

BONIFACIO SANZ MACEDA, JR. AND TERESITA MACEDA–DOCENA, PETITIONERS, VS. DEVELOPMENT BANK OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 135128. August 26, 1999

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-135128/>

PANGANIBAN, J.:

Movants have the burden of showing why the trial court decision should be executed without awaiting the result of the appeal. Absent such justification, its execution pending appeal cannot be granted.

The Case

Before this Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court seeking the reversal of the August 14, 1998 Decision[2] of the Court of Appeals[3] (CA) in CA-GR SP No. 47405, the dispositive portion of which reads:

"WHEREFORE, based on the foregoing, the instant Petition is hereby GRANTED. The challenged ORDER of respondent Court, dated October 2, 1997, is hereby ANNULLED and SET ASIDE insofar as it orders partial execution pending appeal. No pronouncement as to costs."

The Order[4] annulled by the CA was a modification by the trial court[5] of the latter's Decision[6] dated February 25, 1997 in Civil Case No. 8737, Bonifacio Sanz Maceda Jr. and Teresita Maceda-Docena v. Development Bank of the Philippines and Oscar de Vera.

The Facts

The facts of the case as summarized by the Court of Appeals are as follows:

"The case commenced on October 15, 1984, with the filing by [petitioners][7] of a Complaint for Specific Performance with Damages against [private respondent][8] and one of its managers, Oscar De Vera. In their Complaint, [petitioners] alleged that they were the owners of the old Gran Hotel in Tacloban City; that pursuant to their plan to build a new Gran Hotel, they applied for an Eleven Million Pesos (P11,000,000.00) loan with [private respondent], submitting to the latter a project study of the new hotel, the Philippine Tourism Authority's approval of the project, as well as the plans and specifications of the new Gran Hotel; that on July 28, 1976, petitioner approved a loan of Seven Million Three Hundred Thousand Pesos (P7,300,000.00) after setting the cost of the project at Ten Million Five Hundred Thousand Pesos (P10,500,000.00); that [private respondent] required them to produce Two Million Nine Hundred Thirty Thousand Pesos (P2,930,000.00) by way of equity, to constitute a first mortgage on several parcels of land as well as on assets they would acquire out of the proceeds of said loan, to sign a Promissory Note in the amount of Seven Million Three Hundred Thousand Pesos (P7,300,000.00); that the contract for the new Gran Hotel was awarded to Moreman Builders Co., which demolished the old Gran Hotel and proceeded to build the new Gran Hotel; that payment to said contractor was to be taken from the approved Seven Million Three Hundred Thousand Pesos (P7,300,000.00) loan, on a progressive manner, based on actual construction or work accomplishment; that they were required to advance, as they did advance, to the contractor their required equity; that as of June 24, 1977, they have

advanced to the contractor the sum of One Million Two Hundred Sixty Two Thousand Nine Hundred Ninety Eight Pesos and Thirty Eight Centavos (P1,262,988.38); that [private respondent] had also released a total of One Million Nine Hundred Eleven Thousand Three Hundred Sixty Pesos (P1,911,360.00), out of their loan, to the contractor; that [private respondent], through its officer in charge of the project, defendant Oscar De Vera, conspired with the contractor to enable the latter to secure undue fund releases from their loan; that this was done by the bloating of the value and percentage of construction work; that the contractor was able to acquire sixty percent (60%) of the cost of the projected hotel even as its actual accomplishment was only fifteen percent (15%); that [petitioners] were compelled to file a Complaint for Rescission of Contract and Damages against the contractor; that they also filed a complaint for Estafa against the contractor and defendant Oscar De Vera; that [private respondent] and Oscar De Vera spread negative information about them, thus influencing their suppliers to sue and repossess the items they had supplied; that [private respondent] engaged in a series of dilatory effects in the release of their loan funds until the period of their loan availment lapsed; that [private respondent] has threatened to foreclose on the mortgages they had executed for their loan; and that [private respondent's] acts prevented them from completing the new Gran Hotel and from realizing profits therefrom. [Petitioners] thus prayed (1) that [private respondent] be ordered to release the balance of their approved loan, (2) that the interests and other charges imposed on the loan be nullified, (3) that [private respondent] be made to pay them (a) unrealized earnings and/or loss of income, (b) actual damages representing additional costs or price increase in construction labor and materials, (c) moral damages, (d) exemplary damages, (e) attorney's fees, litigation expenses and costs of suit.

"In their Answer to the Complaint, [private respondent] and Oscar De Vera averred that releases on the loan of [petitioners] to the contractor were made through [Petitioner] Bonifacio Maceda, Jr., that on account of the civil case filed by [petitioners] against the contractor, [private respondent] was enjoined from making any further releases on [petitioners'] loan; that while the trial court decided in favor of [petitioners], still [private respondent] could not make any releases on their loan considering the appeal filed by the contractor; that while said case was pending, at least two suppliers filed cases against [petitioners] for non-payment of salaries/wages and costs of suppliers; that said pending case also caused the construction of the hotel project to stop and the period of the loan availment to lapse; that during the negotiation for revival of the loan, [private respondent] requested [petitioners] to submit new cost estimates and quotations inasmuch as the original cost estimates prepared in 1976 were no longer sufficient to complete the project because of the intervening price increases in labor and materials; that [petitioners] insisted that the project be completed on the original cost estimates, with the project reduced to fifty (50) instead of the original planned seventy five (75) rooms; that during several conferences held between them, [private respondent] informed [petitioners] of the terms and conditions for the resumption of their loan; that on July 18, 1979, it authorized further releases on [petitioners'] loan; that said releases amounted to a total of Five Million Three Hundred Forty Seven Thousand Five Hundred Ten Pesos and Ninety Centavos (P5,347,510.90); that no further releases were thereafter made in view of [petitioners'] failure to comply with the equity build up requirement; that [petitioners] applied for an additional loan of Three Million Four Hundred Thousand Pesos (P3,400,000.00); that on July 29, 1982, [private respondent] informed [petitioners] that it had decided to reduce the approved loan amount to Five Million Three Hundred Forty Seven Thousand Five Hundred Ten Pesos and Ninety Centavos (P5,347,510.90), which was the amount of the total releases made on their original loan amount; that notwithstanding said reduction of amount of the loan, [petitioners] failed to make payments according to schedule; and that having agreed to all the terms of their transactions, [petitioners] are estopped from questioning the conditions of the loan as well as the releases thereof. After praying for dismissal of the Complaint, [private respondent] and defendant Oscar De Vera counterclaimed for P200,000.00 by way of attorney's fees and litigation expenses, P500,000.00 in moral damages and costs of suit.

"On February 25, 1997, [the trial] [c]ourt rendered a Decision in favor of [petitioners], disposing of the case as follows -

`WHEREFORE, in view of all the foregoing premises, the Court renders judgment, to wit:

1. The preliminary injunction issued on December 12, 1984 is hereby made permanent;
2. Defendant Development Bank of the Philippines is ordered, to wit:
 - a) To immediately release in favor of plaintiff Bonifacio Maceda, Jr. the unreleased loan balance of P1,952,489.10. In addition, as to the portion thereof amounting to P1.003M, DBP is further directed to pay interest thereon at the rate of 12% per annum beginning and counted from January 1978;
 - b) To immediately return to plaintiff Bonifacio Maceda, Jr. the sum of P797,988.95 representing the interest/other charges for the period October 31, 1979 to April 1, 1980;
 - c) To pay plaintiff Bonifacio Maceda, Jr. the sum of Five Hundred Thousand Pesos as moral damages;
 - d) To pay plaintiff Bonifacio Maceda, Jr. the sum of One Hundred Thousand Pesos as exemplary damages;
 - e) To pay plaintiff Bonifacio Maceda, Jr. the sum of P17,547,510.90 representing the additional cost to complete and finish the New Gran Hotel;
 - f) To pay plaintiff Bonifacio Maceda, Jr. the sum of P100,000.00 as attorney's fees and litigation expense.

The counterclaims of defendants are hereby ordered dismissed.

SO ORDERED.'

"[Private Respondent] filed a Notice of Appeal, while [petitioners] filed a Motion for Reconsideration, seeking to increase the amount awarded to them by [the trial] [c]ourt. They also filed a Motion for Execution Pending Appeal. [Private respondent] filed its corresponding Opposition to the two Motions.

"On October 2, 1997, [the trial] court issued its first questioned Order, (1) modifying its Decision by increasing the amounts awarded to [Petitioner] Bonifacio Maceda, Jr. and (2) granting the Motion for Execution Pending Appeal of two awards in its Decision; namely, (a) the release of the loan balance of P1,952,489.10 as well as payment of 12% interest p.a. on the amount of P1.003M, from January, 1978; and (b) the payment of P17,547,510.90 representing the additional cost to finish the hotel together with 6% interest thereon p.a. from 1987.

"On November 5, 1997, [private respondent] filed its Notice of Appeal from the February 25, 1997 Decision, as amended by the October 2, 1997 Order of [the trial] [c]ourt. On the same date, it also filed a Motion for Reconsideration of the October 2, 1997 Order insofar as it grants execution pending appeal. Thereafter, or on March 26, 1998, it filed a Supplemental Motion for the approval of a supersedeas bond in the amount of P35M and to stay the execution pending appeal in the event that its Motion for Reconsideration be denied.

"On April 3, 1998, [the trial] [c]ourt denied its Motion for Reconsideration and Supplemental Motion."

The Development Bank of the Philippines (DBP) appealed the trial court Decision to the CA. Thereafter, it also filed with the appellate court a Petition for Certiorari challenging the lower court's October 2, 1997 Order granting execution of the said Decision pending appeal.

Ruling of the Court of Appeals

Ruling in favor of respondent bank, the CA concluded that there existed no sufficient ground or compelling reason to allow the execution of the judgment pending appeal. It held:

"There is nothing in the circumstances surrounding the case at bench which is of an urgent nature. As may be gleaned from the records and as admitted by private respondents, themselves, the project has reached 85% completion. With private respondents' undenied 'seven-figure assets and capability to put in the required equity

participation', We see no urgent financial need on the part of private respondent. Then, too, with the financial standing of private respondents and their assets, including the hotel itself which they claim to have an appraised value of P16,632,129.40, private respondents can very well obtain loans for the project from other financial entities. On the other hand, considering that the amounts subject of the execution pending appeal form only a small percentage of the amount it would take to complete the project, We see no compelling reason to prematurely order its release since it would have no substantial effect anyway on the project. Moreover, measured against the injury or damage which such execution would pose on petitioner should it secure a reversal of the judgment, the reasons relied upon by respondent Court markedly pales in comparison. After all where execution made pending appeal is overturned, complete restitution is required.

x x x x x x x x

All things considered, respondent Court should have approved the Thirty Five Million (P35,000,000.00) supersedeas bond posted by petitioner. Said amount can adequately assure performance of whatever judgment may be awarded in favor of private respondents. Neither is there any danger that the awards in favor of private respondents will not be answered or that justice will be frustrated as petitioner is a government owned and controlled financial institution with an authorized capital stock of Five Billion Pesos (P5,000,000,000.00). With the stable and sound condition of petitioner, immediate execution is not justified as there is no danger of the judgment becoming illusory."[9]

Hence, this Petition.[10]

Issue

The solitary issue in this case is whether or not the Court of Appeals erred when it reversed the October 2, 1997 Order of the trial court granting execution of the latter's Decision pending appeal. More simply stated, are there good reasons to justify execution of the trial court judgment pending appeal?

This Court's Ruling

The Petition is not meritorious.

Sole Issue:

Execution of Judgment Pending Appeal

The execution of a judgment during the pendency of an appeal is governed by Section 2, Rule 39 of the 1997 Rules of Court,[11] which reads:

"Sec. 2. Discretionary execution. ---

(a) Execution of a judgment or final order pending appeal -- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

x x x x x x x x"

This rule is strictly construed against the movant, for "courts look with disfavor upon any attempt to execute a judgment which has not acquired a final character." [12] In the same vein, the Court has held that such execution "is usually not favored because it affects the rights of the parties which are yet to be ascertained on appeal." [13]

There are three requisites for the grant of an execution of a judgment pending appeal: "a) there must be a motion

by the prevailing party with notice to the adverse party; b) there must be a good reason for execution pending appeal; and c) the good reason must be stated in a special order." [14] Underscoring the importance of the requisite "good reasons," the Court ruled in *Ong v. Court of Appeals*: [15]

"It is not intended obviously that execution pending appeal shall issue as a matter of course. `Good reasons, special, important, pressing reasons must exist to justify it; otherwise, instead of an instrument of solicitude and justice, it may well become a tool of oppression and inequity.'" [16]

Moreover, "the reasons allowing execution must constitute superior circumstances demanding urgency which will outweigh the injury or damages should the losing party secure a reversal of the judgment." [17]

In its Order dated October 2, 1997, the trial court ordered execution pending appeal of the following awards:

"(a) To immediately release in favor of the plaintiff Bonifacio Maceda, Jr. the unreleased loan balance of P1,952,489.10. In addition, as to the portion thereof amounting to P1.03M, DBP is further directed to pay interest thereof at the rate of 12% per annum beginning and counted from January 1978;

x x x x x x x x

(e) To pay plaintiff Bonifacio Maceda Jr. the sum of P17,547,510.90 representing the additional cost to complete and finish the New Gran Hotel, plus six percent interest (6%) thereon effective as of the year 1987 until finality." [18]

In other words, the trial court, pending the appeal, ordered the immediate release by the bank of (1) the unreleased amount of the loan agreement and (2) the sum needed to complete the construction of the hotel, subject to the filing of a bond of equivalent amount.

The "good reason" invoked by the trial court was the urgency resulting from almost twenty years of delay and the yearly increase in costs that made the completion of the hotel construction more difficult.

We are not convinced.

Good Reasons not Established

To repeat, an execution pending appeal is an extraordinary remedy, being more of the exception rather than the rule. It is allowed only upon showing of "good reasons" by the movant. In the present case, we find no justification for the execution, pending appeal, of the awards of P1,952,489.10 under disposition (a) and more than P17 million under disposition (e).

There is no guarantee that petitioner can indeed complete the project, even if the sum referred to in disposition (e) is immediately released. It must be underscored that this was the amount needed to finish the project way back in 1987 and was based on 1987 prices.

Equally unjustified is the release, pending appeal, of the remaining portion of the loan in the amount of P1,952,489.10. As the trial court itself has held in 1987, the award of more than P17 million under disposition (e) was the amount needed to finish the project. Consequently, there was no urgent need for the unreleased portion of the loan. The said amount was relatively minuscule compared with that needed for the remainder of the hotel project and would have little effect on its completion.

More important, the "compelling reason" given by the trial court for allowing execution pending appeal is far outweighed by the injury or damage that private respondent would suffer if it secures a reversal of the trial court's judgment. If the trial court is reversed on appeal, petitioners would be hard-pressed to make a complete restitution to private respondent, to which they already owe more than P5 million - the amount of their original loan plus accrued interests. In any event, we agree with the Court of Appeals that there is no likelihood that DBP, a

government-owned and -controlled corporation, would fail to answer its obligation if the trial court Decision is affirmed. As held in *Valencia v. Court of Appeals*:^[19]

"If the judgment is executed and, on appeal, the same is reversed, although there are provisions for restitution, oftentimes damages may arise which cannot be fully compensated. Accordingly, execution should be granted only when these considerations are clearly outweighed by superior circumstances demanding urgency and the provision contained in Rule 39, Section 2, requires a statement of these circumstances as a security for their existence."

Reasons Cited by Petitioners

In their Memorandum, petitioners passionately argue that DBP, as the lending bank, has the obligation to deliver the full amount of the loan. They allege that the bank "unilaterally reduced the amount of the approved loan and unilaterally terminated the transaction."^[20] They also point out that the project has been delayed for 22 years, and that the award of more than P17 million, with interest, for the completion of the hotel "is less in value and purchasing power than the original estimate of P10.5 M had the hotel been finished on its deadline in 1972."

These, however, involve issues that should be resolved in the appeal, not in these proceedings. The respondent bank itself contends that it could not release the remaining amount of the loan, because of the stipulation in the loan agreement that such release is contingent on the amount of work accomplished. Thus, an order of this Court releasing the balance of the loan, notwithstanding the bank's argument to the contrary, would certainly be construed as a definitive judgment on the present issue.

Petitioners' argument that the project has been delayed for twenty-two years is not persuasive either. The release of the amount at this time is tantamount to a pronouncement that respondent bank was responsible for the delay. Moreover, petitioners are in effect taking the position that the undertaking of the bank was meant to finance the complete construction of the hotel. The Court cannot at this time declare that the bank was the cause of the delay, or that it was obliged to finance the construction to its completion. To repeat, these questions pertain to the merits of the case, which is on appeal. It must be stressed that the only issue in these proceedings is whether there are "good reasons" to justify the execution of the judgment pending appeal.

In sum, petitioners have failed to present adequate reasons to show that the Court of Appeals committed reversible errors in overturning the trial court's Order. As movants, they have the burden of showing why the lower court's Decision should be executed without awaiting the result of the appeal. Absent such justification, execution pending appeal cannot be granted.

WHEREFORE, the Petition is hereby DENIED. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Rollo, pp. 3-31.

[2] Rollo, pp. 113-121.

[3] 12th Division composed of J. Consuelo Ynares-Santiago, chairman and ponente (now a member of this Court); JJ. Romeo J. Callejo Sr. and Mariano M. Umali, members, concurring.

[4] Rollo, pp. 94-107.

[5] Branch 134, National Capital Judicial Region.

[6] Penned by Judge Ignacio M. Capulong; rollo, pp. 37-107.

[7] In the assailed Decision, Petitioners Bonifacio Sanz Maceda Jr. and Teresita Maceda-Docena are referred to as private respondents.

[8] In the assailed Decision, Private Respondent DBP is referred to as petitioner.

[9] Assailed Decision, pp. 7-8; rollo, pp. 119-120.

[10] The case was deemed submitted for resolution on May 12, 1999, upon receipt by this Court of respondent's Memorandum.

[11] Before the 1997 amendments to the Rules of Court, the provision was:

"SEC. 2. Execution pending appeal. -- On motion of the prevailing party with notice to the adverse party, the court may, in its discretion, order execution to issue even before the expiration of the time to appeal, upon good reasons to be stated in a special order. If a record on appeal is filed thereafter, the motion and the special order shall be included therein."

[12] Valencia v. Court of Appeals, 184 SCRA 561, 568, April 25, 1990 per Regalado, J.

[13] San Manuel Wood Products, Inc. v. Tupas, 249 SCRA 466, 475, October 25, 1995 per Puno, J.

[14] Provident International Resources Corp. v. CA, 259 SCRA 510, July 26, 1996, per Davide, J. (now CJ); Engineering Construction v. National Power Corporation, 163 SCRA 9, June 29, 1988.

[15] 203 SCRA 38, 43, October 17, 1991 per Medialdea, J.

[16] Ibid.

[17] Ibid.

[18] RTC Order dated October 2, 1997, p. 14; rollo, p. 107.

[19] 184 SCRA 561, 568, April 25, 1990, per Regalado, J.

[20] Petitioners' Memorandum, p. 20; rollo, p. 195.

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.