

Title:

****Oñate and Econ Holdings Corporation vs. Abrogar and Sun Life Assurance Company of Canada: A Case of Preliminary Attachment and Examination of Bank Records****

Facts:

The case arose from a complaint filed by Sun Life Assurance Company of Canada against Emmanuel C. Oñate, Econ Holdings Corporation, Brunner Development Corporation, and Noel L. Diño for a sum of money with a request for the immediate issuance of a writ of attachment, designated as Civil Case No. 91-3506 and assigned to Branch 150 of the RTC Makati under Judge Zeus C. Abrogar. The court granted the writ on December 24, 1991, leading to attempts to serve summons and enforce attachment on January 3, 1992, followed by eventual service of summons on January 9 and 16, 1992. The petitioners filed to dissolve the writ of attachment, met with opposition from Sun Life seeking examination of certain bank accounts and properties. Despite attempts to nullify these proceedings and discharge attachment, Judge Abrogar denied these motions, leading to the escalation of the matter to the Supreme Court.

Issues:

1. Whether the issuance of the writ of preliminary attachment prior to the acquisition of jurisdiction over the defendants through service of summons was valid.
2. Whether the examination of bank records, without prior notice to defendants, was lawful and not in violation of banking laws.

Court's Decision:

1. ****On the Preliminary Attachment****: The Supreme Court upheld the trial court's issuance of the preliminary writ of attachment, reiterating that attachment can be granted "at the commencement of the action" or anytime thereafter, even before service of summons. The Court distinguished this case from precedents by noting attempts were made to serve both summons and the writ, showing this did not amount to a grave abuse of discretion.
2. ****On the Examination of Bank Records****: The Court dismissed the contention that examination of bank records was conducted illegally or in violation of banking secrecy laws. It pointed out that the given Rule and Banking Law provide for such examination where the deposited money is subject matter of litigation, emphasizing the procedure was correctly followed.

Doctrine:

The Supreme Court in this case reinforced the principle that a writ of preliminary

attachment can be validly issued before jurisdiction over the defendant is obtained through service of summons, based on the rationale provided in prior rulings. It also clarified that bank records can be examined in cases where the deposits are subject to litigation, without constituting a breach of confidentiality under banking laws.

Class Notes:

- Preliminary Attachment: Can be issued at the commencement of action, before service of summons, if substantive requisites under the law are met.
- Examination of Bank Records: Allowed without defendant's prior notice if the money deposited is the subject of litigation, conforming to Section 2 of Republic Act No. 1405, "in cases where the money deposited or invested is the subject matter of the litigation."
- Strategy to Lift Attachment: The defendant may discharge a writ of attachment through a cash deposit or posting a counter-bond equivalent to the attached property's value.

Historical Background:

The context of this legal contest underscores the tension between plaintiff's right to secure potential judgment through attachment and the defendant's right to due process and financial privacy. Amid evolving jurisprudence on procedural fairness and banking secrecy, this case contributes to the nuanced interpretation of existing rules governing preliminary remedies and access to bank records in litigation scenarios.