

LOURDES MARIANO, PETITIONER, VS. COURT OF APPEALS, AND DANIEL SANCHEZ, RESPONDENTS.

G.R. No. 51283. June 07, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

The proceedings at bar concern (1) an attempt by a married man to prevent execution against conjugal property of a judgment rendered against his wife, for obligations incurred by the latter while engaged in a business that had admittedly redounded to the benefit of the family, and (2) the interference by a court with the proceedings on execution of a co-equal or coordinate court. Both acts being prescribed by law, correction is called for and will hereby be effected.

The proceedings originated from a suit filed by Esther Sanchez against Lourdes Mariano in the Court of First Instance at Caloocan City,¹ for recovery of the value of ladies' ready made dresses allegedly purchased by and delivered to the latter.²

A writ of preliminary attachment issued at Esther Sanchez' instance, upon a bond posted by Veritas Insurance Company in the amount of P11,000.00, and resulted in the seizure of Lourdes Mariano's property worth P15,000.00 or so.³ Her motion for the discharge of the attachment having been denied,¹ Lourdes Mariano went up to the Court of Appeals on certiorari. That Court ordered² the Trial Court to receive evidence on whether or not the attachment had been improvidently or irregularly issued.³ The Trial Court did so, came to the conclusion that the attachment had indeed been improperly issued, and consequently dissolved it.⁴

Trial then ensued upon the issues arising from the complaint as well as Lourdes Mariano's answer with counterclaim -- which included a claim for damages resulting from wrongful attachment. Thereafter judgment was rendered in favor of defendant Lourdes Mariano and against plaintiff Esther Sanchez containing the following dispositions, to wit:⁵

1. On the complaint, defendant is ordered to pay unto the plaintiff for the value of the dishonored check (Exhs. G-1, H and I) in the total amount of P1,512.00.
2. On the counterclaim, the plaintiff is ordered to pay unto defendant the following, as follows:
 - a. P7,500.00 for loss of income of the defendant for 75 days;
 - b. P16,000.00 for the value of attached goods;
 - c. P25,000.00 for moral and exemplary damages;
 - d. P5,000.00 as attorney's fees plus costs of suit.

The Veritas Insurance Company which issued the attachment bond is ordered to pay unto the defendant the full insurance coverage of P11,000.00 to answer for the total liability of the plaintiff thereof.

Esther Sanchez sought to perfect an appeal by filing a notice of appeal, an appeal bond and a record on appeal.⁶

Pending approval of the record on appeal, Lourdes Mariano filed a motion for the immediate execution of the judgment which the Court granted.⁷ In virtue of the writ of execution which afterwards issued in due course, the sheriff garnished the sum of P11,000.00 from Veritas Insurance Company, and levied on real and personal property belonging to the conjugal partnership of Esther Sanchez and her husband, Daniel Sanchez. Esther Sanchez then filed a petition for certiorari with the Court of Appeals, praying for the annulment of the execution pending appeal authorized by the Trial Court; but her petition was adjudged to be without merit and was accordingly dismissed.¹

Daniel Sanchez, Esther's husband, now made his move. He filed a complaint for annulment of the execution in the Court of First Instance at Quezon City in his capacity as administrator of the conjugal partnership.² He alleged that the conjugal assets could not validly be made to answer for obligations exclusively contracted by his wife, and that, moreover, some of the personal property levied on, such as household appliances and utensils necessarily used in the conjugal dwelling, were exempt from execution. He also applied for a preliminary injunction pending adjudication of the case on the merits.³

The Quezon City Court issued an order setting the matter of the injunction for hearing, and commanding the sheriff, in the meantime, to desist from proceeding with the auction sale of the property subject of Daniel Sanchez' claim.⁴ Lourdes Mariano filed a motion to dismiss the action; this, the Court denied.⁵ She then instituted a special civil action of certiorari in the Court of Appeals,⁶ where she initially enjoyed some measure of success: her petition was given due course, and the Quezon City Court was restrained by the Appellate Court's Seventh Division⁷ from further proceeding with the case.⁸ Eventually, however, the Eighth Division⁹ came to the conclusion that there was no merit in her cause and dismissed her petition.¹⁰ It ruled that the Quezon City Court had not interfered with the execution process of the Caloocan Court because Daniel Sanchez's action in the former court raised an issue -- the validity of the sheriff's levy on the conjugal partnership assets of the Sanchez Spouses -- different from those adjudicated in the Caloocan Court, and Sanchez was not a party to the case tried by the latter.

From this verdict Lourdes Mariano has appealed to this Court, contending that the Appellate Court committed reversible error -

- 1) in ruling that the conjugal partnership of Daniel and Esther Sanchez could not be made liable for Esther's judgment obligation arising from the spouses' joint business with Lourdes Mariano;
- 2) in ruling that the Quezon City Court of First Instance had not interfered with the execution process of the Caloocan Court of First Instance; and
- 3) when its Eighth Division decided the petition of Lourdes Mariano although the case had been raffled to the Seventh Division and the latter had in fact given due course to the petition.

1. There is no dispute about the fact that Esther Sanchez was engaged in business not only without objection on the part of her husband, Daniel, but in truth with his consent and approval.¹ It is also established that, as expressly acknowledged by Esther herself and never denied by Daniel, the profits from the business had been used to meet, in part at least, expenses for the support of her family, i.e., the schooling of the children, food and other household expenses.² Under the circumstances, Lourdes Mariano's action against Esther Sanchez was justified, the litigation being "incidental to the ** business in which she is engaged,"³ and consequently, the conjugal partnership of Daniel and Esther Sanchez was liable for the debts and obligations contracted by Esther in her business since the income derived therefrom, having been used to defray some of the expenses for the maintenance of the family and the education of the children, had redounded to the benefit of the partnership.⁴ It was therefore error for the Court

of Appeals to have ruled otherwise.

2. It was also error for the Court of Appeals to have held that there was no interference by the Quezon City Court of First Instance with the execution process of the Caloocan Court.

The rule, one of great importance in the administration of justice, is that a Court of First Instance has no power to restrain by means of injunction the execution of a judgment or decree of another judge of concurrent or coordinate jurisdiction.⁵ But this is precisely what was done by the Quezon City Court of First Instance: It enjoined the execution of a judgment authorized and directed by a co-equal and coordinate court, the Caloocan City Court of First Instance. It did so on the claim of Daniel Sanchez that the property being levied on belonged to the conjugal partnership and could not be made liable for the wife's obligations.

The question that arises is whether such a claim -- that property levied on in execution of a judgment is not property of the judgment debtor, Daniel Sanchez's wife, but of the conjugal partnership of the Sanchez Spouses -- is properly cognizable by a Court other than that which rendered judgment adversely to the wife.

To be sure, Section 17, Rule 39 of the Rules of Court, authorizes a "third person," i.e., "any other person than the judgment debtor or his agent," to vindicate "his claim to the property by any proper action." The section reads as follows:¹

SEC. 17. Proceedings where property claimed by third person. - If property levied on be claimed by any other person than the judgment debtor or his agent, and such person make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serve the same upon the officer making the levy, and a copy thereof upon the judgment creditor, the officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnify the officer against such claim by a bond in a sum not greater than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution.

The officer is not liable for damages, for the taking or keeping of the property, to any third-party claimant, unless a claim is made by the latter and unless an action for damages is brought by him against the officer within one hundred twenty (120) days from the date of the filing of the bond. But nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property by any proper action.

* * *

The "proper action" referred to in the section "is and should be an entirely separate and distinct action from that in which execution has issued, if instituted by a stranger to the latter suit;"² and in "such separate action, the court may issue a writ of preliminary injunction against the sheriff enjoining him from proceeding with the execution sale."¹ "Upon the other hand, if the claim of impropriety on the part of the sheriff in the execution proceedings is made by a party to the action, not a stranger thereto, any relief therefrom may be applied for with, and obtained from, only the executing court; and this is true even if a new party has been impleaded in the suit."²

In the case at bar, the husband of the judgment debtor cannot be deemed a "stranger" to the case prosecuted and adjudged against his wife. A strikingly similar situation was presented in a case decided by this Court as early as 1976, *Rejuso v. Estipona*.³ There, the sheriff tried to evict petitioner Rejuso and his family from their house and lot which had been sold in execution of a money judgment rendered by the Court of First Instance of Davao against Rejuso. What Rejuso did was to institute, together with his wife, Felisa, a separate suit in the same court against the sheriff and the judgment creditor, Estipona, for the purpose of annulling the levy, execution sale, and writ of possession issued in the first action in respect of their residential house and lot, on the theory that that property was conjugal in character and "hence, not subject to such proceedings considering that Felisa was not a party to the previous case." The action was however dismissed by the court on the ground that it had "no

jurisdiction over the subject matter of the action or the nature of the action and of the relief sought."⁴ The dismissal was had on motion of Estipona who argued that the court had no jurisdiction to "vacate or annul and/or enjoin the enforcement of the processes issued by another branch in another case," and since Rejuso had already raised the same issues in the first case, without success, he should not be allowed to "get from another branch ** what he failed to get ** (from) Branch I." This Court affirmed that judgment of dismissal,⁵ holding that Rejuso's action was barred by res adjudicata; and "(a)s regards Felisa Rejuso, who is a new party in Civil Case No. 5102" (the second action) it was ruled that --

** her remedy, if it has not yet been barred by the statute of limitations or become stale in some other way, is within Civil Case No. 4435 (the first suit). Indeed, it is superfluous to start a new action on a matter which can be more simply and conveniently litigated within a former proceeding of which it is more logically and legally an integral part. (*Ipekjian Merchandising Co., Inc. v. CTA*, 8 SCRA 59 [1963].) Actually, the court in which the former proceeding was pending has exclusive jurisdiction thereof (*De Leon vs. Salvador*, 36 SCRA 567), the fact that the two cases are in the same Branch of the same Court of First Instance and presided over by the same Judge notwithstanding. After all, it is simpler and more convenient to observe such practice, which insures also consistency in the resolutions of related questions because they are to be determined in most if not all instances by the same judge."

In any case, whether by intervention in the court issuing the writ, or by separate action, it is unavailing for either Esther Sanchez or her husband, Daniel, to seek preclusion of the enforcement of the writ of possession against their conjugal assets. For it being established, as aforestated, that Esther had engaged in business with her husband's consent, and the income derived therefrom had been expended, in part at least, for the support of her family, the liability of the conjugal assets to respond for the wife's obligations in the premises cannot be disputed.

The petitioner's appeal must therefore be sustained.

However, the petitioner's theory that the Eighth Division of the Appellate Court had improperly taken cognizance of the case which had been raffled to the Seventh Division, must be rejected. It is without foundation, and was evidently made without attempt to ascertain the relevant facts and applicable rules. The case had originally been assigned to Mr. Justice Isidro C. Borromeo for study and report while he was still a member of the Seventh Division. The case was brought by him to the Eighth Division when he was subsequently transferred thereto; and he had ultimately written the opinion for the division after due deliberation with his colleagues. All of this took place in accordance with the Rules of the Court of Appeals.

WHEREFORE, the Decision of the Court of Appeals subject of the petition is REVERSED AND SET ASIDE, and the Regional Trial Court (formerly Court of First Instance) at Quezon City is ORDERED to dismiss Civil Case No. 20415 entitled "Daniel P. Sanchez v. Deputy Sheriff Mariano V. Cachero, et al," with prejudice. Costs against private respondents.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

1 Docketed as Civil Case No. C-3038, assigned to Branch XXXIII

2 Rollo, pp. 92-94

3 *Id.*, p. 98

1 *Id.*, p. 54

2 Ibid.

3 SEC. 13, Rule 57, Rules of Court, authorizes the discharge of a preliminary attachment upon a showing that the same had been improperly or irregularly issued.

4 Rollo, p. 55

5 Id., pp. 88 et seq.

6 Id., p. 56.

7 Ibid.

1 Rollo, pp. 99-106

2 Docketed as Civil Case No. 26415 entitled "Daniel P. Sanchez v. Deputy Sheriff Marino V. Cachero, et al.," and assigned to the sala presided over by Hon. Augusto L. Valencia

3 Rollo, pp. 126-138

4 Id., p. 125

5 Id., pp. 141-152, 155

6 Docketed as CA-G.R. No. SP-08893

7 Messrs. Justices Serrano, Jimenez and Borromeo

8 Id., p. 52, 82

9 Borromeo, J., ponente, with whom concurred Gopengco and Busran, JJ.

10 Id., pp. 87-91

1 SEE ART. 117, Civil Code

2 Rollo, pp. 120-121

3 ART. 113 (8), Civil Code

4 ART. 161 (1) and (5), Civil Code

5 SEE Hacbang v. Diez, 8 SCRA 103 (1963); Paper Industries Corporation of the Philippines v. I.A.C., 151 SCRA 161 (1987); Republic v. Reyes, 155 SCRA 237 (1987); Cabigao v. Rosario, 44 Phil. 182; Araneta & Uy v. Commonwealth Insurance Co., 55 O.G. 431; Ngo Bun Tiong v. Judge Sayo, G.R. No. L-45825, June 30, 1988, citing Cabigao v. del Rosario, supra

1 Emphasis supplied.

2 Ong v. Tating, 149 SCRA 265, 277, italics supplied, citing Bayer Phil. v. Agana, 63 SCRA 355 (in turn citing Manila Herald Publishing, etc. v. Ramos, 88 Phil. 94); Polaris Marketing Corp. v. Plan, 69 SCRA 93; Lorenzana v. Cayetano, 78 SCRA 485; Arabay v. Salvador, 82 SCRA 138; Roque v. C.A., 93 SCRA 540

1 Ong v. Tating, supra, at pp. 278-279

2 Ong v. Tating, supra, at p. 279, italics supplied, citing Rejuso v. Estipona, 72 SCRA 509; National Power Corp. v. De Veyra, 3SCRA 646

3 72 SCRA 509, supra, 511

4 Id., p. 512

5 Id., p. 513, parenthetical insertions, supplied

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