

DSM CONSTRUCTION AND DEVELOPMENT CORPORATION PETITIONER, VS. COURT OF APPEALS AND MEGAWORLD GLOBUS ASIA, INC. RESPONDENTS.

G.R. NO. 166993. December 19, 2005

Ponente: TINGA, J.

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TINGA, J.:

This case springs from this Court's Decision dated 2 March 2004 in G.R. No. 153310, Megaworld Globus Asia Inc. v. DSM Construction and Development Corp. (Megaworld), decided in favor of herein petitioner DSM Construction. Said Decision having become final and executory, the corresponding entry of judgment was made on 12 August 2004. This petition centers on attempts, regrettably entertained by respondent Court of Appeals, to thwart the execution of a final and executory decision of this Court.

The Petition for Certiorari[1] assails the Resolution[2] dated 21 February 2005 of the Court of Appeals in CA-G.R. SP No. 88314.[3] Said Resolution ordered the issuance of a temporary restraining order (TRO)[4] enjoining the enforcement of an Alias Writ of Execution[5] issued by the Construction Industry Arbitration Commission (CIAC)[6] in CIAC Case No. 22-2000 and ordering them to cease and desist from proceeding with the scheduled execution sale on 1 March 2005 of levied condominium units of the Salcedo Park condominium project owned by Megaworld Globus Asia, Inc. (respondent).

The antecedent facts follow.

As can be gleaned from Megaworld, petitioner and respondent entered into agreements for the construction of a condominium project owned by respondent called "The Salcedo Park", with petitioner as contractor. In the course of the project's construction, differences with respect to billings arose between the parties. Petitioner thus filed a complaint for compulsory arbitration before the CIAC claiming payment for approximately P97 Million as the outstanding balance due from respondent pursuant to the agreements. On 19 October 2001, the CIAC rendered a decision partially granting both petitioner's and respondent's claims, with a net award of Sixty Two Million Seven Hundred Sixty Thousand Five Hundred Fifty Eight Pesos and Forty Nine Centavos (P62,760,558.49) in favor of petitioner.

This award was affirmed by the Court of Appeals, which however permanently enjoined petitioner from registering its contractor's lien on all except six (6) units of the condominium project.[7] This step was in line with respondent's manifestation that the principal award of P62,760,558.49 in petitioner's favor can be covered by the value of six (6) condominium units. Seven (7) condominium units, however, were eventually levied upon as a result of respondent's act of substituting two (2) units for the one already paid for by the buyer-spouses, Shaul and Rina Golan.[8] The execution sale of the levied properties did not push through after this Court issued a TRO dated 12 July 2002 upon respondent's filing of a petition in G.R. No. 153310.

Thereafter, the Court promulgated its Decision[9] dated 2 March 2004 affirming the judgment of the Court of Appeals and lifting the TRO that was then still in effect. Finding no merit in respondent's motions for

reconsideration,[10] the Court subsequently issued an entry of judgment dated 12 August 2004.

Its judgment having become final and executory, the CIAC issued an Order[11] dated 3 November 2004 giving the parties ten (10) working days within which to agree on the satisfaction of the arbitral award, otherwise a writ of execution will be issued. As the parties could not come to terms, the CIAC issued an alias writ of execution on 22 November 2004. The alias writ of execution provides in part:

You are hereby commanded, that of the goods and chattels of the MEGAWORLD GLOBUS ASIA, INC., Respondent, you cause to be made the amount of P62,760,558.49 with interest of 6% due on any balance remaining until the award becomes executory. Thereafter, interest of 12% per annum shall be applied on any balance remaining until the full amount is paid; which Claimant recovered pursuant to the Award promulgated by this Arbitral Tribunal on 19 October 2001 in Case No. 22-2000 of the Construction Industry Arbitration Commission, together with your lawful fees for the services of this execution, all in Philippine currency, and that you render the same to said Claimant, aside from your own fees on this execution, and that you likewise return this Writ unto this Commission within fifteen (15) days from date of receipt hereof, with your proceedings endorsed thereon. But if sufficient personal property cannot be found whereof to satisfy this execution and lawful fees thereon, then you are commanded that of the lands and buildings of the said Respondent you make the said sum of money in the manner required by the Rules of Court, and make return of your proceedings with this Writ within thirty (30) days from receipt hereof.[12] (Emphasis in the original.)

On 26 November 2004, respondent sought to clarify if the writ of execution shall be limited to six condominium units in consonance with the Court of Appeals' observation in its decision in the first case that the petitioner's claims can be satisfied by the value of only six units. The CIAC replied in the negative. In an Order[13] dated 3 December 2003, it stated that nowhere in its Decision or in its Order dated 3 November 2004 did it provide that the payment of the judgment debt should be made in the form of six condominium units. It expounded that the mention of the six units was only brought up by the appellate court in relation to the provisional remedy of securing the judgment debt which is interim/temporary in nature.

In addition to the initial levy of seven units, which transpired during the pendency of G.R. No 153310,[14] three additional units were levied upon on 20 December 2004 by Sheriffs Villamor R. Villegas and Norberto R. Magsajo of the Regional Trial Court (RTC) of Makati. Subsequently, a Notice of Sheriff's Sale was published, setting the auction sale of all ten units on 1 March 2005.

On 25 January 2005, respondent filed a Petition[15] with the Court of Appeals to restrain the scheduled execution sale and to nullify the orders of the CIAC issued pursuant thereto.[16] In said Petition, respondent claimed that the sheriffs exceeded their authority when they included in the notice of execution sale five condominium units fully paid for by its buyers. Respondent also asserted that the inclusion of three additional units in the levy on execution was excessive, thereby rendering the same void.

On 21 February 2005, the Court of Appeals issued the questioned Resolution restraining the implementation of the alias writ, as well as the holding of the auction sale for a period of sixty days from notice thereof. Petitioner filed the instant petition imputing grave abuse of discretion on the part of the Court of Appeals in taking cognizance of respondent's petition and in issuing the assailed Resolution. Petitioner prayed for the issuance of a temporary restraining order and/or a writ of preliminary injunction to enjoin the Court of Appeals from acting on respondent's petition.

The Court of Appeals rendered a Decision[17] granting respondent's petition and declaring the CIAC's assailed order null and void. This decision was rendered on 19 April 2005, three days before the expiration of the TRO. Such Decision of the Court of Appeals was brought to the attention of this Court only on 23 May 2005.[18]

On 27 April 2005, we issued a Resolution[19] directing the parties to maintain the status quo effective 22 April 2005, the date of the expiration of the TRO issued by the Court of Appeals and continuing until further orders from this Court. Since the main case had already been resolved, however, the Court of Appeals merely held in abeyance the resolution of respondent's motion for clarification[20] as well as petitioner's motion for reconsideration[21] of its decision.

In its Comment [to petitioner's] Supplemental Petition,[22] respondent contends that since the main case had already been resolved by the Court of Appeals, petitioner's remedy is to file a petition for review under Rule 45 of the Revised Rules of Civil Procedure. Respondent further asserts that prematurity, multiplicity of suit and lack of respect for the hierarchy of courts afflict this petition, thereby necessitating its dismissal.[23]

We need not dwell on this peripheral issue. Petitioner filed the instant case precisely to question the Court of Appeal's very jurisdiction over respondent's petition. In evoking this Court's authority by means of the special civil action for certiorari, petitioner asserts that respondent court committed a patently unlawful act amounting to lack or excess of jurisdiction when it (i) entertained a petition which was obviously dilatory and amounted to an obstruction of justice, and (ii) restrained the CIAC without any valid ground.[24] Obviously, if the Court of Appeals has no jurisdiction over respondent's petition in the first place, it would not have the capacity to render judgment on the petition.

Even assuming that the rules of procedure had somehow not been observed in this case, the Court finds that these objections can be quelled in the higher ends of justice. Rule 1, Section 6 of the Rules of Court provides that the Rules shall be liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding. We have at times relaxed procedural rules in the interest of substantial justice and in so doing, we have pronounced that:

A rigid adherence to the technical rules of procedure disregards the fundamental aim of procedure to serve as an aid to justice, not as a means for its frustration, and the objective of the Rules of Court to afford litigants just, speedy and inexpensive determination of their controversy. Thus, excusable imperfections of form and technicalities of procedure or lapses in the literal or rigid observance of a procedural rule or non-jurisdictional deadline provided therein should be overlooked and brushed aside as trivial and indecisive in the interest of fair play and justice when public policy is not involved, no prejudice has been caused the adverse party and the court has not been deprived of its authority or jurisdiction. (Citations omitted)[25]

Respondent itself admits that the issues in CA-G.R. SP. No. 88314 and in the present case are the same.[26] The suit is already before us under Rule 65.[27] To dismiss this petition on technical grounds and wait for it to be elevated anew under the same grounds and arguments would be to sanction a circuitous procedure that would serve no purpose except prolong its resolution.

The disposition of the case on the merits is now in order. Generally, the main question for resolution pertains to the validity of the Alias Writ of Execution dated 22 November 2004. The particular issues are: (i) whether the alias writ should have been expressly qualified in limiting the execution to just six condominium units; (ii) whether the alias writ conformed to the requirement under Section 8(e), Rule 39 of the Rules of Civil Procedure that the specific amount due must be stated; (iii) whether the 6% interest as specified in the alias writ should be applied on a per annum basis, or on a flat rate. The Court shall also resolve whether the Makati City RTC sheriffs acted correctly in levying the 10 condominium units, pursuant to such writ of execution.

From the outset, it bears stressing that the subject of petitioner and respondent's petitions is the execution of a final judgment affirmed by no less than this Court. This being so, the appellate court should have been doubly careful about entertaining an obviously dilatory petition intended merely to delay the satisfaction of the judgment.

Any lower court or tribunal that trifles with the execution of a final and executory judgment of the Supreme Court flirts with insulting the highest court of the land. While we do not diminish the availability of judicial remedies to the execution of final judgments of this Court, as may be sanctioned under the Rules of Court, such actions could only prosper if they have basis in fact and in law. Any court or tribunal that entertains such baseless actions designed to thwart the execution of final judgments acts with grave abuse of discretion tantamount to lack of jurisdiction.[28] It is the positive duty of every court of the land to give full recognition and effect to final and executory decisions, much less those rendered by the Supreme Court.

The abuse of discretion amounting to lack or excess of jurisdiction in this case was made manifest by the fact that the appellate court not only took cognizance of the case and issued the assailed restraining order. It eventually decided the case in petitioner's (respondent herein) favor as well notwithstanding the dearth of any basis for doing so.

We first examine the Alias Writ of Execution dated 22 November 2004. As stated earlier, the said writ made no qualification as to specific classes of property, such as condominium units, which should be executed upon, much less any denominated quantity of properties. For this, respondent imputed grave abuse of discretion on the part of the CIAC. It contends that the Decision dated 14 February 2004 of the Court of Appeals as affirmed by this Court limited petitioner to six condominium units for the purpose of satisfying the arbitral award rendered by the CIAC. The CIAC, in issuing the alias writ which enabled the sheriffs to levy upon three additional units, was said to have committed grave abuse of discretion it varied its own judgment as against that affirmed by the Court of Appeals.

Respondent's argument is absurd. It anchors its proposition on the last sentence of the Decision dated 14 February 2002 of the Court of Appeals which provides:

WHEREFORE, the herein petition is DISMISSED for lack of merit and the appealed decision of the Construction Industry Arbitration Commission is hereby AFFIRMED. The writ of preliminary injunction issued against the enforcement of the September 28, 2001 decision of the Construction Industry Arbitration Commission (CIAC) is hereby LIFTED. The writ of preliminary mandatory injunction ordering private respondent to withdraw its contractor's lien on all, except six of private respondent's condominium units is hereby made permanent.[29] (Emphasis supplied.)

By concentrating on the last sentence of the above dispositive portion, respondent ignored the paragraph which precedes it where the Court of Appeals stated:

However, justice and fair play dictate that the annotation of private respondent's lien should be limited to six (6) units of its choice and not to all of the condominium units. As we noted in our January 17, 2002 Resolution, as clarified by the January 18, 2002 Resolution, private respondent's claim against petitioner in the amount of P62 Million can be covered by the value of six (6) units of the condominium project.[30]

As petitioner correctly argues, there is no ambiguity in the Court of Appeal's pronouncement, that is, that the principal award of P62 million can be covered by six condominium units. However, such pronouncement did not make allowances for the interests of 6% and 12% imposed by the CIAC because the alleged limit related merely to the provisional remedy, not the eventual execution of the judgment. The six unit limit was never intended by the Court of Appeals to operate in perpetuity as to sanction recovery of the principal award sans legal interest.

The reason for the imposition of the six unit limit can be better understood when viewed in the context of the circumstances which led the Court of Appeals to make such pronouncement. In fact, respondent itself supplied the rationale when it narrated in its Comment,[31] thus:

DSM, through its counsel, caused the publication in the November 20, 2001 issue of the Philippine Daily Inquirer a paid advertisement announcing that all units of the Salcedo Park Towers Condominium are subject

to its contractor's lien.

In addition, DSM also caused to be annotated on all condominium certificates of title of the Salcedo Park Towers Condominium Entry No. 62921/T denominated as a "contractor's lien."

Reacting on this adverse and damaging publicity, causes (sic) by DSM, private respondent filed a Supplemental Petition with the Court of Appeals for the cancellation of said entry.

One of petitioner's [respondent herein] argument in the Supplemental Petition was that the price range of its units is from P11 million to P13 million. Thus, just five or six units would suffice to cover payment of the P62.7 million award.

The Court of Appeals granted the application for preliminary mandatory injunction and noted in its Resolution dated January 17, 2002 that:

"x x x petitioner manifested that respondent's claim of P62 million can be covered by the sale of six (6) units. It is also worth noting that petitioner was in fact willing to allow respondent to choose the units upon which to effect the annotation of its lien." [32]

In making the writ of preliminary mandatory injunction permanent, the Court of Appeals was protecting respondent's business standing from damage caused by petitioner's act of annotating its lien on all 209 condominium units. There is therefore no justification for respondent's claim that in satisfying the award in favor of petitioner, the latter and the CIAC are limited to only six units.

Moreover, as correctly pointed out by petitioner, if there was indeed a six unit limit, respondent itself breached the same. In a letter [33] to the Register of Deeds of Makati City dated 6 May 2004, respondent asked that the Notice of Levy/Attachment with Entry No. 70814/T-65317 as well as the Decision with Entry No. 74154/65317 annotated at the back of Condominium Certificate of Title No. 65320 (Unit 25A) of the Salcedo Park condominium project be transferred to Condominium Certificates of Title Nos. 65389 and 65395 (Units 14C and 16C, respectively) of the same project. The substitution was made so that the unit already paid for by its buyers can be transferred in the latter's name free from all liens and encumbrances.

The replacement increased the number of units levied upon from six (6) to seven (7). This weakens respondent's reliance on the purported six (6)-unit limit since its own act renders it in estoppel. By estoppel is meant that an admission or representation is rendered conclusive upon the person making it and cannot be denied or disproved as against the person relying thereon. [34] Since respondent instigated the resultant increase of the units levied upon, both petitioner and the CIAC cannot be faulted for assuming that the rest of the condominium units may also be levied upon on execution.

Next, respondent ascribes to the alias writ [35] is the supposed failure to state the specific amount due. This allegedly vests the sheriffs the judicial function of determining the total amount ought to be satisfied by the judgment.

We reiterate the questioned portion of the alias writ of execution:

You are hereby commanded, that of the goods and chattels of the MEGAWORLD GLOBUS ASIA, INC., Respondent, you cause to be made the amount of P62,760,558.49 with interest of 6% due on any balance remaining until the award becomes executory. Thereafter, interest of 12% per annum shall be applied on any balance remaining until the full amount is paid;

Your lawful fees for the services of this execution shall not exceed four per centum (4%) on the first P4,000.00 of the amount recovered and two per centum (2%) in excess of P4,000.00 in accordance with Section 9(10), Rule 141 of the revised Rules of Court. (Emphasis in the original.)

The validity of the alias writ of execution hinges on its conformity to Section 8(e), Rule 39 of the Revised Rules of Civil Procedure which states, relative to the amount that should be specified in the writ of execution:

Sec. 8 (e). In all cases, the writ of execution shall specifically state the amount of the interest, costs, damages, rents or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant.

A perusal of the alias writ convinces this Court that it complies substantially with the requirements of law. It states the principal award sought to be satisfied, as well as the percentage to be imposed thereon as interest. It even specifies the lawful fees that are due to the sheriffs for the satisfaction of the judgment.[36] Respondent makes much of the fact that petitioner made its own computation of the amount to be satisfied which the sheriffs allegedly followed.

Rule 39, Sec. 8(e) cited above precisely requires the movant to specify the amount sought to be satisfied so the Court fails to see why petitioner should be faulted for doing so. If the objection hinges on the fact that the exact mathematical computation did not appear in the alias writ itself, respondent could easily have moved that said computation be incorporated by the CIAC thereon. Such perceived deficiency is certainly not sufficient to justify recourse to a special civil action for certiorari to have the alias writ declared null and void in its entirety.

As to the controversy on the application of the 6% rate of interest, the proper forum for clarifying the same is the CIAC, not the Court of Appeals. After all, the CIAC imposed said rate so it puzzles this Court why respondent did not seek enlightenment therefrom when it filed its Motion for Clarification relative to the purported six-unit limit. Be that as it may, this Court herein notes that nowhere in any of its jurisprudence had a legal rate of interest been imposed as a flat rate rather than on a per annum basis.

Our conclusions on the validity of the Alias Writ of Execution stand utterly apart from those propounded by the Court of Appeals in its 19 April 2005 Decision. Its rationale, briefly explained in 4 pages, does not appear to consider the flip side of the arguments raised by respondent. It does not even bother to cite, much less contest, the arguments raised therein by respondents.

The 19 April 2005 Decision did not dwell on the other arguments posited by respondent in support of its petition before the Court of Appeals relative to the acts of the sheriffs in levying particular condominium units in preparation to the auction sale. To give full resolution to this case, these arguments should be disposed with at this juncture.

Respondents claimed before the Court of Appeals is that the sheriffs exceeded their authority when they included five condominium units fully paid for by buyers in the notice of execution sale.[37] According to respondent, the unrecorded contracts to buy and sell take precedence over the recorded levy of execution by virtue of the Subdivision and Condominium Buyers' Protective Decree (PD 957).

The Court is baffled why respondent is raising this issue and not the purported buyers themselves. Rule 39, Section 16[38] of the Revised Rules of Civil Procedure lays down the procedure in cases where properties levied upon are claimed by third persons. It is the third person claiming the property who has to make an affidavit of his title or right to possession thereof. Nowhere is it stated in said section that the judgment obligor (respondent in this case) has to make the claim on the third person's behalf. It is peculiar that respondent is belaboring the point when the supposed buyers themselves did not even appear to lay claim to the levied properties.

Moreover, respondent's contention that the unregistered buyers' right over the property is superior to that of the judgment obligor has no basis. The fact that the contracts to buy and sell are unregistered and the properties in

question are still in the name of respondent underlines the fact that the sales are not absolute. The units are clearly still owned by respondent and not by the alleged buyers. Under Section 51 of the Property Registration Decree (PD 1529), the act of registration is the operative act which conveys or affects the land in so far as third persons are concerned. As provided by said law:

Sec. 51. . . . no deed, mortgage, lease or other voluntary instrument, except a will purporting to convey or affect registered land, shall take effect as a conveyance or bind the land but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

. . .

Respondent's reliance on jurisprudence holding that buyers' rights of ownership over condominium units even if unregistered are superior over registered encumbrances is misplaced. The cases cited clearly indicated that the parties involved were the condominium buyers and mortgage creditors. A mortgage creditor is not synonymous to a judgment creditor contrary to what respondent asserts. While the law expects a mortgage creditor to inquire as a reasonably prudent man would regarding the encumbrances on the property in question, no such knowledge is imputed to a judgment creditor who merely seeks the satisfaction of the judgment awarded in his favor.

Based on the foregoing, the appellate court clearly had no authority to take cognizance of the petition filed by respondent. By acting on the petition rather than dismissing the case outright, it committed grave abuse of discretion amounting to lack of jurisdiction.

One last point. The Court has noted the various dilatory tactics employed by lawyers to resist the execution of judgments which had already attained finality. In fact, the Court has been all too willing to discipline counsels who engage in such behavior, either through penalization for contempt^[39] or referral for administrative investigation with the Integrated Bar of the Philippines^[40]. Lawyers must be reminded that in their zeal to protect the interests of their clients, they must not overreach their commitment to the extent of frustrating the ends of justice. The Court does not regard with favor lawyers who try to delay the execution of cases which are already final and executory.

WHEREFORE, premises considered, the petition is GRANTED. The Resolution dated 21 February 2005 and the Decision of the Court of Appeals dated 19 April 2005 are VOIDED and SET ASIDE. Costs against respondent.

The Construction Industry Arbitration Commission is ordered to proceed with the execution of its Decision dated 19 October 2001 in CIAC Case No. 22-2000.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] The relief prayed for included an Extremely Urgent Application for a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction; dated 23 February 2005; Rollo, pp. 3-23.

[2] Penned by Associate Justice Vicente S.E. Veloso, concurred in by Associate Justices Roberto A. Barrios and Amelita G. Tolentino; Id. at 118-121.

[3] Megaworld Globus Asia Inc., v. Construction Industry Arbitration Commission, et al.

[4] Effective for sixty days unless sooner lifted by the Court of Appeals.

[5] Dated 22 November 2004; Rollo, pp. 74-75.

[6] The Arbitral Tribunal composed of Ernesto S. De Castro as Chairman with Regulus E. Cabote and Lauro M.

Cruz as members.

[7]Rollo, p. 42.

[8]Id. at 6, 45.

[9]Rollo, pp. 47-71.

[10] Respondent's first motion for reconsideration was denied with finality by this Court's Second Division in a Resolution dated 19 May 2004. Its second motion for reconsideration denominated as a "Motion to Suspend Procedural Rules in the Higher Interest of Substantial Justice and to Refer the Case En Banc" was again denied in a Resolution dated 2 August 2004. Its third motion for reconsideration dated 7 August 2004 was "Note[d] Without Action" in view of the resolution dated 2 August 2004 which ordered that the entry of judgment be made forthwith.

[11] Rollo, pp. 72-73.

[12] Id. at 74.

[13] Id. at 76-77.

[14]Supra note 8.

[15]Docketed as CA-G.R. Sp. No. 88314; the complaint is denominated as a Petition for certiorari and prohibition with prayer for preliminary injunction and temporary restraining order.

[16] The orders of the CIAC sought to be nullified are the following: (1) Order dated 3 November 2004 as clarified in the Order dated 3 December 2004; (2) Alias Writ of Execution dated 22 November 2004; and (3) Order dated 11 January 2005.

[17]Rollo, pp. 467-479.

[18] Id. at 464.

[19] Id. at 352-354.

[20] Id. at 617.

[21] Id. at 618.

[22]Id. at 626-664.

[23] Id. at 626-630.

[24]Id. at 3.

[25]Maqui v. Court of Appeals, G.R. No. L-41609, 24 February 1976, 69 SCRA 368, 374.

[26] Rollo, p.627.

[27] Petitioner filed a Supplemental Petition [With Leave of Court] dated 7 July 2005 which enumerated the transactions, occurrences and events that transpired since the filing of the petition; Id. at 593-614.

[28] By grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in

contemplation of law. See e.g., *PNB v. Timbol*, G.R. No. 157535, 11 February 2005.

[29] *Id.* at 41-42.

[30] *Id.* at 41.

[31] *Id.* at 265-297; dated 21 March 2005.

[32] *Id.* at 289-290.

[33] *Id.* at 45.

[34] Art. 1431, Civil Code.

[35] Sustained by the appellate court in its decision.

[36] Now increased to 2.5% in excess of P4,000.00 in accordance with Supreme Court Administrative Circular No. 99-8-01-SC dated 14 September 1999.

[37] *Rollo*, p. 84.

[38] Sec. 16. Proceedings where property claimed by third person. - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

...

[39] See e.g., *Siy v. NLRC*, G.R. No. 158971, 25 August 2005.

[40] See e.g., *Natalia Realty v. Hon. Rivera*, G.R. No. 164914, 5 October 2005.

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