

## FIRST DIVISION

[ G.R. No. 192532, January 30, 2013 ]

**SPOUSES RICARDO AND ELENA GOLEZ, PETITIONERS, VS.  
SPOUSES CARLOS AND AMELITA NAVARRO, RESPONDENTS.**

### D E C I S I O N

**REYES, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, seeking to set aside the Orders dated December 21, 2009<sup>[1]</sup> and May 17, 2010<sup>[2]</sup> of the Regional Trial Court (RTC) of Molave, Zamboanga del Sur, Branch 23.

The facts are as follows:

On October 5, 1993, Spouses Ricardo and Elena Golez (herein petitioners), entered into a written agreement<sup>[3]</sup> with respondent Amelita Navarro (Amelita), a real estate dealer, appointing her as their exclusive agent in the sale of their property in Molave, Zamboanga del Sur, which has an area of 1,100 square meters, more or less, and worth six hundred thousand pesos (P600,000.00). They likewise agreed that if the price of the sale exceeds P600,000.00, Amelita will be given a commission equivalent to 90% of the amount in excess thereof.

Amelita found an interested buyer, the Church of Jesus Christ of Latter Day Saints (Mormons). No sale between them, however, transpired because they couldn't agree on the selling price of P1,200,000.00.<sup>[4]</sup> Upon knowing this fact, the petitioners took over and continued negotiations with the Mormons' representatives in Manila.

On November 9, 1994, the petitioners successfully sold their property to the Mormons for the amount of P800,000.00. The sale included other lots owned by the petitioners and the total purchase price amounted to P1,300,000.00. Amelita was neither notified of the sale nor was she given any commission.<sup>[5]</sup> Hence, upon discovery of the transaction, she asserted her right to be paid her commission but the petitioners sternly refused. Because of this, Amelita brought the matter to the Office of the *Barangay* Captain of Molave. However, no amicable settlement took place between her and the petitioners.

On March 7, 1995, Amelita, together with her husband Carlos, (herein respondents) instituted a complaint<sup>[6]</sup> for collection of sum of money, breach of contract and damages against the petitioners with the RTC of Molave, Zamboanga del Sur, Branch 23. The petitioners filed their Answer,<sup>[7]</sup> denying any liability. Thereafter, trial on the merits ensued.

In its Decision<sup>[8]</sup> dated October 28, 1998, the RTC ruled in favor of the

respondents. The dispositive portion of the RTC Decision provides:

WHEREFORE, judgment is hereby entered in favor of the plaintiffs and against the defendants –

1. Declaring the plaintiff to be entitled to commission on all of the sale of the lands of the defendants to the Mormons Church brought about by reasons (sic) of the efforts and labors of the plaintiffs, being the efficient procuring cause thereof;

2. Ordering the defendants to pay, jointly and severally, the following sum to the plaintiffs;

a. As agent's commission earned – P280,000.00, the unpaid sum of which to earn interest at the rate of 12% per annum from the sale of defendants' property to the Mormons Church on November 9, 1994 until the same is fully paid to the plaintiffs;

b. As moral damages - P50,000.00;

c. As Attorney's fees - P90,000.00;

3. To pay the cost[s] of this action.

4. Ordering a writ of attachment to issue against the estate of the defendants, real and personal, to secure the payment of the judgment sum, without need of any bond to be filed by the plaintiffs.

SO ORDERED.<sup>[9]</sup>

On appeal, the Court of Appeals (CA), in its Decision<sup>[10]</sup> dated September 29, 2006, affirmed with modifications the RTC Decision. The dispositive portion of the CA Decision provides:

WHEREFORE, premises considered, the assailed decision is hereby MODIFIED as follows:

(1) Declaring Amelita Navarro to be entitled to the commission on the sale of appellants' properties subject of the contract of agency;

(2) Ordering appellants to pay, jointly and severally, to appellees the amount of one hundred eighty thousand pesos (**Php180,000.00**) representing the commission for the sale of appellants' properties subject of the contract of agency; and

(3) Deleting the award of moral damages and attorney's fees.

**In its other aspects, the appealed decision shall remain undisturbed.**

SO ORDERED.<sup>[11]</sup> (Emphasis ours)

The petitioners elevated the matter to the Court via petition for review on *certiorari*, docketed as G.R. No. 178648.<sup>[12]</sup> The Court in its Resolution<sup>[13]</sup> dated September 22, 2008, denied the petition for “failure of petitioners to sufficiently show that the [CA] committed any reversible error in the challenged decision and resolution as to warrant the exercise of the Court’s discretionary appellate jurisdiction. Besides, the issues raised [in the said petition] are [merely] factual in nature.”<sup>[14]</sup> The motion for reconsideration thereof was likewise denied with finality on February 23, 2009; <sup>[15]</sup> thus the resolution of the Court became final and executory.

Consequently, the respondents filed a Motion for the Issuance of the Writ of Execution<sup>[16]</sup> with the RTC, which was granted in an Order<sup>[17]</sup> dated May 22, 2009. Accordingly, the Clerk of Court and *Ex-Officio* Sheriff issued a Writ of Execution<sup>[18]</sup> dated June 17, 2009, viz:

NOW, THEREFORE, you are hereby commanded to cause the execution of the DECISION of the Honorable Court of Appeals, Twenty Second Division, Cagayan de Oro City promulgated on September 29, 2006 which modify the DECISION of this Honorable Court dated October 28, 1998 and to demand from obligors SPOUSES RICARDO and ELENA GOLEZ the immediate payment in full of the sum of **ONE HUNDRED EIGHTY THOUSAND PESOS (PhP180,000.00), Philippine Currency**, together with your lawful fees for the service of this writ of execution, which SPOUSES CARLOS and AMELITA NAVARRO, as judgment obligees, recovered in this case against judgment obligors SPOUSES RICARDO and ELENA GOLEZ, and to tender the same to said judgment obligees SPOUSES CARLOS and AMELITA NAVARRO and return this writ, with the lawful fees, to this Court within thirty (30) days from the date of receipt hereof with your proceedings endorsed thereon.<sup>[19]</sup> (Emphasis ours)

Thereafter, the respondents filed a Motion for the Judicial Determination of the Mon[e]tary Awards subject for Execution and for the Issuance of an *Alias* Writ of Execution<sup>[20]</sup> alleging that:

1. The Plaintiffs’ counsel received the copy of the “Sheriff’s Return on Writ of Execution” dated 22 July 2009 when he went to the Sheriff’s Office upon the latter’s request relative to the defendants’ offer to pay under a “proposed scheme” and thereat was handed by the Sheriff with the copy of the aforesaid return incorporating the aforesaid “proposed scheme” in the afternoon of 22 July 2009;
2. That upon receipt of the aforesaid matter, for the first time, the undersigned learned of the fact that the amount incorporated in the writ subject for execution, i.e., in the sum of only **[P]180,000.00**, is not only substantially deficient, but likewise contrary to Decision of this Honorable Court, duly affirmed by the Court of Appeals and finally confirmed by the court of last resort, i.e., the Honorable Supreme Court;

3. That the aforesaid deficiency and inconsistency consists of the inadvertence committed by the Honorable Clerk of Court, with all due respect, to incorporate in the issued "Writ of Execution", the amount representing the **"interest at the rate of 12% percent per annum", computed "from the sale of defendants' property to the Mormons Church on November 9, 1994, until the agent's commission in the modified** (as modified by the Court of Appeals) **sum of [P]180,000.00 shall be fully paid to the plaintiffs";**

4. That it is indubitable to behold, that Plaintiffs' determined and persistent endeavors in coming to equity and fighting thru the intricacies in the trial of the case, has lasted for almost fifteen (15) long years, touching the conscience of the Honorable Court of Appeals and ultimately terminated with the final confirmation of the court of last resort. Such religious endeavors is a clear 'indicia' of plaintiffs' high respect to the law and high esteem and confidence to our system of justice. Certainly, such extraordinary disposition is not only commendable, but likewise worthy to be extolled; and such matter definitely justifies, among others, the legitimate and just basis of an award equivalent to "twelve percent (12%) per annum" as incorporated in the "Decision" of this Honor[ab]le Court; and which, if computed, would result to the total sum of **[P]324,000.00**, adjudged upon the defendants, among others, to pay unto the plaintiffs[;]

5. That certainly, the said award (12% per annum) has never been touched by the Honorable Court of Appeals in the body, as well as in the dispositive portion of its "Modified Decision" because such matter **was not raised by the defendants as among the issues in their appeal**, as such, the same should never be interpreted to be covered or included in the modification of the decision, or accorded with an implication as having been abrogated, by the Court of Appeals, least, such interpretation would revolutionize the standard and basic rules in "Statutory Construction"[;]

6. That this motion is never endowed with a minute intention whatsoever, to alter, modify or amend the final and executory judgment of this Honorable Court, but is exclusively designed to assist and in anyway guide the Honorable Court in the correct and complete implementation of its decision which has withstood the crucible test in determining its rectitude.<sup>[21]</sup>

The petitioners opposed the motion stating that the same was a mere scrap of paper for violating the 3-day notice rule. Nonetheless, the petitioners asserted that the writ of execution was in consonance with the CA decision which expressly and categorically modified the Decision dated October 28, 1998 of the RTC. Therein, the CA directed the petitioners to pay to the respondents the sum of P180,000.00 representing their commission from the sale of the petitioners' properties. The respondents never questioned this modified amount which did not mention anything about the payment of 12% interest from the date of sale; thus, they are bound by the tenor of the CA decision.<sup>[22]</sup>

Acting on the motion, the RTC issued the assailed Order<sup>[23]</sup> dated December 21, 2009, explicitly providing for the amount of P504,000.00 as the total monetary award, computed as follows:

[P]180,000.00-----representing the plaintiff's commission as modified by the [C]ourt of Appeals

[P]324,000.00-----representing the interest of the unpaid commission at the rate of 12 percent per annum computed from the sale of defendant's property to the Mormons Church on November 9, 1994 until fully paid ([P]180,000.00 x 12% = [P]21,600.00 x 15 years = [P]324,000.00)<sup>[24]</sup>

The *fallo* thus reads:

**WHEREFORE**, finding the **MOTION FOR ISSUANCE OF ALIAS WRIT OF EXECUTION** being ministerial on the part of this Court, the Decision having become final and executory and in accordance with the Decision of the Court of Appeals in relation to the other aspects of the Decision of this Court, the same is **GRANTED**. Let an **ALIAS WRIT OF EXECUTION** be issued ordering the defendants to pay the plaintiffs the total amount of **Five Hundred Four Thousand Pesos ([P]504,000.00)**.

Let also a **WRIT OF ATTACHMENT** be issued against the estate of the defendants, real or personal, to secure the payment of the judgment sum.

SO ORDERED.<sup>[25]</sup>

Accordingly, the Clerk of Court and *Ex-Officio Sheriff* issued the subject *Alias Writ of Execution*,<sup>[26]</sup> which states:

NOW, THEREFORE, you are hereby commanded to cause the execution of the DECISION of the Honorable Court of Appeals, Twenty Second Division, Cagayan de Oro City promulgated on **September 29, 2006** in relation to the other aspects of the **DECISION** of this Honorable Court dated **October 28, 1998** and to demand from obligors **SPOUSES RICARDO and ELENA GOLEZ the immediate payment in full of the sum of FIVE HUNDRED FOUR THOUSAND PESOS ([P]504,000.00), Philippine Currency**, together with your lawful fees for the service of this writ of execution, which SPOUSES CARLOS and AMELITA NAVARRO, as judgment obligees, recovered in this case against judgment obligors SPOUSES RICARDO and ELENA GOLEZ, and to tender the same to said judgment obligees SPOUSES CARLOS and AMELITA NAVARRO and return this writ, with the lawful fees, to this Court within thirty (30) days from