

ESTEBAN YAU, PETITIONER, VS. THE MANILA BANKING CORPORATION, RESPONDENT.

G.R. No. 126731. July 11, 2002

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The twin petitions for review on certiorari under Rule 45 of the Rules of Court seek to set aside the Decisions of the Court of Appeals in CA-G.R. SP Nos. 32405[1] and 37085.[2]

Esteban Yau is the judgment creditor of Ricardo C. Silverio, Sr. by virtue of a Decision[3] of the Regional Trial Court of Cebu City, Branch 6 dated March 27, 1991 in Civil Case No. CEB-2058, entitled “Esteban Yau v. Philippine Underwriters Finance Corporation, et al.,” which included Silverio as one of the defendants. The decision became final and executory and, accordingly, a writ of execution was issued on September 17, 1992.

Despite service of the writ and demand by the sheriff for the satisfaction of the judgment, the defendants therein, including Silverio, failed to pay said judgment. The only asset of Silverio that could be found for the satisfaction of the judgment was his proprietary membership share in the Manila Golf and Country Club, Inc. (Manila Golf). Accordingly, the sheriff levied upon the Silverio share on December 7, 1992. At the public auction sale on December 29, 1992, Yau emerged as the highest and only bidder of said Silverio share at P2 Million and the corresponding Certificate of Sale issued in his name.[4]

However, at the time of the execution sale on December 29, 1992, the Silverio share was already subject to a prior levy pursuant to separate writs of preliminary attachment dated March 27, 1990[5] and October 17, 1990[6] obtained by the Manila Banking Corporation (Manilabank) from Branches 62 and 64 of the Regional Trial Court of Makati City before which complaints for sums of money, docketed as Civil Case Nos. 90-513[7] and 90-271,[8] respectively, were pending, in which Silverio is also one of the defendants.

On February 11, 1993, Yau filed separate motions to intervene[9] in both cases pending before Branches 62 and 64 of the RTC of Makati City. In an Order[10] dated March 29, 1993, Branch 62 denied the motion to intervene in Civil Case No. 90-513 on the ground that the motion was filed after the parties have rested their respective cases and the same will only unduly delay the disposition of the case. Branch 64, on the other hand, granted Yau’s motion to intervene in Civil Case No. 90-271 in an Order dated July 1, 1993.[11] Manilabank sought reconsideration[12] but Branch 64 denied the same in an Order[13] dated August 30, 1993. Hence, Manilabank interposed a petition for certiorari[14] before the Court of Appeals (CA), docketed as CA-G.R. SP No. 32405.

Meanwhile, in a letter[15] dated September 20, 1993, Yau formally requested Manila Golf, through its transfer agent, Far East Bank and Trust Company (FEBTC), to cancel the certificate in the name of Silverio and issue a new certificate in his name by virtue of the Certificate of Sale dated December 29, 1992 issued in his favor. Yau expressly agreed in the letter that the certificate to be issued in his name shall be subject to the preliminary attachments issued in other cases. Manila Golf, however, refused to accede to Yau’s request, expressing the apprehension that it could be cited for contempt in view of the fact that notices of garnishment against the Silverio

share directed the club “not to remove, transfer or otherwise dispose of” said share.

Thereupon, Yau filed in Civil Case No. CEB-2058 before the RTC Cebu City, (Branch 6) a motion for order directing Manila Golf to issue a certificate in his name.[16] Acting upon the motion, the said court issued an Order dated March 6, 1995,[17] which was subsequently amended on March 30, 1995,[18] directing Manila Golf and/or its transfer agent, FEBTC, to cancel the certificate of proprietary membership share in the name of Silverio, and in lieu thereof to issue a new one in Yau’s name, subject to the preliminary attachments in favor of Manila bank.

Without filing a motion for reconsideration, Manilabank filed on May 2, 1995 a petition for certiorari[19] before the CA, docketed as CA-G.R. SP No.37085, assailing issuance of the Order of RTC Cebu City dated March 6, 1995, and amended on March 30, 1995. On April 29, 1996, the CA rendered a Decision[20] in CA-G.R. SP No. 37085 nullifying the Orders of RTC Cebu City. The appellate court found and declared that when the RTC Cebu City ordered the cancellation of the Silverio share which was in custodia legis of RTC Makati City, Branch 64, it interfered with or invaded the jurisdiction of the latter coordinate and co-equal court, hence, said order is null and void. With his motion for reconsideration[21] thereto denied on October 14, 1996,[22] Yau filed the petition for review subject of G.R. No 126731.

Subsequently, on January 9, 1997, the CA rendered a Decision[23] in CA-G.R. SP No. 32405 sustaining the Order of RTC Makati City (Branch 64) dated July 1, 1993, which allowed the intervention of Yau in Civil Case No. 90-271. A Motion for Reconsideration[24] of the said Decision was denied by the CA on March 13, 1997.[25] Hence, Manilabank interposed the petition for review subject of G.R. No. 128623.

On motion of Manilabank,[26] G.R. Nos. 126731 and 128623 were consolidated.[27]

In G.R. No. 126731, Yau assails the reversal of the Orders of RTC Cebu City, directing the issuance of a new certificate of title in his name. Yau firstly condemns the Court of Appeals for not dismissing outright the petition of Manilabank in CA-G.R. SP No. 37805 for its failure to seek reconsideration before RTC Cebu City, of the latter’s assailed orders prior to filing the petition for certiorari with the CA. He then contends that he is entitled to the issuance of a new certificate in his name after he had purchased the same in an execution sale, despite the Silverio share being subject to a preliminary attachment in favor of Manilabank. Thus, he submits that in issuing the questioned orders, the RTC, Cebu City, did not interfere with or invade the jurisdiction of RTC Makati City, Branch 64, which issued the writ of preliminary attachment pursuant to which the Silverio share was attached.

In G.R. No. 128623, the issue revolves on the legality of the intervention of Yau in Civil Case No. 90-271 before RTC Makati City (Branch 64). Manilabank argues that Yau has no legal interest to justify intervention in Civil Case No. 90-271 before RTC Makati City, Branch 64 nor does he have standing and legal basis to assail the Writ of Attachment dated September 27, 1990. Manilabank submits that whatever rights Yau may have in the subject property can be fully protected, as in fact they are already protected, in a separate proceeding. Besides, the intervention of Yau will unduly delay and prejudice the adjudication of the rights of the original parties in Civil Case No. 90-271 before RTC Makati City, Branch 64. Finally, Manilabank contends that allowing intervention after trial had already been concluded is in violation of the rule that intervention may only be allowed before or during trial.

At the outset, this Court notes that, admittedly, Manilabank did not file a motion for reconsideration of the Orders of RTC Cebu City, which directed Manila Golf to issue a certificate in Yau’s name, prior to initiating its petition for certiorari (CA-G.R. SP No. 37085) in the CA. Thus, the petition before the appellate court could have been dismissed outright since, as a rule, the CA, in the exercise of its original jurisdiction, will not take cognizance of a petition for certiorari under Rule 65, unless the lower court has been given the opportunity to correct the error

imputed to it. This Court has settled that as a general rule, the filing of a motion for reconsideration is a condition sine qua non in order that certiorari shall lie. However, there are settled exceptions to this Rule, one of which is where the assailed order is a patent nullity, as where the court a quo has no jurisdiction,[28] which is evident in this case.

The Notice of Garnishment of the Silverio share upon Manila Golf brought the property into the custodia legis of the court issuing the writ, that is, the RTC Makati City Branch 64, beyond the interference of all other co-ordinate courts, such as the RTC of Cebu, Branch 6. “The garnishment of property operates as an attachment and fastens upon the property a lien by which the property is brought under the jurisdiction of the court issuing the writ. It is brought into custodia legis, under the sole control of such court. A court which has control of such property, exercises exclusive jurisdiction over the same, retains all incidents relative to the conduct of such property. No court, except one having supervisory control or superior jurisdiction in the premises, has a right to interfere with and change that possession”.[29]

Thus, the doctrine of judicial stability or non-interference[30] in the regular orders or judgments of a co-equal court, as an accepted axiom in adjective law, serves as an insurmountable barrier to the competencia of the RTC Cebu City to entertain a motion, much less issue an order, relative to the Silverio share which is under the custodia legis of RTC Makati City, Branch 64, by virtue of a prior writ of attachment. Indeed, the policy of peaceful co-existence among courts of the same judicial plane, so to speak, was aptly described in *Parco v. Court of Appeals*,[31] thus:

...[J]urisdiction is vested in the court not in any particular branch or judge, and as a corollary rule, the various branches of the Court of First Instance of a judicial district are a coordinate and co-equal courts one branch stands on the same level as the other. Undue interference by one on the proceedings and processes of another is prohibited by law. In the language of this Court, the various branches of the Court of First Instance of a province or city, having as they have the same or equal authority and exercising as they do concurrent and coordinate jurisdiction should not, cannot, and are not permitted to interfere with their respective cases, much less with their orders or judgments.

It cannot be gainsaid that adherence to a different rule would sow confusion and wreak havoc on the orderly administration of justice, and in the ensuing melee, hapless litigants will be at a loss as to where to appear and plead their cause.

It is furthermore evident from the records that Yau is guilty of forum shopping in seeking relief before Branch 6 of RTC Cebu City, despite being allowed to intervene in Civil Case No. 90-271 before Branch 64 of RTC Makati City to protect his interests in the Silverio share. A party is guilty of forum shopping when he repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issue either pending in, or already resolved adversely, by some other court. And what is truly important to consider in determining whether forum shopping exists is the vexation caused the courts and the litigants by a party who asks different courts to rule on the same or related causes and/or grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issues.[32] Since Yau recognized the jurisdiction of RTC Makati City, Branch 64 to protect his interest in the Silverio share, he should have desisted from pursuing a similar remedy or relief before RTC Cebu City inasmuch as the assailed Orders issued by the latter RTC had the effect of pre-empting the authority of RTC Makati City, Branch 64, to act and decide upon the intervention of Yau in Civil Case No. 90-271.[33]

Moreover, the contention of Manilabank that Yau has no legal interest in the matter in litigation lacks buoyancy. Under Section 2, Rule 12 of the Revised Rules of Court,[34] which was the governing law at the time the instant

case was decided by the trial court and the appellate court, “a person may, before or during trial, be permitted by the Court in its discretion to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.” Yau falls under the last instance. It is recognized that a judgment creditor who has reduced his claim to judgment may be allowed to intervene^[35] and a purchaser who acquires an interest in property upon which an attachment has been levied may intervene in the underlying action in which the writ of attachment was issued for the purpose of challenging the attachment.^[36]

Clearly, Yau, being the judgment creditor of Silverio in Civil Case No. CEB-2058 and the purchaser at the public auction sale of the Silverio share, would be adversely affected by the disposition of the Silverio share, subject of the writ of attachment issued by Branch 64 of RTC Makati City, should a decision be rendered in favor of Manilabank and, as such, has standing to intervene to protect his interest. Besides, no purpose will be served by not allowing Yau to protect his interests before Branch 64 where the Silverio share is under custodia legis. If we follow the contention of Manilabank, this would result in a violation of the aforementioned principle of judicial stability or non-interference.

Lastly, on the matter of allowing the intervention after trial, suffice it to state that the rules now allow intervention “before rendition of judgment by the trial court.”^[37] After trial and decision in a case, intervention can no longer be permitted.^[38] The permissive tenor of the provision on intervention shows the intention of the Rules to give to the court the full measure of discretion in permitting or disallowing the same.^[39] The rule on intervention was evidently intended to expedite and economize in litigation by permitting parties interested in the subject matter, or anything related therein, to adjust the matter in one instead of several suits.

In view of the foregoing, the Court is convinced that the Court of Appeals committed no reversible error in its assailed Decisions in CA-G.R. SP Nos. 32405 and 37085.

WHEREFORE, the consolidated petitions are hereby DENIED. The assailed Decisions of the Court of Appeals in CA-G.R. SP Nos. 32405 and 37085 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

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

[1] Penned by Associate Justice Fermin A. Martin, Jr. and concurred in by Associate Justices Conchita Carpio Morales and Omar U. Amin, Seventeenth Division, Rollo in G.R. No. 128623, pp. 58-64.

[2] Penned by Associate Justice Conchita Carpio-Morales and concurred in by then Presiding Justice Nathanael P. De Pano, Jr. and Associate Justice Fermin A. Martin, Jr., First Division, Rollo in G.R. No. 126731, pp. 22-31.

[3] Penned by Judge Ramon AM. Torres, Rollo in G.R. No. 128623, pp. 133-140.

[4] Rollo in G.R. No. 128623, p. 141.

[5] Notice of Garnishment dated March 27, 1990, Rollo in G.R. No. 126731, p. 118.

[6] Notice of Garnishment dated October 19, 1990, Rollo in G.R. No. 126731, p. 119.

[7] Entitled “The Manila Banking Corporation v. Delta Motors Corporation and Ricardo C. Silverio.”

[8] Entitled “The Manila Banking Corporation v. Environmental Integrated Services Corporation and Ricardo C.

Silverio, Sr.”

[9] Rollo in G.R. No. 126731, pp. 120-123; Rollo in G.R. No. 128623, pp. 129-132.

[10] Penned by Judge Roberto C. Diokno, Rollo in G.R. No. 126731, p. 200.

[11] Penned by Judge Delia H. Panganiban, Rollo in G.R. No. 126731, p. 157; Rollo in G.R. No. 128623, p. 105.

[12] Rollo in G.R. No. 126731, pp. 157A-172.

[13] Rollo in G.R. No. 128623, p. 106.

[14] Rollo in G.R. No. 128623, pp. 65-103.

[15] Rollo in G.R. No. 126731, pp. 217-218.

[16] Rollo in G.R. No. 126731, pp. 210-215.

[17] Penned by Judge L.D. De La Victoria, Rollo in G.R. No. 126731, pp. 61-63.

[18] Rollo in G.R. No. 126731, p. 64.

[19] Rollo in G.R. No. 126731, pp. 34-60.

[20] See Note No. 2, *supra*.

[21] Rollo in G.R. No. 126731, pp. 244-248.

[22] Rollo in G.R. No. 126731, p. 33.

[23] See Note No. 1, *supra*.

[24] Rollo, G.R. No. 128623, pp. 301-329.

[25] Rollo in G.R. No. 128623, p. 56.

[26] Rollo in G.R. No. 128623, pp. 332-348.

[27] Rollo in G.R. No. 128623, p. 376.

[28] Other exceptions to the rule are: (a) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (b) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (c) where, under the circumstances, a motion for reconsideration would be useless; (d) where the petitioner was deprived of due process and there is extreme urgency for relief; (e) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (f) where the proceedings in the lower court are a nullity for lack of due process; (g) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and (h) where the issue raised is one purely of law or where public interest is involved. *Tan, Jr. v. Sandiganbayan* [Third Division], 292 SCRA 452, 457-458 [1998] citing *Tan v. Court of Appeals*, 275 SCRA 568, 574, 575 [1997].

[29] *De Leon v. Salvador*, 36 SCRA 567, 574 [1970] citing *National Power Corporation v. De Veyra*, 3 SCRA 646 [1961] and *Luciano v. Provincial Governor*, 28 SCRA 517 [1969]; *Hacbang v. The Leyte Autobus Co., Inc.*, 8 SCRA 103, 108 [1963].

[30] *PDCP Development Bank v. Vestil*, 264 SCRA 467, 470 [1996]; *Prudential Bank v. Gapultos*, 181 SCRA

159, 171 [1990]; *Investors' Finance Corporation v. Ebarle*, 163 SCRA 60, 70 [1988]; *Republic v. Reyes*, 155 SCRA 313, 325 [1987]; See also *Sterling Investment Corporation. v. Ruiz*, 30 SCRA 318, 322 [1969]; *J.M. Tuason & Co., Inc. v. Torres*, 21 SCRA 1169, 1172 [1967]; *Mas v. Dumara-og*, 12 SCRA 34, 37 [1964]; *Philippine National Bank v. Javellana*, 92 Phil. 525, 527 [1953]; *Hubahib v. Insular Drug Co., Inc.*, 64 Phil. 119 [1937]; *Cabigao and Izquierdo v. Del Rosario and Lim*, 44 Phil. 182, 184 [1922].

[31] 111 SCRA 262, 277-278 [1982].

[32] *Ramonito Tantoy, Sr. v. Court of Appeals, et al.*, G.R. No. 141427, April 20, 2001, p. 5 citing *Gatmaytan v. Court of Appeals*, 267 SCRA 487 [1997], *Golangco v. Court of Appeals*, 283 SCRA 493 [1997].

[33] See *Chua v. Court of Appeals*, 222 SCRA 85, 89-90 [1993]; *Ona v. Cuevas*, 83 SCRA 388, 391 [1978] citing *Montesa, et., et al. v. Manila Cordage Co.*, 92 Phil. 25 [1952].

[34] Now under Section 1, Rule 19 of the 1997 Rules of Civil Procedure, which reads:

Section 1. Who may intervene. A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of the property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.

[35] 59 Am Jur 2d, Parties § 150, p. 623 citing *Smith v. Palmer*, 268 Ala 686, 110 So. 2d, 287; *Liston v. Butler*, 4 Ariz App 460, 421 P2d 542.

[36] 6 Am Jur 2d, Attachment and Garnishment, § 593, p. 856, citing *Matson Nav. Co. v. F.D.I.C.*, 81 Haw. 270, 916 P. 2d 680 [Haw. 1996], *Rubis v. Barasch*, 275 Cal. App. 2d 835, 80 Cal. Rptr. 337 [2d Dist. 1969]; *Bankers' Mortg. Co. v. Sohland*, 33 Del. 331, 138 A. 361 [Super. Ct. 1927]; *Potlatch Lumber Co. v. Runkel*, 16 Idaho 192, 101 P. 396 [1090]; *Case v. Miller*, 68 N.C. App. 729, 315 S.E. 2d 737 [1984]; *Miller v. White*, 46 W. Va. 67, 33 S.E. 332 [1899].

[37] Section 2, Rule 19 of the 1997 Rules of Civil Procedure.

[38] *Trazo v. Manila Pencil Co., Inc.*, 1 SCRA 403, 406 [1961].

[39] *Mago v. Court of Appeals*, 303 SCRA 600, 608 [1999].

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