# FINVEST SECURITIES CO., INC., PLAINTIFF-APPELLANT, VS. ARMAND O. RAQUEL-SANTOS, ANNALISSA MALLARI AND THE PHILIPPINE STOCK EX-CHANGE, INC., DEFENDANTS-APPELLANTS.

Ponente: BATO, JR., J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/070a02d9a41e/

**BATO, JR., J.:**

Before us are plaintiff-appellants partial appeal and defendants-appellants appeal of the April 28, 2003 Judgment[1] of the Regional Trial Court of Makati City, Branch 138 in Civil Case No. 00-1589.

Plaintiff-appellant Finvest Securities Corporation Inc. (Finvest for brevity) is a stock brokerage corporation duly organized under the Philippine laws and is a member of the Philippine Stock Exchange Incorporated (PSE) with one membership seat pledged with the latter. Defendant-appellant Armand O. Raquel-Santos was Finvest's president and nominee to the PSE from February 20, 1990 to July 16, 1998. Defendant-appellant Annalissa Mallari was Finvest's administrative officer until December 31, 1998.

In the course of Finvest's operations, it incurred liabilities to PSE representing mandated clearing house obligations with corresponding fines and other penalties. PSE was also able to receive complaints that Finvest was not meeting its obligations to its clients. On June 17, 1998, PSE sent a letter to Finvest through its president, herein defendant-appellant Armand O. Raquel-Santos, demanding that Finvest settle its obligations to PSE and the claims of its clients within fifteen (15) days from receipt thereof. Upon failure of Finvest to comply with the June 17, 1998 letter, PSE sought authority from the Securities and Exchange Commission (SEC) to take over the operations of Finvest pursuant to Section 22(5) of the Revised Securities Act.

On July 22, 1998, SEC acted favorably on PSE's request and authorized it to take over the operations of Finvest and to continue preserving the latter's assets. Finvest was duly informed of the SEC's decision. On April 26, 1999, Finvest requested for a hearing to determine the exact amount of its commitments and for the resumption of its operations. PSE responded on April 29, 1999 by informing Finvest that they only have May 31, 1999 to settle all its obligations or else PSE will be forced to recommend to the SEC the liquidation of its assets and enforce the payment of its obligations by selling its seat at public auction. Finvest protested the imposition of the May 31, 1999 deadline for being arbitrary because the claims against it have not yet been established.

Faced with mounting complaints from clients and demands from PSE to settle its obligations, Finvest filed a complaint[2] with the SEC for accounting and damages with prayer for a temporary restraining order against defendants-appellants Armand O. Raquel-Santos and Annalissa Mallari, its former president and administrative officer respectively, imputing against them the commission of illegal acts causing severe damage to the company. Finvest also impleaded PSE as a defendant allegedly for violating its right to due process when it indefinitely suspended Finvest's operation and for illegally and arbitrarily imposing upon Finvest fines and penalties.

On February 4, 2000, the SEC through its hearing panel rendered a Partial Judgment[3] holding defendants-appellants Raquel-Santos and Mallari jointly and severally liable and ruled that "the fact alone that respondents Raquel-Santos and Mallari could not account for the funds or proceeds of sale of shares of stock and

for the stock certificates when only they had the custody of these assets, leads to the conclusion that they were guilty of gross negligence or bad faith for wrongful disposition of these assets".[4] A motion to set aside the partial judgment was filed alleging non-receipt of summons, nonetheless, the partial judgment attained its finality and a writ of execution was issued. Two separate notices of garnishments and sale were issued against the Manila Golf Shares and Sta. Elena Golf Shares of Raquel-Santos. On June 5, 2000, the hearing panel issued a writ of preliminary injunction[5] enjoining the PSE from initiating the liquidation of Finvest and from selling its membership seat. On June 29, 2000 herein parties entered into an agreement, which was approved by the SEC en banc in its July 11, 2000 order.[6] Embodied in the agreement were the parties conformity to have the case remanded to the hearing panel for further proceedings, for Raquel-Santos not to dispose nor transfer the properties garnished and the writs of garnishment previously issued will remain in force during the pendency of the case.

Upon the approval of the Securities Regulation Code, the instant case was transferred to the regional trial court. Before the court a quo, the parties filed several motions including Raquel-Santos' motion for lifting of garnishment on his Manila Golf Club shares, which was favorably acted upon as per court order[7] dated October 2, 2001 emphasizing that no valid writ can be granted in the absence of proper accounting to determine the amount for which defendants are to be held jointly and severally liable to Finvest. PSE on the other hand filed a motion to dissolve the writ of preliminary injunction issued pursuant to the June 5, 2000 order of the SEC's hearing panel asserting that it has the legal obligation to make the appropriate recommendations to the SEC on whether or not it will be to the best interest of all concerned for Finvest to be liquidated at the soonest possible time. Spawned by the October 2, 2000 order were three more motions, to wit: (1) Omnibus motion for reconsideration and/or clarification with prayer for status quo order; (2) Motion to respect and/or enforce SEC en banc Order dated July 11, 2000, both filed by Finvest and (3) Third party claim to compel issuance of membership certificate filed by a certain Rodolfo Feliciano who purchased the Manila Golf shares of Raquel-Santos. The same were all denied by the court a quo in an order dated May 30, 2002.[8]

Finvest then filed a petition for certiorari with a prayer for the issuance of temporary restraining order before the Court of Appeals.[9] On December 9, 2002, the former fifth division of this Court granted the Finvest's petition and modified the October 2, 2001 decision of the court a quo, providing further that the sale of the share of Raquel-Santos in the Manila Golf Club is valid subject to the outcome of the main case (Civil Case No. 00-1589). The parties were further enjoined to comply with their obligations under the July 11, 2000 order of the SEC en banc.[10]

On April 28, 2003, the court a quo issued the assailed judgment in Civil Case 00-1589, the dispositive portion of which reads:

> "WHEREFORE, judgment is rendered directing that the writ of preliminary injunction issued on June 21, 2000 be declared permanent. Respondents Raquel-Santos and Mallari are ordered to render an accounting of the stock certificates listed in Annex A of the Complaint.SO ORDERED."[11]

On September 12, 2003, Finvest sought a partial reconsideration of the April 28, 2003 judgment of the court a quo, praying therein: 1) for the correction of the date of issuance of the preliminary injunction mentioned in the judgment from June 21, 2000 to June 5, 2000; 2) that the indefinite suspension of Finvest by the PSE be lifted; 3) that Raquel-Santos and Mallari be ordered to render an accounting of the stock certificates listed in Annex "X" (instead of Annex "A" as written in the dispositive portion of the April 28, 2003 judgment) within a reasonable period of sixty (60) days from receipt of the ruling of the court a quo, and upon their failure to do so, to jointly and severally pay complainant the equivalent sum of eighteen million one hundred eighty four thousand eight hundred fifty-five pesos and eighty-nine centavos (P18,184,855.89) as of December 31, 1998; and 4) to order Raquel-Santos to liquidate his cash advances with Finvest amounting to three million one hundred forty-three


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

thousand eight hundred twenty-three pesos and sixty-three centavos (P3,143,823.63) within a reasonable period of sixty (60) days from receipt of the ruling of the court or such amount of unliquidated cash advances in case of failure.[12]

Acting on Finvest's motion for partial reconsideration, the court a quo issued an Order[13] dated February 1, 2005, the dispositive portion of which states:

> "WHEREFORE, the plaintiff's Motion for Partial reconsideration is partially granted as follows-
>
> a) The indefinite suspension of operation of plaintiff Finvest Corporation by the defendant Philippine Stock Corporation is lifted; and
>
> b) The "Annex A" in the dispositive portion of the Judgment dated April 28, 2003 is modified to read as "Annex X".
>
> All other reliefs are denied."[14]

Hence this appeal by the defendants PSE, Armand Raquel-Santos and Annalissa Mallari and partial appeal by plaintiff Finvest Securities Co., Inc.

Finvest raised the lone error, to wit: The trial court erred in not specifying the period and the amount of damages that the plaintiff-appellant may suffer should defendants-appellants Raquel-Santos and Mallari fail to render an accounting.[15]

Defendants Raquel-Santos and Mallari on the other hand were not able to file their respective appellant's brief. Thus, their appeal was considered abandoned by this court in a resolution dated May 31, 2006.[16]

For its part, PSE raised the following assignment of errors:

> "I
>
> THE REGIONAL TRIAL COURT ERRED WHEN IT DID NOT CONSIDER THE PLEDGE AGREEMENT BETWEEN PLAINTIFF-APPELLEE AND DEFENDANT APPELLANT
>
> II
>
> THE REGIONAL TRIAL COURT ERRED WHEN IT HELD THAT PLAINTIFF-APPELLEE HAD NOT BEEN REMISS IN ADDRESSING ITS DISPUTE WITH THE PSE
>
> III
>
> THE REGIONAL TRIAL COURT ERRED WHEN IT HELD THAT, WHEN THE INTENT TO LIQUIDATE WAS MADE, THE ISSUES OF AMOUNT OF LIABILITY OF THE COMPLAINANT WAS STILL UNSETTLED
>
> IV
>
> THE HONORABLE REGIONAL TRIAL COURT ERRED WHEN IT DIRECTED THAT THE WRIT OF PRELIMINARY INJUNCTION ISSUED ON JUNE 21, 2000 BE DECLARED PERMANENT
>
> V
>
> THE HONORABLE REGIONAL TRIAL COURT ERRED WHEN IT DID NOT AWARD TO DEFENDANT-APPELLANT THE COMPULSORY COUNTERCLAIMS IT PRAYED FOR IN ITS ANSWER"[17]

We agree with Finvest that the court a quo erred in ruling that there is no need to provide for a period within

which the defendants-appellants should render an accounting in view of Section 4 of Rule 39 of the Rules of Court, which states:

> "SEC.4. Judgments not stayed by appeal. Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.
>
> The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party."

There is nothing in the above-quoted provision that provides for a specific period within which the required accounting should be made. The rule simply provides for the immediate execution of the judgment for accounting. Considering also that the court a quo denied plaintiff-appellant's motion for execution pending appeal on the ground that it already approved the notices of appeal of both parties,[18] it is therefore appropriate to grant Finvest's appeal to modify the court a quo's judgment by providing for a specific period for said accounting for expediency and in the interest of speedy disposition of justice. The period of sixty (60) days from finality of this decision is a reasonable period for Raquel-Santos and Mallari to render the necessary accounting.

Finvest then prayed that if Raquel-Santos and Mallari fail to render an accounting, they should be ordered to jointly and severally pay Finvest the amount of eighteen million one hundred eighty-four thousand eight hundred fifty-five pesos and eighty-nine centavos (P18,184,855.89). Said amount represents the unaccounted stock certificates based on PSE's closing quotation as of December 28, 1998. Also, Finvest prayed that if Raquel-Santos likewise fails to account for his unliquidated cash advances totaling to three million one hundred forty-three thousand eight hundred twenty-three pesos and sixty-three centavos (P3,143,823.63), he should be made to pay for the same.

The SEC's partial judgment wherein it ruled that the fact alone that Raquel-Santos and Mallari could not account for the funds or proceeds of the sale of the shares of stock when only they had the custody of these assets, leads to the conclusion that they are guilty of gross negligence or bad faith for the wrongful disposition of these assets,[19] persuades us to grant Finvest's prayer that Raquel-Santos and Mallari should be ordered to pay the amount of P18,184,855.89 as per affidavit of Finvest's Vice President Mr. Ernesto Lee, regarding the various claims listed in Annex "X" of the complaint which in turn was based from the PSE's closing quotation as of December 28, 1998[20] and for Raquel-Santos to pay the amount of P3,143,823.63 representing his unliquidated cash advances, in the event that they will fail to render the necessary accounting within the given period. This Court takes notice of the fact that Raquel-Santos and Mallari did not even bother to dispute the affidavit of Mr. Ernesto Lee regarding the various schedule of claims.

Moving on to defendant-appellant PSE's claim, the first three assigned errors shall be discussed together for being interrelated. PSE alleged that while the court a quo recognized the genuineness and due execution of the pledge agreement, it failed to recognize the resulting rights and liabilities arising therefrom. PSE points out that paragraph 5(a) of the Pledge Agreement gives it the right to sell Finvest's membership seat in the PSE at public auction upon Finvest's failure to comply with its liabilities.

We do not agree with PSE. Paragraph 5 (a) of the Pledge Agreement is quoted hereunder, viz:

> "5. Default. In the event of a default by the PLEDGOR in respect to the obligation or upon the failure of the PLEDGOR to comply with any of the provisions of this agreement, the PLEDGEE may
>
> (a) cause the public sale at any time as the PLEDGEE may elect at its place of business or elsewhere and the

> PLEDGEE may, in all allowable cases, acquire or purchase the Pledged Seat and hold the same thereafter in its own right free from any claim of the PLEDGOR;"[21]

Clearly, paragraph 5(a) of the Pledge Agreement pertains to obligations already determined and established, and failure of the pledgor to comply with the same entitles the pledgee to the remedies as embodied in said agreement. In the present case however, we agree and adopt the findings of the Hearing Panel of the SEC that the validity of PSE's imposition of fines and penalties have yet to be substantiated. The amount being insisted by PSE as the amount of liability of Finvest is the amount determined and computed by them without showing any computation on how the amount was arrived at. Finvest endeavored to verify the claims against it by requesting for copies of supporting documents but the request was not favorably acted upon. Finvest also sent proposals for settlement of its clients' claims but instead of heeding the request, PSE set a deadline for Finvest to settle its obligations. Finvest was not given the opportunity to present evidence and refute the amount being claimed. Hence, the court a quo did not err when it did not recognize the right being invoked by PSE, as there is no such right to speak of for the meantime. Stated otherwise, PSE cannot insist on selling Finvest's seat unless its claims have been resolved with finality.

Contrary to PSE's claim, we find that Finvest was not remiss in addressing its dispute with PSE. Records reveal that Finvest made several communications with PSE to clarify and negotiate the terms of payment of whatever obligations it has. Such an act by Finvest clearly shows that it has no intention of turning its back on its obligations but PSE must first establish with clarity the amount of Finvest's obligations and how it was derived at.

On the issue of the propriety of the permanent injunction granted by the court a quo, we find that the arguments of PSE in support thereof boils down to the validity of its claim against Finvest. In view of our ruling above that PSE has not fully established its claim with Finvest, it is thus proper to enjoin PSE from exercising whatever rights it may have under the Pledge Agreement. The requisites before an injunctive writ can be issued, to wit: (a) there must be a right in esse or the existence of a right to be protected, and (b) the act against which injunction is to be directed is a violation of such right,[22] are therefore present in the case at bench.

Accordingly, the court a quo did not err in denying PSE's compulsory counterclaims.

WHEREFORE, plaintiff-appellant Finvest's partial appeal of the April 28, 2003 Judgment of the Regional Trial Court of Makati City, Branch 138 is hereby GRANTED to the effect that defendants-appellants Armand O. Raquel-Santos and Annalissa Mallari are hereby given a period of sixty (60) days from the finality of this decision to render an accounting and in the event that they will fail to do so, they are hereby ordered to jointly and severally pay Finvest the amount of eighteen million one hundred eighty-four thousand eight hundred fifty-five pesos and eighty-nine centavos (P18,184,855.89), and for defendant-appellant Raquel-Santos to pay three million one hundred forty-three thousand eight hundred twenty-three pesos and sixty-three centavos (P3,143,823.63). As for the appeal of defendant-appellant Philippine Stock Exchange, the same is hereby DENIED for lack of merit.

**SO ORDERED.**

Cruz, (Chairman) and Roxas[*], JJ., concur.

---

[1] Records, Volume III, pp. 280-285.

[2] Records, Volume I, pp. 1-16.

[3] Records, Volume I, pp. 157-162.


*Bar review courses, mock exams and a study planner that keeps you on pace - batas.org*

[4] Ibid, pp. 160-161.

[5] Records, Volume I, p. 451.

[6] Records, Volume II, p. 6.

[7] Records, Volume II, pp. 85-90.

[8] Records, Volume II, pp. 410-414.

[9] Records, Volumme III, pp. 1-28.

[10] CA Decision, Records, Volume III, pp. 239-252.

[11] Supra, note 1, p. 285.

[12] Records, Volume III, pp. 286-292.

[13] Records, Volume III, pp. 347-349.

[14] Ibid, p. 349.

[15] Rollo, pp. 29-52, 41.

[16] Rollo, pp. 161-163.

[17] Rollo, pp. 68-91, 79-80.

[18] Records, Volume III, p. 365.

[19] Supra, note 3.

[20] Records, Volume I, p. 264.

[21] Annex “7” to the Complaint, Records, Volume 1, pp. 124-126, 125.

[22] European Resources and Technologies, Inc. vs. Ingenieuburo Birkhahn + Nolte, Ingeniurgesellschaft mbh, 435 SCRA 246, 259 [2004].

[*] Acting Senior Member vice J. Brion.


*Study hands-free: podcast-style lessons with read-along highlighting - batas.org*

ABOUT BATAS.ORG

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

### The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

### Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

### Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

### The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

### Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

### A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at https://batas.org**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.