

JOAQUIN HACBANG AND CASTOR BARDELOSA (IN THEIR CAPACITIES AS PROVINCIAL SHERIFF EX-OFFICIO AND DEPUTY PROVINCIAL SHERIFF, PROVINCE OF LEYTE, RESPECTIVELY) AND OTILIA BUSTILLO, AN...

G.R. No. 17907. May 30, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Petition for certiorari and prohibition, with preliminary injunction to set aside and annul certain orders of the Court of First Instance of Cebu and to enjoin the same from hearing a given case therein. Upon the filing of a P200.00 bond, we issued a writ of preliminary injunction restraining respondent Judge from further proceeding in said case.

It appears that on December 24, 1956, decision was rendered in Civil Case No. 2045 of the Court of First Instance of Leyte sentencing the defendant therei,. Leyte Autobus Co., Inc., to pay to Otilia Bustillo and her minor children, Erlinda Bustillo and Orlando Bustillo represented by Otilia Bustillo as their guardian ad- litem, the sum of P6,352.00. On appeal, said decision was, on July 20, 1959, affirmed by the Court of Appeals. In due course thereafter, the corresponding writ of execution was issued and, purporting to act in pursuance thereof, Joaquin Hacbang and Castor Bardelosa, as provincial sheriff and deputy provincial sheriff, respectively, of Leyte, levied upon a passenger bus, with (International) Fordson Diesel engine and Motor No, S-14175, bearing plate No. 9314, series of 1959. Thereupon, respondent company, Leyte Autobus Co., Inc, filed a third-party claim alleging that it is the owner of said property, not the defendant in said case No. 2045 of Leyte, and that, although bearing the same name as respondent Company, the latter is different from the former. However, on March 3, 1960, the Court of First Instance of Leyte issued an order denying said third-party claim and directing that the sale of said passenger bus be carried out, upon the ground that respondent Company is the very same defendant and judgment debtor in said case No. 2045 of Leyte. Respondent Company moved for a reconsideration of said order, which was denied by the Court of First Instance of Leyte on March 30, 1960.

On March 31, 1960, the date set for the sale at public auction of said passenger bus, respondent Company instituted Civil Case No. R-6542 of the Court of First Instance of Cebu, against Hacbang and Bardelosa as provincial sheriff and deputy provincial sheriff, respectively, of Leyte. In the complaint therein filed, respondent Company reproduced substantially the allegations of its third-party claim in case No. 2045 of Leyte, and prayed that a writ of preliminary injunction be issued restraining said officials from proceeding with the sale of the aforementioned passenger bus, and that, after the trial, the injunction be made permanent, that respondent Company be declared the absolute owner of said passenger bus and that the defendants therein be sentenced to pay damages and attorney's fees.

Said case No. R-6542 was assigned to the first branch of the Court of First Instance of Cebu, presided over by respondent Judge, Hon. Clementino V. Diez, who there upon issued said writ of preliminary injunction upon the

filing of a P5,000.00 bond. On April 8, 1960, Hacbang and Bardelosa filed in said case No. R-6542 of Cebu a motion to dismiss the complaint therein and to dissolve said writ of preliminary injunction, upon the ground that the Court of First Instance of Cebu has no authority to restrain the execution of a judgment of the Court of First Instance of Leyte and that said complaint states no cause of action. This motion was denied on May 3, 1960. Hence, on May 13, 1960, Hacbang and Bardelosa filed their answer in said case No. R-6542 of Cebu, reiterating substantially the points raised in their aforementioned motion and alleging as special and affirmative defenses that in attaching and levying upon the passenger bus in question they had merely acted in compliance with a writ of execution issued by the Court of First Instance of Leyte in said case No. 2045 thereof; that said passenger bus belongs to and is registered in the name of the Leyte Autobus Co., Inc., the defendant in said case No. 2045 of Leyte; and that in scheduling the auction sale of said passenger bus on March 31, 1960, they had, likewise, acted in compliance with an order of the Court of First Instance of Leyte, dated March 3, 1960, dismissing respondent Company's third-party claim and ruling "that the oft repeated passenger bus belongs to the Leyte Autobus Co., Inc., defendant in Civil Case No. 2045," as well as directing that said auction sale be effected.

Thereafter, or on January 5, 1961, Hacbang and Bardelosa, in their official capacities, as well as the aforementioned Bustillos, commenced in this Court the present action for certiorari and prohibition, with preliminary injunction, against the Leyte Autobus Co., Inc., and the Hon. Clementino V. Diez, as Judge of the Court of First Instance of Cebu, alleging that the latter had no jurisdiction to entertain the complaint in said case No. R-6542 of Cebu and to restrain by writ of preliminary injunction the execution of the judgment in case No. 2045 of Leyte. Petitioners herein prayed, therefore, that a writ of preliminary injunction be issued restraining respondent Judge "from hearing, acting or proceeding with Civil Case No. R-6542;" that the writ of preliminary injunction therein issued, as well as the order of respondent Judge, dated May 3, 1960, denying the motion to dismiss the complaint in said case and to dissolve said writ of preliminary injunction be set aside; that all proceedings in said case No. R-6542 be declared null and void; and that a writ of prohibition restraining perpetually respondent Judge or whoever shall preside the First Branch of the Court of First Instance of Cebu "from hearing, acting or proceeding with the said Civil Case No. R-6542."

In due course, respondent Company filed its answer alleging that it is the owner of the aforementioned passenger bus; that said Company is different from the defendant and judgment debtor in case No. 2045 of Leyte, the former having come into existence in September, 1957, or after the rendition of judgment in said case No. 2045; and that petitioners Hacbang and Bardelosa have not sought a reconsideration of the orders of respondent Judge against which they complain.

Upon the other hand, petitioner herein insist that respondent Company is the same defendant and judgment debtor in case No. 2045 of Leyte, for sometime in January 1953, Mr. and Mrs. F. Chavez and the Heirs of Eugenio Perez sold a number of passenger trucks operating in the Province of Leyte, under a franchise duly approved and issued by the Public Service Commission, including accessories and equipment, as well as three (3) parcels of land with the improvements thereon, for the sum of P125,000.00, to Matias Aznar and Anunciacion Barcenilla-Aznar, under the firm name and style of Leyte Autobus Co., Inc.; that on January 29, 1953, the latter started its operation, with principal office at Ormoc City and home office at Cebu City; that on September 28, 1954, Matias Aznar, Jose Aznar, Jose Enad, Rosario Barcenilla and Lydia Aznar, as incorporators of the Leyte Autobus Co. Inc., filed its Articles of Incorporation with the Security and Exchange Commission; that said Articles of Incorporation were revised in August, 1957, so as to include Atty. Ricardo Gabuya as one of the incorporators; and that said Articles of Incorporation, as revised, was approved on September 6, 1957.

It is, however, unnecessary for us to pass upon the question whether respondent Company is the same defendant and judgment debtor in case No. 2045, apart from the fact that this is not the proper proceeding therefor. Suffice it

to say, insofar as the main issue in the present case is concerned, that respondent Judge has clearly acted without or in excess of his jurisdiction in issuing the writ of preliminary injunction complained of. In the case of *National Power Corporation vs. Hon. Jesus de Veyra*, G. R. No. L-15763 (December 22, 1961), this Court, speaking through Chief Justice Benzon, said:

"The question raised whether or not property which has been levied upon in a garnishment proceeding by one court, may be subject to the jurisdiction of another court (where the property is found) in an independent suit impugning the legality of said garnishment the property garnished allegedly being exempt from execution.

"The garnishment of property to satisfy a writ of execution operates as an attachment and fastens upon the property a lien by which the property is brought under the jurisdiction of the court issuing the writ.[1] It is brought into custodia legis, under the sole control of such court. Property is in the custody of the court when it has been seized by an officer either under a writ of attachment on mesne process or under a writ of execution.[2] A court which has control of such property, exercises exclusive jurisdiction over same.[3] No court, except one having a supervisory control or superior jurisdiction in the premises, has a right to interfere with and change that possession.[4]

"We have followed and applied this principle of procedure. Thereby conflict of power is avoided between different courts of coordinate jurisdiction. We have invariably held that no court has authority to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction.[5]

"The property involved in Civil Case No. 866, is property in custodia legis of the Court of First Instance of Manila, it having been garnished to satisfy a writ of execution duly issued by the said court. Respondent Baguio court should not have interfered with the Manila court's jurisdiction by issuing the writ of preliminary injunction and assuming cognizance of the complaint presented before it.

"The reason advanced by the respondent court of Baguio City that it should grant relief when "there is apparently an illegal service of the writ (the property garnished being allegedly exempt from execution) may not be upheld, there being a better procedure to follow, i.e. a resort to the Manila court, wherein the remedy may be obtained, it being the court under whose authority the illegal levy had been made. Needless to say, an effective ordering of legal relationships in civil society is possible only when each court is granted exclusive jurisdiction over the property brought to it. To allow coordinate courts to interfere with each other's judgments or decrees by injunctions, would obviously lead to confusion and might seriously hinder the proper administration of justice.[6]

* * * * *

Indeed, "it is settled by an overwhelming weight of authority that no court has power to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction having equal power to grant the relief sought by injunction. * * *(*Cabigao vs. Del Rosario*, 44 Phil., 182).

Moreover, the Court of First Instance of Cebu has no authority to restrain the performance of certain acts outside the Province of Cebu. As we held in *Acosta vs. Alvendia*, 109 Phil., 1017 (October 31, 1960):

"* * * the jurisdiction or authority of courts of first instance to control or restrain acts by means of the writ of injunction is limited to acts which are being committed or about to be committed within the territorial boundaries of their respective provinces and districts."

This view was reiterated in *Central Bank vs. Cajigal*, G.R. No. L-19278 (December 29, 1962).

This does not mean that respondent Company may not vindicate its claim of ownership to the aforementioned passenger bus before the proper court, for such right is expressly reserved by section 15 of Rule 39 of the Rules of

Court to the third-party claimant. Hence, the Court of First Instance of Cebu may entertain the complaint in case No. R-6542, insofar as the respondent Company's claim of ownership and damages is concerned, regardless of the merits thereof. But this is one thing, and another thing is to restrain compliance with the order of the Court of First Instance of Leyte, dated March 3, 1960, directing the sale of the passenger bus in question. In this connection, it should be noted that, when it takes place, "such sale," in the language of section 22 of said Rule 39, "conveys to the purchaser all the rights which the debtor had in such property on the day of the execution or attachment was levied." In other words, the sale would not affect the rights of respondent Company, if it were not the defendant or judgment debtor in case No. 2045.

WHEREFORE, the writ of preliminary injunction issued by respondent Judge in said case No. R-6542 of Cebu is set aside and annulled, and, insofar as said writ is concerned, the writ of preliminary injunction issued by this Court on January 12, 1961, is hereby made permanent, with the costs against respondent Company.

IT IS SO ORDERED.

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

[1] 5 Am. Jur. 88.

[2] 14 Am. Jur. 438.

[3] 21 Corpus Juris Secundum 755.

[4] 14 Am. Jur. 446.

[5] Lacuna, at al. vs. Ofilada, L-13548, September 30, 1959; Manuel Araneta & Jose

[6] Lacuna et al., supra.

L. Yu vs. Common Ins. Co. 103 Phil., 522, citing the early cases of Cabigao & Izquierdo vs. Del Rosario and Lim, 44 Phil., 182; Agustin P. Montesa, et al. vs. Manila Cordage Co., 92 Phil., 25; Taciana Ongsingco, Guardian of Francisco de Borja vs. Hon. Bienvenido Tan, et al., 97 Phil., 330.

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