

## **G-TRACTORS, INC., PETITIONER, VS. HONORABLE COURT OF APPEALS AND LUIS R. NARCISO AND JOSEFINA SALAK NARCISO, RESPONDENTS.**

*G.R. No. 57402, February 28, 1985*

Ponente: CUEVAS, J.

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### **CUEVAS, J.:**

Assailed and challenged in this Petition for Review is the Decision dated April 29, 1977 of the then Court of Appeals in its CA-G.R. No. SP-05920, the dispositive portion of which reads as follows -

"WHEREFORE, the petition is hereby granted. The levy on execution dated February 11, 1976, the sheriff's certificate of sale dated March 25, 1975 and final deed of sale, and the orders of the respondent judge dated April 26, 1976, July 12, 1976 and August 26, 1976, are set aside and declared null and void. The writ of preliminary injunction heretofore in force is made permanent. Costs against private respondent.

SO ORDERED."

Private respondent Luis R. Narciso is a businessman. He is engaged in business as a producer and exporter of Philippine mahogany logs and operates a logging concession at del Gallego, Camarines Sur. He is legally married to the other private respondent Josefina Salak Narciso.

Petitioner G-Tractors, Inc. upon the other hand, is a domestic corporation engaged primarily in the business of leasing heavy equipments such as tractors, bulldozers, and the like.

Sometime in February 26, 1973, private respondent Luis R. Narciso entered into a Contract of Hire of Heavy Equipment with petitioner G-Tractors under the terms of which the latter leased to the former tractors for the purpose of constructing switchroads and hauling felled trees at the jobsite of Narciso's logging concession at del Gallego, Camarines Sur. The contract provided for payment of rental for the use of said tractors.

Luis R. Narciso defaulted in his rental payments. Hence, on August 15, 1974, G-Tractors instituted an action against him to collect the total amount of P155,410.25 with legal interest thereon, representing unpaid rentals for the leased tractors, 25% thereof as liquidated damages, P30,000.00 as and for attorney's fees, and the costs of suit, before the then Court of First Instance of Rizal, Quezon City, Branch IX. The case was docketed thereat as Civil Case No. Q-19173.

Luis R. Narciso was declared in default. On his representations, however, G-Tractors accepted his offer for a compromise agreement. A compromise agreement was thereupon signed by G-Tractors and Luis R. Narciso and on the basis thereof, judgment thereon was rendered on October 10, 1974.

The compromise agreement stipulated for payment by Luis R. Narciso of the total claim of G-Tractors on an installment plan. Luis R. Narciso failed to comply and so on November 29, 1974, G-Tractors filed a motion for execution. This was opposed by Luis R. Narciso who asked for the suspension of the issuance of a writ of

execution on the ground that he allegedly has a pending loan with a banking institution. The lower court, finding the allegation without legal basis, denied the request for suspension and ordered the issuance of a writ of execution to enforce the judgment based on the compromise agreement. The writ of execution was issued on February 7, 1975.[1] Levy was accordingly made on February 19, 1975 by the City Sheriff of Quezon City on certain personal properties of private respondents - at their residence at 208 Retiro Street, Quezon City. Auction sale was held on March 1, 1975, and G-Tractors, being the highest bidder, was awarded the sale by the City Sheriff of Quezon City of all the personal properties listed under the levy, for the total amount of P4,090.00.

On March 5, 1975, Luis R. Narciso offered to redeem and/or buy back all the personal properties sold to G-Tractors for the same amount of P4,090.00 which the latter agreed and for which a Deed of Re-conveyance was executed by G-Tractors.

Likewise, on February 12, 1975, the Sheriff of Quezon City made a levy on "all rights, interest, title, participation which the defendant Luis R. Narciso" may have over a parcel of residential land covered by TCT No. 120923 of the Registry of Deeds of Quezon City[2] which parcel of land is allegedly the conjugal property of the spouses Luis R. Narciso and Josefina Salak Narciso.

On February 22, 1975, the Sheriff notified the general public, in his Notice of Sheriff's sale, that on March 25, 1975 he would sell at public auction to the highest bidder for cash "the rights, interest and participation of the aforementioned defendant Luis R. Narciso in the aforesaid real estate property covered by Transfer Certificate of Title No. 120923, together with all the improvements existing thereon" to satisfy the aforementioned writ of execution.[3]

On March 25, 1975, a "Certificate of Sale" was issued to the effect that "on said date (March 25, 1975) by virtue of the writ of execution issued by the Honorable Ulpiano Sarmiento in Civil Case No. Q-19173, the ex-officio Sheriff of Quezon City sold at public auction to the highest bidder. (plaintiff G-Tractors, Inc.) for P180,000.00 the real estate property covered by TCT No. 120923, Quezon City, and levied upon on February 12, 1975, together with all the improvements thereon." [4] At that time, however, TCT No. 120923 was mortgaged to Mercantile Financing Corporation to guarantee an outstanding unpaid account of Luis R. Narciso and his wife in the amount of P74,327.52.

Soon after the issuance of the aforesaid Certificate of Sale, Luis R. Narciso and G-Tractors, Inc. executed a contract of lease over the aforesaid property whereby the former obligated himself to pay a monthly rental of P1,000.00 and by virtue of the said contract of lease, Luis R. Narciso actually paid to G-Tractors, Inc. the amount of P12,000.00, as rental for one year.

On March 31, 1976, Josefina Salak Narciso and her husband Luis R. Narciso filed a complaint in the same Court of First Instance of Quezon City for "declaration of nullity of levy on execution and auction sale of plaintiff's conjugal property with damages and injunction," docketed as Civil Case No. Q-21267. Among other things, the complaint alleged that whatever transpired in Civil Case No. Q-19173 could be binding only on the husband Luis R. Narciso and could not affect or bind the plaintiff-wife Josefina Salak Narciso who was not a party to that case; that the nature of the Sheriff's sale clearly stated that only the property of the husband may be sold to satisfy the money judgment against him; that the conjugal property of the plaintiffs-spouses could not be made liable for the satisfaction of the judgment in Civil Case No. Q-19173 considering that the subject matter of said case was never used for the benefit of the conjugal partnership or of the family; and that the levy of the wife's share in the conjugal property to satisfy the money judgment against her husband is null and void.[5]

On April 5, 1976, the President of G-Tractors, Inc. executed an affidavit of consolidation of ownership and on the next day, April 6, 1976, the sheriff issued a Sheriff's, Final Deed of Sale.[6]

On April 12, 1976, G-Tractors, Inc. filed in Civil Case No. Q-19173, a "Motion for Entry and Issuance of New Torrens Certificate of Title" asking the Court to direct the Register of Deeds of Quezon City to cancel TCT No. 120923 and to allow the entry and issuance of a new torrens title in the name of G-Tractors, Inc.

On April 22, 1976, Luis R. Narciso filed an opposition to the aforesaid motion calling attention to the fact that he and his wife had filed a complaint which was docketed as Civil Case No. Q-21267 and pointing out that the Sheriff's final deed of sale and affidavit of consolidation of ownership would have no effect should the levy on execution and the subsequent auction sale of the conjugal property be nullified.[7]

Civil Case No. Q-21267 was subsequently transferred to Branch IX of the same Court of First Instance which tried Civil Case No. Q-19173.

On April 26, 1976, Judge Sarmiento issued an Order cancelling TCT No. 120923 and directing the Register of Deeds of Quezon City to issue in lieu thereof a new title in the name of G-Tractors, Inc.[8]

Luis R. Narciso moved to reconsider the aforesaid order of April 26, 1976. This was followed by a motion filed by the Narciso spouses for a preliminary injunction in Civil Case No. Q-21267. Meanwhile, immediately after receiving a copy of the order of April 26, 1976, G-Tractors, Inc. caused the cancellation of TCT No. 120923 and the issuance of TCT No. 218552 in its name.

On May 21, 1976, the lower court enjoined G-Tractors, Inc. from transferring, conveying or in any manner alienating the property covered by TCT No. 218552 until the motion for reconsideration of the order of April 26, 1976 has been resolved.

On July 12, 1976, two (2) orders were issued by the lower court, one denying the motion for reconsideration and the other denying the motion for preliminary injunction. A motion to reconsider the order denying the preliminary injunction was likewise denied.

Hence, on October 2, 1976, the spouses Luis R. Narciso and Josefina Salak Narciso filed before the then Court of Appeals, a petition for certiorari with Preliminary Injunction, docketed in the said court as CA-G.R. No. SP-05920, seeking -

A - To annul, set aside and declare null and void the following:

(1)

Levy on execution dated February 11, 1975;

(2)

Sheriff's Certificate of Sale dated March 25, 1975;

(3)

Sheriff's Final Deed of Sale dated April 6, 1976;

(4)

Order of respondent Judge dated April 26, 1976;

(5)

Orders of the respondent Judge both dated July 12, 1976; and

(6)

Order of the respondent Judge dated August 26, 1976.

B -

To restrain and enjoin the respondent from further giving force and effect to the levy and sale on execution and to the disputed orders; the private respondent G-Tractors, Inc. from alienating the Lot covered by TCT No. 218552 and from dispossessing the petitioners of said Lot and the house standing thereon; the respondent Judge from further proceeding in Civil Case Nos. Q-19173 and Q-21267; and

C -

To direct the Register of Deeds of Quezon City to cancel TCT No. 218552 in the name of G-Tractors, Inc. and to issue a new one in the name of petitioners-spouses.

On April 29, 1977, the then Court of Appeals rendered its now assailed Decision, annulling the levy on execution dated February 11, 1975, the sheriff's certificate of sale dated March 25, 1975, as well as the sheriff's final deed of sale; and the Orders dated April 26, July 12 and August 26, 1976.

G-Tractors, Inc.'s motion for reconsideration having been denied, the instant petition for Review on Certiorari was filed before this Court, petitioner contending that respondent Court of Appeals erred -

"1. In holding that a levy on a residential land does not include the residential house or any improvement erected and existing thereon;

2. In holding that the judgment debt of private respondent Luis R. Narciso, subject of Civil Case. No. Q-19173, entitled G-Tractors, Inc. vs. Luis R. Narciso", Court of First Instance of Rizal, Quezon City, Branch IX was not the conjugal debt of private respondents-spouses Luis R. Narciso and Josefina Salak Narciso;

3. In not holding that there was laches and delay in the filing by private respondents-spouses of CA-G.R. No. 05920-SP with the respondent Court of Appeals;

4. In granting the writs applied for by private respondents-spouses in CA-G.R. No. 05920, the petition itself not being the proper remedy,"

The crucial issue that poses itself for our resolution in the instant petition is - whether or not the judgment debt of private respondent Luis R. Narciso is a conjugal debt for which the conjugal partnership property can be held answerable.

Article 161 of the New Civil Code provides that the conjugal partnership shall be liable for:

"(1) All the debts and obligations contracted by the husband for the benefit of the conjugal partnership, and

those contracted by the wife, also for the same purpose, in the cases where she may legally bind the partnership."

There is no question that private respondent Luis R. Narciso is engaged in business as a producer and exporter of Philippine mahogany logs. He operates a logging concession at del Gallego, Camarines Sur and holds office right in the conjugal dwelling at 208 Retiro Street, Talayan Village, Quezon City, Metro Manila, where he and his family reside. His account with petitioner G-Tractors, Inc. represents rentals for the use of petitioner's tractors which he leased for the purpose of constructing switchroads and hauling felled trees at the jobsite of the logging concession at del Gallego, Camarines Sur which is not his exclusive property but that of his family. There is no doubt then that his account with the petitioner was brought about in order to enhance the productivity of said logging business, a commercial enterprise for gain which he had the right to embark the conjugal partnership.

This is the finding of the trial court and we find no cogent reason to deviate therefrom. It held:

"Lastly, the contention that the conjugal partnership is not liable because the obligation contracted by the husband is personal in nature is not applicable in this case. The record shows that Luis R. Narciso is a producer and exporter of Philippine mahogany logs and that the bulldozers leased to him was used for the construction of switchroads for logging. It is very clear, therefore, that the obligations were contracted in connection with his legitimate business as a producer and exporter in mahogany logs and certainly benefited the conjugal partnership. Justice J.B.L. Reyes is very liberal in interpreting Art. 161 of the Civil Code when he declared in *Luzon Surety Co., Inc. versus de Garcia* (30 SCRA 118) that the words in said article "all debts and obligations contracted by the husband for the benefit of the conjugal partnership " do not require that actual profit or benefit must accrue to the conjugal partnership from the husband's transaction", but it suffices that the transaction should be one that normally would produce such benefit for the partnership." [9]

In the case of *Cobb-Perez vs. Lantin*, [10] citing the case of *Abella de Diaz vs. Erlanger and Galinger*, [11] and *Javier vs. Osmeña*, [12] this court ruled -

"The aforesaid obligation was contracted in the purchase of leather used in the shoe manufacturing business of the petitioner husband. Said business is an ordinary commercial enterprise for gain, in the pursuit of which Damaso Perez had the right to embark the partnership. It is well settled that the debts contracted by the husband for and in the exercise of the industry or profession by which he contributes to the support of the family cannot be deemed to be his exclusive and private debts." (Underscoring supplied)

The husband is the administrator of the conjugal partnership and as long as he believes he is doing right to his family, he should not be made to suffer and answer alone. [13] So that, if he incurs an indebtedness in the legitimate pursuit of his career or profession or suffers losses in a legitimate business, the conjugal partnership must equally bear the indebtedness and the losses, unless he deliberately acted to the prejudice of his family. Such is the nature of the judgment debt of private respondent Luis R. Narciso to petitioner. Consequently, the conjugal partnership of gains of private respondents Narcisos, must answer for the same. [14] Necessarily, the sale at public auction by the Sheriff of Quezon City of TCT No. 120923 belonging to the conjugal partnership of gains of the private respondents Narcisos in order to satisfy the judgment debt of the private respondent Luis R. Narciso with petitioner, was validly and legally made in accordance with law and not legally assailable as held in the analogous case of *Vda. de Sta. Romana vs. Philippine Commercial and Industrial Bank*, [15] where we laid down the following dictum:

"Petitioner assails the pronouncement by the respondent court that Civil Case No. 13553 is barred by *res judicata* on the principal ground that, not being a party in Civil Case No. 7678, she could not be bound by the judgment rendered in said case and, consequently, the writ of attachment and the consequent writ of execution which levied on Lot No. 1258-F, together with its existing improvements, are null and void insofar as her ONE-HALF (1/2) interest in said properties is concerned.

We find no merit in this contention of the petitioner.

The action filed by private respondent against the petitioner Ramon Sta. Romana was clearly a suit to enforce an obligation of the conjugal partnership. Civil Case No. 7678 arose out of the failure of Ramon Sta. Romana to pay the purchase price of a lot he bought from C.N. Hodges presumably in behalf of the conjugal partnership. Petitioner does not deny the conjugal nature of both Lots Nos. 1258-G and 1258-F. Indeed, she bases her contention on the claim that at least Lot No. 1258-F, together with its improvements existing thereon, constitutes property of the conjugal partnership. It may not be denied, therefore, that the liability incurred by Ramon Sta. Romana is chargeable against the conjugal partnership assets, it being undisputed that the said obligation was contracted by the husband for the benefit of the conjugal partnership. (Art. 161(1), Civil Code)

The non-inclusion of the herein petitioner as a party-defendant in Civil Case No. 7678 is immaterial. There is no rule or law requiring that in a suit against the husband to enforce an obligation, either pertaining to him alone or one chargeable against the conjugal partnership, the defendant husband must be joined by his wife. The contrary rule is prescribed in Sec. 4, Rule 3, of the Rules of Court and Article 113 of the Civil Code, but not the other way around, obviously in recognition of the legal status of the husband as the administrator of the conjugal partnership. (Art. 112, Civil Code) There was, therefore, no need of including the petitioner as a party in Civil Case No. 7678 for the purpose of binding the conjugal partnership properties for the satisfaction of the judgment that could be rendered thereon." (Underscoring supplied)

WHEREFORE, the Decision of the then Court of Appeals sought to be reviewed is hereby REVERSED and SET ASIDE. No pronouncement as to costs.

**SO ORDERED.**

Makasiar, (Chairman), Aquino, Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.

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- [1] Annex "A", page 28, Records.
  - [2] Annex "B", page 29, Records.
  - [3] Annex "C", pages 30-31, Records.
  - [4] Annex "D", page 32, Records.
  - [5] Annex "E", pages 34-38, Records.
  - [6] Annex "F", page 39, Records.
  - [7] Annex "G", pages 41-42, Records.
  - [8] Annex "I", page 52, Records.
  - [9] Order of Aug. 21, 1976, p. 181, Records.

**[10] 23 SCRA 637.**

- [11] 56 Phil. 336.
- [12] 34 Phil. 336.
- [13] Tintigan vs. Tintigan, Sr., 100 SCRA 619.
- [14] Gelano vs. Hon. CA, 103 SCRA 90.

**[15] 118 SCRA 330-339.**

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