



Republic of the Philippines
Supreme Court
Manila

EN BANC

SILAHIS INTERNATIONAL
HOTEL, INC.,

G.R. No. 223865

Petitioner,

- versus -

COURT OF APPEALS and
PACIFIC WIDE HOLDINGS,
INC.,

Respondents.

SILAHIS INTERNATIONAL
HOTEL, INC.,

G.R. No. 230631

Petitioner,

- versus -

COMMISSION ON AUDIT,
PHILIPPINE AMUSEMENT
AND GAMING
CORPORATION, and PACIFIC
WIDE HOLDINGS, INC.,

Respondents.

Present:

GESMUNDO, *CJ.*,*

LEONEN,**

CAGUIOA,

HERNANDO,***

LAZARO-JAVIER,

INTING,

ZALAMEDA,

LOPEZ, M.,

GAERLAN,

ROSARIO,

LOPEZ, J.,****

DIMAAMPAO,

MARQUEZ,

KHO, JR., and

SINGH, *JJ.*

Promulgated:

June 13, 2023

X

Antonio L. ...
...

X

RESOLUTION

SINGH, J.:

These are consolidated cases involving separate petitions filed by the petitioner Silahis International Hotel, Inc. (SIHI).

In *Silahis International Hotel, Inc. v. Court of Appeals and Pacific Wide Holdings, Inc.*, docketed as G.R. No. 223865, SIHI filed a Petition for Review on *Certiorari* (First SIHI Petition),¹ dated May 26, 2016, seeking the reversal of the Court of Appeals Decision (2015 CA Decision),² dated June 30, 2015, and the Resolution (CA Resolution),³ dated April 5, 2016 in CA-G.R. SP No. 136085. The 2015 CA Decision and Resolution nullified the Regional Trial Court of Manila, Branch 15 (RTC) Order,⁴ dated February 21, 2014 (February 21, 2014 Order) and the Order,⁵ dated April 24, 2014 (collectively, the RTC Orders).

In *Silahis International Hotel, Inc. v. Commission on Audit, Philippine Amusement and Gaming Corporation, and Pacific Wide Holdings, Inc.*, docketed as G.R. No. 230631, SIHI filed a Petition (Second SIHI Petition),⁶ dated April 3, 2017, assailing the Commission on Audit (COA) Decision No. 2017-015 (COA Decision),⁷ dated February 16, 2017. The COA Decision dismissed SIHI's Petition *Ad Cautelam*,⁸ dated April 1, 2014.

The Facts

On December 23, 1999, SIHI and the Philippine Amusement and Gaming Corporation (PAGCOR) entered into a Contract of Lease of the second and third stories of SIHI's Grand Boulevard Hotel for PAGCOR's casino operations for a period of four years.⁹ One of PAGCOR's obligations under the Contract of Lease, which became effective on March 15, 2000, was to pay the restoration cost.¹⁰

* On official leave.

** Designated as Acting Chief Justice per Special Order No. 2977 dated June 1, 2023.

*** On official leave.

**** On leave.

¹ *Rollo* (G.R. No. 223865), pp. 31-55

² *Id.* at 10-21. Penned by Associate Justice Zenaide T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino concurring.

³ *Id.* at 23-27. Penned by Associate Justice Zenaide T. Galapate-Laguilles with Associate Justices Mariflor P. Punzalan Castillo and Florito S. Macalino concurring.

⁴ *Id.* at 111-112. Rendered by Acting Presiding Judge Buenaventura Albert J. Tenorio, Jr.

⁵ *Id.* at 113-114. Rendered by Acting Presiding Judge Buenaventura Albert J. Tenorio, Jr.

⁶ *Rollo* (G.R. No. 230631), pp. 3-22.

⁷ *Id.* at 26-32. Rendered by Chairperson Michael G. Aguinaldo and Commissioners Jose A. Fabia and Isabel D. Agito.

⁸ *Id.* at 33-66.

⁹ *Rollo*, G.R. No. 223865, p. 11.

¹⁰ *Id.* at 129.



Paragraph 4 of the Contract of Lease stated:

CASH DEPOSIT AND RESTORATION COST

4. The amount of TWO MILLION TWO HUNDRED FIFTY THOUSAND PESOS (2,250,000.00), tendered by way of deposit, under the previous arrangement and in the possession of the LESSOR, shall be considered as the required deposit under this Contract of Lease for the whole duration of the contract, to answer for restoration costs for the entire Leased Premises occupied by the LESSEE, which shall not earn interests. Said amount shall not be considered as advance payment for rentals nor shall it be used for payment of current rentals, and the same is not reimbursable.

The aforesaid deposit notwithstanding, the LESSOR and the LESSEE shall undertake to hire the services of a mutually acceptable independent appraiser, who shall be tasked with the setting of a fair and reasonable amount of the restoration cost based on the original make-up (Annex of the Leased Premises before the renovations thereof made by LESSEE). Should the independent appraiser arrive at an amount in excess of TWO MILLION TWO HUNDRED FIFTY THOUSAND PESOS (P2,250,000.00) restoration cost aforementioned, the LESSEE shall pay the LESSOR the difference by way of additional restoration cost, and if the amount is lower, the LESSOR shall remit the difference to the LESSEE.

The appraiser's fee shall be borne equally by the LESSOR and the LESSEE.

In the selection of an independent appraiser, the parties shall exercise utmost good faith and act with reasonableness in order to insure that such appraiser is appointed with the least delay and can come up with the estimate of the restoration cost within a reasonable period before the LESSEE vacates the leased premises. The remittance, if any, by the LESSEE or the LESSOR herein provided shall be made on or before the date the LESSEE vacates the premises.¹¹

The Contract of Lease was renewed on June 15, 2004 for a period of one year. It continued on a month-to-month basis. In a letter dated April 1, 2006, SIHI informed PAGCOR that it will terminate the Contract of Lease effective July 2006. SIHI also reminded PAGCOR of its obligation to pay the restoration cost in the amount of PHP1 15,200,000.00 as provided in paragraph 4 of the Contract of Lease.¹²

SIHI and PAGCOR, however, were not able to finalize the appointment of their appraisers and the determination of the restoration cost in accordance with the procedure provided in the Contract of Lease.¹³

¹¹ Id. at 117.

¹² Id. at 59.

¹³ Id.



On July 10, 2006, SIHI filed with the RTC a Complaint (Complaint),¹⁴ for Specific Performance with Prayer for Temporary Restraining Order and Writ of Preliminary Prohibitory Injunction, dated July 6, 2006, against PAGCOR.

After a full blown trial, the RTC ruled in favor of SIHI in its Decision, dated December 27, 2006 (**2006 RTC Decision**).¹⁵ The RTC ruled that PAGCOR's obligation under the Contract of Lease is to pay the restoration cost after the amount has been determined by a common appraiser. The RTC clarified that PAGCOR's obligation is to pay a sum of money and not to surrender the leased premises in a restored condition.¹⁶ The dispositive portion of the 2006 RTC Decision provides:

WHEREFORE, this Court hereby designates Asian Appraisal, Inc. as the independent appraiser to conduct the appraisal of the restoration cost of the leased premises as defined in par. 2 of the Contract of Lease, based on its original make-up.

It is hereby directed to complete the appraisal work within fifteen (15) days from receipt of this Order and to submit to the Court and to the parties its report within five (5) days from completion of the appraisal work.

Further, the parties are directed to comply with their obligation under the 2nd par. of par. 4 of their Contract of Lease within ten (10) days from receipt of the appraisal report.

The appraiser's fee shall be borne equally by the plaintiff and the defendant.

SO ORDERED.¹⁷ (Emphasis in the original)

On appeal to the CA, the CA affirmed the RTC Decision with modifications in its Decision, dated May 3, 2012 (**2012 CA Decision**).¹⁸ The dispositive portion of the 2012 CA Decision states:

WHEREFORE, premises considered, the assailed December 27, 2006 decision and May 21, 2007 order of the Regional Trial Court of Manila, Branch 15, in Civil Case No. 06-115429, are **AFFIRMED with MODIFICATIONS**. The order designating Asian Appraisal, Inc. as the independent appraiser is hereby deleted from the judgment. The Philippine Amusement Gaming Corporation is required to nominate its appraiser by following the bidding process provided in Republic Act No. 9184 while Silahis International Hotel, Inc. is directed to select its appraiser in accordance with its own company rules.

¹⁴ Id. at 128-141.

¹⁵ Id. at 142-152.

¹⁶ Id. at 143.

¹⁷ Id. at 151.

¹⁸ Id. at 154-172.



The Philippine Amusement Gaming Corporation is hereby directed to conduct its bidding process for the appraisers with dispatch, not exceeding a period of one (1) month from receipt of this Decision. The appraisers thus appointed, both for PAGCOR and Silahis International Inc., are given two (2) months to conclude their appraisal work.

After conducting the requisite joint appraisal work, the nominated appraisers shall submit within five (5) days from completion of the said work, a joint report on the matter to: (a) Branch 15 of the Regional Trial Court of Manila, (b) Philippine Amusement Gaming Corporation, and (c) Silahis International Hotel, Inc.

Also, the Philippine Amusement Gaming Corporation and the Silahis International Hotel, Inc. are ordered to comply with the provisions of the Contract of Lease on restoration cost within ten (10) days from receipt of the joint appraisal report.

SO ORDERED.¹⁹ (Emphases in the original)

The 2012 CA Decision became final and executory on May 25, 2012.²⁰ The case was remanded to the RTC for the execution proceedings, and in particular, for the determination of the amount of the restoration cost. During the execution proceedings, SIHI and PAGCOR agreed to fix the amount of the restoration cost at PHP102,114,040.00.²¹

Meanwhile, on November 7, 2007, Pacific Wide Holdings, Inc. (Pacific Wide) purchased the Grand Boulevard Hotel and the lots where it was erected, in a tax delinquency sale, for a consideration of PHP106,650,000.00.²² Because of legal controversies involving the validity of the sale, Pacific Wide was able to obtain the final deed of sale only on September 19, 2013. It was able to obtain transfer certificate of titles over the property on October 23, 2013.²³

While the execution proceedings before the RTC was pending, Pacific Wide filed a Verified Motion to Award Restoration Cost to Successor in Interest of Plaintiff, dated December 19, 2023 (Verified Motion).²⁴

In the Verified Motion, Pacific Wide argued that as the new owner of the leased property, it is SIHI's successor-in-interest. Thus, because of the change in ownership of the leased property, SIHI's rights and obligations under the Contract of Lease were automatically bestowed upon Pacific Wide as the new owner. Given this, Pacific Wide prayed that the restoration cost should be awarded to it, and not to SIHI.²⁵

¹⁹ Id. at 171-172.

²⁰ Id. at 62.

²¹ Id.

²² Id. at 61.

²³ Id. at 60-61.

²⁴ Id. at 336-345.

²⁵ Id. at 341.



The RTC denied the Verified Motion in the February 21, 2014 Order.²⁶ The RTC also denied Pacific Wide's Motion for Reconsideration in its Order, dated April 24, 2014.²⁷

On the same date, the RTC issued another Order approving SIHI's and PAGCOR's agreement as to the amount of the restoration cost and directing PAGCOR to pay SIHI the agreed amount.²⁸ The RTC subsequently issued a Writ of Execution²⁹ dated February 25, 2014, enforcing the 2006 RTC Decision, as modified by the 2012 CA Decision.

PAGCOR filed a Motion for Reconsideration of the RTC Order which approved the amount of restoration cost and directed PAGCOR to pay SIHI. PAGCOR argued that SIHI's monetary claim should be filed with the COA for its approval before PAGCOR can be directed to pay in accordance with the Court's Administrative Circular No. 10-2000.³⁰ Because of this, the RTC issued an Order,³¹ dated March 14, 2014, which set aside the Writ of Execution and directed SIHI to file a monetary claim before the COA.

SIHI, thus, filed its Petition *Ad Cautelam* with the COA seeking the payment of restoration cost in the amount of PHP102,114,040.00.³² Pacific Wide filed a Motion for Intervention and Opposition to Petition *Ad Cautelam*,³³ dated June 25, 2014, in the COA proceedings.

Further, on July 4, 2014, Pacific Wide filed a Petition for *Certiorari*,³⁴ dated July 3, 2014, before the CA assailing the RTC Orders. Pacific Wide argued that the RTC acted with grave abuse of discretion when it denied the Verified Motion.

The CA granted the Petition for *Certiorari*. The CA ruled that Pacific Wide, as the present registered owner of the leased property, is an indispensable party in the proceedings before the RTC.³⁵ According to the CA, Pacific Wide has:

...the right to ventilate its entitlement to the restoration cost which according to the contract would be utilized to restore the hotel to its previous condition. There is no gainsaying then that the petitioner is an indispensable party to the case as it would stand to be directly prejudiced if it cannot be

²⁶ Id. at 112.

²⁷ Id. at 113.

²⁸ Id. at 62.

²⁹ Id. at 62-63.

³⁰ Id. at 63.

³¹ Id.

³² *Rollo* (G.R. No. 230631), p. 33.

³³ *Rollo* (G.R. No. 223865), p. 63.

³⁴ Id. at 93-108.

³⁵ Id. at 19.



allowed to participate in the adjudication of the issue of who is entitled to the restoration cost.³⁶

Moreover, the CA ruled that the joinder of an indispensable party is mandatory and the absence of an indispensable party renders all actions of the court null and void for want of authority to act.³⁷ Thus, the CA annulled the 2006 RTC Decision as modified by the 2012 CA Decision.

The dispositive portion of the 2015 CA Decision states:

FOR THESE REASONS, the Decision dated December 27, 2006, of the Regional Trial Court Branch 15, of Manila, rendered in Civil Case No. 06-115429 as well as all the subsequent orders issued therein are declared **NULL and VOID**. The case is **REMANDED** to the RTC for further proceedings and the latter is directed to implead Pacific Wide Holdings, Inc. as party-plaintiff in Civil Case No. 06-115429.

SO ORDERED.³⁸

Meanwhile, the COA dismissed SIHI's Petition *Ad Cautelam*. The COA concluded that its jurisdictions to act on money claims against government agencies covers only liquidated claims. In the case of SIHI's Petition *Ad Cautelam*, the monetary claim is not a liquidated claim. The COA stated that since the 2012 CA Decision nullified the 2006 RTC Decision, "there is no final and executory court adjudication of the money claim. The money claim presents a justiciable question ripe for judicial determination and is beyond the powers of the COA to adjudicate."³⁹

The dispositive portion of the COA Decision states:

WHEREFORE, premises considered, the Petition (*Ad Cautelam*) for Money Claim of Silahis International Hotel, Inc., Makati City, against Philippine Amusement and Gaming Corporation, Manila, for payment of money judgment in the amount of P102,114,040.00, by virtue of the Order dated February 21, 2014, of the Regional Trial Court, Branch 15, Manila, to execute its Decision dated December 27, 2006, as affirmed by the Court of Appeals, Sixth Division, in its Decision dated May 3, 2012 on CA-G.R. No. 90451, is hereby **DISMISSED** without prejudice to its refile once the decision becomes final and executory.⁴⁰ (Emphases in the original)

³⁶ Id.

³⁷ Id. at 18.

³⁸ Id. at 20-21.

³⁹ *Rollo* (G.R. No. 230631), p. 31.

⁴⁰ Id.



The proceedings in G.R. No. 223865

In the First SIHI Petition, SIHI argues that the CA erred in annulling the 2006 RTC Decision as modified by the 2012 CA Decision. According to SIHI, the 2006 RTC Decision has become immutable and binding and can no longer be reopened and relitigated.⁴¹

SIHI also avers that Pacific Wide should not be allowed to intervene in the case since it is already in the execution stage. SIHI cites Rule 19, Section 2 of the Rules of Court to support its view that an intervention can only be allowed before the rendition of the judgment by the trial court.⁴²

SIHI also insists that Pacific Wide is not an indispensable party and is not entitled to the payment of the restoration cost. The payment of the restoration cost is PAGCOR's contractual obligation to SIHI under the Contract of Lease and Pacific Wide is not a party to the contract.⁴³

Moreover, SIHI raises the argument that Pacific Wide is not its assignee over the restoration cost or its successor-in-interest. Nor is there any stipulation in the Contract of Lease that can be construed as a stipulation *pour autrui* in favor of Pacific Wide.⁴⁴ In particular, there is nothing in the Contract of Lease which states that a subsequent owner, or any other third party for that matter, would be entitled to receive the payment of the restoration cost in the event that SIHI ceases to be the owner of the property.

SIHI further highlights that PAGCOR's obligation under the Contract of Lease is to pay the restoration cost and not to restore the leased property to its original condition. This obligation to pay accrued before Pacific Wide acquired ownership over the leased property.⁴⁵

In its Comment/Opposition,⁴⁶ dated September 17, 2014, Pacific Wide reiterated its position that it is entitled to the payment of the restoration cost as SIHI's successor-in-interest and that the CA correctly ruled that it should intervene in the proceedings before the RTC.

Pacific Wide also argued that under the Contract of Lease, PAGCOR committed to restore the leased property to its original condition by paying the restoration cost. Since SIHI no longer owns the leased property, it became

⁴¹ *Rollo* (G.R. No. 223865), p. 42-43.

⁴² *Id.* at 45.

⁴³ *Id.*

⁴⁴ *Id.* at 47.

⁴⁵ *Id.* at 49.

⁴⁶ *Id.* at 574-593.



legally impossible for PAGCOR to pay SIHI the restoration cost that will be incurred to restore the leased property to its original makeup.⁴⁷

SIHI filed its Reply,⁴⁸ dated December 15, 2016. The parties also filed their respective memoranda.⁴⁹

Then, on August 27, 2019, Pacific Wide filed a Notice to Withdraw Comment/Opposition (Notice to Withdraw),⁵⁰ dated August 20, 2019. In the Notice to Withdraw, Pacific Wide stated that it is withdrawing its Comment to the First SIHI Petition and “hereby affirms and confirm that it has no claim, whatsoever, to the restoration cost being claimed by petitioner [SIHI] from Philippine Amusement and Gaming Corporation (“PAGCOR,” for brevity) in the subject cases consistent with the *Waiver, Release, and Quitclaim*, dated 20 August 2019.”⁵¹ Pacific Wide attached to the Notice to Withdraw a copy of the Waiver, Release and & Quitclaim.⁵²

The Proceedings in G.R. No. 230631

In the Second SIHI Petition, SIHI claims that the COA acted with grave abuse of discretion in issuing the COA Decision which denied its Petition *Ad Cautelam*. SIHI avers that the 2012 CA Decision is final and executory. It is therefore immutable and binding even upon the COA. Moreover, SIHI insists that Pacific Wide’s claim over the restoration cost is not valid, lacks basis in law, and is, in any event, belatedly raised. Given the foregoing, SIHI argues that it was error for the COA to delay the resolution of the dispute notwithstanding the CA’s final and executory decision.⁵³

In its Comment,⁵⁴ dated May 16, 2017, PAGCOR raised the argument that SIHI failed to prove that the COA acted with grave abuse of discretion.⁵⁵ PAGCOR explained that the COA has jurisdiction over money claims which have already been settled between the parties. In this case, the money claim is based on the 2006 RTC Decision as modified by the 2012 CA Decision which was declared null and void in the 2015 CA Decision. Moreover, the 2015 CA Decision also remanded the case to the RTC for further proceedings and to implead Pacific Wide. Thus, PAGCOR asserts that the money claim is not a liquidated claim in the absence of a final and executory judgment.⁵⁶

⁴⁷ Id. at 583.

⁴⁸ Id. at 599-601.

⁴⁹ Id. at 639-662; 666-689.

⁵⁰ Id. at 804-807.

⁵¹ Id. at 804-805.

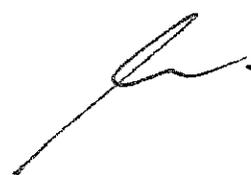
⁵² Id. at 810-812.

⁵³ *Rollo* (G.R. No. 230631), pp. 13-19.

⁵⁴ Id. at 642-649.

⁵⁵ Id. at 644.

⁵⁶ Id. at 646.



Pacific Wide also filed its Comment,⁵⁷ dated June 4, 2017. Pacific Wide made the procedural argument that SIHI failed to meet the requirement under Rule 65, in relation to Rule 64, of the Rules of Court that a special civil action for *certiorari* may only be availed of if there is no appeal or any other plain, adequate, and speedy remedy in the ordinary course of law. In this case, SIHI did not file a motion for reconsideration before the COA which was a remedy available to it.⁵⁸

In addition, Pacific Wide averred that SIHI's money claim in the COA is premature because there is no final and executory court decision yet considering that the 2015 CA Decision annulled the 2006 RTC Decision as modified by the 2012 CA Decision. Thus, Pacific Wide insists that there is no liquidated claim for the COA to approve.⁵⁹ Pacific Wide also reiterated that it is entitled to the payment of the restoration cost as the new owner of the leased property and SIHI's successor-in-interest.⁶⁰

The COA filed its Comment,⁶¹ dated July 11, 2017, where it similarly pointed out that SIHI failed to file a motion for reconsideration before the COA which is a requisite before it can file a special civil action for *certiorari* before the Court.⁶²

Further, the COA asserted that it did not act with grave abuse of discretion when it denied SIHI's Petition *Ad Cautelam*. According to the COA, it has jurisdiction over liquidated money claims. Here, there is no liquidated money claim because the 2006 RTC Decision, on which SIHI's claim is based, was nullified by the 2015 CA Decision and the case remains pending.⁶³

On August 27, 2019, Pacific Wide filed a Notice to Withdraw Comment/Opposition (Second Notice to Withdraw),⁶⁴ dated August 20, 2019. Similar to the First Notice to Withdraw, Pacific Wide informed the Court that it is withdrawing its Comment on the Second SIHI Petition. It also confirmed that it has no claim whatsoever to the restoration cost being claimed by SIHI from PAGCOR.⁶⁵ A copy of Pacific Wide's Waiver, Release & Quitclaim,⁶⁶ dated August 20, 2019, was also attached to the Second Notice to Withdraw.

⁵⁷ Id. at 662-680.

⁵⁸ Id. at 664.

⁵⁹ Id. at 664-665.

⁶⁰ Id. at 665-673.

⁶¹ Id. at 695-718.

⁶² Id. at 703-708.

⁶³ Id. at 708-713.

⁶⁴ Id. at 739-740.

⁶⁵ Id. at 739.

⁶⁶ Id. at 745-746.



The Issues

1. Did the CA err when it nullified the 2006 RTC Decision as modified by the 2012 CA Decision?
2. Did the COA act with grave abuse of discretion when it denied SIHI's Petition *Ad Cautelam*?

The Ruling of the Court

Preliminarily, the Court notes Pacific Wide's First and Second Notices of Withdrawal filed in both G.R. Nos. 223865 and 230631. The Court also confirms Pacific Wide's withdrawal of its comment on and opposition to SIHI's First and Second Petitions and its express statement that it does not intend to raise any claim over the restoration cost, based on the attached Waiver, Release and Quitclaim submitted to the Court.

Nonetheless, there are still pending issues that the Court will have to determine in order to fully settle the dispute in the cases. In particular, the main question that requires resolution, if this case is to be completely adjudicated, is whether the COA properly denied SIHI's Petition *Ad Cautelam* on the ground that SIHI's money claim is not a liquidated money claim because there is no final and executory judgment from the RTC. Implicit in this issue is the question of whether the 2015 CA Decision properly nullified the 2006 RTC Decision as modified by the 2012 CA Decision.

G.R. No. 223865

The Court rules that the 2015 CA Decision erroneously nullified the 2006 RTC Decision, as modified by the 2012 CA Decision.

The Court disagrees with the CA's conclusion that Pacific Wide is an indispensable party in the RTC case. It is worth emphasizing that the proceedings before the RTC arose from SIHI's Complaint for Specific Performance against PAGCOR. SIHI filed the Complaint to enforce PAGCOR's contractual obligation to pay the restoration cost as provided in the Contract of Lease. Only SIHI and PAGCOR were parties to the Contract of Lease. Pacific Wide was not. Nor was there any stipulation in the Contract of Lease stating that Pacific Wide is an assignee or a successor-in-interest.

Further, the Contract of Lease was terminated in July 2006, or more than a year before Pacific Wide purchased the leased premises in a tax delinquency sale and seven years before Pacific Wide registered its title. In addition, the 2006 RTC Decision, as modified by the 2012 CA Decision,



became final and executory on May 25, 2012, or more than a year before Pacific Wide registered its title over the leased property.

Thus, the following facts are clear: (1) Pacific Wide was not yet the owner of the leased property at the time the Contract of Lease was terminated and when SIHI's right to the payment of restoration cost accrued; (2) Pacific Wide is not a party to the Contract of Lease; (3) the 2006 RTC Decision was rendered before Pacific Wide purchased the leased property; (4) the 2012 CA Decision was issued before Pacific Wide registered its title over the leased property; and (5) Pacific Wide acquired the leased property through a tax delinquency sale, an involuntary transfer.

The Rules of Court defines an indispensable party as one "without whom no final determination can be had of an action[.]"⁶⁷ In *Heirs of Dinglasan v. Ayala Corp.*,⁶⁸ the Court further explained:

An indispensable party is one who stands to be injured or benefited by the outcome of the petition. He has an interest in the controversy that a final decree would necessarily affect his rights, such that the courts cannot proceed without his presence.

Here, the issues resolved in the 2006 RTC Decision (as modified by the 2012 CA Decision) were whether SIHI is entitled to the payment of restoration cost from PAGCOR and how the amount of the restoration cost shall be determined. These issues were resolved based on the provisions of the Contract of Lease between SIHI and PAGCOR. SIHI's contractual right to receive payment from PAGCOR does not affect Pacific Wide's later ownership of the leased property. To reiterate, Pacific Wide was not yet the owner of the leased property at the time the Contract of Lease was terminated and the right to the payment of restoration cost accrued. There is no provision in the Contract of Lease stating that Pacific Wide would automatically be the successor of SIHI's contractual rights. Thus, contrary to the CA's conclusion, Pacific Wide did not stand to be injured by or benefited from the outcome of the proceedings in the RTC. It did not even have an existing right over the leased property, let alone the payment of the restoration cost, at the time the 2006 RTC Decision was rendered.

Nor is Pacific Wide's participation in the proceedings in the RTC necessary for a complete adjudication of the case. To resolve the dispute between SIHI and PAGCOR, the RTC, and later, the CA, only had to look at the terms of the Contract of Lease and apply the relevant law. Pacific Wide did not have to plead that it had rights over the leased property as the new owner in order for the courts to definitively settle the dispute between SIHI and PAGCOR. To stress, Pacific Wide was not a party to the Contract of Lease that was the basis for the relief sought before the RTC.

⁶⁷ RULES OF COURT, Rule 3, sec. 7.

⁶⁸ 858 Phil. 686 (2019) [Per J. Peralta, Third Division].



This is also consistent with Rule 3, Section 19 of the Rules of Court which states:

Section 19. *Transfer of interest.* – In case of any transfer of interest, **the action may be continued by or against the original party**, unless the court upon motion directs the person to whom the interest is transferred to be substituted in the action or joined with the original party. (Emphasis supplied)

Thus, assuming that the right to demand the payment of restoration cost is attached to the ownership of the leased property, the transfer of SIHI's interest over the property to Pacific Wide did not make the latter an indispensable party in the RTC case. As stated in Section 19, Rule 3 of the Rules of Court, the original party may continue the case in the event of a transfer of interest and the transferee may only be substituted or joined with the original party if the court so orders.

Moreover, even on the assumption that Pacific Wide is indeed an indispensable party, its non-joinder in the RTC proceedings did not warrant the nullification of the 2006 RTC Decision as modified by the 2012 CA Decision. The rule is now settled that the non-joinder of an indispensable party is not a ground for the dismissal of an action. Where an indispensable party is not impleaded in a case, the remedy is not to dismiss the case, but to implead the said party.⁶⁹

The correct remedy in this case would have been to require Pacific Wide to intervene in the execution proceedings so as to resolve the issue of who between Pacific Wide and SIHI is entitled to the restoration cost. To be sure, while the rule is that intervention is allowed only before the trial court renders its judgment,⁷⁰ jurisprudence has consistently held that a motion to intervene may be allowed even after the trial court has rendered judgment in exceptional cases.⁷¹

It should also be highlighted that Pacific Wide's Verified Motion ultimately only affects the implementation of the Writ of Execution. The resolution of the Verified Motion does not require the overturning of the ruling on the merits in the 2006 RTC Decision, as modified by the 2012 CA Decision, (i.e., whether PAGCOR should pay restoration cost and how much restoration cost should be paid).

Thus, it was both procedurally and substantively unnecessary for the CA to nullify the 2006 RTC Decision as modified by the 2012 CA Decision, especially because this decision has become final and executory. It is binding

⁶⁹ *Divinagracia v. Parilla*, 755 Phil. 783 (2015) [Per J. Perlas-Bernabe, First Division]

⁷⁰ RULES OF COURT, Rule 19, sec. 2.

⁷¹ *Pinlac v. Court of Appeals*, 457 Phil. 527 (2003) [Per J. Sandoval-Gutierrez, Third Division].



and immutable and was beyond alteration by any court, including the Court.⁷² To reiterate, Pacific Wide is not an indispensable party in the RTC proceedings. Moreover, even assuming that Pacific Wide was an indispensable party, the proper course of action should have been to allow Pacific Wide to intervene in the execution proceedings for the purpose of ascertaining who between Pacific Wide and SIHI should receive the restoration cost.

Given the foregoing, the Court reverses the 2015 CA Decision. The 2006 RTC Decision, as modified by the 2012 CA Decision, is reinstated.

G.R. No. 230631

In the Second SIHI Petition, SIHI argues that the COA acted with grave abuse of discretion when it denied the Petition *Ad Cautelam* on the ground that SIHI's money claim is not a liquidated claim.

A special civil action for *certiorari* is a remedy available for a limited review of a specific issue. It is not an appeal and is not intended to correct errors of law. A Rule 65 petition (and a Rule 64 petition filed in relation to Rule 65) is an extraordinary remedy intended to keep a public respondent within the bounds of its jurisdiction and to "relieve the petitioner from the public respondent's arbitrary acts."⁷³ The Rules of Court is clear. A Rule 65 petition (and a Rule 64 petition) can only be filed to resolve questions of jurisdiction whenever a tribunal, board, or officer exercising judicial or quasi-judicial functions acts with grave abuse of discretion amounting to lack or excess of jurisdiction.⁷⁴

The definition of grave abuse of discretion is settled. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, as not to act at all in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.⁷⁵ Thus, a party who files a Rule 65 petition, or a Rule 64 petition filed in relation to Rule 65, has the burden of proving that the public respondent acted with grave abuse of discretion.

Moreover, a special civil action for *certiorari* can only be availed of in the absence of any appeal, or other plain, speedy, and adequate remedy in the ordinary course of law. In this regard, the Court has consistently ruled that a motion for reconsideration must be filed before resort to a Rule 65 petition

⁷² *Johnson & Johnson (Phils.), Inc. v. Court of Appeals*, 330 Phil. 856 (1996) [Per J. Panganiban, Third Division].

⁷³ *Maritime Industry Authority v. Commission on Audit*, 750 Phil. 288 (2015) [Per J. Leonen, *En Banc*].

⁷⁴ *Id.* at 307.

⁷⁵ *Kilusang Mayo Uno, et al. v. Aquino, et al.*, 850 Phil. 1168 (2019) [Per J. Leonen, *En Banc*].



may be had because a motion for reconsideration is a plain, speedy, and adequate remedy available to a party.⁷⁶

The Court rules that SIHI failed to meet these requirements when it filed the Second SIHI Petition.

First, there is no dispute here that SIHI did not file a motion for reconsideration in this case. While SIHI claims that it did not do so because a motion for reconsideration is optional in the COA and would only unduly delay the resolution of the case, these reasons do not excuse SIHI's failure to comply with the requirements for the filing of a special civil action for *certiorari*. To reiterate, the remedy of *certiorari* "inherently requires the filing of a motion for reconsideration, which is the tangible representation of the opportunity given to the office [public respondent] to correct itself. Unless it is filed, there could be no occasion to rectify. Worse, the remedy of *certiorari* would be unavailing."⁷⁷

Second, the Court finds that the COA did not act with grave abuse of discretion amounting to lack or excess of jurisdiction. On the contrary, the COA's denial of SIHI's Petition *Ad Cautelam* is consistent with the relevant law and jurisprudence.

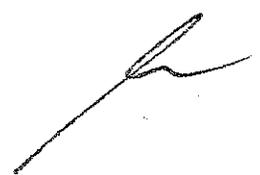
There is no dispute in this case that the COA's jurisdiction over money claims covers only liquidated claims. The only issue is whether the COA correctly concluded that SIHI's money claim is not a liquidated claim because the 2006 RTC Decision, as modified by the 2012 CA Decision, was not yet final and executory at the time SIHI filed its Petition *Ad Cautelam*. The COA is correct.

Section 2, Article IX-D of the Constitution mandates the COA to, among others, "[E]xamine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the government, or any of its subdivisions, agencies, or instrumentalities." In connection with this, Section 26 of Presidential Decree No. 1445⁷⁸ provides that the COA has the authority to examine, audit, and settle "all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities." In connection with this, the COA's jurisdiction to examine, audit, and settle money claims against the government, its subdivisions, agencies, and instrumentalities covers only liquidated claims, "or those determined or readily determinable from the receipts, invoices and

⁷⁶ *Philtranco Service Enterprises, Inc. v. Philtranco Workers Union-Association of Genuine Labor Organizations*, 728 Phil. 99 (2014) [Per J. Del Castillo, Second Division].

⁷⁷ *Id.*

⁷⁸ Government Auditing Code of the Philippines. Approved on June 11, 1978.



other documents.”⁷⁹ It is settled that these liquidated claims include court-adjudicated money claims.⁸⁰

In *Roxas v. Republic Real Estate Corp.*,⁸¹ the Court explained that a money claim against the government arising from a court decision must be brought before the COA prior to the execution of the said decision. The Court said:

The money claim against the Republic should have been first brought before the Commission on Audit.

The Writ of Execution and Sheriff De Jesus’ Notice violate this Court’s Administrative Circular No. 10-2000 and Commission on Audit Circular No. 2001-002, which govern the issuance of writs of execution to satisfy money judgments against government.

Administrative Circular No. 10-2000 dated October 25, 2000 orders all judges of lower courts to observe utmost caution, prudence, and judiciousness in the issuance of writs of execution to satisfy money judgments against government agencies. This Court has emphasized that:

Judges should bear in mind that in *Commissioner of Public Highways v. San Diego* (31 SCRA 617, 625 [1970]), this Court explicitly stated:

The universal rule that where the State gives its consent to be sued by private parties either by general or special law, it may limit claimant’s action ‘only up to the completion of proceedings anterior to the stage of execution’ and that the power of the Court ends when the judgment is rendered, since *government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgments*, is based on obvious considerations of public policy. Disbursements of public funds must be covered by the corresponding appropriation as required by law. *The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects, as appropriated by law.*

Moreover, it is settled jurisprudence that upon determination of State liability, the prosecution, enforcement or satisfaction thereof must still be pursued *in accordance with the rules and procedures laid down in P[residential] D[ecree] No. 1445*, otherwise known as the Government Auditing Code of the Philippines (*Department of Agriculture v. NLRC*, 227 SCRA 693, 701-02 [1993] citing *Republic vs. Villasor*, 54 SCRA 84 [1973]). *All money claims against the Government must first be filed with the Commission on Audit which must act upon it within sixty days.* Rejection of the claim will authorize the claimant to elevate the matter to the Supreme

⁷⁹ *Euro-Med Laboratories, Phil., Inc. v. Province of Batangas*, 527 Phil. 623 (2006) [Per J. Corona, Second Division]

⁸⁰ *Republic v. National Labor Relations Commission*, 783 Phil. 62 (2016) [Per J. Leonen, Second Division]

⁸¹ 786 Phil. 163 (2016) [Per J. Leonen, Second Division].

Court on *certiorari* and in effect sue the State thereby (P[residential] D[ecree] [No.] 1445, Sections 49-50). (Emphasis supplied)

For its part, Commission on Audit Circular No. 2001-002 dated July 31, 2001 requires the following to observe this Court's Administrative Circular No. 10-2000: department heads; bureau, agency, and office chiefs; managing heads of government-owned and/or controlled corporations; local chief executives; assistant commissioners, directors, officers-in-charge, and auditors of the Commission on Audit; and all others concerned.

Chapter 4, Section 11 of Executive Order No. 292 gives the Commission on Audit the power and mandate to settle all government accounts. Thus, the finding that government is liable in a suit to which it consented does not translate to enforcement of the judgment by execution.

As a rule, public funds may not be disbursed absent an appropriation of law or other specific statutory authority. Commonwealth Act No. 327, as amended by Presidential Decree No. 1445, requires that all money claims against government must first be filed before the Commission on Audit, which, in turn, must act upon them within 60 days.

Only when the Commission on Audit rejects the claim can the claimant elevate the matter to this Court on *certiorari* and, in effect, sue the state.⁸² (Emphasis in the original; citations omitted)

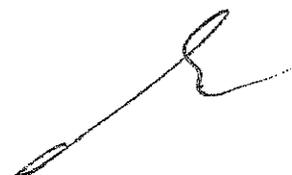
In this case, the COA properly denied SIHI's money claim. SIHI's claim was anchored on the 2006 RTC Decision, as modified by the 2012 CA Decision, which could not be executed precisely because the 2015 CA Decision nullified it. To reiterate, the 2015 CA Decision declared null and void the 2006 RTC Decision, as modified by the 2012 CA Decision.

Stated more simply, at the time that SIHI filed its Petition *Ad Cautelam* with the COA for its money claim, there was no final and executory court decision and thus no liquidated claim. Certainly, the COA could not but follow applicable law and jurisprudence by denying SIHI's premature money claim and opting to await a final and executory decision from the courts.

Nonetheless, as stated above, the Court, in this case, reverses the 2015 CA Decision and reinstates the 2006 RTC Decision as modified by the 2012 CA Decision. This decision became final and executory on May 25, 2012. Thus, SIHI's money claim against PAGCOR is now a liquidated claim over which the COA has jurisdiction.

As this case has remained pending for a considerable length of time and so as to fully adjudicate and settle the case without further delay, the Court remands the case to the COA directly for the determination of SIHI's money claim, with utmost dispatch.

⁸² Id.



WHEREFORE, the Petition for Review on *Certiorari*, dated May 26, 2016 in G.R. No. 223865 is **GRANTED**. The Court of Appeals Decision, dated June 30, 2015, and Resolution, dated April 5, 2016, in CA-G.R. SP No. 136085 are **REVERSED** and **SET ASIDE**. The Regional Trial Court of Manila, Branch 15 Decision in Civil Case No. 06-115429, dated December 27, 2006, as modified by the Court of Appeals Decision, dated May 3, 2012, in CA-G.R. CV No. 90451, is **REINSTATED**.

The Petition, dated April 3, 2017, in G.R. No. 230631 is **DISMISSED**. Further, COA CP Case No. 2014-167 is **REMANDED** to the Commission on Audit for the resolution of Silahis International Hotel, Inc.'s monetary claim against the Philippine Amusement and Gaming Corporation for the payment of restoration cost, without further delay.

SO ORDERED.



MARIA FILOMENA D. SINGH

Associate Justice

WE CONCUR:

(On official leave)

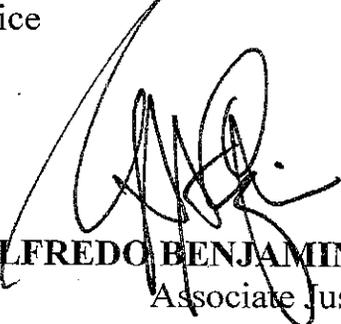
ALEXANDER G. GESMUNDO

Chief Justice



MARVIC M.V.F. LEONEN

Acting Chief Justice



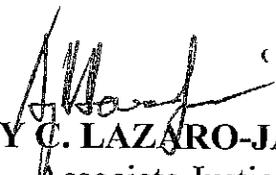
ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

(On official leave)

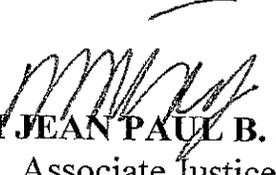
RAMON PAUL L. HERNANDO

Associate Justice



AMY C. LAZARO-JAVIER

Associate Justice



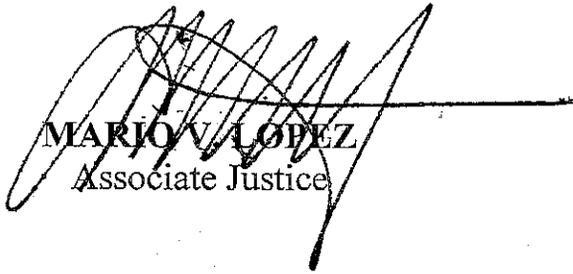
HENRI JEAN PAUL B. INTING

Associate Justice



RODIL Y. ZALAMEDA

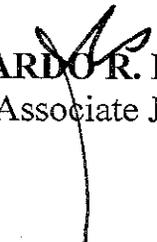
Associate Justice



MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

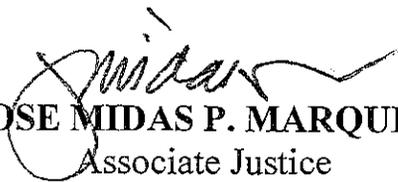


RICARDO R. ROSARIO
Associate Justice

(On Leave)
JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



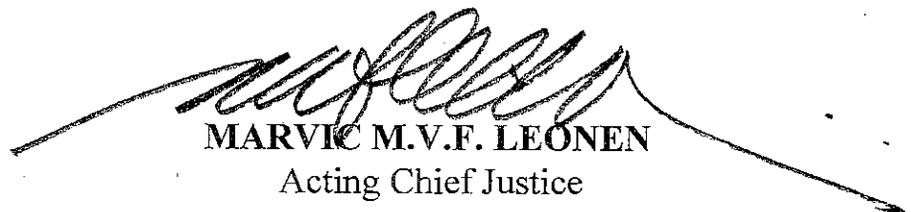
JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.



MARVIC M.V.F. LEONEN
Acting Chief Justice

