

## THIRD DIVISION

[ G.R. No. 160109, November 22, 2005 ]

**SPOUSES GERMAN AND ELISA BALANOBA AND REBECCA DE SAGON MADRIAGA, PETITIONERS, VS. MANUEL D. MADRIAGA, RESPONDENT.**

### DECISION

#### **PANGANIBAN, J.:**

In affirming the Court of Appeals, this Court holds (1) that the prohibition against second motions for reconsideration applies only to judgments or final orders, not to orders authorizing the execution of final judgments; (2) that once a decision becomes final and executory, it may no longer be amended; and (3) that exemptions from execution must be clearly established.

#### **The Case**

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the June 27, 2003 Decision<sup>[2]</sup> and the October 3, 2003 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-GR SP No. 63912. The CA disposed as follows:

"Wherefore, in view of the foregoing premises, the petition is DENIED for lack of merit."<sup>[4]</sup>

The assailed Resolution, on the other hand, denied petitioner's Motion for Reconsideration.

#### **The Facts**

The CA narrated the antecedents as follows:

"On June 5, 1996, x x x respondent Manuel D. Madriaga filed an action for collection of a sum of money with damages.

[He] claimed that: a parcel of land covered by TCT No. 7815 was offered for sale by the petitioners spouses to [him]; accepting the offer, [he] paid a partial payment in the amount of P200,000.00 through Abraham de Sagun, broker of the lot and brother [of] petitioner Elisa Balanoba; the remaining balance of P250,000.00 was supposed to be paid within a period of 16 months or from February 11, 1993 until June 11, 1994; on April 25, 1993, the private respondent paid to petitioners US\$600; but before the lapse of the period of x x x 16 months and without the knowledge of the x x x respondent, petitioners sold the same lot to a certain Yolanda C. Aguilon; in May 1994, x x x respondent offered to settle the remaining balance over the lot with the petitioners but they refused to convey the property; and, despite demands, x x x petitioners

failed to reimburse the x x x respondent.

"For failure of petitioner[s] to file their answer, the trial court, upon motion of x x x respondent, declared them in default and the x x x respondent was allowed to present his evidence ex parte.

"On November 21, 1996, the trial court rendered its Decision [in favor of respondent].

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"On August 9, 2000, x x x respondent filed his Motion for Issuance of a Notice of Garnishment, praying that a Notice of Garnishment be issued by the trial court directing the garnishee Bandila Maritime Services, Inc., petitioner German Balanoba's employer to deliver goods, effects, interests, money shares or other personal property belonging to the said petitioner sufficient to satisfy the amount of the judgment.

"On August 15, 2000, petitioners spouses filed their Opposition, (Re: Motion for the Issuance of a Notice of Garnishment), praying that the motion be denied on the ground, among others, that the money judgment is part of the community property of spouses Manuel Madriaga and Rebecca de Sagon Madriaga; that Rebecca S. Madriaga was entitled to one half (1/2) of the monetary judgment being the wife of the x x x respondent; and that Rebecca S. Madriaga, through her attorney-in-fact and counsel, condoned and waived her right to the one half (1/2) portion of the monetary award in favor of the petitioners.

"On August 22, 2000, the trial court denied x x x respondent's Motion for Issuance of a Notice of Garnishment on the ground that the litigated motion does not comply with Section 5, Rule 15 of the Rules of Court; that the motion does not indicate the balance of the judgment which has not yet been satisfied; the trial court does not issue a notice of garnishment but the Branch Sheriff implementing the writ of execution.

"x x x. Respondent filed his Motion for Reconsideration dated August 25, 2000, alleging that the failure to observe and comply with Section 5, Rule 15 of the Rules of Court was due to inadvertence and negligence on his part, x x x and that a total of One Hundred Forty Eight Thousand (P148,000.00) has already been collected from the judgment obligee, the remaining balance to be collected was computed in Annex "A" of the foregoing motion.

"On September 8, 2000, the trial court denied petitioner's motion for reconsideration on the ground that the same was not filed by his counsel of record, and that the amount paid per Annex "A" of the motion does not tally with the partial returns of the Sheriff in respect to the execution partially satisfied.

"x x x. Respondent filed his Second Motion for Reconsideration dated September 18, 2000, alleging, among others, that he has caused the rectification of the discrepancy in the amounts collected and the

remaining balance payable which showed that less the amount already collected as per garnishment previously issued, the outstanding balance of petitioners as of September 19, 2000 stands at P221,911.11.

"On September 22, 2000, the trial court denied x x x respondent's [second] motion for reconsideration for the reason that the life of the original writ has already expired. The court, however, admonished x x x respondent to move, instead, x x x for the issuance of an alias writ with a notice to the petitioners.

"On September 26, 2000, petitioners filed their Comment and/or Opposition x x x on the ground that, under Section 5, Rule 37 of the 1997 Rules of Civil Procedure, no party shall be allowed a second motion for reconsideration.

"The x x x respondent filed a Motion for Reconsideration with Prayer for the Issuance of Alias Writ of Execution dated October 12, 2000.

"On November 15, 2000, the trial court, for the purpose of determining accurately the unpaid balance of the judgment rendered on November 21, 1996, issued an Order directing the x x x respondent and the Branch Sheriff to submit to the said court a computation under oath of how much has been satisfied out of the judgment.

"x x x [R]espondent filed a Compliance dated November 27, 2000, asserting that, after conference with the implementing Sheriff, a total of P148,790.39 of the judgment debt was satisfied by the petitioners, leaving the amount of P236,696.20 as balance and collectible amount from the petitioners as of November 27, 2000.

"On November 29, 2000, petitioners filed their Motion for Reconsideration, arguing, among others, that, x x x respondent was still married to Rebecca S. de Sagon; that the spouses were blessed with children; that x x x respondent filed and refused to give financial support to his wife and son since April 1999; and that he personally pocketed the amount he obtained from the petitioners without giving a single centavo to his wife and child.

"On December 15, 2000, the trial court issued an Order, ruling that the Compliance submitted by counsel for the petitioner[s] was not in accordance with the Order of November 15, 2000, and directing the x x x respondent and the Branch Sheriff to comply strictly with the said Order.

"On December 22, 2000, petitioners submitted their Compliance, stating that it was submitting the original copy of the Registry Return to show that x x x respondent received a copy of the petitioner's Motion for Reconsideration dated November 29, 2000[, which] was filed on even date.

"On January 2, 2001, x x x respondent filed his Motion for Reconsideration to the Order dated December 15, 2000, praying that the Order of December 15, 2000 be reconsidered; that the Order of

November 15, 2000 be deemed complied with by the x x x respondent by virtue of the re-computation submitted; and that the computation filed earlier with the Compliance be withdrawn; and that the re-computation be admitted instead.

"On January 3, 2001, petitioner Rebecca de Sagon Madriaga filed a Manifestation and Motion, alleging, among others, that the money judgment was part of the community of property between her husband (x x x respondent) and herself; that being the wife of the x x x respondent and there being a pending case for declaration of nullity of their marriage, she was entitled to one half portion of the monetary judgment; and that she voluntarily condoned, waived/or abandoned in favor [of] the petitioners her right to the one half portion of the monetary award. The motion prayed that the Motion for Reconsideration with prayer for the issuance of alias writ of execution should be dismissed.

"x x x [R]espondent filed his Opposition/Comments to the Manifestation and Motion filed by Rebecca de Sagon Madriaga dated January 4, 2001, alleging that the Manifestation and Motion was in the nature of an intervention which is not in accordance with Rule 19 of the Rules of Court; that the filing of the same has unduly delayed or prejudiced the rights of the x x x respondent already pronounced in the Decision which has become final and partially executed; and that the claim of Rebecca de Sagon, if there be any, could rightfully be ventilated in a separate proceeding."<sup>[5]</sup>

On January 31, 2001, the trial court issued an Order (1) denying the Manifestation and Motion of Rebecca de Sagon Madriaga, because she was not a party to the case, and no waiver of rights was allowed during marriage except in case of judicial separation of property; and (2) ordering the issuance of an alias writ to enforce the unpaid balance of P251,643,398 as of November 21, 2000.

In a Petition for Certiorari before the CA, petitioners charged the trial court with having gravely abused its discretion in allowing respondent to file four Motions for Reconsideration; and in denying the Manifestation and Motion of his wife, Rebecca Madriaga.

### **Ruling of the Court of Appeals**

The CA sustained the trial court's grant of respondent's series of Motions. Construing Section 5 of Rule 37 of the Rules of Court in relation to Sections 1, 2, 3 and 4 of the same Rule, it held that the prohibition on "second motions for reconsideration" applied only to an aggrieved party, not to a winning litigant like respondent; and also only to judgments and final orders.

The appellate court also found that the trial court had not gravely abused its discretion in denying the Manifestation and Motion of respondent's wife, Rebecca. She was not a party to the case; neither was she a party to the Contract between petitioners and respondent. Besides, the CA considered as irrelevant to the present case the question of whether the money judgment was conjugal property. It said that the issue should properly be the subject of another proceeding.

As to the claimed exemption from garnishment of German Balanoba's salary under Article 1708 of the Civil Code, the CA emphasized that describing him as a "mere seafarer" -- without specifically pointing out his position, functions, duties and responsibilities -- did not establish that he was merely a laborer. As a seafarer employed with a foreign corporation doing business in the Philippines, he was earning more than an ordinary wage earner or laborer. Thus, the CA surmised that it was very unlikely that he was a "laborer," under the contemplation of Article 1708.

Hence this Petition.<sup>[6]</sup>

### **Issues**

In their Memorandum, petitioners submit that the CA erred as follows:

"A.

In concluding that Section 5, paragraph 2 [of Rule 37] of the 1997 Rules of Civil Procedure refers only to the aggrieved party and not likewise to the winning party.

"B.

In declaring that Petitioner Rebecca De Sagon Madriaga was not a party to the case and therefore cannot ask for the reliefs prayed for by her.

"C.

In declaring that Petitioner Balanoba failed to demonstrate that he was a mere laborer whose wages are exempt from execution within the ambit of the law."<sup>[7]</sup>

### **The Court's Ruling**

The Petition is not meritorious.

#### **First Issue:** **Motions for Reconsideration**

Petitioners take issue with the appellate court's ruling that under paragraph 2, Section 5 of Rule 37 of the Rules Court, only the losing or "aggrieved party" was prohibited from filing a second motion for reconsideration of a judgment or final order.

Indeed, the CA's pronouncement was quite sweeping. Thus, we clarify.

*First*, the aforementioned provision states: "*No party* shall be allowed a second motion for reconsideration of a judgment or final order." Plainly, this statement means that *any* party -- whether the winning or the losing litigant -- is prohibited from filing a second motion for reconsideration. Accordingly, winning litigants may also move for reconsideration of a part or parts of a decision or a final order. In the event that the motion is denied, an attempt at a second motion for reconsideration would be prohibited under the afore-quoted provision.