

## SECOND DIVISION

[ G.R. NO. 166993, December 19, 2005 ]

**DSM CONSTRUCTION AND DEVELOPMENT CORPORATION  
PETITIONER, VS. COURT OF APPEALS AND MEGAWORLD GLOBUS  
ASIA, INC. RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

This case springs from this Court's *Decision* dated 2 March 2004 in G.R. No. 153310, *Megaworld Globus Asia Inc. v. DSM Construction and Development Corp. (Megaworld)*, decided in favor of herein petitioner DSM Construction. Said *Decision* having become final and executory, the corresponding entry of judgment was made on 12 August 2004. This petition centers on attempts, regrettably entertained by respondent Court of Appeals, to thwart the execution of a final and executory decision of this Court.

The Petition for Certiorari<sup>[1]</sup> assails the *Resolution*<sup>[2]</sup> dated 21 February 2005 of the Court of Appeals in CA-G.R. SP No. 88314.<sup>[3]</sup> Said *Resolution* ordered the issuance of a temporary restraining order (TRO)<sup>[4]</sup> enjoining the enforcement of an *Alias Writ of Execution*<sup>[5]</sup> issued by the Construction Industry Arbitration Commission (CIAC)<sup>[6]</sup> in CIAC Case No. 22-2000 and ordering them to cease and desist from proceeding with the scheduled execution sale on 1 March 2005 of levied condominium units of the Salcedo Park condominium project owned by Megaworld Globus Asia, Inc. (respondent).

The antecedent facts follow.

As can be gleaned from *Megaworld*, petitioner and respondent entered into agreements for the construction of a condominium project owned by respondent called "The Salcedo Park", with petitioner as contractor. In the course of the project's construction, differences with respect to billings arose between the parties. Petitioner thus filed a complaint for compulsory arbitration before the CIAC claiming payment for approximately P97 Million as the outstanding balance due from respondent pursuant to the agreements. On 19 October 2001, the CIAC rendered a decision partially granting both petitioner's and respondent's claims, with a net award of Sixty Two Million Seven Hundred Sixty Thousand Five Hundred Fifty Eight Pesos and Forty Nine Centavos (P62,760,558.49) in favor of petitioner.

This award was affirmed by the Court of Appeals, which however permanently enjoined petitioner from registering its contractor's lien on all except six (6) units of the condominium project.<sup>[7]</sup> This step was in line with respondent's manifestation that the principal award of P62,760,558.49 in petitioner's favor can be covered by the value of six (6) condominium units. Seven (7) condominium units, however,

were eventually levied upon as a result of respondent's act of substituting two (2) units for the one already paid for by the buyer-spouses, Shaul and Rina Golan.<sup>[8]</sup> The execution sale of the levied properties did not push through after this Court issued a TRO dated 12 July 2002 upon respondent's filing of a petition in G.R. No. 153310.

Thereafter, the Court promulgated its *Decision*<sup>[9]</sup> dated 2 March 2004 affirming the judgment of the Court of Appeals and lifting the TRO that was then still in effect. Finding no merit in respondent's motions for reconsideration,<sup>[10]</sup> the Court subsequently issued an entry of judgment dated 12 August 2004.

Its judgment having become final and executory, the CIAC issued an *Order*<sup>[11]</sup> dated 3 November 2004 giving the parties ten (10) working days within which to agree on the satisfaction of the arbitral award, otherwise a writ of execution will be issued. As the parties could not come to terms, the CIAC issued an alias writ of execution on 22 November 2004. The *alias* writ of execution provides in part:

You are hereby commanded, that of the goods and chattels of the MEGAWORLD GLOBUS ASIA, INC., Respondent, you cause to be made the amount of **P62,760,558.49 with interest of 6% due on any balance remaining until the award becomes executory. Thereafter, interest of 12% per annum shall be applied on any balance remaining until the full amount is paid;** which Claimant recovered pursuant to the Award promulgated by this Arbitral Tribunal on 19 October 2001 in Case No. 22-2000 of the Construction Industry Arbitration Commission, together with your lawful fees for the services of this execution, all in Philippine currency, and that you render the same to said Claimant, aside from your own fees on this execution, and that you likewise return this Writ unto this Commission within fifteen (15) days from date of receipt hereof, with your proceedings endorsed thereon. But if sufficient personal property cannot be found whereof to satisfy this execution and lawful fees thereon, then you are commanded that of the lands and buildings of the said Respondent you make the said sum of money in the manner required by the Rules of Court, and make return of your proceedings with this Writ within thirty (30) days from receipt hereof.<sup>[12]</sup> (Emphasis in the original.)

On 26 November 2004, respondent sought to clarify if the writ of execution shall be limited to six condominium units in consonance with the Court of Appeals' observation in its decision in the first case that the petitioner's claims can be satisfied by the value of only six units. The CIAC replied in the negative. In an *Order*<sup>[13]</sup> dated 3 December 2003, it stated that nowhere in its Decision or in its *Order* dated 3 November 2004 did it provide that the payment of the judgment debt should be made in the form of six condominium units. It expounded that the mention of the six units was only brought up by the appellate court in relation to the provisional remedy of securing the judgment debt which is interim/temporary in nature.

In addition to the initial levy of seven units, which transpired during the pendency of G.R. No 153310,<sup>[14]</sup> three additional units were levied upon on 20 December 2004 by Sheriffs Villamor R. Villegas and Norberto R. Magsajo of the Regional Trial Court

(RTC) of Makati. Subsequently, a Notice of Sheriff's Sale was published, setting the auction sale of all ten units on 1 March 2005.

On 25 January 2005, respondent filed a Petition<sup>[15]</sup> with the Court of Appeals to restrain the scheduled execution sale and to nullify the orders of the CIAC issued pursuant thereto.<sup>[16]</sup> In said Petition, respondent claimed that the sheriffs exceeded their authority when they included in the notice of execution sale five condominium units fully paid for by its buyers. Respondent also asserted that the inclusion of three additional units in the levy on execution was excessive, thereby rendering the same void.

On 21 February 2005, the Court of Appeals issued the questioned *Resolution* restraining the implementation of the alias writ, as well as the holding of the auction sale for a period of sixty days from notice thereof. Petitioner filed the instant petition imputing grave abuse of discretion on the part of the Court of Appeals in taking cognizance of respondent's petition and in issuing the assailed Resolution. Petitioner prayed for the issuance of a temporary restraining order and/or a writ of preliminary injunction to enjoin the Court of Appeals from acting on respondent's petition.

The Court of Appeals rendered a *Decision*<sup>[17]</sup> granting respondent's petition and declaring the CIAC's assailed order null and void. This decision was rendered on 19 April 2005, three days before the expiration of the TRO. Such Decision of the Court of Appeals was brought to the attention of this Court only on 23 May 2005.<sup>[18]</sup>

On 27 April 2005, we issued a *Resolution*<sup>[19]</sup> directing the parties to maintain the status quo effective 22 April 2005, the date of the expiration of the TRO issued by the Court of Appeals and continuing until further orders from this Court. Since the main case had already been resolved, however, the Court of Appeals merely held in abeyance the resolution of respondent's motion for clarification<sup>[20]</sup> as well as petitioner's motion for reconsideration<sup>[21]</sup> of its decision.

In its *Comment* [to petitioner's] Supplemental Petition,<sup>[22]</sup> respondent contends that since the main case had already been resolved by the Court of Appeals, petitioner's remedy is to file a petition for review under Rule 45 of the Revised Rules of Civil Procedure. Respondent further asserts that prematurity, multiplicity of suit and lack of respect for the hierarchy of courts afflict this petition, thereby necessitating its dismissal.<sup>[23]</sup>

We need not dwell on this peripheral issue. Petitioner filed the instant case precisely to question the Court of Appeal's very jurisdiction over respondent's petition. In evoking this Court's authority by means of the special civil action for certiorari, petitioner asserts that respondent court committed a patently unlawful act amounting to lack or excess of jurisdiction when it (i) entertained a petition which was obviously dilatory and amounted to an obstruction of justice, and (ii) restrained the CIAC without any valid ground.<sup>[24]</sup> Obviously, if the Court of Appeals has no jurisdiction over respondent's petition in the first place, it would not have the capacity to render judgment on the petition.

Even assuming that the rules of procedure had somehow not been observed in this case, the Court finds that these objections can be quelled in the higher ends of

justice. Rule 1, Section 6 of the Rules of Court provides that the Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. We have at times relaxed procedural rules in the interest of substantial justice and in so doing, we have pronounced that:

A rigid adherence to the technical rules of procedure disregards the fundamental aim of procedure to serve as an aid to justice, not as a means for its frustration, and the objective of the Rules of Court to afford litigants just, speedy and inexpensive determination of their controversy. Thus, excusable imperfections of form and technicalities of procedure or lapses in the literal or rigid observance of a procedural rule or non-jurisdictional deadline provided therein should be overlooked and brushed aside as trivial and indecisive in the interest of fair play and justice when public policy is not involved, no prejudice has been caused the adverse party and the court has not been deprived of its authority or jurisdiction. (Citations omitted)<sup>[25]</sup>

Respondent itself admits that the issues in CA-G.R. SP. No. 88314 and in the present case are the same.<sup>[26]</sup> The suit is already before us under Rule 65.<sup>[27]</sup> To dismiss this petition on technical grounds and wait for it to be elevated anew under the same grounds and arguments would be to sanction a circuitous procedure that would serve no purpose except prolong its resolution.

The disposition of the case on the merits is now in order. Generally, the main question for resolution pertains to the validity of the Alias Writ of Execution dated 22 November 2004. The particular issues are: (i) whether the alias writ should have been expressly qualified in limiting the execution to just six condominium units; (ii) whether the alias writ conformed to the requirement under Section 8(e), Rule 39 of the Rules of Civil Procedure that the specific amount due must be stated; (iii) whether the 6% interest as specified in the alias writ should be applied on a per annum basis, or on a flat rate. The Court shall also resolve whether the Makati City RTC sheriffs acted correctly in levying the 10 condominium units, pursuant to such writ of execution.

From the outset, it bears stressing that the subject of petitioner and respondent's petitions is the execution of a final judgment affirmed by no less than this Court. This being so, the appellate court should have been doubly careful about entertaining an obviously dilatory petition intended merely to delay the satisfaction of the judgment. Any lower court or tribunal that trifles with the execution of a final and executory judgment of the Supreme Court flirts with insulting the highest court of the land. While we do not diminish the availability of judicial remedies to the execution of final judgments of this Court, as may be sanctioned under the Rules of Court, such actions could only prosper if they have basis in fact and in law. Any court or tribunal that entertains such baseless actions designed to thwart the execution of final judgments acts with grave abuse of discretion tantamount to lack of jurisdiction.<sup>[28]</sup> It is the positive duty of every court of the land to give full recognition and effect to final and executory decisions, much less those rendered by the Supreme Court.

The abuse of discretion amounting to lack or excess of jurisdiction in this case was made manifest by the fact that the appellate court not only took cognizance of the

case and issued the assailed restraining order. It eventually decided the case in petitioner's (respondent herein) favor as well notwithstanding the dearth of any basis for doing so.

We first examine the Alias Writ of Execution dated 22 November 2004. As stated earlier, the said writ made no qualification as to specific classes of property, such as condominium units, which should be executed upon, much less any denominated quantity of properties. For this, respondent imputed grave abuse of discretion on the part of the CIAC. It contends that the Decision dated 14 February 2004 of the Court of Appeals as affirmed by this Court limited petitioner to six condominium units for the purpose of satisfying the arbitral award rendered by the CIAC. The CIAC, in issuing the alias writ which enabled the sheriffs to levy upon three additional units, was said to have committed grave abuse of discretion it varied its own judgment as against that affirmed by the Court of Appeals.

Respondent's argument is absurd. It anchors its proposition on the last sentence of the Decision dated 14 February 2002 of the Court of Appeals which provides:

**WHEREFORE**, the herein petition is **DISMISSED** for lack of merit and the appealed decision of the Construction Industry Arbitration Commission is hereby **AFFIRMED**. The writ of preliminary injunction issued against the enforcement of the September 28, 2001 decision of the Construction Industry Arbitration Commission (CIAC) is hereby **LIFTED**. *The writ of preliminary mandatory injunction ordering private respondent to withdraw its contractor's lien on all, except six of private respondent's condominium units is hereby made permanent.*<sup>[29]</sup> (Emphasis supplied.)

By concentrating on the last sentence of the above dispositive portion, respondent ignored the paragraph which precedes it where the Court of Appeals stated:

However, justice and fair play dictate that the annotation of private respondent's lien should be limited to six (6) units of its choice and not to all of the condominium units. As we noted in our January 17, 2002 Resolution, as clarified by the January 18, 2002 Resolution, private respondent's claim against petitioner in the amount of P62 Million can be covered by the value of six (6) units of the condominium project.<sup>[30]</sup>

As petitioner correctly argues, there is no ambiguity in the Court of Appeal's pronouncement, that is, that the principal award of P62 million can be covered by six condominium units. However, such pronouncement did not make allowances for the interests of 6% and 12% imposed by the CIAC because the alleged limit related merely to the provisional remedy, not the eventual execution of the judgment. The six unit limit was never intended by the Court of Appeals to operate in perpetuity as to sanction recovery of the principal award sans legal interest.

The reason for the imposition of the six unit limit can be better understood when viewed in the context of the circumstances which led the Court of Appeals to make such pronouncement. In fact, respondent itself supplied the rationale when it narrated in its *Comment*,<sup>[31]</sup> thus:

DSM, through its counsel, caused the publication in the November 20, 2001 issue of the Philippine Daily Inquirer a paid advertisement