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THIRD DIVISION

[G.R. No. 106052. October 22, 1999]

PLANTERS PRODUCTS, INC., *petitioner, vs.* **COURT OF APPEALS AND FERTIPHIL CORPORATION, INC.,** *respondents.*

SYNOPSIS

Declaring Letter of Instruction No. 1465 unconstitutional, the Regional Trial Court of Makati ordered the petitioner to pay private respondent the amount it paid pursuant thereto. Private respondent moved for the execution of the decision pending appeal. The trial court granted the motion. Meantime, petitioner filed an appeal, praying, among others, for the setting aside of the order of execution pending appeal. The Court of Appeals upheld the order of execution. Hence, this petition.

Although ascertainment of the special reasons for execution pending appeal lies within the sound discretion of the trial court and the appellate Court should not normally disturb such finding, intervention by the appellate court may be proper, if it is shown that there has been an abuse of discretion. That the appeal was merely dilatory because the assailed letter of instruction is unconstitutional does not constitute "good reason" to justify execution pending appeal. Well-settled is the rule that it is not for the trial court to determine the merit of a decision it rendered as this is the role of the appellate court.

The mere issuance of a bond to answer for damages is no longer considered a good reason for execution pending appeal. To consider the mere posting of a bond as a "good reason" would precisely make immediate execution of judgment pending appeal routinary, the rule rather than the exception.

SYLLABUS

1. **REMEDIAL LAW; LIBERAL CONSTRUCTION.** — The rules of procedure are not to be applied in a very rigid and technical manner, as rules of procedure are used only to help secure

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substantial justice. They cannot be blindly adhered to if they would serve no other purpose than to put into oblivion the very *lis mota* of the controversy under scrutiny.

2. **ID.; CIVIL PROCEDURE; EXECUTION OF JUDGMENT PENDING APPEAL.** — Section 2, Rule 39, of the Rules of Court which was the applicable provision when the trial court allowed the execution pending appeal provides that discretionary execution is permissible when good reasons exist for immediately executing the judgment before finality or pending appeal or even before the expiration of the time to appeal. Good reasons consist of compelling circumstances justifying the immediate execution lest the judgment becomes illusory, or the prevailing party may after the lapse of time become unable to enjoy it.

3. **ID.; ID.; ID.; ASCERTAINMENT OF REASONS THEREOF; DISCUSSED; CASE AT BAR.** — Although ascertainment of the special reasons for execution pending appeal lies within the sound discretion of the trial court, and the appellate Court should not normally disturb such finding, intervention by the appellate court may be proper, if it is shown that there has been an abuse of discretion. That the appeal was merely dilatory because the assailed letter of instruction is unconstitutional, does not constitute "good reason" to justify execution pending appeal. Well-settled is the rule that it is not for the trial court to determine the merit of a decision it rendered as this is the role of the appellate Court. Hence, it is not within the competence of the trial court, in resolving the motion for execution pending appeal, to rule that the appeal is patently dilatory and rely on the same as the basis for finding good reason to grant the motion. So also, mere issuance of a bond to answer for damages is no longer considered a good reason for execution pending appeal. To consider the mere posting of a bond as a "good reason" would precisely make immediate execution of judgment pending appeal routinary, the rule rather than the exception. Thus, when the Court has already granted a stay of execution upon the adverse party's filing of a supersedeas bond, the circumstances justifying execution despite the supersedeas bond, must be paramount; they should outweigh the security offered by the supersedeas bond. In the

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present case, however, the Court discerns no reason paramount enough to warrant the execution pending appeal. To rule otherwise would be to make the remedy of execution pending appeal a tool of oppression and inequity instead of being an instrument of solicitude and justice.

4. **ID.; ID.; ID.; STRICTLY CONSTRUED.** — The rule on execution pending appeal must be strictly construed being an exception to the general rule. Applying the rule on statutory construction, it should be interpreted only so far as the language thereof fairly warrants, and all doubts should be resolved in favor of the general rule rather than the exceptions.

5. **ID.; *CERTIORARI* AND APPEAL; CASE AT BAR.** — The remedy of *certiorari* under Rule 65 of the Revised Rules of Court is limited to acts of any tribunal, board, or office exercising judicial function without or in excess of jurisdiction or with grave abuse of discretion and is not available for the correction of errors of judgment which may be raised only on appeal. In the case before the Court, while the respondent court referred to the findings of the trial court that LOI No. 1465 is unconstitutional, it did not hold that such finding is correct or incorrect. The Court of Appeals properly deferred ruling on the correctness of the judgment sought to be executed, as the merits of the case itself were duly submitted to the jurisdiction of the said Court in the proper case, by way of a regular appeal. Time honored is the rule that jurisdiction once acquired is not lost upon the instance of the parties but continues until the case is terminated. Therefore, the Court of Appeals which first acquired jurisdiction over the constitutionality of LOI No. 1465 by way of regular appeal, excludes all others, including this court from passing upon the validity of subject letter of instruction. In this disposition, the Court limits itself to the wisdom of the exercise of discretion by the trial court in ordering the execution of its judgment pending appeal. It is imperative that this Court allows the main appeal pending before the Court of Appeals to take its normal course.

APPEARANCES OF COUNSEL

Sycip Salazar Hernandez & Gatmaitan for petitioner.
Romulo P. Atencia for private respondent.

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DECISION

PURISIMA, *J.*:

At bar is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking to annul the Decision[1] of the Court of Appeals, dated June 19, 1992, in CA-G.R. No. 2776, which denied the petition to set aside the Order[2] dated April 8, 1992 of the Regional Trial Court of Makati, Branch 146, in Civil Case No. 17835.

The antecedent facts are as follows:

On June 3, 1985, for the purpose of rehabilitating Philippine Planters, Inc., the then President Ferdinand E. Marcos issued Letter of Instruction (LOI) No. 1465 which imposed a charge of ₱10.00 per bag of fertilizer on all domestic sales of fertilizer in the Philippines.

Respondent Fertiphil Corporation, a domestic entity engaged in the fertilizer business, questioned the constitutionality of LOI NO. 1465 and brought an action to recover its accumulated payment thereunder in the amount of ₱6,698,144.00, the case docketed as Civil Case No. 17835 before Branch 147 of the Regional Trial Court of Makati.

On November 20, 1991, the court of origin declared Letter of Instruction No. 1465 unconstitutional and ordered the petitioner to pay the private respondent the amount it paid pursuant thereto; disposing as follows:

"WHEREFORE, in view of the foregoing, the Court hereby renders judgment in favor of the plaintiff and against the defendant Planters Product, Inc., ordering the latter to pay the former:

1) the sum of ₱6,698,144.00 with interest at 12% from the time of judicial demand;

2) the sum of ₱100,000.00 as attorney's fees;

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[1] Annex "A", *Rollo*, pp. 42-52.

[2] Issued by Judge Teofilo L. Guadiz, Jr. (Annex "C", *Rollo*, pp. 56-58).

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3) the costs of suit.

SO ORDERED."[3]

On February 20, 1992, simultaneously with the filing of petitioner's notice of appeal, the private respondent presented a motion to execute the said decision pending appeal, but the motion was opposed by the petitioner on the ground that there was no good reason to warrant execution pending appeal.

On April 8, 1992, the lower court granted the motion for execution pending appeal and directed the issuance of the corresponding writ of execution upon the posting by private respondent of a bond in the amount of ₱6,698,000.00; ratiocinating thus:

"Thus, it is clear from the foregoing discussion that the tax imposition under LOI No. 1465 is null and void and cannot be justified even under the police power of the state. As a matter of fact, because it is an invalid tax imposition, the same was discontinued upon the advent of a free and democratic regime after the EDSA revolution. Hence, the Court finds that the appeal of the defendant is not only dilatory but also frivolous.

Anyway, in the remote event of reversal by the appellate court, there is the bond to answer for the return of these assets which may be executed pending appeal. It has been held that the filing of a bond by the prevailing party constitutes good reason for the issuance of a writ of execution pending appeal. x x x

WHEREFORE, in view of the foregoing, the court hereby grants plaintiff's motion for execution pending appeal. Let a writ of execution issue upon the filing of a bond in the amount of P6,698,000.00 subject to the approval of the Court.

SO ORDERED."[4]

On April 13, 1997, upon the posting of the requisite bond, Fertiphil caused the closure of petitioner's warehouse in Sta. Ana, Metro Manila. Stored in that warehouse were 70,000 bags

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[3] Decision, Annex "A", *Rollo*, p. 55.

[4] Order, *Rollo*, p. 58.

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of fertilizer (estimated by Fertiphil to be 47,000 bags only). Also levied upon were twenty-four (24) Suzuki motorcycles, five (5) Suzuki jeeps and two (2) UV FMA 220-D motor vehicles. On April 20, 1992, the properties thus levied upon were sold at public auction, with Fertiphil as the highest bidder.

On April 14, 1992, petitioner filed with the Court *a quo* an "Urgent Omnibus Motion," asked for the approval of its supersedeas bond in the amount of ₱10,477,902.45, and prayed that pending approval of the said supersedeas bond, the lower court:

> *'x x x immediately issue an Order (1) DIRECTING plaintiff (Fertiphil) and/or the Sheriff of this Honorable Court, as well as all the persons acting under their supervision and/or instruction to immediately cease and desist from performing any act or all acts in furtherance of the execution of the Decision dated November 1991, and (2) DIRECTING the immediate release of defendant PPI's abovementioned bank accounts and funds from garnishment.'*[5]

Petitioner further prayed that the order of execution pending appeal as well as the writ issued by virtue thereof be set aside and dissolved; and its omnibus motion be heard on the following day, April 15, 1992. Acting thereupon on the same day, the lower court issued an order giving the private respondent ten (10) days to submit its opposition to the motion of petitioner, and also giving petitioner ten (10) days from receipt of the opposition to reply thereto, if so desired.

Five (5) days later, or on April 20, 1993, to be precise, petitioner brought a petition for *certiorari* before the Court of Appeals on the alleged ground that the lower court unreasonably failed to act on its "Urgent Omnibus Motion" dated April 14, 1992.

On April 21, 1992, the Court of Appeals issued a Temporary Restraining Order effective until May 11, 1992, enjoining the private respondent and all persons acting under their supervision and/or instruction from executing any further the decision in Civil Case No. 17835. After the lapse of said period, on May 5, 1992, petitioner presented an Urgent Motion for the issuance

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[5] Decision, *Rollo*, p. 45.

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of a writ of preliminary injunction to prevent private respondent from executing any further the decision of the trial court.

On May 21, 1992, petitioner asked the Court of Appeals to admit its supplemental petition for *certiorari* imputing abuse of discretion, amounting to lack or excess of jurisdiction, on the part of the lower court in granting private respondent's motion for execution pending appeal.

On June 19, 1992, the Court of Appeals came out with its decision to the following effect:

"WHEREFORE, the petition and supplemental petition are hereby DENIED. The prayer for the issuance of a preliminary injunction is likewise denied. Costs against petitioner.

SO ORDERED."[6]

Dissatisfied therewith, petitioner found its way to this Court via the present Petition, contending:

I

THAT THE SUPPLEMENTAL PETITION COULD NO LONGER QUESTION THE SPECIAL EXECUTION SINCE THIS WAS NOT RAISED IN THE ORIGINAL PETITION;

II

THAT PPI ADMITTED THE CORRECTNESS OF THE SPECIAL EXECUTION WHEN IT FILED THE SUPERSEDEAS BOND;

III

THAT THE FOLLOWING WERE "GOOD REASONS" TO JUSTIFY ADVANCE EXECUTION: i) FRIVOLOUSNESS OF THE APPEAL BECAUSE LOI No. 1465 IS UNCONSTITUTIONAL; AND ii) FILING OF THE BOND OF ₱6,698,144;

IV

THAT THE TRIAL COURT DID NOT GRAVELY ABUSE ITS DISCRETION WHEN IT GAVE FERTIPHIL 10 DAYS TO OPPOSE PPI'S SUBMISSION OF SUPERSEDEAS BOND.

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[6] Decision, *Rollo*, p. 52.

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V

THAT THE COLLECTION UNDER LOI No. 1465 WAS FOR THE BENEFIT OF PPI AND RECEIVED BY IT WITHOUT CONSIDERATION; and

VI

THAT THE IMPOSITION UNDER LOI 1465 WAS IMPROPER EXERCISE OF TAXATION.[7]

The petition is impressed with merit.

It is true that the Supplemental Petition could have been raised in the original petition filed with the Court of Appeals. However, the Court discerns no legal infirmity, and perceives no ground to deny due course to the said Supplemental Petition imputing abuse of discretion on the part of the trial court in issuing the order of execution pending appeal, as this was precisely the bottom line of the two petitions before the Court of Appeals. It bears stressing that the rules of procedure are not to be applied in a very rigid and technical manner, as rules of procedure are used only to help secure substantial justice.[8] They cannot be blindly adhered to if they would serve no other purpose than to put into oblivion the very *lis mota* of the controversy under scrutiny.

Section 2, Rule 39, of the Rules of Court which was the applicable provision when the trial court allowed the execution pending appeal, provided:

"SECTION 2. Execution pending appeal. — On motion of the prevailing party with notice to the adverse party, the court may, in its discretion, order execution to issue, even before the expiration of the time to appeal, upon good reasons to be stated in the special order. If a record on appeal is filed thereafter the motion and the special order shall be included therein."

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[7] Petition, *Rollo*, 14.

[8] *Fil-Estate Golf & Development, Inc. vs. Court of Appeals*, 265 SCRA 614, p. 639, citing: *Marcopper Mining Corporation vs. Garcia*, 143 SCRA 179.

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The prevailing doctrine then — which is the same as provided in paragraph 2, Section 2 of Rule 39 of the 1997 Rules of Civil Procedure — is that discretionary execution is permissible when good reasons exist for immediately executing the judgment before finality or pending appeal or even before the expiration of the time to appeal. Good reasons consist of compelling circumstances justifying the immediate execution lest the judgment becomes illusory, or the prevailing party may after the lapse of time become unable to enjoy it.[9]

In the present case, the supposed good reasons relied upon by the trial court, and upheld in by the respondent Court in granting execution pending appeal are that: 1) The appeal is frivolous because LOI No. 1465 is unconstitutional; and 2) Fertiphil posted a bond.

Although ascertainment of the special reasons for execution pending appeal lies within the sound discretion of the trial court, and the appellate Court should not normally disturb such finding, intervention by the appellate court may be proper, if it is shown that there has been an abuse of discretion.[10] That the appeal was merely dilatory because the assailed letter of instruction is unconstitutional, does not constitute "good reason" to justify execution pending appeal. Well-settled is the rule that it is not for the trial court to determine the merit of a decision it rendered as this is the role of the appellate Court.[11] Hence, it is not within the competence of the trial court, in resolving the motion for execution pending appeal, to rule that the appeal is patently dilatory and rely on the same as the basis for finding good reason to grant the motion.[12]

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[9] *Philippine Bank of Communications vs. Court of Appeals,* 279 SCRA 364, p. 371-372.

[10] *Sonida Industries, Inc. vs. Wasan, Sr.,* 179 SCRA 763, p. 769.

[11] *Aquino vs. Santiago,* 161 SCRA 570, p. 575 [1988], citing: *Republic vs. Gomez,* 5 SCRA 368.

[12] *Philippine Bank of Communications vs. Court of Appeals, Id.,* p. 375.

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So also, mere issuance of a bond to answer for damages is no longer considered a good reason for execution pending appeal. To consider the mere posting of a bond as a "good reason" would precisely make immediate execution of judgment pending appeal routinary, the rule rather than the exception.[13]

The rule on execution pending appeal must be strictly construed being an exception to the general rule.[14] Applying the rule on statutory construction, it should be interpreted only so far as the language thereof fairly warrants, and all doubts should be resolved in favor of the general rule rather than the exceptions.[15] In light of the foregoing, this Court is unable to agree with the Court of Appeals that the petitioner admitted the correctness of the special or discretionary execution when it posted the supersedeas bond. Besides, in its "Urgent Omnibus Motion" before the trial court, petitioner prayed that the Order of the lower court dated April 8, 1992, directing execution pending appeal, be set aside.

Then too, it can be gleaned that there is no good reason to grant execution pending appeal, under the premises. To repeat, the ground for granting execution pending appeal must be a good reason. Thus, when the Court has already granted a stay of execution upon the adverse party's filing of a supersedeas bond, the circumstances justifying execution despite the supersedeas bond, must be paramount; they should outweigh the security offered by the supersedeas bond.[16] In the present case, however, the Court discerns no reason paramount enough to warrant the execution pending appeal. To rule otherwise would be to make the remedy of execution pending appeal a tool of

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[13] *David vs. Court of Appeals,* 276 SCRA 431, p. 428-429, citing *Roxas vs. Court of Appeals,* 157 SCRA 370 [1988].

[14] *City of Manila vs. Court of Appeals*, 204 SCRA 362, p. 367.

[15] Agpalo, R., *Statutory Construction,* 1986 edition, p. 224, citing: *Salaysay vs. Castro*, 98 Phil. 364.

[16] *Carago, et al. vs. Maceren and Sebellino,* 92 Phil. 121, p. 125, citing: *Aguilos vs. Barrios, et al.,* 72 Phil. 285.

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oppression and inequity instead of being an instrument of solicitude and justice.[17]

Anent the fourth error assigned, the Court upholds the ruling that the respondent court is not under obligation to act immediately on the supersedeas bond submitted by the petitioners. Under Section 3, Rule 39 of the Revised Rules of Court,[18] the judgment debtor is not entitled to a suspension as a matter of right. Indeed, it was in the exercise of its sound judgment that the trial court required the filing of a written opposition from Fertiphil and a possible reply from the petitioner.

The constitutional issues posed are not the proper subjects of the instant petition seeking to set aside the assailed decision of the Court of Appeals, considering that the said Court did not, and could not, in its challenged decision, rule on the constitutionality of LOI No. 1465. The remedy of *certiorari* under Rule 65 of the Revised Rules of Court is limited to acts of any tribunal, board, or office exercising judicial function without or in excess of jurisdiction or with grave abuse of discretion[19] and is not available for the correction of errors of judgment which may be raised only on appeal.[20] In the case before the Court, while the respondent court referred to the findings of the trial court that LOI No. 1465 is unconstitutional, it did not hold that such finding is correct or incorrect. The Court of Appeals properly deferred ruling on the correctness of the judgment sought to be executed, as the merits of the case itself were duly submitted to the jurisdiction of the said Court in the proper case, by way of a regular appeal. Time honored

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[17] *David, supra.*

[18] Sec. 3. Stay of discretionary execution. — Discretionary execution issued under the preceding section may be stayed upon approval by the court of a sufficient supersedeas bond filed by the party against whom it is directed, conditioned upon the performance of the judgment or order in whole or in part. The bond thus given may be proceeded against on motion with notice to the surety.

[19] *Chua Huat vs. Court of Appeals*, 199 SCRA 1, p. 16.

[20] *Commendador vs. De Villa*, 200 SCRA 80, citing: *Arula vs. Espino*, 28 SCRA 540.

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is the rule that jurisdiction once acquired is not lost upon the instance of the parties but continues until the case is terminated.[21] Therefore, the Court of Appeals which first acquired jurisdiction over the constitutionality of LOI No. 1465 by way of regular appeal, excludes all others, including this court from passing upon the validity of subject letter of instruction.

In this disposition, the Court limits itself to the wisdom of the exercise of discretion by the trial court in ordering the execution of its judgment pending appeal. It is imperative that this Court allows the main appeal pending before the Court of Appeals to take its normal course.[22]

Premises studiedly considered, the Court is of the ineluctable conclusion, and so holds, that the Court of Appeals erred in granting the motion to execute pending appeal the judgment of the trial court in Civil Case No. 17835.

WHEREFORE, the Petition is *GRANTED*; the decision of the Court of Appeals, dated June 19, 1992, in CA-G.R. No. 27769 and the Order dated November 20, 1991, of the Regional Trial Court of Makati, Branch 147, in Civil Case No. 27769 are *SET ASIDE*. Fertiphil is hereby ordered to return all the properties of Philippine Planters, Inc., taken and sold at the public auction to satisfy the judgment of the trial court in Civil Case No. 17385, or if return thereof is not feasible to pay Philippine Planters, Inc. the value of the said properties, as of the date of the sale thereof. No pronouncement as to costs.

SO ORDERED.

Melo (Chairman), Vitug, and *Panganiban, JJ.*, concur.

Gonzaga-Reyes, J., no part, spouse connected with petitioner's counsel.

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[21] *People vs. Vera,* 182 SCRA 800 [1990], citing: *Abadilla vs. Ramos,* 156 SCRA 92; *Lat vs. PLDT Co.,* 169 SCRA 425; *Republic vs. Central Surety & Insurance Co.*, 25 SCRA 641; *Rizal Surety vs. Manila Railroad Co.*, 16 SCRA 908; and *Tuvera vs. de Guzman,* 13 SCRA 729.

[22] *David, supra.*