

NICANOR B. PAGKALINAWAN, SUPERVISING AGENT, NATIONAL BUREAU OF INVESTIGATION, EAST VISAYAN DISTRICT OFFICE, CEBU CITY, PETITIONER, VS. HON. AMADOR E. GOMEZ, IN HIS CAPACITY AS P...

G.R. No. 22585. December 18, 1967

Ponente: FERNANDO, J.

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FERNANDO, J.:

This decision deals with the specific question of whether a court of first instance of one district in a replevin proceeding may ignore a search warrant issued by another court of first instance. In brief, this petition presents this situation: Respondent Judge, the Hon. Amador E. Gomez, acting on a complaint for replevin filed by the other respondent Norberto L. Dayrit directed petitioner, Nicanor B. Pagkalinawan, a supervising agent of the National Bureau of Investigation to turn over to the Sheriff of Cebu city an automobile which was seized under a search warrant issued by the Court of First Instance of Manila, the Hon. Guillermo Santos presiding, as a subject of the offense of theft or as stolen property. Did respondent Judge act in excess of jurisdiction or with grave abuse of discretion?

What happened next after such seizure in accordance with the search warrant issued on February 4, 1964, at Manila was set forth in the petition. Thus: "That on February 7, 1964, respondent Norberto L. Dayrit filed a complaint for Replevin in the Court of First Instance of Cebu, which was docketed as Civil Case No. R-8284 and assigned to Branch II presided by respondent Honorable Judge Amador E. Gomez, against the herein petitioner, Nicanor B. Pagkalinawan, Supervising Agent, National Bureau of Investigation, Cebu City, [and two members of the] Manila Police Department for the recovery of possession of the aforementioned car alleging that it is wrongfully detained by the herein petitioner * * *; that on February 8, 1964, the respondent Judge acting on said complaint issued an order directing the Sheriff of Cebu City or any proper officer of the court, to take the aforementioned car into his custody and said order was implemented by the Clerk of Court by issuing on the same date a writ of replevin; * * * that on same date, February 8, 1964 the petitioner after said writ of replevin was served on him manifested that he could not possibly comply with said order to deliver the aforementioned car to the sheriff because he was holding the same in 'custodia legis' for the Court of First Instance of Manila, Branch II, the court that issued the search warrant under which the said car was seized and held in custody; * * * that on February 12, 1964, the respondent Judge, acting on the 'urgent motion to require defendant Nicanor B. Pagkalinawan, Supervising Agent, National Bureau of Investigation, Cebu City, to explain why he persists in refusing to deliver the car in question to the sheriff', which motion was vigorously opposed during the hearing by the petitioner, issued an order directing the petitioner * * * 'to immediately comply with the order of the court and to turn over to the sheriff the car in question upon receipt of a copy of this order', with the warning that, otherwise, 'this court visits on [him] the full harshness of its coercive power' and under this circumstance the petitioner on the same date, February 12, 1964, was compelled to part with the custody of the said car to the Provincial Sheriff of Cebu who took over the possession of the same and who in turn immediately gave it or turned it over to

respondent Norberto L. Dayrit; * * * that the delivery of the car to the Provincial Sheriff who in turn delivered it to the respondent Norberto L. Dayrit by virtue of the said order of the respondent Judge, would place the petitioner in imminent danger of being declared in Contempt of the Manila Court of First Instance that issued the search warrant because he cannot now comply with the recent order of the said court dated February 10, 1964 regarding the proper disposition of said car; * * * that petitioner on February 14, 1964 filed an 'urgent motion for reconsideration of the order dated February 12, 1964 and setting aside the writ of replevin dated February 8, 1964,' but respondent Judge after hearing on said motion on February 15, 1964, denied the same in its order dated February 20, 1964; * * *." [1]

It was then alleged by petitioner that the aforesaid orders issued by the respondent Judge compelling him to deliver such car to the Sheriff so that it could be turned over to the other respondent, after it was explained that it was being held in custodia legis for the Manila Court of First Instance, having been properly seized in pursuance of a search warrant issued by it, were made without or in excess of its jurisdiction, or with grave abuse of discretion; that said orders moreover would likewise "nullify the purpose and defeat the force and validity of the search warrant issued by the Court of First Instance, a competent court of equal category;" and "would then cause confusion in the enforcement and implementation of lawful orders issued by other courts thereby causing embarrassment in the proper administration of justice; * * *." [2]

The prayer was for respondent Judge being declared as having acted without or in excess of jurisdiction or with grave abuse of discretion in thus proceeding in the replevin action and that pending the final hearing and determination of this petition, an order of preliminary mandatory injunction be issued directing the respondent Judge to order the return of said car to petitioner, desisting and refraining until further orders of this Court from acting on the matter.

On March 18, 1964, this Court issued a resolution ordering respondents to file an answer to the petition and likewise issued a preliminary mandatory injunction without bond as prayed for.

In the answer of respondent Dayrit, there was in effect an admission of the facts as alleged by petitioner. Respondent Dayrit would however impugn the actuations of petitioner, who, it was alleged "instead of protecting the rights of the citizens of this country used the powers of his office in arrogating unto himself the interpretation of the law which only the courts are vested thereof and the alleged contempt charge which petitioner asserts under this paragraph is not only nugatory and illegal but entirely imaginary for the reason that the [search warrant] mentioned in the [Petition] is based on fraud and deceit * * *." [3] The special defenses appearing in the answer further stressed not only the fact of the car that was seized under the search warrant as different from that referred to in the case pending in the Court of First Instance of Manila, but also the fact of respondent being the true and lawful owner thereof. [4] There was thus a denial of the allegations that respondent Judge in issuing the orders complained of, acted in excess of his jurisdiction or with grave abuse of discretion, for the truth of the matter, according to respondent, was that "the car in question is not subject of a criminal case before a Court of First Instance of Manila, more specifically before Hon. Judge Guillermo Santos," who issued the search warrant, or in any other court, respondent Dayrit further stating that he was not an accused "in any case where said car is allegedly stolen property. * * *." [5]

More specifically in so far as the assertion of the jurisdiction of respondent Judge on the suit for replevin affecting the validity of the search warrant issued, it was alleged in the answer "That respondent Dayrit denies the allegations contained in paragraph 10 of the [petition] with respect to the fact that the [orders] of co-respondent Judge Amador E. Gomez would nullify and defeat the force and validity of the [search warrant] for [its] issuance * * * cannot prevent respondent Judge Amador E. Gomez to issue an order of replevin as provided by Section 2, Rule 60 of the Rules of Court; * * *." [6]

Petitioner is entitled to the remedy prayed for; the writ must be granted. It would be to ignore a principle to which this Court has been firmly committed if under the circumstances disclosed, respondent Judge would be sustained. The moment a court of first instance has been informed through the filing of an appropriate pleading that a search warrant has been issued by another court of first instance, it cannot, even if the literal language of the Rules of Court[7] yield a contrary impression which in this case demonstrated the good faith of respondent Judge for acting as he did, require a sheriff or any proper officer of the Court to take the pro-property subject of the replevin action if theretofore it came into the custody of another public officer by virtue of a search warrant. Only the court of first instance that issued such a search warrant may order its release. Any other view would be subversive of a doctrine that has been steadfastly adhered to, the main purpose of which is to assure stability and consistency in judicial actuations and to avoid confusion that may otherwise ensue if courts of coordinate jurisdiction are permitted to interfere with each other's lawful orders.

Only the other day, in *Tuason & Co. v. Hon. Guillermo E. Torres*,^[8] this Court reaffirmed such a principle, when speaking through Justice Bengzon, it held that only the particular branch of the Court of First Instance of Quezon City "can annul its own decision * * *." The opinion continues: "It is settled that the jurisdiction to annul a judgment of a branch of the Court of First Instance belongs solely to the very same branch which rendered the judgment." As aptly stated, any other branch "even if it be in the same judicial district" that would attempt to do so "either exceeds its jurisdiction",^[9] or "acts with grave abuse of discretion amounting to lack of jurisdiction, * * *."^[10] As set forth in the above *Tuason* decision: "In either case, certiorari and prohibition would be proper to prevent the attempting branch of the court from proceeding to nullify a final decision rendered by a co-equal and co-ordinate branch." In this case then, certiorari is likewise an appropriate remedy when respondent Judge disregarded a search warrant issued by another court of first instance.

In *Cabigao v. del Rosario*,^[11] which was a petition to restrain respondent Judge from interfering with execution of a judgment rendered by another court of first instance, this Court, speaking through Justice Ostrand stated: "Firstly, 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 in-junction."

In *Philippine National Bank v. Javellana*,^[12] which was a petition for certiorari, seeking to set aside a writ of preliminary injunction issued by respondent Judge enjoining the Provincial Sheriff from proceeding with the sale of a property attached to satisfy a judgment by another court of first instance, the above doctrine was reiterated, followed with the affirmation that such "ruling in the *Cabigao* case is decisive on the issue before us."

While the instant proceeding does not deal with the annulment of a judgment previously issued, the principle therein announced calls for application here. Otherwise a court of first instance would be allowed to pass on the validity of a search warrant, issued by another court of first instance. This is to preclude an undesirable situation from arising, one, which if, permitted, as above pointed out, would be fraught with undesirable consequences as already indicated, for the bench, no less than for the litigants. To such an eventuality, this Court cannot give its sanction.

Moreover, while not authoritative, this case being one of first impression, the doctrine announced in *Molo v. Yatco*,^[13] which denied an original petition filed with this Court for mandamus is persuasive. There the petitioner alleging that by virtue of a search warrant issued by the Court of First Instance of Rizal for an alleged violation of the Usury Law, certain documents belonging to him were seized and thereafter kept in the possession of the respondent Collector of Internal Revenue, sought their return. This Court did not oblige; mandamus did not lie, as "the one having the legal custody thereof is the Court of First Instance of Rizal which had ordered their seizure and which is the only one authorized by law to return them to their owner." It is worth noting that while

the then Justice Laurel dissented, his opinion being in effect that the remedy should be granted, he admitted that "where property is seized under color of judicial process and brought under the control of the court, [it was] placed beyond the reach of replevin or other independent or plenary remedy, * * *." [14] Again, while the above ruling is not squarely on all fours, still the governing principle does not seem to be in doubt. The remedy for questioning the validity of a search warrant may be sought in the Court of First Instance that issued it, not in the sala of another Judge, and as admitted in the dissenting opinion of Justice Laurel, not through replevin.

WHEREFORE, the writ prayed for is granted, and the mandatory preliminary injunction issued made permanent. With costs against respondent Dayrit.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, and Angeles, JJ., concur.
Ruiz Castro J., in the result.

[1] Pars. 3 to 8, Petition.

[2] Pars. 9 to 11, Petition.

[3] Par. 5, Answer.

[4] Pars. 11, 17, Special Defenses, Answer.

[5] Par. 7, Answer.

[6] Par. 8, Answer.

[7] Section 3 of Rule 60, formerly Section 3 of Rule 62, requires a Judge of the Court of First Instance, upon the filing of an affidavit that the plaintiff is the owner of the property claimed, that it is wrongfully detained by defendant alleging that it has not been taken for a tax assessment or fine pursuant to law or seized in an execution or attachment against the property of the plaintiff and a bond with him or with his clerk, shall issue an order describing the personal property alleged to be wrongfully detained and requiring the Sheriff or any proper officer of the Court forthwith to take such property into his custody.

[8] G.R. No. L-24717, Dec. 4, 1967.

[9] Citing *Cabigao v. del Rosario* (1922) 44 Phil. 182.

[10] Citing *Philippine National Bank v. Javellana*, (1953) 92 Phil. 525.

[11] 44 Phil. 182 (1922).

[12] 92 Phil. 525 (1953).

[13] 63 Phil. 644 (1936).

[14] *Ibid*, at p. 651.

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