

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**MARAWI MARANTAO GENERAL
HOSPITAL, INC. and MACAPANTON K.
MANGONDATO,**

Petitioners,

-versus-

**G.R. No. 141008
January 16, 2001**

**COURT OF APPEALS and SOCIAL
SECURITY SYSTEM,**

Respondents.

X-----X

DECISION

GONZAGA-REYES, J.:

This Petition for Review on *Certiorari* seeks the reversal of the Decision of the Court of Appeals^[1] in CA G.R. SP No. 54669 entitled “Social Security System vs. Hon. Santos B. Adiong, Presiding Judge, Branch 8, Regional Trial Court, Marawi City, Marawi Marantao General Hospital, Inc. and Atty. Macapanton K. Mangondato.”

The following are the facts as found by the Court of Appeals:

“On August 12, 1997, the Marawi-Marantao General Hospital, Inc. and Atty. Macapanton K. Mangondato, hereinafter referred to as the Private Respondents, filed a complaint against the Social Security System, hereinafter referred to as the Petitioner, with the Regional Trial Court of Lanao del Sur (Marawi City), for “Specific Performance with Damages”. The Private Respondents alleged, inter alia, in said complaint that: on January 16, 1997, Private Respondent Macapanton Mangondato, as Vendee, and the Petitioner, as Vendor, executed a “Deed of Conditional Sale” whereby the Petitioner transferred and conveyed, unto the Private Respondent Mangondato, the property covered by Transfer Certificate of Title No. T-379 under the name of the Private Respondent Hospital for the price of P2,000,000.00 but that despite Private Respondent Macapanton Mangondato’s repurchase thereof having been consummated, the Petitioner refused to execute the “Deed of Absolute Sale” and transfer the title to said property to said Private Respondent; worse, per its Resolution No. 224, dated March 20, 1997, the Petitioner declared the said “Deed of Conditional Sale” a nullity and, despite demands of the Private Respondents and the intercession of Congressmen Mamintal M. Adiong and Ali Pangalian M. Balindong, of Lanao del Sur, the Petitioner failed and refused to execute the “Deed of Absolute Sale” over the property in favor of the Private Respondent. The Private Respondent thus prayed the Court for judgment as follows:

‘WHEREFOR (sic), in the light of the foregoing, it is prayed of this Honorable Court that, after due notice and hearing, judgment be rendered in favor of the plaintiffs and against the defendant directing SSS to:

1. Execute an absolute deed of sale in favor of the plaintiffs Hospital and/or Atty. Macapanton K. Mangondato as stipulated in the aforesaid Deed of Conditional Sale;
2. Pay plaintiffs the sum of P500,000.00 by way of moral and actual damages;

3. Pay plaintiffs the sum of P100,000.00 by way of attorney's fee;
4. Pay plaintiff exemplary damages to such amount as it may deem proper under the premises; and
5. Pay the cost of litigation.

For such other relief and remedies that are just and proper under the circumstance.' (at page 36-37, Rollo)

The case was raffled to Branch 8 of the Regional Trial Court, presided by Judge Santos B. Adiong, hereinafter referred to as the Public Respondent.

In its Answer to the complaint, the Petitioner averred that it declared the "Deed of Conditional Sale" null and void because:

- a. There was no full disclosure of facts to the SS Commission;
- b. Violation of the standard operating procedure requiring the conduct of bidding in the sale of an SSS-acquired asset;
- c. Non-compliance with Office procedure requiring two signatories in the Deed of Conditional Sale; and
- d. Title to the property has not been consolidated in the name of SSS.' (at page 44, Rollo)

The petitioner assigned Atty. Saidali C. Gandamra, one of its lawyers, in its Regional Office in Cagayan de Oro City, to handle the case and represent the Petitioner before the Public Respondent.

After due proceedings, the Public Respondent promulgated a Decision, dated June 17, 1999, in favor of the Private Respondents and against the Petitioner directing the latter to execute an "Absolute Deed of Sale" over the property in favor of the Private Respondents and ordering the Petitioner to pay the Private Respondents the whopping amount of P12,487,271.00, by way of actual damages or unrealized income, P500,000.00 by way of moral damages and

P100,000.00 by way of attorney's fees, the decretal portion of which reads as follows:

'WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs Marawi-Marantao General Hospital Inc., and Atty. Macapanton K. Mangondato and against defendant Social Security System directing the latter (SSS) to:

1. Execute an Absolute deed of Sale in favor of the plaintiffs Hospital and/or Atty. Macapanton K. Mangondato as stipulated in the aforesaid Deed of Conditional Sale;
2. Pay plaintiffs the sum of P12,487,271.00 by way of actual damages or unrealized income;
3. Pay plaintiffs the sum of P500,000.00 by way of moral damages;
4. Pay plaintiffs the sum of P100,000.00 by way of attorney's fees; and
5. Pay the cost of litigation.' (Annex "D", Petition).

On June 18, 1999, or a day after the Public Respondent promulgated its Decision, the Private Respondents filed a "Motion for Partial Execution", set for hearing, on June 25, 1999, at 8:30 o'clock in the morning. Private Respondents served a copy of said motion on Petitioner, through counsel. During the hearing, on June 25, 1999, the counsel for the Petitioner failed to appear considering that, as of said date, he had not as yet been served with a copy of the Decision of the Public Respondent and a copy of Private Respondents' motion. Nevertheless, the Public Respondent issued an Order, on June 25, 1999, granting Private Respondents' motion upon their posting of a bond in the amount of P1,000,000.00. On the same day, the Public Respondent issued a "Writ of Execution" commanding the Sheriff of Pasay City to cause execution of his Decision on the Petitioner. On the same day, the City Sheriff of Pasay City served a "Notice of Garnishment" on the Philippine National Bank, Roxas Boulevard,

Pasay City, garnishing the funds of the Petitioner deposited therein to the extent of P13,415,616.62.

On June 29, 1999, the Petitioner was served with a copy of the Decision of the Public Respondent. On the same day, June 29, 1999, the Public Respondent issued an Order directing the President or Vice President of the Philippine National Bank to release to Private Respondent Macapanton Mangondato, through the Sheriff, the aforesaid amount. On June 29, 1999, the Petitioner filed an “Urgent Motion for Reconsideration and Immediate Stay of Execution” (Annex “E”, Petition). On July 6, 1999, the Public Respondent issued a Resolution denying Petitioner’s motion (Annex “F”, Petition).

The petitioner earlier filed a “Petition for Certiorari”, with this Court, entitled and docketed Social Security System versus Hon. Santos B. Adiong, et al., CA-GR. No. 53502-SP for the nullification of the Order and “Writ of Execution” issued by the Public Respondent on June 25, 1999.

On July 9, 1999, the Petitioner filed a “Notice of Appeal” with the Public Respondent (Annex “G”, Petition). However, the petitioner failed to indicate, in said “Notice of Appeal”, when it received a copy of the Decision of the Public Respondent. On July 12, 1999, the Petitioner filed, with the Public Respondent, an “Amended Notice of Appeal” containing the material dates when it received a copy of the Decision of the Public Respondent, when it filed its “Motion for Reconsideration” and when it received the Order of the Public Respondent denying said “Motion for Reconsideration”. However, the Petitioner, in said “Amended Notice of Appeal” quoted only item No. 1 in the dispositive portion of the Decision of the Public Respondent and placing “xxx xxx xxx” in lieu of Items Nos. 2, 3, 4 and 5 of the dispositive portion of the Decision appeal from (Annex “H”, Petition).

On August 13, 1999, the Private Respondents filed a “Manifestation” with the Public Respondent to the effect that, under the “Amended Notice of Appeal” of the Petitioner, ONLY ITEM NO. 1 OF THE DISPOSITIVE PORTION OF THE DECISION OF THE PUBLIC RESPONDENT was appealed from by the Petitioner and that the Petitioner did not appeal anymore from Items Nos. 2, 3, 4 and 5 of the dispositive portion of the Decision of the Public Respondent

because of the closing marks “xxx xxx xxx” following immediately which means “nothing follows”. Consequently, items Nos. 2, 3, 4 and 5 of the Decision of the Public Respondent, quoted, infra, had become final and executory:

- ‘2. Pay plaintiff the sum of P12,487,271.00 by way of actual damages or unrealized income;
3. Pay plaintiffs the sum of P500,000.00 by way of moral damages;
4. Pay plaintiff the sum of P100,000.00 by way of attorney’s fees;
5. Pay the cost of litigation.’ (at pages 77-78, Rollo.)

The Private Respondents thus prayed that entry of judgment may be made declaring, final and executory, items nos. 2, 3, 4 and 5 of the dispositive portion of the Decision of the Public Respondent and that execution thereof be ordered (Annex “I”, Petition). On August 16, 1999, the Public Respondent issued an Order granting the “Manifestation” of the Private Respondents, declared as final and executory that portion of his Decision covering items Nos. 2, 3, 4 and 5 of the Decision of the Public Respondent and ordered execution.

August 16, 1999, the Court of Appeals promulgated a Decision, in CA-G.R. No. 53502-SP, nullifying the aforesaid Order and “Writ of Execution” issued by the Public Respondent. (Annex “B”, Urgent Motion).

On August 18, 1999, the Private Respondents filed with the Public Respondent a “Motion for Execution” over items Nos. 2, 3, 4 and 5 of the dispositive portion of the Decision of the Public Respondent (Annex “I”, Petition). During the hearing of Private Respondents’ “Motion for Execution” on August 23, 1999, Atty. Saidali Gandamra, counsel of the Petitioner prayed for time until August 31, 1999 within which to comment on said motion. Public Respondent granted Petitioner’s plea and gave it until August 31, 1999 within which to file its “Comment” on Private Respondents’ motion. However, the Petitioner failed to file any “Comment.”

In the meantime, the Petitioner, through the Solicitor General, filed a “Manifestation” with the Public Respondent to the effect that the Petitioner, having perfected its appeal from the Decision of the Public Respondent, the latter had no more jurisdiction to grant relief to the Private Respondent on their “Motion for Execution” and that it was going to file a “Petition for Certiorari” with this Court. (Annex “2”, Comment).

On September 1, 1999, the Petitioner filed a “Petition for Certiorari” against the Respondents, with this Court, for the nullification of the Order of Public Respondent (Annex “A” of the Petition) on the ground that the Public Respondent issued the same with grave abuse of his discretion amounting to excess or lack of jurisdiction and, hence, correctable by cert wit. The Petitioner answers, in its Petition, that nowhere in its “Amended Notice of Appeal”, did it declare that it was appealing only from item No. 1 of the dispositive portion of the Decision of Public Respondent and was no longer appealing from Items Nos. 2, 3, 4 and 5 of said Decision. When the Petitioner filed its “Amended Notice of Appeal”, the Public Respondent was already divested of jurisdiction to grant relief under Private Respondents’ “Motion for Execution.”

On September 1, 1999, the Public Respondent issued an Order granting Private Respondents’ “Motion for Execution” (Annex “A”, Memorandum of Petition). On the same day, the Public Respondent issued a “Writ of Execution” (Annex “B”, supra, idem). The Private Respondents filed, with the Public Respondent, an “Ex Parte Motion to Release Amount Subject of Writ of Execution”, dated September 1, 1999. On September 2, 1999, the Public Respondent issued an Order granting Private Respondents’ motion (Annex “C”, idem, supra). On September 3, 1999, the Sheriff issued a “Notice of Garnishment” notifying the President or Vice President for Legal Affairs of the Philippine National Bank, Roxas Boulevard, Pasay City, of the levy of the monies of the Petitioner with said Bank in the amount of P13,415,616.62 (Annex “E”, idem, supra). On September 9, 1999, the Sheriff filed with the Philippine National Bank an “Order of Delivery of Money” for the amount of P13,415,616.62 (Annex “F”, idem, supra). On September 11, 1999, the Public Respondent issued an Order directing the Chief Legal Counsel of the Philippine National Bank and

the Branch Manager of the Diliman Branch of the said Bank to release the aforesaid amount within forty-eight (48) hours from notice thereof otherwise they may be cited for contempt of Court (Annex “D”, *idem*, *supra*).

On September 10, 1999, We promulgated a Resolution granting Petitioner’s plea for a temporary restraining order and directing the Private Respondents to file their “Comment” on the Petition (at page 109, Rollo). The Private Respondents received a copy of said Resolution on September 17, 1999 and filed, forthwith, their “Comment” on the Petition.”^[2]

On November 29, 1999, the Court of Appeals gave due course to the petition filed by the SSS and nullified and set aside the orders of the RTC; hence this petition where the petitioners raise the following issues:

1. Whether the filing of a Motion for Reconsideration in the Regional Trial Court is an indispensable requirement or a mere procedural technicality before a Petition for Certiorari may be submitted to an appellate court?
2. Whether the respondent’s appeal before the Court of Appeals involves the entire judgment of the trial court despite the fact that the Amended Notice of Appeal cited only the first subparagraph of the dispositive portion of the appealed decision and conveniently omitted the second, third, fourth and fifth subparagraphs thereof?
3. Whether the trial court has jurisdiction to order the partial execution of its judgment insofar as the second, third, fourth and fifth subparagraphs thereof are concerned?

In support of their petition, the petitioners argue that the respondent SSS should have first filed a motion for reconsideration of the order of the RTC declaring item numbers 2, 3, 4 and 5 of its decision final and executory before it filed a petition for certiorari with the Court of Appeals. Petitioners insist that the filing of a motion for reconsideration is an indispensable requirement before a petition for certiorari of an order of a regional trial court may be filed with the

Court of Appeals. Considering that the SSS did not file a motion for reconsideration with the RTC before it filed a petition for certiorari, the Court of Appeals should have dismissed the petition outright.

Moreover, contrary to the ruling of the Court of Appeals, it is the petitioners' position that the Amended Notice of Appeal filed by the SSS is conclusive to the effect that only the first subparagraph of the judgment of the RTC was being appealed from by the SSS. The petitioners claim that the Amended Notice of Appeal limits the part of the RTC's judgment appealed from considering that it only quoted the first subparagraph thereof. Inasmuch as the SSS only appealed the first subparagraph of the RTC judgment, the petitioners insist that subparagraphs 2, 3, 4 and 5 thereof have become final and executory and that consequently, the RTC committed no reversible error when it issued the writ of execution with respect to said subparagraphs.

After a careful review of the case, we resolve to deny the petition.

The resolution of the instant petition requires the interpretation of the amended notice of appeal of the decision of the RTC filed by the SSS, which reads as follows:

“AMENDED NOTICE OF APPEAL

DEFENDANT, by the undersigned counsel, unto this HONORABLE COURT, most respectfully manifests that it is appealing the decision in the above-entitled case to the HONORABLE COURT OF APPEALS, Manila, the dispositive portion of which, in part states:

‘WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs Marawi-Marantao General Hospital Inc., and Atty. Macapanton K. Mangondato and against defendant Social Security System directing the latter (SSS) to:

1. Execute an absolute deed of sale in favor of the plaintiffs General Hospital and/or Atty. Macapanton K. Mangondato as stipulated in the aforesaid Deed of Conditional Sale;

X X X

That the aforesaid decision was received by the defendant on June 29, 1999, and that a Motion for Reconsideration of aforequoted decision was filed on the same day and was denied by the Honorable Court in an order dated July 6,1999;

That a Notice of Appeal was filed on July 9, 1999;

CAGAYAN DE ORO CITY, July 10, 1999.”^[3]

The amended notice of appeal is clear and specifically states that the SSS is appealing the entirety of the decision in Civil Case No. 1499-97. It is apparent that the omission of item numbers two, three, four and five in its quotation of the dispositive portion was not meant to signify that only the first item was being appealed by the SSS. It is evident that the quotation was made merely to emphasize the dispositive portion of the aforesaid decision as can be gleaned from the use of the phrase “which, in part states” prior to the quotation. Moreover, the SSS’s use of “xxx” known as ellipsis^[4] or ellipsis points merely signifies omitted words, sentences or longer passages in quoted materials^[5] and does not appear to have been used to indicate that only particular portions of the questioned decision were being appealed from. We quote with approval the Court of Appeals’ ratiocination on this point as follows:

“It is clear that as day that the Petitioner, under said “Amended Notice”, appealed from the entirety of the Decision of the Public Respondent and not only from item No. 1 of the dispositive portion of the Decision of the Public Respondent. There can be no equivocation about this. If it was the intention of the Petitioner to appeal only Item No. 1 of the dispositive portion of the Decision of the Public Respondent and waived the rest of the items under said dispositive portion of said Decision, the Petitioner should have so declared categorically and unequivocally. Petitioner should have declared, under said “Amended Notice of Appeal”, that ‘it is appealing only from item No. 1 of the dispositive portion of the Decision in the above-entitled case to the Court of Appeals or that it is

appealing only that portion of the Decision in the above-entitled case, quoted, herein below:

‘1. Execute an absolute deed of sale in favor of the plaintiffs Hospital and/or Atty. Macapanton K. Mangondato as stipulated in the aforesaid Deed of Conditional Sale;’

The Petitioner did not. The Petitioner did not use any word precisely restricting the coverage of its appeal to particular or specific items in the dispositive portion of the Decision of the Public Respondent.

That the counsel of the Petitioner quoted, in said “Amended Notice of Appeal”, only Item No. 1 of the dispositive portion of the Decision of the Public Respondent does not and cannot, by any means, mean that it was appealing only Item No. 1 of the dispositive portion of the Decision of the public Respondent. Irrefragably, the quotation was merely a declaration of a part of the dispositive portion of the Decision of the Public Respondent.

We do not agree with the pose of the Private Respondents that the Petitioner, under its “Amended Notice of Appeal”, en effet, waived its right to appeal from Items Nos. 2, 3, 4 and 5 of the dispositive portion of the Decision of the Public Respondent. From the context of the “Amended Notice of Appeal”, it cannot thereby be concluded that the Petitioner indeed waived its right to appeal from Items Nos. 2, 3, 4 and 5 of the dispositive portion of the Decision of the Public Respondent. For, to valid and effective, a waiver must be so couched in clear and unequivocal terms leaving no doubt as to the intention of the person giving up a right or benefit:

X X X

It bears stressing that, in their complaint, the Private Respondents prayed for judgment, for moral and actual damages only in the amount of P500,000.00 and P100,000.00 by way of attorney’s fees. However, under its Decision, the Public Respondent awarded the Private Respondents the gargantuan amount of P12,487,271.00 by way of actual and unrealized income and P500,000.00 by way of moral damages.

The Public Respondent even awarded moral damages to the Private Respondent Marawi-Marantao General Hospital, Inc., a private corporation. We do not believe that the Petitioner pursued, with perspicacity, before this Court, in CA-G.R. No. 53502-SP, its plea for the nullification of the Order of the Public Respondent for the execution of its Decision pending appeal, and, even before this Court came out with its Decision in said case, the Petitioner made a sudden volte face and waive, in favor of the Private Respondents, and hand over to them, in a silver platter, so to speak, the gargantuan amount of P13,500,00.00. We do not believe that the Petitioner would, in one breathe, reprobate and, in the same breathe, approbate the aforesaid awards by the Public Respondent in favor of the Private Respondents. In the business world, that would be plain kookery.”^[6]

In cases of appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of other parties.^[7] In such case, prior to the transmittal of the original record or record on appeal, the court may only issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal In accordance with section 2 of Rule 39, and allow withdrawal of the appeal.^[8] Considering that the SSS appealed the entirety of the decision to the Court of Appeals and considering further that the period of appeal of the petitioners had already expired, the RTC already lost jurisdiction over the subject matter of the case when it issued the Order dated August 16, 1999 declaring item numbers 2, 3, 4 and 5 of the Civil Case No. 1499-97 final and executory; the Order dated September 1, 1999 granting execution of item numbers 2, 3, 4 and 5; the Order dated September 2, 1999 directing the Philippine National Bank to release the amounts subject of the writ of execution dated September 1, 1999; the Order dated September 11, 1999 granting the petitioners a new release order of the amounts stated in the Order dated September 1, 1999; and the Notice of Garnishment dated September 3, 1999 which garnished the money of the SSS deposited in the Philippine National Bank. Having issued said orders without jurisdiction, they are null and void.

Admittedly, the SSS did not file a motion for reconsideration with the RTC before it filed its petition for certiorari with the Court of Appeals. Generally, the special civil action for certiorari will not lie unless the aggrieved party has no other plain, speedy and adequate remedy in the ordinary course of law, such as a timely filed motion for reconsideration, so as to allow the lower court to correct the alleged error.^[9] However, there are several exceptions where the special civil action for certiorari will lie even without the filing of a motion for reconsideration, namely:

- a. where the order is a patent nullity, as where the court a quo has no jurisdiction;
- b. where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
- c. where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the government or the petitioner or the subject matter of the action is perishable;
- d. where, under the circumstances, a motion for reconsideration would be useless;
- e. where petitioner was deprived of due process and there is extreme urgency for relief;
- f. where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
- g. where the proceedings in the lower court are a nullity for lack of due process;
- h. where the proceedings was *ex-parte* or in which the petitioner had no opportunity to object; and
- i. where the issue raised is one purely of law or where public interest is involved.^[10]

In the present case, considering that the RTC no longer had jurisdiction to issue the questioned orders, we find the first exception clearly applicable. Consequently, we cannot fault the Court of Appeals for giving due course to the petition for certiorari filed by the SSS despite its failure to file a motion for reconsideration.

ACCORDINGLY, the Decision of the Court of Appeals is **AFFIRMED** and the instant petition is hereby **DENIED**.

SO ORDERED.

Melo, Vitug, Panganiban and Sandoval-Gutierrez, JJ., concur.

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- [1] Fourth Division composed of the ponente J . Romeo S. Callejo and the members: J. Quirino D. Abad-Santos, Jr. (Chairman) and J. Mariano M. Umali concurring.
- [2] Rollo, 9-14.
- [3] Rollo, 80.
- [4] Marks or a mark (as ... or *** or ---) showing omission of letters, words, or other material; WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, 1986; In the present case, "xxx" was used.
- [5] Mary A. De Vries, THE ENCYCLOPEDIA OF STYLE AND USAGE (New York: Berkley Books, 1999), p. 144.
- [6] Rollo, 19-21.
- [7] § 9, Rule 41, Rules of Court.
- [8] Ibid.
- [9] Tan, Jr. vs. Sandiganbayan, 292 SCRA 452, 457 [1998].
- [10] Ibid.