

RICARDO PRESBITERO, IN HIS CAPACITY AS EXECUTOR OF THE TESTATE ESTATE OF ESPIRIDION PRESBITERO, PETITIONER, VS. THE HON. JOSE F. FERNANDEZ, HELEN CARAM NAVA, AND THE PROVINCIAL ...

G.R. No. L-19527. March 30, 1963

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Petition for a writ of certiorari against the Court of First Instance of Negros Occidental.

It appears that during the lifetime of Espiridion Pres-bitero, judgment was rendered against him by the Court of Appeals on October 14, 1959, in CA-G. R. No. 20879.

"* * * to execute in favor of the plaintiff, within 30 days from, the time this judgment becomes final, a deed of reconveyance of Lot No. 78S of the cadastral survey of Valladolid, free from all: liens and encumbrances, and another deed of reconveyance of a 7-hectare portion of. Lot No.. 608 of the same cadastral survey, also free from all liens and encumbrances or upon failure to do so, to pay to the plaintiff the value "of each of the said properties, as may be determined by the Court a quo' upon evidence to be presented by the parties before it. The defendant is further adjudged to pay to the plaintiff the value of the products received by him from the 5-hectare portion equivalent to 20 cavans of palay per hectare every year, or 125 cavans yearly, at the rate of P10.00 per cavan, from 1951 until possession of the said 5 hectare portion is finally delivered, to the plaintiff with legal interest thereon from the time the complaint was filed; and to pay to the plaintiff the sum of P1,000.00 by way, of attorney's fees, plus costs."

This judgment, which became final, was a modification of a decision of the Court of First Instance of Negros Occidental, in its Civil Case No. 3492, entitled "Helen Caram Nava, plaintiff, versus Espiridion Presbitero, defendant". Thereafter, plaintiff's counsel, in a letter dated December 8, 1959, sought, in vain, to amicably settle the case through, petitioner's son, Ricardo Presbitero. When no response was forthcoming, said counsel asked for and the court a quo ordered on June 9, 1960, the issuance of a partial writ of execution for the sum of P12,250.00. On the following day, June 10, 1960 said counsel, in another friendly letter, reiterated his previous suggestion for an amicable settlement, but the same produced no fruitful result. Thereupon, on June 21, 1960, the sheriff levied upon and garnished the sugar quotas allotted to plantation audit Nos. 26-237, 26-238, 26-239, 26-240 and 26-241 adhered to the Ma-ao Mill District and "registered in the name of Espiridion Presbitero as the original plantation-owner", furnishing copies of the writ of execution and the notice of garnishment to the manager of the Ma-ao Sugar Central Company, Bago, Negros Occidental, and the Sugar Quota Administration at Bacolod City, but without presenting for registration copies thereof to the Register of Deeds.

Plaintiff Helen Caram Nava (herein respondent) then moved the court, on June 22, 1960, to hear evidence on the market value of the lots; and after, some hearings, occasionally protracted by postponements, the trial court, on manifestation of defendant's willingness to cede the properties in litigation, suspended the proceedings and ordered him to segregate the portion of Lot 608 pertaining to the plaintiff from the mass of properties belonging to

the defendant within a period to expire on August 24, 1960, and to effect the final conveyance of the said portion of Lot 608 and the whole of Lot Y88 free from any lien and encumbrance whatsoever. Because of Presbitero's failure to comply with this order within the time set forth by the court, the plaintiff again moved on August 25, 1960 to declare the market value of the lots in question to be P2,500.00 per hectare, based on uncontradicted evidence previously adduced. But the court, acting on a prayer of defendant Presbitero, in an order dated August 27, 1960, granted him twenty (20) days to finalize the survey of Lot 608, and ordered him to execute a reconveyance of Lot 788 not later, than August 31, 1960 Defendant again defaulted; and so plaintiff, on September 21, 1960, moved the court for payment by the defendant of the sum of P35,000.00 for the 14 hectares of land at P2,500.00 to the hectare, and the court, in its order dated September 24, 1960, gave the defendant until October 15, 1960 either to pay the value of the 14 hectares at the rate given or to deliver the clean titles of the lots. On October 15, 1960, the defendant finally delivered Certificate of Title No. T-28046 covering Lot 788, but not the title covering Lot 608 because of an existing encumbrance in favor of the Philippine National Bank. In view thereof, Helen Caram Nava moved for, and secured on October 19, 1960, a writ of execution for P17,500.00, and, on the day following wrote the sheriff to proceed with the auction sale of the sugar quotas previously scheduled for November 5, 1960. The sheriff issued the notice of auction sale on October 20, 1960.

On October 22, 1960, death overtook the defendant Espiridion Presbitero.

Proceedings for the settlement of his estate were commenced in Special Proceeding No. 2936 of the Court of First Instance of Negros Occidental; and, on November 4, 1960, the special administrator, Ricardo Presbitero, filed an urgent motion, in Case No. 3492, to set aside the writs of execution, and to order the sheriff to desist from holding the auction sale on the grounds that the levy on the sugar quotas was invalid because the notice thereof was not registered with the Register of Deeds, as for real property, and that the writs, being for sums of money, are unenforceable since Espiridion Presbitero died on October 22, 1960, and, therefore, could only be enforced as a money claim against his estate.

This urgent motion was heard on November 5, 1960, but the auction sale proceeded on the same date, ending in the plaintiff's putting up the highest bid for P34,970.11; thus, the sheriff sold 21,640 pieuis of sugar quota to her.

On November 10, 1960, plaintiff Nava filed her opposition to Presbitero's urgent motion of November 4, 1960; the latter filed on May 4, 1961 a supplement to his urgent motion; and on May 8 and 23, 1961, the court continued hearings on the motion, and ultimately denied it on November 18, 1961.

On January 11, 1962, plaintiff Nava also filed an urgent motion to order the Ma-ao Sugar Central to register the sugar quotas in her name and to deliver the rentals of these quotas corresponding to the crop year 1960-61 and succeeding years to her. The court granted this motion in its order dated February 3, 1962. A motion for reconsideration by Presbitero was denied in a subsequent order under date of March 5, 1962. Wherefore, Presbitero instituted the present proceedings for certiorari.

A preliminary restraining writ was thereafter issued by the court against the respondents from implementing the aforesaid orders of the respondent judge, dated February 3, 1960 and March 5, 1962, respectively. The petition further seeks the setting aside of the sheriff's certificate of sale of the sugar quotas made put in favor of Helen Caram Nava, and that she be directed to file the judgment credit in her favor in Civil Case No. 3492 as a money claim in the proceedings to settle the Estate of Espiridion Presbitero,

The petitioner denies having been personally served with notice of the garnishment of the sugar quotas, but this disclaimer cannot be seriously considered, since it appears that he was sent a copy of the notice through the chief of police of Valladolid on June 21, 1960, as certified to by the sheriff, and that he had actual knowledge of the garnishment, as shown by his motion of November 4, 1960 to set aside the writs of execution and to order the

sheriff to desist from holding the auction, sale.

Squarely at issue in this case is whether sugar quotas are real (immovable) or personal properties. If they be realty, then the levy upon them by the sheriff is null and void for lack of compliance with the procedure prescribed in Section 14, Rule 39, in relation with Section 7, Rule 59, of the Rules of Court, requiring "the filing with the register of deeds a copy of the orders together with a description of the property * * *"

In contending that sugar quotas are personal property, the respondent, Helen Caram Nava, invoked the test formulated by Manresa (3 Manresa, 6th Ed., 43), and opined that sugar quotas can be carried from place to place without injury to the land to which they are attached, and are not one of those included in Article 415 of the Civil Code, and not being thus included, they fall under, the category of personal properties, in accordance with No. 4 of Article 416, which provides:

"Art. 416. The following things are deemed to be personal property:

* * * * *

"4. In general, all things which can be transported from place to place without impairment of the real property to which they are fixed."

* * * * *

Respondent likewise points to evidence she submitted that sugar quotas are, in fact, transferred apart from the plantations to which they are attached, without impairing, destroying, or diminishing the potentiality of either quota or plantation. She was sustained by the lower court when it stated that "it is a matter of public knowledge and it is universal practice in this province, whose principal industry is sugar, to transfer by sale, lease, or otherwise, sugar quota allocations from one plantation to any other" and that it is "specious to insist that quotas are improvements attaching to one plantation when in truth and in fact they are no longer attached thereto for having been sold or leased away to be used in another plantation". Respondent would add weight to her argument by invoking the role that sugar quotas play in our modern social and economic life, and cites that the Sugar Quota Office does not require any registration with the Register of Deeds for the validity of the sale of these quotas; and, in fact, those here in question were not noted down in the certificate of title of the land to which they pertain; and that Eicardo Presbitero had leased sugar quotas independently of the land. The respondent cites further that the U. S. Philippine Trade Relations Act, approved by the United States Congress in 1946, limiting the production of unrefined sugar in the Philippines did not allocate the quotas for said unrefined sugar among lands planted to sugarcane but among "the sugar producing mills and plantation OWNERS", and for this reason Section 3 of Executive Order No. 873, issued by Governor General Murphy, authorizes the lifting of sugar allotments from one land to another by means only of notarized deeds.

While respondent's arguments are thought-provoking, they cannot stand against the positive mandate of the pertinent statute. The Sugar Limitation Law (Act 4166, as amended) provides—

"Sec. 9. The allotment corresponding to each piece of land under the provisions of this Act shall be deemed to be an improvement attaching to the land entitled thereto * * *"

and Republic Act No. 1825 similarly provides—

Sec. 4. The production allowance or quota corresponding to each piece of land under the provisions of this Act shall be deemed to be an improvement attaching to the land entitled thereto. * * *"

And Executive Order No. 873 defines "plantation" as follows:

"(a) The term 'plantation' means any specific area of land under sole or undivided ownership to which is attached an allotment of centrifugal sugar."

Thus, under express provisions of law, the sugar quota allocations are accessories to land, and can not have independent existence away from a plantation, although the latter, may vary. Indeed, this Court held in the case of *Abelardo Lopez, Jr. vs. Lopez*, 74 Phil. 844, that even if a contract of sale of haciendas omitted "the right, title, interest, participation, action (and) rent" which the grantors had then might have in relation to the parcels of land sold, the sale would include the quotas, it being provided in Section 9, Act 4166, that the allotment is deemed an improvement attached to the land, and that, at the time the contract of sale was signed, the lands devoted to sugar were practically of no use without the sugar allotment.

As an improvement attached to land, by express provision of law, though not physically so united, the sugar quotas are inseparable therefrom, just like servitudes and other real rights over an immovable. Article 415 of the Civil Code, in enumerating what are immovable properties,

"10. Contracts for public works, and servitudes and other real rights over immovable property? (italics supplied)

It is by law, therefore, that these properties are immovable or real, Article 416 of the Civil Code being made to apply only when the thing (res) sought to be classified is not included in Article 415.

The fact that the Philippine Trade Act of 1946 (U. S. Public Law 371-79th Congress) allows transfers of sugar quotas does not militate against their immovability. Neither does the fact that the Sugar Quota Office does not require registration of sales of quotas with the Register of Deeds for their validity; nor the fact that allocation of unrefined sugar quotas is not made among lands planted to sugarcane but among "the sugar, producing mills and plantation OWNERS" since the lease or sale of quotas are voluntary transactions, the regime, of which is not necessarily identical to involuntary transfers or levies; and there cannot be a sugar plantation owner without land to which the quota is attached"; and there can exist no quota without there being first a corresponding plantation

Since the levy is invalid for non-compliance with law, it is impertinent to discuss the survival or non-survival of claims after the death of the judgment debtor, gauged from the moment of actual levy. Suffice it to state that, as the case presently stands, the writs of execution are not in question, but the levy on the quotas, and, because of its invalidity, the levy amounts to no levy at all. Neither is it necessary, or desirable, to pass upon the conscionableness or unconscionableness of the amount produced in the auction sale as compared with the actual value of the quotas inasmuch as the sale must necessarily be also illegal.

As to the remedial issue that the respondents have presented: that certiorari does not lie in this case because the petitioner had a remedy in the lower court to "suspend" the auction sale, but did not avail thereof, it may be stated that the latter's urgent motion of November 4, 1960, a day before the scheduled sale (though unresolved by the court on time), did ask for desistance from holding the sale.

Wherefore, the preliminary injunction heretofore granted is hereby made permanent, and the sheriff's certificate of sale of the sugar quota in question declared null and void. Costs against respondent Nava.

Bengzon, C. J., Padilla, Labrador, Barrera, Paredes, Dizon, and Regala JJ., concur.

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