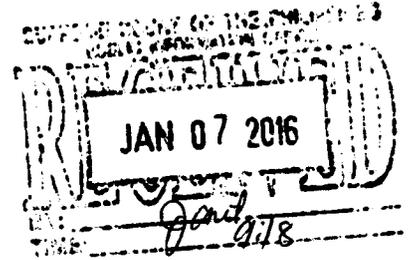




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

**NATIONAL HOUSING
 AUTHORITY,**

Petitioner,

G.R. No. 171953

Present:

SERENO, C.J.,
 *VELASCO,
 LEONARDO-DE CASTRO,
 BERSAMIN, and
 PERLAS-BERNABE, JJ.

- versus -

ERNESTO ROXAS,
 Respondent.

Promulgated:

OCT 21 2015

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DECISION

BERSAMIN, J.:

The National Housing Authority (NHA), a government-owned and -controlled corporation created and existing under Presidential Decree No. 757,¹ may sue and be sued. However, no court should issue a writ of execution upon any monetary judgment rendered against the NHA unless such monetary judgment is first submitted to and passed upon by the Commission on Audit (COA).

The Case

Being challenged on appeal by the NHA is the adverse decision promulgated on February 20, 2006,² whereby the Court of Appeals (CA) dismissed the NHA's petition for *certiorari* brought to nullify the orders issued in Special Civil Action No. 93-060-MN entitled *Ernesto Roxas v.*

* In lieu of Associate Justice Jose Portugal Perez, who is on official business to Canada, per Special Order No. 2253 dated October 14, 2015.

¹ *Creating the National Housing Authority and Dissolving the Existing Housing Agencies, Defining its Powers and Functions, Providing Funds Therefor, and For Other Purposes.*

² *Rollo*, pp. 15-23; penned by Associate Justice Mariflor P. Punzalan Castillo, concurred by Associate Justice Elvi John S. Asuncion and Associate Justice Noel G. Tijam.

National Housing Authority, et al. by the Regional Trial Court (RTC), Branch 72, in Malabon City. The first order, dated May 3, 2002, had granted the motion for the issuance of the writ of execution filed by respondent Ernesto Roxas.³ The other order, dated January 6, 2003, had denied the NHA's motion for reconsideration.⁴ The NHA had also thereby assailed the writ of execution consequently issued on February 24, 2003.⁵ In its petition for *certiorari*, the NHA insisted that the RTC had thereby committed grave abuse of discretion amounting to lack or excess of jurisdiction.

Antecedents

The NHA is charged, among others, with the development of the Dagat-dagatan Development Project (project) situated in Navotas, Metro Manila.⁶ On December 4, 1985, Roxas applied for commercial lots in the project, particularly Lot 9 and Lot 10 in Block 11, Area 3, Phase III A/B, with an area of 176 square meters, for the use of his business of buying and selling gravel, sand and cement products.⁷ The NHA approved his application, and issued on December 6, 1985 the order of payment respecting the lots. On December 27, 1985, the NHA issued the notice of award for the lots in favor of Roxas,⁸ at ₱1,500.00/square meter.⁹ On the basis of the order of payment and the notice of award, Roxas made his downpayment of ₱79,200.00.¹⁰ A relocation/reblocking survey resulted in the renumbering of Lot 9 to Lot 5 and Lot 10 to Lot 6 (subject lots).¹¹ He completed his payment for the subject lots on December 20, 1991.

In the meanwhile, the NHA conducted a final subdivision project survey, causing the increase in the area of the subject lots from 176 to 320 square meters. The NHA informed Roxas about the increase in the area of the subject lots, and approved the award of the additional area of 144 square meters to him at ₱3,500.00/square meter.¹² Although manifesting his interest in acquiring the additional area, he appealed for the reduction of the price to ₱1,500.00/square meter,¹³ pointing out that Lot 5 and Lot 6 were a substitution unilaterally imposed by the NHA that resulted in the increase of 144 square meters based on the technical description, and that although he desired to purchase the increased area, the purchase must be in accordance with the terms and conditions contained in the order of payment and notice of award issued to him. After the NHA rejected his appeal,¹⁴ he commenced

³ *CA rollo*, pp. 24-25.

⁴ *Id.* at 26.

⁵ *Id.* at 73-75.

⁶ *Rollo*, p. 16.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 26.

¹¹ *Supra* note 6.

¹² *Rollo*, pp. 16-17.

¹³ *Id.*

¹⁴ *Id.* at 27-28.

in the RTC this action for specific performance and damages, with prayer for the issuance of a writ of preliminary injunction. He amended the complaint¹⁵ to compel the NHA to comply with the terms and conditions of the order of payment and the notice of award.

The NHA countered in its answer¹⁶ that Roxas' prayer to include in the original contract the increase in lot measurement of 144 square meters was contrary to its existing rules and regulation; that he could not claim more than what had been originally awarded to him; and that at the very least, his right in the additional area was limited only to first refusal.

On July 15, 1994, after trial, the RTC rendered judgment against the NHA,¹⁷ decreeing:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Ernesto Roxas and against defendant NHA, represented by its General Manager and its Dagat-dagatan Development Project Manager, as follows:

1. Declaring plaintiff Ernesto Roxas the legal awardee of subject lots 5 and 6 in the full total area thereof of 320 sq. meters;
2. Ordering defendant NHA, thru its General Manager Robert P. Balao and the project Manager for its Dagat-dagatan Development Project Evelyn V. Ramos, or whoever shall be the incumbents of the positions at the time of the enforcement hereof to execute the corresponding Contract to Sell for the entire area of subject lots 5 and 6 totaling to 320 sq. meters at the cost of ₱1,500.00 per sq. meter under the same terms and conditions as that provided for in the Order of Payment and Notice of Award (Exhs. B and D), respectively, deducting whatever has already been paid by plaintiff;
3. Ordering defendant NHA to pay plaintiff ₱30,000.00 by way of reasonable Attorney's Fees.

The Writ of Preliminary Injunction issued in this case on January 31, 1994 is hereby made permanent.

Costs against defendant NHA.

SO ORDERED.

The NHA appealed in due course, but the CA affirmed the judgment of the RTC, prompting the NHA to seek to undo the adverse decision of the CA through its petition for *certiorari*. On July 5, 2000, however, the Court

¹⁵ Id. at 25-32.

¹⁶ Id. at 33-38.

¹⁷ Id. at 17-18.

dismissed the petition for *certiorari*. It later denied the NHA's motion for reconsideration.¹⁸

On July 27, 2001, Roxas filed his motion for the issuance of the writ of execution,¹⁹ which the RTC granted on May 3, 2002.²⁰ The NHA sought reconsideration, but its motion was denied on January 6, 2003. Accordingly, on February 24, 2003, the RTC issued the writ of execution to enforce the final and executory decision of July 15, 1994.²¹

In order to prevent the execution, the NHA brought another petition for *certiorari* in the CA, docketed as C.A.-G.R. SP No. 76468, imputing to the RTC grave abuse of discretion amounting to lack or excess of jurisdiction for ordering the execution of the judgment.

On February 20, 2006, the CA dismissed the NHA's petition for *certiorari* through the presently assailed decision because it found that the RTC did not gravely abuse its discretion amounting to lack or excess of jurisdiction in granting Roxas' motion for the issuance of the writ of execution and in issuing the writ of execution.²² The CA observed that the NHA was a government-owned and -controlled corporation whose funds were not exempt from garnishment or execution; and ruled that Roxas did not need to first file his claim in the COA.

Issues

The NHA insists that the judgment of the RTC did not lie against it because its submission to the litigation did not necessarily imply that the Government had thereby given its consent to liability; and that the money judgment awarded to Roxas could not be recovered by motion for execution but should have been first filed in the COA.²³

Roxas counters that the main relief under the final and executory judgment of the RTC directed the NHA to execute the contract to sell the subject lots at the rate of ₱1,500.00/square meter as provided for in the order of payment and the notice of award. He claims that the award of attorney's fees in his favor was only incidental to the main relief of specific performance; and argues that the Government abandons its sovereign capacity and is treated like any other corporations whenever it enters into a commercial transaction.²⁴

¹⁸ Id. at 18.

¹⁹ Id. at 6.

²⁰ Id. at 19.

²¹ Id. at 17-18.

²² Supra note 2.

²³ *Rollo*, pp. 7-12.

²⁴ Id. at 66-68.

Ruling of the Court

The appeal is partly meritorious.

First of all, the mantle of the State's immunity from suit did not extend to the NHA despite its being a government-owned and -controlled corporation. Under Section 6(i) of Presidential Decree No. 757, which was its charter, the NHA could sue and be sued. As such, the NHA was not immune from the suit of Roxas.

And, secondly, for purposes of the implementation of the writ of execution, it is necessary to distinguish between, on the one hand, the main relief adjudicated in the judgment of July 15, 1994, which was the decree of specific performance as to the right of Roxas to acquire the subject lots at ₱1,500.00/square meter as stated in the original agreement between the parties, and, on the other, the secondary relief for the attorney's fees of ₱30,000.00 to be paid by the NHA to Roxas.

Section 12 of Presidential Decree No. 757 has authorized the NHA to "determine, establish and maintain the most feasible and effective program for the management or disposition of specific housing or resettlement projects undertaken by [it]", and "[u]nless otherwise decided by the Board, completed housing or resettlement projects shall be managed and administered by [it]." The execution of the contract to sell by the NHA conformably with the main relief under the judgment would be in the ordinary course of the *management* or *disposition* of the Dagat-dagatan Development Project undertaken by the NHA. In other words, the NHA possessed the legal competence and authority to directly afford the main relief without Roxas needing to first submit to the COA the contract to sell for review and approval. To maintain otherwise is to unconstitutionally grant to the COA the power of judicial review in respect of the decision of a court of law.

However, settling or paying off the secondary relief for the attorney's fees of ₱30,000.00, being a monetary obligation of the NHA, would not be in the usual course of the activities of the NHA under its charter. That such relief was the consequence of the suit that granted the main relief did not matter. Pursuant to Section 26 of Presidential Decree No. 1445, Roxas should first bring it to the COA prior to its enforcement against the NHA.²⁵ Indeed, Section 26 specifically vested in the COA the power, authority and duty 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, or

²⁵ *National Electrification Administration v. Morales*, G.R. No. 154200, July 24, 2007, 528 SCRA 79, 89-90. See also *Star Special Watchman and Detective Agency, Inc. v. Puerto Princesa City*, G.R. No. 181792, April 21, 2014, 722 SCRA 66, 86; *National Home Mortgage Finance Corporation v. Abayari*, G.R. No. 166508, October 2, 2009, 602 SCRA 242, 255.

instrumentalities, including government-owned and controlled corporations with original charters, viz.:

Section 26. General jurisdiction. The authority and powers of the Commission shall extend to and comprehend all matters relating to auditing procedures, systems and controls, the keeping of the general accounts of the Government, the preservation of vouchers pertaining thereto for a period of ten years, the examination and inspection of the books, records, and papers relating to those accounts; and the audit and settlement of the accounts of all persons respecting funds or property received or held by them in an accountable capacity, as well as the examination, audit, and **settlement of all debts and claims of any sort due from or owing to the Government or any of its subdivisions, agencies and instrumentalities. The said jurisdiction extends to all government-owned or controlled corporations, including their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, and as herein prescribed, including non-governmental entities subsidized by the government, those funded by donations through the government, those required to pay levies or government share, and those for which the government has put up a counterpart fund or those partly funded by the government.** (bold underscoring supplied for emphasis)

As the text of the legal provision plainly shows, the audit jurisdiction of the COA extends to *all* government-owned or -controlled corporations, their subsidiaries, and other self-governing boards, commissions, or agencies of the Government, as well as to all non-governmental entities subsidized by the Government, or funded by donations through the Government, or required to pay levies or government share, or for which the Government has put up a counterpart fund, or those partly funded by the Government. There is no distinction as to the class of claims. *Ubi lex non distinguish nec nos distinguere debemos.*²⁶ Indeed, a general term or phrase should not be reduced into parts and one part distinguished from the other so as to justify its exclusion from the operation of the law. In other words, there should be no distinction in the application of a statute where none is indicated. Corollary to this rule is the principle that where the law does not make any exception, the courts may not exempt something therefrom, unless there is compelling reason to the contrary.²⁷

There is no question that the NHA could sue or be sued, and thus could be held liable under the judgment rendered against it. But the universal rule remains to be that the State, although it gives its consent to be sued either by general or special law, may limit the claimant's action only up to the completion of proceedings anterior to the stage of execution. In other words, the power of the court ends when the judgment is rendered because

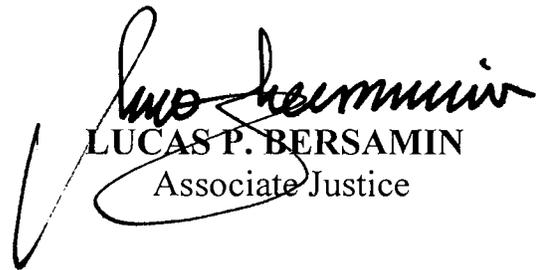
²⁶ This Latin maxim literally means – *Where the law does not distinguish, the courts should not distinguish.*

²⁷ *Philippine British Assurance Co., Inc. v. Intermediate Appellate Court*, No. L-72005, May 29, 1987, 150 SCRA 520, 527-528.

government funds and property may not be seized pursuant to writs of execution or writs of garnishment to satisfy such judgments. The functions and public services of the State cannot be allowed to be paralyzed or disrupted by the diversion of public fund from their legitimate and specific objects, and as appropriated by law. The rule is based on obvious considerations of public policy. Indeed, the disbursements of public funds must be covered by the corresponding appropriation as required by law.²⁸

WHEREFORE, the Court **PARTLY GRANTS** the petition for review on *certiorari*; and **MODIFIES** the writ of execution dated February 24, 2003 by enjoining the respondent to file his claim for attorney's fees with the Commission on Audit pursuant to Presidential Decree No. 1445.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

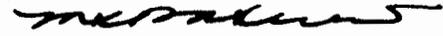


ESTELA M. PERLAS-BERNABE
Associate Justice

²⁸ *Commissioner of Public Highways v. San Diego*, L-30098, February 18, 1970, 31 SCRA 616, 625.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice