

YUPANGCO COTTON MILLS, INC., PETITIONER, VS. COURT OF APPEALS, HON. URBANO C. VICTORIO, SR., PRESIDING JUDGE, RTC BRANCH 50, MANILA, RODRIGO SY MENDOZA, SAMAHANG MANGGAGAWA NG A...

G.R. No. 126322. January 16, 2002

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is a petition for review on certiorari of the decision of the Court of Appeals[1] dismissing the petition ruling that petitioner was guilty of forum shopping and that the proper remedy was appeal in due course, not certiorari or mandamus.

In its decision, the Court of Appeals sustained the trial court's ruling that the remedies granted under Section 17, Rule 39 of the Rules of Court are not available to the petitioner because the Manual of Instructions for Sheriffs of the NLRC does not include the remedy of an independent action by the owner to establish his right to his property.

The Facts

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

“From the records before us and by petitioner's own allegations and admission, it has taken the following actions in connection with its claim that a sheriff of the National Labor Relations Commission “erroneously and unlawfully levied” upon certain properties which it claims as its own.

“1. It filed a notice of third-party claim with the Labor Arbiter on May 4, 1995.

“2. It filed an Affidavit of Adverse Claim with the National Labor Relations Commission (NLRC) on July 4, 1995, which was dismissed on August 30, 1995, by the Labor Arbiter.

“3. It filed a petition for certiorari and prohibition with the Regional Trial Court of Manila, Branch 49, docketed as Civil Case No. 95-75628 on October 6, 1995. The Regional Trial Court dismissed the case on October 11, 1995 for lack of merit.

“4. It appealed to the NLRC the order of the Labor Arbiter dated August 13, 1995 which dismissed the appeal for lack of merit on December 8, 1995.

“5. It filed an original petition for mandatory injunction with the NLRC on November 16, 1995. This was docketed as Case No. NLRC-NCR-IC. 0000602-95. This case is still pending with that Commission.

“6. It filed a complaint in the Regional Trial Court in Manila which was docketed as Civil Case No. 95-76395. The dismissal of this case by public respondent triggered the filing of the instant petition.

“In all of the foregoing actions, petitioner raised a common issue, which is that it is the owner of the properties located in the compound and buildings of Artex Development Corporation, which were erroneously levied upon by the sheriff of the NLRC as a consequence of the decision rendered by the said Commission in a labor case docketed as NLRC-NCR Case No. 00-05-02960-90.”[2]

On March 29, 1996, the Court of Appeals promulgated a decision[3] dismissing the petition on the ground of forum shopping and that petitioner’s remedy was to seek relief from this Court.

On April 18, 1996, petitioner filed with the Court of Appeals a motion for reconsideration of the decision.[4] Petitioner argued that the filing of a complaint for accion reivindicatoria with the Regional Trial Court was proper because it is a remedy specifically granted to an owner (whose properties were subjected to a writ of execution to enforce a decision rendered in a labor dispute in which it was not a party) by Section 17 (now 16), Rule 39, Revised Rules of Court and by the doctrines laid down in *Sy v. Discaya*,[5] *Santos v. Bayhon*[6] and *Manliguez v. Court of Appeals*. [7]

In addition, petitioner argued that the reliefs sought and the issues involved in the complaint for recovery of property and damages filed with the Regional Trial Court of Manila, presided over by respondent judge, were entirely distinct and separate from the reliefs sought and the issues involved in the proceedings before the Labor Arbiter and the NLRC. Besides, petitioner pointed out that neither the NLRC nor the Labor Arbiter is empowered to adjudicate matters involving ownership of properties.

On August 27, 1996, the Court of Appeals denied petitioner’s motion for reconsideration.[8]

Hence, this appeal.[9]

The Issues

The issues raised are (1) whether the Court of Appeals erred in ruling that petitioner was guilty of forum shopping, and (2) whether the Court of Appeals erred in dismissing the petitioner’s accion reivindicatoria on the ground of lack of jurisdiction of the trial court.

The Court’s Ruling

On the first issue raised, we rule that there was no forum shopping.

In *Golangco v. Court of Appeals*,[10] we held:

“What is truly important to consider in determining whether forum shopping exists or not is the vexation caused the courts and parties-litigant by a party who asks different courts and/or administrative agencies to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating possibility of conflicting decisions being rendered by the different for a upon the same issues.

“xxx xxx xxx

“There is no forum-shopping where two different orders were questioned, two distinct causes of action and issues were raised, and two objectives were sought.” (Underscoring ours)

In the case at bar, there was no identity of parties, rights and causes of action and reliefs sought.

The case before the NLRC where Labor Arbiter Reyes issued a writ of execution on the property of petitioner was a labor dispute between Artex and Samar-Anglo. Petitioner was not a party to the case. The only issue petitioner raised before the NLRC was whether or not the writ of execution issued by the labor arbiter could be satisfied against the property of petitioner, not a party to the labor case.

On the other hand, the accion reivindicatoria filed by petitioner in the trial court was to recover the property illegally levied upon and sold at auction. Hence, the causes of action in these cases were different.

The rule is that “for forum-shopping to exist both actions must involve the same transactions, the same circumstances. The actions must also raise identical causes of action, subject matter and issues.[11]

In *Chemphil Export & Import Corporation v. Court of Appeals*,[12] we ruled that:

“Forum-shopping or the act of a party against whom an adverse judgment has been rendered in one forum, of seeking another (and possible) opinion in another forum (other than by appeal or the special civil action of certiorari), or the institution of two (2) or more actions or proceedings grounded on the same cause on the supposition that one or the other would make a favorable disposition.”

On the second issue, a third party whose property has been levied upon by a sheriff to enforce a decision against a judgment debtor is afforded with several alternative remedies to protect its interests. The third party may avail himself of alternative remedies cumulatively, and one will not preclude the third party from availing himself of the other alternative remedies in the event he failed in the remedy first availed of.

Thus, a third party may avail himself of the following alternative remedies:

- a) File a third party claim with the sheriff of the Labor Arbiter, and
- b) If the third party claim is denied, the third party may appeal the denial to the NLRC.[13]

Even if a third party claim was denied, a third party may still file a proper action with a competent court to recover ownership of the property illegally seized by the sheriff. This finds support in Section 17 (now 16), Rule 39, Revised Rules of Court, to wit:

“SEC. 17 (now 16). Proceedings where property claimed by third person. -If property claimed by any other person than the judgment debtor or his agent, and such person makes 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.

“When the party in whose favor the writ of execution runs, is the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.” (Underscoring ours)

In *Sy v. Discaya*,[14] we ruled that:

“The right of a third-party claimant to file an independent action to vindicate his claim of ownership over the properties seized is reserved by Section 17 (now 16), Rule 39 of the Rules of Court, x x x:

“x x x x x x x x x

“As held in the case of *Ong v. Tating, et. al.*, construing the aforecited rule, a third person whose property was

seized by a sheriff to answer for the obligation of a judgment debtor may invoke the supervisory power of the court which authorized such execution. Upon due application by the third person and after summary hearing, the court may command that the property be released from the mistaken levy and restored to the rightful owner or possessor. What said court do in these instances, however, is limited to a determination of whether the sheriff has acted rightly or wrongly in the performance of his duties in the execution of judgment, more specifically, if he has indeed taken hold of property not belonging to the judgment debtor. The court does not and cannot pass upon the question of title to the property, with any character of finality. It can treat of the matter only insofar as may be necessary to decide if the sheriff has acted correctly or not. It can require the sheriff to restore the property to the claimant's possession if warranted by the evidence. However, if the claimant's proof do not persuade the court of the validity of his title or right of possession thereto, the claim will be denied.

"Independent of the above-stated recourse, a third-party claimant may also avail of the remedy known as 'terceria', provided in Section 17 (now 16), Rule 39, by serving on the officer making the levy an affidavit of his title 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, indemnifies the officer against such claim by a bond in a sum not greater than the value of the property levied on. An action for damages may be brought against the sheriff within one hundred twenty (120) days from the filing of the bond.

"The aforesaid remedies are nevertheless without prejudice to 'any proper action' that a third-party claimant may deem suitable to vindicate 'his claim to the property.' Such a 'proper action' is, obviously, entirely distinct from that explicitly prescribed in Section 17 of Rule 39, which is an action for damages brought by a third-party claimant against the officer within one hundred twenty (120) days from the date of the filing of the bond for the taking or keeping of the property subject of the 'terceria'.

"Quite obviously, too, this 'proper action' would have for its object the recovery of ownership or possession of the property seized by the sheriff, as well as damages resulting from the allegedly wrongful seizure and detention thereof despite the third-party claim; and it may be brought against the sheriff and such other parties as may be alleged to have colluded with him in the supposedly wrongful execution proceedings, such as the judgment creditor himself. Such 'proper action', as above pointed out, is and should be an entirely separate and distinct action from that in which execution has issued, if instituted by a stranger to the latter suit.

"The remedies above mentioned are cumulative and may be resorted to by a third-party claimant independent of or separately from and without need of availing of the others. If a third-party claimant opted to file a proper action to vindicate his claim of ownership, he must institute an action, distinct and separate from that in which the judgment is being enforced, with the court of competent jurisdiction even before or without need of filing a claim in the court which issued the writ, the latter not being a condition sine qua non for the former. In such proper action, the validity and sufficiency of the title of the third-party claimant will be resolved and a writ of preliminary injunction against the sheriff may be issued." (Emphasis and underscoring ours)

In light of the above, the filing of a third party claim with the Labor Arbiter and the NLRC did not preclude the petitioner from filing a subsequent action for recovery of property and damages with the Regional Trial Court. And, the institution of such complaint will not make petitioner guilty of forum shopping.[15]

In *Santos v. Bayhon*,[16] wherein Labor Arbiter Ceferina Diosana rendered a decision in NLRC NCR Case No. 1-313-85 in favor of Kamapi, the NLRC affirmed the decision. Thereafter, Kamapi obtained a writ of execution against the properties of Poly-Plastic Products or Anthony Ching. However, respondent Priscilla Carrera filed a third-party claim alleging that Anthony Ching had sold the property to her. Nevertheless, upon posting by the judgment creditor of an indemnity bond, the NLRC Sheriff proceeded with the public auction sale. Consequently, respondent Carrera filed with Regional Trial Court, Manila an action to recover the levied property and obtained a temporary restraining order against Labor Arbiter Diosana and the NLRC Sheriff from issuing a certificate of sale

over the levied property. Eventually, Labor Arbiter Santos issued an order allowing the execution to proceed against the property of Poly-Plastic Products. Also, Labor Arbiter Santos and the NLRC Sheriff filed a motion to dismiss the civil case instituted by respondent Carrera on the ground that the Regional Trial Court did not have jurisdiction over the labor case. The trial court issued an order enjoining the enforcement of the writ of execution over the properties claimed by respondent Carrera pending the determination of the validity of the sale made in her favor by the judgment debtor Poly-Plastic Products and Anthony Ching.

In dismissing the petition for certiorari filed by Labor Arbiter Santos, we ruled that:

“x x x. The power of the NLRC to execute its judgments extends only to properties unquestionably belonging to the judgment debtor (*Special Servicing Corp. v. Centro La Paz*, 121 SCRA 748).

“The general rule that no court has the power to interfere by injunction with the judgments or decrees of another court with concurrent or coordinate jurisdiction possessing equal power to grant injunctive relief, applies only when no third-party claimant is involved (*Traders Royal Bank v. Intermediate Appellate Court*, 133 SCRA 141 [1984]). When a third-party, or a stranger to the action, asserts a claim over the property levied upon, the claimant may vindicate his claim by an independent action in the proper civil court which may stop the execution of the judgment on property not belonging to the judgment debtor.” (Underscoring ours)

In *Consolidated Bank and Trust Corp. v. Court of Appeals*, 193 SCRA 158 [1991], we ruled that:

“The well-settled doctrine is that a ‘proper levy’ is indispensable to a valid sale on execution. A sale unless preceded by a valid levy is void. Therefore, since there was no sufficient levy on the execution in question, the private respondent did not take any title to the properties sold thereunder x x x.

“A person other than the judgment debtor who claims ownership or right over the levied properties is not precluded, however, from taking other legal remedies.” (Underscoring ours)

Jurisprudence is likewise replete with rulings that since the third-party claimant is not one of the parties to the action, he could not, strictly speaking, appeal from the order denying his claim, but should file a separate reivindicatory action against the execution creditor or the purchaser of the property after the sale at public auction, or a complaint for damages against the bond filed by the judgment creditor in favor of the sheriff.[17]

And in *Lorenzana v. Cayetano*,[18] we ruled that:

“The rights of a third-party claimant should not be decided in the action where the third-party claim has been presented, but in a separate action to be instituted by the third person. The appeal that should be interposed if the term ‘appeal’ may properly be employed, is a separate reivindicatory action against the execution creditor or the purchaser of the property after the sale at public auction, or complaint for damages to be charged against the bond filed by the judgment creditor in favor of the sheriff. Such reivindicatory action is reserved to the third-party claimant.”

A separate civil action for recovery of ownership of the property would not constitute interference with the powers or processes of the Arbiter and the NLRC which rendered the judgment to enforce and execute upon the levied properties. The property levied upon being that of a stranger is not subject to levy. Thus, a separate action for recovery, upon a claim and prima-facie showing of ownership by the petitioner, cannot be considered as interference.

The Fallo

WHEREFORE, the Court REVERSES the decision of the Court of Appeals and the resolution denying reconsideration.[19] In lieu thereof, the Court renders judgment ANNULING the sale on execution of the subject property conducted by NLRC Sheriff Anam Timbayan in favor of respondent SAMAR-ANGLO and the

subsequent sale of the same to Rodrigo Sy Mendoza. The Court declares the petitioner to be the rightful owner of the property involved and remands the case to the trial court to determine the liability of respondents SAMAR-ANGLO, Rodrigo Sy Mendoza, and WESTERN GUARANTY CORPORATION to pay actual damages that petitioner claimed.

Costs against respondents, except the Court of Appeals.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] In CA-G. R. SP No. 39700, promulgated on March 29, 1996, Petition, Annex “A”, Rollo, pp. 65-76. Verzola, J., ponente, Abad Santos, Jr. and Agcaoili, JJ., concurring.

[2] Supra, Note 1, at pp. 67-68.

[3] Petition, Annex “A”, Rollo, pp. 65-71. Verzola, J., ponente, Abad Santos, Jr. and Agcaoili, JJ., concurring.

[4] CA Rollo, pp. 410-438.

[5] 181 SCRA 378, 382 [1990].

[6] 199 SCRA 525 [1991].

[7] 232 SCRA 427, 431-432 [1994].

[8] Petition, Annex “B”, Rollo, pp. 73-76.

[9] Petition, filed on September 27, 1996, Rollo, pp. 4-63. On October 18, 1999, we gave due course to the petition (Rollo, pp. 724-727).

[10] 347 Phil. 771 [1997].

[11] International Container Terminal Services, Inc. v. Court of Appeals, 319 Phil. 510 [1995].

[12] 231 SCRA 257 [1994].

[13] Section 2, Rule VI of the Manual of Instructions for Sheriffs of the NLRC.

[14] Supra, Note 7.

[15] Manriquez v. Court of Appeals, 232 SCRA 427 [1994].

[16] Supra, Note 8.

[17] Bayer Philippines, Inc. v. Agana, 63 SCRA 355 [1975].

[18] 78 SCRA 425 [1977].

[19] In CA-G. R. SP No. 39700.

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