

## FIRST DIVISION

[ G.R. No. 120236, July 20, 1999 ]

**E.G.V. REALTY DEVELOPMENT CORPORATION AND CRISTINA  
CONDOMINIUM CORPORATION, PETITIONERS, VS. COURT OF  
APPEALS AND UNISHPERE INTERNATIONAL, INC.  
RESPONDENTS.**

### D E C I S I O N

**KAPUNAN, J.:**

This petition for review on *certiorari* seeks to set aside the decision and resolution of the Court of Appeals rendered on February 17, 1995 and on May 15, 1995, respectively, in CA-G.R. SP No. 22735 reversing the order of the Securities and Exchange Commission (SEC) in SEC-AC No. 271 issued on August 21, 1990.

The following facts are not disputed:

Petitioner E.G.V. Realty Development Corporation (hereinafter referred to as E.G.V. Realty) is the owner/developer of a seven-storey condominium building known as Cristina Condominium. Cristina Condominium Corporation (hereinafter referred to as CCC) holds title to all common areas of Cristina Condominium and is in charge of managing, maintaining and administering the condominium's common areas and providing for the building's security.

Respondent Unisphere International, Inc. (hereinafter referred to as Unisphere) is the owner/occupant of Unit 301 of said condominium.

On November 28, 1981, respondent Unisphere's Unit 301 was allegedly robbed of various items valued at P6,165.00. The incident was reported to petitioner CCC.

On July 25, 1982, another robbery allegedly occurred at Unit 301 where the items carted away were valued at P6,130.00, bringing the total value of items lost to P12,295.00. This incident was likewise reported to petitioner CCC.

On October 5, 1982, respondent Unisphere demanded compensation and reimbursement from petitioner CCC for the losses incurred as a result of the robbery.

Petitioner CCC denied any liability for the losses claimed to have been incurred by respondent Unisphere, stating that the goods lost belonged to Amtrade, a third party.

As a consequence of the denial, respondent Unisphere withheld payment of its monthly dues starting November 1982.

On September 13, 1983, respondent Unisphere received a letter from petitioner CCC demanding payment of past dues.

On December 5, 1984, petitioner E.G.V. Realty executed a Deed of Absolute Sale over Unit 301 in favor of respondent Unisphere. Thereafter, Condominium Certificate of Title No. 7010 was issued in respondent Unisphere's name bearing the annotation of a lien in favor of petitioner E.G.V. Realty for the unpaid condominium dues in the amount of P13,142.67.

On January 28, 1987, petitioners E.G.V. Realty and CCC jointly filed a petition with the Securities and Exchange Commission (SEC) for the collection of the unpaid monthly dues in the amount of P13,142.67 against respondent Unisphere.

In its answer, respondent Unisphere alleged that it could not be deemed in default in the payment of said unpaid dues because its tardiness was occasioned by the petitioners' failure to comply with what was incumbent upon them, that is, to provide security for the building premises in order to prevent, if not to stop, the robberies taking place therein. It asserted as counterclaim that the amount of P12,295.00 representing the total value of its loss due to the two robberies be awarded to it by way of damages for the latter's failure to secure the premises.

On January 11, 1989, SEC Hearing Officer Antero F.L. Villaflor, Jr. rendered a decision which dispositively read as follows:

WHEREFORE, respondent is hereby ordered to pay petitioner the sum of P13,142.67 within fifteen (15) days from receipt of this Decision. Further, petitioner is hereby ordered to pay respondent within fifteen (15) days from receipt of this Decision, the sum of P12,295.00.

Let copy of this Decision be furnished the Register of Deeds of Makati, Metro Manila for the purpose of cancellation of the lien in favor of Cristina Condominium found at the back of Title for unpaid monthly dues in the sum of P13,142.67, upon full payment of respondent of said amount unto petitioner.

SO ORDERED.<sup>[1]</sup>

Both parties filed their respective motions for reconsideration.

On July 17, 1989, the decision of Hearing Officer Villaflor was modified and amended by Hearing Officer Enrique L. Flores, Jr. to read as follows:

WHEREFORE, respondent's motion for reconsideration should be, as it is, hereby DENIED and the petitioners' motion for reconsideration is hereby GRANTED.

Accordingly, the decision dated January 11, 1989, is partially reconsidered to the effect that petitioners are not made liable for the value of the items/articles burglarized from respondent's condominium unit.

SO ORDERED.<sup>[2]</sup>

On July 18, 1989, respondent Unisphere filed a notice of appeal with the SEC *en banc* questioning the above-mentioned decision.

On August 15, 1989, it filed a motion for an extension of thirty (30) days to file its memorandum on appeal thirty (30) days from the stated deadline of August 18, 1989.

Said motion was granted on August 17, 1989.

On September 18, 1989, respondent Unisphere filed a second motion for extension of time to file its memorandum on appeal for another twenty (20) days.

The motion was likewise granted on September 26, 1989.

On October 9, 1989, respondent Unisphere filed its memorandum on appeal.

After the petitioners filed their reply thereto, the SEC *en banc* issued the Order dated February 23, 1990 which is quoted hereunder:

Before this Commission *en banc* is an appeal from the Order dated July 17, 1989 of the Hearing Officer in SEC Case No. 3119 entitled 'E.G.V. Realty Development Corporation and Cristina Condominium Corporation vs. Unisphere International, Inc.'

The records of the case show that respondent-appellant received a copy of the above order on July 18, 1989 and filed its Notice of Appeal on July 21, 1989. On August 15, 1989, respondent asked for an extension of thirty (30) days to file its Memorandum on Appeal which was granted on August 17, 1989.

On September 18, 1989, respondent asked for an additional period of twenty (20) days until October 8, 1989 to file his Appeal which was also granted.

Respondent filed his Memorandum on October 13, 1989, five days after the due date.

The penultimate paragraph of Section 6 of Presidential Decree no. 902-A (as amended) clearly provides:

x x x The decision, ruling or order of any such Commissioner, bodies, boards, committees, and/or officer as may be appealed to the Commission sitting *en banc* within thirty (30) days after receipt by the appellant of notice of such decision, ruling or order. The Commission shall promulgate rules or procedure to govern the proceedings, hearings and appeals of cases falling within its jurisdiction.

Pursuant to the above provision, the Commission promulgated the Revised Rules of Procedure of the Securities and Exchange Commission, Section 3, Rule XVI of said Rules reiterates the thirty (30)-day period provided for under the above provision:

Appeal may be taken by filing with the Hearing Officer who promulgated the decision, order or ruling within thirty (30) days from notice thereof, and serving upon the adverse party, a notice of appeal and a memorandum on appeal and paying the corresponding docket fee therefor. The appeal shall be considered perfected upon the filing of the memorandum on appeal and payment of the docket fee within the period hereinabove fixed.

The Commission en banc notes that respondent had, extensions included, a total of eighty (80) days to file its Appeal memorandum but failed to do so.

WHEREFORE, premises considered, the instant appeal is hereby dismissed for having been filed out of time.

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

Respondent Unisphere moved for a reconsideration of the above-quoted order but the same was denied, and so was it its second motion for reconsideration.

On September 6, 1990, respondent Unisphere filed a notice of appeal to the SEC *en banc* in order to question the latter's ruling to the Court of Appeals pursuant to Rule 43 of the Rules of Court, as amended by Republic Act No. 5434.

On September 10, 1990, it filed a notice of appeal to the Court of Appeals.

The Court of Appeals reversed the SEC *en banc's* Order of August 21, 1990 in its Decision dated February 17, 1995 which dispositively reads as follows:

WHEREFORE, the instant petition is GRANTED and the assailed Order dated August 21, 1989 is hereby REVERSED and SET ASIDE. Another judgment is entered declaring that the appeal memorandum before the SEC (en banc) of appellant Unisphere was filed on time and that the amount of P13,142.67, the unpaid monthly dues of Unisphere to the Corporation should be offset by the losses suffered by the Unisphere in the amount of P12,295.00. Unisphere is hereby ordered to pay the Cristina Condominium Corporation the amount of P847.67 representing the balance after offsetting the amount of P12,295.00 against the said P13,142.67, with 12% interest per annum from January 28, 1987 when the Joint Petition of the petitioners-appellees was filed before the SEC (for collection and damages) until fully paid.

No pronouncement as to costs.

SO ORDERED.<sup>[4]</sup>

Petitioners moved for reconsideration of the said decision but the same was denied by the appellate court on May 15, 1995.

Hence, the instant petition for review interposed by petitioners E.G.V. Realty and CCC challenging the decision of the Court of Appeals on the following grounds: (a) the Court of Appeals did not acquire jurisdiction over respondent Unisphere's appeal

because the latter failed to comply with the prescribed mode of appeal; (b) even if the jurisdictional infirmity is brushed aside, the SEC *en banc* Order dated February 23, 1990 has already attained finality; and (c) the ruling of the Court of Appeals on the offsetting of the parties' claims is unfounded.

A perusal of the foregoing issues readily reveals that petitioners raise two (2) aspects of the case for consideration, that is, the procedural aspect and the substantive aspect.

We will discuss the procedural aspect first. Petitioners contend that (a) the Court of Appeals did not acquire jurisdiction over the appeal because respondent failed to comply with the prescribed mode of appeal; and (b) assuming that the Court of Appeals has jurisdiction, the assailed SEC *en banc* Order of February 23, 1990 had already become final and executory.

Anent the first contention, petitioners claim that respondent Unisphere erred in merely filing a notice of appeal as in ordinary civil cases from the regular courts instead of a petition for review with the Court of Appeals.

Contrary to petitioners' contention, respondent Unisphere complied with the prescribed mode of appeal. At the time the appeal was elevated to the Court of Appeals in 1990, the rule governing recourse to the Court of Appeals from the decision, resolution or final order of a quasi-judicial body was Rule 43 of the Revised Rules of Court, as amended by Republic Act No. 5434 as embodied in Batas Pambansa Blg. 129 and its Interim Rules and Guidelines.<sup>[5]</sup> The rule provided for a uniform procedure for appeals from the specified administrative tribunals, SEC included, to the Court of Appeals by filing a notice of appeal with the appellate court and with the court, officer, board, commission or agency that made or rendered the assailed ruling within fifteen (15) days from notice thereof. Records bear out that respondent Unisphere complied with the foregoing rules when it filed a notice of appeal with the SEC *en banc* on September 6, 1990 and with the Court of Appeals on September 10, 1990. Clearly therefore, respondent Unisphere complied with the proper mode of appeal as mandated by the rules.

With respect to the second contention, petitioners asseverate that the February 23, 1990 order of the SEC *en banc* has already become final and unappealable, therefore can no longer be reversed, amended or modified. They maintain that respondent Unisphere received a copy of said order on February 26, 1990 and that ten (10) days thereafter, it filed its motion for reconsideration. Said motion was denied by the SEC on May 14, 1990 which was received by respondent Unisphere on May 15, 1990. Consequently, they assert that respondent Unisphere had only the remaining five (5) days or on May 20, 1990 within which to file a notice of appeal. However, instead of appealing therefrom, respondent Unisphere filed a second motion for reconsideration on May 25, 1990 with the SEC *en banc*. Petitioners contend that no second motion for reconsideration is allowed by SEC Rules unless with express prior to leave of the hearing officer. Said second motion for reconsideration was likewise denied on August 21, 1990. Fifteen (15) days later or on September 5, 1990, respondent Unisphere filed its notice of appeal.

Section 8, Rule XII of the Revised Rules of Procedure of the SEC provides that: