

HON. CARLOS ABIERA, JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL AND THE SPOUSES MIGUEL DE LA CRUZ AND JOVITA DE LA CRUZ, PETITIONERS, VS. THE HON. COURT OF APPEALS...

G.R. No. L-26294. May 31, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Petition for review by certiorari of the decision of the Court of Appeals in CA-G.R. No. 37153-R, setting aside the writ of preliminary injunction issued by the Court of First Instance of Negros Occidental, Branch VI, in its Civil Case No. 293.

The facts of the case as found by the Court of Appeals are as follows:

"In Civil Case No. 7435 the herein petitioner as administratrix of the estate of Luis B. Puentevella obtained a decision from Branch II, Court of First Instance of Negros Occidental rescinding a contract of sale entered into by Luis B. Puentevella as vendor and Raul Javellana as vendee of 36 lots mentioned in the complaint and declaring that the installments on account of said lots paid by Raul Javellana as well as the buildings and other improvements constructed thereon be considered as rentals for the use and occupation of the lots, ordering further that the defendants Raul Javellana and Southern Negros College vacate the lots and deliver possession thereof to the plaintiff.

"The decision having become final, a writ of execution was issued and the Sheriff of Occidental Negros placed the plaintiff in possession of the land. With respect to the buildings which as stated above were declared to be the property of the plaintiff for having been considered as part of the rentals of the lots, the acting Director of the Southern Negros College which was occupying the building, informed the Sheriff that the President of the School and his wife Mr. and Mrs. Jose Lopez were then in Hongkong. It is implied from the return of the Sheriff that the buildings and the equipment of the school were not delivered to the plaintiff.

"In view of the fact that the decision above referred to provided for the payment of additional rentals at the rate of P500.00 a month from February, 1957 until the premises shall have been delivered to the plaintiff, plus P5,000.00 as attorney's fees and costs, the Sheriff, pursuant to the same writ of execution, levied upon the books, equipment and supplies found in the premises and presumably belonging to the defendant Southern Negros College, for the satisfaction of the amounts mentioned in the decision.

"On December 20, 1965 a certain Mr. Aniceto Lacson filed a third-party claim with the Sheriff alleging that he was the owner of the building and school equipment including the books and supplies, for having allegedly purchased them from Mr. and Mrs. Jose Lopez. On December 28, 1965 another third-party claim was filed over the same school buildings, equipment, books and supplies. In this second third-party claim, the claimant is Jovita De la Cruz who like Mr. Lacson, alleges that she acquired the same properties from Mr. and Mrs. Jose Lopez also by purchase.

"On January 3, 1966 Jovita De la Cruz and her husband Miguel De la Cruz filed a complaint before Branch VI

of the Court of First Instance of Negros Occidental and alleging that they are the owners of the buildings occupied by the Southern Negros College as well as the equipment, books, and supplies found therein, and that the same were levied upon by the Sheriff to satisfy a judgment rendered by Branch II of the Court of First Instance of Negros Occidental of which said plaintiffs Mr. and Mrs. De la Cruz are not parties and, therefore, not binding on them, obtained from the Presiding Judge of Branch VI of the same court Honorable Carlos Abiera a writ of preliminary injunction ordering Angelina E. Puentevella and her co-defendants Sheriff and deputy sheriffs of the Province of Negros Occidental 'to refrain from taking possession of the buildings and other properties mentioned in the depository receipt marked as Exhibit A and the lots wherein they are situated; and from going on with the sale of the properties; and from preventing the students, instructors and other personnel of the school from entering the school premises and to remove the barricades from the main gate of the school premises, (until further orders) from this court."

In due course respondent Puentevella filed a petition for certiorari or mandamus with the Court of Appeals, with a prayer "that an ex-parte writ of preliminary injunction be issued enjoining the Hon. Carlos Abiera from enforcing the writ of preliminary injunction issued by him in Civil Case No. 293 of the Court of First Instance of Negros Occidental and from further issuing any other writ or process which would in any manner affect the enforcement of the judgment rendered by Branch II of the same Court of First Instance of Negros Occidental in Civil Case No. 7435; that, after hearing, judgment be declared making the writ of preliminary injunction prayed for in this case permanent." In its decision dated May 18, 1966 the Court of Appeals granted the petition and set aside the writ of preliminary injunction issued by the trial court in Civil Case No. 293. The spouses De la Cruz moved to reconsider but the motion was denied in a resolution dated June 27, 1966, the same resolution the Court of Appeals issued a writ of preliminary injunction restraining "respondent Judge from further enforcing the injunction issued by him in Civil Case No. 293."

Not satisfied with the said decision as well as with the order denying their motion for reconsideration, the spouses De la Cruz filed the instant petition for review. On motion of petitioners We issued, on October 21, 1966, a restraining order to stop the Provincial Sheriff of Negros Occidental from proceeding with the auction sale in Civil Case No. 7435; and on April 5, 1967 We issued a writ of preliminary injunction for the same purpose, upon a bond of P2,500.00.

The lone issue presented for resolution is whether or not Branch VI of the Court of First Instance of Negros Occidental acted with authority in enjoining the Provincial Sheriff from proceeding with the execution sale of properties levied upon by him pursuant to a final judgment rendered by Branch II but claimed by the petitioners herein, the De la Cruz spouses, in the action filed by them in the court which issued the injunction.

The decision of the Court of Appeals now sought to be reviewed relies upon the case of *Hacbang et al. vs. Clementino Diez*, 8 SCRA 103 (May 30, 1963), where this Court acted and applied the doctrine earlier laid down in *Cabigao vs. Del Rosario and Lim*, 44 Phil. 192, and subsequently reiterated in several other cases, that "no court has power to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction * * *"

The doctrine as thus formulated is well settled, and has been adhered to consistently whenever justified by the facts in order to avoid conflict of power between different courts of coordinate jurisdiction and to bring about a harmonious and smooth functioning of their proceedings. For the doctrine to apply, however, the injunction issued by one court must interfere with the judgment or decree issued by another court of equal or coordinate jurisdiction, and the relief sought by such injunction must be one which could be granted by the court which rendered the judgment or issued the decree.

In the case at bar, there is no question that the action filed by the De la Cruz spouses wherein they claim

ownership of the properties levied upon by the provincial sheriff is sanctioned by Section 17 of Rule 39, which provides:

"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 creditor, 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).

It may be inferred from the foregoing provision that the right of a person who claims to be the owner of property levied upon on execution to file a third-party claim with the sheriff is not exclusive, and that he may file an action to vindicate his claim even if the judgment creditor files an indemnity bond in favor of the sheriff to answer for any damages that may be suffered by the third-party claimant. By "action," as stated in this Rule, what is meant is a separate and independent action, such as was resorted to by the third-party claimants in this case. So it has been held in *Manila Herald Publishing Co., Inc. vs. Ramos*, 88 Phil. 94, where this Court, through Justice Pedro Tuason, resolved a question similar to the one now before us. There an order of attachment was issued by the Court in a civil suit for libel filed by Antonio Quirino against the editor, the managing editor and a reporter of the *Daily Record*. By virtue of the writ the sheriff levied upon certain properties found in the premises of the publication. The Herald Publishing Company, alleging ownership of the properties thus attached, filed a third-party claim with the sheriff and subsequently an action to enjoin the attachment. This action fell to another branch of the Court of First Instance, which issued the preliminary injunction against the sheriff.

This Court said, in relation to the point which is of relevance here:

"The objection that at once suggests itself to entertaining in Case No. 12263 the motion to discharge the preliminary attachment levied in Case No 115391 is that by so doing one judge would interfere with another judge's actuations. The objection is superficial and will not bear analysis.

It has been seen that a separate action by the third party who claims to be the owner of the property attached is appropriate. If this is so, it must be admitted that the judge trying such action may render judgment ordering the sheriff or whoever has in possession the attached property to deliver it to the plaintiff-claimant or desist from seizing it. It follows further that the court may make an interlocutory order, upon the filing of such bond as may be necessary, to release the property pending final adjudication of the title. Jurisdiction over an action includes jurisdiction over an interlocutory matter incidental to the cause and deemed necessary to preserve the subject matter of the suit or protect the parties' interests. This is self-evident.

The fault with the respondents' argument is that it assumes that the Sheriff is holding the property in question by order of the court handling the case for libel. In reality this is true only to a limited extent. That court did not direct the Sheriff to attach the particular property in dispute. The order was for the Sheriff to attach Borres', Padilla's and Pastor's property. He was not supposed to touch any property other than that of these defendants', and if he did, he acted beyond the limits of his authority and upon his personal responsibility.

It is true of course that property in custody of the law can not be interfered with without the permission of the proper court, and property legally attached is property in custodia legis. But for the reason just stated, this rule

is confined to cases where the property belongs to the defendant or one in which the defendant has proprietary interest. When the Sheriff acting beyond the bounds of his office seizes a stranger's property, the rule does not apply and interference with his custody is not interference with another court's order of attachment.

It may be argued that the third-party claim may be unfounded; but so may it be meritorious, for that matter. Speculations are however beside the point. The title is the very issue in the case for the recovery of property or the dissolution of the attachment, and pending final decision, the court may enter any interlocutory order calculated to preserve the property in litigation and protect the parties' rights and interest. * * *."

The rationale of the decision in the Herald Publishing Company case is peculiarly applicable to the one before Us, and removes it from the general doctrine enunciated in the decisions cited by the respondents and quoted earlier herein.

1. Under Section 17 of Rule 39 a third person who claims property levied upon on execution may vindicate such claim by action. Obviously a judgment rendered in his favor, that is, declaring him to be the owner of the property, would not constitute interference with the powers or processes of the court which rendered the judgment to enforce which the execution was levied. If that be so – and it is so because the property, being that of a stranger, is not subject to levy – then an interlocutory order such as injunction, upon a claim and prima facie showing of ownership by the claimant, cannot be considered as such interference either.
2. To adopt the statement in the Herald Publishing Company decision and apply it here, Branch II of the Court of First Instance of Negros Occidental, in Case No. 7435, did not direct the sheriff to levy upon the particular properties in dispute. The order was for him to levy upon properties of the judgment debtor, without specifying them.
3. The issue presented by herein private respondents in Civil Case No. 293 before respondent Judge was one of ownership, which could not have been presented to and resolved by the other court in Civil Case No. 7435. In other words, that court could not grant the relief sought by the injunction, and consequently neither its judgment nor the enforcement thereof was interfered with. Execution could still proceed with respect to the judgment debtor's properties.
4. The case of Cabigao vs. Del Rosario and Lim, supra, is not in point. In that case a writ of execution was issued by one court (second branch, Manila) to enforce its judgment for a sum of money. After the defendant's property was levied upon he filed a petition in another court (first branch), praying that a writ of preliminary injunction be issued to restrain the sheriff from carrying out the execution on the ground that there was another action pending between the same parties in the Supreme Court and in which action the defendant had been given a judgment by the Court of First Instance for a much larger amount than that for which the execution was issued. Under these facts, it is quite clear that the preliminary injunction issued by Branch I was improper, and constituted undue interference with a decree of Branch II, where the same relief could have been sought.
5. The case of Hacbang vs. Hon. Clementino Diez et al. is not in point either. There judgment was rendered by the Court of First Instance of Leyte against the Leyte Autobus Co., Inc. in Civil Case No. 2045. A writ of execution was issued, and a passenger bus was levied upon by the provincial sheriff. The respondent, Leyte Autobus Co., Inc., claiming that it was the owner of the bus and that it was not the defendant in Civil Case No. 2045, although it bore the same name, filed a third-party claim. The Leyte court denied the claim and directed that the sale of the bus be carried out, on the ground that the said respondent was the very same company that was the defendant against whom the judgment had been rendered. Subsequently the respondent filed another action in the Court of First Instance of Cebu, reproducing substantially the allegations in its third-party claim, and prayed that a writ of preliminary injunction be issued to restrain the sale of the passenger bus which had been levied upon. The

injunction was issued as prayed for and the sheriff came to Us on certiorari and prohibition.

This Court, through Justice Roberto Concepcion, now Chief Justice, granted the petition and annulled the said writ, applying the doctrine laid down in *Cabigao vs. Del Rosario*, supra, and citing in its decision still another case, namely, *National Power Corporation vs. Hon. Jesus de Veyra*, 3 SCRA 646 (Dec. 22, 1961).

It is clear that in the *Hacbang* case the injunction issued by the Cebu court constituted an interference with the processes of the Leyte court, since the latter had already denied the third-party claim filed before it by the respondent company, held that the latter was the very defendant against whom judgment has been rendered, and directed the sale of the specific property claimed by it.

6. The *National Power Corporation* case presented a more or less similar situation. As stated in the decision penned by Chief Justice Bengzon, "the question raised is whether or not property which has been levied upon in a garnishment proceeding by one court (in Manila) may be subject to the jurisdiction of another court (in Baguio) in an independent suit impugning the legality of said garnishment – the property garnished allegedly being exempt from execution." This Court held: "The reason advanced by the respondent court of Baguio City that it should grant relief when 'there is apparently an illegal service of the writ' * * * may not be upheld, there being a better procedure to follow, i.e., a resort to the Manila Court, wherein the remedy may be obtained, it being the court under whose authority the illegal levy had been made. Needless to say, an effective ordering of legal relationships in civil society is possible only when each court is granted exclusive jurisdiction over the property brought to it. To allow coordinate courts to interfere with each other's judgments or decrees by injunction would obviously lead to confusion and might seriously hinder the proper administration of justice."

As may be noted, the statement of the doctrine relied upon by the respondents in the present case must be taken in context, that is, in the particular factual setting wherein it is applied. The facts of this case do not lend themselves to its application.

7. Respondents assail the injunction issued by Judge Carlos Abiera on the ground that, irrespective of the question as to his authority, the facts and circumstances of the case do not justify its issuance. This is, however, a factual matter which we cannot here review, involving as it does evidence adduced before the trial court, and which should have been, if at all, raised in the Court of Appeals.

Wherefore, the decision of the Court of Appeals is reversed and set aside, and the authority of respondent Judge Carlos Abiera to issue the writ of preliminary injunction which he did in Civil Case No. 293 is upheld, without prejudice to whatever further action he may take in respect thereof, as may be justified by the facts and circumstances. No pronouncement as to costs.

Reyes, J.B.L., Acting C. J., Zaldivar, Fernando, Teehankee, Makasiar, and Antonio, JJ., concur.

Castro, J., did not take part.

Concepcion, Jr., C.J., on official leave.

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CONCURRING OPINION

BARREDO, J.:

I concur, but I would like to state a few considerations relative to the points taken up in the main opinion which I believe need to be emphasized.

In my view, which is not necessarily shared by all my colleagues, by adopting and reiterating in this case the doctrine laid down in *Manila Herald Publishing Co., Inc. vs. Ramos*, 88 Phil. 94, the Court is once more making it clear that in implementing a writ of attachment or execution issued by a Court of First Instance, the sheriff must see to it that only properties unquestionably belonging to the attachment defendant or judgment debtor against whom the writ is issued are levied upon and that should there be any controversy as to the ownership of said properties, such controversy may be submitted for resolution not necessarily to the court issuing the writ involved but to any other Court of First Instance. I believe it is necessary to make this point very clear because at first blush, one would feel that inasmuch as the property the ownership of which is being disputed is the subject of an order of a particular court for the seizing thereof to the end that it may be used to satisfy a judgment already rendered or to be rendered by it, it would seem that the more logical rule should be to confine the jurisdiction of such a controversy in the same court, as a necessary consequence of its authority and power to make effective its judgment, since otherwise it would be the easiest thing for a defendant or a judgment debtor to nullify the recognition by the court of the validity of the grounds of attachment of the plaintiff or the cause of action of the judgment creditor by simply asking or allowing some friendly third party to file a claim of ownership over his properties and thereby oust the jurisdiction of the court over the writ issued in his favor. In other words, there seems to be logic in the proposition that in order to preserve the subject matter of the suit, the court issuing the writ should be the one to decide any claim of any third party over the property being subject by it to its ownership. Upon the other hand, there is the consideration that the taking up of such claim would have nothing to do with the merits of the cause of action in the litigation before the court and could unnecessarily delay its complete termination. I for one am convinced that as between these two considerations, the latter is more weighty, particularly, because as indicated by Mr. Justice Tuason in the *Manila Herald Publishing* case, it is clearly inferable from the provisions of the Rules of Court on third party claims, both under Rule 39 (section 17) and Rule 57 (section 14), that the "proper action" referred to in both sections, by which the third party may vindicate his claim to the property, is more appropriately an independent action instead of a mere intervention.

At the same time, I feel it is opportune in this case to invite attention to a matter of practice that has caused complications and multiplicity of suits with the corresponding delay in the adjudication of the merits of cases brought to the court, which ought not to be. I refer to the particular circumstance in this case of the action of petitioner Miguel de la Cruz and Jovita de la Cruz being assigned to Branch VI of the Court of First Instance of Negros Occidental when the parties knew all the time and could have easily informed the court that the main case had been decided by Branch II. If proper arrangements were only made by Courts of First Instance having several branches in the same province such that related cases may fall only in the same branch, cases similar to the present one would not arise. It is about time that the attention of judges of the Courts of First Instance and of practitioners were called to this matter so that proper remedies may be sought and applied to this situation which has been the root cause of considerable delay in the administration of justice.

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