

OSCAR VENTANILLA ENTERPRISES CORPORATION, PETITIONER, VS. HON. ALFREDO M. LAZARO, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BRANCH XXXV; CLERK OF COURT AND DEPUT...

G.R. No. 53856. August 21, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

Petitioner Oscar Ventanilla Enterprises Corporation, in these special civil actions of certiorari and prohibition, seeks to restrain the enforcement against it of the judgment of the Court of First Instance of Manila dated November 14, 1978 in Civil Case No. 107607 entitled "Emperor Films Int'l. (Phils.), Inc. vs. Broadway Theater".

A similar petition was filed in the Court of Appeals by the herein petitioner. It was dismissed because that Court can issue the writs of certiorari and prohibition only in aid of its appellate jurisdiction and there was no more appeal in Civil Case No. 107607. Moreover, as reasoned out by the Court of Appeals, the petitioner, not being a party in Civil Case No. 107607, cannot ask for a review of any order issued in that case (CA-G.R. No. SP-09510-R, April 30, 1980).

It is at once obvious that the complaint in Civil Case No. 107607 is defective because the defendant is not a natural or juridical person. However, that defect was cured by the answer of Ricardo C. Ventanilla, the lessee of the Broadway Theater (who admitted having issued three postdated checks to guarantee his wife's obligation to the plaintiff), and by the compromise agreement dated October 11, 1978 executed between the plaintiff and Ricardo C. Ventanilla, who, in effect, substituted himself for defendant "Broadway Theater".

In that compromise agreement, which is in reality a confession of judgment, Ricardo C. Ventanilla, as defendant, acknowledged that he was obligated to pay Emperor Films Int'l (Phils.), Inc. the sum of P12,662 which he promised to pay in installments. He agreed that, in case he defaulted in the payment of any installment, "execution shall immediately issue".

The lower court rendered judgment in accordance with the compromise agreement. Oscar Ventanilla Enterprises Corporation alleged that the deputy sheriff of Branch XXXV of the Court of First Instance of Manila would enforce against the Broadway Theater the writ of execution issued in Civil Case No. 107607. It claims to be the owner of the Broadway Theater located at Burgos Avenue, Cabanatuan City which it leased to Ricardo C. Ventanilla for a ten-year period starting January 1, 1975 (Annex A).

We hold that Oscar Ventanilla Enterprises Corporation is entitled to the writ of prohibition enjoining the sheriff from levying on the Broadway Theater for the satisfaction of the judgment rendered against Ricardo C. Ventanilla who is a mere lessee of the theater.

This incident would not have arisen if Emperor Films Int'l. (Phils.), Inc. had sued directly Ricardo C. Ventanilla and not "Broadway Theater" and if respondent Judge had perceived the anomaly that the defendant is not a natural

or juridical person and had ordered the substitution of Ricardo C. Ventanilla for "Broadway Theater" as the real party defendant in Civil Case No. 107607.

WHEREFORE, the lower court and the sheriff of Manila are directed to desist from enforcing the judgment in question against the properties of the petitioner in the Broadway Theater at Cabanatuan City. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero,[*] and De Castro,[*] JJ., concur.

[*] Justices Guerrero and De Castro were designated to sit in the Second Division.

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