

**NATIONAL MINES AND ALLIED WORKERS UNION (NAMAWU),
PETITIONER, VS. HON. ADELINA CALDERON- BARGAS, IN HER
CAPACITY AS PRESIDING JUDGE OF BRANCH 78, REGIONAL TRIAL
COURT OF MORONG,...**

G.R. NO. 157232. December 10, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is a petition for certiorari^[1] and prohibition seeking the annulment of the Order dated January 30, 2003, of Presiding Judge Adelina Calderon-Bargas of the Regional Trial Court (RTC), Branch 78, Morong, Rizal, for want of jurisdiction in granting private respondent's Motion to Admit Amended Complaint in Civil Case No. 01-1322-M entitled "Norma Mitra v. National Mines and Allied Workers, et al."

The facts are as follows:

In August of 1992, petitioner, representing the workers of private respondent, filed a complaint with the National Labor Relations Commission (NLRC) for unfair labor practice, illegal dismissal, underpayment of wages, nonpayment of holiday pay and 13th month pay against private respondent, Norma G. Mitra.^[2]

A decision was rendered by Labor Arbiter Antonio Macam on April 22, 1999 in favor of the workers, ordering private respondent to pay the amount of P1,669,897. Accordingly, a writ of execution was issued on August 31, 1999.

NLRC Sheriff Juanito Atienza levied upon a parcel of land belonging to private respondent. As the highest bidder in the execution sale conducted by the Sheriff, petitioner acquired title to the property on December 6, 1999.

On July 16, 2001, private respondent filed a complaint for "Annulment of Final Deed of Sale, Certificate of Sale, Notice of Levy on Execution and Cancellation of Transfer Certificate of Title No. M-105453"^[3] against petitioner, Sheriff Juanito Atienza and the Register of Deeds of Morong, Rizal, Dinna P. Mantuano. The case was assigned to public respondent Judge Adelina Calderon-Bargas of Branch 78, RTC, Morong, Rizal.

In its Answer with Counterclaim and Opposition to the Issuance of a Temporary Restraining Order, petitioner averred that the RTC had no jurisdiction over the subject matter of the case because it is an offshoot of a labor dispute that had been decided by the NLRC.

On January 21, 2002, public respondent issued an Order dismissing the complaint for lack of jurisdiction and ruling that any decision in the civil case may render ineffective the decision rendered in the labor case.

Private respondent's subsequent Motion for Reconsideration was denied in an Order dated June 19, 2002, the pertinent portions of which read:

Plaintiff stated that she does not question the legality or validity of the decision of the Labor Arbiter in Case

No. RAB-IV-8-4482-92, but the procedure followed by Ms. Dinna Mantuano-Lao, [Register of Deeds], and Sheriff Juanito J. Atienza, when the former cancelled the name of the plaintiff on TCT No. M-46298, and issued TCT No. M-105453 in the name of defendant NAMA-WU.

However, a reading of the allegations in the complaint shows that plaintiff questions not only the process of notification in the Notice of Levy, but the alleged lack of notice of the proceedings in NLRC Case No. RAB-IV-8-4482-92 had before the Labor Arbiter.

She alleges in the complaint... that “plaintiff never received any summons or copy of the complaint in the aforesaid case; she never hired a lawyer to represent her in said case; she never received any NOTICES of any decision, execution, levy, auction or sale.”

Considering that plaintiff is questioning her lack of notice from the issuance of summons, until the levy or attachment of the property in question, it is clear, therefore, that plaintiff does not only question the procedure followed by Sheriff Juanito J. Atienza, but also the procedure of the Labor Arbiter, since she was allegedly not given notice on all the proceedings before the Labor Arbiter.

Meanwhile, if the plaintiff would continue her cause of action against the [Register] of Deeds, there is a need to amend the complaint, naming NAMA-WU as a nominal party; and the Register of Deeds as the indispensable party.[4]

WHEREFORE, premises considered, the motion for reconsideration is DENIED for lack of merit.

SO ORDERED.[5]

A copy of the above Order was received by private respondent on July 3, 2002. Upon private respondent’s failure to file an appeal, the Orders of the RTC dismissing the complaint and denying the motion for reconsideration became final and executory on July 19, 2002.

On August 28, 2002, private respondent filed a Motion to Admit Amended Complaint Pursuant to Order Dated 19 June 2002[6] stating that:

- On 19 June 2002, this Honorable Court issued an Order, stating that there is a need to amend the complaint, naming NAMA-WU as a nominal party and the Register of Deeds as the indispensable party;
- In compliance with this Honorable Court’s order, plaintiff has amended [her] complaint;
- Undersigned lawyer suffered a heart attack last June 2002 and was advised by his cardiologist to refrain from legal work for at least 60 days for his rehabilitation and recuperation. Thus, his wife gave him copies of the Court’s order only last August 20, 2002 after his doctor [advised him] that he can resume limited court duties and responsibilities.

Attached to the motion was private respondent’s Amended Complaint (Cancellation of TCT No. M-105453 & Reinstatement of TCT No. M-56298; Damages with Prayer for a Writ of Preliminary Injunction and/or Restraining Order),[7] alleging the following:

- Plaintiff [private respondent] is the owner of two (2) parcels of land covered under Transfer Certificate of Title No. M-46298 registered in the name of NORMA MITRA issued by the Registry of Deeds for Morong Branch, Province of Rizal;
- On October 16, 1996, herein plaintiff mortgaged TCT No. M-46298 in favor of ASIAN-CATHAY FINANCE & LEASING CORPORATION for the sum of ONE MILLION PESOS; aforesaid mortgage was entered in the Memorandum of Encumbrances of TCT No. M-46298 on October 16, 1996 and the OWNER’S DUPLICATE COPY of said title was surrendered in the possession of mortgagee up to the present time;

- On June 13, 2001, plaintiff requested for a certified copy of TCT No. M-46298 and found out for the first time that her title, TCT M-46298, had two inscriptions entered in the Memorandum of Encumbrance, namely, [the mortgage in favor of Asian-Cathay Finance & Leasing Corporation, and the] Notice of Levy on Execution dated December 6, 1999. On July 9, 2001, plaintiff requested a certified copy of her title TCT No. M-46298 and was horrified and surprised to find out that the Register of Deeds for Morong Branch cancelled plaintiff's title... and issued... TCT No. M-105453 in the name of defendant NAMAWU on 27th June 2001;

...

- There was fraud and collusion.... in the issuance of TCT No. M-105453 in the name of defendant NAMAWU. The notice of levy on execution and certificate of sale and/or final deed of sale, used as basis for the cancellation of plaintiff's title, never came to the knowledge of plaintiff, as she never received copies of the notice of levy, certificate of sale and the final deed of sale in connection with her real property, subject matter of this case;

...

- Since no valid notice of levy was served personally or given to judgment debtor, there was no valid levy on plaintiff's title, and therefore, its subsequent registration in the Registry of Deeds and annotations in the title were also invalid and ineffective (Phil. Surety & Insurance Co., Inc. v. Zabal, 21 SCRA 682).[8]

Petitioner opposed the aforesaid motion on the following grounds that: 1) it was filed out of time; 2) the amendment substantially changed the cause of action, defense or theory of the case; 3) the amendment will result in the alteration of a final judgment on a substantial matter; 4) the amendment sought to confer jurisdiction upon the court when none had existed before; and 5) the amendment was intended to delay the proceedings.

On January 30, 2003, public respondent issued an Order granting private respondent's motion, thus:

In the Reply to defendant's Opposition to the Motion to Admit Amended Complaint, the plaintiff maintained that no appeal was made on the said order as they opted to file an amended complaint; that no substantial amendments were made to the original complaint, but merely compliance to the condition set by the Court in order to continue plaintiff's cause of action in this case; and that defendant NAMAWU is now merely a nominal party and all references to the labor case were deleted and the Sheriff of the National Labor Relations Commission omitted as party defendant. The plaintiff now focuses this case on the illegal acts committed by the Register of Deeds in the transfer of plaintiff's certificate of title to the nominal party, NAMAWU. In support of the late filing of the Amended Complaint, the counsel submitted documentary evidence showing that he was indeed u

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