

794 Phil. 322

FIRST DIVISION

[G.R. No. 181387. September 05, 2016]

CAMERON GRANVILLE 3 ASSET MANAGEMENT, INC., PETITIONER, VS. UE MONTHLY ASSOCIATES, UEAMI WORKERS UNION NFL AND ALFREDO BASI, RESPONDENTS.

DECISION

SERENO, C.J.:

In this Petition for Review on Certiorari,^[1] Cameron Granville 3 Asset Management, Inc. (Cameron) assails the Court of Appeals (CA) Decision^[2] and Resolution^[3] in CA-G.R. SP No. 88049, which affirmed the levy and sale of certain personal properties allegedly mortgaged to Metropolitan Bank and Trust Company (Metrobank), petitioner's predecessor-in-interest. These properties were sold by the Sheriff of the National Labor Relations Commission (NLRC) after Labor Arbiter Joselito Cruz Villarosa (LA) denied Metrobank's third-party claim on the ground of insufficiency of evidence. Both the NLRC and the CA affirmed this ruling.

FACTUAL ANTECEDENTS

The dispute in this case stemmed from the levy and execution sale made by NLRC Sheriff Manolito G. Manuel.^[4] The subject of the execution were certain machinery, equipment, tools and implements owned by UE Automotive Manufacturing, Inc. (UEAMI), and located at its manufacturing plant at General Mascardo St., Caloocan City.^[5] The levy was made pursuant to a final and executory NLRC judgment against UEAMI in an illegal dismissal case, in which it was ordered to pay P53,729,534 to complainants UEAMI Monthly Associates and UE Automotive Workers Union-NFL.^[6]

On 6 September 2002, Metrobank filed an Affidavit of Third-Party Claim^[7] with the LA. Through its Senior Manager Ramon S. Miranda, the bank claimed that the machines and

equipment levied upon by Sheriff Manuel were covered by three mortgage documents executed in favor of the bank by UEAMI, i.e., a Mortgage Trust Indenture,^[8] an Amended Mortgage Trust Indenture,^[9] and a Second Amended Mortgage Trust Indenture.^[10]

As expected, respondents opposed Metrobank's third-party claim.^[11] They asserted that they were not bound by the mortgage agreements cited by the bank, because the instruments were not registered and consequently had no effect on third parties.^[12]

On 3 October 2002, Metrobank filed with the LA a Reply to Comment to Third-party Claim with Motion to Set Hearing.^[13] Aside from emphasizing the superiority of its claim over the property, the bank also manifested its intention to present evidence of its mortgage lien over the chattels. Consequently, it requested that the third-party claim be set for hearing.^[14] It appears from the records that this motion was not acted upon by the LA.

THE RULING OF THE LA

In an Order dated 5 December 2002,^[15] the LA denied Metrobank's third-party claim:

After a careful perusal of the records of the case and contending positions of the protagonists, this Office denies all the third-party claims filed by claimants for failure to [establish] proof of their actual ownership of the contested properties owned by respondent UE Automotive Manufacturing, Inc.

At most, what can be easily discerned from the attachment of the third-party claims are all instruments which [have] been long overdue, and belatedly raised now, when the same has been levied by the Sheriff of this Office.

After reviewing the entire records of the case, this Office finds and so holds that there is no more compelling reasons not to proceed with the sale of the levied properties because this will unlawfully [deprive] complainants, the prevailing party, of the fruits of the execution.^[16]

However, in the interest of justice, the LA directed Metrobank and other third-party claimants to post a bond to defer the execution sale. The bank complied with the Order by posting a surety bond.^[17] Thereafter, it filed a Notice of Appeal and a Memorandum of Appeal with the NLRC to challenge the ruling of the LA.

Despite the pending appeal, the auction sale of the properties was carried out on 27 January 2003 following the submission of an indemnity bond by respondents.^[18] The properties were sold to Alfredo B. Basi as the highest bidder with a bid price of P53,729,534, and a Sheriff's Certificate of Sale^[19] was later issued in his favor.

THE RULING OF THE NLRC

In a Resolution dated 19 May 2004,^[20] the NLRC affirmed the Order of the LA denying Metrobank's third-party claim. In addition to the grounds cited by the LA, the NLRC rejected the claim for the following reasons: (a) the bank's failure to attach a board resolution showing that Ramon S. Miranda was authorized by the board of directors to prepare and file its Affidavit of Third-party Claim;^[21] (b) absence of substantial evidence in support of the assertion that the mortgage documents were duly registered with the Register of Deeds of Kalookan City, and that the proper documentary stamp taxes were paid;^[22] and (c) failure to establish its right over the properties as against respondents. On this third ground, the NLRC explained:

Furthermore, Metrobank failed to incorporate in its Third-party Claim and in its mortgage documents a schedule, enumeration and/or description of the chattels supposedly covered by the same.

Besides, Metrobank was not able to prove with any substantial documents that the chattels allegedly covered by the mortgage documents are the very same properties attached and sold at public auction. Indeed, how could it possibly do so, when it could not even incorporate in its mortgage documents the required schedule, enumeration and or description they supposedly cover?

Lastly but most significantly, Metrobank was not able to allege and prove with any substantial evidence that it had already foreclosed the chattels by reason of the default of UEAMI, the mortgagor in the mortgage documents, of its obligations in favor of Metrobank and the other creditors - beneficiaries in such documents. Correspondingly, still bereft of the right to possess such chattels, Metrobank has likewise no right to claim the same by way of a third-party claim.^[23]

Metrobank sought reconsideration of the foregoing ruling.^[24] It asserted that the grounds cited by the NLRC to deny the claim were never raised by the parties.^[25] The bank also contended that it was deprived of due process because the LA resolved the third-party claim without acting upon its motion to set the case for hearing. This lack of due process allegedly resulted in its inability to adduce the evidence necessary to prove its allegations. In its Motion for Reconsideration, Metrobank declared:

If the third-party claim was set for hearing, Metrobank would have adduced evidence to prove:

- a) The authority of Atty. Ramon S. Miranda to represent Metrobank, as shown by the Secretary's Certificate dated August 2, 2002, machine copy of which is hereto attached as **Annex "G"**;
- b) Metropolitan Bank and Trust Company is the successor-in-interest of Philippine banking Corporation
- c) The genuineness and due execution of the Chattel Mortgage, Amendment of Chattel Mortgage, Mortgage Trust Indenture, Amended Mortgage Trust Indenture and the Second Amended Trust Indenture, with the respective annexes thereto, and that **said documents were duly registered with the proper Registry of Deeds**. It bears stressing that the Registry of Deeds will not allow registration unless the **documentary stamp taxes have been paid**. Machine copies of the Chattel Mortgage, Amendment of Chattel Mortgage, Mortgage Trust Indenture, Amended Mortgage Trust Indenture and the Second Amended Trust Indenture are hereto attached as **Annexes "H", "I", "J", "K" and "L"**, respectively.
- d) The **chattels levied upon and sold at public auction by NLRC Sheriff Manolito G. Manuel are included in the list of chattels annexed to the Chattel Mortgage and Amendment to Chattel Mortgage** and are properly described therein, Annexes "H" and "I".
- e) The genuineness and due execution of the Certificate of Sale dated January 12, 1999, showing that the **chattels were already foreclosed and sold at public auction by Metrobank**, machine copy of which is hereto attached as Annex "M".

Aside from the foregoing, Metrobank was prevented from presenting evidence to prove that the levy made by NLRC Sheriff Manuel over the chattels belonging to/owned by Metrobank was null and void.^[26] (Emphases in the original)

The NLRC denied the motion notwithstanding the documentary evidence submitted by Metrobank. In its Resolution,^[27] the former maintained that the Secretary's Certificates and other documents presented by Metrobank did not sufficiently prove Miranda's authority to

represent the bank or the bank's right to claim the properties. The NLRC likewise noted that all the pieces of evidence Metrobank intended to present before the LA had already been passed upon on appeal; hence, the issue of denial of due process had been rendered moot:

Thirdly, Metrobank has not, up to now, shown with substantial evidence that the properties allegedly covered by the mortgage documents are the very same chattels levied and sold at public auction by Sheriff Manolito G. Manuel. Although it resubmitted, in its Motion for Reconsideration, copies of its mortgage documents, such documents are nevertheless merely photocopies, not originals or certified true copies, and therefore probatively valueless for being unauthenticated. Besides, they do not show similarity between the aforementioned two (2) sets of chattels.^[28]

x x x x

Our sight is not lost of the fact that Metrobank asserts in its reconsideration motion that it was deprived of due process because its Third-party Claim was resolved without its motion to set such claim for hearing (incorporated in its Reply to Comment to Third-party Claim dated October 3, 2002) having been passed upon, resulting in its failure to submit all its shreds (sic) of documentary evidence in support of its claim.

x x x x

[T]his claim of due process deprivation is now academically moot, since all the documentary proofs of Metrobank have already been passed upon by the Labor Arbiters below in the rendition of their Orders and by Us in the rendition of Our Resolutions including this Resolution.^[29]

The denial of its Motion for Reconsideration prompted Metrobank to elevate the matter to the CA via a Petition for Certiorari under Rule 65 of the Rules of Civil Procedure. It argued that the NLRC committed grave abuse of discretion in (a) disregarding the fact that the third-party claim of petitioner was denied by the LA without the benefit of a hearing;^[30] and (b) resolving matters that had not been raised as issues by the parties.^[31]

Metrobank subsequently filed a Motion to Substitute/Join Cameron Granville 3 Asset

Management, Inc., as plaintiff.^[32] The former cited petitioner's right as the transferee of the bank's assignee Asia Recovery Corporation. The CA granted the motion^[33] and allowed Cameron to join the suit as a plaintiff.

THE RULING OF THE CA

In a Decision^[34] dated 1 October 2007, the CA dismissed the Petition for Certiorari and ruled that the NLRC did not act with grave abuse of discretion in affirming the LA's denial of the third-party claim filed by Metrobank.^[35] The appellate court declared that under the Rules of Procedure of the NLRC, the LA was not obligated to conduct a hearing before deciding the claim:

Petitioner anchored its claim on the provision of Section 2, Rule VI of the NLRC Manual on the Execution of Judgment, promulgated on February 24, 1993, which reads, to wit:

xxx Upon receipt of the third-party claim, all proceedings with respect to the execution of the property subject of the third-party claim shall automatically be suspended and the **Commission or Labor Arbiter who issued the writ shall conduct a hearing with due notice to all parties concerned and resolve the validity of the claim within ten (10) working days from receipt thereof.** Where the decision is rendered by the Labor Arbiter, it is appealable to the Commission within ten (10) working days from notice. The Commission shall resolve the appeal within the same period." (Emphasis and underlining supplied)

x x x x

The foregoing provision was, however, superseded by Section 9, Rule VIII of the Rules of Procedure of the National Labor Relation Commission, as amended by Resolution No. 01-02, Series of 2002, which provides, viz.:

Section 9. RESOLUTION OF THIRD-PARTY CLAIM. – Should a third-party claim be filed during execution of the judgment award, **the third-party claimant shall execute an affidavit stating his title to property or possession thereof with supporting evidence and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter or proper officer issuing the writ.** Upon receipt of the third-party claim, all proceedings, with respect to the execution of the property subject of the third-party claim, shall automatically be suspended. **The Labor Arbiter who issued the writ may require the third-party claimant to adduce additional evidence in support of his third-party claim** and to post a cash or surety bond equivalent to the amount of his claim, as provided for in Section 6, Rule VI, without prejudice to the posting by the prevailing party of a supersedeas bond in an amount equivalent to that posted by the third-party claimant, and resolve the propriety of such claim within ten (10) working days from submission of the claim for resolution. (Emphasis and underlining supplied)

The aforesaid provision of the NLRC Rules of procedure precludes the necessity of conducting a hearing where, at the time of execution of its judgment, the labor arbiter is confronted with the issue involving the resolution of a third-party claim. Pursuant to the foregoing, it is sufficient if the labor arbiter receives the third-party claimant's affidavit stating his title to property or possession thereof with supporting evidence, and if necessary, the labor arbiter who issued the writ may require the third-party claimant to adduce additional evidence in support of his third-party claim. From thence, the labor arbiter is required to resolve the propriety of such claim within ten (10) working days from submission of the claim for resolution. It is thus clear that the labor arbiter is no longer required to conduct a hearing on the third-party claim for as long as the third-party claimant is allowed to submit his affidavit stating his claim of ownership or possession thereof with supporting evidence and, if necessary, given the opportunity to adduce additional evidence.

Jurisprudential declarations are rich to the effect that the essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side. A formal or trial type hearing is not at all

times and in all instances essential to due process, the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy.^[36] (Citations omitted; emphases in the original)

The CA also rejected the argument of Metrobank that the latter's mortgage lien was a specially preferred credit that was entitled to precedence over the labor claim of respondents.^[37]

Petitioner and Metrobank sought reconsideration of the Decision. Their motion was, however, denied by the CA.^[38]

PROCEEDINGS BEFORE THIS COURT

Petitioner seeks the reversal of the assailed Decision and Resolution on the following grounds: (a) the failure of the CA to adhere to *Jang Lim v. CA*,^[39] in which this Court purportedly applied the NLRC Sheriff's Manual on Execution, and not the NLRC Rules of Procedure, in resolving a third-party claim; and (b) the refusal of the CA to consider Metrobank's mortgage lien as a specially preferred credit.

In a Resolution^[40] dated 16 April 2008, this Court required respondents to comment on the Petition. However, the repeated attempts to serve the Resolution on respondents failed. Accordingly, We resolved to consider the Resolution to have been served upon respondents, and the latter to have waived their right to comment on the Petition.^[41]

ISSUES

This case presents the following issues for resolution:

- (1) Whether the CA erred in applying the Revised Rules of Procedure of the NLRC, which does not require the LA to conduct a hearing before deciding Metrobank's third-party claim
- (2) Whether the CA erred in denying Metrobank's third-party claim

OUR RULING

We **DENY** the Petition.

This Court agrees with the CA that a hearing is not required before a third-party claim can be decided by the LA, albeit for a different reason than the supposed repeal of Rule IV, Section 2 of the 1993 NLRC Manual on Execution of Judgment (1993 Manual). Furthermore, the Court believes that Metrobank has failed to present sufficient evidence of the third-party claim.

Third-party claims may be resolved even without a full-blown hearing provided claimants are given an opportunity to be heard.

Petitioner's main argument concerns the supposed failure of the LA to conduct an evidentiary hearing before resolving the third-party claim. Petitioner insists that its right to due process was violated, because such a hearing is required under Rule IV, Section 2 of the 1993 Manual.^[42] In support of its assertion, it cites *Jang Lim v. CA*, in which this Court supposedly applied the 1993 Manual, instead of the contradictory provisions of the 2002 NLRC Revised Rules of Procedure (2002 NLRC Rules).^[43]

The CA, however, disagreed with petitioner's stance. It refused to apply the 1993 Manual because Section 9, Rule VIII of the 2002 NLRC Rules, had supposedly superseded the 1993 Manual's provisions on third-party claims.^[44]

While this Court sustains the conclusion that the 1993 Manual does not govern this dispute, it does not agree that the 1993 Manual was repealed by the 2002 NLRC Rules. Our view is that Rule VI of the 1993 Manual was superseded by a **new version** of the same manual enacted by the NLRC in July 2002.^[45] Section 1, Rule VI of this 2002 Manual on Execution of Judgment, provides:

SECTION 1. Proceedings. SHOULD A THIRD-PARTY CLAIM BE FILED DURING EXECUTION OF THE JUDGMENT AWARD, THE THIRD-PARTY CLAIMANT shall EXECUTE an affidavit STATING his title TO PROPERTY or possession thereof WITH SUPPORTING EVIDENCE and shall file the same with the sheriff and copies thereof served upon the Commission or Labor Arbiter who issued the writ and upon the prevailing party. Upon receipt of the third-party claim, all proceedings, with respect to the execution of the property subject of the third-party claim, shall automatically be suspended. The Commission or Labor Arbiter who issued the writ MAY REQUIRE THE THIRD-PARTY CLAIMANT TO ADDUCE

ADDITIONAL EVIDENCE IN SUPPORT OF HIS THIRD-PARTY CLAIM AND TO POST A CASH OR SURETY BOND EQUIVALENT TO THE AMOUNT OF HIS CLAIM AS PROVIDED FOR IN SECTION 6, RULE VI, OF THE NLRC RULES OF PROCEDURE, WITHOUT PREJUDICE TO THE POSTING BY THE PREVAILING PARTY OF A SUPERSEDEAS BOND IN AN AMOUNT EQUIVALENT TO THAT POSTED BY THE THIRD-PARTY CLAIMANT. The PROPRIETY of the THIRD-PARTY claim SHALL BE RESOLVED within ten (10) working days from SUBMISSION OF THE CLAIM FOR RESOLUTION. The decision OF the Labor Arbiter is appealable to the Commission within ten (10) working days from notice AND the Commission shall resolve the appeal within the same period.

It is settled that revisions to procedural rules are applicable to pending and unresolved disputes, so long as no injustice results from the retroactive application.^[46] In this case, the third-party claim was still pending before the LA at the time the 2002 Manual on Execution of Judgment took effect. Hence, Metrobank was obliged to comply with the new requirement as soon as it took effect. Notably, this fact distinguishes the instant case from *Jang Lim v. CA*,^[47] which was cited by petitioner to prove the applicability of Rule VI of the 1993 Manual to this case. We note, however, that the third-party claim in *Jang Lim* was filed in 1999 and decided by the LA in 2000^[48] before the amendment of the 1993 Manual; hence, the revised rules were not applied to that case.

In the instant suit, Metrobank filed its third-party claim on 6 September 2002,^[49] or 10 days before 16 September 2002 - when the 2002 Manual took effect.^[50] This sequence of events explains why no supporting evidence was attached to the bank's Affidavit of Third-Party Claim. We note, nevertheless, that the 2002 Manual was already in effect when Metrobank filed its Reply to Comment to Third-party Claim with Motion to Set Hearing^[51] on 3 October 2002. By then, it should have realized that it was already required to submit supporting evidence of its claim under the revised rule, and that it no longer needed to await the grant of its request for a hearing. Furthermore, since the LA resolved the claim only on 5 December 2002, or three months after the 2002 Manual took effect, Metrobank had more than enough time to submit the required evidentiary support of its alleged right to the property.

It must be emphasized that the amended provision gave the LA the discretion to determine whether additional evidence needed to be presented before the third-party claim could be resolved. Since the claimant was already required to submit proof of his alleged title to the

property, the LA was allowed to decide the claim based only on the evidence submitted. Here, the LA decided that no further hearing was necessary, given the failure of Metrobank to submit proof of its claim to the properties. As will be further discussed, the Court finds no reason to overturn this conclusion.

We likewise find no merit in the assertion that petitioner was denied due process. The decision of the LA not to conduct a formal evidentiary hearing before resolving the case was justified, as the conduct of those hearings is not mandatory in all instances, particularly in administrative proceedings.^[52] At its core, due process simply means giving both parties a fair and reasonable opportunity to be heard or to explain their side of the controversy.^[53] Here, Metrobank was clearly granted this opportunity through the written submissions it presented to the LA. That these submissions supposedly failed to include all the pieces of evidence it intended to present is entirely its fault.

In any case, Metrobank was given additional opportunities to argue its case and present its evidence before the NLRC and the CA. These subsequent proceedings were more than enough to rectify any alleged procedural flaw and satisfy the requirements of due process.^[54]

Metrobank and petitioner failed to prove their right to the properties.

At any rate, this Court sustains the conclusion of the CA with regard to the failure of Metrobank to establish the latter's third-party claim. Our examination of the records of this case reveals that the bank failed to present a single piece of evidence in support of a crucial point, i.e., that the properties subject of the chattel mortgage in its favor were among those levied upon and sold by the NLRC sheriff.

We cannot ignore the fact that Metrobank was repeatedly made aware of its failure to present the required evidence and given the opportunity to rectify the error. Throughout the proceedings before the LA, the NLRC and the CA, its claim was rejected because there was insufficient evidence that the properties, subject of the levy, had indeed been mortgaged to the bank. However, it never bothered to present proof of this assertion in its various submissions before the agencies and the CA. In fact, even when the bank identified and attached copies of the documents it allegedly intended to present in case an evidentiary hearing would be conducted,^[55] its own enumeration did not include any evidence of this particular point. It merely submitted lists of the chattels supposedly mortgaged to it without identifying which of these items were actually levied upon and sold by the sheriff.

Petitioner also had an opportunity to prove the third-party claim before this Court. It was

aware that the CA had denied Metrobank's Petition for Certiorari due to the absence of proof that the properties allegedly mortgaged to the bank were among those sold by the sheriff on execution. It would have been a simple matter to identify the properties sold by the sheriff, as well as to prove that these items were included in the list of properties mortgaged to Metrobank. Petitioner, however, still opted to attach only a machine copy of the Notice of Levy/Sale on Execution of Personal Property, **without annexes**,^[56] to its Petition for Review. For obvious reasons, this machine copy will not suffice as evidence.

It must be pointed out that third-party claimants in execution proceedings have the burden of proving their right or title to the subject properties, if they want to defeat the judgment lien.^[57] To do so, they must submit evidence not only of the basis of their entitlement, but also of the fact that the properties they are claiming were indeed the subject of the execution. Failure to submit that evidence will justify the denial of the third-party claim, as in this case.

In view of the foregoing, this Court no longer finds it necessary to resolve the other issues raised by the parties. There was sufficient justification for the LA to deny the third-party claim, and for the NLRC and the CA to affirm that ruling.

WHEREFORE, the Petition for Review is **DENIED** for lack of merit. The Court of Appeals Decision dated 1 October 2007 and Resolution dated 21 January 2008 are hereby **AFFIRMED**.

SO ORDERED.

Leonardo-De Castro, Perlas-Bernabe, and Caguioa, JJ., concur.
Bersamin, J., on official leave.

^[1] *Rollo*, pp. 10-35.

^[2] Dated 1 October 2007; penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Romeo F. Barza and Mariano C. Del Castillo (now an Associate Justice of this Court); *id.* at 37-44.

^[3] Dated 21 January 2008; *id.* at 46-47.

^[4] See Sheriff's Return dated 30 January 2003; *id.* at 278-284.

^[5] Id. at 279.

^[6] The illegal dismissal case was docketed as NLRC Case No. 00-02-01195-2000/01607-2000 and entitled “*UE Automotive Workers Union NFL, Alfredo B. Basi, Union President v. UE Automotive Manufacturing, Inc., and/or Mr. George Co Lim.*”

^[7] *Rollo*, pp. 197-198.

^[8] Id. at 153-177.

^[9] Id. at 178-182.

^[10] Id. at 183-187.

^[11] See Comment to Third-party Claim dated 20 September 2002; id. at 208-212.

^[12] Id.

^[13] Id. at 213-217.

^[14] Id. at 216.

^[15] Penned by Executive Labor Arbiter Joselito Cruz Villarosa; id. at 223-232.

^[16] *Rollo*, p. 231.

^[17] Compliance dated 20 January 2003; id. at 233-234.

^[18] Rule VI, Section 2 of the NLRC Manual on Execution of Judgment, states:

SECTION 2. Proceedings. — If property levied upon be claimed by any person other than the losing party or his agent, such person shall make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter or proper officer issuing the writ and upon the prevailing party. Upon receipt of the third-party claim, all proceedings with respect to the execution of the property subject of the third-party claim shall automatically be suspended and the Labor Arbiter or proper officer issuing the writ shall conduct a hearing with due notice to all parties concerned and resolve the validity of the

claim within ten (10) working days from receipt thereof and his decision is appealable to the Commission within ten (10) working days from notice, and the Commission shall resolve the appeal within same period.

However, should the prevailing party put an indemnity bond in a sum not less than the value of the property levied, the execution shall proceed. In case of disagreement as to such value, the same shall be determined by the Commission or Labor Arbiter who issued the writ.

^[19] Dated 27 January 2003; *rollo*, pp. 285-286.

^[20] Penned by Commissioner Tito F. Genilo and concurred in by Commissioner Ernesto C. Vercelles; Presiding Commissioner Lourdes C. Javier took no part; *Id.* at 355-365.

^[21] *Id.* at 359.

^[22] *Id.* at 359-360.

^[23] *Id.* at 361.

^[24] Motion for Reconsideration dated 9 June 2004; *id.* at 366-375.

^[25] *Id.* at 371.

^[26] *Id.* at 371-373.

^[27] Penned by Commissioner Tito F. Genilo and concurred in by Commissioner Ernesto C. Vei Presiding Commissioner Lourdes C. Javier took no part. *Id.* at 385-400.

^[28] *Id.* at 395-396.

^[29] *Id.*

^[30] *Id.* at 409-414.

^[31] *Id.* at 414-417.

^[32] *Id.* at 459-463.

^[33] Resolution dated 10 July 2007; *id.* at 442-443.

^[34] Id. at 37-44

^[35] Id. at 40-42.

^[36] Id.

^[37] Id. at 43.

^[38] Resolution dated 21 January 2008; id. at 46-47.

^[39] *Lim v. Court of Appeals*, 537 Phil. 255 (2006).

^[40] *Rollo*, p. 468.

^[41] See Resolution dated 19 January 2011, id. at 469.

^[42] See note 18.

^[43] NLRC Revised Rules of Procedure, Rule VIII, Section 9, states:

SECTION 9. RESOLUTION OF THIRD-PARTY CLAIM. - Should a third-party claim be filed during execution of the judgment award, the third-party claimant shall execute an affidavit stating his title to property or possession thereof with supporting evidence and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter of proper officer issuing the writ. Upon receipt of the third-party claim, all proceedings, with respect to the execution of the property subject of the third-party claim, shall automatically be suspended. The Labor Arbiter who issued the writ may require the third-party claimant to adduce additional evidence in support of his third-party claim and to post a cash or surety bond equivalent to the amount of his claim, as provided for in Section 6, Rule VI, without prejudice to the posting by the prevailing party of a supersedeas bond in an amount equivalent to that posted by the third-party claimant, and resolve the propriety of such claim within ten (10) working days from submission of the claim for resolution.

^[44] Id. at 40-42.

^[45] NLRC Resolution No. 02-02 (Series of 2002), Amending Certain Provisions of the NLRC

Manual on Execution of Judgment (Sheriff's Manual), 3 July 2002.

^[46] See *Medina Investigation & Security Corp. v. Court of Appeals*, 407 Phil. 273 (2001).

^[47] 537 Phil. 255 (2006).

^[48] *Id.* at 260.

^[49] *Rollo*, pp. 197-198.

^[50] Resolution No. 02-02, Series of 2002, amending certain provisions of the NLRC Manual on Execution of Judgment (Sheriff's Manual) was promulgated on July 3, 2002 by the Commission en bane, Cagayan de Oro City. It took effect on 16 September 2002.

^[51] *Rollo*, pp. 213-217.

^[52] *Sime Darby Employees Association v. National Labor Relations Commission*, 539 Phil. 258 (2006).

^[53] *Damasco v. National Labor Relations Commission*, 400 Phil. 568 (2000)

^[54] *NEECO II v. National Labor Relations Commission*, 499 Phil. 777 (2005).

^[55] *Rollo*, pp. 372-373.

^[56] See Annex E of the Petition for Review; *rollo*, p. 196.

^[57] See *Bacos v. Arcega*, 566 Phil. 59 (2008); Also see NLRC Manual on Execution of Judgment, Rule VI, Section 1.