

LEVY & BLUM, INC., PLAINTIFF AND APPELLEE, VS. JOSE A. DEL PRADO ET AL., DEFENDANTS. THE YEK TONG LIN FIRE & MARINE INSURANCE CO., LTD., APPELLANT.

G.R. No. 43306. May 26, 1938

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-43306/>

LAUREL, J.:

In civil case No. 42696 entitled Levy & Blum, Inc., plaintiff, vs. Jose A. del Prado et al., defendants, Court of First Instance of Manila, the plaintiff on August 26, 1932 secured a writ of garnishment, notice of which was served by the sheriff of Manila upon the Yek Tong Lin Fire and Marine Insurance Co., Ltd., on whatever right or interest the defendant might have on "el importe de las polizas de seguro contra incendio sobre una finca de los demandados situada en la Calle F. B. Harrison, Pasay, Rizal, I. F." to the extent of P3,800. On October 5, 1932, judgment was rendered in favor of the plaintiff, Levy & Blum, Inc., against the defendants for P3,000 with interest at the rate of 1% per month from November 10, 1932 until paid, plus the penal sum of P600 with interest thereon from August 26, 1932, until paid, and costs.

In civil case No. 5253, Jose A. del Prado (defendant in civil case No. 42696, Court of First Instance of Manila), instituted an action against the Yek Tong Lin Fire and Marine Insurance Co., Ltd. (garnishee in civil case No. 42696 of the Court of First Instance of Manila), for the recovery of the face value of the insurance policy covering house No. 469 F. B. Harrison which was destroyed by fire on August 17, 1932. The record does not show when the action was brought, although it appears that judgment was rendered in favor of the plaintiff therein on February 16, 1933. The defendant appears to have appealed from the decision of the lower court but the Supreme Court in a decision promulgated on March 14, 1934[1], affirmed the decision of the lower court, and with respect to the fact of previous garnishment observed: "The determination of who the money should be paid to can safely be left to the trial court." A writ of execution was issued; in compliance therewith, the aforesaid insurance company, sent the following communication of April 9, 1934 (Exh. E-10 [a]), to the clerk of the Court of First Instance of Rizal, Severo Abellera:

"April 9th, 1934.

"The Clerk of Court

Court of First Instance

Pasig, Rizal

"Sir:

"Re: Case No. 5253 entitled 'Jose del Prado vs. The Yek Tong Lin Fire & Marine Insurance Co., Ltd.'

"We take pleasure in sending you herewith the check of The Yek Tong Lin Fire & Marine Insurance Co., Ltd., defendant in the case above referred to, for deposit.

"This is being done in accordance with the decision handed down by the Supreme Court in this case, promulgated on March 14, 1934 particularly to the second page thereof, where the following reads:

" 'The determination of who the money should be paid to can safely be left to the trial court.'

"Very truly yours,

"DURAN, LIM & TUASON

"By: (Sgd.) MANUEL LIM

'Attorneys for the Yek Tong Lin, etc.'

Notice of delivery of the check was made by the insurance company to the garnishing creditor, Levy & Blum, Inc. (Exh. E-8) whose counsel at once protested and requested the former to suspend the payment of the check (Exhibit E-9). The insurance company complied with the request for suspension of payment of the check (Exhibit 10), and the amount was not collected. Jose A. del Prado, however, filed an ex parte motion praying that the Yek Tong Lin Fire & Marine Insurance Co., Ltd., be adjudged in contempt for having suspended the payment of the check. Meanwhile, Levy & Blum, Inc., filed a motion in civil case No. 6253, praying that the sum deposited with the clerk of court be delivered to it by virtue of previous garnishment. On April 14, 1934, the court resolved the ex parte motion of Jose A. del Prado and ordered the Yek Tong Lin Fire & Marine Insurance Co., Ltd., to convert the deposit into cash under penalty for contempt. With this order, the insurance company complied. On April 21, 1934, the court then entered an order denying the motion of Levy & Blum, Inc., in civil case No. 5253 on the technical ground that the petitioner was not a party to the suit, and ordering the clerk of court, Severo Abellera, to deliver the cash amount deposited with him to Jose A. del Prado. Two hours after this order was signed by the judge of the Court of First Instance of Rizal, the amount of P3,236.95 was delivered to Jose A. del Prado by the clerk of court without notifying either the Yek Tong Lin Fire and Marine Insurance Co., Ltd., or Levy & Blum, Inc.

Having thus failed to secure the amount in civil case No. 5253, Levy & Blum, Inc., the garnishing creditor, brought the instant suit before the Court of First Instance of Manila against Jose A. del Prado, the Yek Tong Lin Fire and Marine Insurance Co., Ltd., and Severo Abellera, clerk of the Court of First Instance of Rizal, alleging, among other things, that the Yek Tong Lin Fire and Marine Insurance Co., Ltd., was negligent in delivering the money in its possession to the clerk of the Court of First Instance of Rizal, in spite of the garnishment, and that as a result it suffered damages in the sum of P3,236.95. The Yek Tong Lin Fire and Marine Insurance Co., Ltd., filed its answer and also a cross complaint against its co-defendant, Severo Abellera, clerk of the Court of First Instance of Rizal, imputing negligence to the latter for the alleged premature delivery of the money in his possession. After hearing and presentation of evidence, the trial court disallowed the cross complaint and entered judgment in favor of the plaintiff Levy & Blum, Inc., and condemning defendant-appellant alone to pay the amount prayed for in the complaint. The motion for reconsideration and new trial was denied by the lower court; exception was taken in due course, and the defendant now appeals by bill of exceptions. He submits an elaborate assignment of errors.

We agree with the trial court that various errors assigned may be reduced to one single proposition, namely, whether or not the garnishee, the Yek Tong Lin Fire and Marine Insurance Co., Ltd., was discharged from all responsibility for having delivered the amount of P3,236.95 to the clerk of Court of First Instance of Rizal under the circumstances related above.

In the case of *National Bank vs. Olutanga Lumber Company* (54 Phil., 346, 353), we held that "where attached properties belonging to the principal debtor are taken out of the hands of a person by legal process, after he had been notified of the order of attachment, said person cannot be made to answer for the properties in a proceeding to carry out said attachment" (citing 28 C. J., par. 362, p. 264). Although in that case the amount which was the object of garnishment was turned over by the garnishee Bank of the Philippines to the Court of First Instance of Manila that had issued the writ of garnishment whereas in the present case the deposit was made with the clerk of the Court of First Instance of Rizal where the credit garnished was the subject-matter of a litigation, there is, in our opinion, no difference in principle for the reason that in both cases the payment or deposit was made by the garnishee in virtue of a legal process. More than this, in the present case the delivery of the money to Jose A. del Prado was precipitated by a threat of punishment for contempt by the Court of First Instance of Rizal if the check was not forthwith converted into cash and delivered by the garnishee to the clerk of court who, in turn, delivered it to Jose A. del Prado by order of the court. The garnishee preferred to abide by the order of the court and it cannot be blamed for that behavior. The doctrine of involuntary novation by the substitution of one creditor for another by the process of garnishment (*Tayabas Land Co. vs. Sharruf*, 41 Phil., 382) and the enumeration in section 432 of the Code of Civil Procedure of the grounds for discharge of the garnishee from liability do not preclude the application of the general principle enunciated and applied by this court in the case of *National Bank vs. Olutanga Lumber Company*, *supra*. It were better that procedural laws are not applied regardless of consequences but construed liberally in order to promote justice and avoid injustice. Upon the facts and under the circumstances of the case, the injustice of requiring the appellant insurance company to pay to the plaintiff-appellee here the amount of P3,236.95 after having satisfied that same amount by order of the Court of First Instance of Rizal in civil case No. 5253 is to us apparent. No collusion or fraud is charged or made out against the garnishee. We are of the opinion, and so hold, that if a judgment is rendered against a garnishee by a court of competent jurisdiction and he is compelled to satisfy the same by execution and incidentally by threat of being punished for contempt, payment by compulsion, under the circumstances, is a valid defense to an action by the creditor or plaintiff-garnisher for the property or debt in respect of which he was charged as garnishee. In such a case, he acts by compulsion of judicial process and is relieved from further responsibility. The rule is founded on equitable considerations although some authorities proceed on the theory that the garnishee should not be placed in any worse position by the garnishment than he occupied as debtor of the principal defendant, nor subjected to any greater liability because of the garnishment.

The discharge, however, of the garnishee in this case does not relieve the defendant-appellee, Jose A. del Prado, from liability to *Levy & Blum, Inc.*, to the extent of the garnishment and the amount received by him from the garnishee. Having improperly succeeded in defeating the garnishment however attributable to an improvident exercise of judicial discretion, Del Prado should be held accountable for that amount to the garnishing creditor, *Levy & Blum, Inc.*

In view of this result, we do not find it necessary to pass upon the other errors assigned by the appellant.

The decision of the lower court is reversed in so far as it adjudges the appellant liable to the appellee in the amount of P3,236.95 and judgment is hereby rendered against the defendant Jose A. del Prado condemning him to pay to the plaintiff-appellee, *Levy & Blum, Inc.*, the sum of P3,236.95, with costs in both instances against the said defendant Jose A. del Prado. So ordered.

Villa-Real, Abad Santos, Imperial, and Diaz, JJ., concur.

[1] G. R. No. 39808, not published.

DISSENTING

CONCEPCION, J.:

I dissent. The legal question involved herein is whether or not a debtor (the Yek Tong Lin Fire & Marine Insurance Co., Ltd.), after having been duly notified that its debt (the proceeds of an insurance policy) had been garnished in a civil case in Manila by a third person (Levy & Blum, Inc.), which later obtained a judgment for a certain sum of money against the creditor thereof (Jose del Prado), could validly pay to the latter its debt by virtue of another subsequent judgment obtained by said creditor against it in another civil case in another court (Court of First Instance of Rizal), and be relieved from the responsibility arising from the previous garnishment, on the pretext of having made such payment because the Court of First Instance of Rizal had threatened to punish it for contempt if it did not pay the amount of the judgment rendered in favor of Del Prado. This is the question decided affirmatively by the majority with whom I cannot concur, because I understand that, with such decision, the garnishment instituted by our procedural law as one of the means of securing the payment of the garnisher's credit would, in many cases, become a dead letter.

The circumstances of the case are as follows: The judgment obtained by Del Prado in the Court of First Instance of Rizal having been affirmed by this court with the statement that "the determination of who (whom) the money should be paid to can safely be left to the trial court," the Yek Tong Lin Fire & Marine Insurance Co., Ltd., upon which a writ of execution was to be served, issued on April 9, 1934, a check for P3,236.95 (the proceeds of the Insurance) in favor of the clerk of court of Rizal, for deposit, pending determination of the question of who has a preferred right to payment. Upon being informed thereof, Levy & Blum, Inc., through its attorneys, requested the Yek Tong Lin Fire & Marine Insurance Co., Ltd., to suspend payment of the check, and on the 10th of April, 1934, it filed a motion in the Court of First Instance of Rizal, of which Del Prado and the Yek Tong Lin Fire & Marine Insurance Co., Ltd., were notified, praying the court to suspend all payment in connection with this case until said motion is decided, and later to order the special sheriff to turn over the entire amount collected to the petitioner, by virtue of said garnishment. On April 11th, the Yek Tong Lin Fire & Marine Insurance Co., Ltd., notified the bank to suspend payment of the check and in its motion of April 13th, it prayed that its' deposit of the check in question be made of record and that the court decide which of the claimants Levy & Blum, Inc., and Jose del Prado had a better right to the check, Exhibit C, page 49. Theretofore, everything was all right. However, on April 14th, pending decision of the motion of Levy & Blum, Inc., of April 10th and that of the Yek Tong Lin Fire & Marine Insurance Co., Ltd., of April 13th, Exhibit C, page 49, the Court of First Instance of Rizal, upon motion of Del Prado, issued an order addressed to the Yek Tong Lin Fire & Marine Insurance Co., Ltd., requiring it to deliver the proceeds of the check in question in cash to the clerk of said court before 12:00 o'clock a. m. on April 16, 1934, with the warning that if it failed to comply with said order, it would be punished for contempt. Levy & Blum, Inc., was not notified of said order. On said date, April 16, 1934, the Yek Tong Lin Fire & Marine Insurance Co., Ltd., turned over to the clerk of court the sum of P3,245.67 in cash, representing the amount, of, the judgment and the sheriff's fees, without waiting for the decision of its motion of April 13th or that of Levy & Blum, Inc., of April 10th. Later, and only on April 21st, the Court of First Instance of Rizal denied the motion of Levy & Blum, Inc., of April 10th, on the ground that it was not a party to the suit, and ordered the clerk of court to turn over to Del Prado the sum of P3,236.95 which he had in his possession. About two hours after the issuance of said order of April 21st, the clerk of court turned over the sum in question to Del Prado (Record of Exhibits, page 59), without notifying Levy & Blum Inc., of said order, for which reason said corporation, on the 24th of said month, the date on which it was informed of said order, entered its exception thereto and its protest against the

payment made. On the following day, it brought this action to recover from the Yek Tong Lin Fire & Marine Insurance Co., Ltd., the sum of P3,236.95 unduly paid to the other defendant Del Prado.

It will be seen from the foregoing statement of facts that the Yek Tong Lin Fire & Marine Insurance Co., Ltd., converted the check deposited into cash before the court decided, as prayed by it in its motion of April 13th, which of the two claimants Levy & Blum, Inc., and Del Prado had a preferred right to collect the proceeds of the insurance policy, and before the court passed upon the motion of Levy & Blum, Inc., of April 10th, praying the court to suspend all payment in the case until said motion is decided, and to order payment to Levy & Blum, Inc., by virtue of the garnishment duly served upon the Yek Tong Lin Fire & Marine Insurance Co., Ltd. If the Yek Tong Lin Fire & Marine Insurance Co., Ltd., had not turned over to the clerk of court the amount of Del Prado's judgment in cash, the court could not have erroneously ordered payment to Del Prado, and Levy & Blum, Inc., could have resorted to all the legal remedies against the order of April 21st. Its fear that it might have been punished for contempt is unfounded because a judgment for contempt under the circumstances is perfectly appealable, it referring to a constructive contempt, if any. The circumstance that the Yek Tong Lin Fire & Marine Insurance Co., Ltd., turned over the money to the clerk of court as deposit does not relieve it from responsibility on the ground that it did not except to the order of April 14th directing the conversion of the check into cash, or ask for the reconsideration of said order. Neither did it ask the court for permission to turn over the money only as a deposit, and the court was not even informed of such deposit because it was the clerk of court who received the money and issued the receipt (Exhibit 4). It is clear, therefore, that the Yek Tong Lin Fire & Marine Insurance Co., Ltd., was notoriously negligent and acted prematurely in turning over the money to the clerk of court, thereby causing Levy & Blum, Inc., to be cheated out of its rights and preventing it from appealing from the order of April 21st.

The majority state that to compel the Yek Tong Lin Fire & Marine Insurance Co., Ltd., to make another payment, this time to Levy & Blum, Inc., would be an apparent injustice, and for the sake of equity it should not be so ordered. So, for the sake of equity Levy & Blum, Inc., must suffer the consequences of the negligence, carelessness and improvidence of the Yek Tong Lin Fire & Marine Insurance Co., Ltd., even if the garnishment obtained by Levy & Blum, Inc., were to be trampled upon and Del Prado's subsequent writ of execution substituted in place of the previous garnishment. This is contrary to all principles of justice and equity.

To absolve the Yek Tong Lin Fire & Marine Insurance Co., Ltd., the majority would apply to this case the doctrine laid down by this court in the case of *National Bank vs. Olutanga Lumber Company* (54 Phil., 346, 353), and although they admit that in said case the amount which was the object of garnishment was turned over by the garnishee Bank of the Philippine Islands to the Court of First Instance that had issued the writ of garnishment, whereas in the present case the deposit was made with the clerk of the Court of First Instance of Rizal who did not issue the garnishment, nevertheless, they claim that there is no difference in principle for the reason that in both cases payment or deposit was made by the garnishee in virtue of a legal process. I am of the opinion that there is no legal process in this case, taking into consideration the fact that the Yek Tong Lin Fire & Marine Insurance Co., Ltd., deposited the money with the clerk of court before the court decided,—which it never did,—the question which this court had left under its authority, and pending decision of the motion of Levy & Blum, Inc., and that of the Yek Tong Lin Fire & Marine Insurance Co., Ltd., of April 13th.

The fact that the court denied the motion of Levy & Blum, Inc., in its order of April 21st, on the ground that it was not a party to the case, is not a decision to the effect that Levy & Blum, Inc., was not entitled to collect its credit by virtue of its garnishment, but that it has no personality in the case tried in Rizal. The denial of the motion left the question of who had preference to collect the proceeds of the insurance policy garnished by Levy & Blum, Inc., still open. Therefore, the Yek Tong Lin Fire & Marine Insurance Co., Ltd., could not be compelled to pay or

even to deposit the proceeds of the insurance policy in question and by its negligence in prematurely turning over the money to the clerk of court of Rizal, it has voluntarily run the risk of now having to pay the credit of Levy & Blum, Inc., which it was ordered to do by the Court of First Instance of Manila, the judgment of which should, in my opinion, be affirmed.

"Even though such payment is made by the garnishee to the principal debtor by reason of an execution directed against the garnishee, the latter has no defense; the garnishee's remedy is to ask for a stay of execution in the action brought by the principal debtor." (12 R. C. L., 852.) (Underscoring, mine.)

"The garnishee is regarded by the law somewhat in the light of trustee, and is bound to protect, by legal and appropriate steps, the rights of all parties to the goods or credits attached in his hands; and if, after notice, though execution may have been awarded against him, he shall satisfy the judgment, it will be in his own wrong, and constitutes no valid defense to the claim * * *." (Oldham vs. Ledhelter, 1 How. Miss. R., 47, cited in the case of Hardy vs. Hunt, 11 Cal., 343, 350.) (Underscoring mine.)

I am, therefore, of the opinion that the appealed judgment should be affirmed.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.