Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

SY CHIN, SY HEN, TANG TUBI, TANG ANDRES, TANG FELINO, NIEVES KE TEK TANG, ANNIE KE TEK TANG, PENNIE CHUA TANG, LENIE TANG, ZANNIE KE TEK TANG, FELICIA KE TEK TANG, ONG SO HUA, JUDY ALONZO, EDUARDO ALONZO AND ALFREDO ALONZO,
Plaintiffs,

\- *versus* - **SEC En Banc Case No. 01-17-421**

TANG CHIN HENG & COMPANY,
Defendants.
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DECISION BASED ON COMPROMISE AGREEMENT

Before this Commission is the Joint Motion for Judgment Based on Compromise Agreement (the "Joint Motion") dated 16 October 2019 (the "Compromise Agreement") which was filed through the Office of the General Counsel on 30 October 2019, praying that the Commission approves the Compromise Agreement and renders judgment pursuant to its terms.

The records show that sometime in 1952, the brothers Tang Chin, Feliciano Tang, Ricardo Alonzo a.k.a. Tang Kong Suy, Tang Chin Heng and William Tang a.k.a. Tang Kong Sia formed a partnership under the name of Tan Chin Heng & Company (the "Company") with a term of twenty-five (25) years.

After the death of Tang Chin, Feliciano Tang, and Tang Kong Suy, conflict ensued between their heirs who are the herein Petitioners[1] and the surviving partners Tang Chin Heng and Tang Kong Sia (the "Respondents") due to the alleged failure of the Company to render an accounting and to distribute profits.

In an effort to amicably settle their differences, Petitioners and Respondents referred the matter to the Federation of Filipino Chinese

[1] Sy Chin, Sy Hen, Tang Tubi, Tang Andres, Tang Felino, Nieves Ke Tek Tang, Annie Ke Tek Tang, Pennie Chua Tang, Lenie Tang, Zannie Ke Tek Tang, Felicia Ke Tek Tang, Ong So Hua, Judy Alonzo, Eduardo Alonzo and Alfredo Alonzo

Chamber of Commerce which resulted in the execution of an Agreement dated 11 March 1975 (the "1975 Agreement") where they agreed to divide the properties of the Company in a just, fair and equitable manner.

On 5 February 1991, Petitioners filed with the Commission a Petition for dissolution and liquidation of the Company where, in relation to its liquidation, Atty. Joaquin Garaygay was appointed receiver.

On 9 February 1993, the SEC Hearing Officer Alberto P. Atas rendered a decision which directed the distribution to the partners/heirs of the partnership properties in proportion to their contribution as provided in the Articles of Partnership.

The Petitioners moved for a partial reconsideration of the decision, alleging that the properties should be divided equally pursuant to the 1975 Agreement. In an Order dated 11 August 1993 (the "Order"), the Hearing Officer denied the motion. The Order became final and executory as a consequence of Petitioners' failure to perfect an appeal.

In an Order dated 5 January 1994 (the "Order of Execution"), the Hearing Officer granted the Motion for Execution filed by Respondents. Petitioners appealed the Order of Execution before the Commission En Banc who took cognizance of the same and remanded the case to the appropriate department for proper action. The action of the En Banc was elevated by Respondents to the Court of Appeals (CA) which issued a writ of certiorari nullifying the decision of the En Banc for having been rendered in excess of its jurisdiction.

The CA Decision dated 18 August 1998 was affirmed by the Supreme Court in a Decision dated 23 November 2000 which held that the act of the En Banc constituted a direct attack on the Order of the Hearing Officer and in effect re-opened a case that has become final and executory.

On 27 February 2002, the Commission issued a Writ of Execution at the instance of Respondents which was endorsed to the Executive Judge of the Regional Trial Court of Manila for purposes of designating a Sheriff to enforce the same and to return the Writ within sixty (60) days from receipt thereof. The Writ of Execution was not satisfied due to the Receiver's failure to conduct a full inventory and accounting of the Company properties.

On 17 January 2017, Respondents filed a Complaint for Revival of Judgment which was dismissed on the ground of prescription.

On 16 October 2019, the parties filed the instant Joint Motion and attached thereto their duly executed Compromise Agreement[2] after having agreed to amicably settle their dispute and put an end to the present actions. The terms of the Compromise Agreement are as follows:

1. The parties agreed to sell all the subject properties located in Manila and Quezon City. All offers to purchase shall be evaluated by the parties through their attorneys-in-fact with due consideration of the price offered and the terms and conditions most beneficial to the parties. Any party may avail of the services of professional licensed appraiser to determine the current fair market value of the properties with the fees to be paid from the rental funds. To close the sale, there must be a unanimous decision of all the attorneys-in-fact. In case the parties are no unanimous in their decision as to what is the "best offer", any party may submit the determination of the "best offer" to the Securities of Exchange Commission being the tribunal of origin or any proper court and the decision made by SEC shall be final and unappealable;

2. Upon the confirmation of the sale of the Subject Properties, crediting a deduction of the necessary changes, distribution of the net proceeds of each sale to each of the five Parties, the Parties shall sign Quitclaims whereby they shall irrevocably, fully, and forever release and discharge the other Parties of and from any and all claims, demands, losses, damages, debts, liabilities, accounts, obligations, costs, expenses, compensation of any kind and nature, suits, actions and causes of action, Which the Party had, now has, or may hereafter have by reason or any matter related to the Subject Properties and the sales agreements, Contracts to Sell, Deeds of Absolute Sale, and other transfer agreements, accruing, occurring, or arising at any time before or after the Agreement, the Cases, and all the proceedings related thereto;

3. Each of the parties, in person or by and through their respective attorneys-in-fact are hereby obligated to sign and execute the Contract to Sell, Deeds of Absolute Sale, and all necessary documents, pleadings, deeds, instruments, and other agreements to ensure that all provisions of this Agreement and the prospective sales are fulfilled and respected as defined below;

4. The attorneys-in-fact name under this Agreement shall have all powers and authorities, including the management, administration, selling, assigning, dealing with the Subject Properties, the implementation of this Agreement and other related documents;

5. The parties hereby acknowledge, agree and undertake to comply with and abide by the decisions, determination, transactions, implementation, including impositions that will be made by the attorneys-in-fact, including the engagement of professional services, pursuant to this Agreement and such other agreement and documents that will be executed by the Parties to implement this Agreement;

[2] Annex "A" to the Joint Motion.

6. The Parties agree and undertake to make a full disclosure of all their transactions, dealings, and other information in relation to the Subject Properties and their interests therein, in accordance with the spirit and intention of this Agreement and all agreements arising herefrom, so that a global and complete settlement of all matters and issues on the Subject Properties is achieved;

7. The parties shall exert best efforts to look for a Buyer willing to shoulder the capital gains tax ("CGT"), fees and costs, and any other tax, including the Value Added Tax, if any, and documentary stamp tax arising from the sale and transfer of Subject Properties. Otherwise, all Parties shall pay in proportion to their share indicated in Section 1 herein, all the capital gains tax ("CGT"), fees and costs, and any other tax (excluding documentary stamp tax) arising from the sale and transfer of Subject Properties which would enable to obtain the Certificate Authorizing Registration (CAR) of the transfer of the Manila and Quezon City properties to the Buyer/s;

8. The attorneys-in-fact shall retain a copy of the CGT Return and a copy of the receipt evidencing payment of the CGT and other taxes and costs arising from the sale of the real properties, including the Documentary Stamp Taxes;

9. The Parties should likewise share in the responsibility to completely remove and demolish invaluable improvements, vacate the subject properties within three months from the date of the signing of the Deed of Absolute Sale of either properties and the shall ensure that the real properties are free and clear from occupants or informal settlers, with the assistance of lawyers as necessary except the present lessees who are paying rentals until the parties deemed it necessary to terminate their lease contract;

10. The parties shall open a joint bank account in any reputable commercial bank in Manila or Quezon City where the rentals for the use of the subject properties as well as the proceeds of all sales of the subject properties will be deposited with the following joint signatories:

Signatory A	Signatory B
Vicencio C. Tang	Felino Tang
Emilia Tang	Annie Tang Dy
	and Wilfredo Alonzo

11. The cheque payment representing the purchase price of any of the subject properties shall be in the name of the signatories or Bank Account Number with the signatories referred herein;

12. The parties agree that the money derived from rental payments deposited with the Clerk of Court of Manila be all withdrawn and directly transferred and/or deposited to the Joint Account referred to in No. 11 hereof. This rental money shall primarily be used to pay the taxes, expenses for the preservation of the subject properties and other

expenses necessary to fully effect the sale of the subject properties and to fully accomplish this Compromise Agreement. The proceeds of the sale of each property sold shall be distributed immediately to the parties in proportion stated in No. 1 herein after deducting the common expenses and payment of attorney's fees by the respective parties;

13. The parties undertake to ensure that the titles to the real property be free and clear of any and all liens and encumbrances of any kind whatsoever except for the Notice of Adverse Claim annotated by the First Party over the real properties and the Notice of Lis Pendens, which shall both be cancelled immediately upon approval of this Compromise Agreement by the Securities and Exchange Commission or by the proper Regional Trial court. The necessary expenses for the cancellation of the annotations shall be solely shouldered by the party who has caused the encumbrance;

14. The Compromise Agreement is binding among the parties but same should be submitted to the Securities and Exchange Commission or to the proper court for approval. Upon rendition of the Decision approving this Agreement, the Parties expressly undertake that neither shall file an appeal, or any other motion or pleading that would prevent the Decision from becoming final and executory;

15. All necessary advances, charges, taxes, fish, documentation, and other reasonable expenses for reimbursement for charging against the co-ownership, provided that they inured to the benefit of the Subject Properties and are not unduly- disadvantageous to the co-ownership shall be submitted to the attorneys-in-fact within 180 days after the execution of this Agreement for evaluation, determination, distribution and charging against the parties' accounts, subject to extension ask may be agreed upon by the parties for reasonable cause. In case of the parties cannot agree, the matter shall be submitted to SEC for determination and its decision should be considered by the parties as final and unappealable;

16. The Parties agree that a breach, refusal or delay in the compliance with the terms and conditions of this Agreement including the Annexes, the transfer of documents, and other implementing agreements to be entered into by the parties arising from this Agreement, will cause the Parties substantial economic, psychological, moral and other damages. For this reason, the Party in Default shall pay liquidated damages in the amount of P100,000.00 for each and any violation of this Agreement constituting material breach, refusal or delay, and the Parties hereto agree and acknowledge that such liquidated damage represent a fair, reasonable and appropriate estimate thereof;

17. The parties acknowledge that this Agreement does not constitute an admission or confession of any liability or faults on their respective parts, representatives, agents and/or assigns;

18. The parties hereby undertake to keep strictly confidential the terms and conditions of this Agreement (including its Annexes) any and all

information pertaining to their properties and assets included in this Agreement;

19. Any provision in this agreement that is declared by any court to be invalid, illegal or unforeseeable shall be ineffective only to the extent of the invalidating or unenforceability, without affecting the remaining provisions of this Agreement. In case any provision is declared invalid by any court, the Parties agree to discuss and negotiate in good faith a substitute provision consistent with the objective and intention of the parties hereunder;

20. The parties hereto shall do and execute or procure to be done and executed all such further acts, deeds, documents and things as may be necessary to give full effect to the terms and intent of this Agreement;

21. No Party hereto shall be entitled to assign this Agreement or its rights or obligations hereunder without the prior written consent of the other Party;

22. This agreement (together with any documents referred to herein) constitutes the whole agreement among the Parties and is expressly declared that no variations hereof shall be effective unless made in writing and signed by all Parties. This Agreement shall not be amended, supplemented or modified except by a written instrument signed by all Parties or their duly-authorized representatives;

23. The validity, construction and performance of this Agreement shall be governed by and interpreted in accordance with the laws of the Philippines. The Parties agree that the venue of any court litigation which may arise among them shall be filed exclusively with the proper courts of Manila and Quezon City, to the exclusion of other courts;

24. The Parties shall shoulder their respective litigation costs and attorney's fees in the filing and defense of the Cases and in the negotiations and execution of this Agreement;
25. ATTY. EMMANUEL B. PALABRICA is retained by the First Party and Fifth Party as their counsel for all matters related to this Agreement and the Cases. ATTYS. DANIEL ABELLA and ATTY. VENUS B. AMBRONA are retained by the Second, Third, and Fourth parties in negotiating and administering the resolution of this Agreement and all other agreements related to the sale and transfer of the Subject Properties. The Parties shall protect, indemnify and render said counsels free and harmless from any claim or demand by the Parties or third persons for loss, damage or injury suffered or alleged to have been suffered arising from or in connection with this Agreement and the sale and disposition of this Subject Properties. Each counsel shall be paid their respective clients of their agreed attorney's fees every time a sale is consummated;

26. Pending the sale of the Subject Properties, no party shall use or allow the Subject Properties to be used for any type of activity and purpose not agreed upon by the parties, except with the written consent of all the attorneys-in-fact. This restriction shall include the occupation,

construction, ownership, operation, and maintenance of any improvement or facility within the Subject Properties. Neither shall any party lease, assign, dispose, convey, or transfer the Subject Properties, including rights to or interest in them, to any entity without the written consent of all the Parties or the attorneys-in-fact;

27. he Parties agree to annotate this Agreement, the preceding restrictions and covenants, and such other relevant documents on the titles and tax declarations covering the Subject Properties. The covenants herein shall bind the Parties and their successors and assigns;

28. In relation to the foregoing, each Party mutually waves all claims, causes of action, or complaints which it may have against the other, its heirs and assigns, agents, employees, or its attorneys, legal and paralegal assistants, in the Cases referred to herein."

After a review of the Joint Motion and the terms of the Compromise Agreement which relates to the disposal of the properties of the Company and the process in effecting the same, the Commission hereby grants the same after a finding that the same is not contrary to law, morals, good customs and public policy.

Article 2037 of the Civil Code provides:

> "A compromise has upon the parties the effect and authority of *res judicata*; but there shall be no execution except in compliance with a judicial compromise"

By executing the Compromise Agreement and filing the instant Motion with the Commission, the parties have in effect agreed to put an end to their long standing dispute which is the subject of the instant case. Considering that the Compromise Agreement is not contrary to law, morals, good customs and public policy, the Commission hereby gives its administrative *imprimatur* on the same.

In *Spouses Abinujar vs. Court of Appeals,*[3] the Supreme Court reiterated the importance of judicial (or administrative as in this case) approval of a compromise agreement, thus:

> "A compromise agreement is a contract between the parties, which if not contrary to law, morals or public policy, is valid and enforceable between them (Municipal Board of Cabanatuan City v. Samahang Magsasaka, Inc., 62 SCRA 435 [1975]). There are two kinds of compromise agreements, the judicial, which puts an end to a pending litigation, and the extrajudicial, which is to avoid a litigation (Civil Code of the Philippines, Art. 2028; Caguioa, VI Commentaries and Cases, on Civil Law 292 [1970]).

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[3] G.R. No. 104133, April 18, 1995.

> As a contract, a compromise agreement is perfected by mutual consent (Rovero v. Amparo, 91 Phil. 228 [1952]). A judicial compromise, however, while binding between the parties upon its execution, is not executory until it is approved by the court and reduced to a judgment." (Emphasis supplied)

Moreover, in *Soney vs. Anchor Savings Bank,*[4] the Court emphasized the effect of the approval of the compromise agreement on the pending case, to wit:

> "Verily, it is a settled rule that a compromise agreement, once approved by final order of the court, has the force of res judicata between the parties and should not be disturbed except for vices of consent or forgery. Hence, a decision on a compromise agreement is final and executory and it has the force of law and is conclusive between the parties. It transcends its identity as a mere contract binding only upon the parties thereto as it becomes a judgment that is subject to execution in accordance with the Rules of Court." (Emphasis supplied)

WHEREFORE, premises considered, the instant Joint Motion is hereby **GRANTED**. The Compromise Agreement dated 25 May 2019 is hereby **APPROVED** and adopted as the decision of this Commission**.** The parties are hereby ordered to faithfully comply with the terms and conditions of the Compromise Agreement.

SO ORDERED.

Pasay City, Philippines; 22 September 2020

EMILIO B. AQUINO
Chairperson

EPHYRO LUIS B. AMATONG
Commissioner

JAVEY PAUL D. FRANCISCO
Commissioner

KELVIN LESTER K. LEE
Commissioner

KARLO S. BELLO
Commissioner

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[4] G.R. No. 205623, August 10, 2016.