

ADOLFO L. SANTOS, PETITIONER, VS. ABRAHAM SIBUG AND COURT OF APPEALS, RESPONDENTS.*G.R. No. L-26815. May 26, 1981*

Ponente: MELENCIO-HERRERA, J.

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The controversy in this case will be resolved on the basis of the following facts and expositions. Prior to April 26, 1963 (the ACCIDENT DATE), Vicente U. Vidad (VIDAD, for short) was a duly authorized passenger jeepney operator. Also prior to the ACCIDENT DATE, petitioner Adolfo L. Santos (SANTOS, for short) was the owner of a passenger jeep, but he had no certificate of public convenience for the operation of the vehicle as a public passenger jeep. SANTOS then transferred his jeep to the name of VIDAD so that it could be operated under the latter's certificate of public convenience. In other words, SANTOS became what is known in ordinary parlance as a kabit operator. For the protection of SANTOS, VIDAD executed a re-transfer document to the former, which was to be a private document presumably to be registered if and when it was decided that the passenger jeep of SANTOS was to be withdrawn from the kabit arrangement.

On the ACCIDENT DATE, private respondent Abraham Sibug (SIBUG, for short) was bumped by a passenger jeepney operated by VIDAD and driven by Severo Gragas. As a result thereof, SIBUG filed a complaint for damages against VIDAD and Gragas with the Court of First Instance of Manila, Branch XVII, then presided by Hon. Arsenio Solidum. That Civil Case will hereinafter be referred to as the BRANCH XVII CASE.

On December 5, 1963, a judgment was rendered by Branch XVII, sentencing VIDAD and Gragas, jointly and severally, to pay SIBUG the sums of P506.20 as actual damages; P3,000.00 as moral damages; P500.00 as attorney's fees, and costs.[1]

On April 10, 1964, the Sheriff of Manila levied on a motor vehicle, with Plate No. PUJ-343-64, registered in the name of VIDAD, and scheduled the public auction sale thereof on May 8, 1964.

On April 11, 1964, SANTOS presented a third-party claim with the Sheriff alleging actual ownership of the motor vehicle levied upon, and stating that registration thereof in the name of VIDAD was merely to enable SANTOS to make use of VIDAD's Certificate of Public Convenience. After the third-party complaint was filed, SIBUG submitted to the Sheriff a bond issued by the Philippine Surety Insurance Company (THE BONDING COMPANY, for short), to save the Sheriff from liability if he were to proceed with the sale and if SANTOS' third-party claim should be ultimately upheld.

On April 22, 1964, that is, before the scheduled sale of May 8, 1964, SANTOS instituted an action for Damages and Injunction with a prayer for Preliminary Mandatory Injunction against SIBUG; VIDAD; and the Sheriff in Civil Case No. 56842 of Branch X, of the same Court of First Instance of Manila (hereinafter referred to as the BRANCH X CASE). The complaint was later amended to include the BONDING COMPANY as a party defendant although its bond had not become effective. In the Complaint, SANTOS alleged essentially that he was the actual owner of the motor vehicle subject of levy; that a fictitious Deed of Sale of said motor vehicle was

executed by him in VIDAD's favor for purposes of operating said vehicle as a passenger jeepney under the latter's franchise; that SANTOS did not receive any payment from VIDAD in consideration of said sale; that to protect SANTOS' proprietary interest over the vehicle in question, VIDAD in turn had executed a Deed of Sale in favor of SANTOS on June 27, 1962; that SANTOS was not a party in the BRANCH XVII CASE and was not in any manner liable to the registered owner VIDAD and the driver Gragas; that SANTOS derived a daily income of P30.00 from the operation of said motor vehicle as a passenger jeepney and stood to suffer irreparable damage if possession of said motor vehicle were not restored to him. SANTOS then prayed that 1) pending trial, a Writ of Preliminary Mandatory Injunction be issued ex-parte commanding the Sheriff of Manila to restore the motor vehicle to him and that the Sheriff be enjoined from proceeding with its sale; 2) that, after trial, the Deed of Sale in favor of VIDAD be declared absolutely fictitious and, therefore, null and void, and adjudging SANTOS to be the absolute owner of the vehicle in question; and 3) that damages be awarded to SANTOS as proven during the trial plus attorney's fees in the amount of P450.00 and costs.[2]

No public sale was conducted on May 8, 1964. On May 11, 1964, Branch X issued a Restraining Order enjoining the Sheriff from conducting the public auction sale of the motor vehicle levied upon.[3] The Restraining Order was issued wrongfully. Under the provisions of Section 17, Rule 39, the action taken by the Sheriff cannot be restrained by another Court or by another Branch of the same Court. The Sheriff has the right to continue with the public sale on his own responsibility, or he can desist from conducting the public sale unless the attaching creditor files a bond securing him against the third-party-claim. But the decision to proceed or not with the public sale lies with him. As said in *Uy-Piaoco vs. Osmeña*, 9 Phil. 299, 307, "the powers of the Sheriff involve both discretionary power and personal liability." The mentioned discretionary power and personal liability have been further elucidated in *Planas and Verdon vs. Madrigal & Co., et al.*, 94 Phil. 754, where it was held.

"The duty of the sheriff in connection with the execution and satisfaction of judgment of the court is governed by Rule 39 of the Rules of Court. Section 15 thereof provides for the procedure to be followed where the property levied on execution is claimed by a third person. If the third-party claim is sufficient, the sheriff, upon receiving it, is not bound to proceed with the levy of the property, unless he is given by the judgment creditor an indemnity bond against the claim (*Mangaoang vs. Provincial Sheriff*, 91 Phil., 368). Of course, the sheriff may proceed with the levy even without the indemnity bond, but in such case he will answer for any damages with his own personal funds (*Waite vs. Peterson, et al.*, 8 Phil., 419; *Alzua, et al. vs. Johnson*, 21 Phil., 308; *Consulta No. 341 de los abogados de Smith, Bell & Co.*, 48 Phil., 565). And the rule also provides that nothing therein contained shall prevent a third person from vindicating his claim to the property by any proper action (Sec. 15 of Rule 39)."

It appears from the above that if the attaching creditor should furnish an adequate bond, the Sheriff has to proceed with the public auction. When such bond is not filed, then the Sheriff shall decide whether to proceed, or to desist from proceeding, with the public auction. If he decides to proceed, he will incur personal liability in favor of the successful third-party claimant.

On October 14, 1965, Branch X affirmed SANTOS' ownership of the jeepney in question based on the evidence adduced, and decreed:

"WHEREFORE, judgment is hereby rendered, enjoining the defendants from proceeding with the sale of the vehicle in question ordering its return to the plaintiff and furthermore sentencing the defendant Abraham Sibug to pay the plaintiff the sum of P15.00 a day from April 10, 1964 until the vehicle is returned to him, and P500.00 as attorney's fees as well as the costs." [4]

This was subsequently amended on December 5, 1965, upon motion for reconsideration filed by SANTOS, to include the BONDING COMPANY as jointly and severally liable with SIBUG,[5]

"x x x provided that the liability of the Philippine Surety & Insurance Co., Inc. shall in no case exceed P6,500.00. Abraham Sibug is further-more condemned to pay the Philippine Surety & Insurance Co., Inc., the same sums it is ordered to pay under this decision"

The judgment in the BRANCH X CASE appears to be quite legally unpalatable. For instance, since the undertaking furnished to the Sheriff by the BONDING COMPANY did not become effective for the reason that the jeep was not sold, the public sale thereof having been restrained, there was no reason for promulgating judgment against the BONDING COMPANY. It has also been noted that the Complaint against VIDAD was dismissed.

Most important of all, the judgment against SIBUG was inequitable. In asserting his rights of ownership to the vehicle in question, SANTOS candid-ly admitted his participation in the illegal and pernicious practice in the transportation business known as the kabit system. Sec. 20 (g) of the Public Service Act, then the applicable law, specifically provided:

"x x x it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had--- x x x (g) to sell, alienate, mortgage, encumber or lease its property, franchise, certificates, privileges, or rights, or any part thereof."

In this case, SANTOS had fictitiously sold the jeepney to VIDAD, who had become the registered owner and operator of record at the time of the accident. It is true that VIDAD had executed a re-sale to SANTOS, but the document was not registered. Although SANTOS, as the kabit, was the true owner as against VIDAD, the latter, as the registered owner/operator and grantee of the franchise, is directly and primarily responsible and liable for the damages caused to SIBUG, the injured party, as a consequence of the negligent or careless operation of the vehicle.[6] This ruling is based on the principle that the operator of record is considered the operator of the vehicle in contemplation of law as regards the public and third persons[7] even if the vehicle involved in the accident had been sold to another where such sale had not been approved by the then Public Service Commission.[8] For the same basic reason, as the vehicle here in question was registered in VIDAD's name, the levy on execution against said vehicle should be enforced so that the judgment in the BRANCH XVII CASE may be satisfied, notwithstanding the fact that the secret ownership of the vehicle belonged to another. SANTOS, as the kabit, should not be allowed to defeat the levy on his vehicle and to avoid his responsibilities as a kabit owner for he had led the public to believe that the vehicle belonged to VIDAD. This is one way of curbing the pernicious kabit system that facilitates the commission of fraud against the travelling public.

As indicated in the Erezco case, supra, SANTOS' remedy, as the real owner of the vehicle, is to go against VIDAD, the actual operator who was responsible for the accident, for the recovery of whatever damages SANTOS may suffer by reason of the execution. In fact, if SANTOS, as the kabit, had been impleaded as a party defendant in the BRANCH XVII CASE, he should be held jointly and severally liable with VIDAD and the driver for damages suffered by SIBUG,[9] as well as for exemplary damages.[10]

From the judgment in the BRANCH X CASE, SIBUG appealed. Meanwhile, SANTOS moved for immediate execution. SIBUG opposed it on the ground that Branch X had no jurisdiction over the BRANCH XVII CASE, and that Branch X had no power to interfere by injunction with the judgment of Branch XVII, a Court of concurrent or coordinate jurisdiction.[11]

On November 13, 1965, Branch X released an order authorizing immediate execution on the theory that the BRANCH X CASE is "principally an action for the issuance of a writ of prohibition to forbid the Sheriff from selling at public auction property not belonging to the judgment creditor (sic) and there being no attempt in this case to interfere with the judgment or decree of another court of concurrent jurisdiction." [12]

Without waiting for the resolution of his Motion for Reconsideration, SIBUG sought relief from respondent Appellate Court in a Petition for Certiorari with Preliminary Injunction. On November 18, 1965, respondent Court of Appeals enjoined the enforcement of the Branch X Decision and the Order of execution issued by said Branch.[13] On September 28, 1966, respondent Court of Appeals rendered the herein challenged Decision nullifying the judgment rendered in the Branch X Case and permanently restraining Branch X from taking cognizance of the BRANCH X CASE filed by SANTOS. It ruled that:

"x x x the respondent Court Branch X, indeed, encroached and interfered with the judgment of Branch XVII when it issued a restraining order and finally a decision permanently en-joining the other court from executing the decision rendered in Civil Case No. 54335. This to our mind constitutes an interference with the powers and authority of the other court having co-equal and coordinate jurisdiction. To rule otherwise, would indubitably lead to confusion which might hamper or hinder the proper administration of justice. xxx"[14]

Respondent Court further held that SANTOS may not be permitted to prove his ownership over a particular vehicle being levied upon but registered in another's name in a separate action, observing that:

"As the vehicle in question was registered in the name of Vicente U. Vidad, the government or any person affected by the representation that said vehicle is registered under the name of a particular person had the right to rely on his declaration of ownership and registration; and the registered owner or any other person for that matter cannot be permitted to repudiate said declaration with the objective of proving that said registered vehicle is owned by another person and not by the registered owner (sec. 68, (a), Rule 123, and art. 1431, New Civil Code)"

x x x x

"Were we to allow a third person to prove that he is the real owner of a particular vehicle and not the registered owner it would in effect be tantamount to sanctioning the attempt of the registered owner of the particular vehicle in evading responsibility for it cannot be dispelled that the door would be opened to collusion between a person and a registered owner for the latter to escape said responsibility to the public or to any person. x x x"

SANTOS now seeks a review of respondent Court's Decision contending that:

- 1) The respondent Court of Appeals erred in holding that Branch X of the Court of First Instance of Manila has no jurisdiction to restrain by Writ of Injunction the auction sale of petitioner's motor vehicle to satisfy the judgment indebtedness of another person;
- 2) The respondent Court of Appeals erred in holding that petitioner as owner of a motor vehicle that was levied upon pursuant to a Writ of Execution issued by branch XVII of the Court of First Instance of Manila in Civil Case No. 54335 cannot be allowed to prove in a separate suit filed in Branch X of the same court (Civil Case No. 56842) that he is the true owner of the said motor vehicle and not its registered owner;
- 1) The respondent Court of Appeals erred in declaring null and void the decision of the Court of First Instance of Manila (Branch X) in Civil Case No. 56482.

We gave due course to the Petition for Review on Certiorari on December 14, 1966 and considered the case submitted for decision on July 20, 1967.

One of the issues ventilated for resolution is the general question of jurisdiction of a Court of First Instance to issue, at the instance of a third-party claimant, an Injunction restraining the execution sale of a passenger jeepney levied upon by a judgment creditor in another Court of First Instance. The corollary issue is whether or not the third-party claimant has a right to vindicate his claim to the vehicle levied upon through a separate action.

Since this case was submitted for decision in July, 1967, this Court, in *Arabay, Inc. vs. Hon. Serafin Salvador*, [15]

speaking through Mr. Justice Ramon Aquino, succinctly held:

"It is noteworthy that, generally, the rule, that no court has authority to interfere by injunction with the judgments or decrees of a concurrent or coordinate jurisdiction having equal power to grant the injunctive relief, is applied in cases, where no third-party claimant is involved, in order to prevent one court from nullifying the judgment or process of another court of the same rank or category, a power which devolves upon the proper appellate court."

x x x x x

"When the sheriff, acting beyond the bounds of his authority, seizes a stranger's property, the writ of injunction, which is issued to stop the auction sale of that property, is not an interference with the writ of execution issued by another court because the writ of execution was improperly implemented by the sheriff. Under that writ, he could attach the property of the judgment debtor. He is not authorized to levy upon the property of the third-party claimant (*Polaris Marketing Corporation vs. Plan*, L-40666, January 22, 1976, 69 SCRA 93, 97; *Manila Herald Publishing Co., Inc. vs. Ramos*, 88 Phil. 94, 102)."

An earlier case, *Abiera vs. Hon. Court of Appeals, et al.*,^[16] explained the doctrine more extensively:

"Courts; Jurisdiction; Courts without power to interfere by injunction with judgments or decrees of a court of concurrent jurisdiction. ? No court has power to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction.

"Same; Same; Same; When applicable.? For this doctrine to apply, the injunction issued by one court must interfere with the judgment or decree issued by another court of equal or coordinate jurisdiction and the relief sought by such injunction must be one which could be granted by the court which rendered the judgment or issued the decree.

"Same; Same; Same; Exception; Judgment rendered by another court in favor of a third person who claims property levied upon on execution. - Under section 17 of Rule 39 a third person who claims property levied upon on execution may vindicate such claim by action. A judgment rendered in his favor - declaring him to be the owner of the property - would not constitute interference with the powers or processes of the court which rendered the judgment to enforce which the execution was levied. If that be so - and it is so because the property, being that of a stranger, is not subject to levy - then an interlocutory order, such as injunction, upon a claim and prima facie showing of ownership by the claimant, cannot be considered as such interference either.

"Execution; Where property levied on claimed by third person; 'Action' in section 17, Rule 39 of the Rules of Court, interpreted. ? The right of a person who claims to be the owner of property levied upon on execution to file a third-party claim with the sheriff is not exclusive, and he may file an action to vindicate his claim even if the judgment creditor files an indemnity bond in favor of the sheriff to answer for any damages that may be suffered by the third party claimant. By 'action', as stated in the Rule, what is meant is a separate and independent action."

Applied to the case at bar, it will have to be held that, contrary to the rationale in the Decision of respondent Court, it was appropriate, as a matter of procedure, for SANTOS, as an ordinary third-party claimant, to vindicate his claim of ownership in a separate action under Section 17 of Rule 39. And the judgment rendered in his favor by Branch X, declaring him to be the owner of the property, did not as a basic proposition, constitute interference with the powers or processes of Branch XVII which rendered the judgment, to enforce which the jeepney was levied upon. And this is so because property belonging to a stranger is not ordinarily subject to levy. While it is true that the vehicle in question was in custodia legis, and should not be interfered with without the permission of the proper Court, the property must be one in which the defendant has proprietary interest. Where the Sheriff

seizes a stranger's property, the rule does not apply and interference with his custody is not interference with another Court's Order of attachment.[17]

However, as a matter of substance and on the merits, the ultimate conclusion of respondent Court nullifying the Decision of Branch X permanently enjoining the auction sale, should be upheld. Legally speaking, it was not a "stranger's property" that was levied upon by the Sheriff pursuant to the judgment rendered by Branch XVII. The vehicle was, in fact, registered in the name of VIDAD, one of the judgment debtors. And what is more, the aspect of public service, with its effects on the riding public, is involved. Whatever legal technicalities may be invoked, we find the judgment of respondent Court of Appeals to be in consonance with justice.

WHEREFORE, as prayed for by private respondent Abraham Sibug, the petition for review on certiorari filed by Adolfo L. Santos is dismissed, with costs against the petitioner.

SO ORDERED.

Makasiar, Guerrero, and De Castro*, JJ., concur.
Teehankee, J., (Chairman), in the result.

[1] p. 82, Court of Appeals Rollo.

[2] pp. 14-17, *ibid.*

[3] p. 23, *ibid.*

[4] pp. 30-31, *ibid.*

[5] p. 44, Supreme Court Rollo.

[6] *Erezo, et al. vs. Jepte*, 102 Phil. 103; *Perez vs. Gutierrez*, 53 SCRA 149 (1973).

[7] *Vargas vs. Langcay*, 6 SCRA 174 (1962).

[8] *Erezo vs. Jepte*, *supra*.

[9] *Dizon vs. Octavio & Gamu*, 51 O.G. 4059; see *Zamboanga Transportation Co., Inc. vs. Court of Appeals*, 30 SCRA 718 (1969).

[10] *Cañares, et al. vs. Arias, et al.*, Vol. 1 CA Reports, 1961.

[11] pp. 34-42, Court of Appeals Rollo.

[12] pp. 46-47, *ibid.*

[13] pp. 88-89, *ibid.*

[14] p. 16, Supreme Court Rollo.

[15] 82 SCRA 138 (1978).

[16] 45 SCRA 314 (1972).

[17] *Manila Herald Publishing Co., Inc. vs. Ramos*, 88 Phil. 94 (1951).

* Justice Pacifico P. de Castro was designated to sit in the First Division, vice Justice Ramon C. Fernandez who is

on leave.

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