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FIRST DIVISION

[G.R. No. 237664; August 3, 2022]

WILLY FRED U. BEGAY, *Petitioner*, *v.* **OFFICE OF THE SPECIAL INVESTIGATION–BANGKO SENTRAL NG PILIPINAS, RURAL BANK OF SAN LUIS (PAMP), INC., RODOLFO N. REYES, DAVID C. JINGCO, JR., MARGARITO P. GUZMAN, RESTITUTO M. DAVID, FEDERICO S. TOLENTINO, JR., AMELIA T. HAMBRE, MA. MARGARITA M. VICENCIO, AND MARIA RUBINA B. MAGLANGUE,*** *Respondents.*

D E C I S I O N

HERNANDO, *J.*:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court, which assails the May 26, 2017 Decision[2] and the February 13, 2018 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 139322. The CA Decision dismissed the Petition for *Certiorari* filed by petitioner Willy Fred U. Begay (Begay) while the Resolution denied his Motion for Reconsideration.[4]

The Facts

Begay is engaged in the real estate business in Benguet and Tarlac. As his business needed financial assistance for the completion of some of his projects, he obtained a loan amounting

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* Also spelled as Maglanque in some parts of the records.

1 *Rollo*, Vol. I, pp. 9-63.

2 Id. at 66-73. Penned by Associate Justice Maria Filomena D. Singh (now a Member of this Court) and concurred in by Associate Justices Franchito N. Diamante and Edwin D. Sorongon.

3 Id. at 74-78. Penned by Associate Justice Maria Filomena D. Singh (now a Member of this Court) and concurred in by Associate Justices Franchito N. Diamante and Edwin D. Sorongon.

4 Id. at 72 and 77.

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to ₱6,000,000.00 from the Rural Bank of San Luis Pampanga, Inc. (the Bank) on January 30, 2009. As security, he mortgaged two properties covered by Transfer Certificates of Title (TCT) Nos. T-70270 and T-70271 located in Ambiong, La Trinidad, Benguet.[5]

By November 2009, Begay's loan from the Bank had escalated to ₱8,000,000.00. Moreover, the mortgaged properties were subdivided into eight lots with TCT Nos. T-72632 to T-72639.[6] Aside from the foregoing loan, Begay allegedly also obtained another loan through one Corazon A. Magallano (Magallano), his attorney-in-fact, in the amount of ₱1,800,000.00, which was secured by a mortgage over a property in Baguio with TCT No. T-94973.[7] On February 24, 2010, Begay applied for an additional loan amounting to ₱2,000,000.00 with the same properties in Benguet as collateral.[8]

When the loans matured, Begay was unable to fully settle his obligations. To prevent the foreclosure of his mortgages, the Bank allegedly proposed for Begay to present additional collaterals so that it could release to him additional loans to be used as a working capital, and to pay off his maturing obligations to the Bank. However, when Begay presented his property in Baguio as collateral, the Bank allegedly requested him to look for individuals who can represent him for the additional loans that will be extended to him since the Bank could exceed the rule on Single Borrower's Limit.[9] Thereafter, Begay obtained two more loans from the Bank through his purported representatives, Magallano and one Jimmy M. Sy (Sy), amounting to ₱1,000,000.00 and ₱2,500,000.00, respectively.[10]

In November 2010, Begay was asked to update his loan obligations and settle his maturing loans with the Bank. The

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5 Id. at 207-208.

6 Id. at 208.

7 Id.

8 Id.

9 Id.

10 Id.

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Bank then allegedly asked Begay to execute another real estate mortgage in the amount of ₱2,000,000.00 over his properties in Benguet, which the latter agreed to. During the same month, an additional loan of ₱500,000.00 was extended to his alleged attorney-in-fact, Magallano.[11] Consequently, Begay's loans with the Bank ballooned to ₱17,800,000.00. Most of the proceeds were allegedly applied as payment for the renewal of his initial loan and the charges imposed by the Bank.[12]

Subsequently, the Bank informed Begay that his mortgage over the Benguet properties will be foreclosed due to his failure to pay the balance of his respective loans. However, around this time, Begay was in dire need of financing for his 30,000 square meter memorial park project in Estacion, Paniqui, Tarlac. To resolve Begay's predicament, the Bank allegedly offered the release of his previously mortgaged properties and an additional loan for the development of the memorial park project if Begay would offer the same project as new collateral. When Begay agreed to mortgage his memorial project, he was granted an additional loan of ₱12,000,000.00 through another attorney-in-fact in the person of Jocelyn M. Salvado (Salvado).[13]

In early 2011, Begay yet again applied for another loan of ₱7,000,000.00 but the Bank required him to present new representatives with whom it can extend a loan to. Begay then presented one Arthur Bernal (Bernal) and Marilou Miranda (Miranda) as his representatives for the loan. Thus, the Bank purportedly extended ₱3,000,000.00 and ₱4,000,000.00, to Bernal and Miranda, respectively.[14]

When Begay wanted to obtain another loan, the officers of the Bank purportedly invited him to a meeting in Hacienda Luisita to discuss his new loan application. However, they informed him that the Bank was being subjected to an audit by the Bangko Sentral ng

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[11] Id. at 208-209.

[12] Id. at 209.

[13] Id.

[14] Id.

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Pilipinas (BSP) and that the Bank had already exceeded the rule on the Single Borrower's Limit.[15]

On April 15, 2011, Begay sent a letter to the Bank proposing that the title of his properties be transferred to the name of his clients and guaranteeing to the Bank that the transfer could be done within 30 days or less.[16] By virtue of his foregoing proposal, Begay allegedly executed a simulated sale of the memorial park project to the following: (1) Alejandro P. Bautista (Bautista); (2) Edmundo P. Gumangan (Gumangan), and (3) Amer I. Novero (Novero).[17] The Deed of Absolute Sale stated that the property was sold for ₱500,000.00. Consequently, the property was subdivided and new certificates of title were issued in the names of the purported buyers. Furthermore, to facilitate the transfer, the Bank allegedly extended to Begay the advanced releases of his loan despite not being covered by any mortgage contract.[18]

On June 16, 2011, the Bank allegedly compelled Bautista, Gumangan, and Novero to sign a real estate mortgage contract for ₱33,000,000.00 or ₱11,000,000.00 each. On even date, the real estate mortgages were annotated on the respective titles. Despite this, the purported buyers did not receive the proceeds of the loan.[19]

Upon the annotation of the mortgages on the respective land titles, Begay sought the release of the previously mortgaged properties. However, given that the Bank was going through an audit, a Cancellation and Discharge of Mortgage signed by the officers of the Bank, Ramon C. Ricafort Jr. (Ricafort),[20] Chairman of the Board and President, and Rodolfo N. Reyes (Reyes), Director, Vice President, and General Manager, was issued

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15 Id.

16 Id. at 209-210.

17 Id. at 210.

18 Id.

19 Id.

20 Now deceased.

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instead. The said document purportedly guaranteed the release of the latter's previously mortgaged properties.[21]

However, the Bank allegedly failed to honor its commitment of releasing said properties and extending to Begay the promised additional credit. Moreover, the Bank also supposedly failed to apply as payments for his previous loans the proceeds of the loans granted to the alleged transferees of the memorial project, namely, Bautista, Gumangan, and Novero.[22]

On May 31, 2012, upon Begay's request, the Bank purportedly issued a Statement of Account showing that his total obligation already amounted to ₱57,500,000.00.[23] According to the Bank, the loans in the names of Begay's alleged attorneys-in-fact, Magallano, Sy, Bernal, Miranda, Salvado, Gumangan, Novero,[24] and Bautista were distinct and separate from Begay's loans. The Bank further claimed that the respective promissory notes of the aforementioned borrowers showed that they obtained such loans in their personal capacities; thus, there can be no violation of the rules on the Single Borrower's Limit. It also claimed that some of the subject loans had already been paid, such as the loan of Salvado which had been paid in full.[25]

On August 16, 2012, the Bank commenced the filing of several Petitions for Extrajudicial Foreclosure of Real Estate Mortgages before the courts of proper jurisdiction given that Begay failed to settle his loan obligations with the Bank.[26] Sometime thereafter, Begay requested from the Bank a Statement of Account pertaining to the loan secured by the memorial project; however, the Bank refused to issue the same on the basis that only the respective mortgagors had the authority to request for such issuance.[27]

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21 *Rollo*, Vol. I, p. 210.

22 Id.

23 Id.

24 Also referred as Amer Romero in some parts of the records.

25 Id. at 211.

26 Id.

27 Id.

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On February 11, 2013, Begay filed a Petition for Annulment of Promissory Notes, Mortgages, Public Auction Sale and Damages with Prayer for Preliminary Injunction against the Bank and its officers, namely: Ricafort, Reyes, Directors David C. Jingco, Jr., Margarito P. Guzman, and Restituto M. David, Corporate Secretary Federico S. Tolentino, Jr., Treasurer Amelia T. Hambre, and Compliance Officers Ma. Margarita M. Vicencio and Maria Rubina B. Maglangue.[28]

On August 12, 2013, Begay filed an administrative complaint against the Bank and its abovementioned officers before the Office of the Special Investigation (OSI) of the BSP for allegedly conducting business in an unsafe and unsound manner, in violation of: (1) Sections 35, 39, and 56 of Republic Act No. (RA) 8791,[29] otherwise known as the General Banking Law of 2000, in relation to Section 37 of RA 7653,[30] or the New Central Bank Act; (2) RA 3765[31] or the Truth in Lending Act; (3) RA 8424[32] or the Tax Reform Act of 1997; (4) Batas Pambansa (BP) 68[33] or the Corporation Code of the Philippines; and (5) other charges.[34]

Ruling of the Office of the Special Investigation-Bangko Sentral ng Pilipinas

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[28] Id. at 207 and 212.

[29] Entitled "AN ACT PROVIDING FOR THE REGULATION OF THE ORGANIZATION AND OPERATIONS OF BANKS, QUASI-BANKS, TRUST ENTITIES AND FOR OTHER PURPOSES." Approved: May 23, 2000.

[30] Entitled "THE NEW CENTRAL BANK ACT." Approved: June 14, 1993.

[31] Entitled "AN ACT TO REQUIRE THE DISCLOSURE OF FINANCE CHARGES IN CONNECTION WITH EXTENSIONS OF CREDIT." Approved: June 22, 1963.

[32] Entitled "AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES." Approved: December 11, 1997.

[33] Entitled "THE CORPORATION CODE OF THE PHILIPPINES." Approved: May 1, 1980.

[34] *Rollo*, Vol. I, pp. 207 and 212.

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After the parties presented their respective arguments and evidence in support of their positions, the OSI rendered its Resolution[35] dated May 29, 2014 and ruled in favor of the Bank. The dispositive portion of the Resolution states:

> IN LIGHT OF ALL THE FOREGOING, complainant failed to establish a *prima facie* case against respondents for alleged violation of R.A. No. 8791 and R.A. No. 7653 rendering the complaint dated 12 August 2013 as hereby **DISMISSED** [.][36]

According to the OSI, Begay failed to establish: (1) that the Bank and its officers conducted its business in an unsafe and unsound manner;[37] (2) that Begay was the sole owner of the subject loans;[38] (3) that his loans exceeded 25% of net worth of the Bank;[39] and (4) that herein respondents had any participation in the alleged simulated sale between Begay and Gumangan, Bautista, and Novero.[40]

Aggrieved, Begay filed a Motion for Reconsideration.[41] However, the OSI denied the same in a Resolution[42] dated November 15, 2014. The *fallo* of the said Resolution reads:

> **IN VIEW OF ALL THE FOREGOING**, the instant Motion for Reconsideration filed by complainant Willy Fred U. Begay is hereby DENIED for lack of merit.
>
> **SO ORDERED.**[43]

In denying the motion, the OSI held that: (1) Begay failed to establish the alleged violation of Section 35 of RA 8791 on the Single Borrower's Limit; (2) Begay and the Bank have freedom

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35 Id. at 207-222. Penned by Legal Officer II Jesse Kenneth B. Pineda, with the recommending approval of Director Alfonso C. Penaco IV and Deputy Directors Marie Sally Grace K. Quirino and Jose R. Fajardo.

36 Id. at 221.

37 Id. at 214.

38 Id. at 215.

39 Id. at 217.

40 Id. at 218.

41 Id. at 223-233.

42 Id. at 241-251.

43 Id. at 250.

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to stipulate in their contracts of loan; (3) Begay failed to establish that Bautista, Gumangan, and Novero were unqualified borrowers in relation to Sec. 40 of RA 8791; (4) Begay failed to establish that respondents violated Sec. 55.1.c of RA 8791 by allegedly collecting commissions for the loans they approved and RA 3765 by allegedly assessing interest rates different from that appearing in his disclosure statements; (5) OSI has no jurisdiction to determine the existence of a simulated sale; and (6) OSI cannot take cognizance of the issues that fall beyond the authority granted by BSP Circular No. 477, otherwise known as the "Bangko Sentral ng Pilipinas (BSP) Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks, Quasi-Banks and Trust Entities."[44]

Undaunted, Begay filed a Petition for *Certiorari*[45] under Rule 65 of the Rules of Court before the CA.[46]

Ruling of the Court of Appeals

In the assailed Decision dated May 26, 2017, the CA dismissed the Petition for *Certiorari* on the ground that Begay availed of the wrong remedy, and that he failed to perfect his appeal seasonably. According to the appellate court, Begay had 15 days to file his appeal under Rule 43 of the Rules of Court pursuant to Section 1, Rule VII of BSP Circular No. 477.[47] For failing to file the proper mode of appeal within the given period, the CA held that the OSI Resolutions had already lapsed into immutability.[48] The dispositive portion of the CA Decision reads:

WHEREFORE, the Petition for Certiorari of petitioner Willy Fred U. Begay is hereby **DISMISSED**.

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[44] Id. at 242-250.

[45] Id. at 252-293.

[46] Id. at 66.

[47] Id. at 70; Section 1, Rule VII of BSP Circular No. 477 states: "An appeal from the Resolution of the Monetary Board may be taken to the Court of Appeals within the period and in the manner provided under Rule 43 of the Revised Rules of Court."

[48] Id. at 72.

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SO ORDERED.[49]

Aggrieved, Begay filed a Motion for Reconsideration.[50] However, the CA denied it through a Resolution dated February 13, 2018 since it found that Begay failed to raise any argument, factual or legal, that would justify a reconsideration of the CA Decision.[51]

Hence, the instant Petition.

Issues

The issues for Our resolution are as follows:

(1) whether the CA erred when it ruled that petitioner should have appealed the Resolutions of the OSI pursuant to Section 4, Rule 43 of the Revised Rules of Court instead of filing a Petition for *Certiorari* under Rule 65 of the same Rules; and

(2) whether the CA erred when it failed to rule that the OSI committed grave abuse of discretion amounting to lack or in excess of jurisdiction in issuing the assailed Resolutions providing that the petitioner failed to establish a *prima facie* case against the respondents in this case.[52]

Our Ruling

The Petition lacks merit.

As the complaint filed by Begay before the OSI is an administrative complaint against the Bank and its officers, the case falls within the purview of BSP Circular No. 477, Series of 2005, which lays down the Rules of Procedure on Administrative Cases Involving Directors and Officers of Banks, Quasi-Banks and Trust Entities.

Pursuant to the said Circular, the OSI is mandated to conduct a preliminary investigation to determine whether there is a *prima facie* case against the respondent/s. Section 2, Rule III states:

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[49] Id. at 72.

[50] Id. at 74.

[51] Id. at 77.

[52] Id. at 62-63.

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Section 2. ***Preliminary Investigation***. — Upon receipt of the sworn answer of the respondent, the OSI shall determine whether there is a *prima facie* case against the respondent. If a *prima facie* case is established during the preliminary investigation, the OSI shall file the formal charge with the Supervised Banks Complaints Evaluation Group (SBCEG), BSP. However, in the absence of a *prima facie* case, the OSI shall dismiss the complaint without prejudice or take appropriate action as may be warranted.[53]

It is clear from the foregoing that should the OSI find that a *prima facie* case has been established during the preliminary investigation, it must file a formal charge with the Supervised Banks Complaints Evaluation Group (SBCEG) of the BSP. The BSP Circular then proceeds to instruct that the OSI should prosecute the case[54] before a Hearing Officer or a Hearing Panel to be designated by the SBCEG.[55] Subsequently, Rule VI of the same Circular outlines what happens during the resolution of the case and the role of the Monetary Board, to wit:

RULE VI — RESOLUTION OF THE CASE

Section 1. ***Contents and Period for Submission of Report***. — Within sixty (60) days after the Hearing Panel or Hearing Officer has issued an Order declaring that the case is submitted for resolution, a report shall be submitted to the Monetary Board. The report of the Hearing Panel or Hearing Officer shall contain clearly and distinctly the findings of facts and conclusions of law on which it is based.

Section 2. ***Rendition and Notice of Resolution***. — After consideration of the report, the Monetary Board shall act thereon and cause true copies of its Resolution to be served upon the parties.

Section 3. ***Finality of the Resolution***. — The Resolution of the Monetary Board shall become final after the expiration of fifteen (15) days

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[53] SECTION 2, RULE III, BANGKO SENTRAL NG PILIPINAS CIRCULAR NO. 477, SERIES OF 2005, otherwise known as the "BANGKO SENTRAL NG PILIPINAS (BSP) RULES OF PROCEDURE ON ADMINISTRATIVE CASES INVOLVING DIRECTORS AND OFFICERS OF BANKS, QUASI-BANKS AND TRUST ENTITIES."

[54] Id.; SECTION 4, RULE III.

[55] Id.; SECTION 2, RULE IV.

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from receipt thereof by the parties, unless a motion for reconsideration shall have been timely filed.

Section 4. ***Motion for Reconsideration***. — A motion for reconsideration may only be entertained if filed within fifteen (15) days from receipt of the Resolution by the parties. No second motion for reconsideration shall be allowed.

From the above, it can be readily gleaned that the function of the OSI is different from that of the Monetary Board in administrative cases involving directors and officers of banks. While the OSI prosecutes the case before the Hearing Panel or Hearing Officer, the Monetary Board considers the report submitted to it by the Hearing Panel or Hearing Officer in order for it to act on the case. Verily, the Resolution of the OSI cannot be interpreted to be the equivalent of the Resolution of the Monetary Board. In this regard, Section 1, Rule VII of the BSP Circular which states that "[a]n appeal from the Resolution of the Monetary Board may be taken to the Court of Appeals within the period and in the manner provided under Rule 43 of the Revised Rules of Court" is inapplicable in the present case, contrary to the findings of the CA.

Here, the administrative complaint filed by Begay did not reach the proceedings before the Hearing Panel or Hearing Officer and the consequent resolution of the Monetary Board. To recall, the OSI found that Begay failed to establish a *prima facie* case against the Bank and thus dismissed the case.[56] On this score, the last sentence of Section 2, Rule III of the BSP Circular finds relevance, which provides that "in the absence of a *prima facie* case, the OSI shall **dismiss the complaint without prejudice** or take appropriate action as may be warranted."[57]

Jurisprudence elucidates on the difference between a dismissal *with* prejudice and one *without* prejudice. "The former disallows and bars the refiling of the complaint; whereas, the same cannot be said of a dismissal without prejudice. Likewise, where

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[56] *Rollo*, p. 221.

[57] Supra note 53; Emphasis supplied.

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the law permits, a dismissal with prejudice is subject to the right of appeal."[58]

Hence, Begay's immediate and adequate remedy was to refile his complaint before the OSI with the sufficient evidence to support his allegations. Correspondingly, Begay availed of the wrong remedy when he filed a Rule 65 Petition before the CA.

It is a well-settled rule that a special civil action under Rule 65 of the Rules of Court is a limited form of review and is a remedy of last recourse. It is an independent action that lies only where there is no appeal nor plain, speedy and adequate remedy in the ordinary course of law. *Certiorari* will issue only to correct errors of jurisdiction, not errors of procedure or mistakes in the findings or conclusions of the lower court.[59] In the instant case, the fact that another remedy, *i.e.*, to file a complaint anew, is ready, available, and at the full disposal of Begay already bars his remedial refuge in *certiorari*.[60]

While this may be the case, it must be noted at this juncture that the CA made a mistake in pronouncing that "even assuming arguendo that this Rule 65 Petition may be entertained by the Court, Begay also filed it beyond the 60-day period fixed under the Rule. Patently, Begay's recourse to this Court is time-barred."[61] For the sake of correcting such error, however trivial it may be at this point, the Court reviewed the records of the case and found that Begay actually filed the petition within the 60-day period. Given that Begay received the denial of his Motion of Reconsideration by the OSI on December 17, 2014, he had until February 15, 2015 to file his petition. The records reveal that Begay filed his petition through registered mail on February 13, 2015[62] and not on February 27, 2015 as stated

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[58] *Pillars Property Corporation v. Century Communities Corporation*, G.R. No. 201021, March 4, 2019 citing *Strongworld Construction Corporation v. Hon. Perello*, 528 Phil. 1080, 1093-1094 (2006).

[59] *Albor v. CA*, 823 Phil. 901, 920 (2018).

[60] *Radaza v. Sandiganbayan*, G.R. No. 201380, August 4, 2021.

[61] *Rollo*, p. 71.

[62] Id. at 35 and 293.

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by the CA.[63] In any case, for the reasons explained above, the Petition for *Certiorari* filed by Begay before the CA was rightfully dismissed.

As for the second issue raised by Begay in the Petition filed before this Court on whether the CA erred when it failed to rule that the OSI committed grave abuse of discretion amounting to lack or in excess of jurisdiction in issuing the assailed Resolutions providing that the petitioner failed to establish a *prima facie* case against the officers of the Bank,[64] the Court finds no cogent reason to disturb the findings of the OSI.

Factual findings of administrative bodies charged with their specific field of expertise, are afforded great weight by the courts, and in the absence of substantial showing that such findings were made from an erroneous estimation of the evidence presented, they are conclusive, and in the interest of stability of the governmental structure, should not be disturbed.[65] In *Haveria v. Social Security System*,[66] this Court held:

> By reason of the special knowledge and expertise of said administrative agencies over matters falling under their jurisdiction, they are in a better position to pass judgment thereon; thus, their findings of fact in that regard are generally accorded great respect, if not finality, by the courts. Such findings must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or even preponderant. It is not the task of the appellate court to once again weigh the evidence submitted before and passed upon by the administrative body and to substitute its own judgment regarding sufficiency of evidence.[67]

A careful perusal of the assailed OSI Resolutions would show that the conclusion of the OSI that there was no *prima facie* case against herein respondents was founded on substantial evidence. Both Resolutions clearly expressed the grounds upon which

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63 Id. at 70.

64 Id. at 62-63.

65 *Abpi v. Commission on Audit*, G.R. No. 252367, July 14, 2020.

66 839 Phil. 237 (2018).

67 Id. at 250-251, citing *Sps. Hipolito v. Cinco*, 677 Phil. 331, 349 (2011).

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the complaint was dismissed. Moreover, it bears noting that the issues raised by Begay in the present Petition with regard to the ownership of the loans extended by the Bank,[68] the total amount of these loans, and whether the such amount exceeded the limit on the Single Borrower's Limit provided by law,[69] and whether the respondents' actions constituted unsafe or unsound banking practices,[70] contain factual questions that are outside the coverage of a Rule 45 petition.

Basic is the doctrine that questions of fact, which would require a re-evaluation of the evidence, are inappropriate under Rule 45 of the Rules of Court. The jurisdiction of the Court under Rule 45, Section 1 is limited only to errors of law as the Court is not a trier of facts. While Rule 45, Section 1 is not absolute, none of the recognized exceptions which allow the Court to review factual issues exists in the instant case.[71] Thus, the Court is not duty-bound to analyze or weigh all over again evidence already considered in the proceedings before the OSI.

Therefore, the dismissal of the Petition is warranted.

WHEREFORE, the Petition is hereby **DISMISSED**. The Decision dated May 26, 2017 and the Resolution dated February 13, 2018 of the Court of Appeals in CA-G.R. SP No. 139322 are hereby **AFFIRMED**.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Zalameda, Rosario, and *Marquez, JJ.*, concur.

APPEARANCES OF COUNSEL

Navarro Law Offices for petitioner.
Olivia Cornejo for respondents.

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[68] *Rollo*, pp. 40-42.

[69] Id. at 43-52.

[70] Id. at 52-59.

[71] *Gatan v. Vinarao*, 820 Phil. 257, 266 (2017).