

## SECOND DIVISION

[ G.R. No. 155524, August 12, 2004 ]

**AL-AMANAH ISLAMIC INVESTMENT BANK OF THE PHILIPPINES  
(FORMERLY PHILIPPINE AMANAH BANK), PETITIONER, VS.  
CELEBRITY TRAVEL AND TOURS, INCORPORATED, RESPONDENT.**

### D E C I S I O N

**CALLEJO, SR., J.:**

This is a petition for review on certiorari filed by petitioner Al-Amanah Islamic Investment Bank of the Philippines (AIIB)<sup>[1]</sup> for the nullification of the Resolution<sup>[2]</sup> of the Court of Appeals dismissing the petition in CA-G.R. SP No. 70937 and the resolution denying its motion for reconsideration.

Under Executive Order No. 122-A of the President of the Philippines, the Office of the Muslim Affairs (OMA) is tasked to supervise the orderly conduct of pilgrimages to Mecca, Saudi Arabia.<sup>[3]</sup> One of the offices under the OMA is the Bureau of Pilgrimage and Endowment (BPE), which is primarily responsible for the administration of the annual Muslim pilgrimage to Mecca, Saudi Arabia.<sup>[4]</sup>

Sometime in 1988, the OMA and the BPE entered into a Memorandum of Agreement (MOA)<sup>[5]</sup> with respondent Celebrity Travel and Tours, Inc., under which it was agreed that the latter would charter Philippine Airlines and Saudia Airlines flights and secure accommodations for Filipino-Muslim participants in the 1998 Hajj Pilgrimage to Mecca. The OMA would provide the respondent with the names of the pilgrims, and the latter, in turn, would purchase and deliver the airline tickets to the pilgrims for the trip. The petitioner AIIB<sup>[6]</sup> was designated to be the official depository of the pilgrims' funds. By virtue of a Debit Memorandum<sup>[7]</sup> signed by OMA Director for Finance Yusup T. Mangoda and BPE Director Kharis B. Mikunug, the petitioner issued Manager's Check No. 001766<sup>[8]</sup> in the amount of P14,742,187 payable to the order of the respondent for the payment of the airfare, accommodations and other fees. When OMA Director Mangoda received information that some of the pilgrims paid directly to the respondent for their plane fares and accommodations, he requested the petitioner to stop the payment of the manager's check, for further verification.<sup>[9]</sup> The petitioner agreed to the request. Hence, the check was dishonored by the petitioner bank. The respondent then sought the intervention of OMA Executive Director Dimasangcay Pundato and BPE Director Kharis B. Mikunug for the payment of the amount of the check, to no avail.

The respondent filed a complaint on August 14, 1990 for sum of money and damages with the Regional Trial Court of Makati against the petitioner bank, Directors Pundato and Mikunug for the collection of P5,969,428.88. It prayed that, after due proceedings, judgment be rendered in its favor:

WHEREFORE, it is respectfully prayed that judgment be rendered ordering defendants to pay jointly and severally to plaintiff:

1. P5,969,428.88 plus interest thereon at the rate of twelve per cent (12%) a year counted from the date of first demand until the same is fully paid;
2. P1,289,720.00 as aggregate consequential damages;
3. P1,000,000.00 as exemplary damages;
4. Five per cent (5%) of the aggregate amount due plaintiff plus P75,000.00 as attorney's fees; and
5. Costs of suit.

Plaintiff prays for such other reliefs as this Honorable Court may deem just and equitable in the premises.<sup>[10]</sup>

The case was docketed as Civil Case No. 90-2270. The petitioner retained the services of a private counsel, Atty. Reynaldo A. Pineda.

On June 14, 1994, the trial court rendered a Decision<sup>[11]</sup> in favor of the respondent, but only for the amount of P211,459.52. The decretal portion reads:

The foregoing considered, judgment is rendered ordering defendant Amanah Bank to pay plaintiff the sum of P211,459.52. No interest is awarded since this defendant was willing to pay the same at the onset. No damages nor attorney's fees should be awarded since the parties gave cause to the filing of this case.

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

Both parties appealed the decision to the Court of Appeals. The case was docketed as CA-G.R. CV No. 46269 and raffled to the Twelfth Division of the appellate court. However, the petitioner's appeal was dismissed for failure to file its brief, per the CA Resolution dated September 12, 1996.

On March 31, 1999, the CA rendered its Decision<sup>[13]</sup> affirming the trial court's decision with modification. The CA ordered the petitioner to pay the amount of P14,742,187 to the respondent. The *fallo* of the decision reads:

*WHEREFORE*, the appealed decision is modified as follows:

- (1) Defendant bank is hereby ordered to pay plaintiff-appellant the sum of P14,742,187.00 representing the value of the dishonored Manager's Check, with legal interest until the sum is fully paid.
- (2) The complaint is dismissed against defendants-appellants Mikunug and Pundato.

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

The decision of the CA became final and executory. Entry of Judgment<sup>[15]</sup> was made of record on January 4, 2000. The records of the case were remanded to the RTC of Makati.<sup>[16]</sup> The respondent filed a motion for a writ of execution which the court granted on April 4, 2001.<sup>[17]</sup> The corresponding writ of execution was issued thereafter.<sup>[18]</sup> The Sheriff prepared and served a notice of garnishment on the petitioner's manager, the Governor of the Bangko Sentral ng Pilipinas, and the Philippine Deposit Insurance Corporation.<sup>[19]</sup> However, the petitioner failed to respond or file any pleading to annul the writ of execution and the writ of garnishment. The respondent still failed to collect from the petitioner. Subsequently, the court ordered the case archived.

The petitioner, through the Office of the Government Corporate Counsel (OGCC), filed, on September 5, 2001, a Motion to Quash Writ of Execution and to Stop the Implementation of the Writ of Execution,<sup>[20]</sup> and a Supplemental Motion<sup>[21]</sup> on October 16, 2001, grounded on the following: (a) it was deprived of its day in court due to the gross and inexcusable negligence of its private retained counsel; (b) the decision of the CA was ambiguous, as it failed to specify the rate of interest to be applied and when such rate commenced to run; (c) the CA awarded P14,742,187 to the respondent, an amount larger than the P5,969,428.88 prayed for it in its complaint; and, (d) the respondent failed to pay the required filing and docket fees for the amount of P8,773,658, the difference between the amount claimed by the respondent in its complaint and the amount awarded by the CA in favor of the respondent. The petitioner concluded that the court did not have jurisdiction to award P14,742,187; hence, the decision of the CA awarding the said amount was null and void.

In its opposition to the motion, the respondent alleged that the RTC was merely implementing its own decision as modified by the CA, and if the latter erred in awarding an amount larger than that prayed for in the complaint, the remedy of the petitioner was to seek redress from the Supreme Court, and not the RTC. The respondent further averred that it paid the requisite docket and filing fees for its complaint, and, as such, the RTC had jurisdiction over its action and retained such jurisdiction even after the CA had modified its decision and increased the award to P14,742,187. The respondent also contended that the rate of interest on the petitioner's liability was 12% per annum, pursuant to Central Bank Circular No. 416, to commence on the date of its demand, July 19, 1988.<sup>[22]</sup> It averred that any error, committed by the CA was a mere error of judgment and not of jurisdiction, an error correctible only by the Supreme Court.

On November 5, 2001, the RTC issued an Order<sup>[23]</sup> denying the said motions. The RTC held that the legal rate of interest fixed by the CA in its decision should commence from the time judicial demand was made by the respondent, or on August 14, 1990. It also ruled that it had no authority to modify the decision of the CA and to reduce the amount awarded to the respondent, and that it was its ministerial duty to implement the decision. The petitioner filed a motion for reconsideration thereon, but the same was denied on March 1, 2002.<sup>[24]</sup>

The petitioner, through the OGCC, filed a petition for certiorari under Rule 65 of the Rules of Court, as amended, with the CA for the nullification of the November 5, 2001 and March 1, 2002 Orders of the trial court and the writ of execution issued by

it. The case was docketed as CA-G.R. SP No. 70937 and raffled to the Fourth Division. The petitioner alleged therein that –

I

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, WHEN HE ALLOWED THE EXECUTION OF THE DECISION DATED MARCH 31, 1999 OF THE COURT OF APPEALS NOTWITHSTANDING THE FACT THAT IT WAS CLEARLY NULL AND VOID AND WITHOUT EVEN DIRECTING PRIVATE RESPONDENT TO PAY THE REQUIRED DOCKET FEES.

II

RESPONDENT JUDGE GRAVELY ABUSED HIS DISCRETION, AMOUNTING TO LACK OR EXCESS OF JURISDICTION, WHEN HE RULED IN HIS ASSAILED ORDERS THAT PETITIONER AL-AMANAH SHOULD PAY INTEREST ON THE PRINCIPAL AWARD AT THE RATE OF 12% PERCENT PER ANNUM STARTING FROM THE FILING OF THE COMPLAINT ON AUGUST 14, 1990.

III

THERE IS NO APPEAL OR ANY OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY AVAILABLE TO PETITIONER AL-AMANAH IN THE ORDINARY COURSE OF LAW EXCEPT THIS SPECIAL CIVIL ACTION.

IV

THERE IS EXTREME URGENCY FOR THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND WRIT OF PRELIMINARY INJUNCTION TO SAVE PETITIONER AL-AMANAH FROM THE IRREMIABLE EFFECTS OF THE EXECUTION OF A PATENTLY INIQUITOUS AWARD.<sup>[25]</sup>

On June 25, 2002, the CA issued a Resolution dismissing the petition, on the ground that the copy of the writ of execution appended to the petition was a mere photocopy, and not a certified true or duplicate original copy thereof as required under Section 3, Rule 46, in relation to Section 1, Rule 65 of the 1997 Rules of Civil Procedure. The petitioner filed a motion for reconsideration, arguing that the final orders sought to be nullified in its petition were the November 5, 2001 and March 1, 2002 Orders of the trial court, and not the writ of execution it issued.

The CA denied the petitioner's motion for reconsideration for lack of merit on September 25, 2002. The appellate court noted that the petitioner even failed to append to its motion for reconsideration a certified true or duplicate original copy of the assailed writ of execution; hence, there was no occasion for a liberal application of the Rules of Court.

The petitioner now assails the resolutions of the CA in this Court, contending as follows: