

## THIRD DIVISION

**[ G.R. No. 164648, August 06, 2008 ]**

**ERIC L. LEE, PETITIONER, VS. HON. HENRY J. TROCINO,  
PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, SIXTH  
JUDICIAL REGION, BRANCH 62, BAGO CITY, THE OFFICE OF THE  
EX OFFICIO SHERIFF OF THE REGIONAL TRIAL COURT, SIXTH  
JUDICIAL REGION, BRANCH 62, BAGO CITY, AND MAGDALENO  
M. PEÑA, RESPONDENTS.**

### DECISION

**YNARES-SATIAGO, J.:**

This petition for review on certiorari assails the March 19, 2004 Decision<sup>[1]</sup> and July 27, 2004 Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 65023, dismissing the petition for indirect contempt filed against private respondent Magdaleno M. Peña as well as the petition for prohibition and certiorari instituted to enjoin the Regional Trial Court of Bago City, Branch 62, from further proceeding with Civil Case Nos. 754 and 1088.

On March 1, 1996, Peña filed before the Regional Trial Court of Bago City a complaint (docketed as Civil Case No. 754) for recovery of agent's compensation, expenses, damages and attorney's fees against Urban Bank, Inc. (Urban Bank), its board of directors and officers, namely: Teodoro Borlongan (Borlongan); Delfin Gonzales, Jr. (Gonzales); Benjamin de Leon (de Leon); Siervo Dizon; herein petitioner Eric Lee (Lee); Ben Lim, Jr.; Corazon Bejasa (Bejasa); and Arturo Manuel, Jr. On May 28, 1999, the Regional Trial Court of Bago City, Branch 62, rendered judgment in favor of Peña, as follows:

WHEREFORE, premised from the foregoing, judgment is hereby rendered ordering the defendants to pay plaintiff jointly and severally the following amounts:

1. P24,000,000.00 as compensation for plaintiff's services plus the legal rate of interest from the time of demand until fully paid;
2. P3,000,000.00 as reimbursement of plaintiff's expenses;
3. P1,000,000.00 as and for attorney's fees;
4. P500,000 as exemplary damages;
5. Costs of suit.

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

On June 8, 1999, Peña moved for execution pending appeal while on June 15, 1999, Lee and his co-defendants filed a notice of appeal and an opposition to the motion for execution pending appeal.

The appeal from the trial court's decision was docketed as CA-G.R. CV No. 65756 in the Court of Appeals.

On October 29, 1999, the trial court issued a Special Order<sup>[4]</sup> granting the motion for execution pending Lee's appeal. On the same day, a Writ of Execution<sup>[5]</sup> was issued.

Thus, Lee and his co-defendants de Leon and Gonzales filed a Petition for Certiorari with the Court of Appeals (docketed as CA-G.R. SP No. 55667) which issued on November 9, 1999, a Temporary Restraining Order (TRO) enjoining the implementation of the October 29, 1999 Special Order and writ of execution. On January 12, 2000, the Court of Appeals rendered its Decision (in CA-G.R. SP No. 55667),<sup>[6]</sup> the dispositive portion of which reads, as follows:

WHEREFORE, the instant petition is GRANTED. The Special Order and writ of execution both dated October 29, 1999, are ANNULLED and SET ASIDE.

Respondents are directed to desist from further implementing the writ of execution and to lift the garnishment and levy made pursuant thereto.

SO ORDERED.<sup>[7]</sup>

Peña filed a motion for reconsideration which was granted. Thus, on August 18, 2000, the Court of Appeals rendered an Amended Decision,<sup>[8]</sup> the dispositive portion of which provides:

WHEREFORE, the motion for reconsideration of respondent Magdaleno M. Peña is GRANTED. Accordingly, this Court's decision dated January 12, 2000 is RECONSIDERED and SET ASIDE and another rendered DENYING the petition.

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

Lee, de Leon and Gonzales moved for reconsideration, but it was denied by the appellate court in its Resolution<sup>[10]</sup> dated October 19, 2000. The Court of Appeals also required Peña to post an indemnity bond in the amount of P15 million, thus:

WHEREFORE, petitioners' Motion for Reconsideration is DENIED for lack of merit, while the Supplemental Motions for Reconsideration are DENIED for being filed out of time and for lack of merit.

Respondent Magdaleno M. Peña is directed to post, within five (5) days from notice, an indemnity bond in the amount of P15,000,000.00 to answer for the damages which petitioners may suffer in case of reversal on appeal of the trial court's decision.

Finally, the Office of the Ex-Officio Sheriff of the Regional Trial Court,

Sixth Judicial Region (Branch 62, Bago City), is directed to furnish this Court, within five (5) days from notice, with copies of the returns of its proceedings on the execution pending appeal of the trial court's decision, together with copies of the corresponding notices of levy/garnishment and execution sales, certificates of sale and other pertinent documents.

SO ORDERED.<sup>[11]</sup>

On October 31, 2000, however, the Court of Appeals issued a Resolution<sup>[12]</sup> staying the execution of the trial court's Decision dated May 28, 1999 conditioned upon posting a supersedeas bond in the amount of P40 million.

Peña moved for reconsideration which was denied in a Resolution<sup>[13]</sup> dated December 8, 2000, thus:

WHEREFORE, respondent Magdaleno M. Peña's Motion for Reconsideration and Supplemental Motions are DENIED for lack of merit, while his motions for extension of time to file an indemnity bond are GRANTED in that he is given an extension expiring on December 11, 2000 within which to post an indemnity bond in favor of petitioners.

The supersedeas bond (PGA Bond No. HO-63671-200) dated October 27, 2000 in the sum of Forty Million Pesos (P40,000,000.00) posted by Prudential Guarantee and Assurance Corporation, with petitioners Benjamin L. de Leon, Delfin C. Gonzalez, Jr. and Eric L. Lee as principals, is APPROVED. Accordingly, execution pending appeal of the trial court's judgment against said petitioners is STAYED.

SO ORDERED.<sup>[14]</sup>

Previously, or sometime in 1999 and 2000, Peña, pursuant to the Special Order and Writ of Execution, had caused the levy and sale by public auction of some of Urban Bank and its co-defendants' properties, including the shares of stock of Lee in EQL Properties, Inc. (EQLPI). Peña then sought to transfer Lee's shares in his (Peña's) name, but the EQLPI Corporate Secretary refused to act on the request. Thus, on March 28, 2001, Peña filed an action (docketed as Civil Case No. 1088) with the same court<sup>[15]</sup> (Branch 62 of the Regional Trial Court of Bago City) to compel EQLPI to transfer Lee's shares in Peña's name and recognize his ownership and interest therein.

Claiming that Civil Case No. 1088 was filed to enforce the Special Order and Writ of Execution which were covered by the Stay Order, Lee moved to dismiss the same, but the trial court denied the motion. Instead of filing an Answer, Lee filed with the Court of Appeals a special civil action (docketed as CA-G.R. SP No. 65023), for indirect contempt against Peña and the sheriff for alleged contumacious disobedience to the lawful order of the appellate court in CA-G.R. SP No. 55667, and a petition for prohibition and certiorari against all the herein respondents to annul and set aside the proceedings in Civil Case No. 1088, and to prohibit the trial court, in Civil Case No. 754, from further proceeding with the implementation of the Special Order and the Writ of Execution.

Incidentally, on December 7, 2000, or prior to the filing of CA-G.R. SP No. 65023

before the Court of Appeals on June 5, 2001, Lee and his co-defendants Delfin Gonzales, Jr. and Benjamin de Leon, had filed a Petition for Review (docketed as G.R. No. 145822) with this Court.<sup>[16]</sup> Citing the pendency of CA-G.R. SP No. 65023, and claiming that the subject matter and reliefs sought therein are the same as those in G.R. No. 145822, Peña moved to dismiss the said petition (G.R. No. 145822) on the ground of forum-shopping. However, in a Resolution<sup>[17]</sup> dated September 24, 2003, the Court's Second Division denied the motion.

Meanwhile, as a result of the levy and sale at auction of Lee's personal properties, <sup>[18]</sup> Peña moved (in Branch 62) for the cancellation and transfer of some of these properties in his name and in that of his assignees.<sup>[19]</sup> Previous orders of the trial court (dated September 1, 2000 and December 4, 2000) likewise directing the cancellation and transfer of the stock certificates went unheeded, specifically with respect to Lee's Manila Polo Club, Inc. and Tagaytay Highlands International Golf Club, Inc. shares of stock. The trial court, acting upon Peña's motion, issued on December 19, 2000 another Order<sup>[20]</sup> directing Manila Polo Club, Inc. and Tagaytay Highlands International Golf Club, Inc. to transfer Lee's shares in Peña's name and in that of his assignees.

On January 3, 2001, the trial court issued an Order<sup>[21]</sup> directing the Manila Golf and Country Club, Inc., under pain of contempt, to comply with the court's Orders dated October 4, 2000 and December 20, 2000 ordering the Corporate Secretary thereof to cancel Stock Certificate No. 2395 in the name of Lee and to transfer the same in the name of Sylvia Ting, who appears to be the successful bidder in the execution sale of said Manila Golf share.

On March 9, 2001, the trial court issued an Order<sup>[22]</sup> reiterating its previous directives to Manila Polo Club, Inc.

On December 13, 2000, the trial court issued an Amended Order<sup>[23]</sup> disposing thus:

WHEREFORE, the dispositive portions of the orders of this court dated October 31, 2000 are hereby amended. Thus, the respective corporate secretaries, namely: Christine Q. Lee of EQL Properties, Inc., Roseanne I. Gonzalez of D.C. Gonzalez, Inc. and Atty. Candido R. Flor of Subic Yacht Club is ordered as follows:

(A) To cancel the stock certificates covering the shares described in the orders dated October 31, 2000, in the names of Delfin C. Gonzalez, Jr., Eric L. Lee and Teodoro C. Borlongan, and to effect the transfer of said shares of stocks in the names of the following purchasers at the public auction sale conducted on October 30, 2000, to wit:

ATTY. MAGDALENO M. PEÑA

- a. One (1) share of stock in the name of Teodoro C. Borlongan in Subic Bay Yacht Club;
- b. 30,585 shares of stocks in D.C. Gonzalez, Jr., Inc. at P20.00 per share in the name of Delfin C. Gonzalez, Jr.;

- c. 60,757 shares of stocks in EQL Properties, Inc. at P20.00 per share in the name of Eric Q. Lee.

MR. RAMON P. EREÑETA

- a. Ten (10) shares of stocks in D.C. Gonzalez, Jr., Inc. at P50.00 per share in the name of Delfin C. Gonzalez, Jr.;
- b. Ten (10) shares of stocks in EQL Properties, Inc. at P50.00 per share in the name of Eric Q. Lee;

MR. ROBERTO A. DEMIGILLO

- a. Ten (10) shares of stocks in D.C. Gonzalez, Jr., Inc. at P50.00 per share in the name of Delfin C. Gonzalez, Jr.;
- b. Ten (10) shares of stocks in EQL Properties, Inc. at P50.00 per share in the name of Eric Q. Lee;

MR. NOEL M. MALAYA

- a. Ten (10) shares of stocks in EQL Properties, Inc. at P50.00 per share in the name of Eric Q. Lee;
- b. Ten (10) shares of stocks in D.C. Gonzalez, Jr., Inc. at P50.00 per share in the name of Delfin C. Gonzalez, Jr.;

MR. DEMETRIO M. VINSON, JR.

- a. Ten (10) shares of stocks in EQL Properties, Inc. at P50.00 per share in the name of Eric Q. Lee;
- b. Ten (10) shares of stocks in D.C. Gonzalez, Jr., Inc. at P50.00 per share in the name of Delfin C. Gonzalez, Jr.;

(B) To supply and provide the said purchasers thru their counsel within three (3) days from receipt of this order the following data: stock certificate number, if any, date of acquisition of the shares; cost of acquisition; and transfer fees paid, if any, for each share; and

(C) To inform this court in writing within ten (10) days from notice of compliance with (A) and (B) above, and to show to the Clerk of Court of this Court the corresponding Stock and Transfer Book reflecting the cancellation and transfer of aforesaid, within the same period.

SO ORDERED.<sup>[24]</sup>

On November 6, 2003, a Decision<sup>[25]</sup> was rendered by the Court of Appeals in CA-G.R. SP No. 72698<sup>[26]</sup> and CA-G.R. CV No. 65756,<sup>[27]</sup> declaring the absence of an agency relationship between Urban Bank and Peña, and finding no sufficient basis to hold the respondents therein in contempt of court, thus: