Supreme Court E-Library

further. The CA's award of civil indemnity in the amount of ₱75,000.00 is proper inasmuch as the death penalty was originally imposed on appellant. The award of exemplary damages in the amount of ₱25,000.00 is likewise proper. As regards moral damages, however, the CA affirmed the RTC's award of ₱50,000.00. This should be increased to ₱75,000.00 in line with prevailing jurisprudence.[27]

WHEREFORE, the Court of Appeals Decision dated March 31, 2006 is *AFFIRMED* with *MODIFICATION* in that appellant is ordered to pay AAA ₱75,000.00 as civil indemnity, ₱75,000.00 as moral damages and ₱25,000.00 as exemplary damages, for each count of rape or a total of ₱525,000.00.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Carpio Morales, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-de Castro, and *Brion, JJ.,* concur.

Corona and *Azcuna, JJ.,* on official leave.

SECOND DIVISION

[G.R. No. 175339. December 16, 2008]

PREMIERE DEVELOPMENT BANK, *petitioner, vs.* **ALFREDO C. FLORES, in his Capacity as Presiding Judge of Regional Trial Court of Pasig City, Branch 167, ARIZONA TRANSPORT CORPORATION and PANACOR MARKETING CORPORATION,** *respondents.*

---

[27] *People v. Ramos*, G.R. No. 179030, June 12, 2008; *People v. Glivano*, G.R. No. 177565, January 28, 2008, 542 SCRA 656, 665.

Supreme Court E-Library

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENTS; EXECUTION SHALL ISSUE AS A MATTER OF RIGHT UPON A FINAL AND EXECUTORY JUDGMENT; EXCEPTIONS. — A judgment becomes "final and executory" by operation of law. In such a situation, the prevailing party is entitled to a writ of execution, and issuance thereof is a ministerial duty of the court. This policy is clearly and emphatically embodied in Rule 39, Section 1 of the Rules of Court, to wit: "SEC. 1. *Execution upon judgments or final orders*. — **Execution shall issue as a matter of right**, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party. The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution." Jurisprudentially, the Court has recognized certain exceptions to the rule as where in cases of special and exceptional nature it becomes imperative in the higher interest of justice to direct the suspension of its execution; whenever it is necessary to accomplish the aims of justice; or when certain facts and circumstances transpired after the judgment became final which could render the execution of the judgment unjust.

2. CIVIL LAW; OBLIGATIONS AND CONTRACTS; EXTINGUISHMENT OF OBLIGATIONS; COMPENSATION; TO APPLY, THE TWO DEBTS MUST BE LIQUIDATED AND DEMANDABLE. — For compensation to apply, among other requisites, the two debts must be liquidated and demandable already. A distinction must be made between a debt and a mere claim. A debt is an amount actually ascertained. It is a claim which has been formally passed upon by the courts or quasi-judicial bodies to which it can in law be submitted and has been declared to be a debt. A claim, on the other hand, is a debt in embryo. It is mere evidence of

a debt and must pass thru the process prescribed by law before it develops into what is properly called a debt. Absent, however, any such categorical admission by an obligor or final adjudication, no legal compensation or off-set can take place. Unless admitted by a debtor himself, the conclusion that he is in truth indebted to another cannot be definitely and finally pronounced, no matter how convinced he may be from the examination of the pertinent records of the validity of that conclusion the indebtedness must be one that is admitted by the alleged debtor or pronounced by final judgment of a competent court.

3. REMEDIAL LAW; CIVIL PROCEDURE; COUNTER-CLAIM; WHEN CONSIDERED COMPULSORY. — Under Section 7, Rule 6 of the 1997 Rules of Civil Procedure, a counterclaim is compulsory when its object "arises out of or is necessarily connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction." In *Quintanilla v. CA* and reiterated in *Alday v. FGU Insurance Corporation*, the "compelling test of compulsoriness" characterizes a counterclaim as compulsory if there should exist a "logical relationship" between the main claim and the counterclaim. There exists such a relationship when conducting separate trials of the respective claims of the parties would entail substantial duplication of time and effort by the parties and the court; when the multiple claims involve the same factual and legal issues; or when the claims are offshoots of the same basic controversy between the parties.

4. MERCANTILE LAW; CORPORATION LAW; CORPORATION CODE; PRIVATE CORPORATIONS; DISSOLUTION; THE LAW ALLOWS A TRUSTEE TO MANAGE THE AFFAIRS OF THE CORPORATION IN LIQUIDATION, AND THE DISSOLUTION OF THE CORPORATION WOULD NOT SERVE AS AN EFFECTIVE BAR TO THE ENFORCEMENT OF RIGHTS FOR OR AGAINST IT. — [T]he law specifically allows a trustee to manage the affairs of the corporation in liquidation, and the dissolution of the corporation would not serve as an effective bar to the

Supreme Court E-Library

enforcement of rights for or against it. As early as 1939, this Court held that, although the time during which the corporation, through its own officers, may conduct the liquidation of its assets and sue and be sued as a corporation is limited to three years from the time the period of dissolution commences, there is no time limit within which the trustees must complete a liquidation placed in their hands. What is provided in Section 122 of the Corporation Code is that the conveyance to the trustees must be made within the three-year period. But it may be found impossible to complete the work of liquidation within the three-year period or to reduce disputed claims to judgment. The trustees to whom the corporate assets have been conveyed pursuant to the authority of Section 122 may sue and be sued as such in all matters connected with the liquidation. Furthermore, Section 145 of the Corporation Code clearly provides that "no right or remedy in favor of or against any corporation, its stockholders, members, directors, trustees, or officers, nor any liability incurred by any such corporation, stockholders, members, directors, trustees, or officers, shall be removed or impaired either by the subsequent dissolution of said corporation." Even if no trustee is appointed or designated during the three-year period of the liquidation of the corporation, the Court has held that the board of directors may be permitted to complete the corporate liquidation by continuing as "trustees" by legal implication.

5. CIVIL LAW; OBLIGATIONS AND CONTRACTS; EXTINGUISHMENT OF OBLIGATIONS; PAYMENT OR PERFORMANCE; CONSIGNATION; DEFINED. — Consignation is the act of depositing the thing due with the court or judicial authorities whenever the creditor cannot accept or refuses to accept payment, and it generally requires a prior tender of payment.

APPEARANCES OF COUNSEL

Tagalog De Villa & Associates for petitioner.
Manuel S. Fonacier, Jr. for respondents.

Supreme Court E-Library

D E C I S I O N

TINGA, *J.*:

This is a Rule 45 petition for review[1] of the Court of Appeals' decision[2] in CA-G.R. SP No. 92908 which affirmed the Regional Trial Court's (RTC's) orders[3] granting respondent corporations' motion for execution of the Court's 14 April 2004 decision in G.R. No. 159352[4] and denying[5] petitioner Premiere Development Bank's motion for reconsideration, as well as the appellate court's resolution[6] denying Premiere Development Bank's motion for reconsideration.

The factual antecedents of the case, as found by the Court in G.R. No. 159352, are as follows:

---

[1] *Rollo*, pp. 3-40.

[2] *Id.* at 45-61. Penned by Associate Justice Mariano Del Castillo; concurred in by Associate Justices Conrado Vasquez, Jr. and Vicente Veloso. The dispositive portion of the decision reads as follows:

> WHEREFORE, the instant petition is **DISMISSED**. Accordingly, the assailed orders are **AFFIRMED**.
>
> SO ORDERED.

[3] *Id.* at 109-110. Penned by Judge Alfredo Flores. The dispositive portion reads as follows:

> WHEREFORE, premises considered, let a writ of execution issue for the enforcement of the Decision of this (C)ourt on 18 June 2003, as affirmed but modified by the Supreme Court in G.R. No. 159352 under the Decision rendered on 14 April 2004, on the payment of the following, namely: Php 500,000.00 as exemplary damages; Php 100,000.00 as attorney's fees; and Php 200,000.00, as temperate damages, to be accordingly implemented by the Deputy Sheriff of this Court.
>
> SO ORDERED.

[4] *Premiere Development Bank v. Court of Appeals*, G.R. No. 159352, 14 April 2004, 427 SCRA 686.

[5] *Rollo*, p. 111.

[6] *Id.* at 63.

Supreme Court E-Library

The undisputed facts show that on or about October 1994, Panacor Marketing Corporation (Panacor for brevity), a newly-formed corporation, acquired an exclusive distributorship of products manufactured by Colgate Palmolive Philippines, Inc. (Colgate for short). To meet the capital requirements of the exclusive distributorship, which required an initial inventory level of ₱7.5 million, Panacor applied for a loan of ₱4.1 million with Premiere Development Bank. After an extensive study of Panacor's creditworthiness, Premiere Bank rejected the loan application and suggested that its affiliate company, Arizona Transport Corporation (Arizona for short), should instead apply for the loan on condition that the proceeds thereof shall be made available to Panacor. Eventually, Panacor was granted a ₱4.1 million credit line as evidenced by a Credit Line Agreement. As suggested, Arizona, which was an existing loan client, applied for and was granted a loan of ₱6.1 million, ₱3.4 million of which would be used to pay-off its existing loan accounts and the remaining ₱2.7 million as credit line of Panacor. As security for the ₱6.1 million loan, Arizona, represented by its Chief Executive Officer Pedro Panaligan and spouses Pedro and Marietta Panaligan in their personal capacities, executed a Real Estate Mortgage against a parcel of land covered by TCT No. T-3475 as per Entry No. 49507 dated October 2, 1995.

Since the ₱2.7 million released by Premiere Bank fell short of the ₱4.1 million credit line which was previously approved, Panacor negotiated for a take-out loan with IBA-Finance Corporation (hereinafter referred to as IBA-Finance) in the sum of ₱10 million, ₱7.5 million of which will be released outright in order to take-out the loan from Premiere Bank and the balance of ₱2.5 million (to complete the needed capital of ₱4.1 million with Colgate) to be released after the cancellation by Premiere of the collateral mortgage on the property covered by TCT No. T-3475. Pursuant to the said take-out agreement, IBA-Finance was authorized to pay Premiere Bank the prior existing loan obligations of Arizona in an amount not to exceed ₱6 million.

On October 5, 1995, Iba-Finance sent a letter to Ms. Arlene R. Martillano, officer-in-charge of Premiere Bank's San Juan Branch, informing her of the approved loan in favor of Panacor and Arizona, and requesting for the release of TCT No. T-3475. Martillano, after reading the letter, affixed her signature of conformity thereto and sent the original copy to Premiere Bank's legal office. x x x

Supreme Court E-Library

On October 12, 1995, Premiere Bank sent a letter-reply to [IBA]-Finance, informing the latter of its refusal to turn over the requested documents on the ground that Arizona had existing unpaid loan obligations and that it was the bank's policy to require full payment of all outstanding loan obligations prior to the release of mortgage documents. Thereafter, Premiere Bank issued to IBA-Finance a Final Statement of Account showing Arizona's total loan indebtedness. On October 19, 1995, Panacor and Arizona executed in favor of IBA-Finance a promissory note in the amount of ₱7.5 million. Thereafter, IBA-Finance paid to Premiere Bank the amount of ₱6,235,754.79, representing the full outstanding loan account of Arizona. Despite such payment, Premiere Bank still refused to release the requested mortgage documents specifically, the owner's duplicate copy of TCT No. T-3475.

On November 2, 1995, Panacor requested IBA-Finance for the immediate approval and release of the remaining ₱2.5 million loan to meet the required monthly purchases from Colgate. IBA-Finance explained however, that the processing of the ₱2.5 million loan application was conditioned, among others, on the submission of the owner's duplicate copy of TCT No. 3475 and the cancellation by Premiere Bank of Arizona's mortgage. Occasioned by Premiere Bank's adamant refusal to release the mortgage cancellation document, Panacor failed to generate the required capital to meet its distribution and sales targets. On December 7, 1995, Colgate informed Panacor of its decision to terminate their distribution agreement.

On March 13, 1996, Panacor and Arizona filed a complaint for specific performance and damages against Premiere Bank before the Regional Trial Court of Pasig City, docketed as Civil Case No. 65577.

On June 11, 1996, IBA-Finance filed a complaint-in-intervention praying that judgment be rendered ordering Premiere Bank to pay damages in its favor.

On May 26, 1998, the trial court rendered a decision in favor of Panacor and IBA-Finance, the decretal portion of which reads: x x x

Premiere Bank appealed to the Court of Appeals contending that the trial court erred in finding, *inter alia*, that it had maliciously downgraded the credit-line of Panacor from ₱4.1 million to ₱2.7 million.

Supreme Court E-Library

In the meantime, a compromise agreement was entered into between IBA-Finance and Premiere Bank whereby the latter agreed to return without interest the amount of ₱6,235,754.79 which IBA-Finance earlier remitted to Premiere Bank to pay off the unpaid loans of Arizona. On March 11, 1999, the compromise agreement was approved.

On June 18, 2003, a decision was rendered by the Court of Appeals which affirmed with modification the decision of the trial court, the dispositive portion of which reads:[7] x x x

Incidentally, respondent corporations received a notice of sheriff's sale during the pendency of G.R. No. 159352. Respondent corporations were able to secure an injunction from the RTC but it was set aside by the Court of Appeals in a decision dated 20 August 2004.[8] The appellate court denied respondent corporations' motion for reconsideration in a resolution dated 5 November 2004.[9]

The Court, in a resolution dated 16 February 2005, did not give due course to the petition for review of respondent corporations as it did not find any reversible error in the decision of the appellate court.[10] After the Court had denied with finality the motion for reconsideration,[11] the mortgaged property was purchased by Premiere Development Bank at the foreclosure sale held on 19 September 2005 for ₱6,600,000.00.[12]

Respondent corporations filed a motion for execution dated 25 August 2005[13] asking for the issuance of a writ of execution of our decision in G.R. No. 159352 where we awarded

---

[7] *Premiere Development Bank v. Court of Appeals*, *supra* note 4 at 689-693.

[8] *Rollo*, pp. 127-132.

[9] *Id.* at 145-146.

[10] *Id.* at 147.

[11] *Id.* at 148.

[12] *Id.* at 151-152.

[13] CA *rollo*, pp. 113-117.

Supreme Court E-Library

₱800,000.00 as damages in their favor.[14] The RTC granted the writ of execution sought. The Court of Appeals affirmed the order.

Hence, the present petition for review.

The only question before us is the propriety of the grant of the writ of execution by the RTC.

Premiere Development Bank argues that the lower courts should have applied the principles of compensation or set-off as the foreclosure of the mortgaged property does not preclude it from filing an action to recover any deficiency from respondent corporations' loan. It allegedly did not file an action to recover the loan deficiency from respondent corporations because of the pending Civil Case No. MC03-2202 filed by respondent corporations before the RTC of Mandaluyong City entitled *Arizona Transport Corp. v. Premiere Development Bank.* That case puts into issue the validity of Premiere Development Bank's monetary claim against respondent corporations and the subsequent foreclosure sale of the mortgaged property. Premiere Development Bank allegedly had wanted to wait for the resolution of the civil case before it would file its deficiency claims against respondent corporations. Moreover, the execution of our decision in G.R. No. 159352 would allegedly be iniquitous and unfair since respondent corporations are already in the process of winding up.[15]

---

[14] *Premiere Development Bank v. Court of Appeals, supra* note 4 at 700. The dispositive portion of the Court's decision reads as follows:

> WHEREFORE, the petition is **DENIED**. The Decision dated June 18, 2003 of the Court of Appeals in CA-G.R. CV No. 60750, ordering Premiere Bank to pay Panacor Marketing Corporation ₱500,000.00 as exemplary damages, ₱100,000.00 as attorney's fees, and costs, is **AFFIRMED**, with the **MODIFICATION** that the award of ₱4,520,000.00 as actual damages is **DELETED** for lack of factual basis. In lieu thereof, Premiere Bank is ordered to pay Panacor ₱200,000.00 as temperate damages.
>
> SO ORDERED.

[15] *Rollo*, pp. 134-135.

Supreme Court E-Library

The Court finds the petition unmeritorious.

A judgment becomes "final and executory" by operation of law. In such a situation, the prevailing party is entitled to a writ of execution, and issuance thereof is a ministerial duty of the court.[16] This policy is clearly and emphatically embodied in Rule 39, Section 1 of the Rules of Court, to wit:

> SECTION 1. *Execution upon judgments or final orders.* — **Execution shall issue as a matter of right**, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.
>
> If the appeal has been duly perfected and finally resolved, the execution may forthwith be applied for in the court of origin, on motion of the judgment obligee, submitting therewith certified true copies of the judgment or judgments or final order or orders sought to be enforced and of the entry thereof, with notice to the adverse party.
>
> The appellate court may, on motion in the same case, when the interest of justice so requires, direct the court of origin to issue the writ of execution. (Emphasis supplied.)

Jurisprudentially, the Court has recognized certain exceptions to the rule as where in cases of special and exceptional nature it becomes imperative in the higher interest of justice to direct the suspension of its execution; whenever it is necessary to accomplish the aims of justice; or when certain facts and circumstances transpired after the judgment became final which could render the execution of the judgment unjust.[17]

None of these exceptions avails to stay the execution of this Court's decision in G.R. No. 159352. Premiere Development Bank has failed to show how injustice would exist in executing the judgment other than the allegation that respondent corporations

---

[16] *City of Manila v. Court of Appeals*, G.R. No. 100626, 29 November 1991, 204 SCRA 362, 366.

[17] *Cruz v. Leabres*, 314 Phil. 26, 34 (1995), citing *Lipana v. Development Bank of Rizal*, 154 SCRA 257 (1987).

Supreme Court E-Library

are in the process of winding up. Indeed, no new circumstance transpired after our judgment had become final that would render the execution unjust.

The Court cannot give due course to Premiere Development Bank's claim of compensation or set-off on account of the pending Civil Case No. MC03-2202 before the RTC of Mandaluyong City. For compensation to apply, among other requisites, the two debts must be liquidated and demandable already.[18]

A distinction must be made between a debt and a mere claim. A debt is an amount actually ascertained. It is a claim which has been formally passed upon by the courts or quasi-judicial bodies to which it can in law be submitted and has been declared to be a debt. A claim, on the other hand, is a debt in embryo. It is mere evidence of a debt and must pass thru the process prescribed by law before it develops into what is properly called a debt.[19] Absent, however, any such categorical admission by an obligor or final adjudication, no legal compensation or off-set can take place. Unless admitted by a debtor himself, the conclusion that he is in truth indebted to another cannot be definitely and finally pronounced, no matter how convinced he may be from the examination of the pertinent records of the

---

[18] Art. 1278. Compensation shall take place when two persons, in their own right, are creditors and debtors of each other. (1159)

Art. 1279. In order that compensation may be proper, it is necessary:

(1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;

(2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;

(3) That the two debts be due;

(4) That they be liquidated and demandable;

(5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

[19] *Vallarta v. Court of Appeals*, G.R. No. L-36543, 27 July 1988, 163 SCRA 587, 594.

Supreme Court E-Library

validity of that conclusion the indebtedness must be one that is admitted by the alleged debtor or pronounced by final judgment of a competent court.[20] At best, what Premiere Development Bank has against respondent corporations is just a claim, not a debt. At worst, it is a speculative claim.

The alleged deficiency claims of Premiere Development Bank should have been raised as a compulsory counterclaim before the RTC of Mandaluyong City where Civil Case No. MC03-2202 is pending. Under Section 7, Rule 6 of the 1997 Rules of Civil Procedure, a counterclaim is compulsory when its object "arises out of or is necessarily connected with the transaction or occurrence constituting the subject matter of the opposing party's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction." In *Quintanilla v. CA*[21] and reiterated in *Alday v. FGU Insurance Corporation*,[22] the "compelling test of compulsoriness" characterizes a counterclaim as compulsory if there should exist a "logical relationship" between the main claim and the counterclaim. There exists such a relationship when conducting separate trials of the respective claims of the parties would entail substantial duplication of time and effort by the parties and the court; when the multiple claims involve the same factual and legal issues; or when the claims are offshoots of the same basic controversy between the parties. Clearly, the recovery of Premiere Development Bank's alleged deficiency claims is contingent upon the case filed by respondent corporations; thus, conducting separate trials thereon will result in a substantial duplication of the time and effort of the court and the parties.

The fear of Premiere Development Bank that they would have difficulty collecting its alleged loan deficiencies from respondent corporations since they were already involuntarily dissolved due to their failure to file reportorial requirements

---

[20] See *Villanueva v. Tantuico, Jr.*, G.R. No. 53585, 15 February 1990, 182 SCRA 263, 267-268.

[21] 344 Phil. 811 (1997).

[22] 402 Phil. 962 (2001).

Supreme Court E-Library

with the Securities and Exchange Commission is neither here nor there. In any event, the law specifically allows a trustee to manage the affairs of the corporation in liquidation, and the dissolution of the corporation would not serve as an effective bar to the enforcement of rights for or against it.

As early as 1939,[23] this Court held that, although the time during which the corporation, through its own officers, may conduct the liquidation of its assets and sue and be sued as a corporation is limited to three years from the time the period of dissolution commences, there is no time limit within which the trustees must complete a liquidation placed in their hands. What is provided in Section 122[24] of the Corporation Code is that the conveyance to the trustees must be made within the three-year period. But it may be found impossible to complete the work of liquidation within the three-year period or to reduce disputed claims to judgment. The trustees to whom the corporate assets

---

[23] *Sumera v. Valencia*, 67 Phil. 721, 726 (1939).

[24] SEC. 122. *Corporate Liquidation*.— Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three (3) years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, to dispose of and convey its property and to distribute its assets, but not for the purpose of continuing the business for which it was established.

At any time during said three (3) years, said corporation is authorized and empowered to convey all of its property to trustees for the benefit of stockholders, members, creditors, and other persons in interest. From and after any such conveyance by the corporation of its property in trust for the benefit of its stockholders, members, creditors and others in interests, all interest which the corporation had in the property terminates, the legal interest vests in the trustees, and the beneficial interest in the stockholders, members, creditors or other persons in interest.

Upon winding up of the corporate affairs, any asset distributable to any creditor or stockholder or member who is unknown or cannot be found shall be escheated to the city or municipality where such assets are located.

Except by decrease of capital stock and as otherwise allowed by this Code, no corporation shall distribute any of its assets or property except upon lawful dissolution and after payment of all its debts and liabilities.

Supreme Court E-Library

have been conveyed pursuant to the authority of Section 122 may sue and be sued as such in all matters connected with the liquidation.

Furthermore, Section 145 of the Corporation Code clearly provides that "no right or remedy in favor of or against any corporation, its stockholders, members, directors, trustees, or officers, nor any liability incurred by any such corporation, stockholders, members, directors, trustees, or officers, shall be removed or impaired either by the subsequent dissolution of said corporation." Even if no trustee is appointed or designated during the three-year period of the liquidation of the corporation, the Court has held that the board of directors may be permitted to complete the corporate liquidation by continuing as "trustees" by legal implication.[25] Therefore, no injustice would arise even if the Court does not stay the execution of G.R. 159352.

Although it is commendable for Premiere Development Bank in offering to deposit with the RTC the ₱800,000.00 as an alternative prayer, the Court cannot allow it to defeat or subvert the right of respondent corporations to have the final and executory decision in G.R. No. 159352 executed. The offer to deposit cannot suspend the execution of this Court's decision for this cannot be deemed as consignation. Consignation is the act of depositing the thing due with the court or judicial authorities whenever the creditor cannot accept or refuses to accept payment, and it generally requires a prior tender of payment. In this case, it is Premiere Development Bank, the judgment debtor, who refused to pay respondent corporations ₱800,000.00 and not the other way around. Neither could such offer to make a deposit with the RTC provide a ground for this Court to issue an injunctive relief in this case.

WHEREFORE, the petition for review is *DENIED*. The decision of the Court of Appeals in CA-G.R. SP No. 92908 is *AFFIRMED*.

---

[25] *Reburiano v. Court of Appeals*, 361 Phil. 294, 307 (1999) citing *Clemente v. Court of Appeals*, 242 SCRA 717 (1995).

Supreme Court E-Library

SO ORDERED.

Quisumbing (Chairperson), Carpio Morales, Velasco, Jr., and *Brion, JJ.,* concur.

THIRD DIVISION

[G.R. No. 175929. December 16, 2008]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ROMMEL DELA CRUZ,** *accused-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; ASSESSMENT THEREON BY TRIAL COURT, GENERALLY NOT DISTURBED ON APPEAL. — The emphasis, gesture and inflection of the voice are potent aids in understanding the testimony of witnesses. The trial court has the opportunity and is presumed to take advantage of these aids in weighing the testimony of the witnesses. But as they cannot be incorporated into the record, this Court has no assistance in the examination of the testimony and must, therefore, rely upon the good judgment of the trial court. Thus, in the absence of any showing that the trial court's calibration of credibility was flawed, We are bound by its assessment.

2. ID.; ID.; ID.; A CONCLUSION OF GUILT MAY BE REACHED ON THE BASIS OF THE TESTIMONY OF A SINGLE WITNESS WHERE SUCH TESTIMONY IS FOUND POSITIVE AND CREDIBLE BY THE TRIAL COURT. — No rule exists which requires a testimony to be corroborated to be adjudged credible. Witnesses are to be weighed, not numbered. Thus, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness despite the lack of corroboration, where such testimony is found