

**PHILIPPINE NATIONAL BANK, PETITIONER, VS. GLICERIO JAVELLANA AND LAURA V. JAVELLANA, AS JUDICIAL ADMINISTATRIX OF THE ESTATE OF THE LATE TRINIDAD VILLANUEVA DE JAVELLANA, AND JO...**

*G. R. No. L-5270. January 28, 1953*

Ponente: BAUTISTA ANGELO, J.

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**BAUTISTA ANGELO, J.:**

This is a petition for certiorari which seeks to set aside the writ of preliminary injunction issued by respondent Judge on November 23, 1951, enjoining the provincial sheriff from proceeding with the sale of the property attached in case No. 1091 to satisfy the judgement rendered therein in favor of petitioner.

On October 25, 1948, the Philippine National Bank, petitioner herein, filed a complaint in the Court of First Instance of Negros Occidental against Jacinto P. Presbitero to recover the sum of P18,240 with interest at the rate of 5 per cent thereon praying at the same time for the issuance of a preliminary writ of attachment (Civil Case No. 1091).

On October 28, 1948, the writ was granted and the notice of attachment was registered in the office of register of deeds and was annotated on the back of the original transfer certificate of Title No. 246—N which covers the property that was attached. On November 4, 1948, a letter was addressed by the register of deeds to the owner requesting him to surrender his owner's duplicate certificate of title in order that the lien may be annotated thereon but he failed to comply with the request.

On March 30, 1950, Jacinto P. Presbitero, the defendant, obtained a loan from Glicerio Javellana and his wife Trinidad Villanueva, who is now deceased, and is represented herein by Laura V. Javellana, judicial administratrix of her estate, and to secure the payment of said loan, Jacinto F. Presbitero executed a mortgage on the sane property attached in civil case No. 1091. The deed pf mortgage was also registered in the office of the register of deeds and annotated on the back of the title covering the property.

On January 16, 1951, the parties in civil case No. 1091 reached an amicable settlement and on the basis thereof the court rendered judgment in favor of petitioner. This judgment became final and the court ordered its execution.

On November 15, 1951, Glicerio Javellana and Laura V. Javellana, co-respondents herein, filed a complaint for the foreclosure of the mortgage executed by Jacinto P. Presbitero praying at the same time that a writ of preliminary injunction be issued to enjoin the sheriff from proceeding with the sale of the property attached in civil case No. 1091, which petition was objected to by petitioner on the ground that its right as attaching creditor is prior and superior to that of respondents aside from the fact that the court in the foreclosure case could not interfere with the actuation of the court in civil case No. 1091, and prayed that said petition is dismissed.

On November 23, 1951, after hearing both parties on their respective contentions, the respondent Judge issued an

order granting the writ of preliminary injunction thereby overruling the claim of priority asserted by petitioner, and this is the order which petitioner now seeks to set aside contending that the respondent Judge has committed a grave abuse of discretion.

In the case of *Cabigao and Izquierdo vs. Del Rosario et al.*, 44 Phil., 182, this Court said:

"It is settled by an overwhelming weight of authority 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 (citing *Hockstacker vs. Levy*, 11 Cal., 76; *Crowley vs. Davis and Hendricks*, 37 Cal., 268; *Anthony vs. Dunlap*, 8 Cal., 26; *Flaherty vs. Kelly*, 51 Cal., 145; *Rickett vs. Johnson*, 8 Cal., 34; *Chipman vs. Hibbard*, 8 Cal., 268; *Gorham vs. Toomey*, 9 Cal., 77; *Uhlfelder vs. Levy*, 9 Cal., 607; *Revalk vs. Kraemer*, 8 Cal., 66; *Reynolds vs. Dunlop & Wortham*, 94 Ga., 727; *Indiana and Illinois R.R. Co. vs. Williams*, 22 Ind., 198; *Plunkett vs. Black*, 117 Ind., 14; *Dyckman and McChain vs. Kevnochan*, 2 Paige: N. Y., 26; *Grant vs. Quick*, 5 Sandf., N. Y., 612; *Bennett vs. Le Roy*, 14 How.Pr., N. Y., 178; *Hunt vs. Farmer's L. & T. Co.*, 8 How. Pr. N. Y., 416; *Deaderick vs. Smith*, 6 Humph. Tenn., 138; *Whiteside and Wyatt vs. Latham* 2 Coldw., Tenn.: 91. See also *Douglas and Boddie vs. Joyner*, 1 Baxt.: Tenn., 32; *Platto vs. Deuster*, 22 Wis., 460; *Stein vs. Benedict*, 83 Wis., 603; *Endter vs. Lennon*, 46 Wis., 299; *Orient Ins. Co. vs. Sloan*, 70 Wis., 611; *Cardinal vs. Eau Claire Lumber Co.*, 75 Wis., 404).

"The various branches of the Court of First Instance of Manila are in a sense coordinate courts and to allow them to interfere with each others' judgments or decrees by injunctions would obviously lead to confusion and might seriously hinder the administration of justice."

The ruling in the *Cabigao* case is decisive on the issue now before us. Here it appears that the order of execution issued in civil case No. 1091 in order that the judgment rendered therein may be satisfied was issued by Judge Francisco Arellano (Annex H), whereas the writ of preliminary injunction which seeks to enjoin the sheriff from carrying out said order of execution was issued by Judge Jose Teodoro in civil case No. 2176 (Annex L). It is true that both are Judges of the same court, but they preside over different branches, and the orders were issued in different and separate cases. While they belong to the same court, however, as they preside over different branches or salas, they discharge functions which are co-equal in character and as such they should be coordinated and not derogatory to each other. This is necessary to bring about a harmonious and smooth functioning of court proceedings among the different branches of the same court. For, as this Court aptly said in the *Cabigao* case, "The various branches of the Court of First Instance of Manila are in a sense coordinate courts and to allow them to interfere with each others' judgments or decrees by injunctions would obviously lead to confusion and might seriously hinder the administration of Justice."

The cases of *Hizon vs. Ocampo*, 72 Phil., 318, and *Eleazer vs. Zandueta*, 48 Phil., 197, which are invoked by respondents to justify the action taken by the respondent Judge, do not necessarily overrule the ruling laid down in the *Cabigao* case, but serve rather to justify its *raison d'être*. The two cases adverted to can easily be differentiated from the *Cabigao* case because they have reference to orders issued in the same case and by Judges who had been expressly assigned to take them over. Thus, in the *Hizon* case, it was held that the rule which prohibits the Judge of one branch to interfere with the actuation of the Judge of another branch of the same court is not infringed when the Judge who modifies or annuls the order issued by another Judge acts in the same case and belongs to the same court. Here is a case where there has been merely a succession of one Judge to another, and so, it was held, the successor can modify or annul the order of his predecessor if he has still the power to do so. In the *Eleazar* case a similar situation is obtained. It was a case where a cause that had been pending before one branch was transferred to another branch and it was held that a Judge is competent to act so long as the case remains before him, but after it passed from his branch to the other the case could be acted upon by the Judge of the latter branch. On this point, the Court said:

"A moment's reflection will show that the doctrine above announced by this court has reference to the power of a court to act upon orders which are at the time pending before the judge of another sala. The situation involved in the present case involves no anomaly of this sort. In the case before us a cause that had been pending before the first branch of the court of Pangasinan was regularly transferred to the second branch. Judge Villareal was competent to exercise judicial authority in the matter so long as the case remained before him; and after it passed to the second branch Judge Zandueta had full power to act judicially upon any aspect of the case brought before him. If the contest had remained in the first branch Judge Villareal would have had power to reconsider and reverse his first order; and after the case passed to the second branch, Judge Zandueta had the same power. It cannot be pretended that by the transfer of the case the judicial power to act upon the motion of reconsideration had vanished. That power was vested in Judge Zandueta; and if Judge Villareal had attempted to pass upon this motion of reconsideration after the cause had passed to the branch of his associate there would have been just ground for the contention that action had been taken without power. It is quite obvious that there is no friction here between the judges of the two branches in Pangasinan, and we are of the opinion that Judge Zandueta acted in the matter with proper authority." (Eleazar vs. Zandueta, 48 Phil., 197.)

Considering the action taken by the respondent Judge in the light of the merits of the conflicting claims, we find that the same cannot also be justified it appearing that the lien of petitioner was registered almost two years prior to that of respondents which shows that said lien is entitled to preferential consideration. The fact that the writ of attachment has not been annotated on the back of the owner's duplicate certificate of title is of no moment because such annotation is only necessary in voluntary transactions, but not in an involuntary ones as in the present case (Philippine National Bank vs. Fernandez, 61 Phil., 448, 455; Villasor vs. Camon, G. R. No. 8551).

Wherefore, the order subject of the present petition for certiorari is hereby set aside, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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