

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. HON. ANTONIO P. SOLANO, PRESIDING JUDGE OF CFI--RIZAL, EMILIO G. MARTINEZ, IN HIS PERSONAL CAPACITY AND AS LEGAL GUARDIAN FO...

G.R. No. 62699. August 30, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

In a complaint for sum of money (Civil Case No. Q-16142-Rizal) filed by herein private respondents against Tiangco, Ignacio and Co., Inc., Rafael Ignacio, Natividad E. Ignacio, Dolores Tanjangco Ignacio, Clemente Tanjangco and Raul Correa in the Court of First Instance of Rizal, Branch XVI, a decision favorable to the private respondents was rendered on 4 September 1974, the dispositive part of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered:

"(a) Ordering defendants, jointly and severally, to pay to the plaintiffs the amount of One Million Two Hundred Thousand Pesos (P1,200,000.00) as the fair market value of the real property owned by plaintiffs, covered by Transfer Certificate of Title No. 20583 - Quezon City, with legal interests from the time of filing of this complaint;

"(b) Ordering defendants, jointly and severally, to pay to the plaintiffs, the amount of Ninety Thousand Pesos (P90,000.00), plus Seven Thousand Five Hundred Pesos (P7,500.00) a month, from November 11, 1969, up to the filing of this complaint, with legal interests, as liquidated damages;

"(c) Ordering defendants, jointly and severally, to pay to the plaintiffs the amount equivalent to fifteen percent (15%) of all the amounts due the plaintiffs, as and by way of attorney's fees, with costs against defendants."[1]

On appeal to the Court of Appeals, the decision was affirmed with modification as to the date of the payment of the sum of Seven Thousand Five Hundred Pesos (P7,500.00) which should, according to the Court of Appeals, start on 11 January 1970 and not on 11 November 1969.[2] The decision of the appellate court was promulgated on 12 May 1980.

The case was elevated to this Court on petitions for review on certiorari, docketed as G.R. No. 54409 and G.R. No. 54441. Both petitions were denied.

The Court of Appeals decision dated 12 May 1980 became final and executory on 8 January 1981 and 5 February 1981, per Entry of Judgment 30 March 1981 and 25 March 1981, respectively. On 25 March 1981 also, private respondents filed with the court a quo a Motion for Issuance of Writ of Execution. The motion was granted; whereupon, a writ of execution, dated 30 June 1981, was issued by the clerk of court, directed to the sheriff, thus -

"WHEREFORE, you are hereby commanded that of the goods and chattels of defendants TIANGCO, IGNACIO & CO., INC., et al., you cause to be made the sum of One Million Two Hundred Thousand Pesos (P1,200,000.00) jointly and severally, as the fair market value of the real property owned by plaintiffs, covered

by Transfer Certificate of Title No. 2058 - Quezon City, with legal interest from the time of the filling of this complaint; the sum of Ninety Thousand Pesos (P90,000.00) jointly and severally, plus Seven Thousand Five Hundred (P7,500.00) a month, from January 11, 1970, up to the filling of this complaint, with legal interest, as liquidated damages; the amount equivalent to fifteen (15%) of all the amounts due the plaintiffs, jointly and severally, as and by way of attorney's fees, plus the costs of the suit; together with your lawful fees for the service of this execution, all in Philippine Currency, which the plaintiffs recovered in the Court of First Instance of Rizal, Branch XVI, Quezon City, on September 4, 1974 against the aforesaid defendants and that you tender the same to said plaintiff aside from your own fees on this execution and likewise return this writ unto this court within sixty (60) days from date of receipt hereof.

"But, if sufficient personal property can-not be found whereof to satisfy this execution and lawful fees thereon, then you are commanded that the land and buildings of defendants, you cause to be made the said sums of money in the manner required by the Rules of Court, and make a return of your proceedings with this writ within sixty (60) days from date of receipt hereof." [3]

There being no sufficient personal properties to fully satisfy the judgment, the Deputy Sheriff, acting pursuant to the writ of execution, filed a Notice of Levy with the Register of Deeds of Pampanga on the properties of Clemente Tanjangco, one of the defendants therein. These properties, covered by Transfer Certificates of Title Nos. 43558-R, 43559-R, 43560-R, 43562-R, 43563-R, 43565-R, 43566-R, 43567-R, 43568-R, 43569-R, 43570-R, 43572-R, 44819-R and 45951-R, all of the Register of Deeds of Pampanga, were however mortgaged with petitioner Development Bank of the Philippines (DBP, for short) to secure repayment of various loan obligations. [4]

In view thereof, the petitioner DBP filed with the court a quo a Motion for the Cancellation of said Notice of Levy on aforesaid real properties. [5] On 7 January 1982, the court denied said motion. [6] The motion for reconsideration was likewise denied on 19 November 1982, the court a quo reasoning thus:

"The notice of levy effected on the properties in question may remain subject to the preferential right of DBP, as mortgagee of said properties. This means that only after the amount due the DBP shall have [sic] been satisfied, may the residue therefrom if any, be applied to the claim or the prevailing party in this case." [7]

Hence, this recourse by DBP.

The only issue raised by this petition is whether or not any security on loans granted by the DBP, under Section 9 (now 19) of Republic Act No. 85, as amended, is exempt from attachment or levy on execution.

Petitioner DBP claims exemption under Commonwealth Act No. 459 creating its predecessor, the Agricultural and Industrial Bank. Section 26 thereof provides:

"SEC. 26. Securities on loans granted by the Agricultural and Industrial Bank shall not be subject to attachment nor can they be included in the property of insolvent persons or institutions, unless all debts and obligations of the debt-or to the Agricultural and Industrial Bank have been previously paid, including accrued interest, collection expenses and other charges."

Private respondents, on the other hand, oppose the claim of petitioner, citing the case of Register of Deeds of Iloilo vs. C. N. Hodges, [8] wherein this Court said:

"x x x. Being a security created to secure a loan not originally obtained from the Agricultural and Industrial Bank, the same does not enjoy the privilege of exemption from subsequent attachment as provided for in Section 26 of Commonwealth Act 459. Republic Act No. 85, which created the Rehabilitation Finance Corporation, successor to the Agricultural and Industrial Bank, does not contain a similar provision with regard to loans obtained from said corporation." [9]

and contend that petitioner, being the successor of the Rehabilitation Finance Corporation, cannot claim a relief not granted to its immediate predecessor.

We grant the petition.

Section 26, Commonwealth Act No. 459 clearly provides for exemption from attachment of securities on loans granted by the Agricultural and Industrial Bank. The purpose for the exemption is to free the property from any other encumbrance to protect the investment of the Government in the aforesaid financial institution.[10]

Republic Act 85 created the Rehabilitation Finance Corporation (RFC) which succeeded the Agricultural and Industrial Bank. Contrary to the claim of private respondents, Republic Act No. 85 contains a provision on exemption from attachment and levy on execution, similar to that contained in Commonwealth Act No. 459. Section 9, Republic Act 85 reads:

"Sec. 9. Transfer of Functions, Assets and Liabilities of the Agricultural and Industrial Bank. - All the powers vested in and the duties conferred upon the Agricultural and Industrial Bank by Commonwealth Act No. 459, as amended, the funds and properties heretofore placed under the administration of the said Agricultural and Industrial Bank by said Act, and all its capital, assets, accounts, contracts and choses in action, are transferred to the Rehabilitation Finance Corporation, which shall exercise said powers and duties in accordance with the provisions of said Act, except as herein otherwise provided, and shall administer, dispose of, handle and execute said funds, properties, capital, assets, accounts, contracts, or agreements and choses in action in the manner the Corporation may determine in the interest of the funds concerned, and the Corporation shall assume all the liabilities of the Agricultural and Industrial Bank as such or as trustee, as the case may be. The total amount of the unimpaired capital of the Agricultural and Industrial Bank shall be credited to the subscription of the Government of the Republic of the Philippines to the capital stock of the Corporation. The Agricultural and Industrial Bank shall stand abolished on the date when the Corporation shall begin its operations."

Under the aforesaid provision, all the powers vested in and the duties conferred upon the Agricultural and Industrial Bank are transferred to the Rehabilitation Finance Corporation, which shall exercise said powers and perform said duties in accordance with the provisions of Commonwealth Act 459. Included implicitly in these powers is the continued exemption from attachment and other encumbrances of properties mortgaged to the Rehabilitation Finance Corporation as security for the payment of loans granted by said institution.

Moreover, Republic Act 2081 converted the Rehabilitation Finance Corporation into the present DBP. The exemption from attachment and encumbrances of properties mortgaged to the RFC, embodied in Republic Act 85, is likewise enjoyed by the petitioner DBP, there being no express or implied repeal of such exemption, provided in Republic Act 2081. In any case, Executive Order No. 81,[11] providing for the 1986 revised charter of the Development Bank of the Philippines, amending Republic Act 2081, expressly provides for such exemption from attachment. Section 14 thereof reads:

"SEC. 14. Exemption from Attachment. - The provisions of any law to the contrary notwithstanding, securities on loans and/or other accommodations granted by the Bank or its predecessors-in-interest shall not be subject to attachment, execution or any other court process, nor shall they be included in the property of insolvent persons or institutions, unless all debts and obligations of the debtor to the Bank and predecessors-in-interest, have been previously paid, including accrued interest, penalties, collection expenses, and other charges subject to the provisions of paragraph (e) of Section 9 of this Chapter."

The aforesaid provision is a reproduction of Section 26, Commonwealth Act 459. The law is, therefore, clear. Securities on loans granted by, or properties mortgaged with, the DBP are exempt from attachment or levy on execution.

The decision in *Hodges, supra*, has no binding effect. In *Development Bank of the Philippines vs. Jimenez*,^[12] the Court said:

"Nothing in Register of Deeds of Iloilo vs. *Hodges*, L-18178, 31 January 1963, 7 SCRA, 149, operates counter to the rulings rendered in *Nepomuceno vs. Rehabilitation Finance Corporation*, *Sumerariz vs. Development Bank of the Philippines*, and *Medina vs. Philippine National Bank*, previously quoted. The sole issue involved in the *Hodges* case was whether a Court of First Instance, sitting as land registration court, could validly act on a petition to cancel entries appearing in a certificate of title if there was a serious opposition to the petition, and We ruled that the court could not do so under Section 112 of Act 496, since controversial matters must be settled in ordinary actions. Any reference in said *Hodges* decision to Section 26 of Commonwealth Act No. 459, or to Section 9 of Republic Act No. 85, was beside the issue raised and, therefore, mere obiter without binding effect."^[13]

The contention of private respondents that petitioner is not entitled to any relief as it was not a party in Civil Case No. Q-16142, is not tenable. According to private respondents, if complete relief is sought, petitioner should have brought a separate and independent action as its claim involves an important legal issue.^[14]

We do not agree. In *Rejuso vs. Estipona*,^[15] the case relied upon by petitioner to support its stand, the Court said:

"Upon the levy by attachment of the pro-property in question by order of the court in Civil Case No. 4435, the said property fell into the custodia legis of that court for the purposes of that civil case only. Any relief against such attachment and the execution and issuance of a writ of possession that ensued subsequently could be disposed of only in that case. x x x.

"As regards Felisa Rejuso who is a new party in Civil Case No. 5102, suffice it to say 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. 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. (*Ipekjdian Merchandising Co. Inc. vs. 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."^[16]

WHEREFORE, the petition is GRANTED. The Register of Deeds of Pampanga is ordered to CANCEL the Notice of Levy on real properties belonging to Clemente Tanjangco covered by TCT Nos. 43558-R, 43559-R, 43560-R, 43562-R, 43563-R, 43565-R, 43566-R, 43567-R, 43568-R, 43569-R, 43570-R, 43572-R, 44819-R and 45951-R, all of the Register of Deeds of Pampanga, and presently mortgaged with petitioner DBP. With costs against private respondents.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Sarmiento, and Regalado, JJ., concur.

[1] Rollo, p. 28

[2] Rollo, p. 29

[3] Rollo, p. 29

[4] Petition, p. 3

[5] Ibid, p 4

[6] Annex A, Rollo, p. 17

[7] Annex B, Rollo, p. 19

[8] 7 SCRA 149, G.R. No. L-18178, January 31, 1963

[9] Ibid, pp. 151-152

[10] 105 Phil. 123, Associated Insurance and Surety Co., Inc. vs. Register of Deeds of Pampanga, G. R. No. L-11932, January 30, 1959

[11] Took effect on 3 December 1986.

[12] 36 SCRA 426, G.R. No. L-28165, December 19, 1970

[13] Ibid, p. 434

[14] Memorandum for Private Respondents, p. 7

[15] 72 SCRA 509, G.R. No. L-27099, August 31, 1976

[16] Ibid, p. 513

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