

JOSE BELEY, IN HIS CAPACITY AS REGISTRAR OF THE MOTOR VEHICLES OFFICE. NUEVA ECIJA AGENCY, PETITIONER, VS. HON. GENARO TAN TORRES, AS JUDGE OF THE COURT OF FIRST INSTANCE OF NUE...

G.R. No. L-17689. January 30, 1962

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is a petition for certiorari with preliminary injunction to review and reverse an order of the Court of First Instance of Nueva Ecija, Hon. Genaro Tan Torres, presiding, dated October 20, 1960, issued in Civil Case No. 0446, entitled "Felix B. Marbella, plaintiff, versus Jose A. Tan, Felipe Villa juan, Pacifico Mendoza and Elpidio A. Tangunan, defendants" ordering Jose Beley, petitioner herein in his capacity as Registrar of the Motor Vehicles Office of Cabanatuan City, to return to the respondents herein Felix B. Marbella Plate No. T-30271 and to Quirico Curamen his driver's license, within 10 days from receipt of the order.

On May 9, 1960, Felix B. Marbella instituted said Civil Case No. 3446 in the Court of First Instance of Nueva Ecija against Chief of Police Jose A. Tan, Mayor Felipe Villajuan, Police Sgt. Pacifico Mendoza and Patrolman Elpidio A. Tangunan, all of Rizal, Nueva Ecija, alleging that the defendants have illegally detained a truck with ten tires and its plate No. T-30371, Nueva Ecija 1960 and praying for their release and for damages for their alleged illegal seizure and detention. Upon motion of respondent herein Marbella on May 17, 1960, and filing a bond, said truck was ordered released by the lower court.

However, on May 25, 1960, the defendants Jose A. Tan and Pacifico Mendoza again tried to seize said truck but succeeded in taking only its plate number and the license of its driver Quirico Curamen. Consequently, respondent Marbella filed a criminal action against said defendants Tan and Mendoza for grave coercion with the Provincial Fiscal, which case is still pending action.

On July 5, 1960, plaintiff Marbella's counsel filed a motion with the lower court, in the aforementioned Civil Case No. 3446, for the release by the defendants or by the Registrar of the Motor Vehicles Office of said plate number and driver's license. (Note that neither the Registrar nor Quirico Curamen, the driver was a party to Civil Case No. 3446). Acting upon said motion, the lower court on September 7, 1960, issued an order directing the defendants and German Magno, Registrar of the Motor Vehicles Office at Cabanatuan City, to return to the plaintiff Marbella and to Quirico Curamen said plate number and driver's license. On September 15, 1960, plaintiff moved to amend said order in that it should be directed to Jose Beley, petitioner herein, instead of to German Magno, because the latter has ceased to be the Registrar of the Motor Vehicles Office and that he was changed by the former.

On September 22, 1960, the Registrar, petitioner herein, through the Assistant Provincial Fiscal, filed a special appearance in said Civil Case No. 3446, only for the purpose of objecting to the jurisdiction of the lower court to issue said order to him. He also asked for a reconsideration of the order of the lower court dated September 7, 1960 and furthermore objected to the motion for amendment filed by plaintiff Marbella. Petitioner herein claimed

in his objection that the lower court had not acquired jurisdiction either over his person or of his predecessor in office, German Magno. On October 20, 1960, the lower court denied the objection of the Registrar and amended its order of September 7, 1960, in the manner prayed for in plaintiff Marbella's motion. Consequently, Registrar Jose Beley filed the present petition with this Court.

The sole issue in this appeal refers to the validity of the order of the lower court dated October 20, 1960, insofar as it orders the petitioner herein to return to the respondent Marbella the aforesaid plate number and driver's license.

We have examined the records of the case filed in the court below and we have found that the cause of action of said case, as contained in the complaint, is the seizure and detention of the truck, its plate number and 10 tires on April 28, 1960, while the act complained of in plaintiff Marbella's motion of July 5, 1960, is the seizure of said plate number and driver's license on May 25, 1960. The two incidents complained of are entirely different from each other.

The motion for the release of the license plate and driver's license dated July 5, 1950, copy of which motion is attached to the answer of the respondents, makes the following allegation in its paragraph 1.

"1. That on May 25, 1960, the defendants, Jose A. Tan, Jr., and Pacifico Mendoza, seized the plates of the truck of the plaintiff, with number T-30271; that on the same occasion, the same defendants also seized the driver's license of the driver of the plaintiff, Quirico Curaxneri; * * *." (Annex VI).

The facts alleged in the answer to the motion to release may be briefly stated as follows: When the defendant Jose Tan learned that the truck impounded in April, 1960 belonged to Marbella, plaintiff, Tan asked Marbella to explain why the plate of the truck was not displayed at the back part thereof; that by reason of the non-display of the plate at the back of the truck Marbella was accused before the Justice of the peace court of Rizal, Nueva Ecija; that even upon the delivery of the truck to plaintiff Marbella, by order of the court, the said plate had not been delivered to Jose Tan; that the reason for the failure or refusal of Marbella to deliver the plate as demanded was due to the fact that, as found out later, upon verification from the Motor Vehicles Office, Cabanatuan City, the truck was not registered during the current year 1960, although it bore plate No. T-30371 1960 in the name of Agripina Vidal of San Jose, a plate which was reported as having been lost in the Motor Vehicles Office, etc.

It is apparent from the above circumstances, therefore, that the plate and license number of the truck, which were ordered in the court's order now subject of the petition to be delivered back to Marbella, were taken by Tan because the truck had not been registered and was using a plate for a vehicle registered in the name of Agripina Vidal of San Jose, Nueva Ecija, in violation of Section 36 of the Motor Vehicle Law. The confiscation of the plate and the driver's license was, therefore, due to a violation of the Motor Vehicle Law by Marbella, for operating a vehicle on the public highways without the corresponding certificate of registration and plates (Sec. 21, *Ibid*). The plate was evidently a stolen plate and the same was being used by Marbella for a truck of his own which was not registered.

The law furthermore permits the retention by the police or by the public prosecuting officer of the thing stolen, or anything which may be used as proof of the commission of the offense (Section 12, Rule 122, Rules of Court).

The license plate in question was the object which was stolen from the truck of Agripina Vidal and at the same time constitutes evidence that Marbella was using a stolen plate on his truck that was operating on the highways. The retention of the driver's license was also justified in view of the fact that the truck was found being used with a stolen plate, and the driver's license, is to be utilized as evidence against the driver of the truck.

The above circumstances certainly justify the employee of the Motor Vehicles Office at Cabanatuan City to

impound the plate and the driver's license, and the judge below should have refused to order the return of the articles, which were lawfully confiscated and lawfully retained by the predecessor of the petitioner herein.

One other point may be considered, and that is, the claim of the petitioner herein that since Beley was not a party to the original action, and neither was his predecessor in interest, the order in question for the delivery to Marbella of the license plate and the driver's license is beyond the jurisdiction of the court. The objection is a technical one. We prefer to base our decision in the case on the ground that petitioner herein had the right to retain possession of the articles mentioned because they are the instruments of an offense or evidence thereof.

Wherefore, the writ is hereby issued, the order subject of the petition set aside, and the articles subject of the petition ordered to be returned to the petitioner. With costs against the respondent Felix B. Marbella.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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