

PHILIPPINE ROCK INDUSTRIES, INC., PETITIONER, VS. BOARD OF LIQUIDATORS, AS LIQUIDATOR OF THE DEFUNCT REPARATIONS COMMISSION, RESPONDENTS.

G.R. No. 84992, December 15, 1989

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-84992/>

GRINO-AQUINO, J.:

In its decision dated March 21, 1987 in CA-G.R. SP No. 12017, the Court of Appeals set aside the decision and order of execution pending appeal which the Regional Trial Court of Manila issued in favor of the Philippine Rock Industries (PHILROCK for brevity) in Civil Case No. 82-11394, authorizing the immediate execution of its decision against the funds deposited in the Philippine National Bank (PNB) of the respondent Board of Liquidators as liquidator of the defunct Reparations Commission (REPACOM for brevity).

On July 30, 1982, PHILROCK filed in the Regional Trial Court of Manila, Branch 38, a complaint against the Board of Liquidators for Specific Performance or Revaluation with Damages, praying that the defective rock pulverizing machinery which it purchased from REPACOM be replaced with a new one in good and operable condition according to the specifications of their contract, or, in the alternative, to refund the value of the defective rock pulverizing machinery at 31% of its contract price. PHILROCK also prayed for actual damages of P5,000 per month for losses it allegedly incurred due to the increased expenses of maintaining the plant, P4,000 per day as unrealized profits, exemplary damages, attorney's fees of P50,000, plus expenses and costs of the suit.

The Board of Liquidators, in its Answer with Counterclaim, alleged that REPACOM effected complete delivery of the machinery and equipment to PHILROCK but no demand was made regarding any hidden defect; that the machinery and equipment were inspected by reputable companies pursuant to the Reparations Law, and the performance of the plant was reported to be satisfactory at the time of delivery to PHILROCK; that PHILROCK failed to pay the first installment of the equipment but a repossession was deferred, and the contractor/supplier was required to make the necessary repairs; that the defect was attributed to PHILROCK's improper use of the machinery; and that PHILROCK is now in estoppel and guilty of laches for not calling REPACOM's attention to the alleged defects within the equipment's warranty period. In its counterclaim, the Board demanded payment by PHILROCK of the first ten (10) amortizations in the sum of P284,242, expenses of litigation, moral and exemplary damages and costs (pp. 62-63, Rollo).

On April 23, 1987, the trial court rendered a decision in favor of PHILROCK and ordered REPACOM and the Board of Liquidators –

"1. To reimburse Plaintiff Philrock for the expenses it had invested and incurred in connection with its purchase of the said rock pulverizing plant from REPACOM in the total amount of P102,837.66;

"2. To pay Plaintiff Philrock compensatory damages for unrealized profits from May, 1966 and up to December 31, 1983 in the amount of P33,896,844.47;

"3. To pay Plaintiff Philrock the amount of P671,925.32 as reimbursement for the expenses incurred in storage and maintenance of the rock pulverizing plant at Philrock's plant site from June 1, 1966 up to December 31, 1982;

"4. To pay Plaintiff Philrock exemplary damages of P200,000.00;

"5. To pay Plaintiff Philrock's (sic) Attorney's fee of P50,000.00;

"6. To pay the costs of this suit." (p. 64, Rollo.)

On May 5, 1987, PHILROCK filed an urgent motion for execution pending appeal (p. 64, Rollo).

On May 14, 1987, the Solicitor General, on behalf of the State, filed a notice of appeal and an opposition to the "Motion for Execution Pending Appeal" on the ground that the funds sought to be garnished by PHILROCK are public funds, hence, exempt from attachment and execution (p. 66, Rollo).

On May 19, 1987, Judge Natividad Adduru-Santillan issued a Writ of Execution. An order of Garnishment was served to PNB against the funds of REPACOM in the account of the Board of Liquidators to satisfy the judgment of P34,894,607.45 in favor of PHILROCK (p. 68, Rollo).

On May 25, 1987, the Board filed a petition for certiorari and prohibition in the Court of Appeals.

On March 21, 1988, the Court of Appeals set aside the trial court's order of execution. It held that:

"x x x the funds deposited by the Board of Liquidators in the Philippine National Bank may not be garnished to satisfy a money judgment against the petitioner as these funds are public funds." (p. 7, Rollo.)

PHILROCK filed this petition for review.

The issue raised in the petition is whether the funds of REPACOM in the account of the Board of Liquidators in the Philippine National Bank may be garnished to satisfy a money judgment against the BOARD.

PHILROCK relies on Executive Order No. 629, Series of 1980, which abolished REPACOM effective December 31, 1980, and authorized the Board of Liquidators to undertake the liquidation of the remaining assets and outstanding liabilities of REPACOM. Executive Order 635-A, amplifying the said authority of the Board, expressly decreed:

"3. Subject to the provisions of existing laws and with the approval of the President of the Philippines, the Board of Liquidators shall sell, lease, transfer, assign or otherwise dispose of the assets of the REPACOM and from the proceeds thereof pay, in accordance with the priorities established by law, all outstanding obligations of the REPACOM including the operational expenses of the REPACOM Residual Force." (Annex E, p. 32, Rollo.)

PHILROCK contends that the proceeds from the disposal of the assets of REPACOM are "funds appropriated by law" for the specific purpose of paying the liabilities of REPACOM preparatory to its permanent closure (pp. 15-16, Rollo).

The argument is not well taken. The Board of Liquidators is a government agency under the direct supervision of the President of the Republic created by EO 372, dated November 24, 1950 (p. 39, Rollo). Pursuant to PDs Nos. 629 and 635-A, it is tasked with the specific duty of administering the assets and paying the liabilities of the defunct REPACOM. It was not created for profit or to engage in business. Hence, when a suit is directed against said unincorporated government agency which, because it is unincorporated, possesses no juridical personality of its own, the suit is against the agency's principal, i.e., the State.

On the other hand, if the Government conducts a business through either a government-owned and controlled corporation or a non-corporate agency set up primarily for a business purpose, the entity enjoys no immunity from suit even if there is no express grant of authority to "sue or be sued." Having a juridical personality separate and distinct from the government, the funds of such government-owned and controlled corporation and non-corporate agency, although considered public in character, are not exempt from garnishment. This doctrine was applied to suits filed against the Philippine Virginia Tobacco Administration (PNB vs. Pabalan, et al., 83 SCRA 595); the National Shipyard & Steel Corporation (NASSCO vs. CIR, 118 Phil. 782); the Manila Hotel Company (Manila Hotel Employees Asso. vs. Manila Hotel Co., 73 Phil. 374); and the People's Homesite and Housing Corporation (PNB vs. CIR, 81 SCRA 314).

The sale of the rock pulverizing plant to PHILROCK by the Board of Liquidators, although proprietary in nature was merely incidental to the performance of the Board's primary and governmental function of settling and closing the affairs of the REPACOM. Hence, its funds in the Philippine National Bank are public funds which are exempt from garnishment (p. 75, Rollo). This Court so ruled in Commission of Public Highways vs. San Diego (31 SCRA 616):

"All government funds deposited with PNB by any agency or instrumentality of the government, whether by way of general or special deposit, remain government funds, since such government agencies or instrumentalities do not have any non-public or private funds of their own. They are not subject to garnishment or levy; even assuming that the funds become commingled with other funds of the bank, this does not remove the character of the fund as a credit representing government funds thus deposited." (Underscoring supplied.)

It should be mentioned that when the State consents to be sued, it does not necessarily concede its liability. By consenting to be sued, it waives its immunity from suit, but it does not waive its lawful defenses to the action (Meritt vs. Government, 31 SCRA 311, 318). Even when the government has been adjudged liable in a suit to which it has consented, it does not necessarily follow that the judgment can be enforced by execution against its funds for, as we held in Republic vs. Villasor, 54 SCRA 84, every disbursement of public funds must be covered by a corresponding appropriation passed by the Legislature:

"x x x where the State gives its consent to be sued by private parties either by general or special law, it may limit claimant's action 'only up to the completion of proceedings anterior to the state of execution' and that the powers of the Courts ends when the judgment is rendered, since government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgments x x x. Disbursements of public funds must be covered by the corresponding appropriation as required by law. The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects, as appropriated by law." (p. 87.)

A judgment against the State, in a case where it consents to be sued, simply implies that the Legislature will recognize the judgment as final and make provision for its satisfaction. The decision of this Court in Republic vs. Palacio, 23 SCRA 899 is relevant:

"The pump irrigation trust fund, deposited with the Philippine National Bank in the account of the Irrigation Service Unit, may not be garnished to satisfy a money-judgment against the latter. It needs no stressing that to allow the levying under execution of the Irrigation Service funds would amount to diverting them from the purposes originally contemplated by the P.I.-U.S. Bilateral Agreement, and would amount to a disbursement without any proper appropriation as required by law.

"Even though the rule as to immunity of a state from suit is relaxed, the power of the courts ends when the judgment is rendered. Although the liability of the state has been judicially ascertained, the state is at liberty to determine for itself whether to pay the judgment or not, and execution can not issue on a judgment against the state. Such statutes do not authorize a seizure of state property to satisfy judgments recovered, and only convey

an implication that the legislature will recognize such judgment as final and make provision for the satisfaction thereof (49 Am. Jur., Sec. 104, pp. 312-320)."

Executive Order 635 A, s. 1980, is not an appropriation law. Appropriations of public funds must emanate from the legislature, not from the Chief Executive (Secs. 2-4, Article VI, Constitution).

The Court of Appeals correctly annulled and set aside the writs of execution and garnishment issued by the trial court against the funds of the Board of Liquidators in the PNB. Funds should be appropriated by the legislature for the specific purpose of satisfying the judgment in favor of PHILROCK before said judgment may be paid.

WHEREFORE, the decision of the Court of Appeals is affirmed in toto. The order of garnishment served by the Sheriff of Manila against REPACOM's funds in the account of the Board of Liquidators in the Philippine National Bank, is hereby declared null and void. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.