

## THIRD DIVISION

[ G.R. No. 183297, December 23, 2009 ]

**NATIONAL POWER CORPORATION, PETITIONER, VS. OMAR G. MARUHOM, ELIAS G. MARUHOM, BUCAY G. MARUHOM, MAMOD G. MARUHOM, FAROUK G. MARUHOM, HIDJARA G. MARUHOM, ROCANIA G. MARUHOM, POTRISAM G. MARUHOM, LUMBA G. MARUHOM, SINAB G. MARUHOM, ACMAD G. MARUHOM, SOLAYMAN G. MARUHOM, MOHAMAD M. IBRAHIM, CAIRORONESA M. IBRAHIM, AND LUCMAN IBRAHIM, REPRESENTED BY HIS HEIRS ADORA B. IBRAHIM, NASSER B. IBRAHIM, JAMALODIN B. IBRAHIM, RAJID NABBEL B. IBRAHIM, AMEER B. IBRAHIM AND SARAH AIZAH B. IBRAHIM,\*  
RESPONDENTS.**

### D E C I S I O N

**NACHURA, J.:**

Petitioner National Power Corporation (NPC) filed this Petition for Review on *Certiorari*, seeking to nullify the May 30, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 02065-MIN, affirming the Order dated November 13, 2007 issued by Hon. Amer R. Ibrahim, which granted respondents' motion for issuance of a writ of execution.

The antecedents.

Lucman G. Ibrahim and his co-heirs Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mamod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Rocania G. Maruhom, Potrisam G. Maruhom, Lumba G. Maruhom, Sinab G. Maruhom, Acmad G. Maruhom, Solayman G. Maruhom, Mohamad M. Ibrahim and Cairoronesa M. Ibrahim (respondents) are owners of a 70,000-square meter lot in Saduc, Marawi City. Sometime in 1978, NPC, without respondents' knowledge and consent, took possession of the subterranean area of the land and constructed therein underground tunnels. The tunnels were used by NPC in siphoning the water of Lake Lanao and in the operation of NPC's Agus II, III, IV, V, VI, and VII projects located in Saguiran, Lanao del Sur; Nangca and Balo-i in Lanao del Norte; and Ditucalan and Fuentes in Iligan City. Respondents only discovered the existence of the tunnels sometime in July 1992. Thus, on October 7, 1992, respondents demanded that NPC pay damages and vacate the subterranean portion of the land, but the demand was not heeded.

Hence, on November 23, 1994, respondents instituted an action for recovery of possession of land and damages against NPC with the Regional Trial Court (RTC) of Lanao del Sur, docketed as Civil Case No. 1298-94.

After trial, the RTC rendered a decision,<sup>[2]</sup> the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered:

1. Denying [respondents'] prayer for [NPC] to dismantle the underground tunnels constructed beneath the lands of [respondents] in Lots 1, 2, and 3 of Survey Plan FP (VII-5) 2278;
2. Ordering [NPC] to pay to [respondents] the fair market value of said 70,000 square meters of land covering Lots 1, 2, and 3 as described in Survey Plan FP (VII-5) 2278 less the area of 21,995 square meters at P1,000.00 per square meter or a total of P48,005,000.00 for the remaining unpaid portion of 48,005 square meters; with 6% interest per annum from the filing of this case until paid;
3. Ordering [NPC] to pay [respondents] a reasonable monthly rental of P0.68 per square meter of the total area of 48,005 square meters effective from its occupancy of the foregoing area in 1978 or a total of P7,050,974.40.
4. Ordering [NPC] to pay [respondents] the sum of P200,000.00 as moral damages; and
5. Ordering [NPC] to pay the further sum of P200,000.00 as attorney's fees and the costs.

SO ORDERED.<sup>[3]</sup>

Respondents then filed an Urgent Motion for Execution of Judgment Pending Appeal. On the other hand, NPC filed a Notice of Appeal. Thereafter, it filed a vigorous opposition to the motion for execution of judgment pending appeal with a motion for reconsideration of the RTC decision.

On August 26, 1996, NPC withdrew its Notice of Appeal to give way to the hearing of its motion for reconsideration. On August 28, 1996, the RTC issued an Order granting execution pending appeal and denying NPC's motion for reconsideration. The Decision of the RTC was executed pending appeal and the funds of NPC were garnished by respondents.

On October 4, 1996, Lucman Ibrahim and respondents Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mamod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Potrisam G. Maruhom and Lumba G. Maruhom filed a Petition for Relief from Judgment,<sup>[4]</sup> asserting as follows:

1. They did not file a motion to reconsider or appeal the decision within the reglementary period of fifteen (15) days from receipt of judgment because they believed in good faith that the decision was for damages and rentals and attorney's fees only as prayed for in

the complaint;

2. It was only on August 26, 1996 that they learned that the amounts awarded to the respondents represented not only rentals, damages and attorney's fees but the greatest portion of which was payment of just compensation which, in effect, would make the petitioner NPC the owner of the parcels of land involved in the case;
3. When they learned of the nature of the judgment, the period of appeal had already expired;
4. They were prevented by fraud, mistake, accident, or excusable negligence from taking legal steps to protect and preserve their rights over their parcels of land insofar as the part of the decision decreeing just compensation for respondents' properties;
5. They would never have agreed to the alienation of their property in favor of anybody, considering the fact that the parcels of land involved in this case were among the valuable properties they inherited from their dear father and they would rather see their land crumble to dust than sell it to anybody.<sup>[5]</sup>

After due proceedings, the RTC granted the petition and rendered a modified judgment dated September 8, 1997, thus:

WHEREFORE, a modified judgment is hereby rendered:

1. Reducing the judgment award of [respondents] for the fair market value of P48,005,000.00 by [P]9,526,000.00 or for a difference [of] P38,479,000.00 and by the further sum of P33,603,500.00 subject of the execution pending appeal leaving a difference of [P]4,878,500.00 which may be the subject of execution upon the finality of this modified judgment with 6% interest per annum from the filing of the case until paid.
2. Awarding the sum of P1,476,911.00 to herein [respondents] Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mahmod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Portrisam G. Maruhom and Lumba G. Maruhom as reasonable rental deductible from the awarded sum of P7,050,974.40 pertaining to [respondents].
3. Ordering [NPC] embodied in the August 7, 1996 decision to pay [respondents] the sum of P200,000.00 as moral damages; and further sum of P200,000.00 as attorney's fees and costs.

SO ORDERED.<sup>[6]</sup>

Lucman Ibrahim and NPC then filed their separate appeals with the CA, docketed as

CA-G.R. CV No. 57792. On June 8, 2005, the CA rendered a Decision,<sup>[7]</sup> setting aside the modified judgment and reinstating the original Decision, amending it further by deleting the award of moral damages and reducing the amount of rentals and attorney's fees, thus:

WHEREFORE, premises considered, herein Appeals are hereby partially **GRANTED**, the Modified Judgment is ordered **SET ASIDE** and rendered of no force and effect and the original Decision of the court *a quo* dated 7 August 1996 is hereby **RESTORED** with the **MODIFICATION** that the award of moral damages is **DELETED** and the amounts of rentals and attorney's fees are **REDUCED** to P6,887,757.40 and P50,000.00, respectively.

In this connection, the Clerk of Court of RTC Lanao del Sur is hereby directed to reassess and determine the additional filing fee that should be paid by Plaintiff-Appellant IBRAHIM taking into consideration the total amount of damages sought in the complaint *vis-à-vis* the actual amount of damages awarded by this Court. Such additional filing fee shall constitute as a lien on the judgment.

SO ORDERED<sup>[8]</sup>

The above decision was affirmed by this Court on June 29, 2007 in G.R. No. 168732, *viz.*:

**WHEREFORE**, the petition is **DENIED** and the Decision of the Court of Appeals in C.A.-G.R. CV No. 57792 dated June 8, 2005 is **AFFIRMED**.

No costs.

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

NPC moved for reconsideration of the Decision, but this Court denied it on August 29, 2007.

To satisfy the judgment, respondents filed with the RTC a motion for execution of its August 7, 1996 decision, as modified by the CA. On November 13, 2007, the RTC granted the motion, and issued the corresponding writ of execution. Subsequently, a notice of garnishment was issued upon NPC's depository bank.

NPC then filed a Petition for *Certiorari* (with Urgent Prayer for the Immediate Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) with the CA, docketed as CA-G.R. SP No. 02065-MIN. It argued that the RTC gravely abused its discretion when it granted the motion for execution without ordering respondents to transfer their title in favor of NPC. By allowing the payment of just compensation for a parcel of land without the concomitant right of NPC to get title thereto, the RTC clearly varied the terms of the judgment in G.R. No. 168732, justifying the issuance of a writ of *certiorari*. NPC also prayed for the issuance of a