

J. M. PO PAUCO, PLAINTIFF, VS. DOLORES SIGUENZA ET AL., DEFENDANTS. WISE & CO., INTERVENOR AND APPELLANT. D E C I S I O N

G.R. No. 29295. October 22, 1928

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

In this case, J. M. Po Pauco obtained final judgment in his favor against Dolores Sigienza and Mariano Aguilar for the sum of P72,278.01, both parties agreeing to deduct therefrom the sum of P13,007.46 which is the net value of the sugar cane belonging to said defendants and attached by the plaintiff and manufactured by the Philippine National Bank, the receiver of the said product. By virtue of said judgment and agreement the court issued a writ of execution for the remaining sum of P59,270.55 on November 19, 1926.

In another civil case before the same court, No. 6416, Wise & Co., Ltd., had on October 18, 1926 obtained judgment against the herein plaintiff J. M. Po Pauco for the sum of P10,572.80 with legal interest thereon, execution of said judgment having been ordered in those proceedings, which has not yet, even partially, been paid.

On October 23, 1927, Wise & Co., Ltd., intervened in this case praying that the Philippine National Bank, the receiver of the said sum of P13,007.46, be ordered to satisfy the judgment in favor of the said petitioner Wise & Co., Ltd., against J. M. Po Pauco, out of the sum deposited with it, Po Pauco's right and interest in the judgment of this case now before us having been preliminarily attached in civil case No. 6416, on August 6, 1926.

Opposition was filed to said petition by the Philippine National Bank alleging that said bank has a preferential right over the surplus of the sale of the sugar delivered to it as receiver, and also that the Hibila Trading Corporation obtained judgment against the said J. M. Po Pauco, in civil case No. 3197 of the Court of First Instance of Occidental Negros, holding that the rights of the Hibila Trading Corporation over the sugar harvest of 1923-1924 and 1924-1925 of the spouses Dolores Sigienza and Mariano Aguilar in the San Agustin Estate, are preferential over those of J. M. Po Pauco and, therefore, the latter is not at all entitled to any of the surplus remaining from the sale of said sugar; and that said Hibila Trading Corporation is an interested party which must be summoned before the motion of Wise & Co., Ltd., can be heard, which corporation must institute an ordinary action to establish whatever right it may have to the surplus of the sugar in question.

The Court of First Instance of Iloilo denied the motion of Wise & Co., Ltd., granting it permission to institute an action against the Philippine National Bank and the Hibila Trading Corporation in order to determine which has the better right to the net proceeds of the sale of said sugar.

Wise & Co., Ltd., appeals from said ruling making several assignments of error.

It should not be forgotten that the sum mentioned is in the custody of a receiver and not of a sheriff. The sheriff is a court officer of a general character who is not appointed for a certain judicial case; the sheriff is an officer who

exercises or can exercise his functions within the limits of his jurisdiction. A receiver, on the other hand, is a special officer, appointed in relation to and within a certain case or action, and whose duties are limited to his sphere of action, and do not extend further than the case in which he was appointed.

For this reason, while the funds in the custody of a sheriff may be within the reach of processes coming from other judicial proceedings, such is not the case with respect to those under the custody of a depositary. From which it follows that those who, as in the present case, have any claim to property or sums in the possession of a receiver, must appear in the same proceeding in which said receiver discharges his duties, and there, by motion or petition, allege and prove their claims.

The order appealed from is reversed and it is ordered that this proceeding be remanded to the court of origin in order that, without the necessity of commencing a new action, the interested parties be given an opportunity to set forth and prove their alleged preferential rights over the sum in controversy.

Without any special pronouncement as to costs. So ordered.

Johnson, Street, Malcolm, Ostrand, and Villa-Real, JJ., concur.

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