

**JANG LIM, WILFREDO MARIGA, AMIL MAULANA, ROLANDO SANTOS,
MARCIANO VICTORIANO, JR., SHERILYN TAUPAN, BADO
DELASANTOS, CELSO ARANETA, FELIX BAGUIO, ANECETO LAS
PIÑAS, VICENTE ESCA...**

G.R. NO. 149748. November 16, 2006

Ponente: PUNO, J.

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PUNO, J.:

The petition at bar involves the execution of our Decision dated February 19, 1999 in G.R. No. 124630 which reinstated the May 17, 1995 Decision of Executive Labor Arbiter Rhett Julius J. Plagata of the National Labor Relations Commission (NLRC) Regional Arbitration Branch (RAB) No. 9 of Zamboanga City in NLRC Case No. RAB-09-1-0-0028494, holding private respondent Cotabato Timberland Company, Inc. (CTCI) liable for separation pay, indemnity, unpaid wages, wage differentials, night shift differentials, service incentive leave pay, 13th month pay, cost of litigation and attorney's fees.

Records show that upon motion of the petitioners, Executive Labor Arbiter Plagata issued a Writ of Execution[1] to enforce his reinstated May 17, 1995 Decision. Sheriff Danilo Tejada, Branch Sheriff of RAB No. 9, enforced said writ by levying the parcels of land where private respondent CTCI's plywood plant is situated in Recodo, Zamboanga City. These parcels of land are covered by Transfer Certificates of Title (TCT) Nos. T-145,544, T-145,547, T-145,545, T-145,546, T-145,550, and T-107,201 in the name of private respondent M&S Company, Inc. (M&S). It appears that TCT Nos. T-145,544, T-145,547, T-145,545, T-145,546, and T-145,550 replaced TCT Nos. T-110,125, T-119,331, T-115,222, T-119,032, and T-126,661, respectively, registered in the name of private respondent CTCI. The transfers were made based on absolute deeds of sale dated March 23, 1999 between private respondent CTCI, as seller, and private respondent M&S, as buyer.

On December 13, 1999, private respondent M&S filed its motion: a) to suspend the execution proceedings; b) after the suspension, for the Executive Labor Arbiter to conduct a hearing for the purpose of determining ownership of the subject parcels of land; c) after the hearing, to confirm the title of private respondent M&S over the subject parcels of land; and d) to lift the Notice of Levy dated December 6, 1999.[2] After hearing and after the parties have filed their respective pleadings, the Executive Labor Arbiter issued an Order dated March 31, 2000[3] denying the motion of private respondent CTCI to lift the levy made by the sheriff on the subject parcels of land. He held that the sales of the subject lots by private respondent CTCI, as seller, to private respondent M&S, as buyer, were null and void for being simulated, fictitious and in fraud of the petitioners. He based his conclusion on the following circumstances: a) the sales took place about a month after this Court promulgated its decision which is now the subject of execution; and b) private respondent M&S has been out of business for seven (7) years prior to the alleged sales and hence, its purchase of the subject properties soon after the promulgation of this Court's decision in the instant case "stirs grave doubt." The Executive Labor Arbiter likewise found that private respondent M&S is a mere alter ego of private respondent CTCI "in connection with the enforcement of complainants' claims in this case" as the identities, operations and officers of both companies were "so intertwined

or so meshed together as to make each company indistinguishable from the other." Thus, he ordered the sheriff to proceed with the execution proceedings.

On April 26, 2000, private respondent M&S filed a Memorandum on Appeal[4] with the NLRC pursuant to Section 2, Rule VI of the NLRC Manual on Execution of Judgment (Sheriff's Manual). Private respondent M&S likewise filed a petition for injunction with an application for a temporary restraining order (TRO) with the NLRC, which application for TRO was granted pending resolution of its appeal.

On June 6, 2000, the NLRC issued its assailed resolution, the dispositive portion of which states:

Prescinding from the foregoing premises, the Executive Labor Arbiter's March 31, 2000 Order is hereby SET ASIDE and Sheriff Danilo Tejada and all persons acting for and in his behalf are ordered to desist from enforcing said Order and from proceeding with the auction sale of subject real properties covered by TCT Nos. T-145,545, T-145,550, T-145,544, T-145,547 and T-107,201.[5]

The Temporary Restraining Order issued by this Commission on April 17, 2000 is hereby made permanent and Sheriff Danilo Tejada is ordered to immediately proceed to execute the Supreme Court's decision in this case against the properties of Cotabato Timberland Co., Inc. in accordance with the provisions of the NLRC Manual on Execution.

SO ORDERED.[6]

The NLRC held that its power to execute extends only to properties "unquestionably belonging to the judgment debtor." The Executive Labor Arbiter's conclusion that the deeds of sale over the subject properties were null and void for being simulated was held to be "at best, speculative." It held that good faith is presumed and the party who alleges bad faith has the burden of proving it. The Labor Arbiter was held to be without power to determine the issue of ownership over the real properties since the same are covered by certificates of Torrens title and at the time of the levy, the subject properties were already registered in the name of private respondent M&S which is not a party to the case. It held that "[i]n the absence of evidence of fraud, not just an arbitrary speculation or conjecture of fraud, one corporation duly organized and registered under the law should be treated as distinct and separate from another and to pierce this veil of corporate fiction[,] mere subjective conclusions do not suffice."

It appears that in spite of the TRO, the execution of the properties proceeded as scheduled on April 24, 2000. Hence, private respondent M&S filed a motion to set aside the sheriff's auction sale and to cite the sheriff in contempt. Petitioners likewise filed a motion for reconsideration.

On December 11, 2000, the NLRC issued a resolution[7] denying petitioners' motion for reconsideration and granting private respondent M&S's motion to cancel and set aside the sheriff's auction sale on April 24, 2000 over the real properties covered by TCT Nos. T-145,545, T-145,550, T-145,544, T-145,547 and T-107,201. The motion to cite the sheriff in contempt was denied.

On February 22, 2001, petitioners filed a petition for certiorari under Rule 65 with the Court of Appeals (CA).[8] Said petition was dismissed outright in the CA's assailed Resolution dated March 19, 2001, based on the following grounds:

(1) The Verification and Certification of Non-Forum Shopping are signed by counsel and not by the petitioner[s] which is in violation of the Supreme Court [r]uling in *Escorpizo v. University of Baguio* (306 SCRA 497);

(2) Petitioner[s'] counsel, in the Verification as to Material Dates, only alleged the date of receipt of the December 11, 2000 NLRC Resolution denying the motion for reconsideration but failed to allege the date of receipt of the June 6, 2000 NLRC Resolution;

(3) The IBP Official Receipt Number as well as the date of its issuance to petitioner[s]' counsel are not current, in violation of the SC En Banc Resolution dated September 26, 2000 in Bar Matter No. 287; and

(4) The petition does not contain a written explanation on the mode of service as required under Section 11, Rule 13 of the 1997 Rules of Civil Procedure.[9]Petitioners filed their Motion for Reconsideration on May 10, 2001[10] which was likewise denied for being filed out of time.[11]

Hence, this petition for certiorari under Rule 65 of the Rules of Court in which petitioners raise the issue, viz:

[WHETHER] THE [CA's] QUESTIONED RESOLUTION DATED MARCH 19, 2001, AS AFFIRMED ON JUNE 25, 2001 DISMISSING PETITIONER[S]' SPECIAL CIVIL ACTION FOR CERTIORARI ON GROUNDS OF TECHNICALITY IS VALID AND TENABLE IN LIGHT OF THE SUBSTANTIVE RIGHTS OF PETITIONERS AS HELD BY THE SUPREME COURT IN G.R. NO. 124630, DATED FEBRUARY 19, 1999, OVER THE CASE.[12]

Petitioners contend that their petition for certiorari with the CA was clearly meritorious and was filed on time. It was allegedly the CA which "chose to be immovable on the side of technicality," disregarding the overriding goal of the courts to render justice where justice is due[13] and "allowing the substantial rights of petitioner[s] to be sacrificed at the altar of technicalities to the consequent impairment of the sacred principles of justice." [14] Petitioners contend that their petition for certiorari with the CA being clearly meritorious, that fraudulent means having been employed by the private respondents to frustrate the due execution of the judgment rendered by the Supreme Court, and considering the number of working men involved who are awaiting the realization of their case, the CA committed grave abuse of discretion in dismissing the same on grounds of technicality. Petitioners contend that the NLRC disregarded the fact that the sales of the subject properties were made on March 23, 1999 or more than one month after the promulgation of the decision of this Court. Moreover, the following facts bolster the claim of fraud: a) the transfer of the subject properties was facilitated by CTCI's counsel in the arbitration level; b) private respondent M&S had not been operating for seven (7) years prior to the alleged sales; and c) M&S is a mere alter ego of CTCI, their stockholders, directors and officers being practically the same and their operations identical, making them indistinguishable from each other. Petitioners likewise point out that in private respondent CTCI's Surety Bond Contract with the Presidential Guarantee and Assurance, Inc. at the time private respondent CTCI appealed the instant case to the NLRC, the person who represented to be a director of private respondent CTCI turned out to be the secretary of private respondent M&S also. Said pieces of evidence allegedly show that private respondent M&S was a buyer in bad faith when the subject properties were sold to it by private respondent CTCI. The sales were allegedly executed in fraud of petitioners for the purpose of evading private respondent CTCI's liabilities to petitioners.

The issues to be resolved in this case are: a) whether the instant case should be given due course; and b) in the affirmative, whether the petition is meritorious.

Private respondents belabor the fact that petitioners filed their petition for certiorari with the CA: a) with its verification and certification of non-forum shopping signed by counsel instead of the parties; b) without a statement of the date of receipt of the June 6, 2000 NLRC Resolution; c) with their counsel's IBP Official Receipt Number being outdated; and d) without a written explanation on the mode of service as required under Section 11, Rule 13 of the 1997 Rules of Civil Procedure. Private respondents point out that petitioners' motion for reconsideration with the CA was filed twenty-seven (27) days after the last day for filing the same. Private respondent M&S also questions petitioners' resort to a petition for certiorari under Rule 65 of the Rules of Court with this Court. It contends that the proper remedy with this Court from the resolution of the CA is an appeal by certiorari under Rule 45.

We resolved to give due course to the instant petition in our Resolution dated January 16, 2002.

Section 5(5), Article VIII of the Constitution gives this Court the power to "[p]romulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts." It is within the inherent power of the Court to suspend its own rules in particular cases in order to do justice.[15] In *Kathy-O Enterprises v. NLRC*, [16] the Court found the reason for the 3-day delay in the filing of the appeal with the NLRC justifiable, having been caused by "inadvertence amounting to excusable negligence." The Court observed that due to the presence of an upward stroke, the "5" in "25 January" appeared to be and could have been mistaken as an "8," thus leading KATHY-O's counsel to misread "25 January," the date of receipt stamped by his receiving clerk on the copy of the decision intended for said counsel, as "28 January." We held:

When proper, no serious impediment bars the allowance of tardy appeals under the Rules of Court, in recognition of this Court's inherent power to suspend adjective rules. It is a different matter, however, when the period to appeal is provided by statute, as in labor cases. For obvious reasons, this Court cannot ordinarily suspend the statute's operation. x x x Nevertheless, if only to be able to dispense substantial justice, strict observance of the period to appeal may not be exacted. Thus, in *Firestone Tire and Rubber Co. of the Philippines v. Lariosa*, [17] an appeal in a labor dispute was given due course despite the lapse of fourteen (14) days from notice of the decision, due to the fact that the Notice of Decision received by Lariosa's lawyer advised the parties that the appeal could be taken to the NLRC within ten (10) "working" days — not calendar days — from notice of the decision. For the same reason was the appeal in *Chong Guan Trading v. NLRC* [18] allowed. While in *City Fair Corporation v. NLRC*, [19] we ruled that the NLRC did not commit grave abuse of discretion when it entertained an appeal filed one (1) day late considering that the "facts and circumstances of the case warrant liberality considering the amount and the issue involved."

In the same case, the Court likewise explained that the underlying purpose behind the principle that the perfection of an appeal within the statutory or reglementary period is not only mandatory, but jurisdictional, and failure to do so renders the questioned decision final and executory is to prevent needless delay -- a circumstance which would allow the employer to wear out the efforts and meager resources of the worker to the point that the latter is constrained to settle for less than what is due him.[20]

In the case at bar, applying the Rules strictly would result in the pernicious delay sought to be avoided. At stake is the protection of the rights of almost a hundred employees to the satisfaction of a judgment that has become final and executory in a decision rendered by us more than seven (7) years ago. A scheme to thwart the execution of our final and executory decision is extant in the records. Moreover, barring the instant petition on technical grounds would leave the workers without recourse since the subject real properties were levied due to the insufficiency of judgment debtor CTCI's money and personal properties to satisfy the decision sought to be executed.

Petitioners' resort to a petition for certiorari under Rule 65 is proper considering that petitioners are assailing the resolutions of the CA dismissing their petition outright. Ordinarily, the proper recourse of an aggrieved party from a decision of the CA is a petition for review on certiorari under Rule 45 of the Rules of Court. However, if the error alleged is one of jurisdiction, or the act complained of was perpetrated by a court with grave abuse of discretion amounting to lack or excess of jurisdiction, the proper remedy available to the aggrieved party is a petition for certiorari under Rule 65 of the said Rules.[21]

Be that as it may, in view of the pendency of this case for more than a decade and the delay in its execution for more than seven (7) years, we shall treat the instant case as an appeal under Rule 45 and resolve the petition on the merits considering that the entire records of the case have been elevated to us.

Private respondents contend that Executive Labor Arbiter Plagata had no authority to determine the issue of ownership of the subject properties in the case at bar. Private respondent M&S contends that Article 217 of the

Labor Code which sets out the jurisdiction of the Labor Arbiter does not confer him the jurisdiction to resolve actions which involve title to, or possession of, real property, or any interest therein. The original and exclusive jurisdiction over this class of cases is allegedly with the regional trial courts under Section 19(2) of Batas Pambansa Blg. 129. Both private respondents further contend that the subject properties in the name of private respondent M&S could not be validly levied upon by Sheriff Tejada as it (private respondent M&S) was never a party to the labor dispute between the judgment debtor CTCI and petitioners.

We find the petition partly meritorious.

The power of the sheriff to rule on the issue of ownership is settled. The Sheriff's Manual was promulgated pursuant to the provision of Article 218(a) of the Labor Code, as amended, in relation to Section 4, Rule VIII of the New Rules of Procedure of the NLRC. The Sheriff's Manual recognizes a situation wherein the real properties to be levied may not be registered in the name of the party against which the levy is being issued. Section 3(b), Rule 5 of the Sheriff's Manual states:

Levy on real property. -- Real property or any interest therein may be levied in the following manner: x x x

(b) Real property, or growing crops thereon or any interest therein, belonging to the party against whom levy is issued, and held by any other person or standing on the records of the register of deeds in the name of any other person, by filing with the register of deeds a copy of the decision, order or award, together with a description of the property, and a notice that such real property, and any interest therein on said property, held by or standing, in the name of such other person, naming him are levied by leaving with the occupant of the property, if any, and with such other persons, or his agents, if found within the province or city or at the residence of either, if within the province or city a copy of such decision, order or award, description and notice.

Rule VI of the Sheriff's Manual also provides for the procedure in case of a third-party claim or "a claim whereby a person, not a party to the case, asserts title to or right to the possession of the property levied upon." [22] It outlines the following procedure:

Section 2. Proceedings.-- If property levied upon be claimed by any person other than the losing party or his agent, such person shall make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter or proper officer issuing the writ shall conduct a hearing with due notice to all parties concerned and resolve the validity of the claim within ten (10) working days from receipt thereof and his decision is appealable to the Commission within ten (10) working days from notice, and the Commission shall resolve the appeal within the same period.

However, should the prevailing party put up an indemnity bond in a sum not less than the value of the property levied, the execution shall proceed. In case of disagreement as to such value, the same shall be determined by the Commission or Labor Arbiter who issued the writ.

Section 3. Resolution of the Third Party Claim, Effect.-- In the event the third party claim is declared to be valid, the sheriff shall immediately release the property to the third party claimant, his agent or representative and the levy on execution shall immediately be lifted or discharged. However, should the third party claim be found to be without factual or legal basis, the sheriff must proceed with the execution of the property levied upon as if no third party claim had been filed.

Thus, in *Tanongan v. Samson*, [23] we upheld the dismissal by the Labor Arbiter of a third-party claim over a motor tanker that was levied to satisfy the final and executory decision of the NLRC making employer CAYCO and its owner Olizon liable. We held:

The Labor Code grants the National Labor Relations Commission (NLRC) sufficient authority and power to execute final judgments and awards. Thus, a third-party claim of ownership on a levied property should not necessarily prevent execution, particularly where --as in the present case -- the surrounding circumstances point to a fraudulent claim. In fact, the disputed contract of sale here is not merely rescissible; it is simulated or fictitious and, hence, void ab initio.

In *Tanongan*, we found that the third-party claimant was a buyer in bad faith as: a) the sale of the levied tanker was made only 5 days after the writ of execution was issued by the labor arbiter; b) there is a presumption under Article 1387 of the Civil Code that alienations by onerous title are presumed to be fraudulent when done by persons against whom some judgment has been rendered or some writ of attachment issued in any instance; and c) the third-party claimant's apparent failure to inquire whether Olizon had other unsettled obligations and encumbrances that could burden the subject property in light of the principle that "[a]ny person engaged in business would be wary of buying from a company that is closing shop, because it may be dissipating its assets to defraud its creditors."

Similarly, in *De Belen v. Collector of Customs and Sheriff of Manila*,^[24] we held:

A simulated transfer of property made without consideration and with intent to hinder, delay, or defraud the creditors of the grantor constitutes no obstacle to the levy of legal process of any sort directed against the grantor. In such case no independent action to rescind or annul the transfer is necessary. A simulated contract lacks some of the elements necessary to make any contract whatever and may be treated as non-existent for all purposes.

In the case at bar, five (5) out of the six (6) subject lots were registered in the name of private respondent M&S pursuant to absolute deeds of sale dated March 23, 1999 executed between private respondent CTCI, as seller, and private respondent M&S, as buyer. These five lots are covered by TCT Nos. T-145,544, T-145,547, T-145,545, T-145,546, and T-145,550. With respect to these five lots, we hold that the levy made by the sheriff was proper.

The Executive Labor Arbiter's finding that the subject deeds of absolute sale were simulated and fictitious is supported by the evidence on record, viz:

The simulation and fictitiousness of the sales in question from CTCI to M&S showing fraud to defeat the rights/awards of the complainants, is manifested by the following circumstances:

- CTCI's titles to the lands in question were under TCTs T-115,222, T-126,661, T-119,032, T-110,125 and T-119,331, aside from T-107,201.

As annotated therein, the sales thereof from CTCI to M&S were all made on 23 March 1999, or merely about a month after the Supreme Court rendered its decision in "*Jang Lim, et al. vs. Cotabato Timberland Company, Inc., et al.*," G.R. No. 124630, on 19 February 1999 (which decision is now the subject of execution proceedings in this case). The undue haste by which CTCI sold its said properties to M&S after the rendition of the aforementioned decision, strongly engender doubt as to the [genuineness] of such sales from the former to the latter.

- M&S had last been in business in Zamboanga City on 21 January 1992, and it is thus incomprehensible why it would buy CTCI's lands at the snap of one's fingers, so to speak, so soon after the rendition by the Supreme Court of its decision in G.R. No. 124630 on 19 February 1999, and after having been apparently out of business for seven (7) years (Complainants' Supplemental Opposition to M&S Co. Inc.'s Motion and Supplemental Rejoinder, Annexes F to F-5, with sub-markings; Sheriff's Notice of Levy). This, too, stirs up grave doubt as to the veracity of the sales of land to M&S from CTCI.

To the mind of the undersigned, the sales in question were made in fraud of the complainants, to thwart enforcement of CTCI's obligations to them, not to mention that such sales are simulated or fictitious.

Consequently, said sales are null and void, more so, as the same are contrary to public policy.[25]

In reversing the ruling of the Executive Labor Arbiter, the NLRC erroneously held that the Executive Labor Arbiter had no power to rule on the issue of ownership over the real properties. It likewise held that good faith is presumed and the findings of the Executive Labor Arbiter were "speculative," without going through the evidence cited by the latter. Notably, both the NLRC and private respondents conveniently left out the detail that the sales took place a month after the promulgation of this Court's decision in the main case (G.R. No. 124630). This omission is not of little significance. Under Article 1387 of the New Civil Code, alienations by onerous title are "presumed fraudulent when made by persons against whom some judgment has been rendered in any instance or some writ of attachment has been issued. The decision or attachment need not refer to the property alienated, and need not have been obtained by the party seeking the rescission." The effect of this presumption is to shift the burden to private respondents to prove that the sales were not fraudulently made. The records do not show that private respondents were able to discharge this burden.

As to the remaining lot covered by TCT No. T-107,201, we agree with the NLRC that the same cannot be a proper subject of execution in this case. It appears that the basis for the levy on this property is the Executive Labor Arbiter Plagata's finding that private respondent M&S is a mere alter ego of CTCI, to wit:

On the other hand, that M&S is a mere alter ego of CTCI, and that their corporate identities, with respect to complainants' employments, were so intertwined and meshed together, is brought out by the following circumstances:

- The stockholders of both CTCI and M&S are practically the same, as can be easily gleaned from their respective articles of incorporation. Those of M&S are Dacon Corporation, Cristina Gotianun, Ma. Edwina Laperal, Rebecca Lock, Jesus Ferrer, Jorge Consunji, Victor Consunji, Ruperto Consunji, Isidro Consunji, and Antonio Bernas (ibid., Annex D-1); while those of CTCI are among those named above – Isidro Consunji, Victor Consunji, Jorge Consunji, Edwina Laperal, and Antonio Bernas (ibid., Annex E).

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- Then, the directors and officers of both companies are practically the same. The president of both in any event is Isidro Consunji, while they have the same treasurer in the person of Ma. Edwina Laperal (ibid.). Victor Consunji is also an officer of both CTCI and M&S (ibid.).

The other officers of M&S are Jesus Ferrer and Antonio Bernas; they are not named as officers of CTCI. On the other hand, Mario Irabagon, named as secretary of CTCI, is not an officer of M&S (ibid.).

- Nevertheless, it is significant that Antonio Bernas represented himself as a director of CTCI when he entered into the Surety Bond contract with Prudential Guarantee and Assurance, Inc. at the time CTCI appealed this case to the Commission's Fifth Division on 22 May 1995. He is also secretary of M&S.

In themselves, the foregoing circumstances do not justify piercing the veil of corporate fiction. At this point, the most that can be said about CTCI and M&S is that they are sister companies, having as they do practically the same stockholders, directors and officers.

But where in the course of complainants' employments, both companies acted as if they were the employers of the former, or where the officers of one acted for or in behalf of the other company, then, there is ample reason to lift the veil of corporate fiction, or look behind it, to determine the owners thereof and those to be held liable for obligations due to third parties, such as the herein complainants. That the identities, operations, and officers of CTCI and M&S were so intertwined or so meshed together as to make each company indistinguishable from the other-- or, in other words, practically merge the personalities of both companies into one-- is shown by the following documents attached to complainants' Admission of Additional Evidence, dated 06 March 2000:

- Annex K- a certification in the stationery of M&S, dated 12 February 1991, that Teddy Arabi, the alleged contractor-employer of the complainants herein who were held to be workers of CTCI, was connected with M&S, too, as a contractor of M&S for fuel hauling and supply;
- Annex K-1- a document entitled "Proposed Rates Quotation for the Below Activities" dated 07 September 1989, submitted by the same Teddy Arabi to M&S, and which was approved by Victor Consunji for M&S as its president, the same Victor Consunji who is named as operations and general manager of CTCI;
- Annex K-2- a memorandum dated 25 October 1994, addressed to the same Teddy Arabi by CTCI's Administrative Manager, showing that the former was treated by CTCI as its contractor, too[;]
-

All these show that the complainants, through Teddy Arabi, were employed by CTCI and/or M&S, at the whim and pleasure of said companies. It is only therefore fair and proper to hold any or both of them- CTCI and M&S- liable for the employment-based claims of the complainants in this case. To reiterate, M&S is a mere alter ego of CTCI with respect to such claims.

We do not find these pieces of evidence sufficient to justify piercing the corporate veil of private respondent M&S.

Our February 19, 1999 Decision in G.R. No. 124630 which is the subject of execution in the case at bar recognized the separate legal personalities of private respondents M&S and CTCI in its statement of facts, to wit:

Petitioners are regular workers of private respondent [CTCI] who were initially hired to perform milling and pilling [sic] works [sic] at EX-ARANETA by M&S Company, a sister company of CTCI.

Thereafter, EX-ARANETA was closed and the sawmill operation of M&S Company was transferred to private respondent TIMEX SAWMILL, a subsidiary of respondent CTCI where Melchor Borbon is the Administrative Manager. The transfer was done sometime in July 1989.[26]

While the Executive Labor Arbiter cited certain pieces of documentary evidence showing that Teddy Arabi also subcontracted for private respondent M&S, it was not proven that the latter utilized the same people (petitioners) to do the work for private respondent M&S. As indeed, there was no factual finding in the main case that petitioners worked for private respondent M&S. They were merely found to have "continued working as workers/laborers at TIMEX SAWMILL and were working under the full control and supervision of CTCI's personnel as [c]heckers, [y]ard [m]asters, [c]lerk[s], [a]uditors, [f]lormen (sic) and [s]upervisors." [27]

It is noteworthy that the parcel of land covered by TCT No. T-107,201 has been registered in the name of private respondent M&S since March 16, 1993 which is prior to the institution of the instant case on October 17, 1994. Since it was not sufficiently proven that private respondent M&S is a mere alter ego of private respondent CTCI and there being no proof to show that this particular property was fraudulently transferred to private respondent M&S by private respondent CTCI, there is no basis to make said parcel of lot covered by TCT No. T-107,201 the subject of execution in the case at bar.

IN VIEW WHEREOF, the petition is PARTIALLY GRANTED. The March 19 and June 25, 2001 Resolutions of the CA, dismissing petitioners' petition, are reversed and set aside. The Order of the Executive Labor Arbiter dated March 31, 2000 is partially reinstated with respect to the parcels of land covered by TCT Nos. T-145,544, T-145,547, T-145,545, T-145,546, and T-145,550.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Garcia, JJ., concur.

[1] Original Records, Vol. 3, pp. 136-139.

[2] Original Records, Vol. 2, pp. 899-909.

[3] Rollo, pp. 48-55.

[4] Original Records, Vol. 3, pp. 2-12.

[5] Note that the dispositive portion did not include TCT No. T-145-546 but the same was stated in the body of the Resolution.

[6] Rollo, p. 62.

[7] Id. at 65-69.

[8] CA Rollo, pp. 2-10.

[9] Rollo, pp. 24-25.

[10] Id. at 26.

[11] Id. at 29-30.

[12] Id. at 6.

[13] Citing Jose v. CA, No. L-38581, March 31, 1976, 70 SCRA 257.

[14] Citing Cabunilas v. CA, No. L-46476, December 29, 1977, 80 SCRA 706.

[15] Anacleto v. Van Twest, G.R. No. 131411, August 29, 2000, 339 SCRA 211, citing Ordoveza v. Raymundo, 63 Phil. 275 (1936); Sollorano v. Court of Appeals, 62 SCRA 478 (1975); Banez v. Court of Appeals, 94 SCRA 756 (1979).

[16] G.R. No. 117610, March 2, 1998, 286 SCRA 729, 738-739.

[17] No. L-70479, February 27, 1987, 148 SCRA 187, 190.

[18] G.R. No. 81471, April 26, 1989, 172 SCRA 831, 839.

[19] G.R. No. 95711, April 21, 1995, 243 SCRA 572, 576.

[20] Kathy-O Enterprises v. NLRC, supra.

[21] See Delgado v. CA, G.R. No. 137881, December 21, 2004, 447 SCRA 402.

[22] Section 1, Rule VI of the Sheriff's Manual.

[23] G.R. No. 140889, May 9, 2002, 382 SCRA 130.

[24] 46 Phil. 241 (1924).

[25] Rollo, pp. 51-52.

[26] 303 SCRA 432, 435.

[27] Id. at 437.

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