

CORONA INTERNATIONAL, INC., PETITIONER, VS. THE COURT OF APPEALS AND THE PHILIPPINE COCONUT AUTHORITY, RESPONDENTS. E C I S I O N YNARES-SANTIAGO, J.:

G.R. No. 127851. October 18, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

May funds of the Philippine Coconut Authority, a public corporation, be garnished on account of an execution pending appeal?

This is the pivotal issue raised in the instant petition for review which assails the January 22, 1997 Decision of respondent Court of Appeals in CA-G.R. SP No. 42829[1] holding that such funds are public funds exempt from garnishment.

The facts are simple:

On September 10, 1996, the Regional Trial Court of Quezon City, Branch 99, rendered a Decision[2] in Civil Case No. Q-93-14581, entitled "Corona International, Inc., Plaintiff versus Philippine Coconut Authority, Defendant", disposing of the case as follows -

"WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered -

- Ordering the defendant to pay plaintiff the total sum of P9,082,068.00 representing the balance of the contract price for Phase III of the project, the 10% retention for Phases I, II and III of the project, and the contract price for Phase IV of the project;
- Ordering the defendant to indemnify plaintiff the sum equal to two (2%) per centum of P9,082,068.00 monthly from date of the filing of the complaint up to March 30, 1995, as actual and for damages;
- Ordering the defendant to indemnify plaintiff the sum equal to 1 and ½% per cent of P9,082,068.00 monthly from March 30, 1995 up to the time the full amount is fully paid, as and by way of actual damages;
- The sum of P1,000,000.00 as and for attorney's fee; plus the costs of the suit.

The counterclaim interposed by the defendant is hereby dismissed for lack of evidence to sustain it.

SO ORDERED."[3]

On September 25, 1996, petitioner filed a Motion for Execution of Judgment Pending Appeal to which private respondent filed an Opposition. After hearing, the trial court granted the motion for execution pending appeal "if only to prevent the irreparable collapse of" petitioner's business operations. It also considered the appeal taken by private respondent as "patently unmeritorious and would only result in the delay of the final disposition of the case." It, however, required petitioner to post a Twenty Million (P20,000,000.00) bond to protect private respondent in the event its decision is reversed on appeal.

With the filing by petitioner of the required bond, a writ of execution was issued, on the strength of which funds of private respondent with the Land Bank of the Philippines, in the amount of Seventeen Million Five Hundred Twenty Nine Thousand Three Hundred Sixty Three Pesos and Seventy Six Centavos (P17,529,363.76), was garnished. The bank, however, refused to release the said amount, prompting petitioner to file a Motion to Require Release of Bank Deposit.

Meanwhile, on December 5, 1996, private respondent filed a Motion to Quash Writ of Execution Pending Appeal and Notice of Garnishment alleging that it had not yet received a copy of the Order granting petitioner's Motion for Execution of Judgment Pending Appeal which allowed the garnishment of its funds with the Land Bank of the Philippines. It further contended that the bond filed by petitioner did not bear the court's approval. Finally, it expressed its readiness to file a supersedeas bond to stay execution of the court's judgment. Petitioner filed its Opposition on December 10, 1996.

On December 11, 1996, the trial court issued an Order^[4] denying private respondent's Motion to Quash and ordered the Land Bank of the Philippines to release and turn over to the court sheriff the garnished fund of private respondent immediately upon its receipt of said Order.

Private respondent then filed a petition for certiorari with respondent Court of Appeals. On January 22, 1997, the Court of Appeals rendered the assailed Decision, nullifying and setting aside the Order of the trial court granting the execution pending appeal. It also issued a writ of preliminary injunction enjoining the court sheriff from enforcing both the Writ of Execution and Notice of Garnishment against private respondent.

Hence, the instant petition for review anchored upon the following grounds -

"I

THE RESPONDENT COURT OF APPEALS ERRED, AS A MATTER OF LAW, IN HOLDING THAT THE TRIAL COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF OR EXCESS OF JURISDICTION IN ISSUING THE ORDER (ANNEX "F") ALLOWING EXECUTION PENDING APPEAL, AND ORDER (ANNEX "I") ORDERING THE GARNISHEE TO RELEASE AND TURN OVER THE FUNDS OF RESPONDENT PCA TO DEPUTY SHERIFF JOSE G. MARTINEZ.

II

THE COURT OF APPEALS ERRED, AS A MATTER OF LAW, IN ENTERTAINING ISSUES NOT RAISED IN THE LOWER COURT TO SUPPORT ITS DECISION REVERSING THE CHALLENGED ORDERS.

III

THE COURT OF APPEALS ERRED, AS A MATTER OF LAW, IN HOLDING THAT THE PHILIPPINE COCONUT AUTHORITY IS AN AGENCY OF THE NATIONAL GOVERNMENT AND IN HOLDING THAT ITS FUNDS ARE EXEMPT FROM LEVY ON EXECUTION AND/OR GARNISHMENT.

IV

THE COURT OF APPEALS ERRED, AS A MATTER OF LAW, IN ISSUING A WRIT OF PRELIMINARY INJUNCTION."^[5]

It is apparent from the challenged Decision that the rationale for setting aside the execution pending appeal was its finding that the funds of private respondent, being public in nature, cannot be garnished.

As argued by petitioner, however, the issue of whether or not the funds garnished were public in nature was not raised in the trial court and was merely entertained for the first time in the certiorari proceedings before the Court of Appeals. We agree with petitioner on this ground and so rule that not having been raised below, such an issue could no longer be considered in the Petition for Certiorari before the Court of Appeals.[6]

This leaves us with the question of whether or not there is basis to sustain execution pending appeal ordered by the trial court.

Section 2, Rule 39 of the 1997 Rules of Civil Procedure lays down the rule for execution pending appeal, categorized as discretionary execution, to wit -

"SEC. 2. Discretionary execution.

(a) Execution of a judgment or final order pending appeal. - On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing."

It is evident from the foregoing that a primary consideration for allowing execution pending appeal would be the existence of good reasons. In turn, "good reasons" has been held to consist of compelling circumstances justifying the immediate execution lest judgment becomes illusory. Such reasons must constitute superior circumstances demanding urgency which will outweigh the injury or damages should the losing party secure a reversal of the judgment.[7]

We note that the reason of the trial court in granting execution pending appeal was to prevent the irreparable collapse of petitioner's business operation and that private respondent's appeal is patently unmeritorious and would only result in the delay of the final disposition of the case.

Does this constitute good reason to order execution pending appeal? Will this outweigh the injury or damage caused private respondent should the latter secure a reversal of the judgment against it?

We find that it does not.

To begin with, it would appear that the irreparable collapse of petitioner's business operation, as feared by the trial court, is illusory. As manifested by private respondent, petitioner has an application for the expansion of its operations with the National Telecommunications Commission.[8] Evidently, such an application would not have been filed had petitioner truly been in the brink of financial bankruptcy. Moreover, the latest financial report submitted by petitioner to the Securities and Exchange Commission, on the records, would readily show that its assets exceed its liabilities.[9]

We also note that the property bond offered by petitioner and accepted by the trial court has already been conveyed to Natas-ya Enterprises, Inc. via a Deed of Exchange dated January 30, 1996 and registered on July 25, 1997. Said Natas-ya Enterprises is now the registered owner of the subject property under Transfer Certificate of Title No. N-179573 of the Register of Deeds of Quezon City. The same property is further the subject of a case pending before the Quezon City Regional Trial Court. Clearly, then, this property bond can no longer serve its purpose as security for damages that may be obtained by private respondent on account of execution pending

appeal.

In upholding the disallowance of the execution pending appeal ordered by the trial court, albeit on different grounds, we are guided by the rule that execution pending appeal must be strictly construed being an exception to the general rule.[10] So, too, execution pending appeal is not to be availed of and applied routinely, but only in extraordinary circumstances.[11] Here, with the alleged collapse of petitioner's business operations rendered doubtful, we find no good reason to order execution pending appeal.

Finally, it is not difficult to see the injury or damage execution pending appeal would cause private respondent which is a public corporation tasked to implement the national policy of the State to promote the rapid integrated development and growth of the coconut and palm oil industry and to ensure that the coconut farmers become direct participants of such development and growth.[12] Among the funds held by private respondent which would be subject to execution pending appeal would be coconut levy funds vital both to the coconut industry and to coconut farmers, which being vested with public interest, we are duty bound to protect. Weighed against these considerations, execution pending appeal further proves unwise.

WHEREFORE, for the reasons aforementioned, the Petition for Review is hereby DENIED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] See Petition, Annex "A"; Rollo, pp. 46-56.

[2] Id., Annex "C"; Rollo, pp. 61-77.

[3] Id., at p. 77.

[4] Id., Annex "I"; Rollo, pp. 100-102.

[5] Petition, p. 12; Rollo, p. 14.

[6] See *Buñag v. Court of Appeals*, G.R. No. 107364, 303 SCRA 591 [1999].

[7] *Yasuda v. Court of Appeals*, G.R. No. 112569, 12 April 2000.

[8] Docketed as National Telecommunications Commission Case No. 92-211.

[9] Petition for Certiorari, Annex "G"; Records, CA-G.R. SP No. 42829, pp. 44-48.

[10] *Planters Products, Inc. v. Court of Appeals*, G.R. No. 106052, 22 October 1999.

[11] *Molina v. Presiding Judge of RTC, Quezon City*, G.R. No. 112564, 277 SCRA 342 [1997].

[12] Presidential Decree No. 1468, Sections 2 & 3.

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