

FIRST DIVISION

[G.R. No. 182729, September 29, 2010]

KUKAN INTERNATIONAL CORPORATION, PETITIONER, VS. HON. AMOR REYES, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA, BRANCH 21, AND ROMEO M. MORALES, DOING BUSINESS UNDER THE NAME AND STYLE "RM MORALES TROPHIES AND PLAQUES," RESPONDENTS.

D E C I S I O N

VELASCO JR., J.:

The Case

This Petition for Review on Certiorari under Rule 45 seeks to nullify and reverse the January 23, 2008 Decision^[1] and the April 16, 2008 Resolution^[2] rendered by the Court of Appeals (CA) in CA-G.R. SP No. 100152.

The assailed CA decision affirmed the March 12, 2007^[3] and June 7, 2007^[4] Orders of the Regional Trial Court (RTC) of Manila, Branch 21, in Civil Case No. 99-93173, entitled *Romeo M. Morales, doing business under the name and style RM Morales Trophies and Plaques v. Kukan, Inc.* In the said orders, the RTC disregarded the separate corporate identities of Kukan, Inc. and Kukan International Corporation and declared them to be one and the same entity. Accordingly, the RTC held Kukan International Corporation, albeit not impleaded in the underlying complaint of Romeo M. Morales, liable for the judgment award decreed in a Decision dated November 28, 2002^[5] in favor of Morales and against Kukan, Inc.

The Facts

Sometime in March 1998, Kukan, Inc. conducted a bidding for the supply and installation of signages in a building being constructed in Makati City. Morales tendered the winning bid and was awarded the PhP 5 million contract. Some of the items in the project award were later excluded resulting in the corresponding reduction of the contract price to PhP 3,388,502. Despite his compliance with his contractual undertakings, Morales was only paid the amount of PhP 1,976,371.07, leaving a balance of PhP 1,412,130.93, which Kukan, Inc. refused to pay despite demands. Shortchanged, Morales filed a Complaint^[6] with the RTC against Kukan, Inc. for a sum of money, the case docketed as Civil Case No. 99-93173 and eventually raffled to Branch 17 of the court.

Following the joinder of issues after Kukan, Inc. filed an answer with counterclaim, trial ensued. However, starting November 2000, Kukan, Inc. no longer appeared and participated in the proceedings before the trial court, prompting the RTC to declare Kukan, Inc. in default and paving the way for Morales to present his evidence *ex parte*.

On November 28, 2002, the RTC rendered a Decision finding for Morales and against Kukan, Inc., disposing as follows:

WHEREFORE, consistent with Section 5, Rule 18 of the 1997 Rules of Civil Procedure, and by preponderance of evidence, judgment is hereby rendered in favor of the plaintiff, ordering Kukan, Inc.:

1. to pay the sum of ONE MILLION TWO HUNDRED ONE THOUSAND SEVEN HUNDRED TWENTY FOUR PESOS (P1,201,724.00) with legal interest at 12% per annum from February 17, 1999 until full payment;
2. to pay the sum of FIFTY THOUSAND PESOS (P50,000.00) as moral damages;
3. to pay the sum of TWENTY THOUSAND PESOS, (P20,000.00) as reasonable attorney's fees; and
4. to pay the sum of SEVEN THOUSAND NINE HUNDRED SIXTY PESOS and SIX CENTAVOS (P7,960.06) as litigation expenses.

For lack of factual foundation, the counterclaim is DISMISSED.

IT IS SO ORDERED.^[7]

After the above decision became final and executory, Morales moved for and secured a writ of execution^[8] against Kukan, Inc. The sheriff then levied upon various personal properties found at what was supposed to be Kukan, Inc.'s office at Unit 2205, 88 Corporate Center, Salcedo Village, Makati City. Alleging that it owned the properties thus levied and that it was a different corporation from Kukan, Inc., Kukan International Corporation (KIC) filed an Affidavit of Third-Party Claim. Notably, KIC was incorporated in August 2000, or shortly after Kukan, Inc. had stopped participating in Civil Case No. 99-93173.

In reaction to the third party claim, Morales interposed an Omnibus Motion dated April 30, 2003. In it, Morales prayed, applying the principle of piercing the veil of corporate fiction, that an order be issued for the satisfaction of the judgment debt of Kukan, Inc. with the properties under the name or in the possession of KIC, it being alleged that both corporations are but one and the same entity. KIC opposed Morales' motion. By Order of May 29, 2003^[9] as reiterated in a subsequent order, the court denied the omnibus motion.

In a bid to establish the link between KIC and Kukan, Inc., and thus determine the true relationship between the two, Morales filed a Motion for Examination of Judgment Debtors dated May 4, 2005. In this motion Morales sought that subpoenas be issued against the primary stockholders of Kukan, Inc., among them Michael Chan, a.k.a. Chan Kai Kit. This too was denied by the trial court in an Order dated

May 24, 2005.^[10]

Morales then sought the inhibition of the presiding judge, Eduardo B. Peralta, Jr., who eventually granted the motion. The case was re-raffled to Branch 21, presided by public respondent Judge Amor Reyes.

Before the Manila RTC, Branch 21, Morales filed a Motion to Pierce the Veil of Corporate Fiction to declare KIC as having no existence separate from Kukan, Inc. This time around, the RTC, by Order dated March 12, 2007, granted the motion, the dispositive portion of which reads:

WHEREFORE, premises considered, the motion is hereby GRANTED. The Court hereby declares as follows:

1. defendant Kukan, Inc. and newly created Kukan International Corp. as one and the same corporation;
2. the levy made on the properties of Kukan International Corp. is hereby valid;
3. Kukan International Corp. and Michael Chan are jointly and severally liable to pay the amount awarded to plaintiff pursuant to the decision of November ^[28], 2002 which has long been final and executory.

SO ORDERED.

From the above order, KIC moved but was denied reconsideration in another Order dated June 7, 2007.

KIC went to the CA on a petition for certiorari to nullify the aforesaid March 12 and June 7, 2007 RTC Orders.

On January 23, 2008, the CA rendered the assailed decision, the dispositive portion of which states:

WHEREFORE, premises considered, the petition is hereby DENIED and the assailed Orders dated March 12, 2007 and June 7, 2007 of the court *a quo* are both AFFIRMED. No costs.

SO ORDERED.^[11]

The CA later denied KIC's motion for reconsideration in the assailed resolution.

Hence, the instant petition for review, with the following issues KIC raises for the Court's consideration:

1. There is no legal basis for the [CA] to resolve and declare that petitioner's Constitutional Right to Due Process was not violated by the public respondent in rendering the Orders dated March 12, 2007 and June 7, 2007 and in declaring petitioner to be liable for the judgment obligations of the corporation "Kukan, Inc." to private respondent - as petitioner is a stranger to the case and was never made a party in the case before the trial court nor was it ever served a summons and a copy of the complaint.
2. There is no legal basis for the [CA] to resolve and declare that the Orders dated March 12, 2007 and June 7, 2007 rendered by public respondent declaring the petitioner liable to the judgment obligations of the corporation "Kukan, Inc." to private respondent are valid as said orders of the public respondent modify and/or amend the trial court's final and executory decision rendered on November 28, 2002.
3. There is no legal basis for the [CA] to resolve and declare that the Orders dated March 12, 2007 and June 7, 2007 rendered by public respondent declaring the petitioner [KIC] and the corporation "Kukan, Inc." as one and the same, and, therefore, the Veil of Corporate Fiction between them be pierced - as the procedure undertaken by public respondent which the [CA] upheld is not sanctioned by the Rules of Court and/or established jurisprudence enunciated by this Honorable Supreme Court.^[12]

In gist, the issues to be resolved boil down to the question of, *first*, whether the trial court can, after the judgment against Kukan, Inc. has attained finality, execute it against the property of KIC; *second*, whether the trial court acquired jurisdiction over KIC; and *third*, whether the trial and appellate courts correctly applied, under the premises, the principle of piercing the veil of corporate fiction.

The Ruling of the Court

The petition is meritorious.

First Issue: Against Whom Can a Final and Executory Judgment Be Executed

The preliminary question that must be answered is whether or not the trial court can, after adjudging Kukan, Inc. liable for a sum of money in a final and executory judgment, execute such judgment debt against the property of KIC.

The poser must be answered in the negative.

In *Carpio v. Doroja*,^[13] the Court ruled that the deciding court has supervisory control over the execution of its judgment:

A case in which an execution has been issued is regarded as still pending so that all proceedings on the execution are proceedings in the suit.

There is no question that the court which rendered the judgment has a general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution.

We reiterated the above holding in *Javier v. Court of Appeals*^[14] in this wise: "The said branch has a general supervisory control over its processes in the execution of its judgment with a right to determine every question of fact and law which may be involved in the execution."

The court's supervisory control does not, however, extend as to authorize the alteration or amendment of a final and executory decision, save for certain recognized exceptions, among which is the correction of clerical errors. Else, the court violates the principle of finality of judgment and its immutability, concepts which the Court, in *Tan v. Timbal*,^[15] defined:

As we held in *Industrial Management International Development Corporation vs. NLRC*:

It is an elementary principle of procedure that the resolution of the court in a given issue as embodied in the dispositive part of a decision or order is the controlling factor as to settlement of rights of the parties. **Once a decision or order becomes final and executory, it is removed from the power or jurisdiction of the court which rendered it to further alter or amend it. It thereby becomes immutable and unalterable and any amendment or alteration which substantially affects a final and executory judgment is null and void for lack of jurisdiction, including the entire proceedings held for that purpose. An order of execution which varies the tenor of the judgment or exceeds the terms thereof is a nullity.** (Emphasis supplied.)

Republic v. Tango^[16] expounded on the same principle and its exceptions:

Deeply ingrained in our jurisprudence is the principle that **a decision that has acquired finality becomes immutable and unalterable.** As such, **it may no longer be modified** in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. x x x

The doctrine of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final on some definite date fixed by law. **The only exceptions** to the general rule are the correction of clerical errors, the so-called *nunc pro tunc* entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality