

PHILIPPINE NATIONAL RAILWAYS, PETITIONER, VS. UNION DE MAQUINISTAS, FOGONEROS Y MOTORMEN AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-31948. July 25, 1978

Ponente: FERNANDO, J.

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FERNANDO, J.:

The main issue posed in this certiorari proceeding, whether or not the funds of the Philippine National Railways could be garnished or levied upon on execution, was resolved in two recent decisions, *Philippine National Bank v. Court of Industrial Relations*,^[1] and *Philippine National Bank v. Honorable Judge Pabalan*.^[2] This Court, in both cases, answered the question in the affirmative. There was no legal bar to garnishment or execution. The argument based on the non-suability of a state allegedly because the funds are governmental in character was unavailing.^[3] So it must be again. The other ground alleged to justify a petition of this character, namely, that the assailed order of October 6, 1969 was contrary to a previous order made three years before, is equally lacking in solidity as a basis for the writ of certiorari prayed for. We dismiss the petition.

The facts set forth in the petition follow: "In an Order dated October 6, 1969 in Case No. 368-V entitled *Manila Railroad Company v. Union de Maquinistas, Fogoneros, Ayudantes y Motormen*, respondent CIR approved (1) Partial Report of Examiner dated April 22, 1969 covering the computation due Mr. Juan Mercado for the period January 1, 1952 to December 31, 1953 in the amount of P7, 608.66; (2) Partial Report of Examiner dated April 22, 1969 covering overtime compensation for one (1) year period due the motormen of the Philippine National Railways for the period January 1, 1956 to December 31, 1956 in the amount of P8,695.68; and (3) Report of Examiner dated August 12, 1969 covering overtime compensation for five (5) months (1955) due the Maquinistas and Fogoneros of the Philippine National Railways in the amount of P20,679.16, and directed the Philippine National Railways to deposit with respondent CIR the amounts involved in said Reports of Examiner within thirty (30) days from receipt of the order, for further disposition."^[4] Then came this allegation: "On October 16, 1969, your Petitioner filed Motion with respondent CIR in said Case No. 368-V praying that payment of the amounts mentioned in: (1) Partial Report of Examiner dated April 22, 1969 covering the computation due Mr. Juan Mercado for the period January 1, 1952 to December 31, 1953 in the amount of P7,608.66; (2) Partial Report of Examiner dated April 22, 1969 covering overtime compensation for one (1) year period due the motormen of the Philippine National Railways for the period January 1, 1956 to December 31, 1956 in the amount of P8,695.68; and (3) Report of Examiner dated August 12, 1969 covering overtime compensation for five (5) months (1955) due the Maquinistas and Fogoneros of the Philippine National Railways in the amount of P20,679.16, mentioned in the next preceding paragraph, be deferred in accordance with the Order of respondent CIR dated October 22, 1966 in Case No. 68-IPA."^[5] It was then asserted by petitioner that without passing on the motion of October 16, 1969, respondent Court of Industrial Relations issued a writ of execution for the amount of P36,983.50.^[6] There was a motion to lift the writ of execution but it was dismissed.^[7] It was followed by a motion for reconsideration but it was not successful either.^[8] Hence this petition.

To repeat, the petition lacks merit.

1. It is worth recalling that in the second Philippine National Bank cited at the outset, the grave abuse of discretion imputed to respondent Judge Pabalan was his issuance of a writ of execution followed thereafter by a notice of garnishment of the funds of the Philippine Virginia Tobacco Administration. This Court did not consider as lacking in validity such an actuation. It does not suffice for the constitutional principle of non-suability to come into play just because the funds are governmental in character. The opinion explained why: "The alleged grave abuse of discretion, the basis of this certiorari proceeding, was sought to be justified on the failure of respondent Judge to set aside the notice of garnishment of funds belonging to respondent Philippine Virginia Tobacco Administration. This excerpt from the aforecited decision of Philippine National Bank v. Court of Industrial Relations makes manifest why such an argument is far from persuasive. 'The premise that the funds could be spoken of as public in character may be accepted in the sense that the People's Homesite and Housing Corporation was a government-owned entity. It does not follow though that they were exempt from garnishment. National Shipyard and Steel Corporation v. Court of Industrial Relations is squarely in point. As was explicitly stated in the opinion of the then Justice, later Chief Justice, Concepcion: "The allegation to the effect that the funds of the NASSCO are public funds of the government, and that, as such, the same may not be garnished, attached or levied upon, is untenable for, as a government-owned and controlled corporation, the NASSCO has a personality of its own, distinct and separate from that of the Government. It has — pursuant to Section 2 of Executive Order No. 356, dated October 23, 1950 * * *, pursuant to which the NASSCO has been established — 'all the powers of a corporation under the Corporation Law * * *.' Accordingly, it may sue and be sued and may be subjected to court processes just like any other corporation (Section 13, Act No. 1459, as amended.)" * * * To repeat, the ruling was the appropriate remedy for the prevailing party which could proceed against the funds of a corporate entity even if owned or controlled by the government.'" [9] There is this equally relevant paragraph found in that decision: "The National Shipyard and Steel Corporation decision was not the first of its kind. The ruling therein could be inferred from the judgment announced in Manila Hotel Employees Association v. Manila Hotel Company, decided as far back as 1941. In the language of its ponente, Justice Ozaeta: 'On the other hand, it is well-settled that when the government enters into commercial business, it abandons its sovereign capacity and is to be treated like any other corporation. (Bank of the United States v. Planters' Bank, 9 Wheat. 904, 6 L. ed. 244). By engaging in a particular business thru the instrumentality of a corporation, the government divests itself pro hac vice of its sovereign character, so as to render the corporation subject to the rules of law governing private corporations.' It is worth mentioning that Justice Ozaeta could find support for such a pronouncement from the leading American Supreme Court case of United States v. Planters' Bank with the opinion coming from the illustrious Chief Justice Marshall. It was handed down more than one hundred fifty years ago, 1824 to be exact. It is apparent, therefore, that petitioner Bank could not legally set forth as a bar or impediment to a notice of garnishment the doctrine of non-suability.'" [10]

2. Equally so, the contention that respondent Court of Industrial Relations committed a grave abuse of discretion when it issued the assailed order of October 6, 1969 due to its alleged inconsistency with a previous order of three years before, deferring the payment of certain obligations of petitioner in view of its poor financial condition, is far from tenable. It does not admit of doubt that as a matter of law, a later order could supersede one previously issued — especially so, after some time had elapsed with due regard to altered conditions. An even more conclusive indication that there was no grave abuse of discretion may be apparent from the facts as set forth in the petition itself. The order now sought to be set aside merely directed that the total sum of P36, 983, 50 be subject to execution, there being no question that the payments decreed to the personnel involved had reached the stage of finality, one in the amount of P7,608.66, another in the amount of P8,695.68, and the third in the amount of P20,679.16, the last two sums covering overtime compensation for the motormen, the maquinistas and the

fogoneros of petitioner. The previous order referred to provided for deferment of the satisfaction of certain obligations of petitioner, in the sizeable amounts of P454,283.70, P354,473.31, P145,191.33, P940,350.85, payable to certain counsel of record.[11] Certainly, considering such enormous sums, it was reasonable if in 1966, petitioner was able to secure such deferment in view of its then precarious financial condition. What is important to bear in mind was that three years had elapsed. Conditions could have changed. Moreover, what was ordered by respondent Court was merely for petitioner to make long overdue payments to its personnel as required both by statute and Constitution in amounts that could hardly pose the financial drain on its treasury, unlike the claims specified in the 1966 order, one of which was in the staggering sum of close to a million pesos. That was in conformity with both the social justice and protection to labor norms binding on all government agencies. Still another mode of looking at the matter, also adverse to pretension of petitioner, is that the later order was dictated by a factual appraisal which this Court must leave undisturbed.

WHEREFORE, the petition for certiorari is dismissed for lack of merit.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] L-32667, January 31, 1978.

[2] L-33112, June 15, 1978.

[3] Under the present Charter a fundamental doctrine implicit in constitutional law is made explicit in Article XV, Section 16. It is worded thus: "The State may not be sued without its consent."

[4] Petition, par. 2.

[5] Ibid, par. 3.

[6] Ibid, par. 4.

[7] Ibid, pars. 5 and 6.

[8] Ibid, pars. 7 and 8.

[9] Philippine National Bank v. Hon. Judge Javier Pabalan, 3-4. The National Shipyard and Steel Corporation decision was promulgated as far back as 1963 and reported in 118 Phil. 782.

[10] Ibid, 4-5. The Manila Hotel decision is reported in 73 Phil. 374.

[11] Petition, 7.

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