

**SEVEN GOLDEN JEWELS HOLDING CO. INC, REPRESENTED BY
EVELYN HISOLER AND RAUL G. RISOS, PLAINTIFF-APPELLANT, VS.
CECILIA REINA M. GONZALVEZ AND SPS. MANUEL AND ARACELI DE
VEYRA, D...**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

This appeal[*] seeks to reverse or set aside the Order[1] dated March 9, 2010 and the Order[2] dated June 2, 2010 rendered by the Regional Trial Court (RTC), Branch 56, Mandaue City. In its Decision, the RTC ruled in favor of defendants-appellees and found herein plaintiff-appellant liable to pay defendants-appellees the sum of six hundred thousand pesos (PhP 600,000) plus interest. Plaintiff-appellant then filed a Motion for Reconsideration[3] dated April 5, 2010 but it was denied on June 2, 2010, hence this appeal.

The factual antecedents:

The instant case stemmed from a Complaint[4] dated December 17, 2010 filed by plaintiff Seven Golden Jewels Holding Co., Inc., (represented by Evelyn Hisoler and Raul Risos) for breach of contract and damages with prayer for Temporary Restraining Order and Writ of Preliminary Injunction against defendants Cecilia Reina M. Gonzalvez and spouses Manuel and Araceli de Veyra, before the RTC, Branch 56, of Mandaue City.

Plaintiff is the owner of Isla Bella Beach Club International, a club which provides its members certain coupons that allow them to enjoy hotel accommodations and special tie-ups in the Philippines and in other destinations worldwide. A non-refundable sum of two hundred thousand pesos (PhP 200,000.00) as membership fee is required.[5]

Plaintiff avers that it engaged the services of defendants Manuel and Araceli de Veyra (de Veyras) as their agents. Defendants agreed to recruit or enlist members and sell membership certificates for Isla Bella Beach Club for a commission ranging from five to fifteen percent (5 to 15%) of the membership fee.

On August 11, 2000, the defendant spouses organized a party in Bais City to attract and recruit potential members. The de Veyras were able to convince their co-defendant Cecilia Gonzalvez (Gonzalvez) to become a member and agent of plaintiff corporation. In turn, Gonzalvez, as a sub-agent, recruited five of her relatives to enlist as members, who paid in cash and check in the amount of six hundred thousand pesos (PhP 600,000.00).

However, plaintiff corporation alleges that only four hundred thousand pesos (PhP 400,000.00) was remitted by the defendants. Despite repeated demands, defendants refused to turn over the entire amount. Defendants also unilaterally terminated the contract of agency, and thereafter engaged in a smear campaign directed against the goodwill of the corporation. Defendants conspired in destroying the name of the corporation by spreading stories that it is a hoax and a scam. Further, defendants induced other members to stop selling club membership. Because of defendants' acts, the relatives of Gonzalvez whom she recruited withdrew their membership. Likewise, other members followed and severed their membership with plaintiff corporation.[6] It is for the reasons stated above

that plaintiff corporation was constrained to file a case for breach of contract and for abuse of rights under Article 19 of the Civil Code against the defendants.

On November 29, 2000, defendants filed an Answer with Counterclaim[7] substantially refuting all of plaintiff's material allegations.

Defendant Gonzalvez avers that it was a horrendous mistake on her part when she immediately enlisted as a member and agent of plaintiff corporation without having first investigated the company.[8] It was only after she became a member when she received reports that people at Seven Golden Jewels have misrepresented themselves, prompting her to hire an independent credit investigator.

For their part, defendants de Veyras joined plaintiff corporation sometime in June of 2000, believing in its potential for marketing membership sales. However, they started to have serious doubts on the company when they learned that there were numerous deductions on Gonzalvez's share. They resigned with their co-defendant Gonzalvez when the latter informed them that she hired a credit investigator to look into the anomalous reports she gathered.

Gonzalvez' decision to stop her co-defendants (spouses de Veyra) from completing their membership application with plaintiff corporation was prompted by the negative report submitted by her private investigator. These findings, among others, include the following: (1) defective and/or incomplete documentation of collaterals submitted to JR Consultancy Services; (2) letter of Noel Dela Paz addressed to plaintiff's financial consultant, dated March 15, 2000, calling plaintiff's attention to its misleading and unauthorized use of Newgate Management Inc., with respect to its marketing materials; (3) reluctance to comply with project site visit to the development of plaintiff's theme park resort; and (4) sale of membership shares without permit from the Securities and Exchange Commission (SEC).[9]

Defendants counter that it is plaintiff corporation that is liable to them in the amount of six hundred thousand pesos (PhP 600,000.00) as refund for the membership fees which they paid in advance. Despite repeated demands,[10][11] plaintiff corporation failed to make a refund of the said amount.

Further, defendants never spoke to anyone regarding plaintiff's business, hence it is ridiculous for plaintiff to accuse them of engaging in a smear campaign to destroy the corporation's reputation.

In their Answer with Counterclaim, defendants impleaded the officers of plaintiff-corporation, namely: Evelyn Hisoler, president, Raul Risos, EVP Marketing and Sales, Mari Risos, EVP Personnel and Administration, and Teresita Gambito, sales director, for conspiring and confederating in defrauding them.

In its Order[12] dated December 20, 2000, the RTC granted plaintiff's prayer for a Writ of Preliminary Injunction, enjoining the defendants or their agents to cease and desist from destroying the name of plaintiff, and from inducing any of its members to withdraw their membership and violate the club membership purchase agreement, among others.

Defendants filed a Motion for Reconsideration[13] of the above Order on January 13, 2001, but the said Motion was denied for lack of merit on April 23, 2001.[14]

After submission of the parties' respective Pre-trial Briefs, Pre-trial was conducted on November 13, 2002 and a Pre-trial Order was issued on the same date.[15]

In a sudden turn of events, plaintiff's counsel moved for the dismissal of the case on June 23, 2004, manifesting in open court that its client, plaintiff corporation, is no longer legally existing because its franchise had been disapproved by the Securities and Exchange Commission (SEC). Defendants' counsel did not interpose any

objection, so the case was ordered dismissed on the same date.[16] The Order itself stated that Atty. Ortiz (defendant's counsel) has no objection and he is not pursuing his counterclaim or attorney's fees.

After reading the said Order and perhaps, after realizing that it served them no good, defendants filed a Comment of Order[17] dated July 16, 2004 stating that while they have no objection to the dismissal, they are not waiving their counterclaim against plaintiff's officers, particularly for the return of six hundred thousand pesos (PhP 600,000.00).

Defendants filed a Manifestation with Motion to Set Counterclaim for Hearing, but when the case was set for hearing on April 15, 2005, plaintiff's representatives and their counsel failed to appear and defendants' counsel arrived late. Thus, the case was ordered dismissed for lack of interest.[18]

Defendants' counsel filed a timely Motion[19] on the said Order. The RTC found defendants' reason sufficient, so it issued an Order[20] setting the case for hearing on April 26, 2006. In its Order[21] dated November 10, 2006, the RTC upheld defendants' right to prosecute their counterclaim despite the fact that plaintiff corporation's franchise was ordered revoked by the SEC.

Thereafter, trial on the counterclaim ensued.

On April 11, 2007, one of the defendants-appellees, Manuel Veyra, testified in court. Plaintiffs and their counsel did not appear despite due notice, thus cross-examination of Manuel de Veyra was deemed waived. In its Order[22] issued on the same date, the RTC admitted all the exhibits presented and deemed the case submitted for decision.

On May 28, 2007, plaintiff filed a Motion for Reconsideration[23] of the April 11, 2007 Order but it was denied on August 7, 2007.[24]

On November 28, 2007, the RTC issued an Order[25] finding plaintiff and its officers liable, the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, Plaintiff's officers, Evelyn Hisoler, Raul Risos, Mari Risos and Teresita Gambito are hereby declared jointly and solidarily liable and ordered, as such, to refund Cecilia Reina Gonzalvez and her relatives the sum of four hundred thousand pesos (PhP 400,000.00) with interest at twelve percent (12%) per annum from September 2000 until fully paid.

SO ORDERED.

Plaintiff filed a Motion for Reconsideration[26] of the said Decision/Order reiterating the same grounds used in previous motions for reconsideration, which naturally yielded the same result.

For their part, defendants filed a Motion to Correct Manifest Error in Decision[27], praying that the award be increased from four hundred thousand pesos (PhP 400,000.00) to six hundred thousand pesos (PhP 600,000.00), citing the clerical omission of Annex C in Defendants' Counterclaim, despite the fact that three machine copies of the official receipts were offered in Defendants' Exhibits in the counterclaim.

On March 9, 2010, the RTC issued an Order[28] granting defendants' Motion to Correct Manifest Error in Decision, and its Order dated November 28, 2007 was amended, increasing the award from four hundred thousand pesos (PhP 400,000.00) to six hundred thousand pesos (PhP 600,000.00).

Plaintiff filed another Motion for Reconsideration, this time on the March 9, 2010 Order, but it was denied in the June 2, 2010 Order.[29] To these Orders, plaintiff filed a Notice of Appeal[30]. The following are the errors assigned in the Appellant's Brief:

- WHETHER OR NOT THE LOWER COURT ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIMS WHEN APPELLEES WERE BARRED BY ESTOPPEL WHEN THEY AGREED TO DISMISS THEIR COUNTERCLAIMS.
- WHETHER OR NOT THE LOWER COURT ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIM WHEN THE MAIN CASE HAS BEEN DISMISSED AND THE DISMISSAL HAS ALREADY BECOME FINAL.
- WHETHER OR NOT THE LOWER COURT ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIM WHEN THE MOTION WAS DEFECTIVE.
- WHETHER OR NOT THE LOWER COURT ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIMS WHEN IT HAS NOT ACQUIRED JURISDICTION BY NON-PAYMENT OF DOCKET FEE.
- WHETHER OR NOT THE LOWER ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIMS WHEN ON APRIL 15, 2005 THE CASE WAS DISMISSED AND THE DISMISSAL HAS ALREADY BECOME FINAL AND WHEN THE MOTION TO REINSTATE IT OR RECONSIDERATION WAS DEFECTIVE.
- WHETHER OR NOT THE LOWER COURT ERRED IN RENDERING THE DECISION DATED NOVEMBER 28, 2007 WHEN NO EVIDENCES WERE OFFERED IN ACCORDANCE WITH THE RULES OF COURT.
- WHETHER OR NOT THE LOWER COURT ERRED IN RENDERING THE ORDER DATED MARCH 9, 2010 AMENDING THE ORDER NOVEMBER 28, 2007.
- WHETHER OR NOT THE LOWER COURT ERRED IN HOLDING THAT THE CASE WAS DISMISSED FOR FAILURE TO PROSECUTE.
- WHETHER OR NOT THE LOWER COURT ERRED IN GIVING DUE COURSE TO THE COUNTERCLAIMS AGAINST THE OFFICERS OF DEFENDANT CORPORATION AND IN ISSUING THE TWO (2) ORDERS.

The Ruling of This Court

At the outset, it must be emphasized that the present appeal is procedurally defective since the Appellant's Brief also prayed for the reversal of the Order dated November 28, 2007. The said Order has already been assailed and superseded in the proceedings before the trial court. The Appellant's Brief should have assailed the June 2, 2010 Order which denied their Motion for Reconsideration of the Order dated March 9, 2010, as was stated in the Notice of Appeal. Nevertheless, in the interest of substantial justice, We brush aside technicalities of procedure and proceed to discuss the merits of this case.

On the first issue, We rule that defendants are not barred by estoppel when they did not object to the dismissal initiated by plaintiff corporation's counsel.

The equitable doctrine of estoppel was explained by the Supreme Court in *Caltex (Philippines), Inc. v. Court of Appeals*[31]:

Under the doctrine of estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon. A party may not go back on his own acts and representations to the prejudice of the other party who relied upon them. In the law of evidence, whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, to act upon such belief, he cannot, in any litigation arising out of such

declaration, act, or omission, be permitted to falsify it.

By interposing no objection to plaintiff-appellant's request to have the case dismissed, defendants-appellees did not represent that they would no longer be pursuing their counterclaim. As explained in their Appellee's Brief,[32] what defendants-appellees are not objecting to is their counterclaim for attorney's fees, and not for the refund of the amount of six hundred thousand pesos (Php 600,000.00). This is more so considering that defendants, in their Comment of Order[33], expressly manifested in this wise:

“Defendants, however, will not waive their counterclaim against plaintiff officers Evelyn Hisoler, Raul and Maritoni Risos and Teresita Gambito, particularly for the return of the Php 600,000.00 received by plaintiff for membership in Isla Bella Beach Club although plaintiff had no right to said membership fee and defendant actually informed plaintiff that they did not intend to continue with their membership application.”

On the second issue, suffice it for Us to state that the dismissal of the complaint upon motion of the plaintiff does not necessarily include the dismissal of the counterclaim. Section 2, Rule 17 of the Rules of Civil Procedure[34] is categorical. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint.

On the third issue, the lower court already ruled on that matter in its Order[35] dated November 28, 2007. It is an issue raised multiple times by plaintiff-appellant, which the lower court settled in numerous occasions. We find no reason to disturb the uniform rulings of the trial court.

On the fourth issue, We find that the defendants' counterclaim is a compulsory counterclaim as defined under Section 7, Rule 6, of the 1997 Rules of Civil Procedure,[36] since the claim for refund arises out of or is connected with the transaction or occurrence constituting plaintiff-appellant's claim. Consequently, the lower court acquired jurisdiction over the counterclaim despite the non-payment of docket fee. The Supreme Court's ruling in the case of *Korea Technologies Co. Ltd. v. Lerma* sheds light on this issue, viz:[37]

“On July 17, 1998, at the time PGSMC filed its Answer incorporating its counterclaims against KOGIES, it was not liable to pay filing fees for said counterclaim being compulsory in nature. We stress, however, that effective August 16, 2004, under Sec. 7 of Rule 141, as amended by AM No. 04-2-04-SC, docket fees are now required to be paid in compulsory counterclaim or cross claims.” (Emphasis supplied)

Defendants' Answer with Counterclaim having been filed on November 29, 2000, or well before August 16, 2004, payment of docket was not required to vest the trial court with jurisdiction over the counterclaim.

On the fifth issue, it is elementary rule that a judgment or final order becomes final and executory after a lapse of fifteen (15) days from notice thereof. The fifteen-day period starts to run from the date of receipt of the final judgment or order, not from the actual date when the final judgment or order was rendered or issued.

The Motion filed by defendants-appellees dated June 22, 2005 is therefore timely filed considering that the latter received the Order dismissing their counterclaim on July 12, 2005.[38] In fact, they filed the said Motion even before receipt of the Order of Dismissal. The Order[39] granting the Motion stated that the Motion was timely filed, thus the April 15, 2005 Order is not yet final and executory.

On the sixth, seventh, and eighth issues, as these are interrelated, We will discuss them together.

At the outset, it bears stressing that Section 1, Rule 36 of the Rules of Court,[40] which was lifted from Section 14, Article VIII of the 1987 Constitution,[41] does not prescribe strict guidelines on how decisions should state the facts and laws upon which the decisions are based. This is to give greater leeway to judges in deciding cases in the manner they deem fit. Furthermore, it has been repeatedly held that the said requirement, set out in the foregoing constitutional and statutory provisions, refers only to decisions on the merits and not to orders resolving

incidental matters.[42]

After a perusal of the records of the case, We hold that the assailed Decision and Order have substantially complied with the requirements set forth in the Rules of Court and the 1987 Constitution.

As to plaintiff-appellant's allegation that the assailed Motion to Reinstate the Case and Motions for Reconsideration are defective for failing to indicate a notice of hearing, We rule that it is already too late for plaintiff-appellant to raise that issue in the present appeal.

It is worth noting that plaintiff-appellant had numerous occasions to raise that objection during the trial, but it never did. Now, plaintiff-appellant must bear the loss of its own inaction. A cursory reading of plaintiff-appellant's motions for reconsideration and oppositions to defendants-appellees' motions, would reveal that it never questioned the lack of notice of hearing, if indeed there was none.

In fact, during the hearing of the assailed motions, plaintiff-appellant's counsel, Atty. Torres, appeared in court but never raised the alleged lack of notices of hearing.[43] For that reason, We rule that plaintiff-appellant is barred from raising that matter before Us. We find guidance in the Supreme Court's pronouncement in the case of *Balais-Mabanag v. Register of Deeds*[44]:

“In every action, indeed, the parties and their counsel are enjoined to present all available defenses and objections in order that the matter in issue can finally be laid to rest in an appropriate contest before the court. The rule is a wise and tested one, borne by necessity. Without the rule, there will be no end to a litigation, because the dissatisfied litigant may simply raise "new" or additional issues in order to prevent, defeat, or delay the implementation of an already final and executory judgment.” (Emphasis supplied)

It is likewise untenable for plaintiff-appellee to argue that the lower court erred in issuing the Order dated November 28, 2007 since the evidences presented were not duly identified and due execution thereof was not established by competent witness.

While only one witness (Manuel de Veyra) was presented to prove defendants' counterclaim, We find that his testimony sufficiently hurdles the quantum of proof required in civil cases. It is axiomatic that truth is established not by the number of witnesses but by the quality of their testimonies.[45] In the determination of the sufficiency of evidence, what matters is not the number of witnesses but their credibility and the nature and quality of their testimonies.[46] Aside from the testimonial evidence of Manuel de Veyra, defendants also established the existence of official receipts evidencing payment for the membership fee, which receipts were properly marked and offered as Annexes A, B, and C[47], and attached to the Motion to Correct Manifest Error in Decision dated February 28, 2008.

On the ninth and last issue, plaintiff-appellant posits that as officers of the corporation, they are not parties to the case, and thus defendants-appellees have no legal ground to file a counterclaim against them. They anchor their claim on the doctrine that a corporation has a separate and distinct personality from that of its officers and stockholders.

Again, We find their argument erroneous.

As officers of the plaintiff-appellant corporation, Evelyn Hisoler and Raul Risos cannot hide behind the veil of corporate fiction to evade liability. The Supreme Court's pronouncement in the oft-cited case of *Francisco v. Mejia*[48] renders their argument unsustainable:

Under the doctrine of piercing the veil of corporate entity, when valid grounds therefore exist, the legal fiction that a corporation is an entity with a juridical personality separate and distinct from its members or stockholders may be disregarded. In such cases, the corporation will be considered as a mere association of

persons. The members or stockholders of the corporation will be considered as the corporation, that is, liability will attach directly to the officers and stockholders. The doctrine applies when the corporate fiction is used to defeat public convenience, justify wrong, protect fraud, or defend crime, or when it is made as a shield to confuse the legitimate issues, or where a corporation is the mere alter ego or business conduit of a person, or where the corporation is so organized and controlled and its affairs are so conducted as to make it merely an instrumentality, agency, conduit or adjunct of another corporation.

With specific regard to corporate officers, the general rule is that the officer cannot be held personally liable with the corporation, whether civilly or otherwise, for the consequences of his acts, if he acted for and in behalf of the corporation, within the scope of his authority and in good faith. In such cases, the officer's acts are properly attributed to the corporation.[13] However, if it is proven that the officer has used the corporate fiction to defraud a third party, or that he has acted negligently, maliciously or in bad faith, then the corporate veil shall be lifted and he shall be held personally liable for the particular corporate obligation involved. (citations omitted)

As to the finding of fraud which warrants the piercing the veil of corporate entity, We take judicial notice of the SEC Decision[49] revoking plaintiff-corporation's franchise:

“On the issue of whether or not there is serious misrepresentation on the part of the IBBCI, the Commission believes there is, which will warrant the revocation of the company's primary franchise. It misrepresented itself to the public that it is allowed to carry on the business, either as principal agent, in the development and the maintenance of beach resort, resort house, clubs, hotels, bars and restaurants, marine sports facilities and other analogous business exclusive for its client or members.

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As to whether or not complainant and her family are entitled to a refund, suffice it to state here that a civil case for breach of contract and damages involving both parties which one of the counterclaim is for the refund of the aforesaid amount to the complainant herein.”

With respect to the issue regarding the lack of service of summons upon the officers of plaintiff corporation, We hold that such service is no longer required.

In Defendants' Answer with Counterclaim, they specifically stated as follows:

“That for this Counterclaim, we implead with Plaintiff Corporation its officers, namely: Evelyn Hisoler, President; Raul Risos, EVP Marketing and Sales; Mari Risos, EVP Personnel and Administration, and Teresita Gambito, Sales Director, all of whom may be served with summons at Carlos Perez Building, A. Cortes Avenue, Mandaue City.[50]”

Further, defendants categorically mentioned that the above-named officers have conspired and confederated in deceiving and defrauding them. Their unscrupulous dealings with defendants, aggravated by the filing of the baseless and unjust action against them, have caused defendants great embarrassment, mental anguish, and besmirched reputation.[51]

In the Answer to the Counterclaim[52], plaintiff-appellant argued that the counterclaim has no legal ground to stand on since the complaint filed by plaintiff was anchored on valid and existing causes of action. It did not raise as an issue, the lack of service of summons upon the corporation's officers.

By filing the Answer to the Counterclaim, plaintiff-appellant's officers are deemed to have recognized the jurisdiction of the trial court over their persons and submitted themselves thereto. They may not now be heard to repudiate or question that jurisdiction. Having submitted to the jurisdiction of the trial court, service of summons to the officers is no longer indispensable. This is in line with the dictum laid down by the Supreme Court in

Sapugay v. Court of Appeals[53]:

“It is noteworthy that Cardenas did not file a motion to dismiss the counterclaim against him on the ground of lack of jurisdiction. While it is a settled rule that the issue of jurisdiction may be raised even for the first time on appeal, this does not obtain in the instant case. Although it was only Mobil which filed an opposition to the motion to declare in default, the fact that the trial court denied said motion, both as to Mobil and Cardenas on the ground that Mobil’s complaint should be considered as the answer to petitioners’ compulsory counterclaim, leads us to the inescapable conclusion that the trial court treated the opposition as having been filed in behalf of both Mobil and Cardenas and that the latter had adopted as his answer the allegations raised in the complaint of Mobil. Obviously, it was this ratiocination which led the trial court to deny the motion to declare Mobil and Cardenas in default. Furthermore, Cardenas was not unaware of said incidents and the proceedings therein as he testified and was present during trial, not to speak of the fact that as manager of Mobil he would necessarily be interested in the case and could readily have access to the records and the pleadings filed therein.

“By adopting as his answer the allegations in the complaint which seeks affirmative relief, Cardenas is deemed to have recognized the jurisdiction of the trial court over his person and submitted thereto. He may not now be heard to repudiate or question that jurisdiction.” (Emphasis Ours)

WHEREFORE, the appeal is DENIED. The Order dated March 9, 2010, and the Order dated June 2, 2010 rendered by the Regional Trial Court (RTC), Branch 56, Mandaue City in Civil Case No. MAN-3966 are hereby AFFIRMED.

SO ORDERED.

Delos Santos, and Lopez, JJ., concur.

[*] However, in its Appellant's Brief, plaintiff-appellant prayed for the reversal of the November 28, 2007 and March 9, 2010 Orders.

[1] Records, p. 299.

[2] Records, p. 314.

[3] Records, p. 302.

[4] Records, p. 1.

[5] Records, p. 2.

[6] Records, pp. 4-5.

[7] Records, p. 27.

[8] ANNEX 1, Rollo, p. 35.

[9] Answer with Counterclaim, Rollo, p. 30.

[10] See footnote 8.

[11] ANNEX 2, Records p. 38.

[12] Records, p. 69.

[13] Records, p. 71.

[14] Order, Records, p. 81.

[15] Order, Records, p. 104.

[16] Order, Rollo, p. 185.

[17] Comment of Order, Records, p. 187.

[18] Order, Records, p. 208.

[19] Motion, Records, p. 210.

[20] Records, p. 212.

[21] Records, p. 216.

[22] Records, p. 220.

[23] Records, p. 257.

[24] Records, p. 264.

[25] Records, p. 266.

[26] Records, p. 271.

[27] February 28, 2008, Rollo, p. 283.

[28] Rollo, p. 299.

[29] Order, Rollo, p. 314.

[30] Records, p. 315.

[31] G.R. No. 97753, August 10, 1992, 212 SCRA 448.

[32] Rollo, p. 62.

[33] Records, p. 187.

[34] Section 2. Dismissal upon motion of plaintiff. — Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court. (2a)

[35] Records, p. 264.

[36] Section 7. Compulsory counterclaim. — A compulsory counterclaim is one which, being cognizable by the regular courts of justice, arises out of or is connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction. Such a counterclaim must be within the jurisdiction of the court both as to the amount and the nature thereof, except that in an original action before the Regional Trial Court, the counter-claim may be considered compulsory regardless of the amount. (n)

[37] 542 SCRA 1, January 7, 2008.

[38] See, back page of Records p. 209.

[39] See footnote 20.

[40] Section 1. Rendition of judgments and final orders. — A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court. (1a)

[41] Section 14. No decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based. No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor.

[42] Remedial Law Compendium, Ninth Revised Edition, 2005, by Florenz Regalado, p. 410, citing the case of *Mendoza v. CFI et al.*, L-35612, June 27, 1973.

[43] Order dated May 23, 2008. Records, p. 290.

[44] G.R. No. 153142, March 29, 2010.

[45] *People v. Ramos*, G.R. No. 135204, 14 April 2004, 427 SCRA 299, 308.

[46] *Cariaga v. Court of Appeals*, 411 Phil. 214, 229 (2001).

[47] Records, pp. 285-287.

[48] [G.R. No. 141617. August 14, 2001]

[49] SEC Decision, Rollo, p. 64.

[50] Answer with Counterclaim, Records, p. 31.

[51] *Supra*, p. 32.

[52] December 11, 2000, Records, p. 59.

[53] 183 SCRA 464, March 21, 1990.

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