

## THIRD DIVISION

[ G.R. No. 144444, April 04, 2008 ]

**STATE INVESTMENT TRUST, INC., PETITIONER, VS. DELTA MOTORS CORPORATION, RESPONDENT.**

### DECISION

**PANGANIBAN, J.:**

Elementary is the rule that *res judicata* cannot arise from a judgment that has not attained finality. The finality of the decision is, in fact, the first requirement for the application of this doctrine. We also hold that without a *final* judgment, a trial court's order of execution has no leg to stand on. On the other hand, an order authorizing execution pending appeal is likewise improper because it was issued after the appeal has been perfected.

### The Case

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, seeking to set aside the November 16, 1999 Decision<sup>[2]</sup> of the Court of Appeals<sup>[3]</sup> (CA) in CA-GR SP No. 48793. The dispositive part of the Decision reads thus:

"WHEREFORE, the petition for certiorari is **GRANTED**. The orders of respondent RTC, Branch 6 of Manila dated May 27, 1998 and August 3, 1998 are hereby **ANNULLED**. Costs against private respondent."<sup>[4]</sup>

On the other hand, the annulled May 27, 1998 Order of the Regional Trial Court (RTC)<sup>[5]</sup> reads as follows:

"It appearing that the decision of the Honorable Supreme Court promulgated on July 24, 1997, affirming the challenged resolutions of January 5, 1995 and July 14, 1995 in C.A. Sp. No. 29147, has become final and executory; that the issues raised by [Delta Motors Corporation] in its Oppositions/Comment and Counter Omnibus Motion dated March 25, 1998 have already been resolved with finality by the Honorable Supreme Court in said decision promulgated on July 24, 1997, the Omnibus Motion dated March 16, 1998 filed by x x x State Investment House Inc.,<sup>[6]</sup> through counsel, is hereby granted.

"WHEREFORE, as prayed for, (i) Sheriff Eduardo E. Centeno is hereby directed to execute an Alias Sheriff's Final Deed of Sale involving TCT No. 27847, issued by the Register of Deeds of Pasay City which title is now with the Register of Deeds of Parañaque in favor of State Investment Trust, Inc., (ii) the Register of Deeds of Parañaque, Metro Manila is hereby directed to cancel TCT No. 27847 registered in the name of Delta

Motors Corporation, upon the presentation of said Sheriff's Final Deed of Sale and issue a new title covering the same property in the name of State Investment House, Inc., (iii) Sheriff Eduardo Centeno is hereby directed to sell at public auction Delta Motors Corporation's shares of stocks in Canlubang Golf and Country Club covered by Certificate Nos. 074 and 075 and the levied real properties under TCT Nos. 29567, 29563, 29564, 29171, 29565, 29566 and 32784 issued by the Register of Deeds of Dagupan City and; [(iv)] Sheriff Eduardo Centeno is hereby directed to continue with the execution proceedings commenced by the late Sheriff Orlando M. Alcantara in the implementation of the Alias Writ of Execution, and to execute all documents such as, but not limited to, the Sheriff's Certificate of Sale or Final Deed of Sale, and to perform all acts necessary to implement said writ and to transfer in the name of State Investment Trust, Inc. title to the properties of Delta Motors Corporation subject of notices of levy."<sup>[7]</sup>

### **The Facts**

The present proceedings originated from Civil Case No. 84-23019, an action for a sum of money filed with the RTC on February 29, 1984 by State Investment Trust, Inc.<sup>[8]</sup> (SITI) against Delta Motors Corporation. On December 5, 1984, the RTC rendered a judgment by default, ordering Delta to pay SITI P20,061,898.97, plus 25 percent thereof for attorney's fees and costs of the suit.

The RTC Decision was published three times in the *Thunderer*, a Manila-based weekly newspaper. Seventeen days from the last publication of the Decision, SITI moved for the issuance of a writ of execution. The RTC granted the Motion in its March 11, 1987 Order.

On September 21, 1990, Delta obtained a certified true copy of the December 5, 1984 RTC Decision. On October 11, 1990, it asked the Court of Appeals to annul the trial court's Decision on the ground that the summons had been served upon a person not authorized to receive it; and prayed that judgment be rendered "annulling/reversing or setting aside the Decision of the [RTC] judge dated December 5, 1984, Order dated March 11, 1987 issued by the [RTC] incumbent judge and all other orders or proceedings issued and conducted pursuant thereto."<sup>[9]</sup> Docketed as CA-GR SP No. 23068, this case shall hereafter be referred to as the "First Case."

On January 22, 1991, the CA rendered a Decision, declaring that the summons had been properly served upon Delta through one Evel Torres, the Corporation's vice president for finance, but that the RTC Judgment had not attained finality. The dispositive portion of the CA Decision reads:

"WHEREFORE, while the assailed decision was validly rendered by the [RTC], nonetheless it has not attained finality pending service of a copy thereof on x x x DELTA, which may appeal therefrom within the reglementary period."<sup>[10]</sup>

Notably, the CA Decision was silent on the assailed March 11, 1987 RTC Order granting the execution. Delta then appealed to this Court. However, its Petition, docketed as GR No. 100366, was dismissed on August 14, 1991, because of Delta's failure to present proof that a copy of the Petition was served on the RTC, as required by Revised Supreme Court Circular No. 1-88, which had taken effect on July 1, 1991.

On November 12, 1991, Delta filed its Notice of Appeal with the RTC, which, however, dismissed it on June 3, 1992, upon SITI's motion. Thereafter, Delta filed a Petition for Certiorari in CA-GR SP No. 29147 (the "Second Case"), assailing the RTC Order dismissing the Notice of Appeal. The CA granted the Petition in its June 17, 1993 Decision:

"WHEREFORE, the questioned order of [the RTC] dated June 3, 1992, dismissing the notice of appeal dated November 6, 1991; and the order dated September 14, 1992 of the same court denying the motion for reconsideration filed by [Delta], through counsel, are hereby SET ASIDE; and **respondent court [is] hereby ordered to ELEVATE the records of the case to the Court of Appeals, on appeal.**"<sup>[11]</sup>

SITI elevated the CA ruling to this Court. While the appeal was pending, Delta filed with the CA an Omnibus Motion asking the latter to take the following steps:

"1) Declare as null and void *ab initio* and without any force and effect the Order of [the RTC] dated March 11, 1987 ordering the issuance of the writ of execution;

"2) Declare as null and void *ab initio* and without any force and effect the writ of execution issued pursuant to the Order dated March 11, 1987;

"3) All other proceedings held, conducted and executed by x x x sheriff implementing the aforesaid writ of execution."<sup>[12]</sup>

In its July 18, 1994 Resolution, this Court denied SITI's appeal and upheld the CA Decision in the Second Case. Hence, on October 26, 1994, Delta moved for the resolution of the Omnibus Motion it had earlier filed with the CA. The latter denied the Omnibus Motion in its January 5, 1995 Resolution:

"Consequently, the matters prayed for in the Omnibus Motion of x x x Delta [Motors] Corporation dated February 10, 1994 and above-quoted are matters which were not raised as issues by [Delta] in the instant petition and, therefore, not within the jurisdiction and power of this Court in the instant petition to decide.

"WHEREFORE, the Omnibus Motion is hereby DENIED."<sup>[13]</sup>

Consequently, Delta lodged with this Court an appeal docketed as GR No. 121075. In its July 24, 1997 Decision, however, this Court promulgated a Decision affirming the CA Resolution denying Delta's Omnibus Motion. After this Decision became final and executory, SITI filed with the RTC on March 16, 1998, an Omnibus Motion in Civil Case No. 84-23019, asking for the issuance of an order:

"1. Directing the incumbent sheriff of this branch, Eduardo E. Centeno, and/or his successor in office, to execute an Alias Sheriff's Final Deed of Sale involving TCT No. 27847, issued by the Register of Deeds of Pasay City (now title is with Register of Deeds of Parañaque) in favor of State Investment Trust, Inc.;

"2. Directing the Register of Deeds of Parañaque, Metro Manila, to cancel TCT No. 27847 registered in the name of Delta Motors Corporation, upon the presentation of said Sheriff's Final Deed of Sale and issue a new title covering the same property, in the name of State Investment [Trust], Inc.;

"3. Directing the incumbent Sheriff of this branch, Eduardo E. Centeno and/or his successor in office, to sell at public auction Delta Motors Corporation's shares of stocks in Canlubang Golf and Country Club covered by Certificate Numbers 074 and 075, and the levied real properties under TCT Nos. 29567, 29563, 29564, 29171, 29565, 29566 and 32784 issued by the Register of Deeds of Dagupan City;

"4. Directing the incumbent sheriff, and/or his successor in office, to continue with the execution proceedings commenced by the late sheriff Orlando M. Alcantara in the implementation of the Alias Writ of Execution, and to execute all documents such as, but not limited to, the Sheriff's Certificate of Sale or Final Deed of Sale, and to perform all acts necessary to implement said writ and to transfer in the name of State Investment Trust, Inc. title to the properties of Delta Motors Corporation subject of notices of levy.

"Other reliefs just and equitable are likewise prayed for."<sup>[14]</sup>

In opposing the Motion, Delta pointed out that the case had not attained finality because of its pending appeal. The RTC nevertheless rendered the May 27, 1998 Order granting SITI's Omnibus Motion. Thereafter, Delta challenged that Order on certiorari before the CA, which then annulled it in the present assailed Decision.

### **Ruling of the Court of Appeals**

Ruling on the Second Case, the CA refused to make any categorical decision on the validity of the March 11, 1987 RTC Order on the ground that it had no jurisdiction over the matter. It noted that the only issue raised in the Second Case was the correctness of the June 3, 1992 RTC Order dismissing respondent's appeal of the December 5, 1984 RTC Decision. In GR No. 110667, this Court affirmed the CA. Hence, the CA by its refusal to rule on the March 11, 1987 RTC Order, did not pass upon the substantial rights of the parties, contrary to petitioner's contention.

While it did not nullify the March 11, 1987 RTC Order in its Decision in the First Case, the CA held, however, that the RTC judgment, which had not been validly served on Delta, was not yet final and executory. The CA ruled that the RTC had acted without jurisdiction when the latter issued its March 11, 1987 Order granting SITI's Motion for a Writ of Execution. The appellate court noted that the RTC's assailed Decision was not yet final and executory at the time, because it ordered the records of the case to be elevated to it for review in its June 17, 1993 Decision.

The CA also found that the RTC had acted without jurisdiction when it relied on GR No. 121075 to grant petitioner's March 16, 1998 Omnibus Motion. The appellate court held that the lower court's action effectively allowed execution of the December 5, 1984 Decision even when it had not yet become final and executory.

Hence, this appeal.<sup>[15]</sup>

### **Issues**

Petitioner submits the following issues for our consideration:

"A.

The Court of Appeals erred in finding that there was no valid ruling made with respect to the 17<sup>[16]</sup> March 1987 Order and all orders or proceedings issued pursuant thereto.

"B.

The Court of Appeals erred in concluding that the doctrine of *res judicata* and conclusiveness of judgment is inapplicable to the case at bar.

"C.

The Court of Appeals erred in finding [that] the RTC acted without jurisdiction when it granted and issued the Writ of Execution.

"D.

The Court of Appeals erred in not finding that by reason of laches and inexcusable inaction, Delta has lost its right to appeal."<sup>[17]</sup>

The issues can be summed up into three: (1) whether CA-GR SP No. 48793 is