

TRADERS ROYAL BANK, PETITIONER, VS. THE HON. INTERMEDIATE APPELLATE COURT, HON. JESUS R. DE VEGA, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, THIRD JUDICIAL REGION, BRANCH I...

G.R. No. 66321. October 31, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

The issue posed for resolution in this petition involves the authority of a Regional Trial Court to issue, at the instance of a third-party claimant, an injunction enjoining the sale of property previously levied upon by the sheriff pursuant to a writ of attachment issued by another Regional Trial Court.

The antecedent facts, undisputed by the parties, are set forth in the decision of the respondent Intermediate Appellate Court thus:

"Sometime on March 18, 1983 herein petitioner Traders Royal Bank instituted a suit against the Remco Alcohol Distillery, Inc. (REMCO) before the Regional Trial Court, Branch CX, Pasay City, in Civil Case No. 9894-P, for the recovery of the sum of Two Million Three Hundred Eighty Two Thousand Two Hundred Fifty Eight & 71/100 Pesos (P2,382,258.71) obtaining therein a writ of preliminary attachment directed against the assets and properties of Remco Alcohol Distillery, Inc.

"Pursuant to said writ of attachment issued in Civil Case No. 9894-P, Deputy Sheriff Edilberto Santiago levied among others about 4,600 barrels of aged or rectified alcohol found within the premises of said Remco Distillery Inc. A third party claim was filed with the Deputy Sheriff by herein respondent La Tondeña, Inc. on April 1, 1982 claiming ownership over said attached property (Complaint, p. 17, Rollo).

"On May 12, 1982, private respondent La Tondeña, Inc. filed a complaint-in-intervention in said Civil Case No. 9894, alleging among others, that 'it had made advances to Remco Distillery Inc. which totalled P3M and which remains outstanding as of date' and that the 'attached properties are owned by La Tondeña, Inc.' (Annex '3' to petitioner's Motion to Dismiss dated July 27, 1983 - Annex "C" to the petition).

"Subsequently, private respondent La Tondeña, Inc., without the foregoing complaint-in-intervention having been passed upon by the Regional Trial Court, Branch CX, (Pasay City), filed in Civil Case No. 9894-P a 'Motion to Withdraw' dated October 8, 1983, praying that it be allowed to withdraw alcohol and molasses from the Remco Distillery Plant (Annex 4 to Petitioner's Motion to Dismiss - Annex C, Petition) and which motion was granted per order of the Pasay Court dated January 27, 1983, authorizing respondent La Tondeña, Inc. to withdraw alcohol and molasses from the Remco Distillery Plant at Calumpit, Bulacan (Annex 'I' to Reply to Plaintiff's Opposition dated August 2, 1983 - Annex E to the Petition).

"The foregoing order dated January 27, 1983 was however reconsidered by the Pasay Court by virtue of its order dated February 18, 1983 (Annex A - Petition, p. 15) declaring that the alcohol 'which has not been withdrawn remains in the ownership of defendant Remco Alcohol Distillery Corporation' and which order likewise denied La Tondeña's motion to intervene.

"A motion for reconsideration of the foregoing order of February 18, 1983 was filed by respondent La Tondeña, Inc., on March 8, 1983 reiterating its request for leave to withdraw alcohol from the Remco Distillery Plant, and praying further that the 'portion of the order dated February 18, 1983' declaring Remco to be the owner of subject alcohol, 'be reconsidered and stricken off said order'. This motion has not been resolved (p. 4, Petition) up to July 18, 1983 when a manifestation that it was withdrawing its motion for reconsideration was filed by respondent La Tondeña Inc.

"On July 19, 1983, private respondent La Tondeña Inc. instituted before the Regional Trial Court, Branch IX, Malolos, Bulacan presided over by Respondent Judge, Civil Case No. 7003-M, in which it asserted its claim of ownership over the properties attached in Civil Case No. 9894-P, and like-wise prayed for the issuance of a writ of Preliminary Mandatory and Prohibitory Injunction (Annex B, id.).

"A Motion to Dismiss and/or Opposition to the application for a writ of Preliminary Injunction by herein respondent La Tondeña Inc. was filed by petitioner on July 27, 1983 (Annex C, p. 42, id.)

"This was followed by respondent La Tondeña's opposition to petitioner's Motion to Dismiss on August 1, 1983 (Annex D, p. 67, id.).

"A reply on the part of petitioner was made on the foregoing opposition on August 3, 1983 (p. 92, id.).

"Hearings were held on respondent La Tondeña's application for injunctive relief and on petitioner's motion to dismiss on August 8, 19 & 23, 1983 p. 5, id.)

"Thereafter, the parties filed their respective memoranda (Annex F, p. 104; Annex G, p. 113, Rollo).

"Subsequently, the questioned order dated September 28, 1983 was issued by the respondent Judge declaring respondent La Tondeña Inc. to be the owner of the disputed alcohol, and granting the latter's application for injunctive relief (Annex H-1, id.).

"On October 6, 1983, respondent Sheriff Victorino Evangelista issued on Edilberto A. Santiago Deputy Sheriff of Pasay City the corresponding writ of preliminary injunction (Annex N, p. 127, id.).

"This was followed by an order issued by the Pasay Court dated October 14, 1983 in Civil Case 9894-P requiring Deputy Sheriff Edilberto A. Santiago to enforce the writ of preliminary attachment previously issued by said court, by preventing respondent sheriff and respondent La Tondeña, Inc. from withdrawing or removing the disputed alcohol from the Remco ageing warehouse at Calumpit, Bulacan, and requiring the aforementioned respondents to explain and show cause why they should not be cited for contempt for withdrawing or removing said attached alcohol belonging to Remco, from the latter's ageing warehouse at Calumpit, Bulacan (Annex F, p. 141, Petition)."

Thereafter, petitioner Traders Royal Bank filed with the Intermediate Appellate Court a petition for certiorari and prohibition, with application for a writ of preliminary injunction, to annul and set aside the Order dated September 28, 1983 of the respondent Regional Trial Court of Malolos, Bulacan, Branch IX, issued in Civil Case No. 7003-M; to dissolve the writ of preliminary injunction dated October 6, 1983 issued pursuant to said order; to prohibit respondent Judge from taking cognizance of and assuming jurisdiction over Civil Case No. 7003-M; and to compel private respondent La Tondeña, Inc., and Ex-Oficio Provincial Sheriff of Bulacan to return the disputed alcohol to their original location at Remco's ageing warehouse at Calumpit, Bulacan.

In its decision, the Intermediate Appellate Court dismissed the petition for lack of legal and factual basis, holding that the respondent Judge did not abuse his discretion in issuing the Order of September 28, 1983 and the writ of preliminary injunction dated October 3, 1983, citing the decision in *Detective and Protective Bureau vs. Cloribel* (26 SCRA 255). Petitioner moved for reconsideration, but the respondent court denied the same in its resolution dated February 2, 1984.

Hence, this petition.

Petitioner contends that respondent Judge of the Regional Trial Court of Bulacan acted with-out jurisdiction in entertaining Civil Case No. 7003-M, in authorizing the issuance of a writ of preliminary mandatory and prohibitory injunction, which enjoined the sheriff of Pasay City from interfering with La Tondeña's right to enter and with-draw the barrels of alcohol and molasses from Remco's ageing warehouse and from conducting the sale thereof, said merchandise having been previously levied upon pursuant to the attachment writ issued by the Regional Trial Court of Pasay City in Civil Case No. 9894-P. It is submitted that such order of the Bulacan Court constitutes undue and illegal interference with the exercise by the Pasay Court of its coordinate and co--equal authority on matters properly brought before it.

We find the petition devoid of merit.

There is no question that the action filed by private respondent La Tondeña, Inc., as third-party claimant, before the Regional Trial Court of Bulacan in Civil Case No. 7003-M wherein it claimed ownership over the property levied upon by Pasay City Deputy Sheriff Edilberto Santiago is sanctioned by Sec-tion 14, Rule 57 of the Rules of Court. Thus -

"If property taken be claimed by any person other than the party against whom attachment had been issued or his agent, and such person makes an affida-vit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves such affidavit upon the officer while the latter has possession of the property, and a copy thereof upon the attaching creditor, the officer shall not be bound to keep the property under the attachment, unless the attaching creditor or his agent, on demand of said officer, se-cures him against such claim by a bond in a sum not greater than the value of the property attached. In case of dis-agreement as to such value, the same shall be decided by the court issuing the writ of attachment. The officer shall not be liable for damages, for the taking or keeping of such property, to any such third-party claimant, unless such a claim is so made and the action upon the bond brought within one hundred and twenty (120) days from the date of the filing of said bond. But nothing herein contained shall prevent such third person from vindicating his claim to the property by proper action. x x x."

The foregoing rule explicitly sets forth the remedy that may be availed of by a person who claims to be the owner of property levied upon by attach-ment, viz: to lodge a third-party claim with the sheriff, and if the attaching creditor posts an indemnity bond in favor of the sheriff, to file a se-parate and independent action to vindicate his claim (Abiera vs. Court of Appeals, 45 SCRA 314). And this precisely was the remedy resorted to by private res-pondent La Tondeña when it filed the vindicatory action before the Bulacan Court.

The case before us does not really present an issue of first impression. In Manila Herald Publishing Co., Inc. vs. Ramos,[1] this Court resolved a similar question in this wise:

"The objection that at once suggests itself to entertaining in Case No. 12263 the motion to discharge the preliminary attachment levied in Case No. 11531 is that by so doing one judge would interfere with another judge's actuations. The objection is superficial and will not bear analysis.

"It has been seen that a separate action by the third party who claims to be the owner of the property attached is appropriate. If this is so, it must be admitted that the judge trying such action may render judgment ordering the sheriff of whoever has in possession the attached property to deliver it to the plaintiff-claimant or desist from seizing it. It follows further that the court may make an interlocutory order, upon the filing of such bond as may be necessary, to release the property pending final adjudication of the title. Jurisdiction over an action in-cludes jurisdiction over an interlocutory matter incidental to the cause and deemed necessary to preserve the subject matter of the suit or protect the parties' interests. This is self-evident.

"x x x

"It is true of course that property in custody of the law can not be interfered without the permission of the proper court, and property legally attached is property in custodia legis. But for the reason just stated, this rule is confined to cases where the property belongs to the defendant or one in which the defendant has proprietary interest. When the sheriff acting beyond the bounds of his office seizes a stranger's property, the rule does not apply and interference with his custody is not interference with another court's order of attachment.

"It may be argued that the third-party claim may be unfounded; but so may it be meritorious, for that matter. Speculations are however beside the point. The title is the very issue in the case for the recovery of property or the dissolution of the attachment, and pending final decision, the court may enter any interlocutory order calculated to preserve the property in litigation and protect the parties' rights and interests."

Generally, the rule that no court has the power to interfere by injunction with the judgments or decrees of a concurrent or coordinate jurisdiction having equal power to grant the injunctive relief sought by injunction, is applied in cases where no third-party claimant is involved, in order to prevent one court from nullifying the judgment or process of another court of the same rank or category, a power which devolves upon the proper appellate court.[2] The purpose of the rule is to avoid conflict of power between different courts of coordinate jurisdiction and to bring about a harmonious and smooth functioning of their proceedings.

It is further argued that since private respondent La Tondeña, Inc., had voluntarily submitted itself to the jurisdiction of the Pasay Court by filing a motion to intervene in Civil Case No. 9894-P, the denial or dismissal thereof constitutes a bar to the present action filed before the Bulacan Court.

We cannot sustain the petitioner's view. Suffice it to state that intervention as a means of protecting the third-party claimant's right in an attachment proceeding is not exclusive but cumulative and supplementary to the right to bring an independent suit.[3] The denial or dismissal of a third-party claim to property levied upon cannot operate to bar a subsequent independent action by the claimant to establish his right to the property even if he failed to appeal from the order denying his original third-party claim.[4]

WHEREFORE, the instant petition is hereby dismissed and the decision of the Intermediate Appellate Court in AC-G.R. No. SP-01860 is affirmed, with costs against petitioner Traders Royal Bank.

SO ORDERED.

Aquino, Concepcion, Jr., Guerrero, and Cuevas, JJ., concur.

Makasiar (Chairman), and Abad Santos, JJ., reserve their votes.

[1] 88 Phil. 94

[2] *Arabay, Inc. v. Salvador*, 82 SCRA 138

[3] *Manila-Herald Publishing Co., Inc. v. Ramos*, supra; *Zulueta, et al. v. Muñoz, et al.*, 17 SCRA 979; *Bayer Phil., Inc. v. Agana*, 63 SCRA 365.

[4] *Potenciano v. Dineros*, 97 Phil. 196, 200.

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