

INTRAMUROS TENNIS CLUB, INC. (ITC), PHILIPPINE TENNIS ASSOCIATION (PHILTA) AND ITC TENNIS PLAYERS, PETITIONERS, VS. PHILIPPINE TOURISM AUTHORITY (PTA), CLUB INTRAMUROS, AND COUR...*G.R. No. 135630. September 26, 2000*

Ponente: GONZAGA-REYES, J.

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This petition for certiorari assails two resolutions of the Second Division of the Court of Appeals which granted private respondent's motion for execution pending appeal and ordered the Regional Trial Court of Manila, Branch 50 to issue the corresponding writ of execution. The antecedent facts are as follows:

Private respondent Philippine Tourism Authority ("PTA") owns the Victoria Tennis Courts located in Intramuros, Manila by virtue of Presidential Decree No. 1763. In a Memorandum of Agreement ("MOA") executed on June 11, 1987, the PTA transferred the management, operation, administration and development of the Victoria Tennis Courts to petitioner Philippine Tennis Association ("PHILTA") for a period of ten (10) years[1] commencing on June 15, 1987.[2] Petitioner Intramuros Tennis Club, Inc. ("ITC") is an affiliate of PHILTA and has for its members tennis players and enthusiasts who regularly use the facilities of the Victoria Tennis Courts.

On June 26, 1995, and during the effectivity of the MOA, PTA wrote a letter to PHILTA enumerating alleged violations by PHILTA of the terms and conditions of the MOA and demanding the surrender of the possession of the Victoria tennis courts on or before July 25, 1995.[3] On April 11, 1996, PTA wrote a second letter to PHILTA requesting the latter to vacate the premises of said tennis courts to give way to PTA's golf course expansion program with private respondent Club Intramuros.[4]

On May 7, 1996, petitioners instituted a case for "preliminary injunction, damages, and prayer for temporary restraining order" with the Regional Trial Court of Manila, which was docketed as Civil Case No. 96-78248. The petition alleged that PTA's demand to vacate was a unilateral pre-termination of the MOA, under the terms of which PHILTA was allowed the management of the tennis courts until June 15, 1997. It also alleged that by complying with PTA's demand to vacate, petitioner ITC stands to sustain liability because it had prior commitments to use the Victoria Tennis Courts for two activities, namely, the International Wheelchair Tennis Clinic on May 14-16, 1996 and the Philippine National Games on May 20-25, 1996. The other grounds cited by petitioners were: the Victoria Tennis Courts are the oldest in the country, and form part of Philippine history and cultural heritage; the Victoria Tennis Courts are one of the few remaining public tennis courts in Metro Manila open to the less affluent; petitioners are maintaining the tennis courts at high cost, and unless the demolition is restrained, they will be unable to recoup their investments; the demolition will result in the displacement of the workers in the tennis courts; and, as players and aficionados of tennis, petitioners stand to lose the camaraderie that playing in Victoria Tennis Courts helped foster among them.

The temporary restraining order was granted on May 22, 1996, and petitioners were allowed to retain possession

of the Victoria Tennis Courts.

Thereafter, or on June 17, 1996, the RTC also granted the writ of preliminary injunction prayed for by petitioners, based upon a finding that PTA in pursuing the golf course expansion program was in effect unilaterally pre-terminating the MOA. In the same order, it declared that “petitioner ITC is an affiliate of PHILTA that has a right to be protected.”[5]

On June 16, 1997, private respondents filed a motion to dismiss, stating that in view of the expiration of the MOA petitioners’ cause of action was rendered moot and academic. However, petitioners maintained that their petition was also an action for damages; hence, there are other issues for resolution despite the termination of the MOA.

The RTC granted the motion to dismiss, finding that based on the allegations of the petition in relation to the reliefs demanded, petitioners’ only purpose was to stop PTA from pursuing the golf course expansion program on account of the tennis activities that will utilize Victoria Tennis Courts as venue. It also found that the evidence submitted by the parties at the trial revolved around the issue of whether the preliminary injunction should be declared permanent or lifted. This issue has resolved itself when the MOA expired. The RTC noted that by the terms of the MOA the contract between PTA and PHILTA was actually one of lease --- and under the law on leases, upon the expiration of the period of lease the lessor is entitled to be restored to the possession of the property.

Moreover, the RTC declared, the petition before it cannot be considered an action for damages because based on standing case law the amount of damages must be stated in the complaint for purposes of determining jurisdiction and the appropriate amount of docket fees.[6] The court did not take cognizance of petitioners’ claim for damages considering that the amount thereof was nowhere mentioned in the petition, whether in the prayer or in the body of said pleading.

Hence, the RTC ruled to lift the writ of preliminary injunction and to declare private respondent PTA entitled to the possession of Victoria Tennis Courts. It further declared that petitioners’ action has become moot and academic by reason of the expiration of the MOA upon which petitioners’ rights were based.

Petitioners appealed to respondent court. While the case was pending therewith, private respondents filed a motion for execution of judgment pending appeal invoking that under Section 4, Rule 39 of the 1997 Revised Rules of Court judgments in actions for injunction are not stayed by appeals taken therefrom. Thus:

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. (Underscoring supplied)

The motion alleged that there was an urgent necessity on the part of private respondents to immediately take possession of the Victoria Tennis Courts “by reason of its being heavily deteriorated and unsanitized because of [petitioners’] failure to maintain its good condition.” It appended a letter by a group of tennis players, addressed to Tourism Secretary Mina T. Gabor, complaining about the state of the facilities and general uncleanness of the tennis courts and appealing that “the depredations committed by PHILTA and its concessionaires” be corrected.[7] The motion also alleged that the appeal taken by petitioners was frivolous and intended merely to delay the immediate execution of the judgment of the RTC.

In their comment to the above motion, petitioners stated that private respondents’ reliance on Section 4, Rule 39

of the Revised Rules of Court was erroneous because that provision contemplates an instance where an action for injunction was granted, not a situation as the one herein where the judgment was for the lifting of an injunction earlier issued. Rather, petitioners maintain that the applicable provision is Section 2, Rule 39 of the Revised Rules of Court, which accords the appellate court discretionary power to order execution of a judgment or final order pending appeal, “upon good reasons to be stated in a special order after due hearing.”

Petitioners further contended that the deterioration and unsanitary conditions of Victoria Tennis Courts alleged by private respondents were unsubstantiated and do not constitute “good reasons” for the wielding by respondent court of its power of discretionary execution. They maintained that their appeal is not merely dilatory, but poses several justiciable issues including the claim for damages which was aborted by the RTC’s premature dismissal of the petition. Thus, respondent court should, in the exercise of its discretion whether or not to allow execution pending appeal, lean towards the preservation of petitioners’ right to appeal.

In a resolution dated July 9, 1998, the Second Division of respondent court[8] took into consideration the ground advanced by private respondents, i.e., that the Victoria Tennis Courts are ill-maintained by PHILTA. It granted the motion for execution pending appeal, declaring that since the lease agreement under the MOA had already expired and private respondents had made it clear that there will be no renewal of the said agreement, PTA as lessor is entitled to exercise all its rights of ownership and possession over the Victoria Tennis Courts. It also observed that the petitioners’ appeal from the order of the RTC was merely dilatory, and that the outcome of the appeal will not in any way alter the fact of private respondents’ entitlement to the possession and administration of the Victoria Tennis Courts.[9] Thus, the dispositive portion of respondent court’s resolution provides:

WHEREFORE, for the special reasons set forth above, the motion for execution pending appeal is hereby GRANTED upon payment and approval of this court of a bond in the amount of P800,000.00.

SO ORDERED.[10]

In their motion for reconsideration, petitioners argued that under Section 2, Rule 39 of the Revised Rules of Court respondent court should have conducted hearings to ascertain whether there were “good reasons” to issue the writ of execution pending appeal. Respondent court denied their motion for lack of merit,[11] and declared that contrary to petitioners’ asseverations, the determination of “good reasons” for allowing execution pending appeal does not strictly require a formal or trial-type hearing; instead, the parties may be heard by way of pleadings. In the case of petitioners, their arguments against private respondents’ motion for execution pending appeal were heard when they filed their comment thereto. Moreover, under Rule 8 of the Revised Internal Rules of the Court of Appeals ---

Section 1. Oral Argument. --- The necessity or propriety of oral argument shall be determined by the Justice assigned to study and report on the case and the oral argument shall be confined to those matters which he may specify. However, in lieu of oral arguments, said Justice may allow the parties to file their respective memoranda within fifteen (15) days from notice.

Petitioners also contended that the trial court had no jurisdiction to rule on PTA’s possessory rights over the tennis courts, because the appropriate action to determine those rights is unlawful detainer which is under the jurisdiction of MTCs. Respondent court dismissed the argument stating that it was inconsistent of petitioners to now question the RTC’s jurisdiction, considering that it was they who instituted the injunction case before the RTC; thus, it appears that they were raising this argument merely because they failed to secure the affirmative reliefs that they sought from that court.

Thus, the September 23, 1998 resolution of respondent court reads:

WHEREFORE, the motion for reconsideration is denied for lack of merit. The Regional Trial Court of Manila, Branch 50 is hereby ordered to issue a Writ of Execution pursuant to this court's resolution dated July 9, 1998 granting the execution pending appeal.[12]

From the above resolutions of respondent court, petitioners filed the instant special civil action for certiorari. The petition, filed on November 17, 1998, alleged that the Court of Appeals committed grave abuse of discretion in the following:

- In granting private respondent's Motion for Execution Pending Appeal pursuant to an erroneous or incorrect provision of the Rules of Court;
- In entertaining a "special reason" interposed by private respondents, which was not even inceptually offered in evidence;
- In considering - with unfounded bias, petitioners' pending appeal with said respondent court - as "merely intended to delay";
- In reasoning that the revised Internal Rules of the Court of Appeals can supersede the Rules of Court;
- In assuming that possessory reliefs automatically vest upon private respondents due to the dismissal of the injunction case; and
- In directing the RTC Manila, Branch 50, to issue a Writ of Execution pursuant to the July 9, 1998 Resolution.[13]

Anent the first ground, petitioners allege that respondent court wrongly quoted the provisions of Section 2, Rule 39 of the Revised Rules of Court,[14] and that the pertinent provisions are the second and third paragraphs which declare that after the trial court has lost jurisdiction, it is the appellate court in the exercise of its discretion and upon good reasons that may issue the motion for execution pending appeal. They maintained that the "special reason" interposed by private respondents, i.e., that the Victoria Tennis Courts were ill-maintained, was a bare allegation that was not properly substantiated, because the letter of the tennis players to Secretary Gabor was not formally submitted in evidence in the trial court.[15] Moreover, they declared, there was no "judgment" or "final order" to speak of in the instant case because the RTC order dated August 5, 1997 was still the subject of an appeal that is pending with respondent court. They also assailed the conclusion of respondent court that the appeal was dilatory considering that petitioners had "several causes of action which transcend the lease relationship" in the MOA. The fourth assignment of error, meanwhile, asserts that petitioners were entitled to a hearing under Section 2, Rule 39 of the Revised Rules of Court and respondent court erroneously dispensed thereof in favor of the provisions of the Internal Rules of the Court of Appeals that memoranda may be required of the parties in lieu of a hearing. Finally, petitioners argued that respondent court acted hastily and prematurely in ordering the trial court to issue a writ of execution for private respondents to gain possession over the tennis courts, when the dispositive portion of the RTC order lifting the preliminary injunction made no mention of giving possession to private respondents. As declared by petitioners, the dispositive portion of the RTC order dated August 5, 1997 merely reads:

WHEREFORE, premises considered, the motion to dismiss filed by PTA is hereby granted. The bond posted by plaintiff is hereby declared released.[16]

In response to petitioners' arguments, private respondents declared that no grave abuse of discretion may be imputed to respondent court for allowing execution pending appeal to prosper. The matter of "good reasons" as basis of an execution pending appeal is a question that lies within the sound discretion of respondent court, and its finding in the herein case as to the existence of such "good reasons" should be given respect and credence in the

absence of evident bad faith.[17] Moreover, execution pending appeal is only a provisional remedy that respondent court allowed private respondents to avail of and should not be interpreted as an adjudication on the merits of the main case still pending before respondent court.[18]

Shortly after the filing of the instant petition, or on October 21, 1998, private respondents filed a motion for issuance of a writ of execution with the RTC of Manila, Branch 50, pursuant to the resolutions of respondent court dated July 9, 1998 and September 23, 1998. This motion, however, was not granted by the RTC which, in an order penned by then presiding judge Urbano C. Victorio, Sr., suspended or held in abeyance the issuance of the writ of execution because the records of Civil Case No. 96-78248 are still with respondent court and also “in deference to the Supreme Court” where the instant petition is pending.[19] In a second order which denied private respondents’ motion for reconsideration, Judge Victorio additionally noted that since the principal cause of action in Civil Case No. 96-78248 was for the issuance of a writ of preliminary injunction and the same has been cancelled or revoked by the RTC on August 5, 1997, there was nothing more for the RTC to execute.

Undaunted by these developments, private respondents filed with the RTC a Second Motion for Issuance of Writ of Execution With Leave of Court on November 11, 1999. Private respondents reasoned that the mere pendency of a special civil action for certiorari, commenced in relation to a case pending execution before a lower court, cannot prevent the said lower court from effecting execution in the absence of a writ of injunction from a higher court restraining it from doing so, and in the absence of a final determination from the Supreme Court that the Court of Appeals gravely abused its discretion in ordering the RTC to issue the writ of execution.[20] This motion was granted on February 4, 2000 by Judge Concepcion S. Alarcon-Vergara, who assumed office as presiding judge of RTC Manila, Branch 50 after the retirement of Judge Victorio.[21] Thus, a writ of execution was issued on February 17, 2000 ordering the Sheriff of RTC Manila, Branch 50 to cause petitioners to vacate the premises of Victoria Tennis Courts and to place private respondents in possession of the same.[22]

Petitioners attempted to secure before this Court a restraining order against the implementation of the above writ of execution, arguing that such implementation would render the instant petition moot and academic. The Court, however, denied their motion in a resolution dated March 15, 2000.

In their memorandum dated May 27, 2000, private respondents informed the Court that on March 1, 2000 they had gained actual control and possession of the Victoria Tennis Courts.[23] Thus, they submit that the instant petition is now moot and academic.

Preliminarily, we find that the petition was not rendered moot or illusory by the fact that execution was effected and possession of the tennis courts restored to private respondents. The resolution of the instant petition requires a determination of whether respondent Court of Appeals gravely abused its discretionary power to order execution pending appeal as prescribed in Section 2, Rule 39 of the 1997 Revised Rules of Court, and where such grave abuse of discretion is established the execution pending appeal pursuant to the resolutions of respondent court may be voided. Thus, the Court finds that the petition presents a live and justiciable controversy.

Section 2, Rule 39 of the Revised Rules of Court reads ---

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.

Based on the foregoing provisions, respondent court may order execution pending appeal subject to the following conditions: (1) there must be a judgment or final order; (2) the trial court must have lost jurisdiction over the case; (3) there must be “good reasons” to allow execution; and (4) such good reasons must be stated in a special order after due hearing.

Undoubtedly, the RTC order dated August 5, 1997 which granted private respondents’ motion to dismiss and lifted the writ of preliminary injunction is a “final order” within the contemplation of Section 2, Rule 39 of the Revised Rules of Court. Petitioners maintain that the said RTC order could not be the proper subject of execution because it was still appealed to respondent court, but this merely confuses the concept of a “final” judgment or order from one which has “become final” (or to use the more established term, “final and executory”) --- a distinction that is definite and settled.

A “final” judgment or order is one that finally disposes of a case, leaving nothing more for the court to do in respect thereto --- such as an adjudication on the merits which, on the basis of the evidence presented at the trial, declares categorically what the rights and obligations of the parties are and which party is in the right, or a judgment or order that dismisses an action on the ground of res judicata or prescription, for instance.[24] It is to be distinguished from an order that is “interlocutory”, or one that does not finally dispose of the case, such as an order denying a motion to dismiss under Rule 16 of the Rules of Court, or granting a motion for extension of time to file a pleading. As such, only final judgments or orders (as opposed to interlocutory orders) are appealable. Now, a “final” judgment or order in the sense just described becomes “final and executory” upon expiration of the period to appeal therefrom where no appeal has been duly perfected or, an appeal therefrom having been taken, the judgment of the appellant court in turn becomes final. It is called a “final and executory” judgment because execution at such point issues as a matter of right.[25]

By its provisional nature, the remedy of execution pending appeal requires only a “final” judgment or order (as distinguished from an “interlocutory” order) and not a “final and executory” judgment or order. In the instant case, the RTC order dated August 5, 1997 which granted private respondents’ motion to dismiss, lifted the writ of preliminary injunction and held private respondents entitled to possess the Victoria Tennis Courts is a final order within the contemplation of Section 2, Rule 39 of the Revised Rules of Court, inasmuch as it makes an adjudication on the merits of the case and dismisses petitioners’ action. Petitioners, in fact, impliedly recognized the finality of this RTC order when they filed an ordinary appeal (and not a petition for certiorari) therefrom with respondent court.

Addressing petitioners’ argument that the dispositive portion of the RTC order dated August 5, 1997 only provides that private respondents’ motion to dismiss is granted and does not order private respondents to regain possession of the Victoria Tennis Courts, suffice it to say that although as a rule, execution must conform to the dispositive portion of a decision, the other parts of the decision may be resorted to in order to determine the ratio decidendi of the court.[26] In fact, a closer look at the RTC order shows that the dispositive portion consists of two paragraphs, thus ---

Accordingly, the writ of preliminary injunction is hereby lifted and defendant is entitled to possess the Victoria Tennis Court.

WHEREFORE, premises considered, the motion to dismiss filed by PTA is hereby granted. The bond posted by plaintiff is hereby declared released. (Underscoring supplied)[27]

Thus, petitioners' representation that the RTC order did not intend to award possession to private respondents of the disputed property as a result of the lifting of the preliminary injunction is blatantly without basis.

It is also not contested that at the time the motion for execution pending appeal was filed, the RTC had already lost jurisdiction over the case as petitioners' appeal had already been perfected and the records of the case transmitted to respondent court.

On the matter of hearing, we uphold respondents' position that respondent court did not gravely abuse its discretion in granting the motion for execution pending appeal without a full-blown or trial-type hearing. We have interminably declared that due process basically entails the opportunity to be heard, and we hold that the same principle underlies the provision on hearing in Section 2 of the abovesited Rule 39. The records of the instant case clearly disclose that petitioners have filed their comment^[28] to private respondents' motion for execution pending appeal, and their arguments as embodied in said comment did in fact form part of the discussion of respondent court in its assailed resolution of July 9, 1998.

Thus, the only issue remaining is whether respondent court gravely abused its discretion in finding good reasons to grant private respondents' motion for execution pending appeal.

Execution of a judgment pending appeal is an exception to the general rule that only a final judgment may be executed.^[29] Thus, the existence of "good reasons" is essential for it is what confers discretionary power on a court to issue a writ of execution pending appeal.^[30] These reasons must be stated in a special order --- for unless they are divulged, it would be difficult to determine whether judicial discretion has been properly exercised in the case.^[31]

Good reasons consist of compelling circumstances justifying immediate execution lest judgment becomes illusory, or the prevailing party after the lapse of time be unable to enjoy it, considering the tactics of the adverse party who may have apparently no case but to delay.^[32] There must be superior circumstances demanding urgency which will outweigh the injury or damages should the losing party secure a reversal of the judgment.^[33] Were it otherwise, execution pending appeal may well become a tool of oppression and inequity instead of an instrument of solicitude and justice.^[34]

In light of these considerations, the Court has been very discriminating in the allowance of such exceptional execution. Thus, mere allegations that the appeal is dilatory,^[35] or that the bond for the early execution has been duly paid,^[36] or that the corporation seeking execution is in financial distress^[37] --- were held insufficient grounds to merit execution pending appeal. On the other hand, where the goods subject of the judgment stand to perish or deteriorate during the pendency of the appeal,^[38] or the award of actual damages is for an amount which is fixed and certain,^[39] the Court found that "good reasons" existed for execution pending appeal to prosper.

At the same time, it must also be remembered that the determination of the existence of "good reasons" is also a discretionary power, and the reviewing court will not interfere with the exercise of this discretion absent a showing of grave abuse thereof.^[40] In the present case, we find that respondent court was well within its discretion in issuing its questioned resolutions, which clearly set out the reasons for granting private respondents' motion for execution pending appeal. The observation on the deteriorating and unsanitary conditions of the Victoria Tennis Courts came from tennis players who regularly use the said courts, and there is no indication that the letter was contrived or fabricated simply to procure for private respondents the restoration of possession of the Victoria Tennis Courts. We find no merit to petitioners' contention that the letter is inadmissible because it was not among those formally offered in evidence during trial at the RTC --- the letter was dated November 10, 1997 and it could not have formed part of the evidence in trial at the time the parties formally rested their cases on June

11, 1996.[41] Verily, it could only have been submitted in evidence before respondent court, while the case was on appeal therewith.

More importantly, PHILTA no longer had any legal right to the possession and management of the Victoria Tennis Courts because the lease agreement between PTA and PHILTA had already expired on June 15, 1997. Obviously, PTA as the lessor and owner of the tennis courts had every right to regain possession thereof --- and it also had every reason to be alarmed at the complaint filed by the tennis players with the Department of Tourism because it would be held accountable as owner and administrator of the tennis courts for the ill conditions of the said tennis courts. As also observed by respondent court, “after all, upon the expiration of the lease agreement, the plaintiffs-appellants (petitioners herein) were no longer obliged to properly maintain the property.”[42]

Clearly, the restoration of PTA into the possession and management of Victoria Tennis Courts is in order, being a necessary consequence of the lifting of the preliminary injunction and the termination of the MOA or lease agreement, and does not prejudice in any way the resolution of the other issues in petitioners’ pending appeal with respondent court such as their claim for damages from PTA which petitioners admit to be independent of the terms of the MOA. Thus, we find that respondent court did not gravely abuse its discretion in finding “good reasons” for allowing private respondents’ motion for execution pending appeal.

Moreover, judgments in actions for injunction are not stayed by the pendency of an appeal taken therefrom.[43] This rule has been held to extend to judgments decreeing the dissolution of a writ of preliminary injunction, which are immediately executory.[44]

However, we modify respondent court’s findings to the extent that it held petitioners’ appeal pending therewith to be clearly dilatory, and cited this as one of the reasons for allowing execution pending appeal. This assumption prematurely judges the merits of the main case on appeal,[45] and except in cases where the appeal is patently or unquestionably intended to delay it must not be made the basis of execution pending appeal if only to protect and preserve a duly exercised right to appeal.

WHEREFORE, the instant petition is **DISMISSED**. The validity of the writ of execution issued and implemented pursuant to the resolutions of the Court of Appeals dated July 9, 1998 and September 23, 1998 is **SUSTAINED**. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Paragraph 5(b) of the MOA provides:

“Within a period of five (5) years after the implementation of the above-mentioned development, PHILTA shall continue to manage, operate, administer and develop the Victoria Tennis Courts and its premises. PHILTA is hereby given the option to resume its management thereof for another period of five (5) years upon mutual agreement of the parties.” (Rollo, 42.)

[2] RTC Order dated June 17, 1996; Rollo, 115.

[3] RTC Order dated August 5, 1997; Rollo, 146.

[4] Ibid.

[5] RTC Order dated June 17, 1996; Rollo, 115.

[6] Citing Manchester Development Corporation vs. Court of Appeals, 149 SCRA 562.

[7] Annex “B” to Motion for Execution of Judgment Pending Appeal; Rollo, 173-174.

[8] The resolution was penned by Associate Justice Eubulo G. Verzola, and concurred in by Associate Justices Emeterio C. Cui (Chairman) and Artemio G. Tuquero.

[9] CA Resolution dated July 9, 1998; Rollo, 187.

[10] Ibid., 188.

[11] Per Resolution dated September 23, 1998.

[12] Rollo, 200.

[13] Petition; Rollo, 19-25.

[14] In its resolution dated July 9, 1998, the Court of Appeals declared:

Section 2, Rule 39 provides, “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.”

The citation of Section 2, Rule 39 is not a quotation but a paraphrasing of some pertinent provisions from different paragraphs of said section.

[15] Ibid., 20-21.

[16] RTC Order; Rollo, 149.

[17] Comment to Petition; Rollo, 216.

[18] Ibid., 217.

[19] Ibid., 248-250.

[20] Citing Santiago vs. Vasquez, 217 SCRA 633.

[21] Petitioners’ Urgent Motion for Issuance of Appropriate Injunctive Reliefs; Rollo, 241.

[22] Rollo, 274-276.

[23] Memorandum of Private Respondents; Rollo, 313.

[24] Puertollano vs. Intermediate Appellate Court, 156 SCRA 188; Investments, Inc. vs. Court of Appeals, 147 SCRA 334.

[25] Investments, Inc. vs. Court of Appeals, *supra*.

[26] Olac vs. Court of Appeals, 213 SCRA 321.

[27] RTC Order dated August 5, 1997; Rollo, 149.

[28] Rollo, 175-184.

[29] Diesel Construction Company, Inc. vs. Jollibee Foods Corporation, G.R. No. 136805, January 28, 2000.

[30] PLDT vs. Genovea, 201 Phil. 862.

[31] Radio Communications of the Philippines, Inc. vs. Lantin, 134 SCRA 395; Asturias vs. Victoriano, 98 Phil. 581.

[32] Yasuda vs. Court of Appeals, G.R. No. 112569, April 12, 2000.

[33] Maceda vs. Development Bank of the Philippines, G.R. No. 135128, August 26, 1999; Ong vs. Court of Appeals, 203 SCRA 38.

[34] Id.

[35] International School Manila vs. Court of Appeals, 309 SCRA 474; Ong vs. Court of Appeals, supra; PLDT vs. Genovea, supra.

[36] International School Manila vs. Court of Appeals, supra.

[37] Diesel Construction Company, Inc. vs. Jollibee Foods Corporation, supra.

[38] Yasuda vs. Court of Appeals, supra; Bell Carpets International Trading Corporation vs. Court of Appeals, 185 SCRA 35; Federation of United Namarco Distributors, Inc. vs. National Marketing Corporation, 4 SCRA 867.

[39] Radio Communications of the Philippines, Inc. vs. Lantin, supra.

[40] Id.

[41] Exhibits "I" and "J" of Petition (Formal Offers of Evidence), Rollo, 89-95; RTC Order dated June 11, 1996, Rollo, 96-97.

[42] CA Resolution dated July 9, 1998; Rollo, 187.

[43] Sec. 4, Rule 39, Revised Rules of Court.

[44] Crisostomo vs. Securities and Exchange Commission, 179 SCRA 146; See also Defensor-Santiago vs. Vasquez, 217 SCRA 633.

[45] International School Manila vs. Court of Appeals, 309 SCRA 474; Ong vs. Court of Appeals, supra; PLDT vs. Genovea, supra.

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