

**Bangladesh Bank v Rizal Commercial Banking Corp.**

2025 NY Slip Op 30882(U)

March 17, 2025

Supreme Court, New York County

Docket Number: Index No. 652051/2020

Judge: Andrea Masley

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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BANGLADESH BANK,  
  
Plaintiff,

INDEX NO. 652051/2020

MOTION DATE \_\_\_\_\_

- v -

MOTION SEQ. NO. 027

RIZAL COMMERCIAL BANKING CORPORATION, MAIA  
SANTOS DEGUITO, ANGELA RUTH TORRES,  
LORENZO V. TAN, RAUL VICTOR B. TAN, ISMAEL S.  
REYES, BRIGITTE R. CAPINA, NESTOR O. PINEDA,  
ROMUALDO S. AGARRADO, PHILREM SERVICE  
CORP., SALUD BAUTISTA, MICHAEL BAUTISTA,  
CENTURYTEX TRADING, WILLIAM SO GO, EASTERN  
HAWAII LEISURE COMPANY, LTD., KAM SIN WONG,  
WEIKANG XU, DING ZHIZE, GAO SHUHUA, and JOHN  
DOES,

**DECISION + ORDER ON  
MOTION**

Defendants.

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 027) 512, 513, 514, 515,  
516, 517, 518, 519, 522, 524

were read on this motion to/for \_\_\_\_\_ SEAL \_\_\_\_\_.

In motion seq. no. 027, defendant Rizal Commercial Banking Corporation (RCBC) moves, by order to show cause, for an order pursuant to 22 NYCRR 216.1(a) to permanently seal Exhibits 1 (NYSCEF 498) and 3 (NYSCEF 500) annexed to the Rule 18 letter of Jesse R. Loffler. Plaintiff submits a memorandum of law “deferring to the court’s judgment.” (NYSCEF 524.) There is no indication that the press or public have an interest in this matter.

The Bangko Sentral Pilipinas (BSP), a regulator, is authorized by Philippines law to investigate RCBC. (NYSCEF 513, Lopez<sup>1</sup> aff ¶¶ 4-5.) In 2016, after such an examination of RCBC, the BSP sent two letters to RCBC setting forth its initial findings. The letter dated May 20, 2016, states that it “refers to the special examination of [RCBC].” (NYSCEF 498, May 20 Letter; NYSCEF 513, Lopez aff ¶ 8.) The letter dated July 14, 2016, states that it “refers to the results of the special examination of RCBC.” (NYSCEF 500, July 14 Letter; NYSCEF 513, Lopez aff ¶ 8.)

“Under New York law, there is a broad presumption that the public is entitled to access to judicial proceedings and court records . . . The public right to access, however, is not absolute . . . In addition to the statutory exceptions to public access, a court is empowered to seal court records pursuant to section 216.1(a) of the Uniform Rules for Trial Courts. That rule states that ‘[e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties.’” (*Mosalem v Berenson*, 76 AD3d 345, 348-49 [1st Dept 2010] [citations omitted].)

“The presumption of the benefit of public access to court proceedings takes precedence, and sealing of court papers is permitted only to serve compelling objectives, such as when the need for secrecy outweighs the public’s right to access, e.g., in the case of trade secrets. Thus, the court is required to make its own inquiry to determine whether sealing is warranted, and the court will not approve wholesale sealing of motion papers, even when both sides to the litigation request sealing.”

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<sup>1</sup> Joseph Anthony P. Lopez, “a Senior Partner and Head of the Litigation Department at Villaraza & Angangco, a law firm in Manila, Philippines” serves as outside legal counsel for RCBC. (NYSCEF 513, Lopez aff ¶¶ 1-2.)

(*Applehead Pictures LLC v Perelman*, 80 AD3d 181, 191–92 [1st Dept 2010] [citations omitted].)

RCBC's Philippines counsel avers that "Section 28 of the Republic Act No 7653, otherwise known as the New Central Bank Act, as amended by Republic Act No. 11211, provides that 'none of the reports and other papers relative to such examinations [by the BSP] shall be open to inspection by the public except insofar as such publicity is incidental to the proceedings hereinafter authorized [by the BSP] or is necessary for the prosecution of violations in connection with the business of such institutions.'"

(NYSCEF 513, Lopez aff ¶ 6.) Thus, counsel asserts that the letters must be sealed.

(*Id.* ¶ 7.) In response, plaintiff does not oppose sealing but argues that this law does not preclude disclosure of such types of documents in this action and rejects any attempts by RCBC "to shield relative and responsive information" during discovery on that basis. (NYSCEF 524, Plaintiff's Memo at 2.) At this time, the court makes no determination as to any party's alleged right to withhold any documents based on this law. Such a determination would require a separate application with full briefing.

For the purposes of sealing these letters from BSP to RCBC, the court finds that movant has shown good cause based on Lopez's affirmation detailing Section 28 of the Republic Act No 7653, as amended by Republic Act No 11211. (NYSCEF 513, Lopez aff.) Disclosure of these letters to the public, based on this limited record, appears would be a violation of the bank secrecy laws of the Philippines.

Accordingly, it is

ORDERED that motion sequence 027 is granted; and it is further

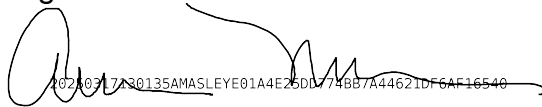
ORDERED that the County Clerk, upon service of this order, is directed to seal NYSCEF 498 and 500; and it is further;

ORDERED that the County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in this action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that movant shall serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address [www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)); and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed sealing order to the court (via [SFC-Part48@nycourts.gov](mailto:SFC-Part48@nycourts.gov) and NYSCEF) instead of filing another seal motion; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial or other court proceedings on the record, e.g., arguments on motions.



3/17/2025  
DATE

\_\_\_\_\_  
ANDREA MASLEY, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE