



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GOVERNOR GWENDOLYN
GARCIA-CODILLA,

Petitioner,

- versus -

HONGKONG AND SHANGHAI
BANKING CORP., LTD.,

Respondent.

G.R. No. 255252

Present:

LEONEN, *S.A.J.*, Chairperson,

LAZARO-JAVIER,

LOPEZ, M.,

LOPEZ, J., and

KHO, JR., *JJ.*

Promulgated:

DEC 04 2023

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DECISION

KHO, JR., J.:

Before this Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated June 30, 2020 and the Resolution³ dated January 7, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 159953 affirming the Orders dated September 17, 2018⁴ and January 3, 2019⁵ of Branch 57, Regional Trial Court of Makati City (RTC). The RTC Orders denied petitioner Governor Gwendolyn Garcia-Codilla's (Garcia) Urgent Motion to Quash Alias Writ of Execution.

¹ Rollo pp. 3–24.

² *Id.* at 31–41. Penned by Associate Justice Ruben Reynaldo G. Roxas with the concurrence of Associate Justices Fernanda Lampas Peralta and Myra V. Garcia-Fernandez, of the Second Division of the Court of Appeals, Manila.

³ *Id.* at 42–44.

⁴ *Id.* at 223. Signed by Presiding Judge Honorio E. Guanlao, Jr. of Branch 57, Regional Trial Court of Makati City.

⁵ *Id.* at 242.

The Facts

This case stemmed from a Complaint for sum of money filed by respondent Hongkong and Shanghai Banking Corp., Ltd. (HSBC) against Garcia. Garcia, doing business under the name of GGC Enterprises and GGC Shipping (GGC)—which is registered as a sole proprietorship—availed of a credit facility with HSBC. On November 19, 1996, HSBC opened Documentary Credit Line No. DPCCEB960015 for a total amount of USD 900,000.00 in favor of Sam Whan Phils. Trading Co. Ltd (Sam Trading) to finance GGC's purchase of a light cargo transit barge from Sam Trading.⁶

The Irrevocable Documentary Credit obligated HSBC to pay Sam Trading the purchase price of USD 900,000.00 in five separate installments of USD 180,000.00. The first installment was to be paid on October 15, 1997; the second on April 15, 1998; the third on October 15, 1998; the fourth on April 15, 1999; and the final installment was to be paid on October 15, 1999. To secure the payment of the credit, Garcia executed (with the consent of her husband) a Real Estate Mortgage covering two parcels of land, a Trust Receipt dated October 15, 1997 over the barge, and a General Surety Agreement Relating to Goods in favor of HSBC.⁷

However, Garcia and GGC failed to pay or reimburse HSBC for the payments the latter made to Sam Trading. HSBC terminated Garcia and her husband's dollar time deposit in the amount of USD 200,000.00 and applied the account's proceeds to GGC's outstanding obligations. HSBC also demanded that Garcia and GGC deliver the cargo barge to it, but this demand remained unheeded. Meanwhile, HSBC continued to make the installment payments for the cargo barge to Sam Trading, pursuant to the Irrevocable Documentary Credit. By March 31, 2020, Garcia's outstanding debt to HSBC amounted to USD 720,000.00, plus USD 103,522.91 in interest. Thus, HSBC filed a Complaint for sum of money with prayer for preliminary attachment against Garcia and her husband before the RTC,⁸ which was docketed as Civil Case No. 00-863.

The RTC issued the writ of preliminary attachment as prayed for, and then declared Garcia and her husband in default for their failure to file a responsive pleading. In a Decision⁹ dated December 21, 2001, the RTC ruled in favor of HSBC, and ordered Garcia and her husband to pay HSBC the following: (1) USD 890,347.92 or its equivalent in Philippine currency, as actual damages; (2) PHP 1,000,000.00 as moral and exemplary damages; and (3) PHP 960,765.48 as actual costs of the suit.¹⁰

⁶ *Id.* at 32.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 93-95. Penned by Judge Reinato G. Quilala of Branch 57, Regional Trial Court of Makati City.

¹⁰ *Id.* at 33.

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On appeal, the case was docketed as CA-G.R. CV No. 75861. The CA affirmed the RTC's ruling in a Decision¹¹ dated October 17, 2006, but reduced the award of damages as follows: (1) USD 700,000.00 or its equivalent in Philippine currency, as actual damages; (2) deleted the award of moral and exemplary damages; (3) PHP 650,503.90 as costs of the suit; and (4) 12% legal interest from November 17, 1998 (the alleged date of service of HSBC's final demand letter) until fully paid. When Garcia's subsequent motion for reconsideration was denied, she appealed to this Court.¹²

In a Minute Resolution¹³ dated August 22, 2012 (G.R. No. 177734), this Court's Third Division denied Garcia's Petition for Review on *Certiorari*, but made the following modifications to the award of damages: (1) the costs of the suit were reduced to PHP 404,560.50; and (2) the reckoning point for the 12% legal interest was changed to July 17, 2000, when the Complaint for sum of money was filed, since the service of the demand letter on November 17, 1998 was not sufficiently proven.¹⁴ Garcia moved for reconsideration, but the Court denied this with finality on February 25, 2013.¹⁵ The final and executory Minute Resolution was thus recorded in the Book of Entries of Judgment.¹⁶

The RTC Proceedings

In view of this Court's final and executory decision, HSBC filed a motion before the RTC for the issuance of a Writ of Execution, which was granted by the RTC. On September 20, 2013, the RTC issued a Writ of Execution¹⁷ and directed the sheriff to collect from Garcia and her husband the amount of USD 1,877,148.50, including legal and accumulated interest, and PHP 404,560.50 as costs of the suit.¹⁸

Sheriffs Eulogio Mondido, Lucita Alejo, and Melvin Alidon tried to personally serve the Writ of Execution and Notice of Demand to Pay to Garcia—who at the time was a member of the House of Representatives—at the Batasan Pambansa Complex, Batasan Hills, Quezon City (Batasan). The sheriffs made two attempts to serve the writ and notice, but failed to do so as Garcia's staff insisted that they were not authorized to receive it. On the third attempt, the sheriffs left copies of the writ and notice with Garcia's Protocol Officer Ronald Conopio and Head of Operations Jasper Villegas.¹⁹

¹¹ *Id.* at 143–169. Penned by Associate Justice Lucenito N. Tagle with the concurrence of Associate Justices Roberto A. Barrios and Mario L. Guariña III, of the Fourth Division of the Court of Appeals, Manila.

¹² *Id.* at 33–34.

¹³ *Id.* at 182–183.

¹⁴ *Id.* at 34.

¹⁵ *Id.*

¹⁶ *Id.* at 185–188.

¹⁷ *Id.* at 101–102.

¹⁸ *Id.* at 35.

¹⁹ *Id.*

On February 22, 2018, HSBC filed an Urgent Ex-Parte Motion for the Issuance of an Alias Writ of Execution, since Garcia had not yet paid her judgment debt. The following day, on February 23, 2018, the RTC granted HSBC's motion and issued an Alias Writ of Execution²⁰ (Alias Writ) directing the sheriff to collect from Garcia the amount of USD 2,825,636.79, including legal and accumulated interest and the costs of the suit.²¹

On June 13, 2018, Garcia filed an Urgent Motion to Quash the Alias Writ of Execution,²² arguing that it was issued in violation of her constitutional right to due process since HSBC's motion was not set for hearing. On September 17, 2018, the RTC issued an Order²³ denying Garcia's motion for lack of merit. Garcia moved for reconsideration,²⁴ but it was denied in an Order dated January 3, 2019.²⁵

Undaunted, Garcia filed a Petition for *Certiorari*²⁶ under Rule 65 of the Rules of Court with the CA.

The CA Ruling

In a Decision²⁷ dated June 30, 2020, the CA denied Garcia's Petition for *Certiorari*. Holding that the RTC did not commit grave abuse of discretion, the CA opined that while it is true that the court is required to state clearly and distinctly the facts and law upon which a judgment is based, this requirement applies only to decisions or resolutions on the merits. In this regard, the CA pointed out that the assailed Orders are for the execution of a final and executory judgment rendered by the Supreme Court and is not a decision or resolution on the merits of the case.²⁸

Furthermore, the CA held that it was not a violation of Garcia's right to due process to issue the Alias Writ without giving her the opportunity to oppose HSBC's *ex parte* motion. Since the Supreme Court's Minute Resolution dated August 22, 2012 had become final and executory, the execution thereof became a matter of right on the part of HSBC, and the grant of the Alias Writ was a ministerial duty on the part of the RTC.²⁹

Considering that a Writ of Execution was issued, and Garcia does not deny being informed of its existence, the CA held that the subsequent issuance

²⁰ *Id.* at 110–111.

²¹ *Id.* at 35.

²² *Id.* at 112–119.

²³ *Id.* at 266.

²⁴ *Id.* at 211–221.

²⁵ *Id.* at 36.

²⁶ *Id.* at 243–261.

²⁷ *Id.* at 31–41.

²⁸ *Id.* at 37.

²⁹ *Id.*

of the Alias Writ cannot be deemed a litigious motion.³⁰ Garcia's argument that the service of the Writ of Execution was improper was also denied by the CA. The CA explained that after two attempts at personal service, the sheriff properly left the writ at Garcia's office with persons having charge thereof.³¹ The CA concluded that "[a]fter the lapse of two decades, [Garcia's] claim that she was not given the opportunity to pay her obligation rings empty and nothing but another dilatory tactic to avoid the payment of her liabilities."³²

Unwilling to admit defeat, Garcia moved for reconsideration, but it was denied by the CA in a Resolution³³ dated January 7, 2021; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether the CA erred in finding no grave abuse of discretion on the part of the RTC for issuing the subject Alias Writ of Execution.

Garcia's Arguments

Garcia argues that the Alias Writ should have contained the facts and law on which it is based, following Article VIII, Section 14 of the 1987 Constitution.³⁴ Moreover, the Writ of Execution should have been served not to Garcia but to GGC; Garcia stressed that the transaction which was the subject of Civil Case No. 00-863 was entered into by her on behalf of GGC and not in her personal capacity.³⁵ Notably, the Writ of Execution itself states that the addresses of GGC are in Ormoc and Cebu City, not at the Batasan.³⁶ Garcia avers that "[d]ue to the failure to serve the notice to the official office addresses, [Garcia] was not informed of the exact amount of her obligation and was not given the chance to make an offer of settlement."³⁷ She stresses that the rules on personal service of pleadings under Rule 13, Section 7 of the Rules of Court is mandatory and must therefore be strictly followed.³⁸ HSBC's motion for the issuance of a Writ of Execution was served only to Garcia's former counsel who no longer represented her; hence, she was not afforded the opportunity to oppose the motion.³⁹

Finally, Garcia claims that the motion for the Alias Writ was a litigious motion, and as such, should not have been granted in the absence of notice

³⁰ *Id.* at 38.

³¹ *Id.* at 39–40.

³² *Id.* at 40.

³³ *Id.* at 42–44.

³⁴ *Id.* at 11–13.

³⁵ *Id.* at 14.

³⁶ *Id.* at 15.

³⁷ *Id.* at 16.

³⁸ *Id.*

³⁹ *Id.* at 854–855.

and hearing. Garcia argues that a motion without notice and hearing is *pro forma*, a mere scrap of paper, and cannot be acted upon by the court. Such notice and hearing is a due process requirement, without which, Garcia was unable to participate in the computation of the final award including the accumulated interest.⁴⁰

HSBC's Arguments

HSBC argues that the RTC Orders need not state in detail the factual and legal reasons which led to their issuance. It is court decisions, and not orders like the writs involved in this case, which must contain clearly and distinctly the facts and law on which they are based, under Article VIII, Section 14 of the Constitution.⁴¹ The word "decision" refers only to decisions on the merits, not orders regarding incidental matters or interlocutory orders.⁴² In any case, HSBC points out that the decision in its favor rendered by this Court has already become final and executory as early as February 25, 2013. Thus, HSBC argues that the present petition merely attempts to delay its enforcement on trivial grounds.⁴³

HSBC further argues that the Writ of Execution or Notice of Demand to Pay was properly served on Garcia and is binding on her. It is not material that Garcia was sued for indebtedness she incurred for GGC's business. GGC is a sole proprietorship, and Garcia is its registered owner. GGC thus does not have a separate juridical personality from Garcia.⁴⁴ The Writ of Execution and Notice of Demand to Pay was thus correctly served in accordance with Rule 13 of the Rules of Court, since a copy of the writ and notice was left in Garcia's office at the Batasan, with a person having charge thereof.⁴⁵

HSBC also noted that contrary to Garcia's narration of facts, her counsel of record was duly served with HSBC's motion for the issuance of a Writ of Execution—which contained a notice of hearing—on May 10, 2013.⁴⁶ Thus, there can be no denial of due process since Garcia was given the opportunity to participate in the proceedings but failed to do so through her own fault.⁴⁷

⁴⁰ *Id.* at 18–20.

⁴¹ *Id.* at 568.

⁴² *Id.* at 569–570.

⁴³ *Id.* at 570.

⁴⁴ *Id.* at 571.

⁴⁵ *Id.*

⁴⁶ *Id.* at 573.

⁴⁷ *Id.* at 574.

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The Court's Ruling

The petition lacks merit.

Alias writs of execution are usually issued in lieu of an original writ of execution that has already lapsed.⁴⁸ In other words, an alias writ of execution is a reiteration of the original writ of execution, and the rules on writs of execution apply to such alias writs. As to form and content, Rule 39, Section 8 of the Rules of Court provides:

Section 8. *Issuance, form and contents of a Writ of Execution.* — The Writ of Execution shall: (1) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, the case number and title, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to enforce the writ according to its terms, in the manner hereinafter provided:

(a) If the execution be against the property of the judgment obligor, to satisfy the judgment, with interest, out of the real or personal property of such judgment obligor;

(b) If it be against real or personal property in the hands of personal representatives, heirs, devisees, legatees, tenants, or trustees of the judgment obligor, to satisfy the judgment, with interest, out of such property;

(c) If it be for the sale of real or personal property to sell such property describing it, and apply the proceeds in conformity with the judgment, the material parts of which shall be recited in the Writ of Execution;

(d) If it be for the delivery of the possession of real or personal property, to deliver the possession of the same, describing it, to the party entitled thereto, and to satisfy any costs, damages, rents, or profits covered by the judgment out of the personal property of the person against whom it was rendered, and if sufficient personal property cannot be found, then out of the real property; and

(e) In all cases, the Writ of Execution shall specifically state the amount of the interest, costs, damages, rents, or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant.

The Alias Writ of Execution in this case complies with all the foregoing requirements, as follows: (1) it was issued in the name of the Republic of the Philippines from the court which granted the motion; (2) it states the name of the court, the case number and title, and the dispositive portion of the judgments in Civil Case No. 00-863, CA-G.R. CV No. 75861, and G.R. No.

⁴⁸ *Bajet v. Baclig*, 434 Phil. 564, 570 (2002) [Per J. Kapunan, First Division].

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177734; and (3) it required the sheriffs to whom it is directed to enforce the writ against Garcia and to satisfy it out of her personal or real properties with interest (either through payment through cash, check, or other acceptable modes of payment, or a levy of Garcia's properties). Nothing in Rule 39, Section 8 requires the courts to specify the facts and law on which the writ or alias writ of execution is based.

Notably, Garcia argues that Article VIII, Section 14 of the Constitution applies to writs of execution. However, as aptly pointed out by HSBC, the said provision specifies only **decisions**, to wit:

SECTION 14. No **decision** shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based.

No petition for review or motion for reconsideration of a decision of the court shall be refused due course or denied without stating the legal basis therefor. (Emphasis supplied)

A writ of execution is an order issued by the court upon motion once a judgment becomes final and executory.⁴⁹ A writ of execution is not a decision or judgment. It is issued to **enforce** the terms of a final and executory decision or judgment.⁵⁰ The facts and law on which the writ of execution is based should already be clearly set forth in the decision or judgment which it is enforcing.

Furthermore, it is not mandatory to give Garcia the opportunity to oppose the Alias Writ of Execution, or the opportunity to participate in the calculation of the amount/s contained in such writ. The Court has settled that “the prevailing party is entitled as a matter of right to a Writ of Execution and its issuance is the trial court’s ministerial duty. When a prevailing party files a motion for execution of a final and executory judgment, it is not mandatory for such party to serve a copy of the motion to the adverse party and to set it for hearing. The absence of such advance notice to the judgment debtor does not constitute an infringement of due process. Ergo, it follows that the opportunity to move for reconsideration of an order granting execution is likewise not indispensable to due process. [. . .] In fact, such motion for reconsideration may be considered as a mere dilatory pleading, as it would serve no other purpose than to frustrate the execution of a final judgment.”⁵¹

⁴⁹ *Ulang v. Court of Appeals*, 296-A Phil. 670 (1993) [Per J. Padilla, Second Division].

⁵⁰ *Chiquita Brands, Inc. v. Hon. George E. Omelio*, 810 Phil. 497, 530 (2017) [Per J. Leonen, Second Division].

⁵¹ *Mejia-Espinoza v. Cariño*, 804 Phil. 248, 258–259 (2017) [Per J. Jardeleza, Third Division].

Since a motion for a writ of execution need not be set for hearing, it also follows that a motion for an alias writ of execution likewise does not need to be set for a hearing. Furthermore, where a writ of execution is not satisfied through no fault of the judgment creditor, the issuance of an alias writ is ministerial on the part of the courts; a final judgment should not be “permitted to become illusory or incapable of execution for an indefinite and over extended period.”⁵² Since the Writ of Execution in this case was not satisfied through no fault of HSBC, the issuance of the Alias Writ of Execution remained ministerial. Applying the above rule on Writs of Execution, no hearing or advance notice is required for the issuance of alias Writs of Execution. In other words, a motion for an alias writ of execution is *not* a litigated motion as Garcia insists.

Moreover, Rule 39 does not require a writ or alias writ of execution of judgment for money to be served in the same manner that summons or pleadings are served. Notably, Garcia cites no provision of Rule 39 to support her contention that a writ or alias writ of execution should be so served, and relies instead on Rule 13, which provides the rules on the filing and service of pleadings, judgments, and other papers of the same kind, and **not writs or alias of execution**. Rule 39 enumerates only the manner by which the execution of a judgment may be enforced and does not provide strict requisites for a writ of execution’s service. Significantly, the CA found that Garcia had been aware of the demand to pay and the Writ of Execution; she only claims—wrongly—that the Writ of Execution, Notice of Demand to Pay, and Alias Writ of Execution should have been served in accordance with Rule 13 of the Rules of Court.

The remedy of the judgment obligor against the issuance of a writ or alias writ of execution under Rule 39 is to file a motion to quash the writ or alias writ of execution. However, such remedy is only available in exceptional circumstances,⁵³ such as: (1) when there had been a change in the situation of the parties which makes such execution inequitable; (2) when it appears that the controversy has never been submitted to the judgment of the court; (3) when it appears that the writ of execution has been improvidently issued, or that it is defective in substance, or is issued against the wrong party, or that judgment debt has been paid or otherwise satisfied; and (4) when the writ has been issued without authority.⁵⁴

Here, Garcia failed to raise any facts or circumstances which would justify the quashal of the Alias Writ of Execution in this case. Tellingly, Garcia can point to no specific error in the amount under the Alias Writ issued by the trial court. She does not even claim that the legal and accumulated

⁵² *Philippine Airlines, Inc., v. Court of Appeals*, 260 Phil. 606 (1990) [Per J. Gutierrez, Jr., *En Banc*].

⁵³ *Chiquita Brands, Inc. v. Hon. George E. Omelio*, 810 Phil. 497, 532 (2017) [Per J. Leonen, Second Division].

⁵⁴ *Mayor Vargas v. Cajucom*, 761 Phil. 43, 53 (2015) [Per J. Peralta, Third Division].

interest was improperly calculated and merely objects to the “staggering amount” indicated in the writs.⁵⁵

It should be emphasized that the Court will be ever vigilant “to nip in the bud any dilatory maneuver calculated to defeat or frustrate the ends of justice, fair play and the prompt implementation of final and executory judgments.”⁵⁶ The Court cannot allow the extraordinary remedy of *certiorari* under Rule 65 of the Rules of Court to be abused by losing litigants to avoid the execution of final and executory decisions of any court. This is an affront to the time-honored doctrine of immutability and unalterability of final judgments, “a solid cornerstone in the dispensation of justice by the courts.”⁵⁷ The Court explained the two-fold purpose of the doctrine as follows:

The doctrine of immutability and unalterability serves a two-fold purpose, namely: (a) to **avoid delay in the administration of justice** and thus, procedurally, to make orderly the discharge of judicial business; and (b) to **put an end to judicial controversies, at the risk of occasional errors, which is precisely why the courts exist.** As to the first, a judgment that has acquired finality becomes immutable and unalterable and is no longer to be modified in any respect even if the modification is meant to correct an erroneous conclusion of fact or of law, and whether the modification is made by the court that rendered the decision or by the highest court of the land. As to the latter, **controversies cannot drag on indefinitely because fundamental considerations of public policy and sound practice demand that the rights and obligations of every litigant must not hang in suspense for an indefinite period of time.**⁵⁸ (Emphasis supplied)

Thus, to allow controversies to go on indefinitely by allowing petitions for *certiorari* against writs or alias writs of execution is against public policy. It will not only clog the courts’ dockets, but it will also impair the stability of our judicial system. Appealing an order which is known to be unappealable, such as an alias writ of execution, abuses court processes and hinders the dispensation of justice. It has been more than 10 years since this Court’s Minute Resolution⁵⁹ dated August 22, 2012 in G.R. No. 177734 became final and executory. The Court notes that because of Garcia’s dilatory petitions, the five-year effectivity period of the Alias Writ of Execution dated February 23, 2018 has already lapsed.

On a final note, since the promulgation of the Court’s Minute Resolution dated August 22, 2012 in G.R. No. 177734, the Bangko Sentral ng Pilipinas (BSP), through BSP Monetary Board (BSP-MB) Circular No. 799, Series of 2013, reduced the rate of legal interest from 12% per annum to 6% per annum, effective June 30, 2013. However, since the Minute Resolution

⁵⁵ Rollo, p. 20.

⁵⁶ *Mendoza v. Court of Appeals*, 764 Phil. 53, 55 (2015) [Per J. Perez, First Division].

⁵⁷ *Pinausukan Seafood House, Roxas Boulevy Ard, Inc., v. Far East Bank & Trust Company, now Bank of the Philippine Islands*, 725 Phil. 19, 32 (2014) [Per J. Bersamin, First Division].

⁵⁸ *Id.* at 32.


⁵⁹ Rollo, pp. 182–183.

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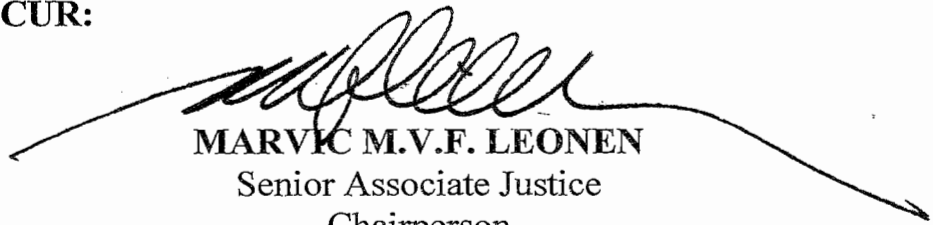
dated August 22, 2012 became final and executory on February 25, 2013, it can no longer be modified even as to the legal interest rate.

ACCORDINGLY, the petition is **DENIED**. The Decision dated June 30, 2020 and the Resolution dated January 7, 2021 of the Court of Appeals in CA-G.R. SP No. 159953 are hereby **AFFIRMED**. This case is hereby **REMANDED** to Branch 57, Regional Trial Court of Makati City for immediate execution of the Minute Resolution dated August 22, 2012 of the Supreme Court in G.R. No. 177734, which affirmed with modification the Decision dated October 17, 2006 of the Court of Appeals in CA-G.R. CV No. 75861.

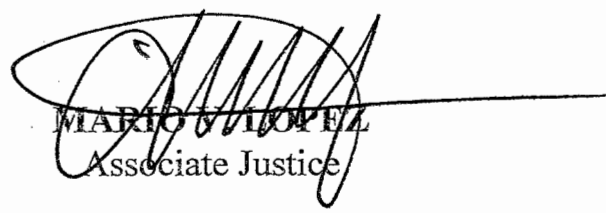
SO ORDERED.



ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

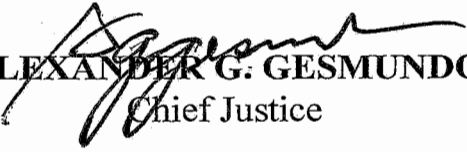
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

Attn