

MANILA ELECTRIC COMPANY, PETITIONER, VS. GEN-BANCOR DEVELOPMENT CORPORATION AND THE HON. GUARDSON R. LOOD IN HIS CAPACITY AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, BRANC...

G.R. No. L-41756. July 30, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

In Civil Case No. 19579 of the Court of First Instance of Rizal, Pasig Branch VI, Genbancor Development Corporation (Genbancor for short) sued Continental Finance Corporation for the recovery of securities with a selling price of more than seven million pesos.

At the behest of Genbancor and pursuant to a writ of preliminary attachment, a deputy sheriff of Rizal served upon Manila Electric Company (Meralco) a notice of garnishment, attaching the money, credits, shares, interests and deposits of Continental Finance Corporation in Meralco's control and possession.

On July 5, 1975 Meralco's assistant general counsel sent a letter to the sheriff's office stating that in compliance with the notice of garnishment Meralco would "not deliver, transfer or otherwise dispose of any money, credits, shares, interests of claims which are under its control and possession and which may become due to Continental Finance Corporation".

Neither Genbancor nor the sheriff followed up immediately the notice of garnishment. It was only about ten months later, or on May 21, 1975, that Genbancor filed a motion to require Meralco "to deliver the amounts garnished to the Branch Clerk of Court" and to require the Branch Clerk of Court "to deposit the amount so received" in the bank "under the name and control" of the court. Meralco and Continental Finance Corporation were duly served with copies of the said motion.

On May 27 Meralco filed a manifestation, denying that it was holding certain monies payable to Continental Finance Corporation. It clarified that its letter of July 5, 1974 was not an admission that it was holding monies due to that corporation.

Because of that manifestation, Genbancor in its motion of June 2, 1975 asked the lower court to require the qualified officers of Meralco and Continental Finance Corporation to appear in court so that they could be examined under oath pursuant to section 10, Rule 57 of the Rules of Court which deals with the "examination of party whose property is attached and persons indebted to him or controlling his property.

The motion was based on the assumption that Meralco in its aforementioned letter of July 5, 1974 had admitted that it was holding monies and credits due to Continental Finance Corporation. Genbancor further alleged in its motion that according to the records of Continental Finance Corporation the latter listed among its assets five promissory notes of Meralco numbered 36, 141, 142, 170 and 176 covering the total sum of P4,806,622.4.

Meralco opposed the motion. It denied that on July 1, 1974, the date of the notice of garnishment, it had transacted with Continental Finance Corporation commercial papers worth P4,806,622.45. Meralco reiterated its contention that it never admitted that it was indebted to Continental Finance Corporation.

It invoked the rule laid down in *Bucra Corporation vs. Macadaeg*, 84 Phil. 493 that section 10 of Rule 57 applies only in cases where the garnishee admits the debt but if the garnishee denies the debt the controversy must be determined in a separate action as provided in section 45, Rule 39 of the Rules of Court.

Mistakenly assuming that Meralco had not filed an opposition, the lower court granted the motion in its order of June 6, 1975. Meralco filed a motion for reconsideration of the order of June 6. Genbancor opposed it. Genbancor relied on the dictum in *Tayabas Land Co. vs. Sharruf*, 41 Phil. 382, 388 that if the garnishee does not admit the indebtedness, he may be required to attend before the court in which the action is pending to be examined on oath with respect thereto.

Genbancor revealed that in the inventory dated July 3, 1974 of commercial papers held by Continental Finance Corporation as of June 30, 1974, as indicated in its balance sheet and the supporting schedule, it appeared that Meralco was indebted to Continental Finance Corporation in the sum of P4,806,622.45.

The lower court in its order of June 26, 1975, relying on that balance sheet, held that it was imperative that the qualified officer of Meralco be examined to determine whether there were credits due from Meralco to Continental Finance Corporation that may be attached by the sheriff and delivered to the court after such examination. Hence, Meralco's motion for reconsideration was denied.

Meralco in this special civil action of certiorari assails the lower court's order of June 26, 1975. On June 4, 1976 Meralco submitted to this Court the affidavit of its money market section supervisor. In that affidavit he affirmed that Meralco did not execute in favor of Continental Finance Corporation Commercial Papers Nos. 136, 141, 142, 170 and 176 and that what Meralco delivered to Continental Finance Corporation were Confidence Negotiable Certificates Nos. 034, 035, 036, 040, 041 and 042, respectively dated March 28 (two notes), April 5 (two notes), May 17 and 28, 1974, and respectively due on August 2 (two notes), August 13 (two notes), August 27 and September 27, 1974.

Meralco's money market section supervisor further affirmed that the said confidence negotiable certificates were sold and transferred from one financial institution to another and that at their maturity the said notes were paid by Meralco to a holder, other than Continental Finance Corporation, except CNC No. 042 which is under litigation.

He also averred that Meralco had no further transaction with Continental Finance Corporation and that, as of the date of the writ of garnishment, it had no money or credits due or payable to Continental Finance Corporation.

Considering the foregoing circumstances and considering that the lower court's orders of June 6 and 26, 1975 for the examination of any qualified officer of Meralco, pursuant to section 10 of Rule 57, are premised on the assumption that Meralco is indebted to Continental Finance Corporation in the sum of P4,806,622.45, as shown in Commercial Papers Nos. 136, 141, 142, 170 and 176;

Considering that Meralco repeatedly denied that it is holding any money or credits of Continental Finance Corporation and considering that Jose Sevilla, the president of Continental Finance Corporation, admitted at the hearing on September 29, 1975 that the said five commercial papers had already been endorsed by Meralco to other firms (5-6 tsn, pp. 99-100, Rollo);

Considering further that the lower court's orders in question were predicated on false factual assumptions, that under section 10, Rule 57 the person who may be examined by the creditor (Genbancor in this case) is a

garnishee that has in his possession or under his control any credit or other personal property belonging to the debtor (Continental Finance Corporation in this case), that Meralco's (or the garnishee's) categorical denial that it is holding money or credits of Continental Finance Corporation appears to be credible, and that, moreover, Genbancor can utilize the modes of discovery against Continental Finance Corporation, particularly against the manager of its money market department (as intimated by Sevilla himself), to find out the persons or entities owing any money to Continental Finance Corporation:

The Court resolved to set aside the lower court's order requiring Meralco's qualified officer to submit to an inter-rogation as to the money or credits of Continental Finance Corporation supposedly in Meralco's possession or control. The examination is uncalled for. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Martin, JJ., concur.

Concepcion, Jr., J., did not take part.

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