to demand immediate repayment or liquidation of the obligation.**
>
> In formulating the 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)

Under this provision, banks have the right to annul any credit accommodation or loan, and demand the immediate payment thereof, from borrowers proven to be guilty of fraud. Petitioner would then be entitled to the immediate payment of ₱194,493,388.98 and other appropriate damages.[51]

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[51] Paragraph 28 of the Trust Receipt Agreement provides:

> 28. In all cases where the Entruster is compelled to resort to the cancellation of this Trust Receipt or any take legal action to protect its interests, the Entrustee shall pay attorney fees fixed at 15% of the total obligation of the Entrustee, which shall in case be less than ₱20,000 exclusive of costs and fees allowed by law and the other expenses of collection incurred by the Entruster, and liquidated damages equal to fifteen percent (15%) of the total amount due but in no case less than ₱20,000. Any deficiency resulting within 24 hours from such sale, failing

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Finally, considering that respondents failed to pay the four trust receipts, the Makati City Prosecutor should investigate whether or not there is probable cause to indict respondents for violation of Section 13 of the Trust Receipts Law.[52]

ACCORDINGLY, the petition is hereby *GRANTED*. The June 7, 2007 decision and August 31, 2007 resolution of the Court of Appeals in CA-G.R. SP No. 95659 are *REVERSED* and *SET ASIDE*.

The Regional Trial Court of Makati City, Branch 145 is ordered to proceed expeditiously with the trial of Civil Case No. 03-991 with regard to respondent Jose U. Arollado, and the other respondents if warranted.

SO ORDERED.

Puno, C.J. (Chairperson), Carpio, and *Leonardo-de Castro, JJ.,* concur.

Azcuna, on official leave.

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which the Entruster may take such legal action, without further notice to the Entrustee, as it may deem necessary to collect such deficiency from the Entrustee.

Id., pp. 66-67.

[52] TRUST RECEIPTS LAW, Sec. 13 provides:

Section 13. *Penalty Clause.* – The failure of an entrustee to turn over the proceeds of the sale of the goods, documents or instruments covered by a trust receipt to the extent of the amount owing to the entruster or as appears in the trust receipt or to return said goods, documents or instruments if they were not sold or disposed of in accordance with terms of the trust receipt shall constitute the **crime of estafa**, punishable under the provisions of Article Three hundred and fifteen, paragraph one (b) of Act Numbered Three thousand eight hundred and fifteen, as amended, otherwise known as the Revised Penal Code. If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to civil liabilities arising from the criminal offense. (emphasis supplied)