

## FIRST DIVISION

[ G.R. NO. 169747, July 27, 2007 ]

**BAN HUA U. FLOREZ AND BAN HA U. CHUA, PETITIONERS, VS.  
UBS MARKETING CORPORATION AND JOHNNY K. UY,  
RESPONDENTS.**

### D E C I S I O N

**GARCIA, J.:**

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioners Ban Hua Uy-Florez and Ban Ha Uy-Chua assail and seek the setting aside of the decision<sup>[1]</sup> dated June 3, 2005 of the Court of Appeals (CA) in *CA-G.R. SP No. 85447*, as effectively reiterated in its Resolution<sup>[2]</sup> of September 14, 2005 denying the petitioners' motion for reconsideration.

The antecedents which gave rise to this long-drawn case are, for the most part, set forth in the Court's Decision dated August 23, 1991 in consolidated cases *G.R. No. 93832* and *G.R. No. 93839*<sup>[3]</sup> involving the same parties and in its subsequent Decision of May 31, 2000 in *G.R. No. 130328*.<sup>[4]</sup>

The principal parties in this case, petitioners Ban Hua Uy-Florez and Ban Ha Uy-Chua (the Uy sisters hereinafter) and respondent Johnny K. H. Uy (Johnny Uy), married to Magdalena, are sisters and brother. All the three, including other members of the Uy family, were, at a time, interlocking stockholders and/or officers of the UBS Marketing Corporation (UBS, for short), Soon Kee Commercial, Inc. (Soon Kee, hereinafter), and other allied family enterprises.<sup>[5]</sup> The Uy sisters, before the family feud, were managing directors of both named corporations, whereas Johnny Uy and Magdalena appear to have occupied, during the same period, the positions of President and Treasurer, respectively.<sup>[6]</sup>

Due to serious differences within the family, the Uys agreed to divide the family business. Mutual divestments of shares and interests *via* several deeds of assignment were accordingly executed, in June 1987 or thereabout, to formalize the division. Conformably to the terms of the settlement, Johnny and his wife assigned all their holdings and interests in Soon Kee to the Uy sisters and other members of the family, who in turn ceded their interests in UBS to Johnny Uy and/or his wife. The agreed business settlement, however, did not put an end to the family conflict for, on April 6, 1988, before the Securities and Exchange Commission (SEC), Johnny Uy and UBS filed a complaint<sup>[7]</sup> against the Uy sisters, Soon Kee and accountant Roland King, for the recovery of UBS's corporate books of accounts and the accounting of funds/properties belonging to UBS. In said complaint, docketed as *SEC Case No. 3328*, Johnny Uy and UBS stated that, before the segregation, the Uy sisters, who were then directors and officers of UBS, had control and custody of UBS' records, funds and property, and that, after the segregation, his demands for

an accounting of funds and the turn over of records went unheeded.

Instead of an answer, the Uy sisters, *et al.*, (collectively the Uy Group) filed a motion to dismiss on jurisdictional ground, it being their posture that there is no intra-corporate relationship between the parties to the suit. The following events then transpired:

1. On May 30, 1988, the SEC Hearing Officer denied the Uy Group's motion to dismiss. Eventually, this Court, in its Decision<sup>[8]</sup> in *G.R. Nos. 93832 and 93839*, declared SEC Case No. 3328 as an intra-corporate dispute falling within the SEC's original jurisdiction.
2. When the Court's said decision became final and executory, Johnny Uy moved and was subsequently allowed in SEC Case No. 3328 to present evidence *ex-parte*. And on the basis of the evidence thus adduced, the SEC Hearing Officer rendered a Decision<sup>[9]</sup> dated **May 3, 1995**, paragraph #2 of the *fallo* of which commanded the respondents therein to render full and complete accounting of all the assets for both Soon Kee and UBS for the period stated therein.

The Uy Group appealed to the SEC *en banc* which, on **December 21, 1995**, in *SEC-AC No. 520*, set aside the SEC Hearing Officer's decision save for the adverted paragraph #2 of the dispositive portion thereof.<sup>[10]</sup> The Uy Group then moved for a partial reconsideration. The SEC *en banc* per its resolution<sup>[11]</sup> of **June 24, 1996**, while denying reconsideration, dispositively explained that its order dated December 21, 1995 affirming the directive of the hearing officer for accounting covers all responsible persons and/or officers who may now have the custody or possession of the books and records of the corporation.

While the CA reversed the aforementioned order and resolution of the SEC *en banc*,<sup>[12]</sup> this Court, on review, rendered, on **May 31, 2000** in *G.R. No. 130328*, a Decision<sup>[13]</sup> setting aside that of the CA and reinstating the heretofore reversed SEC order and resolution, thus:

WHEREFORE, premises considered, the Petition is hereby GRANTED. The assailed CA Decision, dated 21 August 1997 is REVERSED and SET ASIDE and the **SEC en banc's Order dated 21 December 1995**, and **Resolution, dated 24 June 1996, are REINSTATED.** (Emphasis added.)

3. After the finality of the above May 31, 2000 Decision, Johnny Uy and UBS filed before the SEC a "*Second Motion to Conduct Full and Complete Accounting Pursuant to the Entry of Judgment Issued by the Supreme Court.*" The Uy Group opposed the motion.

On **July 17, 2002**, the SEC *en banc*, issued an **Order**<sup>[14]</sup> granting the second motion aforesaid and commanded the Uy Group to

render a full and complete accounting of all assets, properties, moneys and the receivables for Soon Kee Commercial, Inc.(for the years 1981 to 1991) and for UBS " (for the years 1981 to 1987).

The Uy Group then filed an *Omnibus Motion for Revisions/Reconsideration of Order dated July 17, 2002 to Conform with SEC En Banc Order Dated December 21, 1995 as Revised by SEC Final Resolution dated June 24, 1996 with Reservations*<sup>[15]</sup> praying in effect that Johnny and his wife be likewise required to render an accounting in relation to their office in Soon Kee and UBS. As the Uys explained, the June 24, 1996 SEC *en banc* Order, as reinstated by this Court, explicitly provided that the ones liable to render an accounting are the responsible officers of the corporations in question and Johnny as President and General Manager of the corporations for 20 years and his wife, as Treasurer are the responsible officers adverted to in the said June 24, 1996 SEC Order.

On **May 18, 2004**, the SEC *en banc* denied the Uy Group's omnibus motion.<sup>[16]</sup>

4. In time, the Uy sisters went to the CA on a petition for *certiorari*, assailing the SEC *en banc*'s May 18, 2004 Order in relation to its July 17, 2002 Order, the petition docketed as *C.A. G.R. SP No. 85447*.

On June 3, 2005, the CA issued its herein assailed decision<sup>[17]</sup> dismissing the petition of the Uy sisters. Their motion for reconsideration was also denied in the equally challenged resolution of September 14, 2005.

Hence, this petition for review.

As is noted, the herein assailed CA issuances veritably affirmed the correctness of what amounts to be the execution order of the SEC *en banc* in *SEC-AC No. 520 (SEC Case No. 3328)*. The decisive issue thus tendered in this recourse turns on whether or not the July 17, 2002 Order of the SEC *en banc* directing the petitioners and Roland King to render an accounting conforms with the decision it seeks to execute, namely, the May 31, 2000 Decision of this Court in *G.R. No. 130328*, which, to petitioners, purportedly required Johnny Uy and wife Magdalena as among the other persons/officers required to render an accounting.

To the petitioners, the required conformity does not obtain, thus necessitating the nullification of the July 17, 2002 SEC *en banc* Order insofar as it contravened the Court's May 31, 2000 Decision. The respondents disagree on the matter as to who is or are required to render the decreed accounting, stating that: "*the [May 3, 1995] decision of the [SEC] Hearing Officer was substantially modified by the SEC en banc, in that only paragraph 2 thereof was retained and affirmed by this Court on May 31, 2000 [and it is] at once apparent from par. 2 that only petitioners as respondents in SEC No. 3328, were commanded "to immediately render a full and complete accounting ".*"<sup>[18]</sup>

We find the petition to be meritorious.

As a matter of settled legal principle, a writ of execution must adhere to every essential particulars of the judgment sought to be executed. It may not alter, or go beyond the terms of the judgment it seeks to enforce.<sup>[19]</sup> An order of execution not warranted by, or that varies the tenor of the judgment which gives it life is a nullity.<sup>[20]</sup>

Applying the foregoing principle to the concrete, the execution of the Court's May 31, 2000 Decision ought to correspond to what it dispositively ordered. Elsewise stated, the July 17, 2002 execution order of the SEC *en banc* must conform to the dispositive part of the Court's May 31, 2000 Decision in *G.R. No. 130328*.

As may be recalled, the *fallo* of the May 31, 2000 Decision of this Court expressly reinstated two (2) issuances of the SEC *en banc*, viz., its **Order** and **Resolution** dated **December 21, 1995** and **June 24, 1996**, respectively. It thus stands to reason that the Court meant to have the issuances thus reinstated vivified as intended by the issuing body - the SEC *en banc*.

A revisit on the order and resolution in question would put things in proper perspective.

The SEC *en banc* December 21, 1995 Order,<sup>[21]</sup> to reiterate, directed the SEC Hearing Officer to implement his earlier directive for herein petitioners, *et al.* to render an accounting, thus:

WHEREFORE, premises considered, the Decision of the Hearing Officer, save and **except paragraph 2** of the dispositive portion thereof is concerned, should be as it is HEREBY SET ASIDE. The hearing officer, is by this ORDER, directed to oversee and **enforce his order directing** a full and complete **accounting** of all the assets, properties and receivables of Soon Kee Commercial, Inc. and UBS Marketing Corporation.

SO ORDERED. (Emphasis added.)

Paragraph 2 of the Hearing Officer's decision adverted to in the aforequoted Order reads:

2. Commanding the respondents [herein petitioners, Soon Kee and Roland King] to immediately render a full and complete accounting of all the assets, properties and moneys and the receivables for both Soon Kee (from 1981-1991) and UBS (from 1981 to 1987) respectively;

At that stage of the proceedings, the decreed obligation to render an accounting indeed particularly pertained to petitioners alone, as herein respondents postulate at every turn. However, the legal situation would later change. For, the SEC *en banc*, acting on a motion for reconsideration, effectively modified or revised its earlier December 21, 1995 Order *via* its Resolution of June 24, 1996 where it disposed as follows: