

**NATIONAL SHIPYARDS & STEEL CORPORATION, PETITIONER,
VS. COURT OF INDUSTRIAL RELATIONS AND JOSE ABIDAY, ET AL.,
RESPONDENTS.***G.R. No. 17874. August 31, 1963*

Ponente: CONCEPCION, J.

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This is an appeal by certiorari from a resolution of the Court of Industrial Relations, hereafter referred to as the CIR—sitting en banc.

The records show that on April 15, 1957, this case was commenced in said Court with a petition of 39 laborers praying that the National Shipyards & Steel Corporation—hereafter referred to as the NASSCO—a public corporation organized and existing under and by virtue of our laws, be sentenced to pay them, as their employer, additional compensation for services rendered at night, as well as on Sundays and legal holidays. On October 25, 1957, a supplemental petition for the same purpose was filed by 29 additional workers. Both parties having submitted these petitions upon a stipulation of facts, the CIR issued, on November 27, 1957, an order sentencing the NASSCO to pay to said laborers, for the aforementioned services, an additional compensation equivalent to 25% of their regular compensation. The NASSCO sought a reconsideration of this order, which was denied.

On January 14, 1958, the CIR ordered both parties to designate their representatives to assist the chief examiner of said court in the computation of the overtime pay aforementioned. Soon, thereafter, on February 14, 1958, said officer submitted to the CIR a partial report to the effect that 41 of the petitioning laborers were entitled to an aggregate additional pay of P37,867.21. Despite the opposition of the NASSCO, this partial report was approved in an order of the CIR dated March 8, 1958, which, likewise, directed the issuance of the corresponding writ of execution. This having been done on March 11, 1958, the Sheriff of Manila served a notice of garnishment upon several banks. Accordingly, on March 19, 1958, the Philippine National Bank forwarded to the Sheriff the sum of P38,069.54 (including the Sheriff fees of P198.33), stating that said amount had been taken from the current and savings account of the NASSCO. After deducting his aforementioned fees, the Sheriff deposited with the clerk of court the balance of P37,867.21, which, on motion of the laborers concerned, was, on or about March 31, 1958, turned over to their counsel for proper distribution to them. Prior thereto, the NASSCO had moved for the reconsideration of said order of March 8, 1958. The motion was denied on March 18, 1958, whereupon the NASSCO brought the matter on appeal by certiorari to the Supreme Court, in G. R. No. L-13732 thereof. By resolution dated April 11, 1958, we dismissed, however, the petition therein "for lack of merit."

Presently, on April 30, 1958, said Chief Examiner of the CIR submitted a second partial report to the effect that the amount due to 52 petitioning laborers aggregated P147,274.00. Despite the NASSCO's objection thereto, this report was approved by the CIR in an order dated May 14, 1958, which, also, directed the issuance of the corresponding writ of execution, unless said sum of P147,274.00 were deposited in Court within five (5) days from notice. On motion for reconsideration by the NASSCO, said order was affirmed by the CIR sitting en banc

in a resolution dated May 24, 1958. Once again, the NASSCO asked the Supreme Court—in 107 Phil., 1006—to review said order of May 14, 1958 and resolution of May 24, 1958 on appeal by certiorari, which was given due course. In a decision therein rendered on April 29, 1960, we affirmed, however, the aforementioned order and resolution of the CIR.

In the meantime, or on May 26, 1958, the writ of execution of said order of May 14, 1958—commanding the Sheriff of Manila to collect said sum of P147,274.00 and to turn it over to counsel for the laborers, Atty. Onofre Guevara—had been issued, and notices of garnishment had been served on several banks. As a consequence, on May 29, 1958, a check for P148,027.37 including Sheriff's fees, was sent by the Philippine National Bank to the Sheriff of Manila, who, after deducting the aforesaid fees, turned over the balance of P147,274.00 to Guevarra. Prior thereto, or on May 28, 1958, the NASSCO had moved to stay the enforcement of said writ of execution, upon the ground that the funds sought to be levied upon pursuant thereto were "public funds as they are"—pursuant to a certification, attached to the motion, of the accounting department of the NASSCO—"proceeds from issuance of Government Bonds under the provisions of Republic Act No. 1000 and Republic Act No. 1396 which, accordingly, * * * are exempt from attachment, execution or seizure * * *." During the hearing of the motion on May 30, 1958, the Presiding Judge of the CIR announced orally that he would order the lifting of the garnishment. Thereupon, said order was issued, but copy thereof was not served on the parties until June 3, 1958. On the same date, counsel for the laborers filed a statement to the effect that the latter had already received the amounts due to each of them. For this reason, the NASSCO filed on June 6, 1958, an urgent petition for the return of the money garnished, which was granted in an order of said Presiding Judge dated July 23, 1958, the dispositive part of which reads:

"Wherefore, Atty. Onofre P. Guevarra is hereby ordered to return to and deposit with this Court the amount of P147,278.00 within 24 hours from receipt thereof,

"In the event of failure to comply with this Order, let this matter be referred immediately to the City Fiscal, Manila, for appropriate action."

On motion for reconsideration filed by the laborers, this order was on October 10, 1960, reversed by a majority of the members of the CIR sitting en banc, which held:

"* * * (1) That the P147,274.00 which was garnished by the sheriff of the City of Manila could not be a part of the government money as the same was taken from the current and savings account of the Philippine National Bank, Passbook No. 149121, from which account the amount of P38,069.54 was also garnished, and respondent company or its counsel did not raise any question or assert that the sum of P38,069.54 which was garnished by the sheriff of Manila by virtue of the first writ of execution based on the first partial report of the examiner of this Court and taken from the current and savings account, Passbook No. 149121, was government money; otherwise, if the amount secured from this account and passbook were government money, as it is now claimed in the second writ of execution, respondent company and/or its lawyer could have raised the issue of any time of the proceeding from the issuance of said writ of execution until payment of the same. The only thing in the records is the appeal to the Supreme Court not on the fact that the money garnished was government money but on the merits of the case which, however, was dismissed for lack of merit. If at all it is government money, then this case should be referred to the City Fiscal for appropriate action in view of the apparent gross negligence of the respondent company and/or its counsel in allowing the first execution and garnishment. (2) That in view of the fact that the money garnished has already been distributed, the same should be held in trust subject to the provisions of the Civil Code on solutio indebiti until the Supreme Court shall have decided the appeal on the Order of this Court dated May 14, 1958. (3) That orders and decisions of this Court under Commonwealth Act No. 103 may or may not be stayed as provided for in said law. (4) And as to the other matters contained in the Order especially with respect to the criminal case involved, we concur with the Trial Court that the law should take its course whomsoever may be adversely effected thereby."

Hence, this appeal by certiorari taken by the NASSCO, which insists that the funds in question are, as certified to by its accounting department, "part of the proceeds of the bond issues under Republic Act No. 1000 released to the NASSCO pursuant to Republic Act No. 1396 * * *." Respondents herein maintain the contrary, upon the ground that the aforementioned certification is insufficient to establish the contention of the NASSCO, not only because the certification is not verified, but, also, because no testimony under oath or other competent evidence was introduced in support of said contention, although its factual basis had been contested by said respondents. Apart from the fact that the latter's theory is *prima facie* well taken, we find that the alleged exemption from attachment and execution of the proceeds of said bonds is not borne out by law. Section 1 of Republic Act No. 1396 provides:

"* * * Out of the proceeds of the bond issue authorized under Republic Act Numbered One thousand, there is hereby appropriated the sum of fifty million pesos for the National Shipyards and Steel Corporation, forty-five million pesos of which shall be used to finance the establishment of one or more pig iron smelting plants, at such place or places as it deems convenient, and the balance of five million pesos to be used for the initial operating expenses of the pig iron smelting plants: * * *."

Upon the other hand, Section 1 of Republic Act No. 1000 reads:

"Section 1. Upon the recommendation of the Secretary of Finance after consultation with the Monetary Board, the National Economic Council, and the Council of State, the President of the Philippines is authorized to issue, preferably in the Philippines, or abroad if necessary, in the name and behalf of the Republic of the Philippines, bonds in an amount not exceeding one billion pesos to finance public works and self-liquidating projects for economic development, which may be authorized by law, including expropriation of lands for subdivision and resale to individuals, or to repay or service bonded obligations of the Government incurred for such projects: * * *."

* * * * *

"The bonds to be issued under this Act shall be exempt from taxation, including the tax on foreign exchange, by the Government of the Republic of the Philippines or by any political or municipal subdivision thereof, which fact shall be stated on their face in accordance with this Act under from attachment, execution or seizure." (Italics supplied.)

It should be noted that the foregoing provision exempts from "taxation", as well as from "attachment, execution or seizure," merely "the bonds issued under this Act," not the proceeds of said bonds. Indeed, such exemption of bonds is a means commonly devised to promote the sale thereof. Under two principles of statutory construction—namely, *expressio unius est exclusio alterius* and exceptions must be strictly construed—said exemption may not be extended by the implication to the proceeds of the sale of the bonds aforementioned. In fact, the requirement that the exemption "be stated on their face" indicates clearly the intent of the law-maker to apply the exemption exclusively to the bonds, for said statement could not possibly be made on the "face" of the proceeds of the sale of the bonds.

The allegation to the effect that the funds of the NASSCO are public funds of the government, and that, as such, the same may not be garnished, attached or levied upon, is untenable for, as a government owned and controlled corporation, the NASSCO has a personality of its own, distinct and separate from that of the Government. It has—pursuant to Section 2 of Executive Order No. 356, dated October 23, 1950 (46 Off. Gaz., 4677), pursuant to which the NASSCO has been established—"all the powers of a corporation under the Corporation Law * * *." Accordingly, it may sue and be sued and may be subjected to court processes just like any other corporation (Section 13, Act No. 1459, as amended). Thus, Section 3 of said Executive Order explicitly provides that:

"* * * The NASSCO shall have as its capital the net worth of the National Shipyard and Heavy Industries Department, the Engineer Island Shops, the Steel Mill Project and the Reparation Tools Department of the National Development Company, as determined in accordance with section 12 of this Order, and such appropriations as may be authorized by law.

"The Government of the Republic of the Philippines shall not be liable for any debt, liability, obligation or damage that might be contracted, incurred or caused by the corporation." (*Italics supplied*)

Wherefore, the appealed resolution of the CIR sitting en banc is hereby affirmed, with costs against the NASSCO. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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