BAN HUA U. FLOREZ AND BAN HA U. CHUA, PETITIONERS, VS. UBS MARKETING CORPORATION AND JOHNNY K. UY, RESPONDENTS.

G.R. NO. 169747. July 27, 2007

Ponente: GARCIA, J.

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GARCIA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioners Ban Hua Uy-Florez and Ban Ha Uy-Chua assail and seek the setting aside of the decision[1] dated June 3, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 85447, as effectively reiterated in its Resolution[2] of September 14, 2005 denying the petitioners' motion for reconsideration.

The antecedents which gave rise to this long-drawn case are, for the most part, set forth in the Court's Decision dated August 23, 1991 in consolidated cases G.R. No. 93832 and G.R. No. 93839[3] involving the same parties and in its subsequent Decision of May 31, 2000 in G.R. No. 130328.[4]

The principal parties in this case, petitioners Ban Hua Uy-Florez and Ban Ha Uy-Chua (the Uy sisters hereinafter) and respondent Johnny K. H. Uy (Johnny Uy), married to Magdalena, are sisters and brother. All the three, including other members of the Uy family, were, at a time, interlocking stockholders and/or officers of the UBS Marketing Corporation (UBS, for short), Soon Kee Commercial, Inc. (Soon Kee, hereinafter), and other allied family enterprises.[5] The Uy sisters, before the family feud, were managing directors of both named corporations, whereas Johnny Uy and Magdalena appear to have occupied, during the same period, the positions of President and Treasurer, respectively.[6]

Due to serious differences within the family, the Uys agreed to divide the family business. Mutual divestments of shares and interests via several deeds of assignment were accordingly executed, in June 1987 or thereabout, to formalize the division. Conformably to the terms of the settlement, Johnny and his wife assigned all their holdings and interests in Soon Kee to the Uy sisters and other members of the family, who in turn ceded their interests in UBS to Johnny Uy and/or his wife. The agreed business settlement, however, did not put an end to the family conflict for, on April 6, 1988, before the Securities and Exchange Commission (SEC), Johnny Uy and UBS filed a complaint[7] against the Uy sisters, Soon Kee and accountant Roland King, for the recovery of UBS's corporate books of accounts and the accounting of funds/properties belonging to UBS. In said complaint, docketed as SEC Case No. 3328, Johnny Uy and UBS stated that, before the segregation, the Uy sisters, who were then directors and officers of UBS, had control and custody of UBS' records, funds and property, and that, after the segregation, his demands for an accounting of funds and the turn over of records went unheeded.

Instead of an answer, the Uy sisters, et al., (collectively the Uy Group) filed a motion to dismiss on jurisdictional ground, it being their posture that there is no intra-corporate relationship between the parties to the suit. The following events then transpired:

> - On May 30, 1988, the SEC Hearing Officer denied the Uy Group's motion to dismiss. Eventually, this Court, in its Decision[8] in G.R. Nos. 93832 and 93839, declared SEC Case No. 3328 as an intra-corporate dispute

falling within the SEC's original jurisdiction.

- When the Court's said decision became final and executory, Johnny Uy moved and was subsequently allowed in SEC Case No. 3328 to present evidence ex-parte. And on the basis of the evidence thus adduced, the SEC Hearing Officer rendered a Decision[9] dated May 3, 1995, paragraph #2 of the fallo of which commanded the respondents therein to render full and complete accounting of all the assets for both Soon Kee and UBS for the period stated therein.

The Uy Group appealed to the SEC en banc which, on December 21, 1995, in SEC-AC No. 520, set aside the SEC Hearing Officer's decision save for the adverted paragraph #2 of the dispositive portion thereof.[10] The Uy Group then moved for a partial reconsideration. The SEC en banc per its resolution[11] of June 24, 1996, while denying reconsideration, dispositively explained that its order dated December 21, 995 affirming the directive of the hearing officer for accounting covers all responsible persons and/or officers who may now have the custody or possession of the books and records of the corporation.

While the CA reversed the aforementioned order and resolution of the SEC en banc,[12] this Court, on review, rendered, on May 31, 2000 in G.R. No. 130328, a Decision[13] setting aside that of the CA and reinstating the heretofore reversed SEC order and resolution, thus:WHEREFORE, premises considered, the Petition is hereby GRANTED. The assailed CA Decision, dated 21 August 1997 is REVERSED and SET ASIDE and the SEC en banc's Order dated 21 December 1995, and Resolution, dated 24 June 1996, are REINSTATED. (Emphasis added.)

- After the finality of the above May 31, 2000 Decision, Johnny Uy and UBS filed before the SEC a "Second Motion to Conduct Full and Complete Accounting Pursuant to the Entry of Judgment Issued by the Supreme Court." The Uy Group opposed the motion.

On July 17, 2002, the SEC en banc, issued an Order[14] granting the second motion aforestated and commanded the Uy Group to render a full and complete accounting of all assets, properties, moneys and the receivables for Soon Kee Commercial, Inc.(for the years 1981 to 1991) and for UBS " (for the years 1981 to 1987).

The Uy Group then filed an Omnibus Motion for Revisions/Reconsideration of Order dated July 17, 2002 to Conform with SEC En Banc Order Dated December 21, 1995 as Revised by SEC Final Resolution dated June 24, 1996 with Reservations[15] praying in effect that Johnny and his wife be likewise required to render an accounting in relation to their office in Soon Kee and UBS. As the Uys explained, the June 24, 1996 SEC en banc Order, as reinstated by this Court, explicitly provided that the ones liable to render an accounting are the responsible officers of the corporations in question and Johnny as President and General Manager of the corporations for 20 years and his wife, as Treasurer are the responsible officers adverted to in the said June 24, 1996 SEC Order.

On May 18, 2004, the SEC en banc denied the Uy Group's omnibus motion.[16]

- In time, the Uy sisters went to the CA on a petition for certiorari, assailing the SEC en banc's May 18, 2004 Order in relation to its July 17, 2002 Order, the petition docketed as C.A. G.R. SP No. 85447.

On June 3, 2005, the CA issued its herein assailed decision[17] dismissing the petition of the Uy sisters. Their motion for reconsideration was also denied in the equally challenged resolution of September 14, 2005.

Hence, this petition for review.

As is noted, the herein assailed CA issuances veritably affirmed the correctness of what amounts to be the execution order of the SEC en banc in SEC-AC No. 520 (SEC Case No. 3328). The decisive issue thus tendered in this recourse turns on whether or not the July 17, 2002 Order of the SEC en banc directing the petitioners and

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Roland King to render an accounting conforms with the decision it seeks to execute, namely, the May 31, 2000 Decision of this Court in G.R. No. 130328, which, to petitioners, purportedly required Johnny Uy and wife Magdalena as among the other persons/officers required to render an accounting.

To the petitioners, the required conformity does not obtain, thus necessitating the nullification of the July 17, 2002 SEC en banc Order insofar as it contravened the Court's May 31, 2000 Decision. The respondents disagree on the matter as to who is or are required to render the decreed accounting, stating that: "the [May 3, 1995] decision of the [SEC] Hearing Officer was substantially modified by the SEC en banc, in that only paragraph 2 thereof was retained and affirmed by this Court on May 31, 2000 [and it is] at once apparent from par. 2 that only petitioners as respondents in SEC No. 3328, were commanded "to immediately render a full and complete accounting "."[18]

We find the petition to be meritorious.

As a matter of settled legal principle, a writ of execution must adhere to every essential particulars of the judgment sought to be executed. It may not alter, or go beyond the terms of the judgment it seeks to enforce.[19] An order of execution not warranted by, or that varies the tenor of the judgment which gives it life is a nullity.[20]

Applying the foregoing principle to the concrete, the execution of the Court's May 31, 2000 Decision ought to correspond to what it dispositively ordered. Elsewise stated, the July 17, 2002 execution order of the SEC en banc must conform to the dispositive part of the Court's May 31, 2000 Decision in G.R. No. 130328.

As may be recalled, the fallo of the May 31, 2000 Decision of this Court expressly reinstated two (2) issuances of the SEC en banc, viz., its Order and Resolution dated December 21, 1995 and June 24, 1996, respectively. It thus stands to reason that the Court meant to have the issuances thus reinstated vivified as intended by the issuing body - the SEC en banc.

A revisit on the order and resolution in question would put things in proper perspective.

The SEC en banc December 21, 1995 Order,[21] to reiterate, directed the SEC Hearing Officer to implement his earlier directive for herein petitioners, et al. to render an accounting, thus:

> WHEREFORE, premises considered, the Decision of the Hearing Officer, save and except paragraph 2 of the dispositive portion thereof is concerned, should be as it is HEREBY SET ASIDE. The hearing officer, is by this ORDER, directed to oversee and enforce his order directing a full and complete accounting of all the assets, properties and receivables of Soon Kee Commercial, Inc. and UBS Marketing Corporation.
>
> SO ORDERED. (Emphasis added.)

Paragraph 2 of the Hearing Officer's decision adverted to in the aforequoted Order reads:

> - Commanding the respondents [herein petitioners, Soon Kee and Roland King] to immediately render a full and complete accounting of all the assets, properties and moneys and the receivables for both Soon Kee (from 1981-1991) and UBS (from 1981 to 1987) respectively;

At that stage of the proceedings, the decreed obligation to render an accounting indeed particularly pertained to petitioners alone, as herein respondents postulate at every turn. However, the legal situation would later change. For, the SEC en banc, acting on a motion for reconsideration, effectively modified or revised its earlier December 21, 1995 Order via its Resolution of June 24, 1996 where it disposed as follows:

> WHEREFORE, premises considered, this motion for partial reconsideration should be, as is hereby DENIED. The Order of December 21, 1995 affirming the directive of the hearing officer for full and complete accounting should, by this Resolution, cover all responsible persons and/or officers who may now have custody or possession of the books and records of the corporation. (Underscoring added.)

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Respondents' unceasing insistence that there was no intent on the part of the SEC to revise its December 21, 1995 Order, particularly on the matter of who is duty bound to render an accounting, falls flat on its face by a perfunctory comparison of the fallos of that Order and the June 24, 1996 Resolution. Surely, the SEC en banc could not have intended the above underscored portion of its June 24, 1996 resolution to be a pure jargon and without effect whatsoever.

The notion of the June 24, 1996 resolution being a modificatory issuance becomes all the more clear by what it provides on its face. In the body of the said resolution, the SEC en banc unmistakably stated that if respondent Johnny Uy was an accountable officer, as the Uy sisters alleged, of Soon Kee and UBS before the family split, then its (SEC's) directive for an accounting should include him, the required accounting being one that is full and complete. Wrote the SEC in its June 24, 1996 Resolution:

> Needless to state, if Johnny K. H. Uy or any person/officer for that matter should also be subjected to account any monies or properties relative to the corporations herein involved, the questioned Order should cover such a situation as it directs full and complete accounting of all assets, properties and receivables of the said corporations. To say otherwise would render ineffective our [full and complete accounting] Order of December 21, 1995.[22] (Words in brackets added.)

It may be that what can be the subject of execution is that which is ordained only in the dispositive portion.[23] Still, the body of the decision could provide guidance to determine the ratio decidendi or the reasons or conclusions of the court.[24]

Given the above perspective, there should be no quibbling that the SEC intended, by its resolution of June 24, 1996, to modify or revise its December 21, 1995 order, such that all responsible persons and officers, like Johnny and Magdalena Uy, are to render a complete accounting vis-à-vis the monies and assets pertaining, during the period material, to Soon Kee and UBS. In the same token, there should no longer be any doubt that the Court, in its aforementioned May 31, 2000 judgment, intended the modification to apply. Otherwise, it would not have, in the first place, decreed the reinstatement of the June 24, 1996 resolution, which, to stress, is a modificatory disposition.

As it were, the SEC en banc's July 17, 2002 order, which, at bottom, serves as the order of execution in SEC-AC No. 520 (SEC Case No. 3328) tried to execute the December 21, 1995 Order oblivious to the prevailing modificatory June 24, 1996 Resolution in question. The July 17, 2002 order dispositively reads as follows:

> WHEREFORE, premises considered and pursuant to Section 5.2 of the Securities Regulation Code that mandates the retention of intra-corporate disputes ..., Petitioner-Appellees' [herein respondents Johnny Uy et al.'s] Second Motion to Conduct Full and Complete Accounting Pursuant to the Entry of Judgment Issued by the Supreme Court in the Above Entitled Case is hereby GRANTED. Accordingly the respondents [herein petitioners] are hereby commanded to immediately render a full and complete accounting of all assets, properties, moneys and the receivables for Soon Kee Commercial, Inc.(for the years 1981 to 1991) and for UBS ... (for the years 1981 to 1987).
>
> So Ordered. [25] (Italization and emphasis in the original.)

In net effect, then, the SEC en banc, pursuant to its July 17, 2002 Order, strayed from and varied the final and executory disposition in SEC- AC No. 520 (SEC Case No. 3328), which, needless to stress, is embodied in its December 21, 1995 Order, as modified by its June 24, 1996 Resolution. The July 17, 2002 is a nullity, therefore. It cannot be overemphasized that a judgment is the foundation of an order of execution. Accordingly, an execution must conform to and be warranted by the judgment on which it was issued.[26] Execution is void if it does not strictly conform with every essential particular of the judgment rendered.[27]

Respondents would allege that they are not covered by the accounting order and that the petitioners "together with Roland King- are the only ones solely required to make an accounting, this Court having found them (the petitioners) to be in possession, control and supervision of the books and corporate records of the corporations in question.[28]

It is true, as the respondents pointed out, that the Court in the aforecited cases of UBS Marketing v. CA[29] and SEC v. CA,[30] held that the Uy sisters were in custody of the corporate accounting and tax records and that respondent Roland King was then the accountant of the corporations. It is quite incorrect to say, however, that the petitioners, from the bare fact of their having custody/possession of books of accounts, automatically made them liable for accounting. It cannot be over-emphasized that the final May 31, 2000 Decision of the Court, in relation to the reinstated June 24, 1996 Resolution of the SEC, was categorical as to who should make the required accounting, i.e., "all responsible persons and/or officers who may now have custody or possession of the books and records of the corporation."

As it were, the SEC en banc and necessarily the Court contextually wanted an accounting process that would effectively yield results. This sentiment for an effective accounting is, to us, clearly demonstrated by the SEC's pronouncement in its June 24, 1996 Resolution that if Johnny Uy is an accountable officer " as he incidentally was, being then President of Soon Kee and UBS " then he is covered by the accounting directive because " as the resolution would have it - to except him "would render [accounting] ineffective." And who can plausibly make the accounting effective but a responsible officer who could rationally, but accurately explain book/record entries and fund movements? Johnny Uy and his then UBS and Soon Kee treasurer-wife fit into the category of such officer.

In its assailed decision, the CA made the observation that – "xxx the responsible persons and other officers who may have custody or possession of the books of [Soon Kee and UBS] could only refer to persons or officers under the control and supervision of herein petitioners and excluding Johnny K.H. Uy in that category."[31]

The Court cannot lend concurrence to the above observation as it proceeds from a misreading of the relevant SEC issuances in relation to the Court's ruling in UBS. We shall explain even at the risk of being repetitive.

In the SEC en banc's December 21, 1995 Order, the command to make a full and complete accounting is directed, even by their own admission, at the petitioners and Roland King. But the modificatory SEC en banc Resolution of June 24, 1996 changed the object of the directive. From petitioners, et al. in the December 21, 1995 Order, the object became, in the said June 24, 1996 resolution, "all responsible persons and/or officers who may now have custody or possession of the books and records of the corporations." The difference between said order and resolution is clear enough; it needs no belaboring.

The SEC, to be sure, could have had easily made the necessary reference, or, better still, categorically stated that the responsible officers adverted to are the petitioners. But it did not, doubtless purposely. Withal, the appellate court erred in peremptorily holding that the responsible officers referred to in the June 24, 1996 SEC resolution cannot be no other than the petitioners, in effect upholding the erroneous July 17, 2002 order of the SEC, which parenthetically was implemented by an order[32] dated May 18, 2004 signed by the SEC General Counsel.

As a final consideration, the Court notes that, before and during this proceedings, several related incidents have transpired and various orders and resolutions rendered in various fora and, for the most part, final and, therefore, inviolable, such as our May 31, 2000 Decision and the SEC en banc orders we reinstated therein. At the end of the day, however, the main issue here pivots on the execution of a judgment. As explained at length earlier, only the final and executory, and, therefore, unalterable resolution of the SEC en banc dated June 24, 1996 which no less than the Court in its Decision of May 31, 2000 in G.R. No. 130328 in effect affirmed is to be executed.

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WHEREFORE, the instant petition is GRANTED and the assailed Decision and Resolution dated June 3, 2005 and September 14, 2005, respectively, of the Court of Appeals in CA-G.R. SP No. 85447 are set aside. Accordingly, the SEC is directed to execute its Resolution of June 24, 1996 in SEC AC No. 520 (SEC Case No. 3328) strictly in accordance with the terms thereof. Any writ of execution issued, if any, not in conformity with such resolution is hereby declared a nullity and the SEC is hereby directed to recall any such writ.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

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[1] Penned by Associate Justice Conrado M. Vasquez, Jr., concurred in by Associate Justices Rebecca De Guia-Salvador and Aurora Santiago Lagman; rollo, pp. 9-20.

[2] Id. at 22.

[3] Securities and Exchange Commission v. CA, G.R. No. 93839, August 23, 1991, 201 SCRA 124.

[4] UBS Marketing Corporation v. CA, G.R. No. 130328, May 31, 2000, 332 SCRA 534.

[5] See Decision of SEC v. CA, supra, p. 126.

[6] Per General Information Sheets submitted to the SEC, and other financial papers; rollo, pp. 223- 234.

[7] Styled as "Petition"; Id. at 80 et seq.

[8] Supra note 3.

[9] Rollo, pp. 97 et seq.

[10] Id. at 123 et seq.

[11] Id. at 133.

[12] Decision of the CA dated August 21, 1997; cited in UBS Marketing Corp. v. CA, 332 SCRA 534, 540.

[13] Supra note 4.

[14] Annex "G" of Petition; rollo, pp. 172 et seq.

[15] Annex "H" of Petition; id. at 174 et seq.

[16] Id. at 244 et seq.

[17] Supra note 1.

[18] Respondents' Memorandum, pp. 515 et seq., 526.

[19] DBP v. Union Bank, G.R. No. 155838, January 13, 2004, 419 SCRA 131.

[20] Regalado, Remedial Law Compedium, 2000 ed., p. 402 citing Malacora v. CA, G.R. No. 51042, September 30, 1982, 117 SCRA 435.

[21] Supra note 10.

[22] Page 4 of the Resolution; rollo, p. 136.

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[23] Casilan v. De Salcedo, G.R. No. L-23247, January 31, 1969, 26 SCRA 744.

[24] Pelejo v. CA, G.R. No. L-60800, August 31, 1982, 116 SCRA 406.

[25] Page 2 of the Order; rollo, p. 173.

[26] Abinujar v. Court of Appeals, G.R. No. 104133, April 18, 1995, 243 SCRA 531.

[27] Ex-Bataan Veterans Agency, Inc. v. NLRC, G.R. No. 121428, November 29, 1995, 250 SCRA 418.

[28] Page 13 of Respondents' Memorandum; rollo, p. 527.

[29] Supra note 4.

[30] Supra note 3.

[31] Pages 10-11 of the CA Decision; rollo, pp. 18-19.

[32] Id. at 298-299.

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