

CARLOS D. VILLAMOR, PETITIONER, VS. NATIONAL POWER CORPORATION AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. 146735. October 25, 2004

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

At bar is a petition for review on certiorari under Rule 45 of the Rules of Court[1] seeking to reverse and set aside the November 23, 1999 Decision[2] and January 2, 2001 Resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 48668 setting aside the order of execution pending appeal issued by the Regional Trial Court (RTC) of Danao City, Branch 25, in an expropriation case docketed as Civil Case No. DNA-389.

Respondent NAPOCOR instituted an action for eminent domain[4] with prayer for the issuance of a writ of possession against petitioner, Carlos Villamor, before the RTC of Danao City. Subject of expropriation was a portion containing 3,224 square meters of a 10,625 square meter lot belonging to petitioner situated in Barangay Catipay, Carmen, Cebu where NAPOCOR intended to install transmission lines for its 230 KV Leyte-Cebu Interconnection Project.

By Order[5] of August 1, 1996, Branch 25 of the RTC of Davao City directed the issuance of the writ prayed for allowing NAPOCOR to immediately take possession of the property subject of expropriation. NAPOCOR had earlier deposited P23,115.70 with the Philippine National Bank (PNB) representing the assessed value of the property as it appeared on the tax declaration thereon.

In an Amended Complaint[6] dated March 12, 1997, NAPOCOR instead sought to expropriate two parcels of land situated in the same vicinity with an aggregate area of 8,724 square meters also belonging to petitioner.

By Order[7] of July 14, 1997, the trial court granted NAPOCOR's Urgent Ex-Parte Motion for Issuance of a Writ of Possession and accordingly issued a writ allowing NAPOCOR to immediately take possession of petitioner's properties as described in the amended complaint.

The trial court later constituted a board composed of three commissioners to determine the amount of compensation that should be paid for the two parcels of land sought to be expropriated.

Following the submission by the board of its Report,[8] the trial court, by Decision[9] of December 22, 1997, expropriated the two parcels of land in favor of NAPOCOR. The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, facts and law considered, the Court hereby renders judgment condemning property subject of expropriation in favor of plaintiff; declaring in favor of defendants for plaintiff to pay the fair market value of the portions of the lots condemned by this (sic) expropriation proceedings at P450.00 per square meter and to pay to defendant Carlos Villamor the following amounts:

- P2,515,842.00 for the 5,590.76 sq. mts. as the total affected area of Lot 3 of 6191, Cad. 1046-D;

- P1,410,538.50 for the 3134.53 sq. mts. as the total affected area of Lot 4, of 1691, Cad. 1046-D;

or the total amount of Three Million Nine Hundred Twenty-Six Thousand Three Hundred Eighty Pesos and 50/100 (P3,926,380.50);

Declaring that the fair market value of all the improvements inside the affected lots to be in the amounts recommended in the Commissioners' Unit Base Market Value of the Land and Improvements Owned by Carlos Villamor attached to the Commissioners' Report and ordering the Plaintiff National Power Corporation to pay to the defendant Carlos Villamor the following amounts:

- P648,932.00 for the total fair market value of the improvements in Lot 3, of 6191, Cad. 1046-D;

- P372,968.00 for the total fair market value of the improvements in Lot 4, of 6191, Cad. 1046-D

or the total amount of One Million Twenty One Thousand Nine Hundred Pesos (P1,021,900.00);

Ordering the amount of One Million Seven Hundred Eighty Three Thousand Five Hundred Six Pesos and 50/100 (P1,783,506.50) representing just compensation of Lot 4 and improvements described in the Amended Complaint, to be divided among the Hrs. of Jose and Dolores Villamor, or to be awarded solely to defendant Carlos Villamor, whichever is favored by the decision of the case pending litigation and under appeal with the Court of Appeals.

SO ORDERED.[10]

Petitioner filed a Motion for Reconsideration[11] of the trial court's decision, no compensation having been awarded on a 15.23 square meter portion of the expropriated properties.

NAPOCOR also filed a Motion for Reconsideration[12] praying that compensation for the expropriated properties be determined on the basis of tax declarations thereon and Sec. 3-A of Republic Act No. 6395 (An Act Revising the Charter of the NAPOCOR) as amended by Presidential Decree No. 938.[13]

By Resolution[14] of January 22, 1998, the trial court granted petitioner's Motion, ruling as follows:

Let therefore the dispositive portion of the Decision in the last paragraph be amended by adding the following:
Ordering Plaintiff to pay the sum of P6,853.50 to defendant Carlos Villamor, same amount to be included in the deposit for valid claimants as proceeds of Lot 4, described in the complaint. (Underscoring supplied)

SO ORDERED.[15]

As for NAPOCOR's motion, the trial court, by Resolution[16] of February 20, 1998 a copy of which was received by NAPOCOR on March 3, 1998,[17] denied the same. There is no showing that petitioner was furnished a copy of this Resolution of February 20, 1998.

NAPOCOR thereupon filed a Notice of Appeal[18] dated March 2, 1998 which was given due course by Order[19] of March 9, 1998 of the trial court which ordered the Clerk of Court to transmit the original records of the case to the CA.

In the meantime, or on March 16, 1998, petitioner filed a Motion for Execution Pending Appeal[20] before the trial court which was granted by Resolution[21] of May 12, 1998. The trial court ratiocinated:

The records show that the Court, xxx, has still jurisdiction to issue the writ of execution pending appeal considering that the original records of the case have not as yet been transmitted to the Appellate Court.

The Court finds and is convinced that defendant Carlos Villamor is entitled to same valuation of the parcel of land adjacent to the land in question as they are similarly situated. The failure or absence of any objection by

plaintiff to the Commissioners' Report which was based on the opinion values from different competent government agencies and the failure to offer evidence why such Commissioners' Report may not be given validity, provides the Court a special reason to give due course to the Motion for Execution Pending Appeal. Evidence on record marked Exhibits "1" and "2" together with submarkings showed convincingly that defendant Carlos Villamor is entitled to immediate execution pending appeal. Evidence on record are (sic) more than sufficient to provide a special reason for the execution of judgment pending appeal.[22]

From the trial court's order granting petitioner's Motion for Execution Pending Appeal, NAPOCOR filed a Motion for Reconsideration,[23] it asserting that when petitioner filed the motion, the trial court no longer had jurisdiction over the case.

By Resolution[24] of June 23, 1998, the trial court denied NAPOCOR's Motion for Reconsideration and issued a writ of execution[25] the following day, June 24, 1998.

A Notice of Garnishment on Execution[26] dated July 10, 1998 was consequently addressed to the PNB and the Land Bank of the Philippines in Cebu City, informing that all stocks, shares, credits, deposits, interest and other personal properties in their possession or under their control belonging to NAPOCOR were being attached and garnished in favor of petitioner.

NAPOCOR thus filed a petition for certiorari[27] with the CA seeking the annulment of the May 12, 1998 and June 23, 1998 Orders of the trial court.

In the meantime, per the RTC Sheriff's Return[28] dated August 20, 1998, complete payment of the fair market value of the expropriated property was transacted by the Land Bank in favor of petitioner in satisfaction of the writ of execution.

By Decision of November 23, 1999, the CA granted NAPOCOR's petition for certiorari and set aside the assailed Orders of the trial court. The dispositive portion of the decision reads, quoted verbatim:

WHEREFORE, the petition is GRANTED and the assailed orders of respondent judge set aside. Respondent Carlos Villamor is directed to pay to [NAPOCOR] the amount of P6,837,823.18 plus interest thereon at the legal rate from August 20, 1998 until fully paid.

SO ORDERED.[29]

Petitioner filed a Motion for Reconsideration[30] of the CA Decision which was partially granted by the CA by Resolution of January 2, 2001. The dispositive portion of the resolution reads, quoted verbatim:

WHEREFORE, the motion for reconsideration is PARTIALLY GRANTED in the sense that the dispositive portion of the decision dated November 23, 1999 is amended to read as follows:

"WHEREFORE, the petition is GRANTED and the assailed orders of respondent judge set aside. Respondent Carlos Villamor is directed to pay to petitioner the amount of P4,955,134.00 plus interest thereon at the legal rate from August 20, 1998 until fully paid."

SO ORDERED.[31] (Underscoring supplied)

Petitioner thus comes before this Court via petition for review on certiorari assigning to the CA the following errors:

I.

THE COURT OF APPEALS ACTED CONTRARY TO PERTINENT RULES OF PROCEDURE AND JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THE REGIONAL TRIAL COURT HAD LOST JURISDICTION TO ENTERTAIN AND GRANT HEREIN

PETITIONER'S MOTION FOR EXECUTION PENDING APPEAL;

II.

THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN HOLDING THAT THERE WAS NO URGENT NEED FOR IMMEDIATE EXECUTION OF THE APPEALED DECISION; and

III.

THE COURT OF APPEALS WENT AGAINST SETTLED JURISPRUDENCE AND ACTED WITH GRAVE ABUSE OF DISCRETION IN PREMATURELY HOLDING THAT THE APPEAL OF RESPONDENT NPC WAS NOT DILATORY.[32]

Section 2 (a), Rule 39 of the Rules of Civil Procedure, the provision governing execution of judgments pending appeal, provides:

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.

Passing on the provision of the Rules, this Court explains:

xxx the trial court may only grant discretionary execution while it has jurisdiction over the case and is in possession of either of the original record or the record on appeal, as the case may be, at the time of the filing of such motion. When not all of the parties have perfected their appeal and the period to appeal has yet to expire, the trial court still retains its so-called “residual jurisdiction” to order discretionary execution. Discretionary execution is thus barred when the trial court loses jurisdiction and this occurs when all of the parties have filed their respective appeals or when the period to appeal has lapsed for those who did not file their appeals and when the court is no longer in possession of the records of the case.[33] (Underscoring supplied)

NAPOCOR maintains that the trial court no longer had jurisdiction to grant petitioner's Motion for Execution Pending Appeal as at the time it was filed, it (NAPOCOR) had already perfected its appeal to the CA, hence, so it continues, petitioner should have filed the Motion with the appellate court.

Section 9 of Rule 41 of the Rules of Court provides:

SEC. 9. Perfection of appeal; effect thereof. – A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.

A party's appeal by record on appeal is deemed perfected as to him with respect to the subject matter thereof upon the approval of the record on appeal filed in due time.

In appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.

In appeals by record on appeal, the court loses jurisdiction only over the subject matter thereof upon the approval of the records on appeal filed in due time and the expiration of the time to appeal of the other parties.

In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Section 2 of Rule 39, and allow withdrawal of the appeal. (Emphasis and underscoring supplied)

The mere filing by one party of a notice of appeal does not divest the trial court of its jurisdiction over a case and to resolve pending incidents,[34] like a motion for execution pending appeal filed by the party within the reglementary period for perfecting an appeal because the court must hear and resolve such motion for it would become part of the records to be elevated on appeal.[35]

As long as any of the parties may still file his, her, or its appeal, the court does not lose jurisdiction over the case.

The plaintiff or plaintiffs may not deprive the defendants or co-plaintiffs and neither may the defendant or defendants deprive the plaintiff or co-defendants of the right to file a motion for reconsideration or to move for a new trial or an execution pending appeal by immediately filing a notice of appeal. The filing of an appeal by a losing party does not automatically divest the party favored by a decision of the right to move for a more favorable decision or to ask for execution pending appeal. It is only after all the parties' respective periods to appeal have lapsed that the court loses jurisdiction over the case.[36]

In the present case, when NAPOCOR filed its Notice of Appeal on time, the appeal was deemed perfected with respect to it only. The appeal did not deprive petitioner of its right to file a motion for execution within the reglementary period of appeal or fifteen days from his receipt of the trial court's February 20, 1998 Resolution denying NAPOCOR's Motion for Reconsideration. The records do not show that copy of the said February 20, 1998 Resolution was furnished petitioner's counsel. There can thus be no notice to speak of from which the 15-day reglementary period of appeal is counted.

When a notice required to be given is not furnished to the attorney of record of a party, the corresponding reglementary period for the subsequent procedural steps that he may take does not start.[37] Even if it is assumed that petitioner's counsel did receive a copy of the trial court's Resolution of February 20, 1998 on the same date as the counsel of NAPOCOR did, the Motion for Execution Pending Appeal was still filed within the reglementary period.

It bears noting that a certified true copy of the Notice of Transmittal[38] issued by Clerk of Court Isidro F. Bongcayao, Jr. shows that the records of the case were transmitted to the appellate court on September 30, 1998, long after petitioner filed his Motion for Execution Pending Appeal. That the trial court had earlier given due course to NAPOCOR's appeal by Order of March 9, 1998 and therein directed the transmittal of the records of the case to the appellate court is inconsequential.[39]

Petitioner next argues that contrary to the findings of the appellate court, there was an urgent need warranting the immediate execution of the decision of the trial court. NAPOCOR argues otherwise.

Execution pending appeal requires the observance of the following requisites: (a) there must be a motion therefor by the prevailing party; (b) there must be a good reason for issuing the writ of execution; and (c) the good reason must be stated in a special order.[40]

The prevailing doctrine as provided for in Section 2, paragraph 3 of Rule 39 of the Rules of Civil Procedure is that discretionary execution is permissible only when good reasons exist for immediately executing the judgment

before finality or pending appeal or even before the expiration of the period to appeal. 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 cause but to delay.[41] Such reasons must constitute superior circumstances demanding urgency which will outweigh the injury or damages should the losing party secure a reversal of the judgment.[42] Were it otherwise, execution pending appeal may well become a tool of oppression and inequity instead of an instrument of solicitude and justice.[43]

The execution of judgment pending appeal is an exception to the general rule and must, therefore, be strictly construed.[44] So, too, it is not to be availed of and applied routinely, but only in extraordinary circumstances.[45]

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.” 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.”[46]

The exercise of the power to grant or deny immediate or advance execution is addressed to the sound discretion of the trial court.[47] However, the existence of good reasons is indispensable to the grant of execution pending appeal. Absent any such good reason, the special order of execution must be struck down for having been issued with grave abuse of discretion.[48]

In the case at bar, the reason relied upon by the trial court does not justify the issuance of the order of execution pending appeal. That NAPOCOR “failed to object to the Commissioner’s Report and present evidence to show why such Report should not be given validity” does not constitute the good reason contemplated by the Rules of Court that would rationalize the granting of petitioner’s Motion for Execution Pending Appeal. This “special reason” is outweighed by the injury or damage that respondent would suffer if it secures a reversal of the trial court’s judgment. As held in *Maceda, Jr. v. Development Bank of the Philippines*,[49]

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.[50]

At all events, there is no showing that NAPOCOR would fail to answer its obligation if the trial court decision is affirmed on appeal. Moreover, upon final determination of just compensation, in addition to such compensation, petitioner would be entitled to legal interest for whatever damages that may have accrued in the interim. He would be entitled to six per cent (6%) per annum as legal interest on the price of the land from the time it was taken up to the time that payment is made by the government.[51]

Petitioner finally argues that the appellate court erred in holding that, contrary to the findings of the trial court, NAPOCOR’s appeal is not dilatory.

This Court is not persuaded. The CA correctly held that the authority to determine whether the appeal is dilatory or not lies with the appellate court.[52] The trial court’s assumption prematurely judged the merits of the main case on appeal. 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.[53]

xxx Well-settled is the rule that it is not for the trial court to determine the merit of a decision it rendered as this is the role of the appellate court. Hence, it is not within the competence of the trial court, in resolving the

motion for execution pending appeal, to rule that the appeal is patently dilatory and rely on the same as the basis for finding good reason to grant the motion.[54]

WHEREFORE, the petition is DENIED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] At the outset, this Court notes the petitioner's error in impleading the Court of Appeals as party respondent. The only parties in an appeal by certiorari under Rule 45 of the Rules of Court are the appellant as petitioner and the appellee as respondent. The court which rendered the judgment appealed from is not a party in said appeal. It is in the special civil action of certiorari under Rule 65 where the court or judge is required to be joined as party defendant or respondent.

[2] Rollo at 35-44.

[3] Id. at 45-46.

[4] CA Rollo at 37-42.

[5] Id. at 46.

[6] Rollo at 48-53.

[7] Id. at 47.

[8] Id. at 63-74.

[9] Id. at 78-84.

[10] Id. at 83-84.

[11] CA Rollo at 134-145.

[12] Id. at 610-613.

[13] Sec. 3A In acquiring private property rights through expropriation proceedings where the land or portion thereof will be traversed by the transmission lines, only a right-of-way easement thereon shall be acquired when the principal purpose for which such land is actually devoted will not be impaired, and where the land itself or portion thereof will be needed for the projects or works, such land or portion thereof as necessary shall be acquired.

In determining the just compensation of the property or property sought to be acquired through expropriation proceedings, the same shall –

(a) With respect to the acquired land or portion thereof, not exceed the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor, whichever is lower.

(b) With respect to the acquired right-of-way easement over the land or portion thereof, not to exceed then percent (10%) of the market value declared by the owner or administrator or anyone having legal interest in the property, or such market value as determined by the assessor whichever is lower.

In addition to the just compensation for easement of right-of-way, the owner of the land or owner of the

improvement, as the case may be, shall be compensated for the improvements actually damaged by the construction and maintenance of the transmission lines, in an amount not exceeding the market value thereof as declared by the owner or administrator, or anyone having legal interest in the property, or such market value as determined by the assessor whichever is lower; Provided, that in cases any buildings, houses and similar structures are actually affected by the right-of-way for the transmission lines, their transfer, if feasible, shall be effected at the expense of the Corporation; Provided, further, that such market value prevailing at the time the Corporation gives notice to the landowner or administrator or anyone having legal interest in the property, to the effect that his land or portion thereof is needed for its projects or works shall be used as basis to determine the just compensation therefor.

[14] Rollo at 85-86.

[15] Id. at 86.

[16] Id. at 87-89.

[17] Id. at 178.

[18] Id. at 90-91.

[19] CA Rollo at 146.

[20] Rollo at 92-110.

[21] Id. at 111-114.

[22] Id. at 113-114.

[23] CA Rollo at 128-130.

[24] Rollo at 115-118.

[25] CA Rollo at 131-133.

[26] Id. at 145.

[27] Id. at 1-36.

[28] Id. at 341.

[29] Rollo at 43-44.

[30] CA Rollo at 473-531.

[31] Rollo at 45-46.

[32] Id. at 20-21.

[33] *Zacate v. Commission on Elections*, 353 SCRA 441, 448 (2001) (citation omitted).

[34] *Valencia v. Court of Appeals*, 352 SCRA 72, 79 (2001) (citation omitted), *Asmala v. Commission on Elections*, 289 SCRA 746, 752 (1998) (citation omitted), *Edding v. Commission on Elections*, 246 SCRA 502, 509 (1995) (citation omitted), *Eudela v. Court of Appeals*, 211 SCRA 546, 550 (1992).

[35] *Asmala v. Commission on Elections*, 289 SCRA 746, 752 (1998) (citation omitted), *Edding v. Commission on Elections*, 246 SCRA 502, 509 (1995).

[36] Associated Bank v. Gonong, 152 SCRA 478, 480 (1987).

[37] Gundayao v. Court of Appeals, 185 SCRA 606, 611-612 (1990) (citations omitted), Vecino v. Court of Appeals, 76 SCRA 98, 104 (1977).

[38] Rollo at 19.

[39] Provident International Resources Corporation v. Court of Appeals, 259 SCRA 510, 524 (1996).

[40] Maceda, Jr. v. Development Bank of the Philippines, 313 SCRA 233, 242 (1999) (citations omitted), International School, Inc. (Manila) v. Court of Appeals, 309 SCRA 474, 482-483 (1999) (citation omitted), Provident International Resources Corp. v. Court of Appeals, 259 SCRA 510, 525 (1996) (citations omitted), Eudela v. Court of Appeals, 211 SCRA 546, 551 (1992) (citations omitted).

[41] Intramuros Tennis Club, Inc. v. Philippine Tourism Authority, 341 SCRA 90, 107 (2000) (citation omitted), Yasuda v. Court of Appeals, 330 SCRA 385, 397 (2000) (citation omitted), Planters Products, Inc. v. Court of Appeals, 317 SCRA 195, 203 (1999) (citation omitted).

[42] Corona International, Inc. v. Court of Appeals, 343 SCRA 512, 518 (2000) (citation omitted), Intramuros Tennis Club, Inc. v. Philippine Tourism Authority, 341 SCRA 90, 107 (2000) (citations omitted), Yasuda v. Court of Appeals, 330 SCRA 385, 397 (2000) (citation omitted), Diesel Construction Company, Inc. v. Jollibee Foods Corporation, 323 SCRA 844, 859-860 (2000) (citation omitted), Maceda, Jr. v. Development Bank of the Philippines, 313 SCRA 233, 243 (1999) (citation omitted), Provident International Resources Corp. v. Court of Appeals, 259 SCRA 510, 527 (1996) (citations omitted), Ong v. Court of Appeals, 203 SCRA 38, 43 (1991).

[43] Intramuros Tennis Club, Inc. v. Philippine Tourism Authority, 341 SCRA 90, 107 (2000) (citation omitted), Yasuda v. Court of Appeals, 330 SCRA 385, 398 (2000) (citation omitted).

[44] Provident International Resources Corp. v. Court of Appeals, 259 SCRA 510, 525 (1996) (citation omitted).

[45] Corona International, Inc. v. Court of Appeals, 343 SCRA 512, 519 (2000) (citation omitted).

[46] Maceda, Jr. v. Development Bank of the Philippines, 313 SCRA 233, 242 (1999) (citation omitted).

[47] Intramuros Tennis Club, Inc. v. Philippine Tourism Authority, 341 SCRA 90, 108 (2000) (citation omitted), Home Insurance Company v. Court of Appeals, 184 SCRA 318, 321 (1990), Lu v. Valeriano, 111 SCRA 87, 91 (1982), Baliong v. Martinez, 85 SCRA 539, 542 (1978), Federation of United Namarco Distributors, Inc. v. National Marketing Corporation, 4 SCRA 867, 887 (1962) (citations omitted).

[48] Eudela v. Court of Appeals, 211 SCRA 546, 551 (1992), Valencia v. Court of Appeals, 184 SCRA 561, 568 (1990).

[49] 313 SCRA 233 (1999).

[50] Id. at 245.

[51] National Power Corporation v. Angas, 208 SCRA 542, 548-549 (1992), National Power Corporation v. Court of Appeals, 129 SCRA 665, 674 (1984), Amigable v. Cuenca, 43 SCRA 360, 364-365 (1972) (citation omitted).

[52] Rollo at 8.

[53] Intramuros Tennis Club, Inc. v. Philippine Tourism Authority, 341 SCRA 90, 109 (2000).

[54] Planters Products, Inc. v. Court of Appeals, 317 SCRA 195, 204 (1999) (citations omitted).

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