

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ASSET
PRIVATIZATION TRUST, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION, HON. EDUARDO J. CARPIO, AND
PANTRANCO ASSOCIATION OF ...**

G.R. No. 120385. October 17, 1996

Ponente: VITUG, J.

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VITUG, J.:

Once a judgment becomes final, it is a matter of right for the prevailing party to be entitled to a writ of execution,[1] so described as the fruit and end of the suit.[2] The decisions of the Labor Arbiters and the National Labor Relations Commission ("NLRC") having gained finality, writs of execution and notices of garnishment have been issued in (a) NLRC NCR Case No. 00-08-05380-93,[3] "PANTRANCO EMPLOYEES ASSOCIATION PTGWO vs. PANTRANCO NORTH EXPRESS INC. AND ASSET PRIVATIZATION TRUST;" (b) NLRC-NCR Case No. 00-05-03587-93,[4] "PANTRANCO ASSOCIATION OF CONCERNED EMPLOYEES UNION vs. PANTRANCO NORTH EXPRESS, INC., ASSET PRIVATIZATION TRUST AND DEPARTMENT OF TRANSPORTATION AND COMMUNICATION;" and, (c) NLRC CASE NO. SUB-RAB-01-12-7-02255-93,[5] "DR. ANTONIO P. CABUGAO vs. PANTRANCO NORTH EXPRESS, INC., ASSET PRIVATIZATION TRUST."

The writs of execution and notices of garnishment are now sought to be set aside by the Republic, represented by the Asset Privatization Trust ("APT"), in the instant special civil action of prohibition with prayer for the issuance of preliminary injunction or temporary restraining order.

Prefatorily, it would be helpful to mention how APT became involved in these various cases of monetary claims filed by the employees of the Pantranco North Express, Inc. ("PNEI").

In December of 1978, the full ownership of PNEI was transferred to its creditor, the National Investment Development Corporation ("NIDC"), a subsidiary of the Philippine National Bank ("PNB"),[6] following the latter's foreclosure of PNEI assets. PNEI was one among several companies placed under sequestration by the Presidential Commission on Good Government ("PCGG") shortly after the historic 1986 events in EDSA. Some time in January, 1988, the sequestration order was lifted to give way to the sale of PNEI by the APT which, in the meanwhile, had taken over the management of the company.[7] The continuing deterioration of its financial condition prompted PNEI to lodge, on 07 May 1992, a Petition for Suspension of Payments with the Securities and Exchange Commission ("SEC"), a move calculated to prevent further dissipation of PNEI's assets and to make PNEI a viable source of income for the government.[8] The management committee, which was created to handle the business operations of PNEI, presented a report to the SEC that recommended, in a move to best serve the interest of all parties concerned (creditors, employees of PNEI and the government), the sale of the company through privatization in accordance with the rules of the APT. As a cost saving measure, the management committee also recommended to the SEC the retrenchment of some 500 employees of PNEI. The retrenchment

was carried out during the months of November and December of 1992 and January of 1993.

The filing of various labor complaints against PNEI was the immediate result.

(A) NLRC NCR Case No. 00-08-05380-93 was started by PEA-PTGWO on 27 August 1993 in the Arbitration Branch of the NLRC-NCR against PNEI and APT for unfair labor practice, for non-payment of 13th month pay, and various other claims. Summonses were served and received by the respective Legal Departments of PNEI and APT. When the case was called for hearing, only PNEI made an appearance through the Office of the Government Corporate Counsel ("OGCC"). In the subsequent hearings, while APT did not formally enter its appearance, it, however, submitted a position paper with a motion to dismiss the case.[9] On 14 February 1994, Labor Arbiter Eduardo Carpio rendered a decision holding PNEI and APT jointly and solidarily liable, viz:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondents to jointly and severally pay all the covered employees the following:

- "1. 13th month pay and P1,000.00 cash gift for the year 1992;
- "2. medicine allowance from 1991 to September 1993 when the company ceased its operations;
- "3. uniform allowance pursuant to Art. XIII of the CBA;
- "4. separation pay equivalent to one (1) month for every year of service, a fraction of six (6) months to be considered as one (1) whole year; and
- "5. 10% of the total award as attorney's fees." [10]

No appeal was interposed by either the PNEI or the APT from the Carpio decision. PEA-PTGWO in due time filed an urgent motion for the issuance of a writ of execution. Acting on the motion, Labor Arbiter Carpio directed the Research and Information Unit of the NLRC to submit an official computation of PEA-PTGWO's monetary entitlements. PEA-PTGWO, PNEI and APT were all served with copies of the computation directing them to submit their respective comments thereon. Only PEA-PTGWO submitted its manifestation stating that it was agreeable to the computation.

A writ of execution, dated 26 May 1994, was eventually issued by Labor Arbiter Carpio. The writ was sought to be implemented by Sheriff Juanito Atienza but only a partial satisfaction of judgment could be realized (through the sale of levied properties of PNEI in the sum of P22,300.00).[11] PEA-PTGWO filed an urgent motion for the issuance of an alias writ of execution which was favorably acted upon. In carrying out the alias writ, Sheriff Atienza served a notice of garnishment, dated 16 November 1994, on the Land Bank of the Philippines "upon all x x x credits, interest, bank deposits x x x belonging to respondent Pantranco North Express, Inc. or the respondent Asset Privatization Trust"[12] sufficient to cover the remaining balance of the judgment award in the sum of P68,947,756.10. The Land Bank, in turn, responded in one of its letters to Sheriff Atienza that since the funds of APT, a government owned and controlled agency, were considered public in nature, they could not be the subject of garnishment.[13]

(B) NLRC-NCR-00-05-03587-93, the second labor case, involved a claim for separation pay, 13th month pay and other benefits lodged by PACEU against PNEI, APT and DOTC. The proceedings that transpired in NLRC-NCR-00-05-03587-93 were summarized by Labor Arbiter Raul Aquino in his 21 July 1993 decision; viz:

"It appears on record that this case was initially set for mandatory conference on June 9, 1993. On June 9, 1993, record of the case shows that only the complainant appeared. Respondents appeared on June 18, 1993 but efforts to settle the case failed.

"Complainants on June 29, 1993, filed their position paper together with their individual computation of claims. On June 30, 1993, parties appeared wherein respondents committed to file its position paper on July 8, 1993 with understanding that with or without the said position paper the case should be deemed submitted for

decision. On July 8, 1993, complainants appeared. Respondents on its part did not appear neither did it file the required position paper, it did not even explain the reason of its non-appearance.

"Citing the agreement on June 30, 1993 hearing this Office issued an Order on July 13, 1993, the same states:

"When this case was called for hearing on June 30, 1993, respondent requested that it be given until July 8, 1993 within which to submit its position paper with the understanding that with or without the said position paper, the same shall be deemed submitted for decision.

'This case was set again for hearing on July 8, 1993 at 2:00 p.m. During the hearing, complainants together with counsel appeared while respondent failed to appear and likewise failed to submit the required position paper. Thus, complainants move for the submission of the above-entitled case for decision.

'ACCORDINGLY, respondent Pantranco North Express, Inc. is hereby ordered to submit its position paper together with supporting documents within five (5) days from receipt of this Order. Failure to comply with this Order shall be deemed waiver of rights to present evidence hence, the above-entitled case shall be deemed submitted for resolution. No motion for extension shall be entertained.

'SO ORDERED.'

"It appeared on record that respondent did not file the required position paper despite receipt of the mentioned Order.

"In consonance therefore with the Order of July 13, 1993 and pursuant to par. c, Section 11, Rule V New Rules of Procedure of this Office, this case is now considered submitted for decision." [14]

On 21 July 1993, Labor Arbiter Aquino rendered a decision, the decretal portion of which read:

"WHEREFORE, premises considered judgment is hereby rendered ordering respondent Pantranco North Express, Inc. to pay individual complainants the following amount as computed.

"In addition, respondent company is further directed to pay individual complainants the uniformed amount of P1,000.00 representing unpaid gift check and uniform allowance in the amount of P5,868.00 for male complainants and the amount of P5,058.00 for female complainants for the year 1991, 1992 and 1993, with the exemption of complainant Marciano Cleofas who is not entitled to uniform allowance. In the case of complainants Rogelio Murillo, Oronico Ponciano, Pereya Francisco, Bernardo Santos and Felizardo Lambino respondent is directed to pay each of them the amount of P6,660.00 for the period of 1991, 1992 and 1993.

"Respondent is likewise directed to pay the attorney's fees equivalent to 10% of the total monetary award of THIRTY NINE MILLION SEVEN HUNDRED THIRTY SIX THOUSAND FOUR HUNDRED FIFTY NINE PESOS AND THIRTEEN CENTAVOS (P39,736,459.13)

"SO ORDERED." [15]

Since none of the parties appealed, the aforequoted decision eventually became final and executory. Upon motion, Labor Arbiter Aquino issued a writ of execution commanding the sheriff, as follows:

"NOW THEREFORE, you are hereby commanded to proceed to the premises of the respondent Pantranco North Express, Inc. located at 325 Quezon Blvd. Extension, Quezon City to collect the amount of P39,736,459.13 and attorney's fees in the amount of P3,973,645.91 plus the execution fee of P40,000.00 as per Manual Instruction for Sheriff in cash and to turn over the same to this Office for proper disposition." [16]

By virtue of the writ, various pieces of property of PNEI were levied upon and sold at public auction. Meanwhile, APT filed an Urgent Ex-Parte Motion to Quash Execution. By then, the proceeds of the sale of some property had amounted to P1,200,000.00. The amount was deposited with the NLRC pending resolution of APT's motion.

PEA-PTGWO filed a Motion for Intervention before Labor Arbiter Aquino claiming interest over the same property of PNEI because of the union's own monetary claim against the latter.

The case was re-raffled to Labor Arbiter Ricardo Nora, following the inhibition of Labor Arbiter Aquino, who issued an order on 19 November 1993 denying both APT's Urgent Ex-Parte Motion to Quash and PEA-PTGWO's Motion for Intervention. Only PEA-PTGWO appealed to the NLRC for the reversal of the order of the Labor Arbiter.

On 29 November 1994, an order[17] was issued by the NLRC affirming the appealed order of respondent Arbiter. The subsequent motion for reconsideration was denied by the NLRC in its 21 June 1995 order[18] which became final and executory on 14 July 1995, and thereafter recorded in the Book of Entries of Judgment.[19]

(C) The complaint in NLRC CASE NO. SUB-RAB-01-12-7-0225-93 was initiated by respondent Antonio Cabugao before the Sub-Regional Arbitration Branch of NLRC in Dagupan City against PNEI and APT similarly involving claims for separation pay, 13th month pay and other benefits. Despite receipt of the summonses, PNEI and APT failed to file their answers. On 29 August 1994,[20] a decision was promulgated ordering respondent PNEI to pay the complainant the total amount of P208,954.60.

The decision became final and executory; hence, upon motion, a writ of execution[21] was issued by Labor Arbiter Gambito.

Mention might also be made of the fact that in addition to the writs issued by the labor arbiters, PNEI had likewise been sued and adjudged to pay certain amounts to different judgment creditors.[22] Losses incurred by PNEI continued to mount due to cash-flow problems and the depletion of the aging fleet of buses which were not replaced. The demands for payment of maturing and overdue obligations made matters worse.

In NLRC Case No. 00-08-05380-93, Sheriff Atienza attempted to satisfy the judgment against APT funds. Foreseeing that other respondent Sheriffs would take similar steps unless seasonably enjoined, the Republic, represented by APT, filed the instant petition. The Court, on 05 July 1995, issued the temporary restraining order prayed for.[23]

The pivotal issue, in the manner the Court sees it, is whether or not, given these case settings, APT itself can be held liable for the obligations of PNEI.

The Solicitor-General initially points out that APT, being an agency or instrumentality of the Republic of the Philippines, is immune from suit. The Court is not persuaded even as it is cognizant of the doctrine that "(t)he State may not be sued without its consent,"[24] for as the Court has so stressed in *Department of Agriculture vs. NLRC*,[25] the rule "

"x x x is not really absolute for it does not say that the state may not be sued under any circumstance. On the contrary, as correctly phrased, the doctrine only conveys, 'the state may not be sued without its consent;' its clear import then is that the State may at times be sued. The States' consent may be given either expressly or impliedly. Express consent may be made through a general law or a special law. In this jurisdiction, the general law waiving the immunity of the state from suit is found in Act No. 3083, where the Philippine government 'consents and submits to be sued upon any money claim involving liability arising from contract, express or implied, which could serve as a basis of civil action between private parties.' Implied consent, on the other hand, is conceded when the State itself commences litigation, thus opening itself to a counter-claim, or when it enters into a contract." (Footnotes omitted)

Proclamation No. 50,[26] creating APT which has been mandated to "take title to and possession of, conserve, provisionally manage and dispose of assets" that have been identified for privatization or disposition,[27] clearly

provides that said instrumentality, among other things, can "sue and be sued." [28] This provision indubitably shows that APT can be haled to court.

Nonetheless, we have likewise since explained [29] that suability does not necessarily mean liability on the part of the particular instrumentality or agency of the government; hence --

"When the State gives its consent to be sued, it does not thereby necessarily consent to an unrestrained execution against it. Tersely put, when the State waives its immunity, all it does, in effect, is to give the other party an opportunity to prove, if it can, that the State has a liability. In *Republic vs. Villasor* this Court, in nullifying the issuance of an alias writ of execution directed against the funds of the Armed Forces of the Philippines to satisfy a final and executory judgment, has explained, thus-

"The universal rule that where the State gives its consent to be sued by private parties either by general law or special law, it may limit claimant's action 'only up to the completion of proceedings anterior to the stage of execution' and that the power of the Courts ends when the judgment is rendered, since government funds and properties may not be seized under writs of execution or garnishment to satisfy such judgments, is based on obvious considerations of public policy. Disbursements of public funds must be covered by the correspondent appropriation as required by law. The functions and public services rendered by the State cannot be allowed to be paralyzed or disrupted by the diversion of public funds from their legitimate and specific objects, as appropriated by law." [30] (Footnotes omitted)

Delving into the other crucial question, it would be, in our view, a clear and patent error to construe the decreed joint and solidary liability of APT (in NLRC NCR Case No. 00-08-05380-93) as extending beyond what APT has held in or acquired from PNEI. A matter that must not be overlooked is the fact that the inclusion of APT as a respondent in the monetary claims against PNEI is merely the consequence of its being a conservator of assets, a role that APT normally plays in, or the relationship that ordinarily it maintains with, corporations identified for and while under privatization. The liability of APT under this particular arrangement, nothing else having been shown, should be co-extensive with the amount of assets taken over from the privatized firm. PNEI's assets obviously remain to be subject to execution by judgment creditors of PNEI. Accordingly, the levy and auction sale of the property of PNEI to satisfy the monetary judgment rendered in favor of PNEI employees can be sustained since such assets are to be deemed subject to all valid claims against PNEI. [31]

WHEREFORE, the petition is GRANTED. The notice of garnishment directed against the funds of APT is NULLIFIED and the temporary restraining order issued by this Court is made PERMANENT. No costs.

SO ORDERED.

Padilla (Chairman), Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] *Abbott vs. NLRC*, 145 SCRA 206; *Balintawak Construction Supply Corporation vs. Valenzuela*, 124 SCRA 331; *Gonzales vs. Sayo*, 122 SCRA 607; *Clemente-De Guzman vs. Reyes*, 114 SCRA 596; *Republic vs. Reyes*, 71 SCRA 450; *Carreon vs. Buissan*, 70 SCRA 57.

[2] *Garcia vs. Echiverri*, 132 SCRA 631.

[3] Annexes "A," and "B," Petition, Rollo, pp. 34-37.

[4] Annexes "C," "C-1," and "D," Petition, Rollo, pp. 38-45.

[5] Annexes "E," and "F," Petition, Rollo, pp. 46-49.

[6] Rollo, p. 106.

[7] Rollo, p. 106.

[8] Rollo, pp. 106-107.

[9] Rollo, p. 77.

[10] Rollo, p. 114.

[11] Annexes "17," "18," and "19," PEA-PTGWO's Comment, Rollo, pp. 125-127.

[12] Rollo, p. 37.

[13] Annexes "22," PEA-PTGWO's Comment, Rollo, p. 130.

[14] Rollo, pp. 163-165.

[15] Rollo, pp. 167-168.

[16] Rollo, p. 39.

[17] Annex "A," PACEU's Comment, Rollo, p.218; Annex "B," Ricardo Nora's Comment, Rollo, pp. 169-174.

[18] Annex "B," PACEU's Comment, Rollo, pp. 219-220.

[19] Annex "C," Ibid., p. 221.

[20] Rollo, pp. 46-47.

[21] "WHEREAS, respondent PNEI did not appeal the decision, thus, it has become final and executory;

"WHEREAS, the monetary award as computed by this Office has not been paid.

"NOW THEREFORE, in the name of the Republic of the Philippines, you are hereby commanded to collect from the respondent PNEI at Dagupan City or in Quezon City, the total of P208,954.60 as computed by this Office, and if you fail to collect the said amount, you are ordered to garnish the monetary deposits of the respondent, if any, from any of the banks in Dagupan City or Quezon City, and/or seize the goods or chattels of the respondent, except those exempted by law, and sell the same in the manner provided for by law for the satisfaction of the judgment." (Rollo, p. 47.)

[22] 1. NLRC Case No. 00-05-02570-90, "Pantranco Association of Concerned Employees vs. Pantranco North Express, Inc.," for P23,192,706.85;

2. NLRC NCR Case No. 6-2863-83, "Pantranco Employees Association-PTGWO vs. PNEI," for P146,331,303.83;

3. Civil Case No. 93-66675, "RR Metal Casting and Fabrication, Inc. vs. PNEI," for P473,614.77;

4. Civil Case No. Q-34044, "Rodolfo Jacela vs. PNEI," for P225,980.00;

5. Civil Case No. 93-66642, "Quezon Bearing and Parts Corp. vs. PNEI," for P3,209,474.00;

6. Civil Case No. 92-59723, "Fordson Parts Supply, Inc. vs. PNEI," for P22,545,159.27; and

7. Civil Case No. Q-93-16971, "Uy Sun Huat vs. PNEI," for P127,590.00

[23] Rollo, pp. 58-59.

[24] Article XVI, Section 3 of the Constitution.

[25] 227 SCRA 693.

[26] Entitled, "Proclaiming And Launching A Program For The Expeditious Disposition And Privatization Of Certain Government Corporations And/Or The Assets Thereof, And Creating The Committee On Privatization And The Asset Privatization Trust"

[27] Section 9, Article III, Proclamation No. 50.

[28] Section 12 (7), Article III, Proclamation No. 50.

[29] Supra., note 25.

[30] At pp. 701-702.

[31] Republic of the Philippines, represented by Asset Privatization Trust vs. National Labor Relations Commission, 244 SCRA 564; see also North Davao Mining Corporation and Asset Privatization Trust vs. National Labor Relations Commission, et al., G.R. No. 112546, 13 March 1996.

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