

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. BERNARDO V. SALUDARES, PRESIDING JUDGE, RTC, BR. 28, LIANGA, SURIGAO DEL SUR, AND HUNG MING KUK, RESPONDENTS.

G.R. No. 111174. March 09, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This special civil action for certiorari assails the decision[1] of the Regional Trial Court of Lianga, Surigao del Sur, Branch 28, dated March 19, 1993. At issue is the jurisdiction of the trial court over properties owned by Lianga Bay Logging Company, Inc. (LBLC), but allegedly sequestered by the Presidential Commission on Good Government (PCGG).

The facts on record show that on April 2, 1986, the PCGG issued a writ of sequestration,[2] which reads:

"IN THE MATTER OF THE SEQUESTRATION
OF LIANGA BAY LOGGING

x -----x

TO: MR. ARISTIDES M. ESCOSORA
Baganga, Davao Oriental

WRIT OF SEQUESTRATION

By virtue of the power vested unto this Commission and by authority of the President of the Philippines, LIANGA BAY LOGGING, with offices at 2nd Floor, Emerald Building, Emerald Ave., Ortigas Office Bldg. Complex, Pasig, Metro Manila is hereby sequestered.

Mr. Aristides Escosora is hereby appointed Fiscal Agent of this Commission and as such, he is hereby ordered to:

- To implement this sequestration order with a minimum disruption of business activities.
- To preserve and safeguard, as well as prevent the removal, concealment of records and the disposition and dissipation of asset, funds and resources.
- To prevent undue removal or withdrawal of funds, until further orders to the Commission.
- To report to the Commission on Good Government within five (5) days.

Further, you are authorized to request the Commission for security support from the Military/Police authorities only if necessary.

x x x

FOR THE COMMISSION:
Originally Signed

MARY CONCEPCION BAUTISTA

Commissioner"

The writ of sequestration was based on the ground that the shares of stocks in LBLC owned by Peter A. Sabido formed part of "illegally acquired wealth." On July 27, 1987, the Republic of the Philippines through the PCGG and the Office of the Solicitor General filed before the Sandiganbayan a complaint[3] for reconveyance, reversion, accounting, restitution and damages against, among others, Peter A. Sabido.

On August 12, 1991, Sabido filed a Motion to Lift the Writs of Sequestration before the Sandiganbayan. On November 29, 1991, the Sandiganbayan granted the motion, disposing as follows:

"WHEREFORE, the 'Motion (to Lift Writs of Sequestration)' dated August 12, 1991, is granted. Accordingly, the Writs of Sequestration issued against the Philippine Integrated Meat Corporation on March 17, 1986, and Lianga Bay Logging Company, Inc. on April 2, 1986, are declared to have been deemed automatically lifted upon the lapse of six months from the ratification of the 1987 Constitution on February 2, 1987, without prejudice to the continuation of the proceedings against PIMECO and Lianga....(emphasis supplied)

x x x

SO ORDERED."[4]

On December 11, 1991, PCGG filed a motion for reconsideration of the decision of Sandiganbayan praying for the nullification of the order which lifted the writ of sequestration of LBLC.

In the meantime, on February 11, 1993, private respondent Hung Ming Kuk filed a complaint[5] for sum of money against LBLC, with a prayer for a writ of preliminary attachment, with the Regional Trial Court, Branch 28, of Lianga, Surigao del Sur. The PCGG was not impleaded by Hung Ming Kuk as party-defendant nor was the sequestration case referred to the RTC's proceedings.

Thus, the Republic of the Philippines filed a special civil action[6] for certiorari under Rule 65, dated March 29, 1993, with the Supreme Court. This petition, docketed as G.R. No. 109314, was later on consolidated with other similar cases.

Meantime, on February 15, 1993, the Sandiganbayan denied the motion for reconsideration of PCGG, dated December 11, 1991.

On February 17, 1993, the trial court granted the writ of preliminary attachment in favor of Hung Ming Kuk.

Thereafter, Hung Ming Kuk filed a motion to declare LBLC in default for failure to file responsive pleadings pursuant to Sec. 1, Rule 18 of the Rules of Court. The RTC of Lianga, acting on the motion of Hung Ming Kuk, issued an order dated March 4, 1993, declaring LBLC as in default. Consequently, on March 19, 1993, the RTC rendered judgment by default, and decreed thus:

"WHEREFORE, premised on the foregoing evidences and findings, this court hereby renders judgment in favor of the plaintiff, and ordering the defendant-Corporation to pay, as follows:

- To pay plaintiff the principal amount of the accrued unpaid obligation in the total amount of P18,031,563.78, with interests at 14% per annum reckoned from July 1992 to February 1993 in the computed total of P1,250,666.66, the same to continue until said obligation is fully paid;
- To pay plaintiff moral and exemplary damages in the total amount of P150,000.00, plus Appearance Fee for the counsel in the sum of P5,000.00;
- To pay plaintiff the total amount of P4,857,195.45 for Sheriff's Expenses, Attached Properties Guards' Fees, Filing Fees, Litigation Expenses, and Attorneys Fees computed at 25% of the principal obligation, or

P4,507,890.95, or a total amount of P4,857,195.45;

- To pay the costs of the suit.

IT IS SO ORDERED."[7]

On August 11, 1993, petitioner filed this special civil action under Rule 65 of the Rules of Court, raising the sole issue as follows:

WHETHER, THE TRIAL COURT FAULTED IN DECIDING THE CLAIM OF PRIVATE RESPONDENT WHICH INVOLVED THE PROPERTIES OF LIANGA BAY LOGGING CO. INC.

In the meantime, on January 23, 1995, the Supreme Court en banc issued its decision in the consolidated cases of Republic vs. Sandiganbayan (First Division), 240 SCRA 376 (1995). The decision included the nullification of the resolution of the Sandiganbayan that lifted the writ of sequestration of LBLC properties in G.R. No. 109314. Hence, the Court effectively confirmed the validity of the writ of sequestration over said properties. Peter A. Sabido's motion for reconsideration was denied. Finally, an entry of judgment was issued on April 22, 1997, in G.R. No. 109314.

Petitioner contends that the RTC of Lianga has no jurisdiction over the subject matter of the case inasmuch as the same are under sequestration by the PCGG. Citing *Baseco vs. PCGG*, 150 SCRA 181 (1987), petitioner asserts that the sequestered assets have been placed under custodia legis of the PCGG pending the final determination by the Sandiganbayan that said assets are in fact ill-gotten. Hence, the RTC has no jurisdiction to order the attachment of said sequestered properties.

Private respondent, however avers that his original complaint was for a sum of money. It was a demand for payment of a valid obligation owed to him by LBLC. He adds that it would be unfair and unjust to declare the entire RTC proceedings regarding his claim for sum of money null and void.

Private respondent further claims that the attachment order of the trial court was issued after the Sandiganbayan had lifted the writ of sequestration against LBLC. But petitioner asserts that this order of the Sandiganbayan was reversed by the Supreme Court in a banc decision[8] dated January 23, 1995, resolving several consolidated cases for which G.R. No. 109314 was included. Petitioner stresses that said reversal had become final and executory on April 22, 1997.

In *PAGCOR vs. CA*, 275 SCRA 433-434 (1997), involving ownership by Philippine Casino Operators Corporation (PCOC) over several gaming and office equipment during the time that PCOC was under a sequestration by PCGG, the Court ruled:

"We disagree with the RTC and the CA on the issue of jurisdiction. While there can be no dispute that PCOC was sequestered, the fact of sequestration alone did not automatically oust the RTC of jurisdiction to decide upon the question of ownership of the subject gaming and office equipment. The PCGG must be a party to the suit in order that the Sandiganbayan's exclusive jurisdiction may be correctly invoked. This is deducible from no less than E.O. No. 14, the 'Peña' and 'Nepomuceno' cases relied upon by both subordinate courts. Note that in Section 2 of E.O. No. 14 which provides:

'Sec. 2. The Presidential Commission on Good Government shall file all such cases, whether civil or criminal, with the Sandiganbayan, which shall have exclusive and original jurisdiction thereof.'

it speaks of the PCGG as party-plaintiff. On the other hand, the PCGG was impleaded as co-defendant in both the 'Peña' and 'Nepomuceno' cases. But here, the PCGG does not appear in either capacity, as the complaint is solely between PAGCOR and respondents PCOC and Marcelo. The 'Peña' and 'Nepomuceno' cases which recognize the independence of the PCGG and the Sandiganbayan in sequestration cases, therefore, cannot be invoked in the

instant case so as to divest the RTC of its jurisdiction, under Section 19 of B.P. Blg. 129, over PAGCOR's action for recovery of personal property."

In the case at bar, the claim of private respondent Hung Ming Kuk is for a sum of money arising from a debt incurred by LBLC. Under a contract, private respondent had extended cash advances and supplied LBLC hardware materials, auto spare parts, and rendered services, for cutting and hauling logs. The total claim amounts to P18,031,563.78. Following Section 19 of B.P. Blg. 129, as amended by R.A. No. 7691 on March 25, 1994, the complaint falls within the jurisdiction of the Regional Trial Court, viz:

"Sec. 19. Jurisdiction in civil cases. -- Regional Trial Courts shall exercise exclusive original jurisdiction:

x x x

(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the above-mentioned items exceeds Two hundred thousand pesos (P200,000)."

Petitioner relies, however, on the case of PCGG vs. Peña, 159 SCRA 556 (1988) and asserts that the controversy of LBLC or a sequestered company falls within the exclusive jurisdiction of the Sandiganbayan and not of the trial court.

In the Peña case, the trial court issued a temporary restraining order which prevented PCGG from enforcing the memorandum of then PCGG Commissioner Mary Concepcion Bautista. Her memorandum denied complainant's authority to sign and manage the funds of the sequestered company. The Supreme Court ruled that the trial court had no jurisdiction over PCGG being a co-equal body, and therefore, the regional trial courts may not interfere with and restrain the PCGG or set aside the order and actions of its Commissioner.

In contrast, the case now before us concerns receivables of the private respondent arising out of a legitimate business contract to supply goods and services in favor of LBLC. When a collection suit was filed against LBLC by its supplier, Hung Ming Kuk, evidently PCGG could not be the proper party to defend against such claim. More so, because when PCGG had not taken over the LBLC's business operations.

We note that PCGG is not an owner but a conservator. It can exercise only powers of administration over property sequestered, frozen or provisionally taken over. Even resort to the provisional remedies should entail the least possible interference with business operations or activities so that, in the event that the accusation that the business enterprise is "ill-gotten" be not proven, it may be returned to its rightful owner as far as possible in the same condition as it was at the time of sequestration.[9]

The holding in Peña which confers exclusive jurisdiction on the Sandiganbayan in sequestration cases cannot also be relied upon by petitioner in this case. We hold that the Regional Trial Court has jurisdiction over the complaint for payment of money allegedly averred by LBLC to private respondent.

We now move to the ancillary issue of whether or not the provisional remedy of attachment issued by the trial court in favor of the private respondent is valid.

It bears recalling that when the Sandiganbayan ordered that the writ of sequestration be lifted, PCGG filed a special civil action for certiorari to contest that order. The Supreme Court ruled in favor of PCGG when it granted the latter's petition to declare the lifting of the writ of sequestration by the Sandiganbayan null and void. The Court's en banc resolution pertinently reads:

"WHEREFORE, judgment is hereby rendered:

A. NULLIFYING AND SETTING ASIDE:

x x x

17) in G.R. No. 109314, its impugned Resolutions[10] dated November 29, 1991 and February 16, 1993."

In the same en banc Resolution, the Court observed:

"II. Provisional Remedies in Pursuance of Policy

Special adjective tools or devices were provided by the Revolutionary Government for the recovery of that "ill-gotten wealth." These took the form of provisional remedies akin to preliminary attachment (Rule 57), writ of seizure of personalty (Rule 60) and receivership (Rule 59). They were (a) sequestration and (b) freeze orders, as regards "unearthed instance of 'ill-gotten wealth'; and (c) provisional takeover, as regards 'business enterprises and properties taken over by the government of the Marcos Administration or by entities or persons close to former President Marcos."

A. Executive Orders Re Sequestration, Freezing and Takeover

These special remedies were prescribed and defined in Executive Orders Numbered 1 and 2, promulgated by President Corazon C. Aquino in March, 1986. Their validity and propriety were sustained by this Court on May 27, 1987, against claims that they were unconstitutional as being bills of attainder, or as violative of the right against self-incrimination and the guaranty against unreasonable searches and seizures. In the same case, the Court also set the parameters for and restrictions on the proper exercise of the remedies."

In *BASECO vs. PCGG*, 150 SCRA 181, 182 (1987), sequestration is defined as the process, which may be employed as a conservatory writ whenever the right of the property is involved, to preserve, pending litigation, specific property subject to conflicting claims of ownership or liens and privileges.[11]

The Court also noted the relationship between attachment and receivership, on one hand, and sequestration, freeze order and provisional takeover on the other. The latter there are ancillary remedies in prosecuting the ill-gotten wealth of the previous Marcos regime. The Court observed that sequestration, freezing and provisional takeover are akin to the provisional remedy of preliminary attachment or receivership.

By an order of attachment, a sheriff seizes property of a defendant in a civil suit so that it may stand as security for the satisfaction of any judgment that may be obtained, and not disposed of, or dissipated, or lost intentionally, or otherwise, pending the action.[12] When a writ of attachment has been levied on real property or any interest therein belonging to the judgment debtor, the levy creates a lien which nothing can destroy but its dissolution.[13] This well-settled rule is likewise applicable to a writ of sequestration.

Attachment is in the nature of a proceeding in rem. It is against a particular property of a debtor. The attaching creditor thereby acquires a specific lien upon the attached property which ripens into a judgment against the res when the order of sale is made. Such a proceeding is in effect a finding that the property attached is an indebted thing and results in its virtual condemnation to pay for the owner's debt. The law does not provide the length of time during which an attachment lien shall continue after the rendition of the judgment, and it must therefore continue until the debt is paid, or sale is had under execution issued in the judgment, or until the judgment is satisfied, or the statement discharged or vacated in some manner provided by law.[14]

In our view, the disputed properties of LBLC were already under custodia legis by virtue of a valid writ of sequestration[15] issued by the PCGG on April 2, 1986, when respondent Judge Saldares issued the assailed writ of attachment in favor of private respondent Hung Ming Kuk. At that time the writ of sequestration issued by PCGG against LBLC was subsisting. Said writ of the PCGG could not be interfered with by the RTC of Lianga,

because the PCGG is a coordinate and co-equal body. The PCGG had acquired by operation of law the right of redemption over the property until after the final determination of the case or until its dissolution.

WHEREFORE, the instant petition is partially GRANTED. The default Order issued by the public respondent dated March 19, 1993, is AFFIRMED, but should be held in abeyance until the sequestration case involving LBLC before the Sandiganbayan is determined. The Order of Attachment issued by the public respondent is declared NULL and VOID. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, pp. 19-30.

[2] Id. at 31.

[3] Republic of the Phils. vs. Peter A. Sabido; Civil Case No. 0024; Sandiganbayan (Second Division).

[4] Supra, Note 1 at 60-61.

[5] Id. at 32-35.

[6] Republic of the Philippines, vs. Sandiganbayan, et. al; G. R. No. 109314; Rollo, pp. 81-128.

[7] Supra, Note 1 at 30.

[8] Republic vs. Sandiganbayan (First Division), 240 SCRA 376 (1995).

[9] Baseco vs. PCGG, 150 SCRA 181, 186 (1987).

[10] Sequestration – The power of the PCGG to sequester the property claimed to be "ill-gotten," and placed under its possession or control of said property, or any building or office wherein any such property and any records pertaining thereto may be found, including "business enterprises and entities,"-- for the purpose of preventing the destruction, concealment or dissipation of, and otherwise conserving and preserving, the same--until it can be determined through appropriate judicial proceedings, whether the property was in truth "ill-gotten," i.e., acquired through or as a result of improper or illegal use of or the conversion of funds belonging to the Government or any of its branches, instrumentalities, enterprises, banks or financial institutions, or by taking undue advantage of official position, authority, relationship, connection, or influence, resulting in unjust enrichment of the ostensible owner and grave damage and prejudice to the State.

[11] Supra, Note 9 at 209; citing 79 C.J.S., 1047.

[12] Ibid.

[13] Consolidated Bank and Trust Corporation (Solidbank) vs. Intermediate Appellate Court, 150 SCRA 591, 598 (1987); citing Chua Pua Hermanos vs. Register of Deeds of Batangas, 50 Phil. 670 (1921).

[14] Government et. al. vs. Mercado, 67 Phil 409, 413 (1939).

[15] Supra, Note 2 at 31.

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