

**PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES,
PETITIONER, VS. THE HONORABLE INTERMEDIATE APPELLATE
COURT, THE HONORABLE ROQUE A. TAMAYO, PRESIDING JUDGE,
REGIONAL TRIAL COURT...**

G.R. No. 71365. June 18, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The main issue in the instant petition is whether or not being a co-ordinate and co-equal court, Branch 132 of the Regional Trial Court of Makati, has the power to restrain, through the issuance of a restraining order, the execution of the judgment of Branch 145 of the same court.

On October 20, 1983, petitioner Paper Industries Corporation of the Philippines obtained a favorable judgment against private respondent Vicmar Development Corporation in Civil Case No. 3963 before the Regional Trial Court of Makati, Branch 145 (or the Madayag court) in the sum of Three Million Four Hundred Sixty-Two Thousand and Four Hundred Seventy Pesos and Seventy-Five centavos (P3,462,470.75), accrued interests in the amount of One Hundred Fifty-Seven Thousand and Ninety Pesos and Eighty-Two Centavos (P157,091.82) and One Hundred Thousand Pesos (P100,000.00) as attorney's fees. The private respondent paid the principal amount but did not pay the interest charges and the attorney's fees, claiming there was an agreement that these were waived.

On June 6, 1984, a writ of execution was issued for the unpaid P257,091.82 since the Madayag court agreed with the petitioner that there was no agreement to waive the amount.

On June 13, 1984, the sheriff levied on the machineries and equipment of the private respondent worth One Million, Six Hundred Thousand Pesos (P1,600,000.00) and real properties worth no less than Three Hundred Thirty Thousand Pesos (P330,000.00).

On October 14, 1984, the sheriff again levied on the logs of the private respondent worth more than Two Million, Two Hundred Ninety Five Thousand Pesos (P2,295,000.00), which logs were subsequently bought by the petitioner at an auction sale and later sold to Union Plywood Corporation.

Thus on December 14, 1984, the private respondent filed Civil Case No. 9301 to nullify the sheriff's proceedings with prayer for a writ of preliminary injunction against the petitioner and the sheriff before Branch 132 (or the Tamayo court) of the same court. On February 2, 1985, this complaint was amended describing it as an action for damages with prayer for a writ of preliminary injunction.

On December 19, 1984, the Tamayo court issued a restraining order addressed to the sheriff to cease and desist from further taking possession of and/or disposing of the logs.

On December 20, 1984, the petitioner filed a motion before the Madayag court for the issuance of an alias writ of

execution in Civil Case No. 3963 which motion was granted in an order dated January 2, 1985.

On the other hand, the private respondent obtained another restraining order in Civil Case No. 9301 before the Tamayo court in an order dated January 7, 1985.

On January 18, 1985, the petitioner filed a motion to dismiss Civil Case No. 9301 before Branch 132 or the Tamayo court on the ground that the court had no jurisdiction over the subject matter of the action. This motion to dismiss was denied in an order dated February 20, 1985.

This order of denial was later affirmed by the respondent Intermediate Appellate Court in a decision dated May 20, 1985 and in a resolution dated July 9, 1985.

In affirming the questioned orders of the Tamayo court, the appellate court ruled that Civil Case No. 9301 for damages with prayer for writ of preliminary injunction before Branch 132 of the Regional Trial Court of Makati (Tamayo court) is separate and different from Civil Case No. 3963 before Branch 145 of the same court (Madayag court) in that the cause of action in the former is predicated on the failure of private respondent to ship its quota of 5,000 cubic meters of logs thereby resulting in petitioner's losses and damages. This resulted from the enforcement of the June 6, 1984 writ of execution on October 14, 1984 when the sheriff levied on the logs of the private respondent worth more than P2,295,000.00. The court stated that the sheriff's act was made pursuant to a "dead writ", the levy having been effected more than sixty (60) days after the sheriff received a copy of the June 6, 1984 writ of execution.

The court further ruled that since the writ of execution was void, the levy made on the property was also void. Therefore, the Madayag court (Branch 145) never had custody over the property, subject matter of the action. Under this premise, the court stated that it was the Tamayo court which acquired custodial possession over the subject matter of the controversy, when it assumed jurisdiction over the case for damages.

The petitioner objects to these findings of the appellate court. It submits that Civil Case No. 9301, while captioned as one for damages with prayer for writ of preliminary injunction filed before Branch 132 is actually for the purpose of nullifying the proceedings conducted by the deputy sheriff in Civil Case No. 3963 of Branch 145 of the same court, which it alleges cannot be done, otherwise the former would interfere with the orders or final judgment of the latter, which is a co-ordinate or co-equal court.

As stated earlier, the main issue is whether or not, being a co-ordinate and co-equal court, the Regional Trial Court of Makati, Branch 132 or the Tamayo court has jurisdiction over Civil Case No. 9301 with the power to issue a restraining order to stop the execution of the judgment of Branch 145 or the Madayag court.

While it is true that the amended complaint in Civil Case No. 9301 is styled as for "Damages with Prayer for Writs of Preliminary Injunctions", the nature of the action is not necessarily one of damage.

The well-entrenched principle is that the facts alleged in the complaint are determinative of the nature of the action filed in court. (*De Tavera v. Philippine Tuberculosis Society, Inc.*, 112 SCRA 243; *Alger Electric, Inc., v. Court of Appeals*, 135 SCRA 37).

An examination of the facts alleged in the amended complaint for damages with prayer for writs of preliminary injunctions filed before Branch 132 and docketed therein as Civil Case No. 9301 discloses that the nature of the action involves the writ of execution issued by Branch 145 of the same court on June 6, 1984 in connection with Civil Case No. 3963. The complaint questions the validity of the enforcement of the June 6, 1984 writ of execution on October 14, 1984 by Ruben S. Nequinto, deputy sheriff of Branch 145. It alleges that the deputy sheriff had no more authority to enforce the writ on October 14, 1984 because the lifetime of the writ was only

sixty (60) days or up to August 12, 1984. Pursuant to section 11, Rule 39, Rules of Court it had become a dead writ. The private respondent therefore, prayed that the court declare the nullity of the proceedings of Sheriff Ruben S. Nequinto. The damages sought by the private respondent are merely the result of the wrongful implementation of the writ of execution by the deputy sheriff of Branch 145. The private respondent alleged:

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"12. That as a result of the unlawful and illegal enforcement the said Writ of Execution on October 14, 1984, the plaintiff suffered damages amounting to no less than P12,000,000.00 by reason of its failure to ship its quota of 5,000 cubic meters of logs approved by President Marcos and negotiated for shipment to the Sheng Kee Enterprises Co., Ltd., in Hongkong. The 1,700 cubic meters of logs levied by the defendants are part of the 5,000 cubic meters of logs contracted to be shipped in full to the Sheng Kee Enterprises Co., Ltd., in December 1984."(pp. 67-68, Rollo)

All these incidents should be threshed out in Civil Case No. 3963. At the time the Tamayo court assumed jurisdiction of Civil Case No. 9301, the Madayag court was still the process of executing the judgment in Civil Case No. 3963. The record reveals that the amount of P257,091.82 representing the accrued interests and attorney's fees, which formed part of the judgment, remained unpaid by the private respondent. The claim of the private respondent that per verbal agreement, the petitioner waived the payment of accrued interests and attorney's fees is part of the execution proceedings in Civil Case No. 3963. As we ruled in the case of *Seavan Carrier, Inc., v. GTI Sportswear Corporation* (137 SCRA 580):

"The general rule is 'A case in which an execution has been issued is regarded as still pending so that proceedings on the execution are proceedings in the suit. There is no question that the court which rendered the general supervisory control over its process of execution, and this power carries with it the right to determine every question of fact and law which may be involved in the execution.' (Vda. de Paman v. Seneris, 115 SCRA 709). Moreover, it has been stated that it is 'when the judgment has been satisfied that the same passes beyond review, for satisfaction thereof is the last act and end of the proceedings. Payment produces permanent and irrevocable discharge.' (Moran, Comments on the Rules of Court, 1979 ed., Vol. II, p. 405). (at pp. 586-587) (Emphasis supplied).

Moreover, Deputy Sheriff Nequinto who was restrained by the Tamayo court for his acts in levying on the logs belonging to the private respondent under the alleged dead writ of execution was a ministerial officer of the Madayag court in relation to Civil Case No. 3963. As such an officer, the deputy sheriff is under the control and supervision of the Madayag court to the exclusion of the other courts. The Tamayo court never acquired jurisdiction over him. The alleged irregularities in the execution of the judgment brought about by the enforcement of a dead writ of execution must be litigated in the Madayag court which issued the controversial writ of execution. Thus, in the case of *De Leon v. Salvador* (36 SCRA 567), we said:

"The decisive issue at bar is a simple one of jurisdiction; which court, Branch XII presided by Judge Cruz or Branch XIV presided by Judge Salvador has exclusive jurisdiction to set aside for alleged irregularities the execution sale held on February 14, 1967 by virtue of the writ for the execution of the final judgment in the first case (No. C-189) issued by Judge Cruz' court and to order a new auction sale -- which was the relief sought by the judgment debtor in the second case (No. C-1217) in Judge Salvador's court.

"It is patent that such exclusive jurisdiction was vested in Judge Cruz' court. Having acquired jurisdiction over Case No. C-189 and rendered judgment that had become final and executory, it retained jurisdiction over its judgment, to the exclusion of all other co-ordinate courts for its execution and all incidents thereof, and to control, in furtherance of justice, the conduct of its ministerial officers in connection therewith. Execution of its judgment having been carried out by the sheriff with the levy and sale of the judgment debtor's properties, Eusebio Bernabe as judgment debtor could not in the guise of a new and separate second action (Case No.

1217) ask another court of co-ordinate jurisdiction, Judge Salvador's court, to interfere by injunction with the execution proceedings, to set them aside and to order the holding of a new execution sale -- instead of seeking such relief by proper motion and application from Judge Cruz' court which had exclusive jurisdiction over the execution proceedings and the properties sold at the execution sale. (Emphasis supplied).

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"The court similarly ruled in *Hubahib v. Insular Drug Co., Inc.*, (64 Phil., 119 [1937] emphasis supplied.), with reference to Branch II of the Cebu court of first instance having taken cognizance of an independent action for the annulment of a writ of execution issued by Branch III of the same court which has rendered the judgment, that 'the institution of said action was not only improper but also absolutely unjustified, on the ground that the appellant had the remedy of applying to the same Branch III of the lower court, which issued the orders in question, for reconsideration thereof x x x or of appealing from said orders of from that denying his motion in case such order has been issued. The various branches of a Court of First Instance of a province or city, having as they have the same or equal authority and exercising as they do concurrent and coordinate jurisdiction, should not, cannot and are not permitted to interfere with their respective cases, much less with their orders or judgments, by means of injunction.'" (at pp. 572-573) (Emphasis supplied).

Therefore, Branch 132 of the Makati Regional Trial Court clearly interfered with the execution proceedings of Civil Case No. 3963 of Branch 145 of the same court. The Tamayo court abused its discretion in assuming jurisdiction over Civil Case No. 9301 to annul proceedings of deputy sheriff Nequinto by issuing restraining orders to stop the deputy sheriff and the petitioner from enforcing the June 6, 1984 writ of execution issued by the Madayag court in Civil Case No. 3963. It is the Madayag court which should look into the questioned irregularities in the sheriff's proceedings. Considering that the first levy on properties allegedly worth P1,930,000.00 was more than sufficient to answer for the unpaid interests and attorney's fees, why should a subsequent levy on logs still be effected, especially when such levy was made pursuant to a dead writ?

WHEREFORE, the instant petition is hereby GRANTED. The questioned decision is REVERSED and SET ASIDE. Branch 132 of the Makati Regional Trial Court declared without jurisdiction over Civil Case No. 9301, except to DISMISS the same. The temporary restraining order issued on July 29, 1985 is made PERMANENT.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, JJ., concur.

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