

SECOND DIVISION

[G.R. No. 164401, June 25, 2008]

LILIBETH SUNGA-CHAN AND CECILIA SUNGA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS; THE HONORABLE PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 11, SINDANGAN, ZAMBOANGA DEL NORTE; THE REGIONAL TRIAL COURT SHERIFF, BRANCH 11, SINDANGAN, ZAMBOANGA DEL NORTE; THE CLERK OF COURT OF MANILA, AS EX-OFFICIO SHERIFF; AND LAMBERTO T. CHUA, RESPONDENTS.

D E C I S I O N

VELASCO JR., J.:

The Case

Before us is a petition for review under Rule 45, seeking to nullify and set aside the Decision ^[1] and Resolution dated November 6, 2003 and July 6, 2004, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 75688. The impugned CA Decision and Resolution denied the petition for certiorari interposed by petitioners assailing the Resolutions^[2] dated November 6, 2002 and January 7, 2003, respectively, of the Regional Trial Court (RTC), Branch 11 in Sindangan, Zamboanga Del Norte in Civil Case No. S-494, a suit for winding up of partnership affairs, accounting, and recovery of shares commenced thereat by respondent Lamberto T. Chua.

The Facts

In 1977, Chua and Jacinto Sunga formed a partnership to engage in the marketing of liquefied petroleum gas. For convenience, the business, pursued under the name, Shellite Gas Appliance Center (Shellite), was registered as a sole proprietorship in the name of Jacinto, albeit the partnership arrangement called for equal sharing of the net profit.

After Jacinto's death in 1989, his widow, petitioner Cecilia Sunga, and married daughter, petitioner Lilibeth Sunga-Chan, continued with the business without Chua's consent. Chua's subsequent repeated demands for accounting and winding up went unheeded, prompting him to file on June 22, 1992 a Complaint for *Winding Up of a Partnership Affairs, Accounting, Appraisal and Recovery of Shares and Damages with Writ of Preliminary Attachment*, docketed as Civil Case No. S-494 of the RTC in Sindangan, Zamboanga del Norte and raffled to Branch 11 of the court.

After trial, the RTC rendered, on October 7, 1997, judgment finding for Chua, as plaintiff *a quo*. The RTC's decision would subsequently be upheld by the CA in CA-G.R. CV No. 58751 and by this Court per its Decision dated August 15, 2001 in G.R. No. 143340.^[3] The corresponding Entry of Judgment^[4] would later issue declaring

the October 7, 1997 RTC decision final and executory as of December 20, 2001. The *fallo* of the RTC's decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, as follows:

(1) DIRECTING them **to render an accounting** in acceptable form under accounting procedures and standards **of the properties, assets, income and profits of [Shellite] since the time of death of Jacinto L. Sunga**, from whom they continued the business operations including all businesses derived from [Shellite]; submit an inventory, and appraisal of all these properties, assets, income, profits, etc. to the Court and to plaintiff for approval or disapproval;

(2) ORDERING them **to return and restitute** to the partnership any and all **properties, assets, income and profits they misapplied and converted** to their own use and advantage that legally pertain to the plaintiff and account for the properties mentioned in pars. A and B on pages 4-5 of this petition as basis;

(3) DIRECTING them to restitute and **pay to the plaintiff ½ shares and interest of the plaintiff** in the partnership of the listed properties, assets and good will in schedules A, B and C, on pages 4-5 of the petition;

(4) ORDERING them to **pay** the plaintiff earned but **unreceived income and profits from the partnership from 1988 to May 30, 1992**, when the plaintiff learned of the closure of the store the sum of **P35,000.00 per month, with legal rate of interest until fully paid**;

(5) ORDERING them to wind up the affairs of the partnership and terminate its business activities pursuant to law, after delivering to the plaintiff all the ½ interest, shares, participation and equity in the partnership, or the value thereof in money or money's worth, if the properties are not physically divisible;

(6) FINDING them especially Lilibeth Sunga-Chan guilty of breach of trust and in bad faith and hold them liable to the plaintiff the sum of P50,000.00 as moral and exemplary damages; and,

(7) DIRECTING them to reimburse and pay the sum of P25,000.00 as attorney's [fee] and P25,000.00 as litigation expenses.

NO special pronouncements as to COSTS.

SO ORDERED.^[5] (Emphasis supplied.)

Via an Order^[6] dated January 16, 2002, the RTC granted Chua's motion for execution. Over a month later, the RTC, acting on another motion of Chua, issued an amended writ of execution.^[7]

It seems, however, that the amended writ of execution could not be immediately

implemented, for, in an omnibus motion of April 3, 2002, Chua, *inter alia*, asked the trial court to commission a certified public accountant (CPA) to undertake the accounting work and inventory of the partnership assets if petitioners refuse to do it within the time set by the court. Chua later moved to withdraw his motion and instead ask the admission of an accounting report prepared by CPA Cheryl A. Gahuman. In the report under the heading, *Computation of Claims*,^[8] Chua's aggregate claim, arrived at using the compounding-of-interest method, amounted to PhP 14,277,344.94. Subsequently, the RTC admitted and approved the computation of claims in view of petitioners' failure and refusal, despite notice, to appear and submit an accounting report on the winding up of the partnership on the scheduled hearings on April 29 and 30, 2002.^[9]

After another lengthy proceedings, petitioners, on September 24, 2002, submitted their own CPA- certified valuation and accounting report. In it, petitioners limited Chua's entitlement from the winding up of partnership affairs to an aggregate amount of PhP 3,154,736.65 only.^[10] Chua, on the other hand, submitted a new computation,^[11] this time applying simple interest on the various items covered by his claim. Under this methodology, Chua's aggregate claim went down to **PhP 8,733,644.75**.

On November 6, 2002, the RTC issued a Resolution,^[12] rejecting the accounting report petitioners submitted, while approving the new computation of claims Chua submitted. The *fallo* of the resolution reads:

WHEREFORE, premises considered, this Court resolves, as it is hereby resolved, that the Computation of Claims submitted by the plaintiff dated October 15, 2002 amounting to P8,733,644.75 be APPROVED in all respects as the final computation and accounting of the defendants' liabilities in favor of the plaintiff in the above-captioned case, DISAPPROVING for the purpose, in its entirety, the computation and accounting filed by the defendants.

SO RESOLVED.^[13]

Petitioners sought reconsideration, but their motion was denied by the RTC per its Resolution of January 7, 2003.^[14]

In due time, petitioners went to the CA on a petition for certiorari^[15] under Rule 65, assailing the November 6, 2002 and January 7, 2003 resolutions of the RTC, the recourse docketed as CA-G.R. SP No. 75688.

The Ruling of the CA

As stated at the outset, the CA, in the herein assailed Decision of November 6, 2003, denied the petition for certiorari, thus:

WHEREFORE, the foregoing considered, the Petition is hereby DENIED for lack of merit.

SO ORDERED.^[16]

The CA predicated its denial action on the ensuing main premises:

1. Petitioners, by not appearing on the hearing dates, i.e., April 29 and 30, 2002, scheduled to consider Chua's computation of claims, or rendering, as required, an accounting of the winding up of the partnership, are deemed to have waived their right to interpose any objection to the computation of claims thus submitted by Chua.
2. The 12% interest added on the amounts due is proper as the unwarranted keeping by petitioners of Chua's money passes as an involuntary loan and forbearance of money.
3. The reiterative arguments set forth in petitioners' pleadings below were part of their delaying tactics. Petitioners had come to the appellate court at least thrice and to this Court twice. Petitioners had more than enough time to question the award and it is now too late in the day to change what had become final and executory.

Petitioners' motion for reconsideration was rejected by the appellate court through the assailed Resolution^[17] dated July 6, 2004. Therein, the CA explained that the imposition of the 12% interest for forbearance of credit or money was proper pursuant to paragraph 1 of the October 7, 1997 RTC decision, as the computation done by CPA Gahuman was made in "acceptable form under accounting procedures and standards of the properties, assets, income and profits of [Shellite]."^[18] Moreover, the CA ruled that the imposition of interest is not based on par. 3 of the October 7, 1997 RTC decision as the phrase "shares and interests" mentioned therein refers not to an imposition of interest for use of money in a loan or credit, but to a legal share or right. The appellate court also held that the imposition of interest on the partnership assets falls under par. 2 in relation to par. 1 of the final RTC decision as the restitution mentioned therein does not simply mean restoration but also reparation for the injury or damage committed against the rightful owner of the property.

Finally, the CA declared the partnership assets referred to in the final decision as "liquidated claim" since the claim of Chua is ascertainable by mathematical computation; therefore, interest is recoverable as an element of damage.

The Issues

Hence, the instant petition with petitioners raising the following issues for our consideration:

I.

Whether or not the Regional Trial Court can [impose] interest on a final judgment of unliquidated claims.

II.

Whether or not the Sheriff can enforce the whole divisible obligation under judgment only against one Defendant.

III.

Whether or not the absolute community of property of spouses Lilibeth Sunga Chan with her husband Norberto Chan can be lawfully made to answer for the liability of Lilibeth Chan under the judgment.^[19]

Significant Intervening Events

In the meantime, pending resolution of the instant petition for review and even before the resolution by the CA of its CA-G.R. SP No. 75688, the following relevant events transpired:

1. Following the RTC's approval of Chua's computation of claims in the amount of PhP 8,733,644.75, the sheriff of Manila levied upon petitioner Sunga-Chan's property located along Linao St., Paco, Manila, covered by Transfer Certificate of Title (TCT) No. 208782,^[20] over which a building leased to the Philippine National Bank (PNB) stood. In the auction sale of the levied lot, Chua, with a tender of PhP 8 million,^[21] emerged as the winning bidder.
2. On January 21, 2005, Chua moved for the issuance of a final deed of sale and a writ of possession. He also asked the RTC to order the Registry of Deeds of Manila to cancel TCT No. 208782 and to issue a new certificate. Despite petitioners' opposition on the ground of prematurity, a final deed of sale^[22] was issued on February 16, 2005.
3. On February 18, 2005, Chua moved for the confirmation of the sheriff's final deed of sale and for the issuance of an order for the cancellation of TCT No. 208782. Petitioners again interposed an opposition in which they informed the RTC that this Court had already granted due course to their petition for review on January 31, 2005;
4. On **April 11, 2005**, the RTC, via a Resolution, confirmed the sheriff's final deed of sale, ordered the Registry of Deeds of Manila to cancel TCT No. 208782, and granted a writ of possession^[23] in favor of Chua.
5. On May 3, 2005, petitioners filed before this Court a petition for the issuance of a temporary restraining order (TRO). On May 24, 2005, the sheriff of Manila issued a Notice to Vacate^[24] against petitioners, compelling petitioners to repair to this Court anew for the resolution of their petition for a TRO.
6. **On May 31, 2005**, the **Court issued a TRO**,^[25] enjoining the RTC and the sheriff from enforcing the April 11, 2005 writ of possession and the May 24, 2005 Notice to Vacate. Consequently, the RTC issued an Order^[26] on June 17, 2005, suspending the execution