

THIRD DIVISION

[G.R. NO. 162277, December 07, 2005]

**CORAZON SUYAT, PACITA UY TAN, RODRIGO DE LA ROSA,
RUBEN DE LA ROSA, AND BAGUIO GARDEN HOTEL-
APARTMENTS, INC., PETITIONERS, VS. HON. ANNIE GONZALES-
TESORO, DIRECTOR OF THE SECURITIES AND EXCHANGE
COMMISSION, BAGUIO EXTENSION OFFICE; ESTER LAU; AND
SHERIFF ROMEO R. FLORENDO,* RESPONDENTS.**

DECISION

PANGANIBAN, J.:

In this Decision, the Court reiterates the well-known rule that the execution of a final judgment is a matter of right on the part of the prevailing party, and mandatory and ministerial on that of the issuing court or tribunal.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, assailing the October 16, 2003 Decision^[2] and the January 29, 2004 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 75376. The challenged Decision disposed as follows:

"WHEREFORE, the petition is hereby DENIED for lack of merit."^[4]

The assailed Resolution denied reconsideration.

The Facts

The CA narrated the relevant facts as follows:

"Herein [individual] petitioners are officers of Baguio Garden Hotel Apartments, Inc. They were charged before the Securities and Exchange Commission (SEC) for the misrepresentation and irregularities appearing in the financial statements of the corporation.

"On January 15, 1998, the Securities and Exchange Commission, Baguio Extension Office, rendered a decision containing the following dispositive portion:

'WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering [individual petitioners] to pay to the corporation jointly and solidarily the unaccounted cash of

P519,488.12 shown in the financial records of 1995; to pay back the corporation the amount of P378,123.89[,] which they disbursed as a loan and reflected as cash outlay although not paid by the corporation[,] as shown in the Cash Flow Statement of 1994; and the deficit of Retainer Earnings of 1994 in the amount of P639,057.83;

2. Ordering [petitioner] Corazon Suyat to pay back the corporation her cash advances and unpaid rentals in the total amount of P149,403; [petitioner] Pacita Uy Tan to pay back the corporation her cash advances and unpaid rentals in the total amount of P301,281.50; [petitioners] Rodrigo de la Rosa and Ruben de la Rosa to pay back to the corporation their cash advances of P20,000;
3. Ordering [individual petitioners] to stop paying themselves share (sic) in the profits in the form of cash advances or defaulting themselves in the payment of rentals due to the corporation, and, instead, to make the proper accounting of the finances of the corporation for the years 1994, 1995, 1996, and 1997[,] inclusive of the aforementioned ordered payments, through the assistance of a duly licensed Certified Public Accountant appointed by the Commission from two nominees of both parties, submitted within fifteen (15) days from receipt of this decision, and to be compensated by the corporation;
4. Ordering, after the aforementioned accounting has been made, the distribution of surplus profits accumulated from 1993 to 1997 in excess of 100% of the paid-in capital of the corporation. [Petitioners' shares] in the said profits may be compensated or offset against the amounts due from them as ordered above; provided that in the event the practice of cash advances and non-payment of rentals was likewise done by the [petitioners] for the years 1996 and 1997, then their repayments should be made in accordance with the procedure described above; and provided, finally, that the practice shall stop altogether for the year 1998 and thereafter.
5. Charging the payment of [respondent's] cost of litigation including attorney's fees, properly audited by the aforementioned appointed Certified Public Accountant, against funds of the corporation.

SO ORDERED.'

"The above decision was affirmed on appeal by the Commission *en banc*. Petitioners appealed, but the same was dismissed for being a wrong mode of appeal. Hence, the decision became final and executory. On April

10, 2000, herein private respondent filed a Motion for Execution of the afore-quoted judgment. On April 5, 2001, private respondent filed a Motion to Reiterate Issuance of Writ of Execution. Acting on the motion filed by private respondent, the SEC issued a Writ of Execution ordering the Baguio City Sheriff to execute the January 15, 1998 decision. Meanwhile, a Notice of Garnishment was issued by Sheriff Romeo R. Florendo against a certain Paul Uy.

"On May 22, 2001, petitioners filed a Motion to Stay Execution with respect to items 1 and 2 of the above dispositive portion, and to execute items 3 and 4 thereof by appointing a certified public accountant to make the proper accounting of the finances of the corporation. So as not to render the pending Motion to Stay Execution ineffectual, petitioners also filed a Motion to Quash/Stay Notice of Garnishment.

"In its Order dated June 5, 2001, the SEC granted the twin motions as follows:

'WHEREFORE, based on the foregoing, it is hereby **ORDERED** that the **NOTICE OF GARNISHMENT** be quashed and that the **WRIT OF EXECUTION** be enforced by the appointment of a Certified Public Accountant, to be agreed upon by both parties, who shall be given a period of 90 days, from the date of the C.P.A.'s written acceptance of such appointment, to be submitted to this Commission, within which to perform the required audit and to submit the findings of this Commission.

"Should the parties fail to agree on a C.P.A. within 7 days from receipt of this **ORDER**, this Commission shall make the choice which shall be final and binding upon the parties.

'The parties hereto shall signify, in their written appointment of the C.P.A., that they shall be bound by the audit and findings of the said C.P.A.

'After receipt of the findings of the C.P.A. this Commission shall issue a **WRIT OF EXECUTION** based thereon.

'SO ORDERED.'

"Pursuant to the afore-quoted Order of the SEC, the parties through their counsel, executed a Joint Memorandum appointing Christopher Ismael to perform the required audit and accounting of the books and records of the corporation. The parties unconditionally bound themselves to *'abide fully by the findings of said Mr. Christopher Ismael as final and as the sole and irrefutable basis for the Commission for the execution of the DECISION dated January 15, 1998.'*

"Based on the Auditor's Independent Report, the SEC, on January 14, 2003, issued a Writ of Execution *motu proprio* in the following tenor:

'x x x

x x x

x x x

'WHEREFORE, based on the Auditor's Independent Report, considered FINAL AND BINDING upon agreement of all the parties hereto, and enforcing the final DECISION dated JANUARY 15, 1998, A MODIFIED OR COMPLETE DECISION is hereby rendered, and YOU, THE CITY SHERIFF and your lawful deputies, are hereby ordered commanded to cause:

1. Petitioner corporation, Baguio Garden Hotel-Apts., Inc., to pay Petitioner Ester Lau the sum of P1,193,814.99;
2. [Petitioner] Rodrigo dela Rosa to pay to the Petitioner corporation, Baguio Garden Hotel-Apts., Inc., the sum of P202,415.76;
3. [Petitioner] Ruben dela Rosa to pay to the Petitioner corporation, Baguio Garden Hotel-Apts., Inc.[,] the sum of P161,831.86;
4. [Petitioner] Corazon Suyat to pay to the Petitioner corporation, Baguio Garden Hotel-Apts., Inc., the sum of P52,931.11;
5. [Petitioner] Pacita Uy Tan to pay to the Petitioner corporation, Baguio Garden Hotel-Apts., Inc.[,] the sum of P561,033.66; the liability of all the respondents shall be joint and solidary;'

x x x

x x x

x x x

"Claiming that Mrs. Caridad Espina, a certified public accountant of the parties, should participate in the accounting process, the petitioners asked in their 'Motion to Stay Execution,' that a hearing be held before the writ of execution shall issue.

"On January 24, 2003, the SEC issued an Order denying the motion, viz:

'WHEREFORE, the Motion to Stay Execution dated January 17, 2003 is hereby **DENIED**, and the Writ of Execution is to be enforced forthwith, without delay, and the respondents are directed not to file any more Motions that would delay the execution of the **DECISION** in this case.

'SO ORDERED.'""^[5]

Petitioners then filed a Rule 65 Petition for Certiorari before the CA, seeking the nullification of the Writ of Execution dated January 14, 2003, for allegedly altering the terms of the Decision of January 15, 1998.^[6]

Ruling of the Court of Appeals

The appellate court did not find grave abuse of discretion on the part of the SEC in issuing the assailed Writ of Execution.

The CA noted that paragraphs 3 and 4 of the January 15, 1998 Decision had ordered an accounting of the corporate finances; and an offsetting of the shares of petitioners in the profits against their liabilities, as adjudged under paragraphs 1 and 2 of the same Decision. In compliance with that directive, the appointed certified public accountant (CPA) conducted an accounting review and incorporated in his report the amounts stated in paragraphs 1 and 2. Consequently, the CA ruled that the Writ had not modified the original Decision, but only carried into effect the SEC's previous disposition.^[7]

The appellate court also debunked petitioners' claim that the SEC had issued the Writ of Execution *motu proprio*. According to the CA, private respondent twice filed a Motion for a Writ of Execution, resulting in the issuance of the first Writ dated April 17, 2001. The execution was, however, *stayed* to give way to the accounting that had been ordered. After receiving the CPA's Financial Report, the SEC issued the second Writ. Another motion for the issuance of this second one, being a mere continuation of the first, was deemed by the CA to be unnecessary.

Finally, the appellate court emphasized that the parties had bound themselves to abide fully by the CPA Report as the final and sole basis for the execution of the SEC Decision.

Hence, this Petition.^[8]

Issue

Petitioners raise this sole issue for our consideration:

"The Honorable Court of Appeals has departed from the accepted and usual course of judicial proceedings and contravened applicable legal principles and jurisprudence in denying petitioners' Petition for Certiorari, etc. and Motion for Reconsideration, despite clear showing that the writ of execution being assailed therein was issued by the respondent director with grave abuse of discretion amounting to lack or excess of jurisdiction because it amended and varied the terms of the decision sought to be executed and violated petitioners' right to due process of law."^[9]

Otherwise stated, the issue is whether the Writ of Execution dated January 14, 2003, altered the terms of the Decision of January 15, 1998.

The Court's Ruling

The Petition has no merit.

Sole Issue:

Whether the Writ Modified the Decision

Well-settled is the rule that after a judgment becomes final upon the expiration of the reglementary period to perfect an appeal, "no additions can be made thereto,