

## THIRD DIVISION

[ G.R. NO. 159806, January 20, 2006 ]

**BANGKOK BANK PUBLIC COMPANY LIMITED, PETITIONER, VS.  
THELMA U. LEE, MAYBELLE L. LIM, DANIEL U. LEE, SAMUEL U.  
LEE AND MIDAS DIVERSIFIED EXPORT CORPORATION,  
RESPONDENTS.**

### D E C I S I O N

**QUISUMBING, J.:**

For review on certiorari is the **Decision**<sup>[1]</sup> dated July 4, 2003 of the Court of Appeals in CA-G.R. SP No. 76078, which nullified the February 12, 2003 Order<sup>[2]</sup> of the Regional Trial Court (RTC) of Makati City, Branch 141. The said RTC **Order** directed the execution of the **Decision**<sup>[3]</sup> dated May 31, 2002 and the **Partial Decision**<sup>[4]</sup> dated March 23, 2000, as amended by **Resolution**<sup>[5]</sup> of June 19, 2000.

The facts, as borne by the records, are as follows:

Petitioner Bangkok Bank Public Company Limited is a foreign corporation engaged in the banking business in the Philippines.

Respondent Midas Diversified Export Corporation ("Midas" for brevity) is a corporation organized under Philippine laws. Individual respondents Thelma U. Lee, Maybelle L. Lim, Daniel U. Lee, and Samuel U. Lee are the owners, directors, and managers of Midas.

Sometime in 1996, petitioner provided Midas a credit line of about \$2,000,000. When Midas refused to pay its outstanding obligation, petitioner, on May 7, 1998, filed with the Regional Trial Court of Makati City, Branch 141, an Amended Complaint for Sum of Money with an Urgent Application for Issuance of a Writ of Preliminary Attachment<sup>[6]</sup> docketed as Civil Case No. 98-628 against respondents.

After respondents filed an Answer,<sup>[7]</sup> petitioner filed a Motion for Judgment on the Pleadings and/or Summary Judgment.<sup>[8]</sup> The motion was denied. Petitioner filed a Motion for Reconsideration praying for a partial judgment.

The trial court found that a partial judgment can be rendered. The only remaining factual issues would be: (1) petitioner's entitlement to the writ of preliminary attachment; and (2) the parties' claim for damages against each other. In a Partial Decision<sup>[9]</sup> dated March 23, 2000, the trial court ruled:

WHEREFORE, partial decision is hereby rendered ordering defendants Midas Diversified Export Corporation and individual defendants Thelma Lee, Maybelle L. Lim, Daniel U. [Lee] and Samuel U. Lee, jointly and

severally, to pay plaintiff the sum of US\$1,998,554.60 plus legal rate of interest at 12% per annum effective upon the filing of the complaint on 12 March 1998 until fully paid; and ordering the same individual defendants to pay, jointly and severally, plaintiff the sum of US\$800,000.00 representing the account of MHI plus legal rate of interest at 12% per annum effective upon the filing of the amended complaint on 7 May 1998 until fully paid.

SO ORDERED.<sup>[10]</sup>

However, in its Resolution<sup>[11]</sup> dated June 19, 2000, the trial court amended the afore-quoted *fallo*, to wit:

WHEREFORE, in view of all the foregoing, Resolution is hereby issued:

1. Denying defendants' motion for reconsideration of the partial decision.
2. Amending the dispositive portion of the partial decision to read as follows:

WHEREFORE, partial decision is hereby rendered ordering defendant Midas Diversified Export Corporation and individual defendants Thelma Lee, Maybelle L. Lim, Daniel U. Lee and Samuel U. Lee, jointly and severally, to pay plaintiff the sum of US\$1,998,554.60 plus legal rate of interest at 12% per annum effective on 28 January 1998 when the account became due and payable until fully paid, and liquidated damages equivalent to 24% of the principal amount due, per annum, effective from said due date until fully [paid]; ordering the same individual defendants to pay, jointly and severally, the sum of US\$800,000.00 representing the account of MHI plus legal rate of interest of 12% per annum effective on 27 February 1999 when the account became due and demandable until fully paid, and liquidated damages equivalent to 24% of the principal amount per annum effective from said due date until fully paid.

3. Granting plaintiff's motion for execution pending appeal perforce ordering the immediate execution of the partial decision.

SO ORDERED.<sup>[12]</sup>

Not content, respondents filed before the Court of Appeals a Petition for Certiorari with Application for Temporary Restraining Order and/or Writ of Preliminary Injunction.<sup>[13]</sup>

The appellate court upheld the decision of the trial court. However, it ruled that a partial decision cannot be the subject of execution until after judgment is rendered on the entire case. In a Decision promulgated on February 28, 2001, the portion ordering the immediate execution of the partial decision was annulled and set aside.

[14]

Subsequently, on May 31, 2002, the trial court issued a Decision<sup>[15]</sup> upholding the validity of the writ of preliminary attachment and dismissing defendants' claim for damages for lack of evidence.<sup>[16]</sup>

On July 11, 2002, petitioner filed a motion for execution pending appeal. The next day, July 12, 2002, respondents filed with the trial court a Notice of Appeal of its May 31, 2002 decision.

Meanwhile, on February 12, 2003, the trial court issued the assailed Order<sup>[17]</sup> granting the motion for execution pending appeal. A Writ of Execution<sup>[18]</sup> of the partial decision as amended and of the decision on the remaining issues was promptly issued on February 20, 2003.

However, respondents filed anew before the Court of Appeals a Petition for Certiorari with Preliminary Injunction/Temporary Restraining Order<sup>[19]</sup> impugning the February 12, 2003 Order of the trial court. The appellate court granted the petition. It held that the assailed Order failed to state good reasons to justify immediate execution.

Hence, the instant petition for review anchored on the following grounds:

I.

Whether or not the Partial Decision is subject to judicial review, and whether or not Respondents' liability to pay the Bank is now the "law of the case".

II.

Assuming that the Partial Decision could still be appealed, whether or not Respondents had appealed the Partial Decision.

III.

Assuming that the Partial Decision is not final and executory, whether or not there are nonetheless good reasons justifying its execution pending appeal.<sup>[20]</sup>

Petitioner contends that respondents' Notice of Appeal clearly indicated that they were only appealing the subsequent decision on the remaining factual issues. Petitioner claims the partial decision was never appealed and has therefore become final and executory.

Further, petitioner posits that since the RTC has ruled on the remaining factual issues, the partial decision is no longer an interlocutory but a final order that may already be the subject of execution.

However, respondents counter that the appeal from the trial court's decision on the remaining issues necessarily included appeal of its partial decision. They insist that the partial decision has been integrated in the decision on the remaining issues.