

VLASONS ENTERPRISES CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, HON. ALFREDO CRUZ, JR., ET AL., RESPONDENTS.*G.R. No. 61688. October 28, 1987*

Ponente: NARVASA, J.

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In a civil action for the recovery of possession of two (2) pieces of a salvaged bronze propeller of a sunken vessel, instituted in the Manila Court of First Instance[1] by Florencio Sosuan,[2] as buyer thereof, against the seller, Lo Bu, and also against the persons from whom Lo Bu had purchased the propeller, Alfonso Calixto and Ernesto Valenzuela -- and alternatively against Vlasons Enterprises Corporation, -- the presiding Judge, Judge Alfredo Cruz, Jr., issued an Order dated March 22, 1982 granting the motion of Sosuan ".. to Repossess Propeller Pieces" pendente lite upon his posting of a bond in the sum of P82,940.00 representing the uncontroverted value thereof[3] -- this, after Sosuan had rested his case and before the defendants could begin presenting theirs.

Some five months before the filing of the suit, or more precisely on June 21, 1979, those propeller pieces had been seized by METROCOM agents from Florencio Sosuan on the strength of a search warrant issued by another branch of the same Manila Court of First Instance, presided over by Judge Maximo Maceren.[4] The search warrant was issued at the instance of Vlasons Enterprises Corporation (hereafter simply referred to as Vlasons), which claimed to be the owner of the propeller. Vlasons alleged that the propeller was an accessory of an oil tanker (the "MT Feoso Sun") which it had purchased on December 21, 1978 and which had sunk at a point off Limay, Bataan; that some chains and the spare bronze propeller of the vessel had been stolen by a certain Calixto; that the propeller, had been traced to a junk shop of a man named Garcia in Cavite Street, Tondo, Manila, and when discovered, appeared to have been broken into two (2) pieces; and that the propeller pieces had been subsequently sold for P71,000.00 to Kim Hoc Hing Foundry at Jaboneros Street, Binondo, Manila, owned by Florencio Sosuan.

After the METROCOM officers had taken custody of the propeller pieces, they filed with the Office of the Manila City Fiscal a complaint accusing Alfonso Calixto and Ernesto Valenzuela of theft of said propeller.¹ They also filed a second complaint² charging Florencio Sosuan with violation of the Anti-Fencing Law³ for having allegedly purchased the propeller pieces from Lo Bu, a scrap dealer, with knowledge that they were stolen goods. Those complaints were however dismissed by the Fiscal on April 9, 1981, for insufficiency of evidence. The fiscal's action was in due course affirmed by the Minister of Justice on November 17, 1981, who also denied Vlasons' motion for reconsideration on June 16, 1982. A final attempt by Vlasons to overturn those resolutions of dismissal by certiorari petitions presented before this Court failed.⁴

In the meantime, in the civil action to recover possession of the propeller pieces filed by Sosuan, pending before Judge Cruz' Branch, the order mentioned in the opening paragraph of this opinion -- authorizing Sosuan to take possession of the propellers pending action -- was promulgated on March 22, 1982. The Order stressed "the fact

that no criminal action has been filed in Court in connection with the seizure of the propellers-in-question," and accordingly directed -

" ** the Commanding Officer, METROCOM Investigating Unit, Camp Crame, Quezon City, ** to release to the plaintiff (Sosuan) the two (2) pieces of scrap bronze propellers, which the former seized from the latter last June 21, 1979, by virtue of a Search Warrant No. 8578 upon plaintiffs posting a bond in the amount of P82,940.00 to answer for any damages that might be caused the defendants and/or Third Party Defendant and/or Alternative Defendant by reason of the Issuance of this order."

This Order was also challenged by Vlasons in the Court of Appeals on certiorari.⁵ That Court however refused to nullify the order. In its judgment dated July 30, 1982,⁶ it declined to sustain Vlason's theory -- that Judge Cruz had no power to authorize the release of the propeller pieces because these articles were in custodia legis of another Branch of the Court, presided over by Judge Maceren; and that in authorizing the release thereof, Judge Cruz had interfered with the jurisdiction and prerogative of a co-equal court. According to the Court of Appeals, Rule 126 of the Rules of Court does not provide that things seized under a search warrant could be released only by the court issuing the warrant; that the articles were not in fact in the custody of the court but of the authorities at Camp Crame, Quezon City; and no criminal case had been filed in the sala of Judge Maceren involving the articles in question.

Vlasons has come to this Court on appeal by certiorari, to attempt to bring about a reversal of the Appellate Court's verdict.¹ Its appeal was given due course by Resolution dated March 7, 1983.

The proceeding for the seizure of property in virtue of a search warrant does not end with the actual taking of the property by the proper officers and its delivery, usually constructive, to the court. The order for the issuance of the warrant is not a final one and cannot constitute res judicata.² Such an order does not ascertain and adjudicate the permanent status or character of the seized property. By its very nature, it is provisional, interlocutory.³ It is merely the first step in the process to determine the character and title of the property. That determination is done in the criminal action involving the crime or crimes in connection with which the search warrant was issued. Hence, such a criminal action should be prosecuted, or commenced if not yet instituted, and prosecuted. The outcome of the criminal action will dictate the disposition of the seized property. If found to be contraband, i.e., articles the possession of which, without more, constitutes a crime and the repossession of which would subject defendant to criminal penalties and frustrate the express policy against the possession of such objects, they will not be returned, but shall be confiscated in favor of the State or destroyed, as the case may be.⁴ If not contraband, the property shall be returned without undue delay to the person who appears from the evidence to be the owner or rightful possessor, whether or not the property was subject of theft, robbery or other crime.⁵ Should there be conflicting claims of ownership over the property seized under a warrant -- and subsequently shown by the evidence not to be contraband, or otherwise illicit or subject to forfeiture -- the appropriate remedy, it has been held, is the institution of a civil suit by any of the parties concerned or by the Government itself, assuming the role of stakeholder,¹ although there is authority to the effect that a magistrate issuing a search warrant on the ground that property has been stolen has jurisdiction to dispose of the property seized thereunder, even if there be no criminal prosecution for the larceny, where the applicable statute does not require a prosecution as a condition precedent to such disposition,² but that this jurisdiction is an exceptional one.³

In the case at bar, no criminal prosecution was ever instituted in the Maceren Branch of the Manila Court of First Instance with respect to the propeller pieces, subsequent to the issuance by said Branch of a search warrant and the resultant seizure of those articles. Nor could any criminal prosecution ever be expected at any time thereafter since both the fiscal and the Minister of Justice had opined that no crime had been proven to have attended the acquisition by the suspects of the propeller pieces, an opinion which this Court had refused to nullify.

On the other hand, the property could not be permitted to stay in a perpetual state of custodia legis. Not being contraband, and not having been shown to be subject of any crime, it clearly should have been returned, under normal circumstances, to its rightful owner, or at least to the person from whom the property had been seized under the warrant. That return was however precluded by the existence of conflicting claims of title over the property being asserted by two different persons, a conflict that obviously could not be summarily disposed of by the Maceren Branch, but indeed called for a formal judicial inquiry and adjudication, with full opportunity for submission of evidence by the contending parties; i.e., an ordinary civil action.

Now, the record shows that that civil action was indeed commenced by Florencio Sosuan; but as fate would have it, it was raffled to another branch of of the same Manila Court of First Instance, the Cruz Branch, not the Maceren Branch. The first question that arises in view of this development is whether or not the Cruz Branch had jurisdiction over this particular action for the recovery of title to the personal property in question valued at more than twenty thousand pesos; and the answer cannot but be in the affirmative, in the light of the clear provisions of the law.⁴ The Maceren Branch, on the other hand, could not take cognizance of the issue of title for the simple reason that the action regarding that issue had not been raffled to it. The situation would of course have been less complicated had the case had been assigned by raffle to the Maceren Branch. But even had this transpired, the Maceren Branch would still have been obligated to conduct a full-dress trial in order to finally resolve the question of title to the property. It could not make any disposition of the property merely because it had earlier issued a search warrant therefor, or on the basis merely of the evidence adduced in support of the application for the warrant. The fact of the matter is that absent any contemporaneous or subsequent criminal action involving the crime or crimes for which the search warrant had been issued, and specially in the light of the dismissal of the criminal complaints in connection therewith, said search warrant and the proceedings thereon were rendered inconsequential as far as the resolution of the civil action involving the conflicting claims of title to the property was concerned. The question of title would have to be adjudged principally on the basis of the pleadings filed and the evidence adduced in that civil action.

These premises considered, it is therefore immaterial which court takes cognizance of that civil suit, whether it be the court issuing the search warrant or any other. After all, the former performs in this situation the function of no more than a custodian of the property. No peculiar or additional competence to adjudicate the question of title was acquired by it by reason of its having issued a search warrant. No possible inconsistency or contradiction in disposition of the property could in the circumstances possibly arise between it and the court where the civil action is pending, since only the latter could and would render a judgment on the question of title. There is therefore no reason to declare the court which issued the search warrant to be the only branch which should exercise jurisdiction over the suit to resolve conflicting claims of ownership over the seized articles. Nor may any valid reason be cited why, under the peculiar circumstances obtaining in this case, the seizing court may not release the seized articles to the person pronounced by the final judgment in the civil action to be entitled thereto, or even to transfer the custody of the goods to the branch where the action is pending, upon due application, at any time prior to final judgment.

The Court is not unmindful of its earlier ruling in 1967, in *Pagkalinawan v. Gomez*,¹ to the effect that -

" * * . The moment a court of first instance has been informed through the filing of an appropriate pleading that a search warrant has been issued by another court of first instance, it cannot, even if the literal language of the Rules of Court (Section 3, Rule 60) yield a contrary impression which in this case demonstrated the good faith of respondent Judge for acting as he did, require a sheriff or any proper officer of the Court to take the property subject of the replevin action if theretofore it came into custody of another public officer by virtue of a search warrant. Only the court of first instance that issued such a search warrant may order its release. Any other view would be subversive of a doctrine that has been steadfastly adhered to, the main purpose of which is

to assure stability and consistency in judicial actuations and to avoid confusion that may otherwise ensue if courts of coordinate jurisdiction are permitted to interfere with each other's lawful orders.

" * * . The remedy for questioning the validity of a search warrant may be sought in the Court of First Instance that issued it, not in the sala of another Judge, and as admitted in the dissenting opinion of Justice Laurel, not through replevin."¹

At once apparent however is that the situation in Pagkalinawan is quite distinct from that obtaining in the case at bar. In Pagkalinawan, the same property was being seized at the same time by different courts upon different writs: one by search warrant, the other by writ of seizure issued in a replevin action. There was then a palpable and real conflict in jurisdiction. And the Pagkalinawan ruling was laid down precisely to avoid that conflict in jurisdiction. In the instant case, however, since it was fairly certain that no criminal action could possibly ensue subsequent to or in connection with the search warrant, no such conflict in jurisdiction or in the ultimate disposition of the seized property could be expected to arise.

It is therefore this Court's holding that where personalty has been seized under a search warrant, and it appears reasonably definite that the seizure will not be followed by the filing of any criminal action for the prosecution of the offenses in connection with which the warrant was issued, the public prosecutors having pronounced the absence of basis therefor, and there are, moreover, conflicting claims asserted over the seized property, the appropriate remedy is the institution of a ordinary civil action by any interested party, or of a special civil action of interpleader by the Government itself, that action being cognizable not exclusively by the court issuing the search warrant but by any other competent court to which it may be assigned by raffle. In such a case, the seizing court shall transfer custody of the seized articles to the court having jurisdiction of the civil action at any time, upon due application by any interested party. But such a transfer, it must be emphasized, is a matter of comity, founded on pragmatic considerations, not compellable by or resulting from any overriding authority of a writ or process of the court having cognizance of the civil action.

The second question calling for resolution is the validity of the Order of Judge Cruz decreeing the transfer to the plaintiff pendente lite of the possession of the litigated property.

The order is obviously designed to grant a temporary, provisional remedy. But the slightest reflection will immediately make apparent that it is not one of the provisional remedies contemplated and authorized by the Rules of Court. It cannot be characterized and justified as a writ of seizure or delivery under Rule 60 of the Rules of Court. The order was not applied for "before answer", as prescribed by Section 1 of Rule 60. Furthermore, the bond required and filed in connection therewith was not "in double the value of the property", as required in the same cited provision. Neither may the order be categorized and sanctioned as a writ of preliminary attachment, no pretense having been made of the existence of any of the specific grounds therefor set out in Section 1, Rule 57 of the Rules of Court, or as a writ of receivership, in accordance with Rule 59 or of preliminary mandatory injunction under Rule 58. And, of course, any attempt to justify the order as one of support pendente lite under Rule 61 would be facetious. It thus appears that the order cannot be justified by any of the provisions governing provisional remedies in the Rules of Court. It is sui generis, an innominate provisional remedy. If it is to be upheld at all it must be on the general authority of the court to award such relief as may be proper in the premises.

The order is plainly and patently an advance concession or award to the plaintiff of a contingent, alternative relief prayed for in the complaint to be embodied in the final judgment. The relief is sought in the plaintiff's complaint in the following terms:¹

"WHEREFORE, is respectfully prayed that judgment be rendered in favor of plaintiff ordering:

"As against Defendants Lo Bu, Calixto and Valenzuela:

"A. Jointly and severally, to pay plaintiff the sum of P82,940.00 representing the purchase price of the scrap marine propeller ** should it turn out that alternative defendant corporation (Vlasons) is the lawful owner of the said propeller;

"As Against Alternative Defendant Vlasons Enterprises Corp.:

"B. To return to plaintiff at its own expense, the said two broken pieces of a scrap bronze marine four bladed propeller weighing a total of 14,300 kilos, seized at its instance by the PCMETROCOM under Manila CFI Search Warrant No. 8578, should defendants Lo Bu, Calixto and Valenzuela be found to be the true and lawful owners of the propeller above described;

" * * * . "

The order is attempted to be justified by Judge Cruz by the fact "that no criminal action has been filed in Court in connection with the seizure of the propeller-in-question," and by Sosuan by the further fact that no such criminal case "can in the future be filed under the doctrine of res adjudicata arising from the dismissal of the petition in G.R. No. 60875-(76)2 (and hence) the said propeller pieces have never been nor will ever be in custodia legis under the search warrant issued by Judge Maximo Maceren ** ",³ as well as the additional circumstance that "(t)he Court of First Instance (now Regional Trial Court) of Manila is one legal entity composed of several branches, each one acting for and in behalf of the same legal entity. Consequently, while the act of the Honorable Maximo Maceren as the presiding Judge of Branch XVIII in seizing the propeller pieces in question, is the act of this entity, the act of respondent Judge Alfredo V. Cruz, Jr. as the presiding Judge of Branch XXIX, is likewise the act of the same legal entity, the Court of First Instance (RTC) of Manila and being the most recent, it should be construed as the prevailing and latest act of the said Court."¹

The attempt at justification must fail. The petitioner's thesis is untenable. The absence of any criminal prosecution in the Maceren Branch in relation to the propeller has no relevance whatever to the question of whether or not in the civil suit before the Cruz Branch the plaintiff, who claims to be the owner of the propeller, is entitled to its possession pending action as against defendant Vlasons, who also claims to be the owner thereof. Non sequitur. The absence of such a criminal prosecution and consequently of any occasion for the Maceren Court to decide the question of title to the propeller, merely makes necessary the civil suit to precisely resolve that issue. It does not of itself furnish basis for or warrant the transfer of possession from one party to the other in the civil action. The theory that the act of one branch of a court of first instance (regional trial court) may be deemed to be the act of another branch of the same court is, upon its face, absurd. It flies in the teeth of the all too familiar actuality that each branch is a distinct and separate court, exercising jurisdiction over the cases assigned to it to the exclusion of all other branches.

Also patently erroneous is the holding of the Court of Appeals that "(t)he articles seized were under the custody of Camp Crame, at Quezon City, and not in the custody of the Court of First Instance of Manila presided over by Judge Maceren."² The METROCOM officers obtained custody of the propeller in virtue of the search warrant issued by the Maceren Court and were holding possession thereof by that Court's authority. The officers at Camp Crame were not exercising control over the propeller on their own authority, but by virtue of the power of the Court. Their custody of the propeller was obviously and undeniably the custody of the Court. Finally, the lack of any provision in Rule 126 of the Rules of Court ordaining "that the things seized could be released only by the court issuing the search warrant", also adverted to by the Court of Appeals,³ certainly does not negate the indisputable fact that said court does acquire custody and control of the property described in the warrant after its seizure, to the exclusion of any other court; and that that custody and control cannot be interfered with by any other coordinate court or branch of the same court.

Nothing in the record therefore justifies the Order of Judge Cruz transferring possession of the property in controversy to the plaintiff pendente lite. That relief can be awarded only after trial, by final judgment declaring in whom the title to said property rests. What may be done in the meantime, as already above pointed out, is simply the transfer by the Maceren Branch, upon proper application, of custody over the property to the Cruz Branch, there to await the outcome of the suit.

WHEREFORE, the Decision of the Court of Appeals promulgated on July 30, 1982, subject of this appeal, is reversed and set aside, and the Order of the Trial Court dated March 22, 1982 declared null and void. The case shall forthwith be remanded to the corresponding Branch of the Regional Trial Court of Manila for prompt resumption of trial and rendition of final judgment. Costs against private respondents.

Teehankee, C.J., Cruz, Paras*, and Gancayco, JJ., concur.

[1] Docketed as Civil Case No. 127926 and assigned to Branch XXIX, presided over by respondent Judge Alfredo Cruz, Jr.

[2] Doing business under the name and style of "Kin Hing Foundry Shop"

[3] Dated March 22, 1982

[4] Branch XVIII, Judge (now Deputy Judicial Administrator) Maximo Maceren, presiding

1 Docketed as I.S. No. 80-20117

2 Docketed as I.S. No. 80-20118

3 P.D. No. 1612

4 The petitions were docketed as G.R. No. 60875-76, and were dismissed by a minute resolution dated May 9, 1983

5 The special civil action, filed in accordance with Rule 65 of the Rules of Court was docketed as CA-G.R. No. 14168-SP

6 The decision was penned by Justice Porfirio Sison and concurred in by Justices Oscar Victoriano and Jose Colayco

1 In accordance with Rule 45 of the Rules of Court

2 Cruz v. Dinglasan, 83 Phil. 333

3 Marcelo v. de Guzman, 114 SCRA 657

4 See Castro v. Pabalan, 70 SCRA 477; Mata v. Bayona, 128 SCRA 389; Viduya v. Berdiago, 73 SCRA 553 U.S. v. Jeffers, 342 US 48, 96 L Ed 59, 72 S Ct 93; Trupiano v. U.S., 34 US 699, 92 L Ed 1663, 68 S Ct 1229; Silbert v. U.S., 289 F. Supp. 318 [1968]; U.S. v. Melville, 309 F. Supp. 829, 830 [1970]; U.S. v. Jones, 317 F. Supp. 856 [1970]

5 Peo. v. Villasor, 30 SCRA 518, 525; Lawrence v. Mullins, 449 SW 2d 224 [1960]; Peo. v. Kempner, 101 NE 794, 795

1 In Re Wiltron Associated, Ltd., 49 F.R.D. 170, 171 [1970], it being also ruled that jurisdiction of a district court over motion for return of property seized, where based on general supervisory power over federal law enforcement officials rather than upon rule, is discretionary, and will be sparingly exercised. N.B. The action by

the Government would be one of interpleader under Rule 63 of the Rules of Court.

2 Haworth v. Rewell, et al., 71 NW 404, 405

3 Hunsucker v. Plunney, 497 F. 2d 29, 30 [1974]

4 Sec. 19, (8), B.P. Blg. 129, the Judiciary Reorganization Act of 1980

1 21 SCRA 1275

1 At pp. 1279-1280

1 Rollo, pp. 47-48, emphasis supplied

2 See footnote 4 and related text, at page 2, supra

3 Rollo, p. 70

1 Id., pp. 70-71

2 Rollo, p. 23

3 Id.

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