

PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, GABRIEL V. MANANSALA AND GILBERT P. LORENZO, IN HIS OFFICIAL CAPACITY AS AUTHORIZED DEPUTY SHERIFF, RESP...

G.R. No. L-32667. January 31, 1978

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/7dc3988bc3b7/>

FERNANDO, J.:

The issue raised in this certiorari proceeding is whether or not an order of the now defunct respondent Court of Industrial Relations denying for lack of merit petitioner's motion to quash a notice of garnishment can be stigmatized as a grave abuse of discretion. What was sought to be garnished was the money of the People's Homesite and Housing Corporation deposited at petitioner's branch in Quezon City, to satisfy a decision of respondent Court which had become final and executory.[1] A writ of execution in favor of private respondent Gabriel V. Manansala had previously been issued.[2] He was the counsel of the prevailing party, the United Homesite Employees and Laborers Association, in the aforementioned case. The validity of the order assailed is challenged on two grounds: (1) that the appointment of respondent Gilbert P. Lorenzo as authorized deputy sheriff to serve the writ of execution was contrary to law and (2) that the funds subject of the garnishment "may be public in character." [3] In thus denying the motion to quash, petitioner contended that there was on the part of respondent Court a failure to abide by authoritative doctrines amounting to a grave abuse of discretion. After a careful consideration of the matter, it is the conclusion of this Tribunal that while the authorization of respondent Lorenzo to act as special deputy sheriff to serve the notice of garnishment may be open to objection, the more basic ground that could have been relied upon — not even categorically raised, petitioner limiting itself to the assertion that the funds "could be public" in character, thus giving rise to the applicability of the fundamental concept of non-suability — is hardly persuasive. The People's Homesite and Housing Corporation had a juridical existence enabling it to sue and be sued.[4] Whatever defect could be attributed therefore to the order denying the motion to quash could not be characterized as a grave abuse of discretion. Moreover, with the lapse of time during which private respondent had been unable to execute a judgment in his favor, the equities are on his side. Accordingly, this petition must be dismissed.

The order of August 26, 1970 of respondent Court denying the motion to quash, subject of this certiorari proceeding, reads as follows: "The Philippine National Bank moves to quash the notice of garnishment served upon its branch in Quezon City by the authorized deputy sheriff of this Court. It contends that the service of the notice by the authorized deputy sheriff of the court contravenes Section 11 of Commonwealth Act No. 105, as amended which reads: 'All writs and processes issued by the Court shall be served and executed free of charge by provincial or city sheriffs, or by any person authorized by this Court, in the same manner as writs and processes of Courts of First Instance.' Following the law, the Bank argues that it is the Sheriff of Quezon City, and not the Clerk of this Court who is its Ex-Officio Sheriff, that has the authority to serve the notice of garnishment, and that the actual service by the latter officer of said notice is therefore not in order. The Court finds no merit in this

argument. Republic Act No. 4201 has, since June 19, 1965, already repealed Commonwealth Act No. 103, and under this law, it is now the Clerk of this Court that is at the same time the Ex-Officio Sheriff. As such Ex-Officio Sheriff, the Clerk of this Court has therefore the authority to issue writs of execution and notices of garnishment in an area encompassing the whole of the country, including Quezon City, since his area of authority is coterminous with that of the Court itself, which is national in nature. * * * At this stage, the Court notes from the record that the appeal to the Supreme Court by individual employees of PHHC which questions the award of attorney's fees to Atty. Gabriel V. Manansala, has already been dismissed and that the same became final and executory on August 9, 1970. There is no longer any reason, therefore, for withholding action in this case. [Wherefore], the motion to quash filed by the Philippine National Bank is denied for lack of merit. The said Bank is therefore ordered to comply within five days from receipt with the 'notice of Garnishment' dated May 6, 1970." [5] There was a motion for reconsideration filed by petitioner, but in a resolution dated September 22, 1970, it was denied. Hence, this certiorari petition.

As noted at the outset, the petition lacks merit.

1. The plea for setting aside the notice of garnishment was premised on the funds of the People's Homesite and Housing Corporation deposited with petitioner being "public in character." There was not even a categorical assertion to that effect. It is only the possibility of its being "public in character." The tone was thus irresolute, the approach diffident. 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* [6] 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)." [7] The similarities between the aforesaid case and the present litigation are patent. Petitioner was similarly a government-owned corporation. The principal respondent was the Court of Industrial Relations. The prevailing parties were the employees of petitioner. There was likewise a writ of execution and thereafter notices of garnishment served on several banks. There was an objection to such a move and the ruling was adverse to the National Shipyard and Steel Corporation. Hence the filing of a petition for certiorari. To repeat, the ruling was quite categorical. Garnishment 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. In a 1941 decision, *Manila Hotel Employees Association v. Manila Hotel Company*, [8] this Court, through Justice Ozaeta, held: "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." [9]

2. It is worth noting that the decision referred to, the *Bank of the United States v. Planters' Bank*, [10] was promulgated by the American Supreme Court as early as 1824, the opinion being penned by the great Chief Justice Marshall. As was pointed out by him: "It is, we think, a sound principle, that when a government becomes a partner in any trading company, it divests itself, so far as concerns the transactions of that company, of its sovereign character, and takes that of a private citizen. Instead of communicating to the company its privileges

and its prerogatives, it descends to a level with those with whom it associates itself, and takes the character which belongs to its associates, and to the business which is to be transacted. Thus, many states of this Union who have an interest in banks, are not suable even in their own courts; yet they never exempt the corporation from being sued. The state of Georgia, by giving to the bank the capacity to sue and be sued, voluntarily strips itself of its sovereign character, so far as respects the transactions of the bank, and waives all the privileges of that character. As a member of a corporation, a government never exercises its sovereignty. It acts merely as a corporator, and exercises no other power in the management of the affairs of the corporation, than are expressly given by the incorporating act." [11] The National Shipyard and Steel Corporation case, therefore, merely reaffirmed one of the oldest and soundest doctrines in this branch of the law.

3. The invocation of *Republic v. Palacio*, [12] as well as *Commissioner of Public Highways v. San Diego*, [13] did not help the cause of petitioner at all. The decisions are not applicable. If properly understood they can easily be distinguished. As is clear in the opinion of Justice J.B.L. Reyes in *Republic v. Palacio*, the Irrigation Service Unit which was sued was an office and agency under the Department of Public Works and Communications. The Republic of the Philippines, through the then Solicitor General, moved for the dismissal of such complaint, alleging that it "has no juridical personality to sue and be sued." [14] Such a motion to dismiss was denied. The case was tried and plaintiff Ildelfonso Ortiz, included as private respondent in the Supreme Court proceeding, obtained a favorable money judgment. It became final and executory. Thereafter, it appeared that the Solicitor General was served with a copy of the writ of execution issued by the lower court followed by an order of garnishment. [15] Again, there was an urgent motion to lift such order, but it was denied. A certiorari and prohibition proceeding was then filed with the Court of Appeals. The legality of the issuance of such execution and garnishment was upheld, and the matter was elevated to this Tribunal. The Republic was sustained. The infirmity of the decision reached by the Court of Appeals, according to the opinion, could be traced to the belief that there was a waiver of "governmental immunity and, by implication, consent to the suit." [16] There was no such waiver. Even if there were, it was stressed by Justice J.B.L. Reyes: "It is apparent that this decision of the Court of Appeals suffers from the erroneous assumption that because the State has waived its immunity, its property and funds become liable to seizure under the legal process. This emphatically is not the law. (*Merritt v. Insular Government*, 34 Phil. 311)." [17] To levy the execution of such funds, according to him, would thus "amount to a disbursement without any proper appropriation as required by law." [18] In *Commissioner of Public Highways v. San Diego*, the opening paragraph of Justice Teehankee was quite specific as to why there could be neither execution nor garnishment of the money of petitioner Bureau of Public Highways: "In this special civil action for certiorari and prohibition, the Court declares null and void the two questioned orders of respondent Court levying upon funds of petitioner Bureau of Public Highways on deposit with the Philippine National Bank, by virtue of the fundamental precept that government funds are not subject to execution or garnishment." [19] The funds appertained to a governmental office, not to a government-owned or controlled corporation with a separate juridical personality. In neither case therefore was there an entity with the capacity to sue and be sued, the funds of which could thereafter be held liable to execution and garnishment in the event of an adverse judgment.

4. Both the *Palacio* and the *Commissioner of Public Highways* decisions, insofar as they reiterate the doctrine that one of the corollaries of the fundamental concept of non-suability is that governmental funds are immune from garnishment, refer to *Merritt v. Insular Government*, a 1916 decision. [20] Since then such a principle has been followed with undeviating rigidity, the latest case in point being *Republic v. Villasor*, [21] promulgated in 1973. It is an entirely different matter if, according to Justice Sanchez in *Ramos v. Court of Industrial Relations*, [22] the office or entity is "possessed of a separate and distinct corporate existence." [23] Then it can sue and be sued. Thereafter, its funds may be levied upon or garnished. That is what happened in this case.

5. With the crucial issue thus resolved in favor of the correctness of the order assailed, the other objection raised,

namely, that respondent Court acted erroneously in having a special sheriff serve the writ of execution, hardly needs any extensive discussion. It is true that in the aforesaid Commissioner of Public Highways opinion, this Court held that there is no authorization in law for the appointment of special sheriffs for the service of writs of execution.[24] In the order sought to be nullified, the then Judge Joaquin M. Salvador of respondent Court pointed out that under a later Act,[25] the Court of Industrial Relations Act was amended with the proviso that its Clerk of Court was the ex-officio sheriff. The point raised in the petition that it should be the sheriff of Quezon City that ought to have served the writ of execution would thus clearly appear to be inconclusive. There is, to be sure, no thought of deviating from the principle announced in the Commissioner of Public Highways case. That is as it ought to be. Even if, however, there is sufficient justification for the infirmity attributed to respondent Court by virtue of such a ruling, still, considering all the circumstances of this case, it clearly does not call for the nullification of the order in question. What cannot be denied is that the writ of execution was issued as far back as May 5, 1970 by the then Clerk of Court of respondent Tribunal as the authorized sheriff. It would be, to say the least, unfair and unequitable if, on the assumption that such Clerk of Court lacked such competence, a new writ of execution had to be issued by the proper official. At any rate, what is important is that the judgment be executed. That is to achieve justice according to law. It would be to carry technicality, therefore, to an absurd length if just because of such a mistake, assuming that it is, but undoubtedly one committed in good faith, further delay would still be imposed on private respondent by characterizing the order sought to be nullified as amounting to a grave abuse of discretion.

WHEREFORE, the petition for certiorari is dismissed. No costs.

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

Aquino, J., in the result.

Santos, J., on official leave.

[1] Case No. 2810-V of the Court of Industrial Relations.

[2] Petition, Annex A.

[3] Ibid, 13.

[4] Under Presidential Decree No. 757 (1975), the People's Homesite and Housing Corporation was dissolved and the National Housing Authority created.

[5] Petition, Annex F.

[6] 118 Phil. 782 (1963).

[7] Ibid, 788.

[8] 73 Phil. 374.

[9] Ibid, 388-389.

[10] 9 Wheat. 904, 6 L. ed. 244.

[11] Ibid, 907-908.

[12] L-20322, May 29, 1968, 23 SCRA 899.

[13] L-30098, February 18, 1970, 31 SCRA 616.

[14] 23 SCRA 899, 901. The other defendant was the Handog Irrigation, Inc.

[15] Ibid, 901.

[16] Ibid, 905.

[17] Ibid.

[18] Ibid, 906.

[19] 31 SCRA 616, 618.

[20] 34 SCRA 311.

[21] L-30671, November 28, 1973, 54 SCRA 83.

[22] L-22753, December 18, 1967, 21 SCRA 1283.

[23] Ibid, 1287.

[24] 31 SCRA 616, 631.

[25] Republic Act No. 4201 (1965).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.