Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LIGAYA ESGUERRA, LOWELL ESGUERRA and LIESELL ESGUERRA, Petitioners,	**G.R. No. 182571**
	Present:
	SERENO, *C.J.*, *Chairperson,*
	LEONARDO-DE CASTRO,
	BERSAMIN,
- versus -	VILLARAMA, JR., and
	REYES, *JJ.*
	Promulgated:
HOLCIM PHILIPPINES, INC., Respondent.	SEP 02 2013

x----------x

DECISION

REYES, *J.*:

The present petition is an offshoot of our final and executory decision promulgated on December 27, 2002 in G.R. No. 120004, entitled "*Iluminada de Guzman v. Court of Appeals and Jorge Esguerra.*"[1] Ligaya Esguerra (Ligaya), Lowell Esguerra (Lowell), and Liesell Esguerra (Liesell) (petitioners) are heirs of Jorge Esguerra (Esguerra) while herein respondent, HOLCIM Philippines, Inc. (HOLCIM) is the successor-in-interest of Iluminada de Guzman (de Guzman).

In the instant petition, the petitioners assail the Decision[2] dated August 31, 2007 and Resolution[3] dated April 14, 2008 of the Court of Appeals (CA)

---

1 442 Phil. 534 (2002).

2 Penned by Associate Justice Josefina Guevara-Salonga, with Associate Justices Aurora Santiago-Lagman and Normandie B. Pizarro, concurring; *rollo,* pp. 47-66.

3 Id. at 67-69.

in CA-G.R. SP No. 94838 which reversed and set aside the: (a) Order[4] dated December 1, 2005 of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 16 granting the petitioners' motion for the issuance of the alias writ of execution of the Decision dated December 27, 2002 in G.R. No. 120004, which ordered HOLCIM to pay the amount equivalent to the total volume of limestones extracted from the subject property in the sum of ₱91,872,576.72; (b) Order[5] dated December 20, 2005, which reiterated the issuance of the alias writ of execution; and (c) Order[6] dated June 7, 2006, which denied the motion for reconsideration of the above-mentioned orders and the manifestation and motion for ocular inspection filed by HOLCIM. The CA's Resolution dated April 14, 2008 denied herein petitioners' motion for reconsideration of the CA's Decision dated August 31, 2007.

Antecedent Facts

As a backgrounder and as stated in our Decision dated December 27, 2002 in G.R. No. 120004, therein respondent Esguerra filed on December 12, 1989 with the RTC, Malolos, Bulacan, Branch 16 an action to annul the Free Patent in the name of de Guzman. Esguerra claimed that he was the owner of Lot 3308-B, located at Matiktik, Norzagaray, Bulacan, covered by Transfer Certificate of Title No. T-1685-P (M) of the Registry of Deeds of Bulacan, with an approximate area of 47,000 square meters. Esguerra learned that the said parcel of land was being offered for sale by de Guzman to Hi-Cement Corporation (now named HOLCIM Philippines, Inc.). The former possessor of the land, Felisa Maningas, was issued Free Patent No. 575674 which was subsequently issued in the name of de Guzman over said parcel of land located at Gidgid, Norzagaray, Bulacan with an area of 20.5631 hectares and described in Psu-216349, covered by Original Certificate of Title (OCT) No. P-3876. Esguerra also demanded that the portion of his property, which has been encroached upon and included in de Guzman's Free Patent, be excluded. He later amended his complaint to implead Hi-Cement as a co-defendant since the latter was hauling marble from the subject land. He also prayed that Hi-Cement be ordered to desist from hauling marble, to account for the marble already hauled and to pay him.[7]

The RTC dismissed Esguerra's complaint but on appeal, the CA reversed in the Decision dated February 28, 1995 in CA-G.R. CV No. 40140. The dispositive portion reads as follows:

---

4 Id. at 70.
5 Id. at 71.
6 Id. at 72-76.
7 Supra note 1, at 537-538.

"WHEREFORE, premises considered, the decision appealed from is REVERSED and SET ASIDE and another judgment is hereby rendered:

"1. Declaring [de Guzman's] OCT No. P-3876 (Exh. B) null and void insofar as the disputed area of 38,641 square meters, which is part of Lot 3308-B, covered by TCT No. 1685-p (Exh. C) in the name of [Esguerra];

"2. Ordering [de Guzman] to cause the segregation, at his expense, of the disputed area of 38,641 square meters from OCT No. P-3876;

"3. Ordering [de Guzman] to surrender her owner's copy of OCT No. P-3876 to the Register of Deeds of Bulacan who is in turn ordered to exclude from said OCT No. P-3876 the disputed area of 38,641 square meters included in [Esguerra's] TCT No. T-1685;

"4. Ordering [de Guzman] to immediately vacate and surrender to [Esguerra] possession of the disputed area of 38,641 square meters;

"5. Ordering defendant-appellee Hi-Cement Corporation to immediately cease and desist from quarrying or extracting marble from the disputed area;

"6. Ordering defendant-appellee Hi-Cement Corporation to make an accounting of the compensation or royalty it has paid to defendant-appellee Iluminada de Guzman for marbles quarried from the disputed area of 38,451 square meters from the time of the filing of the amended complaint on March 23, 1990.

"7. Ordering and sentencing defendant-appellee Iluminada de Guzman to pay and turn over to [Esguerra] all such amounts that she has received from her co-defendant Hi-Cement Corporation as compensation or royalty for marbles extracted or quarried from the disputed area of 38,451 square meters beginning March 23, 1990; and

"8. Ordering defendant-appellee Iluminada de Guzman to pay the costs.

"SO ORDERED."[8]

In our Decision dated December 27, 2002 in G.R. No. 120004, the Court affirmed *in toto* the aforesaid CA's decision. After attaining finality, the case was remanded to the RTC for execution.[9]

Thereafter, the heirs of Esguerra, herein petitioners, filed an Omnibus Motion[10] dated September 28, 2004 with the RTC, manifesting that the Court's decision in G.R. No. 120004 has yet to be executed,[11] and thus prayed:

---

8 Id. at 541-542.
9 *Rollo*, p. 50.
10 Id. at 202-205.
11 Id. at 51.

x x x x

1. That Sheriff Perlito Dimagiba be directed to submit his Return on the execution of the judgment;

2. That defendant Iluminada de Guzman and Hi-Cement (now Union Cement Corporation Matictic, Sapang Kawayn [sic], Norzagaray, Bulacan) be diverted [sic] to appear before this Honorable Court x x x;

3. That the plaintiffs be granted other legal and equitable reliefs.[12]

On December 1, 2004, the RTC issued an Order[13], to wit:

Acting on the Omnibus Motion filed by the Heirs of Jorge Esguerra, through counsel, Atty. Orlando Lambino, and pursuant to Secs. 36 and 37, Rule 39 of [the] 1997 Rules of Civil Procedure, the Court hereby GRANTS the same

AS PRAYED FOR, x x x Sheriff Perlito Dimagiba is hereby directed to submit his return of a Writ of Execution dated October 28, 2003 within five (5) days from receipt of this Order.

Accordingly, defendant Iluminada de Guzman of Tanza, Malabon, Metro Manila and the Hi-Cement (now Union Cement Corporation, Matictic, Sapang Kawayan, Norzagaray, Bulacan) are hereby ordered to appear before this Court on December 6, 2004 at 8:30 o'clock in the morning to be examined on the dispositive portion of the judgment of the Court of Appeals, affirmed by the Supreme Court.[14]

However, contrary to the Order dated December 1, 2004, de Guzman and HOLCIM were not examined. Rather, the petitioners presented Engineer Louie Balicanta who testified that upon an examination of the topographical maps covering the land of the deceased Esguerra, the estimated volume of limestone hauled or quarried therefrom covering the years 1990 to 2003 was 3,535,020.471 cubic meters. On May 16, 2005, the petitioners filed their Formal Offer of Exhibits.[15]

Later, the petitioners filed a Supplement to the Motion for Execution[16] dated August 16, 2005 and a Motion for Alias Writ of Execution[17] dated November 9, 2005. They claimed that the royalties due them amounted to ₱10.00 per metric ton. Thus, for the 9,187,257.67 metric tons[18] of limestone

---

12 Id. at 204.
13 CA *rollo*, p. 122.
14 Id.
15 Id. at 123-136; *rollo*, p. 51.
16 Id. at 153-154.
17 Id. at 158-160.
18 Total volume extracted in metric tones; id. at 155.

which HOLCIM allegedly acquired, the petitioners should receive a total royalty of ₱91,872,576.72.[19]

On December 1, 2005, the RTC made a finding that the total volume of limestone which HOLCIM allegedly quarried from the subject land amounted to ₱91,872,576.72. It also ordered the issuance of an Alias Writ of Execution for the royalties which were purportedly due to the petitioners.[20] The said order states:

> Acting on the motion for alias writ of execution filed by the [petitioners], through counsel, to be meritorious, the same is hereby granted, it appearing that the decision subject matter of the writ of execution has not been satisfied by [de Guzman] and Hi-Cement Corporation, and considering, further, that the Total Volume Extracted Materials (LIMESTONE) at Lot #3308-B PSD-102661 (Annex A) was properly proven during the hearing for the examination of judgment debtors showing the claim of Php91,872,576.72 to be substantiated based on the Monthly Mineral Commodity Price Monitor for January 2005 (Annex B), together with the O.R. for Certification fee (Annex C).
>
> AS PRAYED FOR, let an alias writ of execution be issued for the implementation of the Decision of the Supreme Court in relation to the total volume extracted by Hi-Cement (now HOLCIM) which is now the successor of defendant Iluminada de Guzman.[21]

On December 8, 2005, the petitioners filed an Urgent Motion for Clarification[22] praying that the alias writ of execution be clarified for the purpose of directing [de Guzman] and/or Hi-Cement Corporation and/or HOLCIM to pay the petitioners the amount of ₱91,872,576.72.

As prayed for, the RTC issued an Order[23] on December 20, 2005, stating thus:

> In view of the Urgent Motion for Clarification filed by the [petitioners], through counsel, and there being no comment/opposition filed by [de Guzman], let an alias writ of execution be issued directing [de Guzman] and/or Hi-Cement Corporation and/or HOLCIM to pay the [petitioners] the amount of Php 91,872,576.72 representing their liability for the minerals extracted from the subject property pursuant to the Order of the Court, dated December 01, 2005.[24]

---

19 *Rollo,* pp. 51-52.
20 Id. at 52, 70; CA *rollo,* p. 48.
21 Id. at 70; CA *rollo,* p. 48.
22 CA *rollo,* pp. 164-166.
23 *Rollo,* p. 71.
24 Id.

Subsequently, an alias writ of execution and notices of garnishment on several banks, garnishing all amounts that may have been deposited or owned by HOLCIM, were issued on December 20, 2005 and December 21, 2005 respectively.[25]

On January 5, 2006, HOLCIM filed a motion for reconsideration.[26] It alleged that it did not owe any amount of royalty to the petitioners for the extracted limestone from the subject land. HOLCIM averred that it had actually entered into an Agreement[27] dated March 23, 1993 (Agreement) with the petitioners governing their respective rights and obligations in relation to the limestone allegedly extracted from the land in question. HOLCIM further asserted that it had paid advance royalty to the petitioners from year 1993, in an aggregate sum of ₱694,184.22, an amount more than the ₱218,693.10 which the petitioners were entitled under the Agreement.[28]

On January 13, 2006, the petitioners filed its Opposition to [the] Motion for Reconsideration[29] dated January 7, 2006, claiming that the Motion for Reconsideration is barred by the omnibus motion rule because HOLCIM failed to question the petitioners' motion for execution of this Court's decision in G.R. No. 120004. The petitioners also averred that HOLCIM is barred by estoppel to question the execution of the decision based on the Agreement, because said Agreement is in contravention with the trial court's previous orders which required HOLCIM to deposit to the clerk of court the royalties due the deceased Esguerra. The petitioners also argued that the Agreement is a way to evade the trial court's orders and has been procured by taking advantage of the petitioners' financial distress after Esguerra died.[30]

On February 21, 2006, HOLCIM filed a Manifestation and Motion (for Ocular Inspection).[31] It asked the court to conduct an ocular inspection, advancing the argument that HOLCIM did not extract limestone from any portion of the 47,000-sq m property which Esguerra owned; and that the pictures, which the petitioners presented to prove that HOLCIM has been extracting limestone from the subject land until year 2005, were actually photographs of areas outside the contested land.

---

25 Id. at 52, 207-210.
26 Id. at 211-217.
27 Id. at 218-220.
28 Id. at 52.
29 Id. at 265-282.
30 Id. at 53.
31 CA *rollo*, pp. 281-291.

On June 7, 2006, the RTC denied HOLCIM's motion for reconsideration and motion for ocular inspection. It held that the petitioners proved their entitlement to the royalties totaling to ₱91,872,576.72. The RTC also blamed HOLCIM for not presenting its own witnesses and evidence. It further stated that to grant the motions for reconsideration and ocular inspection is to reopen the case despite the fact that the trial court has no more power to do so since the execution of this Court's decision in G.R. No. 120004 is now a matter of right on the petitioners' part.[32]

On June 13, 2006, HOLCIM filed a Petition for *Certiorari* (with Urgent Applications for Temporary Restraining Order and/or Writ of Preliminary Injunction)[33] with the CA. On June 30, 2006, the petitioners filed their Comment on [the] "Petition for *Certiorari*" and Opposition,[34] to which HOLCIM filed a Reply[35] on July 25, 2006. On August 31, 2007, the CA promulgated the now assailed decision finding merit in HOLCIM's petition.[36] The dispositive portion states:

> **WHEREFORE**, the foregoing considered, the instant petition is hereby **GRANTED** and the assailed Orders **REVERSED** and **SET ASIDE**. No costs.
>
> **SO ORDERED.**[37]

The motion for reconsideration thereof was denied in the CA's Resolution[38] dated April 14, 2008.

Issues

Thus, the petitioners filed the present petition for review under Rule 45 of the 1997 Rules of Civil Procedure, raising the following assignment of errors:

> A. THE [CA] GRAVELY ERRED IN NOT HOLDING THAT [HOLCIM] IS ESTOPPED TO QUESTION THE JURISDICTION OF THE TRIAL COURT TO CONDUCT A HEARING ON THE EXACT PAYMENT WHICH [HOLCIM] WAS SUPPOSED TO PAY TO THE PETITIONERS;
>
> B. THE [CA] GRAVELY ERRED IN NOT DISMISSING [HOLCIM'S] PETITION FOR CERTIORARI ON [THE] GROUND OF LACK OF

---

32 *Rollo*, pp. 72-76.
33 Id. at 287-328.
34 Id. at 332-368.
35 Id. at 369-399.
36 Id. at 47-66.
37 Id. at 65.
38 Id. at 67-69.

> BOARD RESOLUTION AUTHORIZING THE FILING OF THE PETITION;
>
> C. THE [CA] GRAVELY ERRED IN NOT DISMISSING THE PETITION FOR [CERTIORARI], IT BEING NOT THE PROPER REMEDY, BUT AN APPEAL;
>
> D. THE [CA] GRAVELY ERRED IN HOLDING THAT THE TRIAL COURT GRAVELY ABUSED ITS DISCRETION IN THE EXECUTION OF THE DECISION BY CALLING FOR EVIDENCE TO PROVE THE EXACT AMOUNT WHICH [HOLCIM] HAS TO PAY TO THE PETITIONERS;
>
> E. THE [CA] GRAVELY ERRED IN HOLDING THAT THE ORDERS OF THE TRIAL COURT OF DECEMBER 1, 2005, DECEMBER 20, 2005, AND JUNE 7, 2006 MODIFIED THE DECISION OF THE CA G.R. CV NO. 40140 OF FEBRUARY 28, 1995[.][39]

Our Ruling

The present petition has substantially complied with the requirements.

HOLCIM alleged that the present petition is fatally defective since all of the most important pleadings before the RTC and the CA have not been attached to the present petition. However, a review of the records of the case shows that the petitioners attached to their petition the following: (a) the CA's Decision in CA-G.R. SP No. 94838 dated August 31, 2007;[40] (b) the CA's Resolution in CA-G.R. SP No. 94838 dated April 14, 2008;[41] (c) the RTC's Order in Civil Case No. 725-M-89 dated December 1, 2005;[42] (d) the RTC's Order in Civil Case No. 725-M-89 dated December 20, 2005;[43] (e) the RTC's Order in Civil Case No. 725-M-89 dated June 7, 2006;[44] (f) HOLCIM's Manifestation and Motion (for Ocular Inspection) in Civil Case No. 725-M-89 dated February 21, 2006 and its attachments;[45] (g) the Memorandum of Agreement between Republic Cement Corporation and Spouses Juan and Maria Bernabe dated December 1, 1991;[46] (h) the Price Monitor of the Department of Environment and Natural Resources (DENR) on the price per metric ton of non-metallic mines;[47] and (i) the Special Power of Attorney executed by Ligaya and Liesell appointing Lowell as

---

39 Id. at 18-19.
40 Id. at 47-66.
41 Id. at 67-69.
42 Id. at 70.
43 Id. at 71.
44 Id. at 72-76.
45 CA *rollo*, pp. 281-293.
46 *Rollo*, pp. 90-93.
47 Id. at 94-109.

their attorney-in-fact.[48]

From the foregoing, the Court finds the same substantially compliant with the requirements of Section 4, Rule 45 of the 1997 Rules of Civil Procedure. All of the pertinent documents necessary for the Court to appreciate the circumstances surrounding the case and to resolve the issues at hand were attached. Furthermore, the parties' subsequent comment and reply have sufficiently provided the Court the needed information regarding the proceedings and acts of the trial court during the execution of the final and executory decision of this Court in G.R. No. 120004 which are the matters being questioned. In *Shimizu Philippines Contractors, Inc. v. Magsalin*,[49] the Court proceeded to give due course to the petition when it found the same and its attachments sufficient for the Court to access and resolve the controversy.[50]

On the other hand, the petitioners claim that HOLCIM's petition for *certiorari* in the CA failed to comply with the rules on Verification and Certification of Non-Forum Shopping because the latter did not secure and/or attach a certified true copy of a board resolution authorizing any of its officers to file said petition.[51] Thus, the CA should have dismissed outright HOLCIM's petition before it.

The general rule is that a corporation can only exercise its powers and transact its business through its board of directors and through its officers and agents when authorized by a board resolution or its bylaws. The power of a corporation to sue and be sued is exercised by the board of directors. The physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate bylaws or by a specific act of the board. Absent the said board resolution, a petition may not be given due course.[52]

In *Bank of the Philippine Islands v. Court of Appeals*,[53] the Court held that the application of the rules must be the general rule, and the suspension or even mere relaxation of its application, is the exception. This Court may go beyond the strict application of the rules only on exceptional cases when there is truly substantial compliance with the rule.[54]

---

48 Id. at 110-111.
49 G.R. No. 170026, June 20, 2012, 674 SCRA 65.
50 Id. at 73.
51 *Rollo*, pp. 31-33.
52 *Salenga v. Court of Appeals*, G.R. No. 174941, February 1, 2012, 664 SCRA 635, 656, 662.
53 G.R. No. 168313, October 6, 2010, 632 SCRA 322.
54 Id. at 332-333, citing *Tible & Tible Company, Inc. v. Royal Savings and Loan Association*, G.R. No. 155806, April 8, 2008, 550 SCRA 562, 580-581.

In the case at bar, HOLCIM attached to its Petition for *Certiorari* before the CA a Secretary's Certificate authorizing Mr. Paul M. O'Callaghan (O'Callaghan), its Chief Operating Officer, to nominate, designate and appoint the corporation's authorized representative in court hearings and conferences and the signing of court pleadings.[55] It also attached the Special Power of Attorney dated June 9, 2006, signed by O'Callaghan, appointing Sycip Salazar Hernandez & Gatmaitan and/or any of its lawyers to represent HOLCIM;[56] and consequently, the Verification and Certification of Non Forum Shopping signed by the authorized representative.[57] To be sure, HOLCIM, in its Reply filed in the CA, attached another Secretary's Certificate, designating and confirming O'Callaghan's power to authorize Sycip Salazar Hernandez & Gatmaitan and/or any of its lawyers to file for and on behalf of HOLCIM, the pertinent civil and/or criminal actions in Civil Case No. 725-M-89 pending before the RTC, including any petition to be filed with the CA and/or the Supreme Court in connection with the Orders dated December 1, 2005, December 20, 2005 and June 7, 2006.[58]

The foregoing convinces the Court that the CA did not err in admitting HOLCIM's petition before it. HOLCIM attached all the necessary documents for the filing of a petition for *certiorari* before the CA. Indeed, there was no complete failure to attach a Certificate of Non-Forum Shopping. In fact, there was such a certificate. While the board resolution may not have been attached, HOLCIM complied just the same when it attached the Secretary's Certificate dated July 17, 2006, thus proving that O'Callaghan had the authority from the board of directors to appoint the counsel to represent them in Civil Case No. 725-M-89. The Court recognizes the compliance made by HOLCIM in good faith since after the petitioners pointed out the said defect, HOLCIM submitted the Secretary's Certificate dated July 17, 2006, confirming the earlier Secretary's Certificate dated June 9, 2006. For the Court, the ruling in *General Milling Corporation v. NLRC*[59] is applicable where the Court rendered a decision in favor of the petitioner despite its failure to attach the Certification of Non-Forum Shopping. The Court held that there was substantial compliance when it eventually submitted the required documents. Substantial justice dictates that technical and procedural rules must give way because a deviation from the rigid enforcement of the rules will better serve the ends of justice. The Court ratiocinated:

> The rules of procedure are intended to promote, rather than frustrate, the ends of justice, and while the swift unclogging of court dockets is a laudable objective, it, nevertheless, must not be met at the expense of substantial justice. Technical and procedural rules are intended

---

55 *Rollo*, p. 331.
56 Id. at 329.
57 Id. at 328.
58 Id. at 401.
59 442 Phil. 425 (2002).

> to help secure, not suppress, the cause of justice and a deviation from the rigid enforcement of the rules may be allowed to attain that prime objective for, after all, the dispensation of justice is the core reason for the existence of courts.[60] (Citation omitted)

HOLCIM's filing in the CA of a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure is proper.

The petitioners also argue that the CA gravely erred when it did not dismiss HOLCIM's petition for *certiorari* on the ground of improper remedy. The petitioners contend that HOLCIM should have filed an appeal because when the RTC allowed the petitioners to adduce evidence to determine the exact amount to be paid by HOLCIM during the execution stage, it was implementing the dispositive portion of the decision of the CA in CA-G.R. CV No. 40140 as affirmed by the Court. As ruled by the trial court, a case in which an execution has been issued is regarded as still pending so that all proceedings on the execution are proceedings in the suit. Accordingly, the court that rendered the judgment maintains a general supervisory control over its process of execution, and this power carries with it the right to determine questions of fact and law, which may be involved in the execution.[61] Thus, for the petitioners, the RTC neither acted in excess of its jurisdiction nor with grave abuse of discretion, which would call for HOLCIM to file a petition for *certiorari*.[62]

The Court disagrees with the petitioners' mental acrobatics. Their arguments are contrary to Section 1(f), Rule 41 of the Rules of Court, which provides:

> Sec. 1. *Subject of appeal*.—An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.
>
> No appeal may be taken from:
>
> x x x x
>
> (f) an order of execution;
>
> x x x x

---

60 Id. at 428.
61 *Rollo*, p. 35.
62 Id.

> In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

The foregoing provision is explicit that no appeal may be taken from an order of execution and a party who challenges such order may file a special civil action for *certiorari* under Rule 65 of the Rules of Court.[63] An order of execution, when issued with grave abuse of discretion amounting to lack or excess of jurisdiction, may be the subject of a petition for *certiorari* under Rule 65.[64] Thus, HOLCIM did not err in filing a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure.

HOLCIM is not estopped to question the jurisdiction of the trial court to conduct a hearing and to accept evidence on the exact amount of royalty HOLCIM should pay the petitioners.

The petitioners argue that HOLCIM is estopped from questioning the jurisdiction of the RTC in conducting a hearing on the exact amount of royalty that HOLCIM must pay the petitioners. They allege that: (a) HOLCIM expressed willingness to pay the royalty to whoever would be adjudged the rightful owner of the subject land; (b) HOLCIM and de Guzman did not appear in the hearing nor oppose the Omnibus Motion dated September 28, 2004; (c) HOLCIM did not file any opposition or comment on the petitioners' Formal Offer of Evidence, Supplement to the Motion for Execution and Motion for Alias Writ of Execution; and (d) HOLCIM is now the new owner of de Guzman's property. As such, it has acquired the rights, interests and liabilities of de Guzman. The petitioners insist that HOLCIM must not only account for the royalty it paid de Guzman, but it must also turn over said payments to the petitioners.[65]

HOLCIM counter-argues that when it expressed willingness to pay the royalties to whoever would be declared the rightful owner of the subject land, it simply manifested its good faith in fulfilling its obligations. It adds that the petitioners and HOLCIM entered into an Agreement regarding the amount of royalty it should pay to the landowner; and subsequently, the petitioners voluntarily accepted and retained the amount of ₱694,184.22 paid by HOLCIM. In fact, HOLCIM stresses that the said amount was more than

---

63 *BPI Employees Union-Metro Manila v. BPI*, G.R. No. 178699, September 21, 2011, 658 SCRA 127, 142; *A & C Minimart Corporation v. Villareal*, 561 Phil. 591, 602 (2007); *Manila International Airport Authority. v. Judge Gingoyon,* 513 Phil. 43, 49-50 (2005); *United Coconut Planters Bank v. United Alloy Phils. Corp.*, 490 Phil. 353, 361 (2005).

64 *United Coconut Planters Bank v. United Alloy Phils. Corp.*, id.

65 *Rollo,* pp. 20-23.

what was stipulated in the Agreement. HOLCIM also asserts that jurisdiction is conferred by law, and not by laches, estoppel or by agreement among the parties and such lack of jurisdiction may be raised at any stage of the proceedings.[66] Furthermore, HOLCIM avers that it is even the DENR panel of arbitrators which has jurisdiction over the case pursuant to Section 77 of the Philippine Mining Act of 1995.[67] Lastly, HOLCIM claims that it eventually acquired de Guzman's property, maintaining that the said property did not overlap with Esguerra's property. Thus, HOLCIM's ownership and quarrying operations on lands outside the disputed area would have no bearing whatsoever on the petitioners' claim for royalties on extractions done within the disputed area. HOLCIM also asseverates that the obligation to turn over any royalty paid to de Guzman is not a real obligation which attaches to the disputed area or to the land itself or which follows the property to whoever might subsequently become its owner; rather, HOLCIM argues that the obligation is purely a personal obligation of de Guzman and thus, not transferable to HOLCIM.

What is clear is that the present case emanates from the petitioners' desire to implement the CA decision in CA-G.R. CV No. 40140 which was affirmed by the Court in the Decision of December 27, 2002 in G.R. No. 120004. At the execution stage, the only thing left for the trial court to do is to implement the final and executory judgment; and the dispositive portion of the decision controls the execution of judgment. The final judgment of this Court cannot be altered or modified, except for clerical errors, misprisions or omissions.[68]

In the instant case, the CA's decision which this Court affirmed in G.R. No. 120004 rendered, among others, the following judgment:

(a) Insofar as then defendant-appellee de Guzman is concerned, the CA declared OCT No. P-3876 in her possession null and void in relation to the disputed area of 38,641 sq m; the same CA's decision subsequently ordered de Guzman –

> [i] to segregate at her expense the disputed area of 38,641 sq m from OCT No. P-3876;
>
> [ii] to surrender her owner's copy of OCT No. P-3876 to the Register of Deeds of Bulacan;
>
> [iii] to immediately vacate and surrender to then plaintiff-appellant Esguerra possession of the disputed area;
>
> [iv] to pay and turn over to plaintiff-appellant Esguerra all the amount she received from her co-defendant Hi-Cement Corporation

---

66 Id. at 177-179.
67 Id. at 169-170.
68 Id. at 64.

(now HOLCIM) as compensation or royalty for marbles extracted or quarried from the disputed area of 38,451 sq m beginning March 23, 1990; and

[v] to pay the costs.

(b) Insofar as HOLCIM is concerned, the CA's decision ordered HOLCIM –

[i] to immediately cease and desist from quarrying or extracting marble from the disputed area; and

[ii] to make an accounting of the royalty it paid to de Guzman.

Indeed, the final judgment **does not direct HOLCIM** nor its predecessor Hi-Cement to pay a certain amount to Esguerra and his heirs. What was required from HOLCIM to do was merely to account for the payments it made to de Guzman. Apparently, this was not enforced. It may be deduced from the records that when the petitioners filed the Omnibus Motion dated September 28, 2004, they asked for the examination of de Guzman and Hi-Cement (HOLCIM) under Sections 36 and 37 of Rule 39 of the Rules of Court. This motion was subsequently granted by the trial court.

Sections 36[69] and 37[70] of Rule 39 of the Rules of Court are resorted to only when the judgment remains unsatisfied, and there is a need for the judgment obligor to appear and be examined concerning his property and income for their application to the unsatisfied amount in the judgment. In the instant case, the decision in CA-G.R. CV No. 40140 as affirmed by the Court calls on HOLCIM to simply make an accounting of the royalty paid to de Guzman. Unfortunately, the trial court, instead of facilitating the accounting of payments made by HOLCIM to de Guzman, proceeded to

---

[69] Sec. 36. *Examination of judgment obligor when judgment unsatisfied.*—When the return of a writ of execution issued against the property of a judgment obligor, or any one of several obligors in the same judgment, shows that the judgment remains unsatisfied, in whole or in part, the judgment obligee, at any time after such return is made, shall be entitled to an order from the court which rendered the said judgment, requiring such judgment obligor to appear and be examined concerning his property and income before such court or before a commissioner appointed by it, at a specified time and place; and proceedings may thereupon be had for the application of the property and income of the judgment obligor towards the satisfaction of the judgment. But no judgment obligor shall be so required to appear before a court or commissioner outside the province or city in which such obligor resides or is found.

[70] Sec. 37. *Examination of obligor of judgment obligor.*—When the return of a writ of execution against the property of a judgment obligor shows that the judgment remains unsatisfied, in whole or in part, and upon proof to the satisfaction of the court which issued the writ, that a person, corporation, or other juridical entity has property of such judgment obligor or is indebted to him, the court may, by an order, require such person, corporation, or other juridical entity, or any officer or member thereof, to appear before the court or a commissioner appointed by it, at a time and place within the province or city where such debtor resides or is found, and be examined concerning the same. The service of the order shall bind all credits due the judgment obligor and all money and property of the judgment obligor in the possession or in the control of such person, corporation, or juridical entity from the time of service; and the court may also require notice of such proceedings to be given to any party to the action in such manner as it may deem proper.

adduce evidence on the amount of limestone extracted from the disputed area and imposed the monetary liability on HOLCIM.

It is rather unfortunate that HOLCIM did not register a whimper upon petitioners' presentation of evidence. Notwithstanding, it cannot be denied that the trial court committed grave abuse of discretion in issuing the questioned orders without giving HOLCIM the chance to be heard. Indeed, when the decision has been rendered unenforceable on account of the undetermined amount to be awarded, it was incumbent upon the trial court to receive evidence from both parties to determine the exact amount due to the petitioners.[71] Since HOLCIM was not given an opportunity to rebut the petitioners' evidence, considering that the former's Manifestation and Motion for Ocular Inspection was denied, justice will be better served if the trial court determines first the existence of documents relative to HOLCIM's payments made to de Guzman, and if the same is not done, to receive further evidence, this time, from both parties. It must be emphasized, however, that the evidence to be adduced here is in relation to the amount of royalty paid to de Guzman by HOLCIM for marbles extracted from the disputed area of 38,451 sq m beginning March 23, 1990 up to the time HOLCIM ceased to operate in the subject area. In the event that the petitioners' claim is beyond the subject area and period, and HOLCIM denies such indebtedness, the governing rule should be Section 43, Rule 39 of the Rules of Court, to wit:

> **SEC. 43.** *Proceedings when indebtedness denied or another person claims the property.—* **If it appears that a person or corporation, alleged to have property of the judgment obligor or to be indebted to him, claims an interest in the property adverse to him or denies the debt, the court may authorize, by an order made to that effect, the judgment obligee to institute an action against such person or corporation for the recovery of such interest or debt**, forbid a transfer or other disposition of such interest or debt within one hundred twenty (120) days from notice of the order, and may punish disobedience of such order as for contempt. Such order may be modified or vacated at any time by the court which issued it, or by the court in which the action is brought, upon such terms as may be just. (Emphasis ours)

Pursuant to this Rule, in the examination of a person, corporation, or other juridical entity who has the property of such judgment obligor or is indebted to him (Rule 39, Section 37), and such person, corporation, or juridical entity denies an indebtedness, the court may only authorize the judgment obligee to institute an action against such person or corporation for the recovery of such interest or debt. Nothing in the Rules gives the court the authority to order such person or corporation to pay the judgment obligee and the court exceeds its jurisdiction if it orders the person who denies the indebtedness to pay the same. In *Atilano II v. Asaali*,[72] the Court held that an

---

71 *Heirs of Dialdas v. CA*, 412 Phil. 491, 505 (2001).

72 G.R. No. 174982, September 10, 2012, 680 SCRA 345.

"[e]xecution of a judgment can only be issued against one who is a party to the action, and not against one who, not being a party thereto, did not have his day in court. Due process dictates that a court decision can only bind a party to the litigation and not against innocent third parties."[73]

Finally, the Court does not agree with petitioners' argument that the person of de Guzman is "now merged in the person of HOLCIM or that HOLCIM has assumed her personal liability or the judgment rendered against her."[74] Nothing in the records shows that HOLCIM admitted of assuming all the liabilities of de Guzman prior to the sale of the subject property. HOLCIM, however, expresses its willingness to pay royalty only to the rightful owner of the disputed area. Thus, in the event that the amount paid by HOLCIM to de Guzman has been proven, de Guzman is ordered to turn over the payment to the petitioners.[75] If the petitioners insist that HOLCIM owed them more than what it paid to de Guzman, the petitioners cannot invoke the CA's decision which was affirmed by the Court in G.R. No. 120004 to ask for additional royalty. As earlier discussed, this must be addressed in a separate action for the purpose. All told, the Court finds no reversible error with the decision of the CA in nullifying the orders of the RTC for having been issued in excess of its jurisdiction.

WHEREFORE, the Decision dated August 31, 2007 and the Resolution dated April 14, 2008 of the Court of Appeals in CA-G.R. SP No. 94838 are hereby **AFFIRMED.**

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

---

73 Id. at 351, citing *Panotes v. City Townhouse Development, Corp.*, 541 Phil. 260, 267 (2007) and *Maricalum Mining Corporation v. Hon. Brion*, 517 Phil. 309, 323 (2006).

74 *Rollo*, p. 192.

75 Supra note 8.

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

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