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possession of the property. Petitioner cannot be granted possession of the property by the mere expediency of filing an action for judicial redemption without ever paying or consigning the redemption price with the trial court.

WHEREFORE, the petition is *DENIED*.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, Leonardo-de Castro, and *Bersamin, JJ.,* concur.

SPECIAL THIRD DIVISION

[G.R. No. 164648. June 19, 2009]

ERIC L. LEE, *petitioner, vs.* **HON. HENRY J. TROCINO, Presiding Judge of the Regional Trial Court, Sixth Judicial Region, Branch 62, Bago City, THE OFFICE OF THE *EX-OFFICIO* SHERIFF of the Regional Trial Court, Sixth Judicial Region, Branch 62, Bago City, and MAGDALENO M. PEÑA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; JUDGMENTS; EFFECT OF AN AMENDED DECISION; AMENDED AND SUPPLEMENTAL JUDGMENT, DISTINGUISHED.— The August 18, 2000 Amended Decision is an entirely new decision which superseded and extinguished the original January 12, 2000 decision. There is a difference between an amended judgment and a supplemental judgment. In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders

the amended and clarified judgment only after considering all the factual and legal issues. **The amended and clarified decision is an entirely new decision which supersedes the original decision.** Following the Court's differentiation of a supplemental pleading from an amending pleading, it can be said that a supplemental decision does not take the place or extinguish the existence of the original. As its very name denotes, it only serves to bolster or adds something to the primary decision. A supplement exists side by side with the original. It does not replace that which it supplements.

2. ID.; ID.; EXECUTION PENDING APPEAL; POSTING OF AN INDEMNITY BOND IS NOT REQUIRED BEFORE A WRIT OF EXECUTION PENDING APPEAL MAY ISSUE.— [P]etitioner argues that execution pending appeal is not possible in the absence of an indemnity bond that was subsequently required of the judgment creditor. This argument is without basis, because the Rules do not require the posting of an indemnity bond before execution pending appeal may be made. We need not review in length the justification of the Court of Appeals in allowing execution pending appeal. The standard set under Section 2(a), Rule 39 merely requires "good reasons," a "special order," and "due hearing." Due hearing would not require a hearing in open court, but simply the right to be heard, which SIDDCOR availed of when it filed its opposition to the motion for immediate execution. The *Resolution* dated 16 October 1998 satisfies the "special order" requirement, and it does enumerate at length the "good reasons" for allowing execution pending appeal. As to the appreciation of "good reasons," we simply note that the advanced age alone of Sandoval would have sufficiently justified execution pending appeal, pursuant to the well-settled jurisprudential rule. The wrongfulness of the attachment, and the length of time respondents have been deprived of their money by reason of the wrongful attachment further justifies execution pending appeal under these circumstances. Moreover, petitioner's argument that a bond must first be posted before the writ of execution pending appeal may issue, is without merit because there may be good reasons allowing execution pending appeal that have a direct bearing on the prevailing party's ability and capacity to post a bond. Petitioner's posture would limit the

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courts' ability to determine what are good and compelling reasons that would allow a writ of execution pending appeal, since the prevailing party's ability to post a bond would be the primary consideration in the grant or denial of the writ, and not the good and compelling reasons attendant to the case. Finally, just as we have held that the mere filing of a bond alone does not constitute the "good reason" envisioned by the Rules, then neither may the failure of the court to require the posting of a bond automatically render the execution pending appeal irregular.

3. ID.; ID.; EXECUTION SALE; EFFECTS OF THE SALE OF SHARES OF STOCKS TO THE BUYERS.— What petitioner appears to do is to attempt to evade the effects of the sale of his shares of stock to the buyers at the execution sale, which sale immediately transferred title thereto to the buyers. It should be restated that since there is no right to redeem personal property, the rights of ownership are vested to the purchaser at the foreclosure (or execution) sale and are not entangled in any suspensive condition that is implicit in a redemptive period. Besides, the Resolution of the First Division of the Court dated November 13, 2002 refers to or affects only real and personal property, specifically, the Makati Sports Club, Inc. shares of stock belonging to Urban Bank; it cannot extend to the property or shares of stock subject of the present petition, which are nowhere mentioned in the said Resolution. Thus said, we find no valid reason why the buyers at execution sale of petitioner's shares of stock should be prevented from obtaining title to the same. The pendency of a case involving the petitioner and Peña does not affect the registrability of the shares of stock bought at execution sale, although the registration is *without prejudice* to the proceedings to determine the liability of the parties as against each other, specifically between Urban Bank, its directors and officers (which includes petitioner), and Peña.

APPEARANCES OF COUNSEL

Ponce Enrile Reyes & Manalastas for petitioner.
Roberto Demigillo for private respondent.

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R E S O L U T I O N

YNARES-SANTIAGO, *J.*:

For resolution are the petitioner's Motion for Reconsideration[1] and Supplement to Motion for Reconsideration[2] of the August 6, 2008 Decision disposing as follows:

> WHEREFORE, the petition is DENIED for lack of merit. The March 19, 2004 Decision of the Court of Appeals in CA-G.R. SP No. 65023, dismissing the petition for indirect contempt and the petition for prohibition and *certiorari* instituted to enjoin the Regional Trial Court of Bago City, Branch 62, from further proceeding with Civil Case Nos. 754 and 1088, as well as the July 27, 2004 Resolution denying the motion for reconsideration, are AFFIRMED.
>
> SO ORDERED.[3]

On October 13, 2008, petitioner filed an Urgent Motion for Consolidation seeking that the instant case be consolidated with the following petitions pending with the other Divisions of the Court, notably:

> 1. G.R. No. 145817 (*Urban Bank, Inc. v. Peña*), where the First Division of the Court resolved, on November 13, 2002, to suspend or stay the running of Urban Bank's one-year period to redeem its properties sold at the public auction held on October 4, 11 and 25, 2001, as well as the consolidation of the titles thereto in favor of the buyers at auction. In said case, Makati Sports Club, Inc. was prohibited from transferring Urban Bank's club shares therein to the winning bidders in the October 11, 2001 execution sale;
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> 2. G.R. No. 145822 (*Gonzales, Jr. v. Peña*), which is a petition for review of the decision in CA-G.R. SP No. 55667, and which specifically assails the validity of the October 29, 1999 Special Order and Writ of Execution, and prays to set aside the levies, garnishments and auction sales conducted pursuant to said order

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[1] Dated September 12, 2008.

[2] Dated October 13, 2008.

[3] *Rollo*, p. 714.

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and writ. The November 13, 2002 Resolution of the First Division of the Court covers this case as well; and

3. G.R. No. 162562 (*Peña v. Urban Bank*), which is a petition for review on *certiorari* of the November 6, 2003 Decision in CA-G.R. CV No. 65756 declaring the absence of an agency relationship between Urban Bank and Peña, but granting to the latter — on equitable considerations — damages in the amount of ₱3,000,000.00 for his efforts at settling the ejectment case.

Petitioner argues that there are good and compelling grounds to allow the consolidation of the instant case with the above-mentioned cases because they involve the same material facts and circumstances; consolidation would prevent any unwitting or unwarranted interference by one Division with the issues pending in or being resolved by the others; it would forestall "chaos that results from conflicting or divergent appreciation of facts, application of law and pronouncements by the different divisions" of the Court; and certain pronouncements in the August 6, 2008 Decision pre-empt the result of the other pending petitions, specifically on the following concerns:

1. Our ruling that Urban Bank is liable under an agency agreement. Petitioner claims that the issue is subject of the November 6, 2003 decision of the Court of Appeals in CA- G.R. CV No. 65756 and pending in this Court via G.R. No. 162562. Petitioner posits that since the judgment of the trial court in Civil Case No. 754 – which forms the basis for the grant of execution pending appeal – was reversed in CA-G.R. CV No. 65756, it is premature for us to declare Peña as the owner of the shares subject of the present petition, because there remains the possibility that the judgment in CA-G.R. CV No. 65756 could be affirmed or that respondent therein could be exonerated entirely from liability in G.R. No. 162562;

2. Our pronouncement that there was good ground to allow execution pending appeal. Petitioner asserts that the propriety of the trial court's grant of execution pending appeal is the issue sought to be resolved in the petition in G.R. No. 145822;

3. Our pronouncement that Civil Case No. 1088 is not considered as part of the execution proceedings in Civil Case No. 754 which would otherwise pose an obstacle to the transfer of title over EQLPI, Manila Polo Club, Manila Golf and Country Club,

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Sta. Elena Golf and Country Club and Tagaytay Highlands International Golf Club stock in favor of the buyers at auction thereof, which petitioner asserts, is contrary to the November 13, 2002 disposition of the Court's First Division in G.R. Nos. 145817 and 145822, which resolved as follows:

> WHEREFORE, the Court hereby RESOLVES to clarify that, as a consequence of its approval of the supersedeas bond, the running of the one-year period for petitioner Urban Bank to redeem the properties sold at the public auctions held on October 4, 11 and 25, 2001, as well as the consolidation of the titles in favor of the buyers, is SUSPENDED OR STAYED. MSCI (Makati Sports Club, Inc.) is also prohibited from transferring petitioner Urban Bank's MSCI club shares to the winning bidders in the execution sale held on October 11, 2001.
>
> SO ORDERED.

According to petitioner, the above Resolution of the First Division suspended or stayed the transfer or consolidation of titles in favor of buyers "at any prior execution sale," which includes buyers of petitioner's shares of stock at the execution proceedings in issue here.

On January 12, 2009, the Court issued a Resolution denying for lack of merit petitioner's Urgent Motion for Consolidation.

Petitioner's motion for reconsideration and the supplement thereto essentially assert the same arguments contained in his petition, to wit: that the August 18, 2000 Amended Decision of the Court of Appeals did not vacate the January 12, 2000 Decision and therefore the Special Order and Writ of Execution must unavoidably remain annulled and set aside, and the enjoining of the writ of execution and lifting of the garnishment and levy made pursuant thereto must necessarily subsist. This reiteration, of course, remains manifestly unsound. The August 18, 2000 Amended Decision[4] is an entirely new decision which

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[4] WHEREFORE, the instant petition is GRANTED. The Special Order and writ of execution both dated October 29, 1999, are ANNULLED and SET ASIDE.

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superseded and extinguished the original January 12, 2000 decision.[5]

There is a difference between an amended judgment and a supplemental judgment. In an amended and clarified judgment, the lower court makes a thorough study of the original judgment and renders the amended and clarified judgment only after considering all the factual and legal issues. **The amended and clarified decision is an entirely new decision which supersedes the original decision.** Following the Court's differentiation of a supplemental pleading from an amending pleading, it can be said that a supplemental decision does not take the place or extinguish the existence of the original. As its very name denotes, it only serves to bolster or adds something to the primary decision. A supplement exists side by side with the original. It does not replace that which it supplements.[6] (Emphasis supplied)

Next, petitioner argues that execution pending appeal is not possible in the absence of an indemnity bond that was subsequently required of the judgment creditor. This argument is without basis, because the Rules do not require the posting of an indemnity bond before execution pending appeal may be made.

We need not review in length the justification of the Court of Appeals in allowing execution pending appeal. The standard set under Section 2(a), Rule 39 merely requires "good reasons," a "special order," and "due hearing." Due hearing would not require a hearing in open court, but simply the right to be heard, which SIDDCOR availed of when it filed its opposition to the motion for immediate execution. The *Resolution* dated 16 October 1998 satisfies the "special order" requirement, and it does enumerate at length the

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Respondents are directed to desist from further implementing the writ of execution and to lift the garnishment and levy made pursuant thereto.

SO ORDERED. (*Rollo*, p. 697)

[5] WHEREFORE, the motion for reconsideration of respondent Magdaleno M. Peña is GRANTED. Accordingly, this Court's decision dated January 12, 2000 is RECONSIDERED and SET ASIDE and another rendered DENYING the petition.

SO ORDERED. (*Rollo*, p. 697)

[6] *Esquivel v. Alegre*, G.R. No. 79425, April 17, 1989, 172 SCRA 315, 325.

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"good reasons" for allowing execution pending appeal. As to the appreciation of "good reasons," we simply note that the advanced age alone of Sandoval would have sufficiently justified execution pending appeal, pursuant to the well-settled jurisprudential rule. The wrongfulness of the attachment, and the length of time respondents have been deprived of their money by reason of the wrongful attachment further justifies execution pending appeal under these circumstances.[7]

Moreover, petitioner's argument that a bond must first be posted before the writ of execution pending appeal may issue, is without merit because there may be good reasons allowing execution pending appeal that have a direct bearing on the prevailing party's ability and capacity to post a bond. Petitioner's posture would limit the courts' ability to determine what are good and compelling reasons that would allow a writ of execution pending appeal, since the prevailing party's ability to post a bond would be the primary consideration in the grant or denial of the writ, and not the good and compelling reasons attendant to the case. Finally, just as we have held that the mere filing of a bond alone does not constitute the "good reason" envisioned by the Rules,[8] then neither may the failure of the court to require the posting of a bond automatically render the execution pending appeal irregular.

What petitioner appears to do is to attempt to evade the effects of the sale of his shares of stock to the buyers at the execution sale, which sale immediately transferred title thereto to the buyers. It should be restated that since there is no right to redeem personal property, the rights of ownership are vested to the purchaser at the foreclosure (or execution) sale and are not entangled in any suspensive condition that is implicit in a redemptive period.[9] Besides, the Resolution of the First Division

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[7] *Carlos v. Sandoval*, G.R. No. 135830, September 30, 2005, 471 SCRA 266, 304-305.

[8] *Heirs of Macabangkit Sangkay v. National Power Corporation*, G.R. No. 141447, May 4, 2006, 489 SCRA 401.

[9] *Paray v. Rodriguez*, G.R. No. 132287, January 24, 2006, 479 SCRA 571, 580.

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of the Court dated November 13, 2002 refers to or affects only real and personal property, specifically, the Makati Sports Club, Inc. shares of stock belonging to Urban Bank; it cannot extend to the property or shares of stock subject of the present petition, which are nowhere mentioned in the said Resolution.

Thus said, we find no valid reason why the buyers at execution sale of petitioner's shares of stock should be prevented from obtaining title to the same. The pendency of a case involving the petitioner and Peña does not affect the registrability of the shares of stock bought at execution sale, although the registration is *without prejudice* to the proceedings to determine the liability of the parties as against each other, specifically between Urban Bank, its directors and officers (which includes petitioner), and Peña. As we have ruled before,

> Respondent SEC correctly ruled in favor of the registering of the shares of stock in question in private respondent's names. Such ruling finds support under Section 63 of the Corporation Code, to wit:
>
> > "SEC. 63. x x x Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation x x x."
>
> In the case of *Fleisher vs. Botica Nolasco*, 47 Phil. 583, the Court interpreted Sec. 63 in this wise:
>
> > "Said Section (Sec. 35 of Act 1459, [now Sec. 63 of the Corporation Code]) contemplates no restriction as to whom the stocks may be transferred. It does not suggest that any discrimination may be created by the corporation in favor of, or against a certain purchaser. The owner of shares, as owner of personal property, is at liberty, under said section to dispose them in favor of whomever he pleases, without limitation in this respect, than the general provisions of law. x x x"
>
> The only limitation imposed by Section 63 of the Corporation Code is when the corporation holds any unpaid claim against the shares intended to be transferred, which is absent here.

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A corporation, either by its board, its by-laws, or the act of its officers, cannot create restrictions in stock transfers, because:

> "x x x Restrictions in the traffic of stock must have their source in legislative enactment, as the corporation itself cannotcreate such impediment. By-laws are intended merely for the protection of the corporation, and prescribe regulation, not restriction; they are always subject to the charter of the corporation. The corporation, in the absence of such power, cannot ordinarily inquire into or pass upon the legality of the transactions by which its stock passes from one person to another, nor can it question the consideration upon which a sale is based. x x x"

The right of a transferee/assignee to have stocks transferred to his name is an inherent right flowing from his ownership of the stocks. Thus:

> "Whenever a corporation refuses to transfer and register stock in cases like the present, *mandamus* will lie to compel the officers of the corporation to transfer said stock in the books of the corporation."

The corporation's obligation to register is ministerial.

> "In transferring stock, the secretary of a corporation acts in purely ministerial capacity, and does not try to decide the question of ownership."

> "The duty of the corporation to transfer is a ministerial one and if it refuses to make such transaction without good cause, it may be compelled to do so by *mandamus*."

For the petitioner Rural Bank of Salinas to refuse registration of the transferred shares in its stock and transfer book, which duty is ministerial on its part, is to render nugatory and ineffectual the spirit and intent of Section 63 of the Corporation Code. Thus, respondent Court of Appeals did not err in upholding the Decision of respondent SEC affirming the Decision of its Hearing Officer directing the registration of the 473 shares in the stock and transfer book in the names of private respondents. **At all events, the registration is without prejudice to the proceedings in court to determine the**

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validity of the Deeds of Assignment of the shares of stock in question.[10] (Emphasis supplied)

Petitioner faults us for making pronouncements that are beyond the issues raised in his petition; yet it is clear that by raising these issues, petitioner has placed the whole execution process into question. Thus, apart from claiming that respondents acted contumaciously *during* proceedings in the Court of Appeals, petitioner questioned as well the proceedings in the lower court *prior* to the proceedings in the appellate court. In his petition, petitioner squarely raised the issue that the trial court had no jurisdiction to issue the Special Order and the Writ of Execution, and therefore it should be made accountable for nonetheless issuing them — thereby placing the proceedings leading to the issuance of the order and writ effectively under our scrutiny.

Nevertheless, in the interest of an orderly and judicious administration of justice, we resolve to amend specific portions of our Decision which do not affect in any significant manner the integrity of our original disposition of the case. Thus, with regard to whether or not there exists an agency relationship between Urban Bank and Peña, the matter should be left to the final determination of the Court in G.R. No. 162562. Anent the soundness of the lower court's grant of execution pending appeal, which necessarily settles the validity of the Special Order and Writ of Execution, the decision in G.R. No. 145822 must be awaited. Accordingly, our original dispositions regarding Urban Bank's liability to Peña and finding good reasons for execution pending appeal are hereby withdrawn in order to make way for their resolution in the other petitions pending with the Court.

As far as the instant petition is concerned, we continue to fail to appreciate how the lower court, its sheriff, and respondent Peña's actions and conduct may be characterized as contemptuous.

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[10] *Rural Bank of Salinas, Inc. v. Court of Appeals*, G.R. No. 96674, June 26, 1992, 210 SCRA 510, 514-516.

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WHEREFORE, petitioner's Motion for Reconsideration and the Supplement thereto are hereby *DENIED* for lack of merit.

SO ORDERED.

Corona,[*] *Chico-Nazario, Nachura,* and *Peralta,*[**] *JJ.,* concur.

FIRST DIVISION

[G.R. No. 166036. June 19, 2009]

NENA A. CARIÑO, *petitioner, vs.* **ESTRELLA M. ESPINOZA, represented by her attorney-in-fact MANUEL P. MEJIA, JR.,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; ATTORNEY-CLIENT RELATIONSHIP; A CLIENT IS BOUND BY THE ACTS OF HIS COUNSEL; EXCEPTIONS THERETO NOT APPLICABLE.— The general rule is that a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique. There are exceptions to this rule, such as when the reckless or gross negligence of counsel deprives the client of due process of law, or when the application of the general rule results in the outright deprivation of one's property through a technicality. However, in this case, we find no reason to exempt petitioner from the general rule.

2. REMEDIAL LAW; APPEALS; APPELLANT'S BRIEF; WHEN BELATED SUBMISSION THEREOF WAS NOT JUSTIFIED.— Petitioner's counsel alleges that the cause of the delay in filing the appellant's brief was his sickness. In his Urgent *Ex-Parte* Motion to Admit Appellant's Brief,

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[*] Designated as additional member of the Special Third Division per raffle dated May 18, 2009.

[**] Designated as additional member of the Special Third Division per raffle dated March 4, 2009.