Republic of the Philippines
Department of Finance
Securities and Exchange Commission

ATTY. ALBERTO DRILON, ET AL.,
Petitioners-Appellees,

-versus -

SEC *En Banc* Case No. 529
(G.R. No.134542,
Supreme Court Second Division)

COSMOPOLITAN EVANGELICAL CHURCH (BACOLOD), INC., ET AL.,
Respondents-Appellants.

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RESOLUTION

Before the Commission is an *Appeal* assailing the Order issued by the Office of the General Counsel (OGC) dated 9 January 2006 ("Assailed Order") denying the Motion for Issuance of a Writ of Execution ("Motion")[1] filed by Atty. Lyndon Caña. The dispositive portion of the *Assailed Order* reads:

> **WHEREFORE**, premises considered, the instant Motion for Issuance of Writ of Execution is hereby **DENIED**.
>
> **SO ORDERED**.

The *Motion* was filed by Atty. Cana with the OGC to enforce the Decision of the Commission *En Banc* in SEC *En Banc* Case No. 529 dated 22 July 1996 ("22 July 1996 Decision").

In denying the *Motion*, two reasons are given by the OGC: First, the relief sought in the requested writ varied the terms of the *22 July 1996 Decision*; Second, a new intra-corporate controversy has arisen as to which set of officers should be recognized, and the issuance of the writ would in effect be passing upon the new controversy, a task now belonging to the regional trial courts.

An *Appeal* of the *Assailed Order* was elevated to the Commission *En Banc* by Atty. Lyndon Caña on 15 February 2006. In said Appeal Atty. Caña raised the following errors:

> I.
> THE HONORABLE GENERAL COUNSEL, WITH ALL DUE RESPECT, ERRED IN RULING THE WRIT OF EXECUTION WILL VARY THE TERMS OF THE JUDGMENTS, AS IT FAILED TO APPRECIATE THE WELL SETTLED RULE THAT JUDGMENTS ARE TO BE CARRIED AND ENFORCED TO THEIR LOGICAL AND NATURAL CONCLUSION, PURSUANT TO SO MANY SUPREME COURT RULINGS SUCH AS CRISTOBAL VS. MELCHOR, G.R. NO. L-43203. DECEMBER 29, 1980;
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> II.
> THE COMMISSION'S GENERAL COUNSEL, WITH ALL DUE RESPECT, ERRED IN RULING THAT AN 'INTRACORPORATE CONTROVERSY IS IMMINENT' BECAUSE AS A MATTER OF FACT, THE SO CALLED LEADERSHIP CONFLICT, OR INTRACORPORATE CONTROVERSY REFERRED TO BY THE GENERAL COUNSEL WAS ALREADY EXISTING AND INCEPTUAL AT THE TIME THIS CASE COMMENCED IN THE OFFICE OF THE HEARING OFFICER AT SEC REGIONAL OFFICE VI IN ILOILO CITY WAY BACK IN 1995;
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> III.

[1] Dated 12 February 2001.

WITH ALL DUE RESPECT, THE RULING OF THE COMMISSIONER'S GENERAL COUNSEL IS CONTRARY TO THE BASIC PRINCIPLES OF EQUITY AND POLICY AGAINST MULTIPLICITY OF SUITS.

In the *Reply Memorandum* dated 12 May 2006, Appellees' counsel Atty. Jerry Basiao presented the following arguments as grounds for opposing the instant Appeal:

1. Atty. Lyndon Caña cannot make an appeal on his own personal capacity;[2]
2. The denial of the *Writ of Execution* was proper, considering that the terms of the writ prayed for vary the terms of the 22 July 1996 Decision;[3]
3. The instant *Appeal* should be terminated considering that both parties are no longer existent;[4]
4. The election conducted on 25 August 1996 was not validly held;[5]
5. An appeal based on a denial of a writ of execution is not proper;[6] and
6. Section 4.6 of Republic Act No. 8799, otherwise known as the *Securities Regulation Code* does not apply to the instant Appeal.[7]

Based on the arguments raised by both sides, the core issue for the resolution of this *Appeal* is whether or not the OGC erred in ruling that the requested writ would vary the terms of the 22 July 1996 Decision.

The Commission's Ruling

The Commission rules in the negative.

In the *Appeal*, Atty. Caña theorized that the 22 July 1996 Decision directing the conduct of election necessarily includes that the winners in the elections should be installed and put in administration of the properties after they are "duly proclaimed and sworn to perform their duties and functions of their office."

To support of this theory, Atty. Caña cited the following pronouncement of the Supreme Court in the case of *Cristobal vs. Melchor*,[8] thus:

> As likewise reaffirmed by the Court in *Perez vs. Evite* (1 SCRA 949, 953), "Under Section 45 of Rule 39, Rules of Court ... a judgment is *not* confined **to what appears upon the face of the decision, but also those necessarily included therein or necessary thereto**."
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> The late Chief Justice Fred Ruiz Castro stressed for the Court in *Padua vs. Robles* (66 SCRA 485, 488) that "**(T)he sufficiency and efficacy of a judgment must be tested by its *substance* rather than its form. In construing a judgment, its *legal effects* including such effects that *necessarily follow* because of legal implications, rather than the language used, govern. Also, its meaning, operation, and consequences must be ascertained like any other written instrument.** Thus, a judgment rests on the intention of the court as gathered from every part thereof, including the situation to which it applies and the attendant circumstances." (emphasis supplied)

Invoking the above ruling, Atty. Caña contends that putting the winners of the 25 August 1996 elections in effective control of Cosmopolitan and its properties is necessary to give effect to the election conducted pursuant to the *22 July 1996 Decision*.

As a rule, a writ of execution should conform to the dispositive portion of the decision to be executed, and the execution is void if it is in excess of and beyond the original judgment or award. It is a settled general principle that a writ of execution must conform strictly to every essential particular of the

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[2] *Reply Memorandum*, pp. 4-5.
[3] *Reply Memorandum*, pp. 6-8.
[4] *Reply Memorandum*, pp. 9-11.
[5] *Reply Memorandum*, p. 12.
[6] *Reply Memorandum*, p. 13.
[7] *Reply Memorandum*, p. 14.
[8] G.R. No. L-43203, 29 December 1980.

judgment promulgated.[9] Thus, where the writ of execution varies the terms of the judgment, a quashal of the writ of execution is proper.[10] In the same vein, a denial of a motion for the issuance of a writ of execution is proper.

To recall, the dispositive portion of the *22 July 1996 Decision* states thus:

> "WHEREFORE, in view of the foregoing, the decision dated 24 March 1995 of the Hearing Officer of Iloilo is modified accordingly, and the Commission hereby orders, as follows:
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> 1. **To hold a general election on or before July 31, 1996**, at the principal office of the corporation (Bacolod City), to be participated in by all the members of the Cosmopolitan Evangelical Church, Inc., without distinction as to Cosmo 1 or Cosmo 2, and whose names are contained in the lists submitted to the Commission by both the Petitioners and Respondents, and for this purpose three SEC representatives are hereby designated, two from the main office namely Attorneys Agnese Lontoc and Corazon Sampayo, of the Corporate and Legal Department and Atty. Corazon Tirol of the Iloilo Extension Office and who shall cause to hold said election as far as practicable with democratic processes; and
> 2. To lift as it is hereby lifted the Order of the Commission dated December 11, 1995 and to dissolve as it is hereby dissolved the Writ of Execution pending appeal dated December 20, 1995 issued thereof by the Iloilo Extension Office; and **to declare in the meantime the incumbent officers of the church congregation as hold-over in their respective position until and after said election shall have been conducted and the new set of directors and officer are duly proclaimed and sworn to perform the duties and functions of their office**.
>
> SO ORDERED." (emphasis ours)

It is clear from the foregoing that the directives in the dispositive portion of the *22 July 1996 Decision* are limited to (1) conduct of election of Cosmopolitan's officers, and (2) provisional leadership of Cosmopolitan until the persons elected are proclaimed and sworn in.

The directive prayed for in the requested *Motion* is beyond the terms of the *22 July 1996 Decision*. As discussed by the OGC in the *Assailed Order*:

> From the records of the case, it is undisputed that an election had already been conducted on 25 August 1996, as mandated by the Decision of 22 July 1996. As a matter of fact, and in substantial compliance with the same Decision, the election was supervised by three of the Commission's lawyers, namely, Atty. Juanito Almosa Jr., Atty. Benito Cataran and atty. Gerard Lukban. The **"Minutes of the Special General Membership Meeting for the Election of Officers of the Cosmopolitan Evangelical Church in Bacolod City, Held at Benjamin Hall, 4th Street, Lacson, Bacolod City, on 25 August 1996"** was duly noted and signed by the aforesaid SEC representatives. As such, that portion of Decision directing the holding of such SEC-supervised election had already been complied with.
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> On the other hand, the requested writ aims to put the officers, who trace the succession of their election from said 25 August 1996 election, in effective physical possession, control and administration over the church and its properties.
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> From the foregoing, to grant the requested writ would vary the terms of the 22 July 1996 Decision. x x x (boldfacing supplied)

In our view, the controversy of actual possession of the church properties is distinct and separate from the controversy resolved in the *22 July 1996 Decision*, considering that the *22 July 1996 Decision* did not mention any transfer of church administration and possession of church properties. Any action to resolve the controversy of possession of the church properties and recovery of possession thereof should

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[9] *Ex- Bataan Veterans Security Agency vs. NLRC*, G.R. No. 121428, 29 November 1995, citing *Buan vs. Court of Appeals*, G.R. No. 101614, 17 August 1994 and *Government Service Insurance Systems vs. Court of Appeals*, G.R. G.R. No. 103590, 29 January 1993.

[10] *Limpin, et al., vs. IAC*, G.R. No. 70987, 30 January 1987.

be vented in a separate action. Parenthetically, the Commission is no longer the right forum for such proceeding, being intra-corporate in nature.

Considering the foregoing discussion, the requested writ of execution varies the terms of the *22 July 1996 Decision*. As mentioned earlier, a denial of the request is proper. Thus, the OGC did not err in its ruling.

WHEREFORE, premises considered, the *Appeal* is hereby **DISMISSED FOR LACK OF MERIT**.

SO ORDERED.

Pasay City, Philippines; 9 August 2016.

TERESITA J. HERBOSA
Chairperson

MANUEL RUBERTO B. GAITE
Commissioner

ANTONIETA F. IBE
Commissioner

EPHYRO LUIS B. AMATONG
Commissioner

BLAS JAMES G. VITERBO
Commissioner