

# Malaya Business

# Insight

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PHC VS BPI

## Montinola: 'We simply followed court orders'

■ BY JIMMY CALAPATI

AURELIO Montinola III, president of the Bank of the Philippines Islands (BPI), yesterday defended the bank's release of the funds of Philcomsat Holdings Corp. (PHC) on the direction of an old board of directors which had been ousted by a trial court, saying the bank was just following court orders.

Testifying at the hearing of the civil suit filed by PHC, represented by its new board, against BPI at the Makati regional court, Montinola said "BPI followed court orders from the regional trial court and the Court of Appeals."

The new board of PHC sued BPI for recovery of what it believes were illegal withdrawal of PHC deposits.

The old board was composed of the group of Enrique Locsin and the new by the group of Erlinda



Montinola, left, with lawyer Oliver Pantaleon before the start of the hearing of the PHC vs BPI case at the Makati RTC. (Photo by Philip Duquiatan)

## MONTINOLA

Bildner, who is now PHC chief financial officer.

BPI was dragged into the fray because PHC had accounts with Far East Bank, which merged with BPI.

"We wish we didn't have this problem, but it fell upon us. We wish we could do something else, but we only followed what the courts said," Montinola said.

On Oct. 14, 2006, Judge Jenny Lind Delorino of Makati branch 138 issued a decision invalidating the proxies held by the Locsin group.

"Corollarily, the elections held and proclamation of winners during the annual stockholders meeting of defendant PHC held on Aug. 31, 2004, is hereby annulled," Delorino ruled.

The writ of execution implementing the decision was issued on April 20, 2007.

Montinola said that when BPI received a copy of the writ, the bank immediately froze the accounts of PHC.

The next day, however, Court of Appeals Justice Magdangal de Leon of the 14<sup>th</sup> Division issued a TRO, which prevented the implementation of Delorino's decision, Montinola said.

Because of the CA's TRO, and eventually the writ of preliminary injunction issued by the

same court, Montinola said BPI was compelled to unfreeze the account.

On Dec. 13, 2007, upon receipt of Makati Branch 62 Judge Selma Alaras' order granting the Bildner group's application for a writ of preliminary injunction, BPI again froze the accounts.

"When the circumstances so demanded, BPI filed an interpleader case so that the two conflicting claimants will be compelled to interplead and litigate their claims among themselves," Montinola said.

Montinola said that BPI "conscientiously treated the accounts of PHC with the highest degree of care."

"BPI has always treated the accounts of its clients with the highest degree of care, in accordance with its obligation to observe the high standards of integrity and performance," Montinola said.

The Bildner group, in filing the suit for recovery, said BPI continued to allow the court-invalidated old board and management to make transactions on the account. Most of the transactions were withdrawals.

Joy Rodriguez, manager of the BPI Pacific Star

branch where the account is kept, allowed the encashment of pay to cash corporate checks of PHC issued by the old and voided board of directors and management.

Montinola's appearance was his first after failing to appear twice.

PHC is 18 percent owned by the government and a subsidiary of Philippine Communications Satellite Corp. (Philcomsat), the operating arm of Philippine Overseas Telecommunications Corp.

The new board said it now has to grapple with the problem of recovering around P140 million said to have been withdrawn by the Locsin group after it was thrown out by the Makati RTC.

Audited financial statements from 2002 to 2008, when the company was run by the old board, show a clear pattern of declining revenues and rising losses.

In 2002, for example, revenues were recorded at P83.4 million. But by 2008 gross income plummeted to P9.6 million.

Preliminary figures for 2009 under the new board headed by Christina Ponce Enrile as chairman show revenues of P26.4 million and income of less than a million.