

JOSE TIPAIT, SUBSTITUTED BY JOEL S. TIPAIT, MONTANO S. TIPAIT, JOSE S. TIPAIT, HELEN S. TIPAIT, EVELYN S. TIPAIT AND BEATRIZ S. TIPAIT, PETITIONERS, VS. HON. JUAN Y. REYES, REGI...

G.R. No. 70174. February 09, 1993

Ponente: MELO, J.

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MELO, J.:

This refers to a petition for certiorari to annul all orders issued by respondent judge in Civil Case No. R-20975 of the then Court of First Instance (now Regional Trial Court) of Cebu. On March 27, 1985, this Court issued a resolution considering the spouses Angel C. Veloso and Milagros Escano Veloso impleaded as respondents (p. 45, Rollo).

The record reveals the following antecedent facts:

On October 7, 1976, laborers Faustino Garbo, Certerio Garbo, Arcenio Alum, Genaro Requizo, Expedito Armenteros, William Campana, and Ramos Faura filed a complaint (p. 12, Rollo), docketed a TFU Case No. 536 of the Regional Office No. VII of the Department of Labor, Cebu City, for illegal dismissal or reinstatement with back wages, living allowance, and overtime pay against M.E. Veloso Enterprises and/or Milagros Escano Veloso and/or Angel Veloso.

On October 20, 1976, Regional Director Francisco Armado issued an order (Annex E, Petition, pp. 13-14, Rollo) against private respondents and M.E. Veloso Enterprises to reinstate complainants and remunerate them overtime-pay and emergency allowance.

Private respondents and M.E. Veloso Enterprises filed a motion for reconsideration (Annex F, Petition, pp. 15-18, Rollo) of the order of October 20, 1976. On December 6, 1976, the Regional Director issued an order (Annex G, Petition, p. 19, Rollo) setting aside the order of October 20, 1976 and reopening the case for the reception additional evidence.

After the parties had submitted their evidence, the Regional Director issued an order dated February 3, 1977 (Annex H, Petition, pp. 20-22, Rollo) reiterating his previous order directing respondents therein to reinstate the complainants and to pay them overtime pay and emergency allowance. Respondents appealed to the Minister of Labor. On October 18, 1979, the Minister of Labor rendered a decision (Annex C, Petition, pp. 9-11, Rollo) dismissing the appeal. Private respondents filed a motion for reconsideration which was denied by the Minister of Labor in an order dated July 1, 1981. A second motion for reconsideration was filed by private respondents and said second motion for reconsideration was denied by the Deputy Minister, by authority of the Minister, in an order dated January 25, 1985 (Annex 3, Private Respondents' Comment, p. 71, Rollo). In said order the Deputy Minister directed the issuance of a writ of execution.

Private respondents appealed to the Office of the President. On August 12, 1985, Presidential Assistant for Legal Affairs Manuel Lazaro, by authority of the President, issued an order denying the appeal (p. 108, Rollo).

In the meantime, on August 18, 1981, the Office of the Minister of Labor remanded the record of the case to the Regional Director for execution and/or appropriate action (Answer of Regional Director, Annex J of Petition, p. 34, Rollo). On September 18, 1981, the Regional Director issued a writ of execution (Annex B, Petition, p. 8, Rollo) and a notice of auction sale was issued by the Provincial Sheriff involving 4 parcels of land with improvements (Annex 6, Respondents' Comment, pp. 74-75, Rollo). At the auction sale, the highest bidder was petitioner herein who paid the amount of P100,000.00 to the Deputy Sheriff and the latter issued a certificate of sale dated December 19, 1981 (Annex A, Respondents' Comment, pp. 83-84, Rollo).

On September 28, 1981, private respondents filed a complaint docketed as Civil Case No. R-20975 of the Court of First Instance of Cebu (Annex I of Petition, pp. 23-30, Rollo) for prohibition, praying that the Provincial Sheriff or his deputies be restrained from enforcing or implementing the writ of execution issued in TFU Case No. 536 and that said writ of execution be annulled. On June 11, 1982, respondent judge issued an order (Annex A of Petition, pp. 6-7, Rollo) nullifying the public auction sale and the Certificate of Sale.

Hence, petitioner (now substituted by his heirs, Resolution of March 8, 1989, p. 171, Rollo) filed the present petition, contending that respondent court has no jurisdiction over Civil Case No. R-20975.

The petition is impressed with merit.

It is readily apparent that respondent court has no jurisdiction over Civil Case No. R-20975 whose subject-matter is an incident of a labor case. Actually, said civil case is in the nature of a motion to quash the writ of execution issued in TFU Case No. 536, a labor case over which the Regional Director of the Department of Labor has original and exclusive jurisdiction (Article 217, Labor Code of the Philippines, as amended, Policy Instructions No. 6 of the Minister of Labor). This Court in a similar case held:

"A perusal of the petition for damages and prohibition filed by Saulog Transit, Inc. in the lower court reveals that basically, what was being questioned was the legality or propriety of the alias writ of execution dated March 1, 1985, as well as the acts performed by the Ministry officials in implementing the same. In other words, the petition was actually in the nature of a motion to quash the writ; and with respect to, the acts of the Ministry officials, a case growing out of a labor dispute, as the acts complained of, were perpetrated during the execution of a decision of the then Minister of Labor and Employment. However characterized, jurisdiction over the petition pertains to the Labor Ministry, now Department and not the regular courts. This conclusion is evident, not only from the provisions of Article 224 [b] of the Labor Code, but also of Article 218, as amended by Batas Pambansa Blg. 227 in connection with Article 255 of the same Code." (Pucan vs. Bengzon, 155 SCRA 692, 699 [1987]).

The proper remedy that private respondents should have taken, instead of instituting Civil Case No. R-20975, was to file the necessary petition or motion before the Secretary of Labor who has the power and authority to take any measure under existing laws to ensure compliance with the decisions, orders and awards of the Department of Labor. Despite the finality of the decision of the Regional Director, the Secretary of Labor retains control over its execution and implementation (Pucan vs. Bengzon, *supra*).

WHEREFORE, respondent court is hereby ordered to DISMISS Civil Case No. R-20975 for lack of jurisdiction and all orders previously issued therein are hereby ANNULLED and SET ASIDE.

Costs against private respondents.

SO ORDERED.

Bidin and Romero, JJ., concur.

Gutierrez, Jr., J., (Chairman), on leave.

Davide, Jr., J., no part.

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