

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. MARCELINO L. SAYO, JR., IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MANILA (BRANCH 45), NOAH'S ARK SUGAR REF...

G.R. No. 129918. July 09, 1998

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In this special civil action for certiorari, actually the third dispute between the same private parties to have reached this Court,[1] petitioner asks us to annul the orders[2] of 15 April 1997 and 14 July 1997 issued in Civil Case No. 90-53023 by the Regional Trial Court, Manila, Branch 45. The first order[3] granted private respondents' motion for execution to satisfy their warehouseman's lien against petitioner, while the second order[4] denied, with finality, petitioner's motion for reconsideration of the first order and urgent motion to lift garnishment, and private respondents' motion for partial reconsideration.

The factual antecedents until the commencement of G.R. No. 119231 were summarized in our decision therein, as follows:

In accordance with Act No. 2137, the Warehouse Receipts Law, Noah's Ark Sugar Refinery issued on several dates, the following Warehouse Receipts (Quedans): (a) March 1, 1989, Receipt No. 18062, covering sugar deposited by Rosa Sy; (b) March 7, 1989, Receipt No. 18080, covering sugar deposited by RNS Merchandising (Rosa Ng Sy); (c) March 21, 1989, Receipt No. 18081, covering sugar deposited by St. Therese Merchandising; (d) March 31, 1989, Receipt No. 18086, covering sugar deposited by St. Therese Merchandising; and (e) April 1, 1989, Receipt No. 18087, covering sugar deposited by RNS Merchandising. The receipts are substantially in the form, and contains the terms, prescribed for negotiable warehouse receipts by Section 2 of the law.

Subsequently, Warehouse Receipts Nos. 18080 and 18081 were negotiated and endorsed to Luis T. Ramos, and Receipts Nos. 18086, 18087 and 18062 were negotiated and endorsed to Cresencia K. Zoleta. Ramos and Zoleta then used the quedans as security for two loan agreements – one for P15.6 million and the other for P23.5 million – obtained by them from the Philippine National Bank. The aforementioned quedans were endorsed by them to the Philippine National Bank.

Luis T. Ramos and Cresencia K. Zoleta failed to pay their loans upon maturity on January 9, 1990. Consequently, on March 16, 1990, the Philippine National Bank wrote to Noah's Ark Sugar Refinery demanding delivery of the sugar stocks covered by the quedans endorsed to it by Zoleta and Ramos. Noah's Ark Sugar Refinery refused to comply with the demand alleging ownership thereof, for which reason the Philippine National Bank filed with the Regional Trial Court of Manila a verified complaint for "Specific Performance with Damages and Application for Writ of Attachment" against Noah's Ark Sugar Refinery, Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, the last three being identified as the sole proprietor, managing partner, and Executive Vice President of Noah's Ark, respectively.

Respondent Judge Benito C. Se, Jr., [to] whose sala the case was raffled, denied the Application for Preliminary Attachment. Reconsideration therefor was likewise denied.

Noah's Ark and its co-defendants filed an Answer with Counterclaim and Third-Party Complaint in which they claimed that they [were] the owners of the subject quedans and the sugar represented therein, averring as they did that:

"9. *** In an agreement dated April 1, 1989, defendants agreed to sell to Rosa Ng Sy of RNS Merchandising and Teresita Ng of St. Therese Merchandising the total volume of sugar indicated in the quedans stored at Noah's Ark Sugar Refinery for a total consideration of P63,000,000.00, *** The corresponding payments in the form of checks issued by the vendees in favor of defendants were subsequently dishonored by the drawee banks by reason of 'payment stopped' and 'drawn against insufficient funds,' *** Upon proper notification to said vendees and plaintiff in due course, defendants refused to deliver to vendees therein the quantity of sugar covered by the subject quedans.

10. *** Considering that the vendees and first endorers of subject quedans did not acquire ownership thereof, the subsequent endorers and plaintiff itself did not acquire a better right of ownership than the original vendees/first endorers."

The Answer incorporated a Third-Party Complaint by Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, doing business under the trade name and style Noah's Ark Sugar Refinery against Rosa Ng Sy and Teresita Ng, praying that the latter be ordered to deliver or return to them the quedans (previously endorsed to PNB and the subject of the suit) and pay damages and litigation expenses.

The Answer of Rosa Ng Sy and Teresita Ng, dated September 6, 1990, one of avoidance, is essentially to the effect that the transaction between them, on the one hand, and Jimmy T. Go, on the other, concerning the quedans and the sugar stocks covered by them was merely a simulated one being part of the latter's complex banking schemes and financial maneuvers, and thus, they are not answerable in damages to him.

On January 31, 1991, the Philippine National Bank filed a Motion for Summary Judgment in favor of the plaintiff as against the defendants for the reliefs prayed for in the complaint.

On May 2, 1991, the Regional Trial Court issued an order denying the Motion for Summary Judgment. Thereupon, the Philippine National Bank filed a Petition for Certiorari with the Court of Appeals, docketed as CA-G.R. SP No. 25938 on December 13, 1991.

Pertinent portions of the decision of the Court of Appeals read:

"In issuing the questioned Orders, the respondent Court ruled that 'questions of law should be resolved after and not before, the questions of fact are properly litigated.' A scrutiny of defendant's affirmative defenses does not show material questions of fact as to the alleged nonpayment of purchase price by the vendees/first endorers, and which nonpayment is not disputed by PNB as it does not materially affect PNB's title to the sugar stocks as holder of the negotiable quedans.

What is determinative of the propriety of summary judgment is not the existence of conflicting claims from prior parties but whether from an examination of the pleadings, depositions, admissions and documents on file, the defenses as to the main issue do not tender material questions of fact (see *Garcia vs. Court of Appeals*, 167 SCRA 815) or the issues thus tendered are in fact sham, fictitious, contrived, set up in bad faith or so unsubstantial as not to constitute genuine issues for trial. (See *Vergara vs. Suelto, et al.*, 156 SCRA 753; *Mercado, et al. vs. Court of Appeals*, 162 SCRA 75). [sic] The questioned Orders themselves do not specify what material facts are in issue. (See Sec. 4, Rule 34, Rules of Court).

To require a trial notwithstanding pertinent allegations of the pleadings and other facts appearing on the record, would constitute a waste of time and an injustice to the PNB whose rights to relief to which it is plainly entitled would be further delayed to its prejudice.

In issuing the questioned Orders, We find the respondent Court to have acted in grave abuse of discretion which justify holding null and void and setting aside the Orders dated May 2 and July 4, 1990 of respondent Court, and that a summary judgment be rendered forthwith in favor of the PNB against Noah's Ark Sugar Refinery, et al., as prayed for in petitioner's Motion for Summary Judgment."

On December 13, 1991, the Court of Appeals nullified and set aside the orders of May 2 and July 4, 1990 of the Regional Trial Court and ordered the trial court to render summary judgment in favor of the PNB. On June 18, 1992, the trial court rendered judgment dismissing plaintiff's complaint against private respondents for lack of cause of action and likewise dismissed private respondent's counterclaim against PNB and of the Third-Party Complaint and the Third-Party Defendant's Counterclaim. On September 4, 1992, the trial court denied PNB's Motion for Reconsideration.

On June 9, 1992, the PNB filed an appeal from the RTC decision with the Supreme Court, G.R. No. 107243, by way of a Petition for Review on Certiorari under Rule 45 of the Rules of Court. This Court rendered judgment on September 1, 1993, the dispositive portion of which reads:

"WHEREFORE, the trial judge's decision in Civil Case No. 90-53023, dated June 18, 1992, is reversed and set aside and a new one rendered conformably with the final and executory decision of the Court of Appeals in CA-G.R. SP No. 25938, ordering the private respondents Noah's Ark Sugar Refinery, Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go, jointly and severally:

(a) to deliver to the petitioner Philippine National Bank, 'the sugar stocks covered by the Warehouse Receipts/Quedans which are now in the latter's possession as holder for value and in due course; or alternatively, to pay (said) plaintiff actual damages in the amount of P39.1 million,' with legal interest thereon from the filing of the complaint until full payment; and

(b) to pay plaintiff Philippine National Bank attorney's fees, litigation expenses and judicial costs hereby fixed at the amount of One Hundred Fifty Thousand Pesos (P150,000.00) as well as the costs.

SO ORDERED.

On September 29, 1993, private respondents moved for reconsideration of this decision. A Supplemental/Second Motion for Reconsideration with leave of court was filed by private respondents on November 8, 1993. We denied private respondent's motion on January 10, 1994.

Private respondents filed a Motion Seeking Clarification of the Decision, dated September 1, 1993. We denied this motion in this manner:

"It bears stressing that the relief granted in this Court's decision of September 1, 1993 is precisely that set out in the final and executory decision of the Court of Appeals in CA-G.R. SP No. 25938, dated December 13, 1991, which was affirmed in toto by this Court and which became unalterable upon becoming final and executory."

Private respondents thereupon filed before the trial court an Omnibus Motion seeking among others the deferment of the proceedings until private respondents [were] heard on their claim for warehouseman's lien. On the other hand, on August 22, 1994, the Philippine National Bank filed a Motion for the Issuance of a Writ of Execution and an Opposition to the Omnibus Motion filed by private respondents.

The trial court granted private respondents' Omnibus Motion on December 20, 1994 and set reception of evidence on their claim for warehouseman's lien. The resolution of the PNB's Motion for Execution was

ordered deferred until the determination of private respondents' claim.

On February 21, 1995, private respondents' claim for lien was heard and evidence was received in support thereof. The trial court thereafter gave both parties five (5) days to file respective memoranda.

On February 28, 1995, the Philippine National Bank filed a Manifestation with Urgent Motion to Nullify Court Proceedings. In adjudication thereof, the trial court issued the following order on March 1, 1995:

“WHEREFORE, this court hereby finds that there exists in favor of the defendants a valid warehouseman's lien under Section 27 of Republic Act 2137 and accordingly, execution of the judgment is hereby ordered stayed and/or precluded until the full amount of defendants' lien on the sugar stocks covered by the five (5) quedans subject of this action shall have been satisfied conformably with the provisions of Section 31 of Republic Act 2137.[5]

Unsatisfied with the trial court's order of 1 March 1995, herein petitioner filed with us G.R. No. 119231, contending:

“I

PNB'S RIGHT TO A WRIT OF EXECUTION IS SUPPORTED BY TWO FINAL AND EXECUTORY DECISIONS: THE DECEMBER 13, 1991 COURT OF APPEALS [sic] DECISION IN CA-G.R. SP NO. 25938; AND, THE NOVEMBER 9, 1992 SUPREME COURT DECISION IN G.R. NO. 107243. RESPONDENT RTC'S MINISTERIAL AND MANDATORY DUTY IS TO ISSUE THE WRIT OF EXECUTION TO IMPLEMENT THE DECRETAL PORTION OF SAID SUPREME COURT DECISION.

II

RESPONDENT RTC IS WITHOUT JURISDICTION TO HEAR PRIVATE RESPONDENTS' OMNIBUS MOTION. THE CLAIMS SET FORTH IN SAID MOTION: (1) WERE ALREADY REJECTED BY THE SUPREME COURT IN ITS MARCH 9, 1994 RESOLUTION DENYING PRIVATE RESPONDENTS' 'MOTION FOR CLARIFICATION OF DECISION' IN G.R. NO. 107243; AND (2) ARE BARRED FOREVER BY PRIVATE RESPONDENTS' FAILURE TO INTERPOSE THEM IN THEIR ANSWER, AND FAILURE TO APPEAL FROM THE JUNE 18, 1992 DECISION IN CIVIL CASE NO. 90-52023.

III

RESPONDENT RTC'S ONLY JURISDICTION IS TO ISSUE THE WRIT TO EXECUTE THE SUPREME COURT DECISION. THUS, PNB IS ENTITLED TO: (1) A WRIT OF CERTIORARI TO ANNUL THE RTC RESOLUTION DATED DECEMBER 20, 1994 AND THE ORDER DATED FEBRUARY 7, 1995 AND ALL PROCEEDINGS TAKEN BY THE RTC THEREAFTER; (2) A WRIT OF PROHIBITION TO PREVENT RESPONDENT RTC FROM FURTHER PROCEEDING WITH CIVIL CASE NO. 90-53023 AND COMMITTING OTHER ACTS VIOLATIVE OF THE SUPREME COURT DECISION IN G.R. NO. 107243; AND (3) A WRIT OF MANDAMUS TO COMPEL RESPONDENT RTC TO ISSUE THE WRIT TO EXECUTE THE SUPREME COURT JUDGMENT IN FAVOR OF PNB.”

In our decision of 18 April 1996 in G.R. No. 119231, we held against herein petitioner as to these issues and concluded:

In view of the foregoing, the rule may be simplified thus: While the PNB is entitled to the stocks of sugar as the endorsee of the quedans, delivery to it shall be effected only upon payment of the storage fees.

Imperative is the right of the warehouseman to demand payment of his lien at this juncture, because, in accordance with Section 29 of the Warehouse Receipts Law, the warehouseman loses his lien upon goods by surrendering possession thereof. In other words, the lien may be lost where the warehouseman surrenders the

possession of the goods without requiring payment of his lien, because a warehouseman's lien is possessory in nature.

We, therefore, uphold and sustain the validity of the assailed orders of public respondent, dated December 20, 1994 and March 1, 1995.

In fine, we fail to see any taint of abuse of discretion on the part of the public respondent in issuing the questioned orders which recognized the legitimate right of Noah's Ark, after being declared as warehouseman, to recover storage fees before it would release to the PNB sugar stocks covered by the five (5) Warehouse Receipts. Our resolution, dated March 9, 1994, did not preclude private respondents' unqualified right to establish its claim to recover storage fees which is recognized under Republic Act No. 2137. Neither did the Court of Appeals' decision, dated December 13, 1991, restrict such right.

Our Resolution's reference to the decision by the Court of Appeals, dated December 13, 1991, in CA-G.R. SP No. 25938, was intended to guide the parties in the subsequent disposition of the case to its final end. We certainly did not foreclose private respondents' inherent right as warehouseman to collect storage fees and preservation expenses as stipulated on the face of each of the Warehouse Receipts and as provided for in the Warehouse Receipts Law (R.A. 2137).[6]

Petitioner's motion to reconsider the decision in G.R. No. 119231 was denied.

After the decision in G.R. No. 119231 became final and executory, various incidents took place before the trial court in Civil Case No. 90-53023. The petition in this case summarizes these as follows:

3.24 Pursuant to the abovementioned Supreme Court Decision, private respondents filed a Motion for Execution of Defendants' Lien as Warehouseman dated 27 November 1996. A photocopy of said Motion for Execution is attached hereto as Annex "I".

3.25 PNB opposed said Motion on the following grounds:

- (a) The lien claimed by Noah's Ark in the unbelievable amount of P734,341,595.06 is illusory; and
- (b) There is no legal basis for execution of defendants' lien as warehouseman unless and until PNB compels the delivery of the sugar stocks.

3.26 In their Reply to Opposition dated 18 January 1997, private respondents pointed out that a lien existed in their favor, as held by the Supreme Court. In its Rejoinder dated 7 February 1997, PNB countered private respondents' argument, pointing out that the dispositive portion of the court a quo's Order dated 1 March 1995 failed to state the amount for which execution may be granted and, thus, the same could not be the subject of execution; and (b) private respondents should instead file a separate action to prove the amount of its claim as warehouseman.

3.27 The court a quo, this time presided by herein public respondent, Hon. Marcelino L. Sayo Jr., granted private respondents' Motion for Execution. In its questioned Order dated 15 April 1997 (Annex "A"), the court a quo ruled in this wise:

"Accordingly, the computation of accrued storage fees and preservation charges presented in evidence by the defendants, in the amount of P734,341,595.06 as of January 31, 1995 for the 86,356.41 50 kg. bags of sugar, being in order and with sufficient basis, the same should be granted. This Court consequently rejects PNB's claim of no sugar no lien, since it is undisputed that the amount of the accrued storage fees is substantially in excess of the alternative award of P39.1 Million in favor of PNB, including legal interest and P150,000.00 in attorney's fees, which PNB is however entitled to be credited x x x.

x x x x x x x x

“WHEREFORE, premises considered and finding merit in the defendants’ motion for execution of their claim for lien as warehouseman, the same is hereby GRANTED. Accordingly, let a writ of execution issue for the amount of P662,548,611.50, in accordance with the above disposition.

SO ORDERED.” (Emphasis supplied.)

3.28 On 23 April 1997, PNB was immediately served with a Writ of Execution for the amount of P662,548,611.50 in spite of the fact that it had not yet been served with the Order of the court a quo dated 15 April 1997. PNB thus filed an Urgent Motion dated 23 April 1997 seeking the deferment of the enforcement of the Writ of Execution. A photocopy of the Writ of Execution is attached hereto as Annex “J”.

3.29 Nevertheless, the Sheriff levied on execution several properties of PNB. Firstly, a Notice of Levy dated 24 April 1997 on a parcel of land with an area of Ninety-Nine Thousand Nine Hundred Ninety-Nine (99,999) square meters, covered by Transfer Certificate of Title No. 23205 in the name of PNB, was served upon the Register of Deeds of Pasay City. Secondly, a Notice of Garnishment dated 23 April 1997 on fund deposits of PNB was served upon the Bangko Sentral ng Pilipinas. Photocopies of the Notice of Levy and the Notice of Garnishment are attached hereto as Annexes “K” and “L”, respectively.

3.30 On 28 April 1997, petitioner filed a Motion for Reconsideration with Urgent Prayer for Quashal of Writ of Execution dated 15 April 1997. Petitioner’s Motion was based on the following grounds:

- (1) Noah’s Ark is not entitled to a warehouseman’s lien in the humongous amount of P734,341,595.06 because the same has been waived for not having been raised earlier as either counterclaim or defense against PNB;
- (2) Assuming said lien has not been waived, the same, not being registered, is already barred by prescription and/or laches;
- (3) Assuming further that said lien has not been waived nor barred, still there was no complaint ever filed in court to effectively commence this entirely new cause of action;
- (4) There is no evidence on record which would support and sustain the claim of P734,341,595.06 which is excessive, oppressive and unconscionable;
- (5) Said claim if executed would constitute unjust enrichment to the serious prejudice of PNB and indirectly the Philippine Government, who innocently acquired the sugar quedans through assignment of credit;
- (6) In all respects, the decisions of both the Supreme Court and of the former Presiding Judge of the trial court do not contain a specific determination and/or computation of warehouseman’s lien, thus requiring first and foremost a fair hearing of PNB’s evidence, to include the true and standard industry rates on sugar storage fees, which if computed at such standard rate of thirty centavos per kilogram per month, shall result in the sum of about Three Hundred Thousand Pesos only.

3.31 In its Motion for Reconsideration, petitioner prayed for the following reliefs:

- “1. PNB be allowed in the meantime to exercise its basic right to present evidence in order to prove the above allegations especially the true and reasonable storage fees which may be deducted from PNB’s judgment award of P39.1 Million, which storage fees if computed correctly in accordance with standard sugar industry rates, would amount to only P300 Thousand Pesos, without however waiving or abandoning its (PNB’s) legal positions/contentions herein abovementioned.
- “2. The Order dated April 15, 1997 granting the Motion for Execution by defendant Noah’s Ark be set aside.
- “3. The execution proceedings already commenced by said sheriffs be nullified at whatever stage of accomplishment.”

A photocopy of petitioner's Motion for Reconsideration with Urgent Prayer for Quashal of Writ of Execution is attached hereto and made integral part hereof as Annex "M".

3.32 Private respondents filed an Opposition with Motion for Partial Reconsideration dated 8 May 1997. Still discontented with the excessive and staggering amount awarded to them by the court a quo, private respondents' Motion for Partial Reconsideration sought additional and continuing storage fees over and above what the court a quo had already unjustly awarded. A photocopy of private respondents' Opposition with Motion for Partial Reconsideration dated 8 May 1997 is attached hereto as Annex "N".

3.32.1 Private respondents prayed for the further amount of P227,375,472.00 in storage fees from 1 February 1995 until 15 April 1997, the date of the questioned Order granting their Motion for Execution.

3.32.2 In the same manner, private respondents prayed for a continuing amount of P345,424.00 as daily storage fees after 15 April 1997 until the total amount of the storage fees is satisfied.

3.33 On 19 May 1997, PNB filed its Reply with Opposition (To Defendants' Opposition with Partial Motion for Reconsideration), containing therein the following motions: (i) Supplemental Motion for Reconsideration; (ii) Motion to Strike out the Testimony of Noah's Ark's Accountant Last February 21, 1995; and (iii) Motion for the Issuance of a Writ of Execution in favor of PNB. In support of its pleading, petitioner raised the following:

- (1) Private respondents failed to pay the appropriate docket fees either for its principal claim or for its additional claim, as said claims for warehouseman's lien were not at all mentioned in their answer to petitioner's Complaint;
- (2) The amount awarded by the court a quo was grossly and manifestly unreasonable, excessive, and oppressive;
- (3) It is the dispositive portion of the decision which shall be controlling in any execution proceeding. If no specific award is stated in the dispositive portion, a writ of execution supplying an amount not included in the dispositive portion of the decision being executed is null and void;
- (4) Private respondents failed to prove the existence of the sugar stocks in Noah's Ark's warehouses. Thus, private respondents' claims are mere paper liens which cannot be the subject of execution;
- (5) The attendant circumstances, particularly Judge Se's Order of 1 March 1995 onwards, were tainted with fraud and absence of due process, as PNB was not given a fair opportunity to present its evidence on the matter of the warehouseman's lien. Thus, all orders prescinding therefrom, including the questioned Order dated 15 April 1997, must perforce be set aside and the execution proceedings against PNB be permanently stayed.

3.34 On 6 May 1997, petitioner also filed an Urgent Motion to Lift Garnishment of PNB Funds with Bangko Sentral ng Pilipinas.

3.35 On 14 July 1997, respondent Judge issued the second Order (Annex "B"), the questioned part of the dispositive portion of which states:

"WHEREFORE, premises considered, the plaintiff Philippine National Bank's subject "Motion for Reconsideration With Urgent Prayer for Quashal of Writ of Execution" dated April 28, 1997 and undated "Urgent Motion to Lift Garnishment of PNB Funds With Bangko Sentral ng Pilipinas" filed on May 6, 1997, together with all its related Motions are all DENIED with finality for lack of merit.

x x x x x x x x

"The Order of this Court dated April 15, 1997, the final Writ of Execution likewise dated April 15, 1997 and the corresponding Garnishment all stand firm.

“SO ORDERED.”[7]

Aggrieved thereby, petitioners filed this petition, alleging as grounds therefor, the following:

A. THE COURT A QUO ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION WHEN IT ISSUED A WRIT OF EXECUTION IN FAVOR OF DEFENDANTS FOR THE AMOUNT OF P734,341,595.06.

4.1 The court a quo had no authority to issue a writ of execution in favor of private respondents as there was no final and executory judgment ripe for execution.

4.2 Public respondent judge patently exceeded the scope of his authority in making a determination of the amount of storage fees due private respondents in a mere interlocutory order resolving private respondents' Motion for Execution.

4.3 The manner in which the court a quo awarded storage fees in favor of private respondents and ordered the execution of said award was arbitrary and capricious, depriving petitioner of its inherent substantive and procedural rights.

B. EVEN ASSUMING ARGUENDO THAT THE COURT A QUO HAD AUTHORITY TO GRANT PRIVATE RESPONDENTS' MOTION FOR EXECUTION, THE COURT A QUO ACTED WITH GRAVE ABUSE OF DISCRETION IN AWARDING THE HIGHLY UNREASONABLE, UNCONSCIONABLE, AND EXCESSIVE AMOUNT OF P734,341,595.06 IN FAVOR OF PRIVATE RESPONDENTS.

4.4 There is no basis for the court a quo's award of P734,341,595.06 representing private respondents' alleged warehouseman's lien.

4.5 PNB has sufficient evidence to show that the astronomical amount claimed by private respondents is very much in excess of the industry rate for storage fees and preservation expenses.

C. PUBLIC RESPONDENT JUDGE'S GRAVE ABUSE OF DISCRETION BECOMES MORE PATENT AFTER A CLOSE PERUSAL OF THE QUESTIONED ORDER DATED 14 JULY 1997.

4.6 The court a quo resolved a significant and consequential matter entirely relying on documents submitted by private respondents totally disregarding clearly contrary evidence submitted by PNB.

4.7 The court a quo misquoted and misinterpreted the Supreme Court Decision dated 18 April 1997.

D. THE COURT A QUO ACTED WITH GRAVE ABUSE OF DISCRETION IN NOT HOLDING THAT PRIVATE RESPONDENTS HAVE LONG WAIVED THEIR RIGHT TO CLAIM ANY WAREHOUSEMAN'S LIEN.

4.8 Private respondents raised the matter of their entitlement to a warehouseman's lien for storage fees and preservation expenses for the first time only during the execution proceedings of the Decision in favor of PNB.

4.9 Private respondents' claim for warehouseman's lien is in the nature of a compulsory counterclaim which should have been included in private respondents' answer to the Complaint. Private respondents failed to include said claim in their answer either as a counterclaim or as an alternative defense to PNB's Complaint.

4.10 Private respondents' claim is likewise lost by virtue of a specific provision of the Warehouse Receipts Law and barred by prescription and laches.

E. PUBLIC RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN REFUSING TO LIFT THE ORDER OF GARNISHMENT OF THE FUNDS OF PNB WITH THE BANGKO SENTRAL NG PILIPINAS.

4.11 Public respondent judge failed to consider PNB's arguments in support of its Urgent Motion to Lift Garnishment.[8]

In arguing its cause, petitioner explained that this Court's decision in G.R. No. 119231 merely affirmed the trial court's resolutions of 20 December 1994 and 1 March 1995. The earlier resolution set private respondents' reception of evidence for hearing to prove their warehouseman's lien and, pending determination thereof, deferred petitioner's motion for execution of the summary judgment rendered in petitioner's favor in G.R. No. 107243. The subsequent resolution recognized the existence of a valid warehouseman's lien without, however, specifying the amount, and required its full satisfaction by petitioner prior to the execution of the judgment in G.R. No. 107243.

Under said circumstances, petitioner reiterated that neither this Court's decision nor the trial court's resolutions specified any amount for the warehouseman's lien, either in the bodies or dispositive portions thereof. Petitioner therefore questioned the propriety of the computation of the warehouseman's lien in the assailed order of 15 April 1997.

Petitioner further characterized as highly irregular the trial court's final determination of such lien in a mere interlocutory order without explanation, as such should or could have been done only by way of a judgment on the merits. Petitioner likewise reasoned that a writ of execution was proper only to implement a final and executory decision, which was not present in the instant case. Petitioner then cited the cases of *Edward v. Arce*, where we ruled that the only portion of the decision which could be the subject of execution was that decreed in the dispositive part,[9] and *Ex-Bataan Veterans Security Agency, Inc. v. National Labor Relations Commission*,[10] where we held that a writ of execution should conform to the dispositive portion to be executed, otherwise, execution becomes void if in excess of and beyond the original judgment.

Petitioner likewise emphasized that the hearing of 21 February 1995 was marred by procedural infirmities, narrating that the trial court proceeded with the hearing notwithstanding the urgent motion for postponement of petitioner's counsel of record, who attended a previously scheduled hearing in Pampanga. However, petitioner's lawyer-representative was sent to confirm the allegations in said motion. To petitioner's dismay, instead of granting a postponement, the trial court allowed the continuance of the hearing on the basis that there was "nothing sensitive about [the presentation of private respondents' evidence]."[11] At the same hearing, the trial court admitted all the documentary evidence offered by private respondents and ordered the filing of the parties' respective memoranda. Hence, petitioner was virtually deprived of its right to cross-examine the witness, comment on or object to the offer of evidence and present countervailing evidence. In fact, to date, petitioner's urgent motion to nullify the court proceedings remains unresolved.

To stress its point, petitioner underscores the conflicting views of Judge Benito C. Se, Jr., who heard and tried almost the entire proceedings, and his successor, Judge Marcelino L. Sayo, Jr., who issued the assailed orders. In the resolution[12] of 1 March 1995, Judge Se found private respondents' claim for warehouse lien in the amount of P734,341,595.06 unacceptable, thus:

In connection with [private respondents'] claim for payment of warehousing fees and expenses, this Court cannot accept [private respondents'] pretense that they are entitled to storage fees and preservation expenses in the amount of P734,341,595.06 as shown in their Exhibits "1" to "11". There would, however, appear to be legal basis for their claim for fees and expenses covered during the period from the time of the issuance of the five (5) *quedans* until demand for their delivery was made by [petitioner] prior to the institution of the present action. [Petitioner] should not be made to shoulder the warehousing fees and expenses after the demand was made. xxx[13]

Since it was deprived of a fair opportunity to present its evidence on the warehouseman's lien due Noah's Ark,

petitioner submitted the following documents: (1) an affidavit of petitioner's credit investigator[14] and his report[15] indicating that Noah's Ark only had 1,490 50kg. bags, and not 86,356.41 50kg. bags, of sugar in its warehouse; (2) Noah's Ark's reports[16] for 1990-94 showing that it did not have sufficient sugar stock to cover the quantity specified in the subject quedans; (3) Circular Letter No. 18 (s. 1987-88)[17] of the Sugar Regulatory Administration requiring sugar mill companies to submit reports at week's end to prevent the issuance of warehouse receipts not covered by actual inventory; and (4) an affidavit of petitioner's assistant vice president[18] alleging that Noah's Ark's daily storage fee of P4/bag exceeded the prevailing industry rate.

Petitioner, moreover, laid stress on the fact that in the questioned order of 14 July 1997, the trial court relied solely on the Annual Synopsis of Production & Performance Date/Annual Compendium of Performance by Philippine Sugar Refineries from 1989 to 1994, in disregard of Noah's Ark's certified reports that it did not have sufficient sugar stock to cover the quantity specified in the subject quedans. Between the two, petitioner urged, the latter should have been accorded greater evidentiary weight.

Petitioner then argued that the trial court's second assailed order of 14 July 1997 misinterpreted our decision in G.R. No. 119231 by ruling that the Refining Contract under which the subject sugar stock was produced bound the parties. According to petitioner, the Refining Contract never existed, it having been denied by Rosa Ng Sy; thus, the trial court could not have properly based its computation of the warehouseman's lien on the Refining Contract. Petitioner maintained that a separate trial was necessary to settle the issue of the warehouseman's lien due Noah's Ark, if at all proper.

Petitioner further asserted that Noah's Ark could no longer recover its lien, having raised the issue for the first time only during the execution proceedings of this Court's decision in G.R. No. 107243. As said claim was a separate cause of action which should have been raised in private respondents' answer with counterclaim to petitioner's complaint, private respondents' failure to raise said claim should have been deemed a waiver thereof.

Petitioner likewise insisted that under Section 29[19] of the Warehouse Receipts Law, private respondents were barred from claiming the warehouseman's lien due to their refusal to deliver the goods upon petitioner's demand. Petitioner further raised that private respondents failed to timely assert their claim within the five-year prescriptive period, citing Article 1149[20] of the New Civil Code.

Finally, petitioner questioned the trial court's refusal to lift the garnishment order considering that the levy on its real property, with an estimated market value of P6,000,000,000, was sufficient to satisfy the judgment award; and contended that the garnishment was contrary to Section 103[21] of the Bangko Sentral ng Pilipinas Law (Republic Act No. 7653).

On 8 August 1997, we required respondents to comment on the petition and issued a temporary restraining order enjoining the trial court from implementing its orders of 15 April and 14 July 1997.

In their comment, private respondents first sought the lifting of the temporary restraining order, claiming that petitioner could no longer seek a stay of the execution of this Court's decision in G.R. No. 119231 which had become final and executory; and the petition raised factual issues which had long been resolved in the decision in G.R. No. 119231, thereby rendering the instant petition moot and academic. They underscored that CA-G.R. No. SP No. 25938, G.R. No. 107243 and G.R. No. 119231 all sustained their claim for a warehouseman's lien, while the storage fees stipulated in the Refining Contract had the approval of the Sugar Regulatory Authority. Likewise, under the Warehouse Receipts Law, full payment of their lien was a pre-requisite to their obligation to release and deliver the sugar stock to petitioner.

Anent the trial court's jurisdiction to determine the warehouseman's lien, private respondents maintained that

such had already been established. Accordingly, the resolution of 1 March 1995 declared that they were entitled to a warehouseman's lien, for which reason, the execution of the judgment in favor of petitioner was stayed until the latter's full payment of the lien. This resolution was then affirmed by this Court in our decision in G.R. No. 119231. Even assuming the trial court erred, the error could only have been in the wisdom of its findings and not of jurisdiction, in which case, the proper remedy of petitioner should have been an appeal and certiorari did not lie.

Private respondents also raised the issue of *res judicata* as a bar to the instant petition, i.e., the March resolution was already final and unappealable, having been resolved in G.R. No. 119231, and the orders assailed here were issued merely to implement said resolution.

Private respondents then debunked the claim that petitioner was denied due process. In that February hearing, petitioner was represented by counsel who failed to object to the presentation and offer of their evidence consisting of the five *quedans*, Refining Contracts with petitioner and other *quedan* holders, and the computation resulting in the amount of P734,341,595.06, among other documents. Private respondents even attached a copy of the transcript of stenographic notes^[22] to their comment. In refuting petitioner's argument that no writ of execution could issue in absence of a specific amount in the dispositive portion of this Court's decision in G.R. No. 119231, private respondents argued that any ambiguity in the decision could be resolved by referring to the entire record of the case,^[23] even after the decision had become final.

Private respondents next alleged that the award of P734,341,595.06 to satisfy their warehouseman's lien was in accordance with the stipulations provided in the *quedans* and the corresponding Refining Contracts, and that the validity of said documents had been recognized by this Court in our decision in G.R. No. 119231. Private respondents then questioned petitioner's failure to oppose or rebut the evidence they presented and bewailed its belated attempts to present contrary evidence through its pleadings. Nonetheless, said evidence was even considered by the trial court when petitioner sought a reconsideration of the first assailed order of 15 April 1997, thus further precluding any claim of denial of due process.

Private respondents next pointed to the fact that they consistently claimed that they had not been paid for storing the sugar stock, which prompted them to file criminal charges of *estafa* and violation of Batas Pambansa (BP) Blg. 22 against Rosa Ng Sy and Teresita Ng. In fact, Sy was eventually convicted of two counts of violation of BP Blg. 22. Private respondents, moreover, incurred, and continue to incur, expenses for the storage and preservation of the sugar stock; and denied having waived their warehouseman's lien, an issue already raised and rejected by this Court in G.R. No. 119231.

Private respondents further claimed that the garnishment order was proper, only that it was rendered ineffective. In a letter^[24] received by the sheriff from the Bangko Sentral ng Pilipinas, it was stated that the garnishment could not be enforced since petitioner's deposits with the Bangko Sentral ng Pilipinas consisted solely of legal reserves which were exempt from garnishment. Petitioner therefore suffered no damage from said garnishment. Private respondents likewise deemed immaterial petitioner's argument that the writ of execution issued against its real property in Pasay City was sufficient, considering its prevailing market value of P6,000,000,000 was in excess of the warehouseman's lien; and invoked Rule 39 of the 1997 Rules of Civil Procedure, which provided that the sheriff must levy on all the property of the judgment debtor, excluding those exempt from execution, in the execution of a money judgment.

Finally, private respondents accused petitioner of coming to court with unclean hands, specifically citing its misrepresentation that the award of the warehouseman's lien would result in the collapse of its business. This claim, private respondents asserted, was contradicted by petitioner's 1996 Audited Financial Statement indicating

that petitioner's assets amounted to billions of pesos, and its 1996 Annual Report to its stockholders where petitioner declared that the pending legal actions arising from their normal course of business "will not materially affect the Group's financial position."^[25]

In reply, petitioner advocated that resort to the remedy of certiorari was proper since the assailed orders were interlocutory, and not a final judgment or decision. Further, that it was virtually deprived of its constitutional right to due process was a valid issue to raise in the instant petition; and not even the doctrine of *res judicata* could bar this petition as the element of a final and executory judgment was lacking. Petitioner likewise disputed the claim that the resolution of 1 March 1995 was final and executory, otherwise private respondents would not have filed an opposition and motion for partial reconsideration^[26] two years later. Petitioner also contended that the issues raised in this petition were not resolved in G.R. No. 119231, as what was resolved there was private respondents' mere entitlement to a warehouseman's lien, without specifying a corresponding amount. In the instant petition, the issues pertained to the amount and enforceability of said lien based on the arbitrary manner the amount was determined by the trial court.

Petitioner further argued that the refining contracts private respondents invoked could not bind the former since it was not a party thereto. In fact, said contracts were not even attached to the *quedans* when negotiated; and that their validity was repudiated by a supposed party thereto, Rosa Ng Sy, who claimed that the contract was simulated, thus void pursuant to Article 1345 of the New Civil Code. Should the refining contracts in turn be declared void, petitioner advocated that any determination by the court of the existence and amount of the warehouseman's lien due should be arrived at using the test of reasonableness. Petitioner likewise noted that the other refining contracts^[27] presented by private respondents to show similar storage fees were executed between the years 1996 and 1997, several years after 1989. Thus, petitioner concluded, private respondents could not claim that the more recent and increased rates were those which prevailed in 1989.

Finally, petitioner asserted that in the event that this Court should uphold the trial court's determination of the amount of the warehouseman's lien, petitioner should be allowed to exercise its option as a judgment obligor to specify which of its properties may be levied upon, citing Section 9(b), Rule 39 of the 1997 Rules of Civil Procedure. Petitioner claimed to have been deprived of this option when the trial court issued the garnishment and levy orders.

The petition was set for oral argument on 24 November 1997 where the parties addressed the following issues we formulated for them to discuss:

(1) Is this special civil action the appropriate remedy?

(2) Has the trial court the authority to issue a writ of execution on Noah's Ark's claims for storage fees considering that this Court in G.R. No. 119231 merely sustained the trial court's order of 20 December 1994 granting the Noah's Ark Omnibus Motion and setting the reception of evidence on its claims for storage fees, and of 1 March 1995 finding that there existed in favor of Noah's Ark a warehouseman's lien under Section 27 of R.A. No. 2137 and directing that the execution of the judgment in favor of PNB be stayed and/or precluded until the full amount of Noah's Ark's lien is satisfied conformably with Section 31 of R.A. No. 2137?

(3) Is [petitioner] liable for storage fees (a) from the issuance of the *quedans* in 1989 to Rosa Sy, St. Therese Merchandising and RNS Merchandising, up to their assignment by endorsees Ramos and Zoleta to [petitioner] for their loan; or (b) after [petitioner] has filed an action for specific performance and damages (Civil Case No. 90-53023) against Noah's Ark for the latter's failure to comply with [petitioner's] demand for the delivery of the sugar?

(4) Did respondent Judge commit grave abuse of discretion as charged?[28]

In our resolution of 24 November 1997, we summarized the positions of the parties on these issues, thus:

Expectedly, counsel for petitioner submitted that certiorari under Rule 65 of the Rules of Court is the proper remedy and not an ordinary appeal, contending, among others, that the order of execution was not final. On the other hand, counsel for respondents maintained that petitioner PNB disregarded the hierarchy of courts as it bypassed the Court of Appeals when it filed the instant petition before this Court.

On the second issue, counsel for petitioner submitted that the trial court had no authority to issue the writ of execution or if it had, it denied PNB due process when it held PNB liable for the astronomical amount of P734,341,595.06 as warehouseman's lien or storage fees. Counsel for respondent, on the other hand, contended that the trial court's authority to issue the questioned writ of execution is derived from the decision in G.R. No. 119231 which decision allegedly provided for ample or sufficient parameters for the computation of the storage fees.

On the third issue, counsel for petitioner while presupposing that PNB may be held to answer for storage fees, contended that the same should start from the time the endorsees of the sugar quedans defaulted in their payments, i.e., 1990 because before that, respondent Noah's Ark's claim was that it was the owner of the sugar covered by the quedans. On the other hand, respondents' counsel pointed out that PNB's liability should start from the issuance of the quedans in 1989.

The arguments on the fourth issue, hinge on the parties' arguments for or against the first three issues. Counsel for petitioner stressed that the trial court indeed committed a grave abuse of discretion, while respondents' counsel insisted that no grave abuse of discretion was committed by the trial court.[29]

Private respondents likewise admitted that during the pendency of the case, they failed to avail of their options as a warehouseman. Concretely, they could have enforced their lien through the foreclosure of the goods or the filing of an ordinary civil action. Instead, they sought to execute this Court's judgment in G.R. No. 119231. They eventually agreed that petitioner's liability for the warehouseman's lien should be reckoned from the time it stepped into the shoes of the original depositors.[30]

In our resolution of 24 November 1997, we required the parties to simultaneously submit their respective memoranda within 30 days or, in the alternative, a compromise agreement should a settlement be achieved. Notwithstanding efforts exerted by the parties, no mutually acceptable solution was reached.

In their respective memoranda, the parties reiterated or otherwise buttressed the arguments raised in their previous pleadings and during the oral arguments on 24 November 1997, especially on the formulated issues.

The petition is meritorious.

We shall take up the formulated issues in seriatim.

A. This Special Civil Action is an Appropriate Remedy.

A careful perusal of the first assailed order shows that the trial court not only granted the motion for execution, but also appreciated the evidence in the determination of the warehouseman's lien; formulated its computation of the lien; and adopted an offsetting of the parties' claims. Ineluctably, the order as in the nature of a final order for it left nothing else to be resolved thereafter. Hence, petitioner's remedy was to appeal therefrom.[31] Nevertheless, petitioner was not precluded from availing of the extraordinary remedy of certiorari under Rule 65 of the Rules of Court. It is well-settled that the availability of an appeal does not foreclose recourse to the extraordinary remedies of certiorari or prohibition where appeal is not adequate, or equally beneficial, speedy and sufficient.[32]

Petitioner assailed the challenged orders as having been issued without or in excess of jurisdiction or with grave abuse of discretion and alleged that it had no other plain, speedy and adequate remedy in the ordinary course of law. As hereafter shown, these claims were not unfounded, thus the propriety of this special civil action is beyond question.

This Court has original jurisdiction, concurrent with that of Regional Trial Courts and the Court of Appeals, over petitions for certiorari, prohibition, mandamus, quo warranto and habeas corpus,[33] and we entertain direct resort to us in cases where special and important reasons or exceptional and compelling circumstances justify the same.[34] These reasons and circumstances are present here.

B. Under the Special Circumstances in This Case, Private Respondents May Enforce Their Warehouseman's Lien in Civil Case No. 90-53023.

The remedies available to a warehouseman, such as private respondents, to enforce his warehouseman's lien are:

- (1) To refuse to deliver the goods until his lien is satisfied, pursuant to Section 31 of the Warehouse Receipt Law;
- (2) To sell the goods and apply the proceeds thereof to the value of the lien pursuant to Sections 33 and 34 of the Warehouse Receipts Law; and
- (3) By other means allowed by law to a creditor against his debtor, for the collection from the depositor of all charges and advances which the depositor expressly or impliedly contracted with the warehouseman to pay under Section 32 of the Warehouse Receipt Law; or such other remedies allowed by law for the enforcement of a lien against personal property under Section 35 of said law. The third remedy is sought judicially by suing for the unpaid charges.[35]

Initially, private respondents availed of the first remedy. However, when petitioner moved to execute the judgment in G.R. No. 107243 before the trial court, private respondents, in turn, moved to have the warehouse charges and fees due them determined and thereafter sought to collect these from petitioners. While the most appropriate remedy for private respondents was an action for collection, in G.R. No. 119231, we already recognized their right to have such charges and fees determined in Civil Case No. 90-53023. The import of our holding in G.R. No. 119231 was that private respondents were likewise entitled to a judgment on their warehouse charges and fees, and the eventual satisfaction thereof, thereby avoiding having to file another action to recover these charges and fees, which would only have further delayed the resolution of the respective claims of the parties, and as a corollary thereto, the indefinite deferment of the execution of the judgment in G.R. No. 107243. Thus we note that petitioner, in fact, already acquiesced to the scheduled dates previously set for the hearing on private respondents' warehouseman's charges.

However, as will be shown below, it would be premature to execute the order fixing the warehouseman's charges and fees.

C. Petitioner is Liable for Storage Fees.

We confirmed petitioner's liability for storage fees in G.R. No. 119231. However, petitioner's status as to the quedans must first be clearly defined and delineated to be able to determine the extent of its liability.

Petitioner insisted, both in its petition and during the oral arguments on 24 November 1997, that it was a mere pledgee as the quedans were used to secure two loans it granted.[36] In our decision in G.R. No. 107243, we upheld this contention of petitioner, thus:

Zoleta and Ramos then used the quedans as security for loans obtained by them from the Philippine National Bank (PNB) as security for loans obtained by them in the amounts of P23.5 million and P15.6 million,

respectively. These quedans they indorsed to the bank.[37]

As such, *Martinez v. Philippine National Bank*[38] becomes relevant:

In conclusion, we hold that where a warehouse receipt or quedan is transferred or endorsed to a creditor only to secure the payment of a loan or debt, the transferee or endorsee does not automatically become the owner of the goods covered by the warehouse receipt or quedan but he merely retains the right to keep and with the consent of the owner to sell them so as to satisfy the obligation from the proceeds of the sale, this for the simple reason that the transaction involved is not a sale but only a mortgage or pledge, and that if the property covered by the quedans or warehouse receipts is lost without the fault or negligence of the mortgagee or pledgee or the transferee or endorsee of the warehouse receipt or quedan, then said goods are to be regarded as lost on account of the real owner, mortgagor or pledgor.

The indorsement and delivery of the warehouse receipts (quedans) by Ramos and Zoleta to petitioner was not to convey “title” to or ownership of the goods but to secure (by way of pledge) the loans granted to Ramos and Zoleta by petitioner. The indorsement of the warehouse receipts (quedans), to perfect the pledge,[39] merely constituted a symbolical or constructive delivery of the possession of the thing thus encumbered.[40]

The creditor, in a contract of real security, like pledge, cannot appropriate without foreclosure the things given by way of pledge.[41] Any stipulation to the contrary, termed *pactum commissorio*, is null and void.[42] The law requires foreclosure in order to allow a transfer of title of the good given by way of security from its pledgor,[43] and before any such foreclosure, the pledgor, not the pledgee, is the owner of the goods. In *Philippine National Bank v. Atendido*,[44] we said:

The delivery of the palay being merely by way of security, it follows that by the nature of the transaction its ownership remains with the pledgor subject only to foreclosure in case of non-fulfillment of the obligation. By this we mean that if the obligation is not paid upon maturity the most that the pledgee can do is to sell the property and apply the proceeds to the payment of the obligation and to return the balance, if any, to the pledgor (Art. 1872, Old Civil Code [Art. 2112, New Civil Code]). This is the essence of this contract, for, according to law, a pledgee cannot become the owner of, nor appropriate to himself, the thing given in pledge (Article 1859, Old Civil Code [Art. 2088, New Civil Code])... The fact that the warehouse receipt covering palay was delivered, endorsed in blank, to the bank does not alter the situation, the purpose of such endorsement being merely to transfer the juridical possession of the property to the pledgees and to forestall any possible disposition thereof on the part of the pledgor. This is true notwithstanding the provisions of the Warehouse Receipt Law.

The warehouseman, nevertheless, is entitled to the warehouseman’s lien that attaches to the goods invokable against anyone who claims a right of possession thereon.

The next issue to resolve is the duration of time the right of petitioner over the goods may be held subject to the warehouseman’s lien.

Sections 8, 29 and 31 of the Warehouse Receipts Law now come to fore. They provide, as follows:

SECTION 8. Obligation of warehousemen to deliver. – A warehouseman, in the absence of some lawful excuse provided by this Act, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with:

- (a) An offer to satisfy warehouseman’s lien;
- (b) An offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman.

In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

SECTION 29. How the lien may be lost. – A warehouseman loses his lien upon goods;

(a) By surrendering possession thereof, or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this Act.

SECTION 31. Warehouseman need not deliver until lien is satisfied. – A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.

Simply put, where a valid demand by the lawful holder of the goods for the delivery of the goods is refused by the warehouseman, despite the absence of a lawful excuse provided by the statute itself, the warehouseman's lien is thereafter concomitantly lost. As to what the law deems a valid demand, Section 8 enumerates what must accompany a demand; while as regards the reasons which a warehouseman may invoke to legally refuse to effect delivery of the goods covered by the lien, these are:

(1) That the holder of the receipt does not satisfy the conditions prescribed in Section 8 of the Act. (See Sec. 8, Act No. 2137)

(2) That the warehouseman has legal title in himself on the goods, such title or right being derived directly or indirectly from a transfer made by the depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien. (Sec. 16, Act No. 2137)

(3) That the warehouseman has legally set up the title or right of third persons as lawful defense for non-delivery of the goods as follows:

(a) Where the warehouseman has been requested, by or on behalf of the person lawfully entitled to a right of property of or possession in the goods, not to make such delivery (Sec. 10, Act No. 2137), in which case, the warehouseman may, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead (Sec. 17, Act No. 2137);

(b) Where the warehouseman had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods (Sec. 10, Act No. 2137), in which case, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claims or to bring legal proceedings to compel all claimants to interplead (Sec. 18, Act No. 2137); and

(c) Where the goods have already been lawfully sold to third persons to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature. (Sec. 36, Act No. 2137).

(4) That the warehouseman having a lien valid against the person demanding the goods refuses to deliver the goods to him until the lien is satisfied. (Sec. 31, Act No. 2137)

(5) That the failure was not due to any fault on the part of the warehouseman, as by showing that, prior to demand for delivery and refusal, the goods were stolen or destroyed by fire, flood, etc., without any negligence on his part, unless he has contracted so as to be liable in such case, or that the goods have been taken by the mistake of a third person without the knowledge or implied assent of the warehouseman, or some other

justifiable ground for non-delivery. (67 C.J. 532)[45]

Regrettably, the factual settings do not sufficiently indicate whether the demand to obtain possession of the goods complied with Section 8 of the law. The presumption, nevertheless, would be that the law was complied with, rather than breached, by petitioner. Upon the other hand, it would appear that the refusal of private respondents to deliver the goods was not anchored on a valid excuse, i.e., non-satisfaction of the warehouseman's lien over the goods, but on an adverse claim of ownership. Private respondents justified their refusal to deliver the goods, as stated in their Answer with Counterclaim and Third-Party Complaint in Civil Case No. 90-53023, by claiming that they "are still the legal owners of the subject quedans and the quantity of sugar represented therein." Under the circumstances, this hardly qualified as a valid, legal excuse. The loss of the warehouseman's lien, however, does not necessarily mean the extinguishment of the obligation to pay the warehousing fees and charges which continues to be a personal liability of the owners, i.e., the pledgors, not the pledgee, in this case. But even as to the owners-pledgors, the warehouseman fees and charges have ceased to accrue from the date of the rejection by Noah's Ark to heed the lawful demand by petitioner for the release of the goods.

The finality of our denial in G.R. No. 119231 of petitioner's petition to nullify the trial court's order of 01 March 1995 confirms the warehouseman's lien; however, such lien, nevertheless, should be confined to the fees and charges as of the date in March 1990 when Noah's Ark refused to heed PNB's demand for delivery of the sugar stocks and in no event beyond the value of the credit in favor of the pledgee (since it is basic that, in foreclosures, the buyer does not assume the obligations of the pledgor to his other creditors even while such buyer acquires title over the goods less any existing preferred lien thereover).[46] The foreclosure of the thing pledged, it might incidentally be mentioned, results in the full satisfaction of the loan liabilities to the pledgee of the pledgors.[47]

D. Respondent Judge Committed Grave Abuse of Discretion.

We hold that the trial court deprived petitioner of due process in rendering the challenged order of 15 April 1996 without giving petitioner an opportunity to present its evidence. During the final hearing of the case, private respondents commenced and concluded their presentation of evidence as to the matter of the existence of and amount owing due to their warehouseman's lien. Their exhibits were duly marked and offered, and the trial court thereafter ruled, to wit:

Court: Order.

With the admission of Exhibits "1" to "11", inclusive of submarkings, as part of the testimony of Benigno Bautista, the defendant [private respondents] is given five (5) days from today to file its memorandum. Likewise, plaintiff [petitioner] is given five (5) days, from receipt of defendants' [private respondents'] memorandum, to file its comment thereto. Thereafter the same shall be deemed submitted for decision.

SO ORDERED.[48]

Nowhere in the transcript of stenographic notes, however, does it show that petitioner was afforded an opportunity to comment on, much less, object to, private respondents' offer of exhibits, or even present its evidence on the matter in dispute. In fact, petitioner immediately moved to nullify the proceedings conducted during that hearing, but its motion was ignored and never resolved by the trial court. Moreover, it cannot be said that petitioner's filing of subsequent pleadings, where it attached its affidavits and documents to contest the warehouseman's lien, was sufficient to fully satisfy the requirements of due process. The subsequent pleadings were filed only to show that petitioner had evidence to refute the claims of private respondents or that the latter were not entitled thereto, but could not have adequately substituted for a full-blown opportunity to present its evidence, given the exorbitant amounts involved. This, when coupled with the fact that the motion to postpone the hearing filed by petitioner's counsel was not unreasonable, leads us to conclude that petitioner's right to fully present its case was rendered

nugatory. It is thus evident to us that there was undue and unwarranted haste on the part of respondent court to rule in favor of private respondents. We do not hesitate to say that any tilt of the scales of justice, no matter how slight, evokes suspicion and erodes a litigant's faith and hope in seeking recourse before courts of law.

Likewise do we refuse to give credence to private respondents' allegation that the parties agreed that petitioner's presentation of evidence would be submitted on the basis of affidavits,[49] without, however, specifying any order or written agreement to that effect.

It is interesting to note that among the evidence petitioner wanted to present were reports obtained from Noah's Ark, disclosing that the latter failed to maintain a sufficient inventory to satisfy the sugar stock covered by the subject quedans. This was a serious allegation, and on that score alone, the trial court should have allowed a hearing on the matter, especially in light of the magnitude of the claims sought. If it turns out to be true that the stock of sugar Noah's Ark had in possession was below the quantities specified in the quedans, then petitioner should not be made to pay for storage and preservation expenses for non-existent goods.

It was likewise grave abuse of discretion on the part of respondent court to order immediate execution of the 15 April 1997 order. We ruled earlier that said order was in the nature of a final order fixing the amount of the warehouseman's charges and fees, and petitioner's net liability, after the set-off of the money judgment in its favor in G.R. No. 107243. Section 1 of Rule 39 of the Rules of Court explicitly provides that execution shall issue as a matter of right, on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected. Execution pending appeal is, however, allowed in Section 2 thereof, but only on motion with due notice to the adverse party, more importantly, only "upon good reasons shown in a special order." Here, there is no showing that a motion for execution pending appeal was filed and that a special order was issued by respondent court. Verily, the immediate execution only served to further strengthen our perception of undue and unwarranted haste on the part of respondent court in resolving the issue of the warehouseman's lien in favor of private respondents.

In light of the above, we need not rule anymore on the fourth formulated issue.

WHEREFORE, the petition is GRANTED. The challenged orders of 15 April and 14 July 1997, including the notices of levy and garnishment, of the Regional Trial Court of Manila, Branch 45, in Civil Case No. 90-53023 are REVERSED and SET ASIDE, and said court is DIRECTED to conduct further proceedings in said case:

- (1) to allow petitioner to present its evidence on the matter of the warehouseman's lien;
- (2) to compute the petitioner's warehouseman's lien in light of the foregoing observations; and
- (3) to determine whether, for the relevant period, Noah's Ark maintained a sufficient inventory to cover the volume of sugar specified in the quedans.

Costs against private respondents.

SO ORDERED.

Bellosillo, Vitug, Panganiban, and Quisumbing, JJ., concur.

[1] The first was G.R. No. 107243, 1 September 1993, entitled *Philippine National Bank v. Noah's Ark Sugar Refinery, Alberto Looyuko, Jimmy T. Go and Wilson T. Go*, 226 SCRA 36 [1993]; while the second was G.R. No. 119231, 18 April 1996, entitled *Philippine National Bank v. Hon. Pres. Judge Benito C. Se, Jr., RTC, Branch 45, Manila; Noah's Ark Sugar Refinery; Alberto T. Looyuko, Jimmy T. Go and Wilson T. Go*, 256 SCRA 380 [1996].

[2] Per Judge Marcelino L. Sayo, Jr.

[3] Annex “A” of Petition; Rollo, 57-63.

[4] Annex “B” of Petition; Rollo, 64-68.

[5] Supra note 2 at 384-389.

[6] Id., at 394-395.

[7] Rollo, 22-27.

[8] Rollo, 28-29.

[9] 98 Phil. 688, 692 [1956].

[10] 250 SCRA 418, 427 [1995].

[11] TSN, 21 February 1995, 4.

[12] Rollo, 88-92.

[13] Resolution, p. 2; Rollo, 89.

[14] Annex “O” of Petition; Rollo, 169-170.

[15] Annex “P” of Petition; Rollo, 171.

[16] Annexes “R” - “R-16”; Rollo, 174-190.

[17] Annex “Q” of Petition; Rollo, 172.

[18] Annexes “S” and “T” of Petition; Rollo, 191, 192-195.

[19] Section 29. How the lien may be lost. - A warehouseman loses his lien upon goods: (a) By surrendering possession thereof, or (b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this Act.

[20] Article 1149. All other actions whose periods are not fixed in this Code or in other laws must be brought within five years from the time the right of action accrues.

[21] Section 103. Exemption from Attachment and Other Purposes. - Deposits maintained by banks with the Bangko Sentral as part of their reserve requirements shall be exempt from attachment, garnishments, or any other order or process of any court, government agency or any other administrative body issued to satisfy the claim of a party other than the Government, or its political subdivisions or instrumentalities.

[22] Annex “11” of Comment; Rollo, 290-314.

[23] Citing *Filinvest Credit Corp. v. Court of Appeals*, 226 SCRA 257 [1993]; and *Republic v. de los Angeles*, 41 SCRA 422 [1977].

[24] Annex “21” of Comment; Rollo, 395-396.

[25] Philippine National Bank, 1996 Annual Report, 19; Annex “1” of Comment; Rollo, 279.

[26] Annex “N” of Petition; Rollo, 144-168.

[27] Annexes “16” - “19” of Comment; Rollo, 377-393.

[28] Rollo, 438-439.

[29] Rollo, 438-439.

[30] TSN, 24 November 1997, 106-107.

[31] See *Meneses v. Court of Appeals*, 237 SCRA 484, 492 [1994].

[32] *Gavieres v. Falcis*, 193 SCRA 649, 657-658 [1991] citing *PNB v. Puno*, 170 SCRA 229 [1989]; *Echaz v. Court of Appeals*, 199 SCRA 381, 386-387 [1991], citing *Jaca v. Davao Lumber Co.*, 113 SCRA 107 [1982]; *Hualam Construction and Development Corp. v. Court of Appeals*, 214 SCRA 612, 628 [1992]; *Ruiz v. Court of Appeals*, 220 SCRA 490, 500 [1993]; *Rodriguez v. Court of Appeals*, 245 SCRA 150, 152 [1995].

[33] Sec. 5(1), Article VIII of the Constitution, in relation to Secs. 9(1) and 21(1) of B.P. Blg. 129.

[34] *People v. Cuaresma*, 172 SCRA 415, 423-424 [1989]; *Defensor-Santiago v. Vasquez*, 217 SCRA 633, 651-652 [1993]; *Manalo v. Gloria*, 236 SCRA 130, 138-139 [1994].

[35] See 3 Teodorico C. Martin, *Commentaries and Jurisprudence on the Philippine Commercial Laws* 581-587 (1989 ed.) (hereinafter 3 Martin).

[36] *Petition*, 8; TSN, 24 November 1997, 26.

[37] 226 SCRA 36, 39 [1993].

[38] 93 Phil. 765, 770-771 [1953]. See also *Philippine National Bank v. Atendido*, 94 Phil. 254, 258 [1954]; and *Warner, Barnes, & Co. Ltd. v. Flores*, 1 SCRA 881, 885-886 [1961].

[39] Art. 2095, New Civil Code.

[40] *First Camden National Bank & Trust Co. v. J.R. Watkins Co.*, D.C. Pa 36 F. Supp. P. 416.

[41] *Lao v. Court of Appeals*, G.R. No. 115307, 8 July 1997; *Development Bank of the Philippines v. Court of Appeals*, G.R. No. 118342, 5 January 1998.

[42] Art. 2088, Civil Code.

[43] Art. 2112, Civil Code.

[44] 94 Phil. 254, 257-258 [1954].

[45] 3 Martin, at 553-554.

[46] The rules on concurrence and preference of credits under the Civil Code would be inapplicable until there arises a judicial settlement of the property of an insolvent in favor of all creditors.

[47] Article 2115, Civil Code provides: The sale of the things pledged shall extinguish the principal obligation, whether or not the proceeds of the sale are equal to the amount of the principal obligation, interest and expenses in a proper case. If the amount of the sale is more than the said amount, the debtor shall not be entitled to the excess, unless it is otherwise agreed. If the price of the sale is less, neither shall the creditor be entitled to recover the deficiency, notwithstanding any stipulation to the contrary.(n)

[48] TSN, 21 February 1995, 25.

[49] TSN, 24 November 1997, 64.

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