

**PAL EMPLOYEES SAVINGS AND LOAN ASSOCIATION, INC.,
PETITIONER, VS. PHILIPPINE AIRLINES, INC., AVELINO L. ZAPANTA
AND ANDREW L. HUANG, RESPONDENTS.**

G.R. NO. 161110. March 30, 2006

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PANGANIBAN, CJ:

It is axiomatic that, by their nature, interlocutory orders never become final and executory in the same manner that final judgments do. These orders do not become final, because something more needs to be done by the adjudging court, relative to the merits of the case. Neither do they become executory, because the Rules do not provide periods for their "appeal."

The Case

Before us is a Petition for Review [1] under Rule 45 of the Rules of Court, seeking to reverse the February 24, 2003 Decision [2] of the Court of Appeals (CA) in CA-GR SP No. 74581, as well as its December 2, 2003 Resolution [3] denying petitioner's Motion for Reconsideration. The decretal portion of the CA Decision states:

"WHEREFORE, upon the premises, the petition is GRANTED. The Order dated 10 December 2002, the Writ of Execution [P]ending Appeal dated 11 December 2002 and the Notices of Garnishment issued pursuant to said Writ are NULLIFIED and SET ASIDE.

"Respondent judge is hereby ordered to act with dispatch and resolve [respondents'] Notice of Appeal and Motion to Fix Bond without delay." [4]

The Facts

The factual antecedents are narrated by the CA as follows:

"[Petitioner] PAL Employees Savings and Loan Association, Inc. (PESALA) is a savings and loan association whose members are employees of petitioner Philippine Airlines, Inc. (PAL). PESALA accepts deposits and contributions from its members and lends money to them, payment of which is effected through PAL's payroll deductions. Aside from PESALA and other government agencies and insurance companies, various employee unions and associations in PAL also collect dues and other charges from their members through salary deductions x x x.

"Due to numerous deductions requested by the aforementioned entities, a 'zero-net' situation often occurred where some PAL employees went home empty-handed. To remedy the situation, PAL decided in July 1997 to limit salary deductions to not more than forty percent (40%) of the employees' pay effective August 1, 1997. PESALA objected to the 40% percent limit on salary deductions. Thus, on August 7, 1997, it filed the herein complaint for Specific Performance, Damages or Declaratory Relief with a Prayer for Temporary Restraining Order and Injunction against PAL and Jose C. Blanco, Officer-in-[C]harge of PAL Labor Affairs Department, with the Regional Trial Court, Pasay City, Branch 118, docketed as Civil Case No. 97-1026.

"On September 3, 1997, the then Presiding Judge of RTC, Pasay City, Branch 118 issued an Order 'enjoining

PAL and Jose Blanco and all other persons or officials acting under them from implementing the 40% limitation on salary deductions pertaining to the loan repayments, capital contributions and deposits authorized by the PESALA members which will be remitted to PESALA, and to maintain the status quo ante litem and to strictly enforce the payroll deductions in favor of plaintiff's posting of a credible injunction bond in the amount of One Million (P1,000,000.00) Pesos."

"On October 24, 1997, PESALA filed a Manifestation and Motion x x x. [It] prayed that an Order [be] issue[d] directing the [respondents] to immediately remit to PESALA the total undeducted amount of P12,262,719.02 and to enforce full deduction in the succeeding pay periods in accordance with the deduction advice of the latter.

"On December 18, 1997, PESALA filed a similar Manifestation and Motion. On February 19, 1998, it filed a Second Supplemental Manifestation and Motion alleging that for the pay period September 1-15, 1997 up to February 1-15, 1998, it was deprived of its rightful remittances from [respondents] in the total amount of P44,488,760.41 corresponding to the loan repayments, capital contributions and deposits of its members. It prayed that an Order [be] issue[d] directing [respondents] to immediately remit to PESALA the now total undeducted amount of P44,488,760.41.

"On March 11, 1998, Presiding Judge Nelson B. Bayot issued an Order directing PAL and Jose Blanco to remit to PESALA the total undeducted amount of P44,488,716.41 x x x, and to cause the deductions in full in the succeeding pay periods x x x. PESALA then filed a Motion for Execution of the aforesaid Order dated 11 March 1998. In an Order dated 2 July 1998, Judge Bayot denied PESALA's Motion for Execution x x x [for being interlocutory].

x x x x x x x x

"Meanwhile, [respondent] filed a petition for certiorari before [the CA] x x x assailing the Order dated 11 March 1998 on [the] ground of grave abuse of discretion. However, the petition was dismissed in a Resolution dated 14 May 1999 because the certification against forum-shopping was not signed by [respondent] but by [respondent's] counsel, and true copies of pertinent pleadings and papers were not attached to the petition. The said Resolution became final and executory on June 17, 1999 per [CA's] Entry of Judgment.

x x x x x x x x

"On January 10, 2000, PESALA filed [a] Petition for Indirect Contempt against Jose C. Blanco, Avelino L. Zapanta and Andrew A. Huang docketed as Civil Case No. 00-0016, alleging that the latter deliberately disobeyed the lawful orders of RTC, Pasay City, Branch 118. Answering the contempt charge, [respondents] Zapanta and Huang argued that they were in no position to comply with the Order dated 11 March 1998 since they were not even parties in Civil Case No. 97-1026; that they were not yet the President and Chief Financial Officer of PAL at that time; and that PAL is under receivership and the Securities and Exchange Commission had issued orders declaring all claims for payment against PAL suspended, and prohibited PAL from paying any amounts in respect of liabilities it incurred prior to the 23rd day of June 1998 without approval of the Commission.

"Sometime in August 2001, Judge Nelson B. Bayot retired from service thus Civil Case Nos. 97-1026 and 00-0016 were transferred to [the] pairing court of Branch 118 Branch 119, presided over by x x x Judge Pedro De Leon Gutierrez.

After trial, x x x Judge Gutierrez issued a Consolidated Decision dated 6 November 2002, the dispositive portion of which reads:

"WHEREFORE, the foregoing premises considered, judgment is hereby rendered in favor of the plaintiff/petitioner and against defendants/ respondents:

'a. Ordering the defendants and all other officials, persons or agents acting under them to strictly comply with

and implement the arrangement between the parties whereby defendants deduct from the salaries of the members of PESALA through payroll deductions the loan repayments, capital contributions and deposits of said members and to remit the same to plaintiff immediately giving full priority to plaintiff's deduction as contained in the Clarificatory Order dated May 19, 2000;

'b. Making the writ of preliminary injunction earlier issued as permanent;

'c. Ordering the defendants to pay the plaintiff attorney's fees of P259,000.00;

'd. Declaring the herein respondents Jose C. Blanco, Avelino L. Zapanta in his capacity as President of the Philippine Airlines and Andrew L. Huang, in his capacity as Senior Vice President and Chief Financial Officer of the Philippine Airlines, Inc., as guilty of indirect contempt for their contemptuous refusal and failure to comply with the lawful Orders dated March 11, 199 [8] which have already become final and executory as the petition for certiorari of defendants on the Order of this Court dated March 11, 199 [8] had been denied by the Court of Appeals per its entry of Judgment in CA-GR SP 48654 dated May 14, 1999. Hence, respondents are hereby ordered to remit/turn over to plaintiff/petitioner the amount of P44,480,716.41 within three (3) days from receipt hereof otherwise, their arrest and detention shall be ordered immediately.

'e. Ordering the defendants/respondents to pay the cost of this suit.'

"On November 8, 2002, [respondents] filed a Notice of Appeal and paid the appeal docket fees. On November 11, 2002, they filed a Motion to Fix Bond praying that the amount of the bond to stay the execution of the decision, insofar as the Indirect Contempt is concerned, be fixed and that the enforcement of paragraph (d) of the said decision be held in abeyance.

"On November 13, 2002, PESALA filed a Motion for Execution Pending Appeal alleging that the RTC Order dated 11 March 199 [8] and CA Resolution dated 4 December 1998 had already become final and executory.

"On December 10, 2002, [RTC] judge issued the first of the assailed Orders granting the motion for execution x x x.

x x x x x x x x

"On December 11, 2002, [RTC] judge issued the assailed Writ of Execution pending appeal. Pursuant to said writ, x x x Deputy Sheriff Severino D.C. Balubar, Jr. issued Notices of Garnishment addressed to the depository banks of PAL x x x. On December 13, [respondents] filed an Urgent Motion for Reconsideration, To Quash Writ of Execution Pending Appeal and to Lift Notices of Garnishment setting the motions for hearing on December 17, 2002.

"On December 16, 2002, [the trial court] sheriff issued an Order of Delivery of Money addressed to the Allied Banking Corporation requesting the latter to deliver to him the sum of P44,480,716.41 for the satisfaction of the writ of execution pending appeal. On December 17, 2002, [respondents'] counsel Atty. Nelson M. Reyes allegedly went to the court and learned that the motions were not calendared for hearing; that [RTC] judge wanted to talk to him; that when asked as to when the PAL motions would be resolved, [the] judge answered that he would study the same; and that [the] judge wanted them to settle the case for the sum of P20,000,000.00. On December 18, 2002, PAL, through its General Counsel Eduardo R. Ceniza, wrote [the] Sheriff requesting him to lift the notices of garnishment served on the other banks considering that PAL has an account with the Allied Banking Corporation sufficient to cover the amount stated in the garnishment. [The lower court] [s]heriff did not lift the other Notices of Garnishment.

"Hence, [respondents filed a] petition [with the CA].

x x x x x x x x

"On January 14, 2003, [the CA] issued a Temporary Restraining Order restraining [RTC] Judge Pedro De Leon Gutierrez and x x x Deputy Sheriff Severino D.C. Balubar, Jr. and PESALA, and all other persons acting in their behalf or under their instructions, from enforcing or implementing the Order dated 10 December 2002, the Writ of Execution pending Appeal dated 11 December 2002 and the notices of garnishment issued pursuant to said writ." [5]

Ruling of the Court of Appeals

The CA ruled that respondents were justified in filing the Special Civil Action for Certiorari despite the pendency of their Motions [6] with the Regional Trial Court (RTC). The appellate court held that certiorari prospered even without the prior filing of a motion for reconsideration, for the following reasons: 1) the questions raised in the certiorari proceeding had been duly raised and passed upon by the lower court; 2) there was an urgent necessity for a resolution of the question, and any delay would have prejudiced the interests of the government or of petitioner; 3) a motion for reconsideration would have been useless; 4) petitioner had been deprived of due process; and 5) there was an extreme urgency for relief. [7]

The CA asserted that the trial court judge had shown no interest in speedily resolving respondents' claim despite its urgency. In fact, the Notice of Appeal of the Consolidated Decision had not even run its course because of the judge's failure to act on it. Hence, the CA opined that respondents had no other speedy and adequate remedy to protect their rights.

The appellate court cleared respondents of forum shopping, a procedural defect that exists only when there are two or more cases pending. But the certiorari proceeding should not be deemed a separate case, as it merely sought to nullify the RTC's Writ of Execution Pending Appeal.

The CA found that grave abuse of discretion had attended the trial court's grant of execution pending appeal. The RTC should not have based its grant of execution on its Order dated March 11, 1998, which was merely interlocutory. Also, found inapplicable by the CA was the rule that judgments in actions for injunction should not be stayed by appeal. It pointed out that the actions involved in the decision sought to be executed in this case were not for injunction, but for specific performance, damages, declaratory relief and indirect contempt. Being the exception rather than the rule, an execution pending appeal was not justified, owing to the failure of the RTC to cite compelling reasons for its issuance.

Hence, this Petition. [8]

Issues

Petitioner raises the followings issues for the Court's consideration:

"A

"Whether or not the Honorable Court of Appeals has departed from the accepted and usual course of judicial proceedings when it entertained and even granted the respondents' Petition for Certiorari, Prohibition and Injunction despite the pendency of their Motions for Reconsideration, To Quash Writ of Execution Pending Appeal, and To Lift Notices of Garnishment before the trial court.

"B

"Whether or not the Honorable Court of Appeals has decided the issue on forum shopping in a way not in accord with law and applicable decisions of this Honorable Tribunal.

"C

"Whether or not the Honorable Court of Appeals grievously erred in finding that the trial court committed grave abuse of discretion in issuing the Writ of Execution Pending Appeal despite the established legal basis in doing so.

"D

"Whether or not the Honorable Court of Appeals seriously erred when it applied the pronouncement of this Honorable Tribunal in the case of RCBC vs. IAC (320 SCRA 279) despite the utter lack of basis." [9]

Simply stated, the issues posed before the Court are as follows: 1) whether the Petition for Certiorari filed in the CA is proper; 2) whether respondents are guilty of forum shopping; and 3) whether the trial court's grant of the Writ of Execution Pending Appeal was justified.

The Court's Ruling

The Petition has no merit.

First Issue: Propriety of Certiorari

Petitioner contends that the pendency of the Motion for Reconsideration filed by respondents before the trial court effectively barred them from questioning the propriety of the Writ of Execution Pending Appeal through a petition for certiorari.

As a general rule, certiorari will not lie unless a motion for reconsideration is first filed before the respondent tribunal to allow it an opportunity to correct the imputed errors. [10] To this rule, the following are the recognized exceptions:

- "(a) where the order is a patent nullity, as where the court a quo has no jurisdiction;
- (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
- (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
- (d) where, under the circumstances, a motion for reconsideration would be useless;
- (e) where petitioner was deprived of due process and there is extreme urgency for relief;
- (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
- (g) where the proceedings in the lower court are a nullity for lack of due process;
- (h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and
- (i) where the issue raised is one purely of law or where public interest is involved." [11]

Petitioner asserts, however, that the CA should not have applied the above exceptions, given that respondents had in fact sought a reconsideration of the RTC's ruling prior to filing the certiorari case with the appellate court. We disagree.

To repeat, a petition for certiorari is premature if petitioner still has an adequate and more expeditious remedy in the lower tribunal; that is, a motion for reconsideration. [12] This rule is not without its own exceptions.

In *Conti v. Court of Appeals*, [13] this Court held that the failure of the Civil Service Commission (CSC) to

resolve a Motion for Reconsideration for a considerable length of time amounted to a denial of the petitioner's right to due process and speedy case disposition. Hence, this Court allowed the petition for certiorari, prohibition and mandamus filed with the CA, despite a pending Motion for Reconsideration with the CSC. The Court explained that "it is the inadequacy, not the total absence, of all other legal remedies, and the danger of the failure of justice without the writ, that should determine the propriety of certiorari. x x x [A] recourse to certiorari is proper not only where there is a clear deprivation of petitioner's fundamental right to due process; but so also from where other special circumstances warrant immediate and more direct action." [14]

In *Equitable Banking Corporation v. NLRC*, [15] this Court recognized the prematurity of a Petition for Certiorari filed by the petitioners without awaiting the NLRC's resolution of their Motion for Reconsideration, but gave due course to the Petition in order not to delay unduly the final disposition of the case on the merits.

Pastor v. Court of Appeals [16] considered the actual garnishment of the major source of income of the petitioners, when it ruled that filing a petition for certiorari in the CA was the feasible remedy for them, despite the pendency of their Motion for Reconsideration [17] in the probate court.

We hold that this case falls squarely under the specific exceptions cited in the cases above. The CA noted that "respondent judge had shown no interest in resolving [respondents'] pending motions despite their urgency and moreover had shown a peculiar interest in the settlement of the case despite petitioner's legitimate refusal to settle." [18] Thus, the immediate recourse to certiorari cannot be considered premature. In fact, it was respondents' only plain, speedy and adequate remedy.

Petitioner assails the CA findings that the RTC failed to resolve respondents' Motions with dispatch. It is settled, however, that in a petition for review on certiorari, this Court is limited to reviewing errors of law, absent any showing that the CA's findings of fact are not supported by the records or are glaringly erroneous. [19] In the present case, the findings of the appellate court are amply supported by the records.

Petitioner asserts that through an Order [20] dated December 17, 2002, requiring petitioner to comment on respondents' Motions, the RTC acted on those Motions. The Order reads as follows:

"Considering the absence of the counsel of the plaintiff, Atty. Acerey Pacheco in today's hearing, the latter is directed to submit his Comment/Opposition to the Urgent Motions For Reconsideration To Quash Writ of Execution Pending Appeal And To Lift Notices of Garnishment of the defendants within ten (10) days from receipt hereof which upon receipt by this Court the incident shall be deemed submitted for resolution.

"Atty. Nelson Reyes for the defendants is notified in open Court."

Records show, however, that respondents filed on January 7, 2003, a Manifestation taking exception to the contents of the foregoing Order. According to them, the Motions have not been calendared for hearing on December 17, 2002, and were in fact not heard in open court. [21] Moreover, the Order was mailed to respondents only on December 26, 2002, after respondents had filed their Petition with the CA on December 23, 2002.[22]

Further, petitioner cites the CA's finding that the trial court's "peculiar interest" in the settlement of the matter[23] had allegedly stemmed from the policy of this Court to encourage compromise as an accepted and desirable practice for settling disputes. While we have indeed encouraged the use of alternative modes of dispute resolution, this policy does not apply when the rights of a party to a case may be prejudiced by coercing it into a settlement. Since the parties had failed to reach a compromise, despite diligent efforts, the judge gravely abused his discretion when he did not speedily decide the urgent pending incidents before him.

As found by the CA, the RTC had failed to protect the rights of respondents while their Motions pended before the trial court. The RTC sheriff had continued to garnish the accounts of PAL with its depository banks,

effectively crippling its operations.[24] Even worse, despite the obvious urgency of the matter involved, the lower court not only failed to act expeditiously on the pending incidents, but also showed a reticence to do so by failing to set the Motions for hearing.

Moreover, considering that respondents' Notice of Appeal of the merits of the case had yet to run its course because of the RTC's failure to act upon it, the CA correctly ruled that respondents had no other plain, speedy and adequate remedy, other than a petition for certiorari.

Second Issue: Forum Shopping

Petitioner asserts that respondents committed forum shopping by filing a Petition for Certiorari with the CA, prior to the RTC's resolution of their Motions for Reconsideration, to Quash Writ of Execution Pending Appeal, and to Lift Notices of Garnishment.

This Court does not agree. Forum shopping exists when the elements of *litis pendentia* are present, or when a final judgment in one case will amount to *res judicata* in another. [25] There is forum shopping when the following elements concur: (1) identity of the parties or, at least, of the parties who represent the same interest in both actions; (2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and (3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration or will constitute *litis pendentia*. [26]

Although there is an identity of parties in the present case, there is, however, no identity of reliefs prayed for. The Petition for Certiorari, Prohibition and Injunction [27] filed by respondents asked the CA to restrain and prohibit the trial judge from enforcing the Writ of Execution Pending Appeal and from further acting on Civil Case Nos. 97-1026 and 00-0016. This Petition was filed in the light of the supervening factual circumstances that had shown his unjustified reticence to resolve the pending Motions before him. In their Motion for Reconsideration, respondents prayed for the quashal of the Writ of Execution Pending Appeal. Their prayer for relief in their Petition before the CA was a necessary consequence of the RTC's inaction on their Motions. Had they not filed the Petition containing that prayer, they would have had no other avenue to protect their rights.

Without having to repeat our discussion earlier, suffice it to say that the circumstances in the instant case justify the Petition of respondents before the CA. Since their Motions before the RTC have been rendered useless, they had no other plain, speedy and adequate remedy to protect their rights. [28]

Third Issue: Propriety of Execution Pending Appeal

Petitioner notes the Entry of Judgment of the CA's earlier dismissal of respondents' Petition for Certiorari assailing the Order dated March 11, 1998. It contends that, as found by the RTC, the Order has thus become final and executory. Petitioner claims entitlement to the execution of the Order as a matter of right.

This contention is untenable. Distinguishing a "final" judgment or order from a "final and executory" order, the Court in *Intramuros Tennis Club, Inc. v. Philippine Tourism Authority* [28] issued the following clarification:

"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. 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 [appellate] court in turn has become final. It is called a 'final and executory' judgment because execution at such point issues as a matter of right." [30]

In the present case, the Order merely granted petitioner a remittance of the allegedly undeducted amount of P44,488,716.41. That sum corresponded to the pay period September 1997 to February 15, 1998, based on the Manifestation and Motion filed by petitioner. Contrary to its contention, the Order did not finally adjudicate its right to compel PAL to allow full salary deductions vis-à-vis the latter's right to implement the 40 percent cap on the employees' salary deductions. The RTC could not have made a final determination of the rights of the parties at that point. As PAL had yet to file an answer, something still had to be done by the trial court. Hence, that Order was merely interlocutory.

Petitioner points out that on June 17, 1999, there was an Entry of Judgment of the CA's dismissal of respondents' Petition for Certiorari questioning the Order. Petitioner asserts that the Entry of Judgment had the effect of making the Order final and executory. We do not agree with this contention.

It is axiomatic that, by their nature, interlocutory orders can never become final and executory in the same manner that final judgments do. [31] Explaining final and executory judgments, this Court said:

"x x x. [A judgment or order becomes] not only final — because finally disposing of the case and leaving nothing more to be done by the adjudging court relative to its merits, but also executory — because the period for appeal has expired without an appeal having been taken, or an appeal having been perfected, x x x. Indeed, the correctness of such an interlocutory order may subsequently be impugned on appeal by any party adversely affected thereby, regardless of whether or not he had presented a motion for the reconsideration thereof, if he has otherwise made of record his position thereon." [32]

The Court agrees that the CA may review the propriety of the RTC's grant of the execution of the Decision pending appeal. The appellate court erred, however, when it found that the actions involved in that Decision were not for injunction, but for specific performance, damages, declaratory relief and indirect contempt.

The records show that, based on its title, the Amended Complaint in Civil Case No. 97-1026 filed before the RTC was for "Specific Performance, Damages or Declaratory Relief with a Prayer for Temporary Restraining Order and Injunction." The allegations and the prayer in the Complaint sought to enjoin respondents from implementing the 40 percent cap on salary deductions. Thus, the CA erred in its finding of the inapplicability of Section 4 of Rule 39 of the Rules of Court, which provides as follows:

"SEC. 4. Judgments not stayed by appeal. — Judgments in actions for injunction, receivership, accounting and support, and such other judgments as are now or may hereafter be declared to be immediately executory, shall be enforceable after their rendition and shall not be stayed by an appeal taken therefrom, unless otherwise ordered by the trial court. On appeal therefrom, the appellate court in its discretion may make an order suspending, modifying, restoring or granting the injunction, receivership, accounting, or award of support.

"The stay of execution shall be upon such terms as to bond or otherwise as may be considered proper for the security or protection of the rights of the adverse party."

As a rule, immediately executory judgments in actions for injunction shall not be stayed by appeal. This rule, however, allows for exceptions. The phrase "unless otherwise ordered by the trial court" provides the RTC ample discretion to stay the execution if warranted by the circumstances. The last paragraph of Section 4 of Rule 39 confirms that the immediate execution of an injunction may be stayed on appeal. Further, a stay of execution may also be ordered on appeal by the CA.

Being mere tools to enforce justice, procedural rules cannot be blindly followed if unwarranted by the

circumstances. [33] Under the present factual circumstances, the staying of the interlocutory award of P44,488,716.41 was proper.

First, the basis of the award was unsubstantiated and therefore dubious. The amount in contention was merely deemed admitted by the trial judge, despite petitioner's failure to prove how it had been computed. The judge completely disregarded the assertions of PAL that it could not deduct the total amounts petitioner had claimed, because of the "zero net pay" status of some of the employees, leaving them no more salaries to deduct from.

Second, after the period in question, PAL started remitting the employees' contributions and loan payments to petitioner. [34]

Third, the amount prayed for was not the money of PAL, but the salaries already paid to its employees. Neither was that sum the subject of the injunction case.

Finally, petitioner has adequate remedies to recover the entire amount should it win the appealed case on the merits.

WHEREFORE, the Petition is DENIED and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Callejo, Jr., and Chico-Nazario, JJ. concur.

[1] Rollo, pp. 9-53.

[2] Id., pp. 58-77. Tenth Division. Penned by Justice Portia Aliño-Hormachuelos (Division chair) with the concurrence of Justices Jose L. Sabio, Jr. and Amelita G. Tolentino (members).

[3] Id., pp. 79-82.

[4] Id., p. 77.

[5] CA Decision, pp. 2-14; rollo, pp. 59-71.

[6] Urgent Motions for Reconsideration, to Quash Writ of Execution Pending Appeal, and to Lift Notice of Garnishment dated December 12, 2002; Annex "Y" of the Petition; rollo, pp. 245-257.

[7] Assailed CA Decision, pp. 15-16 (citing *Tan, Jr. v. Sandiganbayan*, 292 SCRA 452, July 10, 1998); rollo, pp. 72-73.

[8] The case was deemed submitted for decision on December 13, 2004, upon receipt by this Court of respondents' Memorandum, signed by Attys. Eduardo R. Ceniza and Nelson M. Reyes. Petitioner's Memorandum, signed by Atty. Jesus Christopher PB. Belandres, was received by the Court on November 8, 2004.

[9] Petitioner's Memorandum, pp. 13-14; rollo, pp. 525-526. Uppercase in the original.

[10] *Yao v. Perello*, 414 SCRA 474, October 24, 2003; *Zapanta v. NLRC*, 354 Phil. 594, July 16, 1998; *Tan v. Sandiganbayan*, 354 Phil. 463, July 10, 1998.

[11] *Metro Transit Organization, Inc. v. CA*, 440 Phil. 743, 751, November 19, 2002, per Carpio, J. (citing *Abraham v. NLRC*, 353 SCRA 739, 744, March 6, 2001, per Gonzaga-Reyes, J.).

[12] *C&C Commercial Corporation v. Philippine National Bank*, 175 SCRA 1, July 5, 1989; *Butuan Bay Wood*

Export Corporation v. Court of Appeals, 97 SCRA 297, April 28, 1980. See also Aguas v. Court of Appeals, 348 Phil. 417, January 20, 1998.

[13] 366 Phil. 956, May 19, 1999.

[14] Id., p. 966, per Vitug, J.

[15] 339 Phil. 541, June 13, 1997.

[16] 207 Phil. 758, June 24, 1983.

[17] See also Developers Group of Companies, Inc. v. Court of Appeals, 219 SCRA 715, March 8, 1993; Philippine Airlines Employees Association v. Philippine Airlines, Inc., 197 Phil. 205, January 30, 1982.

[18] CA Decision, p. 16; rollo, p. 73.

[19] Heirs of Conahap v. Heirs of Regaña, 458 SCRA 741, May 17, 2005; Yang v. CA, 409 SCRA 159, August 15, 2003; Bernaldez v. Francia, 446 Phil. 643, February 28, 2003.

[20] CA rollo, p. 486.

[21] Id., pp. 488-489.

[22] Id., p. 487.

[23] CA Decision, p. 16; rollo, p. 73.

[24] CA Decision, p. 16; rollo, p. 73.

[25] Bardillon v. Barangay Masili of Calamba, Laguna, 402 SCRA 440, April 30, 2003; Prubankers Association v. Prudential Bank and Trust Company, 361 Phil. 744, January 25, 1999; First Philippine International Bank v. Court of Appeals, 322 Phil. 280, January 24, 1996.

[26] Philippine Nails and Wires Corporation v. Malayan Insurance Co., Inc., 445 Phil. 465, February 14, 2003; Prubankers Association v. Prudential Bank and Trust Company, supra; First Philippine International Bank v. Court of Appeals, supra.

[27] Rollo, pp. 259-296.

[28] See Quinsay v. Court of Appeals, 393 Phil. 838, August 31, 2000.

[28] 395 Phil. 278, September 26, 2000.

[30] Id., pp. 293-294, per Gonzaga-Reyes, J.

[31] Montilla v. Court of Appeals, 161 SCRA 167, May 9, 1988; Denso (Phils.), Inc. v. Intermediate Appellate Court, 148 SCRA 280, February 27, 1987; Harrison Foundry and Machinery v. Harrison Foundry Workers' Association, 118 Phil. 443, June 29, 1963.

[32] Montilla v. Court of Appeals, supra, pp. 171-172, per Narvasa, J.

[33] Remulla v. Manlongat, 442 SCRA 226, November 11, 2004; Posadas-Moya & Associates Construction Co., Inc. v. Greenfield Development Corporation, 451 Phil. 647, June 10, 2003.

[34] CA Decision, p. 18; rollo, p. 75.

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