REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

TODA HOLDINGS, INC.,
Petitioner,

- versus -

CITY OF DAVAO and HON. RODRIGO S. RIOLA, in his official capacity as the City Treasurer of Davao City,
Respondents.

CTA AC NO. 152

Members:

BAUTISTA, *Chairperson*
FABON- VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAR 14 2017
4:25 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review[1] assailing the Decision dated June 22, 2015[2] and Order dated September 11, 2015[3] of the Regional Trial Court (RTC), Branch 16 of the City of Davao (trial court) in Civil Case No. 34,859-13, denying petitioner's claim for refund or credit of local business tax in the amount of One Million Five Hundred Sixty Two Thousand Six Hundred Thirty Six Pesos (₱1,562,636.00) collected by respondents in the first half of the year 2011.

The Facts

Petitioner Toda Holdings, Inc. (THI) is a corporation duly organized in 1983 and existing under Philippine laws. It is registered with the Securities and Exchange Commission (SEC). On December 16, 2009, the SEC approved the

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1 Under Rule 4, Sec. 3(a)(3) of the Revised Rules of the CTA (RRCTA).
2 Docket, pp. 32-41.
3 Id. at p. 42.

amended Articles of Incorporation which transferred THI's principal office address from Makati City to Legaspi Oil Compound, Km. 9.5, Sasa, Davao City.[4]

THI is 100% owned by the Coconut Industry Investment Fund Oil Mills Group (CIIF-OMG). The corporations comprising the CIIF-OMG are, in turn, owned by the Philippine Government.[5] THI was among the fourteen holding companies formed in 1983 for the purpose of owning and holding shares of stock of San Miguel Corporation (SMC).[6] In 1986, the said holding companies, including THI, were sequestered by the Philippine Commission on Good Government (PCGG). Subsequently, various cases were filed to resolve the ownership of the holding companies and the SMC shares of stock held by them.

Respondent City of Davao is a local government unit created by law, with principal office at City Hall, San Pedro Street, Davao City. Respondent Rodrigo S. Riola is the City Treasurer of Davao City (respondent Treasurer).

THI was a registered owner of SMC common shares, from which THI occasionally received cash and stock dividends. In October 2009, THI became the registered owner of 74,880,174 preferred shares of SMC, after the Supreme Court approved the conversion of an equal number of SMC common shares into preferred shares. The cash dividends received by THI from the SMC preferred shares were deposited in a trust account which earned interest from money market placements.[7]

In 2010, THI received ₱568,231,255.75 from its SMC preferred shares, consisting of ₱561,631,117.85 in dividends and ₱6,600,139.90 in interest income from money market placements.

For the first half of the year 2011, the City of Davao, through respondent Treasurer, demanded payment of the 0.55% local business taxes on the dividends received by THI from its SMC preferred shares and interests on money market placements in the aggregate amount of ₱1,562,636.00. THI paid the same under protest on the following dates:

Period Covered	Date of Payment	Amount
January to March 2011	January 18, 2011[8]	₱781,318.00
April to June 2011	April 25, 2011[9]	781,318.00

[4] Docket, p. 13.
[5] Id. at pp. 12-13.
[6] The Coconut Industry Investment Fund, created by Presidential Decree No. 961, was invested to acquire corporations operating oil mills which comprise the CIIF-OMG. Since these corporations were not authorized to invest in shares of stocks, they formed holding companies for the purpose of buying and holding SMC shares.
[7] Docket, p. 13.
[8] Id. at pp. 9 and 43.
[9] Id. at pp. 9 and 44.

TOTAL	₱1,562,636.00

In the meantime, on January 24, 2012, the Supreme Court *En Banc*, in *Philippine Coconut Producers Federation, Inc. (COCOFED) v. Republic of the Philippines*,[10] declared the fourteen holding companies and the SMC shares held by them to be owned by the government.

THI filed its written administrative claim for refund or credit on September 13, 2012.[11] Having received no communication from respondent Treasurer, THI filed the corresponding judicial claim via a Petition[12] with the RTC of Davao City on January 17, 2013.

THI claimed that it was entitled to the refund or credit claimed because: (1) it was erroneous and illegal for respondents to collect the 0.55% local business tax on THI's income on dividends and interest since it is not a bank or financial institution; and (2) THI is not engaged in business that is subject to local business tax under Section 143 of the Local Government Code[13] (LGC).[14]

The Rulings of the Trial Court

On June 22, 2015, the trial court dismissed THI's petition, finding that it is a non-bank financial intermediary and is therefore subject to local business tax. The dispositive portion of the Decision[15] reads:

> **FOR REASONS STATED**, the instant "Petition for Tax Refund or Credit Under Section 156, R.A. 7160" filed by the Petitioner, is hereby **DENIED** and/or **DISMISSED**.
>
> **SO ORDERED**.[16]

The trial court denied THI's Motion for Reconsideration in the Order[17] dated September 11, 2015, finding no cogent reason to alter, modify or set aside the assailed Decision dated June 22, 2015.[18]

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10 *Philippine Coconut Producers Federation, Inc. v. Republic of the Philippines*, G.R. Nos. 177857-58 & 178193, January 24, 2012.
11 Docket, pp. 45-54.
12 Id. at pp. 55-70.
13 Republic Act No. 7160.
14 Docket, p. 60.
15 Supra, note 2.
16 Id. at p. 41.
17 Supra, note 3.
18 Id.

Hence, the present Petition for Review,[19] which was filed on November 9, 2015. THI claims that: (1) under Section 133(A) of the LGC, it is erroneous and illegal for respondents to assess a 0.55% local business tax on the dividends and interest income of a taxpayer who is not a bank or financial institution;[20] and (2) THI is not a bank or non-bank financial institution and is not engaged in business that is subject to local business tax under Section 143 of the LGC.[21]

On January 27, 2016, the Court ordered[22] respondents to comment on the petition, within ten days from notice.[23] They filed their Comment[24] on February 29, 2016 via registered mail.

Respondents argue, *inter alia*, that: (1) THI is deemed a non-bank financial intermediary or an investment company by virtue of its investment and money placements in San Miguel Corporation;[25] (2) THI's business purpose as contained in its Articles of Incorporation is broad enough to qualify it as a non-bank financial intermediary under Section 4101Q.1 of the Manual of Regulations for Non-Bank Financial Institutions issued by the Bangko Sentral ng Pilipinas;[26] (3) THI's Articles of Incorporation stating that it shall not act as investment company or securities broker or dealer is not conclusive proof that it is not acting as a non-bank financial institution;[27] and (4) even assuming that THI's income partake the nature of public funds pursuant to the ruling of the Supreme Court in *COCOFED*, it does not exempt THI from the payment of local business tax on its dividends and interest income.[28]

In a Resolution[29] dated March 18, 2016, the Court ordered the parties to submit their respective memoranda.

THI filed its Memorandum[30] on April 28, 2016, arguing that its income partake the nature of public funds on which business tax cannot be imposed, in addition to reiterating the arguments presented in its Petition for Review.[31]

Respondents, in their Memorandum[32] filed on May 20, 2016, reiterated the arguments presented in their Comment.

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19 Docket, pp. 8-28.
20 Id. at pp. 16-24.
21 Id. at pp. 24-26.
22 Id. at pp. 147-148.
23 Respondents received the Resolution dated January 27, 2016 on February 17, 2016. Docket, p.150.
24 Docket, pp. 150-163.
25 Id. at pp. 153-155.
26 Id. at pp. 158-161.
27 Id. at p. 161-162.
28 Id. at pp. 159-160.
29 Id. at p. 167.
30 Id. at pp. 173-197.
31 Id. at pp. 193-195.
32 Id. at pp. 201-216.

The Court deemed the case submitted for resolution in a Resolution[33] dated July 12, 2016.

The Issues

THI set forth the following issue in the present Petition for Review:

> WHETHER OR NOT THI IS ENTITLED TO A REFUND OR CREDIT OF THE 0.55% LOCAL BUSINESS TAXES COLLECTED FOR THE FIRST AND SECOND QUARTERS OF 2011 ON THE DIVIDENDS ON ITS SMC PREFERRED SHARES AND INTEREST ON ITS MONEY MARKET PLACEMENTS FOR THE TAXABLE YEAR 2010.[34]

On the other hand, respondents argue the following:

> THE IMPOSITION OF LOCAL BUSINESS TAX AGAINST THE PETITIONER'S RECEIPT OF DIVIDENDS AND INTEREST INCOME FROM SAN MIGUEL CORPORATION, BEING A NON-BANK FINANCIAL INTERMEDIARY, IS A VALID EXERCISE OF THE TAXING POWER OF THE CITY AND DULY SANCTIONED UNDER SECTION 143(F) OF R.A. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991".[35]

The Court's Ruling

We grant the petition.

THI Complied with Refund Claim Procedural Requirements

Section 196 of the Local Government Code (LGC) provides:

> SECTION 196. ***Claim for Refund or Tax Credit.*** – No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court

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[33] Docket, p. 221.
[34] Id. at p. 15.
[35] Id. at p. 153.

> after the expiration of two (2) years from the date of payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

The Davao Revenue Ordinance provides the same requirements:

> **Section 424.** ***Claim for Refund or Tax Credit.*** – No case or proceeding shall be maintained in any court for the recovery of a tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the City Treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

Based on the above provisions, in order for claim for a refund/credit to prosper, a taxpayer must comply with the following procedural requirements: (1) a written claim for refund/credit must be filed with the local treasurer; and (2) the case or proceeding must be filed within two years from the date of the payment of the tax, fee, or charge or from the date the taxpayer is entitled to a refund or credit.[36]

Records disclose that the written claim for refund of the local business tax paid for the first two quarters of taxable year 2011 was filed on September 13, 2012.[37] Moreover, a review of the pertinent dates shows that petitioner's judicial claim was timely filed before the RTC:

Event	Date
Payment of local business tax for first quarter of 2011[38]	January 18, 2011
Payment of local business tax for second quarter of 2011[39]	April 25, 2011
Filing of the judicial claim before the RTC[40]	January 17, 2013

Having established that petitioner complied with the procedural requirements, we now discuss whether petitioner is entitled to the refund.

THI and the SMC Shares It Holds are Beyond the Scope of the City of Davao's Taxing Power

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36 *Metro Manila Shopping Mecca v. Toledo*, G.R. No. 190818, June 5, 2013.
37 RTC records, pp. 240-249, Exhibit "I".
38 Id. at p. 238, Exhibit "H".
39 Id. at p. 239, Exhibit "H-1".
40 Id. at pp. 3-18.

The City of Davao imposed a business tax on THI under the following provision of the LGC:[41]

> SECTION 143. Tax and Business - The municipality may impose taxes on the following business:
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> (f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.

This provision is implemented in the 2005 Revenue Code of the City of Davao, thus:

> Section 69. Imposition of Tax. – There is hereby imposed on the following persons who establish, operate, conduct or maintain their respective business within the City a graduated business tax in the amounts hereafter prescribed:
>
> x x x
>
> *F. On Banks and Other Financial Institutions*, at the rate of fifty-five percent (55%) of one percent (1%) of the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property, and profit from exchange or sale of property, insurance premium. All other income and receipts not herein enumerated shall be excluded in the computation of tax.

It must be remembered that the exercise of the taxing power of local government units is subject to the limitations enumerated in Section 133 of the Local Government Code. Under paragraph (o) of this provision, local government units have no power to impose any tax, fee or charge on the National Government:

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[41] In relation to Section 151 of the LGC, which provides:

SECTION 151. Scope of Taxing Powers. - Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: Provided, however, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this code.

The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

SECTION 133. Common Limitations on the Taxing Power of Local Government Units. – Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

x x x

(o) Taxes, fees or charges, of any kind on the National Government, its agencies and instrumentalities, and local government units.

The ruling in *COCOFED* placed the subject SMC shares and its dividends, and any income therefrom, beyond the scope of the taxing power of the City of Davao. In *COCOFED*, the Supreme Court held:

> **WHEREFORE, in view of the foregoing, we hold that:**
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> The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed, et al) filed by Plaintiff is hereby **GRANTED. ACCORDINGLY, THE CIIF COMPANIES, NAMELY:**
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> 1. Southern Luzon Coconut Oil Mills (SOLCOM);
> 2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
> 3. Iligan Coconut Industries, Inc. (ILICOCO);
> 4. San Pablo Manufacturing Corp. (SPMC);
> 5. Granexport Manufacturing Corp. (GRANEX); and
> 6. Legaspi Oil Co., Inc. (LEGOIL),
>
> **AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:**
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> 1. Soriano Shares, Inc.;
> 2. ACS Investors, Inc.;
> 3. Roxas Shares, Inc.;
> 4. Arc Investors; Inc.;
> 5. Toda Holdings, Inc.;
> 6. AP Holdings, Inc.;
> 7. Fernandez Holdings, Inc.;
> 8. SMC Officers Corps, Inc.;
> 9. Te Deum Resources, Inc.;
> 10. Anglo Ventures, Inc.;
> 11. Randy Allied Ventures, Inc.;

12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd., Inc.; and
14. First Meridian Development, Inc.

AND THE CONVERTED SMC SERIES 1 PREFERRED SHARES TOTALING 753,848,312 SHARES SUBJECT OF THE RESOLUTION OF THE COURT DATED SEPTEMBER 17, 2009 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID OR ISSUED THEREON AFTER THAT DATE, AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT TO BE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.

x x x[42]

Since the subject shares are owned by the government, it follows that the dividends and any income therefrom are also owned by the government. Thus, the same is not within the power of the City of Davao to tax.

Respondents argue that *COCOFED* may not be applied in the instant case since the Supreme Court merely identified the nature of THI's assets as government assets, but does not delve into the taxability of the fund or its income. Respondents claim that the tax being imposed by Davao City is not on the fund itself, but only on the dividends and interest income accruing to the fund, which is still in the hands of THI, which is a private company. Hence, according to respondents, Section 133(o) of the LGC is not applicable in this case.[43]

It is of no moment that prior to *COCOFED*, THI had been operating as a private corporation. *COCOFED* had changed the factual milieu. Respondents' argument that the fund is still in the hands of a private company also fails in light

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[42] Supra, note 10, as modified by Supreme Court in its Resolution dated September 4, 2012 clarifying the Decision dated January 24, 2012 in the same case. The underscored portion originally read: "**AND THE CIIF BLOCK OF SAN MIGUEL CORPORATION (SMC) SHARES OF STOCK TOTALING 33,133,266 SHARES AS OF 1983 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID AND ISSUED THEREON AS WELL AS ANY**". The Resolution dated September 4, 2012 also DENIED with FINALITY the Motion for Reconsideration filed by petitioners therein.

[43] Docket, pp. 161-162.

of *COCOFED*, which specifically declared THI and the thirteen other holding companies as owned by the government.

Besides, even if we were to contravene the Supreme Court's ruling and hold that THI is a private corporation, its assets cannot be used to pay the tax assessed by the City of Davao. Public property cannot be used for any private purpose.[44]

The Supreme Court held that all SMC shares held by the holding companies, as of 1983, together with all dividends declared, paid and issued thereon as well as any increments thereto are owned by the government, having been acquired using coconut levy funds, to be used only for the benefit of all coconut farmers and for the development of the coconut industry.

The tax imposed in this case is on the dividends and money market placement earnings from the dividends. All were derived from the SMC shares that the government owns. Any earnings of the SMC shares belong to the government. Any local tax imposed on THI, is imposed on the national government. This is clearly in contravention of Section 133(o) of the LGC. Hence, the erroneously paid local business tax must be refunded.

THI is not a Bank or Other Financial Institution

In any event, THI is not a bank or other financial institution, on which the subject local business tax may be imposed.

The city's taxing power does not extend to the levy of income tax, except when levied on banks and other financial institutions.[45] The dividends[46] and interests[47] in this case are therefore not subject to the city's taxing power, unless THI is a bank or other financial institution.

Section 131(e) of the LGC defines the term "banks and other financial institutions", as follows:

> "Banks and other financial institutions" include non-bank financial intermediaries, lending investors, finance and investment companies, pawnshops, money shops, insurance companies, stock

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[44] *Philippine Coconut Producers Federation, Inc. v. Republic of the Philippines*, G.R. Nos. 177857-58 & 178193, January 24, 2012.

[45] Section 133(a) of the LGC provides:
SECTION 133. *Common Limitations on the Taxing Power of Local Government Units.* – Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:
(a) Income tax, except when levied on banks and financial institutions; x x x

[46] Section 32(A)(7) of the NIRC of 1997, as amended.

[47] Section 32(A)(4) of the NIRC of 1997, as amended.

> markets, stock brokers and dealers in securities and foreign exchange, as defined under applicable laws, or rules and regulations thereunder.

The LGC does not define the term "non-bank financial intermediary"; hence, resort to applicable laws, rules and regulations is proper.

The National Internal Revenue Code (NIRC) of 1997, as amended, defines the term "non-bank financial intermediary in Section 22(W), thus:

> The term *"non-bank financial intermediary"* means a financial intermediary, as defined in Section 2(D)(c) of Republic Act No. 337, as amended, otherwise known as the General Banking Act, authorized by the *Bangko Sentral ng Pilipinas* (BSP) to perform quasi-banking activities.

The General Banking Act,[48] on the other hand, defines "financial intermediaries" in Section 2-D(c), thus:

> "Financial intermediaries" shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others.

The Manual of Regulations for Non-Bank Financial Institutions (Manual) defines "financial intermediaries" in Section 4.101Q.1, thus:

> § **4101Q.1** ***Financial intermediaries.*** – *Financial intermediaries* shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them either for their own account or for the account of others.
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> *Principal* shall mean chief, main, most considerable or important, of first importance, leading, primary, foremost, dominant or preponderant, as distinguished from secondary or incidental.
>
> *Functions* shall mean actions, activities or operations of a person or entity by which his/its business or purpose is fulfilled or carried out. The business or purpose of a person or entity may be

48 Republic Act No. 337, as amended by Presidential Decree No. 71.

determined from the purpose clause in its articles of incorporation/partnership, and from the nature of the business indicated in his/its application for registration of business filed with the appropriate government agency.

To be considered a financial intermediary, a person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis:

a. Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these funds to another person or entity, and in the process acquire debt or equity securities;

b. Use principally the funds received for acquiring various types of debt or equity securities;

c. Borrow against, or lend on, or buy or sell debt or equity securities;

d. Hold assets consisting principally of debt or equity securities such as promissory notes, bills of exchange, mortgages, stocks, bonds, and commercial papers;

e. Realize regular income in the nature of, but need not be limited to, interest, discounts, capital gains, underwriting fees, guarantees, fees, commissions, and service fees, principally from transactions in debt or equity securities or by being an intermediary between suppliers and users of funds.

Non-banking financial intermediaries shall include the following:

(1) A person or entity licensed and/ or registered with any government regulatory body as a non-bank financial intermediary, such as investment house, investment company, financing company, securities dealer/broker, lending investor, pawnshop, money broker, fund manager, cooperative, insurance company, non-stock savings and loan association and building and loan association.

(2) A person or entity which holds itself out as a non-banking financial intermediary, such as by the use of a business name, which includes the term *financing, finance, investment, lending* and/or any word/phrase of similar import which connotes financial intermediation, or an entity which advertises itself as a financial intermediary and is engaged in the function(s) where financial intermediation is implied.

(3) A person or entity performing any of the functions enumerated in Items *a* to *e* of this Subsection.

The trial court ruled that in comparison with Section 4101Q.1 of the Manual, "the scope of [THI's] primary business purpose in its Amended Articles of Incorporation is wittingly or unwittingly broad enough to catch all the descriptive functions of a Financial Intermediary."[49]

The trial court stressed that THI's income comes only from two sources: (1) dividends from THI's SMC shares; and (2) interest income from THI's money market placements.[50] Holding that the dividends and interests are the principal incomes of THI, the trial court classified THI as a financial intermediary, and within the scope of the City of Davao's taxing power under Section 143(f) of the LGC.[51]

We disagree.

There is nothing in the record that shows that THI is a financial intermediary or that it has engaged in the activities defined and enumerated in the General Banking Act and in the Manual.

The General Banking Act provides that it is the Monetary Board that has the authority to determine whether a person or entity is performing banking or quasi-banking functions or engaged in other types of financial intermediation.[52] There is nothing on record showing that the Monetary Board determined THI to be a non-banking financial intermediary. There is also nothing on record

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[49] Docket, p. 40.
[50] Id. at p. 41.
[51] Id.
[52] Section 4 of R.A. No. 337, as amended by P.D. No. 1828 states:

Section 4. **The determination of whether a person or an entity is (a) performing banking or quasi-banking functions, or (b) engaged in other types of financial intermediation shall be decided by the Monetary Board subject to judicial review.** For the purpose of resolving such issue, the Monetary Board may, through appropriate supervising department of the Central Bank, examine, inspect or investigate the books and records of such person or entity. The department head and the examiners of said appropriate supervising department are hereby authorized to administer oaths to any such person or director, officer or employee of any such entity and to compel the presentation or production of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true functions and operations of such person or entity. Failure or refusal to comply with the required presentation or production of such books, documents, papers or records shall subject the persons responsible therefor to the penal sanctions provided under Section 34 of R.A. No. 265, as amended. Persons or entities found by the Monetary Board to be performing banking or quasi-banking functions without the required prior authorization of the Monetary Board may, in addition to the proceedings provided under Section 34 of Republic Act No. 265, as amended, be subject to the imposition of fine of not in excess of P500 per day reckoned from the date the unauthorized banking or quasi-banking functions were performed and may be referred to the Securities and Exchange Commission for the revocation of its license to do business.

ATTESTATION

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

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to *Section 13 of Article VIII of the Constitution* and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice