

THE PHILIPPINE NATIONAL BANK, PETITIONER, VS. LEOPOLDO C. PALAD, EX--OFICIO PROVINCIAL SHERIFF OF BULACAN, PAGASA LABOR UNION (PLU), THE PRESIDING JUDGE OF THE COURT OF INDUSTRI...

G.R. No. L-23032. September 30, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

To forestall the sale at public auction of several personal properties earlier levied upon by the provincial sheriff of Bulacan by virtue of a writ of execution issued by the then presiding Judge of the Court of Industrial Relations, Hon. Jose S. Bautista, to satisfy the judgment in case No. 1544-ULP (Pagasa Labor Union v. Roxas-Kalaw Textile Mills, Inc., et al.), petitioner filed with this Court on June 8, 1964 an urgent petition for prohibition with preliminary injunction.

It was alleged in the petition that the properties subject of the levy were covered by a duly registered mortgage in favor of petitioner, in view of which it filed a third-party claim with respondent provincial sheriff; that the latter in turn filed a motion with respondent Judge to fix the bond pursuant to Section 17, Rule 39, but that said Judge nevertheless directed the Sheriff to proceed with the sale of the properties, in effect denying the Sheriff's motion and dismissing petitioner's third-party claim and that petitioner moved to reconsider the order to sell, but respondent Sheriff scheduled the sale just the same even before any resolution on the motion.

We issued the writ of preliminary injunction prayed for in the petition upon a cash bond of P10,000. The case was thereafter set for hearing, but the parties asked that they be allowed to file written memoranda in lieu of oral argument. However, neither of them did so.

On January 18, 1965 petitioner moved to withdraw the main petition and the P10,000.00 cash bond it had earlier posted for the issuance of the preliminary injunction upon the following grounds, to wit:

"1. That the purpose upon which the Petition for Prohibition with Preliminary Injunction was filed is already accomplished;

"2. That the claim of the PAG-ASA LABOR UNION (PLU) against the Roxas-Kalaw Textile Mills was already settled as per their compromise agreement and was already resolved by the Court of Industrial Relations, x x x;

"3. That the petitioner has already acquired the levied properties of the Roxas--Kalaw Textile Mills by virtue of an extra-judicial foreclosure; "

Required to comment, respondent PAG-ASA LABOR UNION (PLU) signified its assent to the withdrawal of petitioner's cash bond and manifested that the case had been amicably settled to its complete satisfaction.

By resolution dated February 9, 1965, the cash bond of P10,000 was allowed to be withdrawn.

WHEREFORE the petition is hereby dismissed without pronouncement as to costs.

Concepcion, C.J., Dizon, Zaldivar, Ruiz Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.
Reyes JBL, and Sanchez, JJ., on leave.

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