

**NATIONAL MINES AND ALLIED WORKERS' UNION, THE
PROVINCIAL SHERIFF OF CAMARINES NORTE AND DEPUTY SHERIFF
OF RIZAL, PETITIONERS, VS. HONORABLE ISIDORO A. VERA,
PRESIDING JUDGE, BRA...**

G.R. No. L-44230. November 09, 1984

Ponente: CUEVAS, J.

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CUEVAS, J.:

The instant petition for CERTIORARI seeks to review and set aside the Order of the Honorable respondent Judge of the Court of First Instance of Camarines Norte, Branch II, dated June 1, 1976, denying petitioners' Motion to Dismiss Civil Case No. 2749 on jurisdictional ground.

The petitioner labor union, National Mines and Allied Workers' Union, (NAMAWU) was the complainant in an unfair labor practice suit against the Philippine Iron Mines filed before the National Labor Relations Commission (NLRC) and docketed thereat as NLRC Case No. RB-IV-3322-75 (RO4-11-9065-75). Pursuant to a judgment dated December 22, 1975 obtained by the petitioners in the said case, the dispositive portion of which reading —

"WHEREFORE, respondent PHILIPPINE IRON MINES, INC., is hereby ordered to pay to the complainant NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWU-MIF) the sum of FOUR MILLION TWO HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED SEVEN PESOS AND SEVENTY-SEVEN CENTAVOS (P4,298,307.77) representing severance pay, educational allowance, accrued vacation leave earned but not enjoyed due to the Company's workers and employees (appearing in the listings in Exhibits "B". "B-1" to "B-41*" and "C", inclusive) as provided in the Collective Bargaining Agreement (Exhibit "D"). Workmen's Compensation awards not yet settled or liquidated, and unpaid wages and salaries covered by Article 108 of the New Labor Code of the Philippines (Presidential Decree No. 442), and to pay the fees and costs."

NAMAWU secured a writ of execution against the Philippine Iron Mines. The writ reads as follows —

"NOW, THEREFORE, WE COMMAND you that of the goods and chattels of PHILIPPINE IRON MINES, INC., you cause to be made good the sum of FOUR MILLION TWO HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED SEVEN PESOS AND SEVENTY- SEVEN CENTAVOS (P4,298,307.77), Philippine Currency, together with your lawful fees for service of this execution, all in money of the Philippines, which NATIONAL MINES AND ALLIED WORKERS' UNION (recovered in the National Labor Relations Commission) on December 22, 1975, as above-stated; and that you render the same to said NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWU- MIF), aside from your own fees on this execution, and to likewise return this writ unto this Commission within sixty (60) days from the date of receipt hereof with your proceedings indorsed hereon.[1]

When this writ of execution could not be satisfied out of the judgment debtor's assets in Rizal, the NLRC, at the instance of NAMAWU, appointed Deputy Sheriffs Victor Sta. Ana and Pablo Sy of the Office of the Provincial Sheriff of Rizal as special sheriffs "to enforce and execute the decision of December 22, 1975 upon real and

personal properties of the respondent (the Philippine Iron Mines) at Larap, Jose Panganiban, Camarines Norte." [2] Thereupon, the aforementioned special sheriffs levied on various properties enumerated in a "List of Levied Properties submitted by the complainant (NAMAWU)" [3] and scheduled the sale thereof at public auction on March 16, 1976. [4]

It appears, however, that prior to the rendition of the judgment on December 22, 1975 in NLRC Case No. RB-IV-3322-75, the properties levied by the NLRC's special sheriffs and set to be auctioned on March 16, 1976, had been purchased by the herein private respondents, the Manila Banking Corporation and Philippine Commercial and Industrial Bank, in an auction sale conducted by the Provincial Sheriff of Camarines Norte on December 20, 1975, pursuant to a foreclosure proceedings duly instituted over the said properties. A Certificate of Sale evidencing this transaction was duly issued to herein private respondents. [5] It is because of this foreclosure sale that NAMAWU instituted before respondent trial court, Civil Case No. 2727, entitled "NAMAWU vs. the Manila Banking Corporation and the Philippine Commercial and Industrial Bank," for the purpose of annulling the foreclosure proceedings and subsequent auction of all the mortgaged properties of the Philippine Iron Mines conducted on December 20, 1975. [6] Said annulment suit is still pending before respondent trial court. [7]

On account of the projected auction sale on March 16, 1976, private respondents Manila Banking Corporation and Philippine Commercial and Industrial Bank filed on March 14, 1976 a complaint for "Injunction with Preliminary Injunction" against the herein petitioners, NAMAWU and the special sheriffs, with the Court of First Instance of Camarines Norte which was docketed therein as Civil Case No. 2749 and assigned to Branch II thereof, presided over by respondent Judge Isidoro A. Vera. The complaint among others alleged - that the properties enumerated in the said list are covered by the mortgage contract executed by the Philippine Iron Mines in favor of the Development Bank of the Philippines on March 26, 1963; that the mortgage rights of the Development Bank of the Philippines over the said properties had been assigned by the said bank to the plaintiffs in a Deed of Assignment of Mortgage Credits, Rights and Interest executed on November 25, 1975; that for failure of Philippine Iron Mines to comply with the conditions of the mortgage contract assigned to the plaintiffs, the plaintiffs instituted foreclosure proceedings against the said properties of Philippine Iron Mines; that by virtue of said foreclosure proceedings, the Provincial Sheriff of Camarines Norte conducted an auction sale and at said auction sale the plaintiffs herein were the highest bidder, that a Certificate of Sale was issued to plaintiffs who thereupon took possession of the subject properties; that defendant NAMAWU, despite knowledge that the said properties are already owned by the plaintiffs still caused them to be levied to the damage and prejudice of the plaintiffs, who are now the owners thereof.

Private respondents, as plaintiffs, then prayed for judgment, as follows —

- "1. That a restraining order be immediately issued enjoining the defendants Provincial Sheriff of Camarines Norte and Deputy Sheriff of Rizal from proceeding with the auction sale on March 16, 1976
2. That a writ of injunction be issued permanently enjoining the defendant Provincial Sheriff of Camarines Norte and/or Deputy Sheriff of Rizal from further levying the properties of PFM (Philippine Iron Mines) but which are now owned by the plaintiffs;
3. That a writ of injunction be issued permanently enjoining the defendant National Mines and Allied Workers' Union (NAMAWU-MIF) from further enforcing the writ of execution issued in its favor by the NLRC against the properties of PIM but which are now owned by the plaintiffs. [8]

On March 16, 1976, the scheduled date for the public auction sale of the levied properties, respondent Judge issued a temporary restraining order in said Civil Case No. 2749, ordering the defendants and all their agents and persons acting in their behalf —

"to desist from further conducting the scheduled auction sale today, March 16,1976, of alleged properties formerly belonging to the Philippine Iron Mines, Inc. but now claimed to belong to plaintiffs, until further orders from this Court."

and set the hearing on the application for a writ of preliminary injunction on March 25,1976 at 8:30 a.m.[9]

On March 25, 1976, petitioners herein, as defendants in said Civil Case No. 2749, filed a Motion to Dismiss the complaint, on the grounds —

" 1. That this Honorable Court has no jurisdiction to entertain or take cognizance of the instant case of injunction to stop the execution of a judgment issued by the National Labor Relations Commission in a labor case, invoking the provisions of the New Labor Code, particularly Article 216, par. (c) and (f); and

2. That plaintiffs' complaint states no cause of action.' [10]

On March 26,1976, petitioners also filed an Opposition to the Issuance of a Writ of Preliminary Injunction and Motion to Dissolve Temporary Restraining Order.[11]

On April 5, 1976, respondent Judge issued an Order denying plaintiffs' prayer for the issuance of a writ of preliminary injunction and lifted the temporary restraining order of March 16,1976, on the ground that the third party claim already filed by the plaintiffs with the Sheriffs Office was sufficient to protect their interest, and gave private respondent until April 19,1976 within which to file their opposition to the defendants' Motion to Dismiss.[12] Private respondents' opposition (to the motion to dismiss) was filed on April 20, 1976.

On June 1, 1976, respondent Judge issued an Order denying petitioners' motion to dismiss[13] ruling that —

"The cause of action in the case before the Court is to stop the levy on properties belonging not to the judgment debtor but to a third party who is not the judgment debtor. The Court of First Instance, as a court of general jurisdiction, is empowered to give relief to any party who is not a judgment debtor and who claims to be prejudiced by the execution of a writ against his properties. It is a rule well established in this jurisdiction that a writ of execution is enforceable only against the properties of the judgment debtor. It can never reach the properties of third parties, stranger to the case. And this is the situation in this case. Defendants are trying to enforce a writ of execution issued by the National Labor Relations Commission allegedly on properties not belonging to the Philippine Iron Mines, Inc., the judgment debtor, but to herein plaintiffs.

Moreover, defendant NAMA-WU has invoked the jurisdiction of this Court in Civil Case No. 2727, entitled "NAMA-WU vs. Manila Banking Corporation, et al.," wherein defendant labor union herein is the plaintiff therein. There, the plaintiff (herein defendant NAMA-WU) asked this Court for the issuance of a preliminary writ of injunction against the herein plaintiffs as defendants therein. The cause of action is the same - the enforcement of the same writ of execution issued by the National Labor Relations Commission. If this Court has jurisdiction over Civil Case No. 2727, as invoked by herein defendant and for which it got from this Court a preliminary writ of injunction, then certainly, this Court must have jurisdiction over the present action. For having invoked the jurisdiction of this Court in Civil Case No. 2727, defendant is now estopped from questioning the same jurisdiction in this case.[14]

Assailing the validity and correctness of the aforesaid pronouncement, petitioners now come before this Court through the instant petition contending mainly that respondent court has no jurisdiction to entertain or take cognizance of Civil Case No. 2749, except to dismiss it, for the following reasons —

"1. Civil Case No. 2749 seeks to enjoin the execution of a decision rendered in NLRC Case No. RB-IV-3322-75, which case involves a 'labor dispute' and therefore within the sole and exclusive jurisdiction of the National Labor Relations Commission which could not be interfered with by a civil court exercising

general jurisdiction. In support of said contention, petitioners cite the provisions of Art. 254 of the New Labor Code, which reads —

"Art. 254. Injunction prohibited.— No temporary or permanent injunction or restraining order in any case involving or growing out of labor disputes shall be issued by any court or entity."

2. If the purpose of the private respondent in filing Civil Case No. 2749 is to vindicate their alleged rights over the properties levied on by the sheriffs, the third party claim that they filed is sufficient for the purpose.

In a Resolution promulgated on August 3, 1976, We required respondents to COMMENT on the petition. We likewise issued a temporary restraining order enjoining respondents from further proceeding with Civil Case No. 2749. Thereafter or on October 7, 1976, the petition was given due course. The comment was considered as an answer to the petition and the parties were required to file their respective memoranda.

In their COMMENT filed on August 3, 1976, private respondents argue that Civil Case No. 2749 does not fall within the prohibition against the injunction referred to in Art. 254 of the New Labor Code because it does not seek to enjoin the execution of the NLRC's decision against properties of the judgment debtor. What it only seeks to enjoin is the execution of the decision against their properties, because they are not the judgment debtors, neither are they parties to the NLRC case. While conceding that said NLRC case involves a 'labor dispute' within the sole and exclusive jurisdiction of the NLRC and could not be interfered with by the civil courts, private respondents maintain that Civil Case No. 2749 is purely a civil action to prevent the levy and execution of a judgment upon property not belonging to the named judgment debtor, but in fact owned by strangers to the proceedings in which the judgment was issued. As judgment creditors, petitioners' interest in the properties 'levied upon and the private respondents' claim of ownership over the same, create a purely civil controversy between them. It is a civil suit, where the issue involved is exclusively one of property ownership which cannot legally and reasonably be categorized as involving or growing out of a 'labor dispute' just because one party's interest happens to be based on a judgment awarded in a labor proceeding.[15]

The petition is devoid of merit. Consequently, its dismissal is in order.

Civil Case No. 2749 was instituted pursuant to and by authority of Section 17 of Rule 39 of the Rules of Court which provides —

"Section 17. Proceedings where property claimed by third persons.— If property levied on be claimed by any other person than the judgment debtor or his agent, and such person make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title and serve the same upon the officer making the levy, and a copy thereof upon the judgment creditors, the officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnify the officer against such claim by a bond in a sum not greater than the value of the property levied on. In case of disagreement as to such value the same shall be determined by the court issuing the writ of execution.

The officer is not liable for damages, for the taking or keeping of the property to any third party claimant unless a claim is made by the latter and unless an action for damages is brought by him against the officer within one hundred twenty (120) days from the date of the filing of the bond. But nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property by any proper action." (Italics supplied)

Pursuant to the aforequoted provision, the third party claimant (in the case at bar, the private respondents) may file a separate and independent civil action to establish ownership of the property levied upon by the sheriff.[16]

"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."[17]

Such is the situation obtaining in the case at bar. The NLRC decision sought to be executed is against the Philippine Iron Mines, the judgment debtor. But the sheriff levied upon the properties not of said judgment debtors, but of private respondents, who were not parties in the NLRC case. Decidedly then, private respondents have every right to file a separate action to vindicate their property rights, not parties in the NLRC case. Decidedly then, private respondents have every right to file a separate action to vindicate their property rights.

"In the instant case, respondent Judge acted within his jurisdiction and did not commit any grave abuse of discretion in enjoining the auction sale because, as already stated," a sheriff has no authority to attach the property of any person under an execution except that of the judgment debtor. If he does so, the writ of execution affords him no justification for the action is not in obedience to the mandate of the writ. So long as the officer confines his acts to the authority of the writ, he is not liable but all of his acts which are not justified by the writ are without authority of law.

An injunction is a proper remedy to prevent a sheriff from selling the property of one person for the purpose of paying the debts of another."[18]

Petitioners' reliance on the provision of Art. 254 of the New Labor Code (herein earlier quoted) which prohibits injunctions or restraining orders in any case involving or growing out of a 'labor dispute' is not well-taken. This has no application to the case at bar. Civil Case No. 2749 is one which neither "involves" nor "grows out" of a labor dispute. What 'involves' or 'grows out' of a labor dispute is the NLRC case between petitioners and the judgment debtor, Philippine Iron Mines. The private respondents are not parties to the said NLRC case. Civil Case No. 2749 does not put in issue either the fact or validity of the proceeding in the NLRC case nor the decision therein rendered, much less the writ of execution issued thereunder. It does not seek to enjoin the execution of the decision against the properties of the judgment debtor. What is sought to be tried in Civil Case No. 2749 is whether the NLRC's decision and writ of execution, above mentioned, shall be permitted to be satisfied against properties of private respondents, and not of the judgment debtor named in the NLRC decision and writ of execution. Such a recourse is allowed under the provisions of Section 17, Rule 39 of the Rules of Court.[19]

To sustain petitioners' theory will inevitably lead to disastrous consequences and lend judicial imprimatur to deprivation of property without due process of law. Simply because a writ of execution was issued by the NLRC does not authorize the sheriff implementing the same to levy on anybody's property. To deny the victim of the wrongful levy, the recourse such as that availed of by the herein private respondents, under the pretext that no court of general jurisdiction can interfere with the writ of execution issued in a labor dispute, will be sanctioning a greater evil than that sought to be avoided by the Labor Code provision in question. Certainly, that could not have been the intent of the law creating the NLRC. For well-settled is the rule that the power of a court to execute its judgment extends only over properties unquestionably belonging to the judgment debtor. [20]

WHEREFORE, the petition is DISMISSED. The temporary restraining order issued on August 3, 1976 is hereby LIFTED and ordered DISSOLVED.

No pronouncement as to costs.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion Jr., Abad Santos, and Escolin, JJ., concur.

- [1] Annex "B", Petition.
- [2] Petition dated July 28, 1976, Annex "D", Petition.
- [3] Reply to Comment of Respondents dated November 22, 1976, page 6.
- [4] Petition dated July 28, 1976, page 3.
- [5] Annex "E" of the Petition dated July 28, 1976, page 3.
- [6] Petition dated July 28, 1976, page 10; Comment of respondent Judge dated August 9, 1976, page 3.
- [7] Id.
- [8] Annex "E", Petition.
- [9] Annex "F" Petition.
- [10] Annex "G", Petition.
- [11] Annex "H" to Petition.
- [12] Annex "J" to Petition
- [13] Civil Case No. 2749.
- [14] Tijam vs. Sibonghanoy, 23 SCRA 29.
- [15] Comment to the Petition, pages 6-7.
- [16] Abiera vs. CA, 45 SCRA 314; Bayer Phils., Inc. vs. Agana, and San Francisco & Paint Co., Inc., et al. vs. Bayer Phils., Inc. 63 SCRA 355, 356; Arabay, Inc. vs. Salvador, 82 SCRA 93, 97.
- [17] Polaris Marketing Corporation vs. Plan, 69 SCRA 93, 97.
- [18] Arabay, Inc. vs. Salvador, supra.
- [19] Santos vs Sibug, 104 SCRA 520.
- [20] Special Servicing Corporation vs. Centro La Paz, 121 SCRA 748, 755

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