CONTINENTAL WATCHMAN AND SECURITY AGENCY, INC., PETITIONER, VS. NATIONAL FOOD AUTHORITY, RESPONDENT.

G.R. No. 171015. August 25, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve in this Decision the petition for review on certiorari filed by Continental Watchman and Security Agency, Inc. (Continental), addressing the decision, dated July 29, 2005,[1] and the resolution, dated January 5, 2006,[2] of the Court of Appeals (CA) in CA-G.R. SP No. 86303, entitled "Continental Watchman and Security Agency, Inc. v. Hon. Abednego O. Adre, Former Presiding Judge of Branch 88 of the Regional Trial Court of Quezon City and National Food Authority." The CA decision and resolution denied Continental's petition for certiorari with prayer for temporary restraining order and/or preliminary injunction.

Background Facts

Continental was one of the twelve security agencies awarded contracts in 1990 to provide security services to the National Food Authority (NFA) under NFA Administrator Pelayo J. Gabaldon. These contracts were periodically extended as they expired.

When Romeo G. David became the NFA Administrator, he initiated a review of all the security service contracts and formulated new bidding procedures. Those who wished to provide security services to the NFA had to pre-qualify before they could join the final bidding. In May 1993, an invitation to pre-qualify and bid for the NFA's security services was published in a national newspaper and Continental was among the pre-bidding qualifiers. The final bidding, however, was suspended after the applicants, who failed to qualify, obtained a temporary restraining order that stopped the bidding process.

On July 30, 1993, the NFA wrote Continental that it no longer enjoyed its trust and confidence and that Continental had to "pull out [its] guard[s] from NFA offices, installation and warehouses by 3:00 p.m. of August 16, 1993 to allow the incoming security agency to take over the security services for NFA[.]"[3] Continental questioned the NFA's decision to terminate its contract, and filed on August 9, 1993, before the Quezon City Regional Trial Court (RTC), a complaint[4] against the NFA and NFA Administrator David for damages and injunction with prayer for the issuance of a temporary restraining order. Continental asserted in its complaint that from the tenor of the NFA's letter, security service contracts had already been awarded to other security agencies without the requisite public bidding. The case was docketed as Civil Case No. Q-93-17139.

RTC Judge Tirso D.C. Velasco issued a temporary restraining order and, later, a writ of preliminary injunction that the NFA challenged before the CA. In its decision[5] in CA-G.R. SP Nos. 32213, 32230, 32274, 32275, and 32276, the CA held that the writ of preliminary injunction had two parts: (1) the part that ordered NFA and its officers to cease and desist from terminating or implementing the termination of Continental's security service contracts with NFA, and (2) the part that enjoined NFA and its officers from awarding or implementing security

service contracts to any other security agencies. The CA annulled the first part of the writ because it violated NFA's right to enter into lawful contracts, but upheld the second part that prevented NFA from awarding security service contracts to other security agencies without the requisite public bidding.

The NFA appealed this CA decision to this Court, and we affirmed it in National Food Authority v. Court of Appeals,[6] under the following fallo:

> IN VIEW WHEREOF, the petition is dismissed and the decision dated March 11, 1994 and resolution dated April 15, 1994 of the Court of Appeals in CA-G.R. SP Nos. 32213, 32230 and 32274-76 are affirmed. The temporary restraining order issued by this Court on May 18, 1994 is hereby lifted. Treble costs against petitioners.

Based on this decision, Continental moved for the issuance of a writ of execution[7] for P26.5 million as payment for the security services rendered to the NFA during the period that it was enjoined from terminating its contract with Continental. Continental, later on, amended this amount to P19,803,606.98[8] and then to P8,445,161.00.[9]

The NFA opposed these motions because, at that time, the pre-trial and trial in Civil Case No. Q-93-17139 had yet to be held. On October 3, 1996, the RTC heard Continental's motion for execution. Continental presented a witness who testified on the amount of the security services rendered. On October 9, 1996, the RTC issued a writ of execution. The following day, October 10th, P8,445,161.00, from the NFA's deposit with the Philippine National Bank, was garnished.

In view of the garnishment, NFA Administrator David (later joined by the NFA) sought relief from this Court by filing a special civil action for certiorari to seek (1) the annulment of the October 9, 1996 order, (2) the annulment of the writ of execution issued pursuant to the October 9, 1996 order, and (3) the issuance of an order directing the RTC to conduct pre-trial and trial. The petition, entitled David v. Velasco,[10] cited the following jurisdictional errors:

> I. Respondent judge violated the law and gravely abused his discretion and acted without jurisdiction in granting the writ of execution and issuing it in Civil Case No. Q-93-17139 when no pre-trial and no trial had been held, and no decision had been rendered in said case.
>
> II. The respondent judge violated the law and gravely abused his discretion when he held the hearing of October 3, 1996 without notice to petitioner thus depriving him of his right to due process.
>
> III. The respondent judge gravely abused his discretion in issuing a writ of execution for P8,445,161.00 based on one document testified to by one incompetent witness for services supposedly rendered after the contract for services had lapsed.
>
> IV. Even assuming arguendo, that the order x x x was the respondent judge's decision, and the same was valid, the respondent judge violated the law and gravely abused his discretion when he immediately issued a writ of execution even before 15 days from receipt of said order had lapsed.

On January 13, 1997, we issued a temporary restraining order to enjoin the respondents in the case – Judge Tirso Velasco, Sheriff Ernesto L. Sula, and Continental – from implementing the October 9, 1996 order and writ of execution. In 2001, we declared null and void both the October 9, 1996 order and the writ of execution issued pursuant to that order. We also directed the RTC to proceed and resolve Civil Case No. Q-93-17139 with dispatch.

The NFA, based on our David decision, filed a motion before the RTC for the return of the garnished amount with legal interest and damages. The RTC granted this motion in its April 24, 2003 order,[11] and directed Continental to return the P8,445,161.00 to the NFA. Continental moved for partial reconsideration but the RTC denied the

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motion.

Continental sought the annulment of the April 24, 2003 order before the CA, through a petition for certiorari with prayer for temporary preliminary injunction and/or temporary restraining order in the case docketed as CA-G.R. No. SP-78214. The CA, on August 29, 2003, dismissed the petition because it was procedurally flawed, at the very least. Continental moved for the reconsideration of the dismissal, but the CA denied the motion. The decision became final on November 6, 2003, and was entered as final in due course.[12]

The NFA, based on the finality of the RTC's order of April 24, 2003, moved for execution. The RTC (presided by Judge Abednego Adre) granted the motion.[13] Continental moved for reconsideration but its motion was denied.[14] In August 2004, the RTC issued a writ of execution, and, in October 2004, it issued a notice of garnishment to the known creditors of Continental.

It was Continental's turn, at this point, to file a petition for certiorari with the CA. It questioned the RTC's issuance of the writ of execution, at the same time praying for a temporary restraining order and/or preliminary injunction. The case was docketed as CA-G.R. SP No. 86303. On April 12, 2005, the CA issued a temporary restraining order[15] to enjoin Judge Adre and the NFA from serving the notice of garnishment, in the main case, for a period of 60 days from receipt of the order.

On July 29, 2005, the CA handed down the decision presently before us. It denied Continental's petition and likewise denied the motion for reconsideration that followed.

Continental submits the following issues in the present petition.

ISSUES

> I
>
> WHETHER OR NOT PETITIONER HAS THE RIGHT TO SET-OFF THE SECURITY SERVICE FEE FOR THE GUARD WHO SERVED DURING THE INJUNCTION WAS VALIDLY IN EFFECT
>
> II
>
> WHETHER OR NOT THE COURT A QUO ACTED PROPERLY WHEN IT DID NOT HOLD IN ABEYANCE THE ISSUANCE OF A WRIT OF EXECUTION ON THE RETURN OF THE ILLEGALLY GARNISHED AMOUNT

The Court's Ruling

We find the petition unmeritorious.

Continental instituted Civil Case No. Q-93-17139, for damages and injunction, to question the NFA's decision to terminate its contract with the former. The complaint likewise prayed for the issuance of a temporary restraining order that the trial court granted.[16] Thus, Continental continued to provide security services to NFA. When this Court subsequently invalidated the restraining order (thus, cutting short Continental's security services to NFA), Continental filed a motion for the issuance of a writ of execution to collect the cost of security services it provided NFA while the restraining order was in effect.

The RTC granted the motion for the issuance of a writ of execution resulting in the garnishment of its bank deposit for P8,445,161.00. The NFA assailed this garnishment in David, where we held that the issuance of the writ of execution was not in order. We said:

> Clearly, the final determination of the issues in Civil Case No. Q-93-17139 was still pending when the trial

> court granted the motion for the issuance of a writ of execution, and issued the writ of execution itself, both dated October 9, 1996.
>
> Noteworthy, private respondent filed a motion for leave to file supplemental complaint, and a supplemental complaint on February 18, 1997, four months after the issuance of the order allowing execution and of the writ of execution itself. There is no rhyme nor reason in the filing of the two pleadings, if a final judgment that would justify the issuance of a writ of execution had already been rendered in the case.
>
> Private respondent relies on the decision of this Court in G.R. Nos. 115121-25, which affirmed the decision of the CA in CA-G.R. SP Nos. 32213, 32230, and 32274-76. However, what was decided in those cases was the propriety of the negotiated contracts entered into by the NFA with certain security agencies. Nothing in those cases settled the issues originally raised by private respondent in its complaint in Civil Case No. Q-93-17139.
>
> The issuance of the order dated October 9, 1996, and of the writ of execution also on the same date, is patently erroneous. It is without any legal basis and shows manifest ignorance on the part of public respondent judge. He did not even have any discretion on the matter, since the trial court cannot issue a writ of execution without a final and executory judgment.
>
> That the writ of execution had already been satisfied does not perforce clothe it with validity. As we have earlier discussed, a writ of execution may only be issued after final judgment. Such a writ issued without final judgment is manifestly void and of no legal effect. It is as if the writ was not issued at all. Seizure of property under a void writ of execution amounts to deprivation of property without due process of law. This Court may direct that whatever action taken under such a void writ be undone. Otherwise, we would be condoning a patent violation of a party's right to due process and allowing one party to unjustly enrich himself at the expense of another.[17]

On April 24, 2003, the RTC issued an order directing Continental to "return forthwith but not beyond thirty (30) days from notice the amount of Eight Million Four Hundred Forty-Five Thousand and One Hundred Sixty One Pesos (P8,445,161.00) to the defendant National Food Authority."[18] This order (which Continental questioned before the CA) is the subject of the presently assailed July 29, 2005 CA decision, denying Continental's petition for certiorari with prayer for temporary restraining order and/or preliminary injunction. This CA decision significantly held in part that:

> Continental's case mainly rests on its interpretation of the pronouncement made by the Supreme Court in the dispositive portion in G.R. No. 126592[19] cited above directing the trial court to "proceed and resolve Civil Case No. Q-93-17139 with dispatch." According to Continental, this meant that the trial court was to proceed with its hearing on the merits of the case and not the NFA's motion to return the garnished amount.
>
> x x x x
>
> We are satisfied that the trial court indeed committed no grave abuse of discretion in ordering the return of the amount garnished from the deposits of the NFA with the Philippine National Bank.
>
> To reiterate, the garnishment stemmed from an order of execution that has been adjudged by the Supreme Court as patently erroneous and without any legal basis. x x x.
>
> Hence, we find no error in the trial court's action to undo the effects of its prior erroneous and legally infirm order. x x x.
>
> We likewise do not agree that there is any incongruity between the order to return the garnished amount and the trial court's fealty to the Supreme Court's directive to resolve the case before it with dispatch. Both issues formed part of the dispositive portion of G.R. No. 126592. Thus, the trial court's actions towards the return of the illegally garnished money and the early resolution of the case both move towards the fair dispensation of justice to all parties concerned.

x x x x

> x x x Whether or not Continental is indeed entitled to the garnished amount, the subject of its supplemental complaint, is still to be settled by trial on the merits before the court a quo. Hence, to allow Continental to remain in possession of the garnished amount before judgment on the merits is had would amount to the deprivation of the NFA's property without due process of law.[20]

Continental now submits before us that it should be entitled to a set-off because the proceeds, from the withdrawal of the garnished amount, were used for the salaries of the guards who were assigned to the NFA sites during the period that the NFA was enjoined from terminating its security service contracts with Continental.

The salaries of security guards that Continental wants to set-off are actually the subject of Continental's supplemental complaint[21] filed in 2002. To avoid multiplicity of suits, the RTC allowed the supplemental complaint although Continental's main complaint was filed in 1993.[22] Continental's supplemental complaint is actually a counterclaim that it asserted to defeat the return of the P8,445,161.00 that it had been unjustly holding since 1996.

At this point, particularly after our final and executory Decision declaring null and void the writ of execution that Judge Velasco issued, it should appear clear to all – especially to Continental – that it has no legal basis to hold on to the P8,445,161.00 that resulted from the void writ of execution and the equally defective garnishment that followed. Hence, Continental is under the absolute obligation to return the garnished amount. Whether it is entitled to recover from the services it rendered to the NFA, as claimed in Civil Case No. Q-93-17139, is a matter still to be litigated before the RTC. Accordingly, we uphold the presently assailed CA ruling that sustained the RTC's order granting the issuance of a writ of execution for the return of the P8,445,161.00 to the NFA.

We likewise order, as NFA prays for, Continental to pay interest on the P8,445,161.00. This interest proceeds from the illegal garnishment and undue withholding of NFA's money, and is not at all related to whatever interests and damages that may be due the parties based on the merits of the litigation now still before the RTC.

We find it appropriate, too, to impose treble costs against Continental for its claimed set-off that is plainly inappropriate to make at this time. This set-off is for the salaries of the guards who rendered services for Continental while Judge Velasco's original injunction order was in effect, and represents the very same amount claimed by Continental, in its belated supplemental complaint, that the RTC allowed nine years after the original complaint was filed. The submission before this Court of a live issue still pending before the RTC is a clear abuse of process no different in nature from the forum shopping we abhor, and one that we cannot allow a party to make without appropriate sanction. Hence, we find it in order to impose treble costs against Continental.[23]

WHEREFORE, premises considered, we DENY the petition for review on certiorari and, accordingly, AFFIRM WITH MODIFICATION the Court of Appeals' decision dated July 29, 2005, and resolution dated January 5, 2006, in CA-G.R. SP No. 86303. The Regional Trial Court, Branch 88 of Quezon City is directed to immediately issue a writ of execution against Continental for the amount of P8,445,161.00 and interests thereon, computed at six percent per annum from the date that the NFA filed its motion to intervene in the David case, and at 12% per annum from the finality of this Decision.[24] Treble costs against petitioner Continental Watchman and Security Agency, Inc.

SO ORDERED.

Carpio Morales, Bersamin, Villarama, Jr., and Sereno, JJ., concur.

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[1] Penned by Presiding Justice Romeo A. Brawner and concurred in by Justices Edgardo P. Cruz and Jose C. Mendoza; rollo, pp. 29-37.

[2] Id. at 38.

[3] Id. at 54.

[4] Id. at 52-57.

[5] Dated March 11, 1994, and penned by Justice Eduardo G. Montenegro and concurred in by Justices Minerva P. Gonzaga-Reyes and Lourdes K. Tayao-Jaguros; rollo, pp. 73-84.

[6] G.R. Nos. 115121-25, February 9, 1996, 253 SCRA 470, 482.

[7] Rollo, pp. 85-88.

[8] Id. at 89-92.

[9] Id. at 94-95.

[10] G.R. No. 126592, October 2, 2001, 366 SCRA 360.

[11] Rollo, pp. 137-138.

[12] Id. at 271-272.

[13] Order dated April 5, 2004, id. at 177.

[14] Order dated June 14, 2004, id. at 194.

[15] Id. at 195.

[16] Id. at 56-57.

[17] Supra note 10, at 369.

[18] Rollo, pp. 267-268.

[19] David v. Velasco, supra note 10.

[20] Rollo, pp. 34-37.

[21] Id. at 124-126.

[22] Id. at 137-138.

[23] Section 3, Rule 142 of the Rules of Court: Where an action or an appeal is found to be frivolous, double, or treble costs may be imposed on the plaintiff or appellant, which shall be paid by his attorney, if so ordered by the court.

[24] Eastern Shipping Lines, Inc. v. Court of Appeals, G.R. No. 97412, July 12, 1994, 234 SCRA 78.

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