

**MICHAEL PEÑALOSA, ET AL. AND SAMAHANG DIWANG
MANGGAGAWA SA RMC-FFW CHAPTER AND ITS MEMBERS,
PETITIONERS, VS. HON. CANDIDO P. VILLANUEVA AND
DEVELOPMENT BANK OF THE PHILIPPINES, ...**

G.R. No. 75305. September 26, 1989

Ponente: REGALADO J.

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REGALADO J.:

This original action for certiorari, prohibition and mandamus being interrelated with Development Bank of the Philippines vs. Hon. Labor Arbiter Ariel Santos, et al.,^[1] recently decided by this Court and involving the same parties, we reproduce the following summary of the facts therein which are equally relevant in the present case:

"On November 29, 1984, in NLRC-NCR Case No. 2517-84 entitled 'Philippine Association of Free Labor Unions (PAFLU-RMC Chapter) and its Members v. Riverside Mills Corporation, et al.', Labor Arbiter Manuel Caday awarded separation pay, wage and/or living allowance increases and 13th month pay to the individual complainants who comprise some of the respondents in this case.

"On March 18, 1985, Labor Arbiter Teodorico Dogelio likewise awarded separation pay, vacation and sick leave pay and unpaid increases in the basic wage and allowances to the other private respondents herein in NLRC Case No. NCR-7-2577-84 entitled 'Michael Peñalosa, Jose Garcia and Apolinar Ray, et al. v. Riverside Mills Corporation, et al., and Samahang Diwang Manggagawa sa RMC-FFW Chapter, et al. v. Riverside Mills Corporation (RMC).' On March 29, 1985, after the judgment had become final and executory, Dogelio issued a writ of execution directing NLRC Deputy Sheriff Juanito Atienza to collect the total sum of Eighty Five Million Nine Hundred Sixty One Thousand Fifty-Eight & 70/100 Pesos (P85,961,058.70). The Deputy Sheriff, however, failed to collect the amount so he levied upon personal and real properties of RMC.

"On April 25, 1985, a notice of levy on execution of certain real properties was annotated on the certificate of title filed with the Register of Deeds of Pasig, Metro Manila, where all the said properties are situated.

"Meanwhile in the other development which led to this case, petitioner DBP obtained a writ of possession on June 7, 1985 from the Regional Trial Court (RTC) of Pasig of all the properties of RMC after having extra-judicially foreclosed the same at public auction earlier in 1983. DBP subsequently leased the said properties to Egret Trading and Manufacturing Corporation, Rosario Textile Mills and General Textile Mills.

"The writ of possession prevented the scheduled auction sale of the RMC properties which were levied upon by the private respondents. As a result, on June 19, 1985, the latter filed an incidental petition with the NLRC to declare their preference over the levied properties. The petition entitled 'PAFLU-RMC Chapter and its members, Michael Peñalosa, et al., and the Samahang Diwang Manggagawa sa RMC-FFW Chapter and its members v. RMC and DBP, et al.', was docketed as NLRC Case No. NCR-7-2577-84. Petitioner DBP filed its position paper and memorandum in answer to the petition.

"On October 31, 1985, Dogelio issued an order recognizing and declaring the respondents' first preference as regards wages and other benefits due them over and above all earlier encumbrances on the aforesaid

properties/assets of said company, particularly those being asserted by respondent Development Bank of the Philippines.

"The petitioner appealed the order of Dogelio to the NLRC. The latter in turn, set aside the order and remanded the case to public respondent Labor Arbiter Santos for further proceedings.

"Meanwhile, another set of complainants (who are also named as respondents herein) filed, on April 7, 1986, a complaint for separation pay, underpayment, damages, etc., entitled 'Jaime Arada, et al. v. RMC, DBP, Egret-Trading and Manufacturing Corp., docketed as NLRC Case NO. NCR-4-1278-86.' This case was subsequently consolidated with the case pending before respondent Santos. Accordingly, the latter conducted several hearings where the parties, particularly DBP, General Textile Mills, Inc., and Rosario Textile Mills, Inc., were given the opportunity to argue their respective theories of the case. Eventually, all the parties agreed that the case shall be submitted for decision after their filing of position papers and/or memorandums.

"On March 31, 1987, public respondent Santos rendered the questioned decision, the dispositive portion of which reads:

'WHEREFORE, it is hereby declared that all the complainants in the above-entitled cases, as former employees of respondent Riverside Mills Corporation, enjoy first preference as regards separation pay, unpaid wages and other benefits due them over and above all earlier encumbrances on all of the assets/properties of RMC specifically those being asserted by respondent DBP.

'As a consequence of the above declaration, the decision dated March 18, 1983 of the then Hon. Arbiter Teodorico Dogelio should be immediately enforced against DBP who is hereby directed to pay all the monetary claims of complainants who were former employees of respondent RMC.

'Anent the Arada case, DBP is hereby directed to pay all the amounts as indicated opposite the names of complainants listed from page 1 to page 5 of Annex 'A' of complainants' complaint provided that their names are not among those listed in the Peñalosa case.

'It is hereby also declared that former employees whose names are not listed in the complainants' position papers but can prove that they were former employees of RMC prior to its bankruptcy, should also be paid the same monetary benefits being granted to herein complainants.

'Finally, DBP is hereby ordered to deposit with the National Labor Relations Commission the proceeds of the sale of the assets of RMC between DBP on one hand and General Textile Mills, Inc. and/or Rosario Textile Mills, Inc., on the other hand, and that future payment being made by the latter to the former should also be deposited with the National Labor Relations Commission for proper disposition.'"

During the pendency of the abovementioned cases, on June 26, 1985 herein private respondent Development Bank of the Philippines (DBP) filed with the Regional Trial Court, Branch CXLIV, Makati, Metro Manila, a complaint for injunction and damages, with preliminary injunction, docketed as Civil Case No. 10945.[2] The defendants impleaded were Michael Peñalosa, Samahang Diwang Manggagawa sa RMC-FFW Chapter, et al. Deputy Sheriff Juanito Atienza and Deputy Sheriff Romeo de la Cruz. The complaint sought to enjoin the therein defendants, their agents or deputies from implementing the writ of execution issued in NLRC Case No. NCR-7-2577-84 and for the return of the properties that Sheriff Atienza had allegedly caused to be taken out from the RMC compound. Private respondent bank also prayed to be declared the rightful owner of the properties involved in the case. On the same date, a temporary restraining order was issued in connection with said case.[3]

On July 5, 1985, an urgent motion to dismiss the complaint and to lift and dissolve the temporary restraining order was filed by petitioners. Said motion was denied by the trial court in its order of June 30, 1986 which, at the same

time approved private respondent's application for writs of preliminary prohibitory and mandatory injunction upon posting of a bond in the amount of P50,000.00. Petitioners were required to file an answer within fifteen days from receipt of the order.[4]

On the part of the petitioners, on April 9, 1986 they filed Civil Case No. 53333 in Branch 158 of the Regional Trial Court at Pasig, Metro Manila, for the nullification of the lease agreement between private respondent and Egret Trading, Inc. which were made defendants therein,[5] which case appears in the records to still be pending.

In the present petition filed on July 31, 1986, a jurisdictional question is raised by the petitioners. It is averred that "(i)n denying petitioner's Motion to dismiss Complaint, lift and dissolve the ex parte restraining Order, and in assuming jurisdiction over the same Complaint, by granting the writs sought by respondent bank and by requiring the petitioners herein to file their Answer to the Complaint, the Honorable Candido P. Villanueva has acted without jurisdiction, in excess of jurisdiction and with grave abuse of discretion." [6] This contention is premised on the claim that the properties involved in the aforesaid case before the trial court are the same properties litigated in the National Labor Relations Commission as NLRC-NCR Case No. 7-2577-84 wherein the resolution of the principal issue of preferential right and/or lawful ownership over said properties was sought. Petitioners contend that the "NLRC having taken jurisdiction over the subject matter of the case, involving as they do similar or identical causes of action with the civil complaint with the RTC, should continue to exercise jurisdiction until the whole dispute is resolved" since to allow both actions to proceed would result in the splitting of a cause of action.[7]

Several months after the filing of the present petition, another petition for certiorari was filed on May 8, 1987 by private respondent DBP, this time questioning the March 31, 1987 decision of Labor Arbiter Ariel Santos, the decretal portion and factual background of which have been earlier set forth.

On March 8, 1989, this Court promulgated its decision, quoted in part at the outset, in said DBP case holding that said labor arbiter "committed grave abuse of discretion in ruling that the private respondents may enforce their first preference in the satisfaction of their claim over those of the petitioner (DBP) in the absence of a declaration of bankruptcy or judicial liquidation of RMC." Consequently, the aforesaid decision of the labor arbiter of March 31, 1987 was annulled and set aside. Nevertheless, it was ruled that there is nothing to prevent the respondents in that case who are petitioners herein, from instituting involuntary insolvency or other appropriate proceedings against their employer RMC where their claims can be asserted with respect to their employer's assets.

With the foregoing final decision in G.R. No. 78261-62, there is no further legal basis or necessity to decide the issue of preferential right claimed by petitioners over the property of Riverside Mills Corporation in NLRC-NCR Case No. 7-2577-84. Furthermore, that very property subject of their aborted claim of first preference is alleged by DBP as no longer owned by said judgment debtor corporation at the time the writ of execution issued by the commission was sought to be enforced, hence said private respondent filed Civil Case No. 10945 seeking, inter alia, a declaration of its ownership thereover.

As found by the Court in G.R. Nos. 78261-62 and hereinbefore quoted, "DBP obtained a writ of possession on June 7, 1985 from the Regional Trial Court (RTC) of Pasig of all the properties of RMC after having extra-judicially foreclosed the same at public auction earlier in 1983." The records of said cases contain a copy of Transfer Certificate of Title No. (50170) 21602 of the Registry of Deeds for Metro Manila (Province of Rizal), consisting of 10,776 square meters, located at Barrio Rosario, Pasig, Rizal, in the name of Riverside Mills Corporation.[8] The following inscription appears on the original of said certificate of title:

"Entry No. 102414/0-346-CERTIFICATE OF SALE in favor of the DEVELOPMENT BANK OF THE PHILIPPINES, covering the parcel of land described, for the sum of P42,486.25 in accordance with Cert. of

Sale issued by the Regional Sheriff of Pasig, Metro Manila, dated Aug. 19, 1983. The date of redemption will expire after one (1) year after the date of registration of this cert. of sale.

Date of the inscription-March 6, 1984 at 10:20 a.m."

The writ of execution in question is mentioned in a much later inscription on said certificate of title as follows:

"Entry No. 5910.0-346 - NOTICE OF LEVY AND EXECUTION affecting whatever rights, interests and participation, of defendant, over the property described herein, issued by Dionisio M. de la Cruz, Actg. Deputy Sheriff, National Labor Relations Commission, NCR, Mla. NLRC Case No. 7-2577-84, entitled Michael Peñalosa, et al. and Samahang Diwang Manggagawa sa RMC-FFW-Complainant vs. Riverside Mills Corporation, Respondent.

Date of the instrument - April 25, 1985

Date of the inscription, April 25, 1985."

If the disputed property did not belong to the judgment debtor in NLRC Case No. 7-2577-84, it could not be validly levied upon by the sheriff for the satisfaction of the judgment therein. We, consequently, reject the objections raised by herein petitioners to the jurisdiction of Branch CXLIV, Makati, Metro Manila, presided over by respondent judge, to entertain the aforesaid Civil Case No. 10945 and to issue the questioned writs of preliminary injunction.

The rule is settled that even if a writ of execution is issued by a co-equal court, and we place the National Labor Relations Commission in the same category for purposes of this case, respondent judge could validly issue the temporary restraining order and, later, the writs of preliminary injunction on the basis of DBP's claim of ownership over the properties levied upon. We have heretofore ruled that -

"Under Sec. 17 of Rule 39 a third person who claims property levied upon on execution may vindicate such claim by action. Obviously, a judgment rendered in his favor, declaring him to be the owner of the property, would not constitute interference with the powers or processes of the court which rendered the judgment to enforce which the execution was levied. If that be so - and it is so because the property being that of a stranger is not subject to levy - then an interlocutory order, such as injunction, upon a claim and prima facie showing of ownership by the claimant, cannot be considered as such interference either."[9]

It is true that, as a rule, no temporary or permanent injunction or restraining order in any case involving or growing out of labor disputes shall be issued by any court.[10] It is likewise conceded that the judgment account of Riverside Mills Corporation arose out of its labor dispute with the herein petitioners who were the complainants in NLRC Case No. NCR-7-2577-84. The foregoing notwithstanding, where the writ of execution issued by said commission is sought to be enforced upon property of a stranger to the labor dispute, even upon a mere prima facie showing of ownership of such claimant, a separate action for injunctive relief against such levy may be maintained in court since said action neither involves nor grows out of a labor dispute insofar as the third party is concerned.

We have merely to reproduce what we said in *National Mines and Allied Workers' Union, et al. vs. Vera, etc., et al.*"[11]

"Petitioners' reliance on the provisions of Art. 254 of the New Labor Code x x x which prohibits injunctions or restraining orders in any case involving or growing out of a 'labor dispute' is not well-taken. This has no application to the case at bar. Civil Case No. 2749 is one which neither 'involves' nor 'grows out' of a labor dispute. What 'involves' or 'grows out' of a labor dispute is the NLRC case between petitioners and the judgment debtor, Philippine Iron Mines. The private respondents are not parties to the said NLRC case. Civil Case No. 2749 does not put in issue either the fact or validity of the proceeding in the NLRC case nor the

decision therein rendered, much less the writ of execution rendered thereunder. It does not seek to enjoin the execution of the decision against the properties of the judgment debtor. What is sought to be tried in Civil Case No. 2749, is whether the NLRC's decision and writ of execution, above mentioned, shall be permitted to be satisfied against properties of private respondents, and not of the judgment debtor named in the NLRC decision and writ of execution. Such a recourse is allowed under the provisions of Section 17, rule 39 of the Rules of Court."

The foregoing statements, mutatis mutandis, could very well have been said of the proceedings before respondent judge which are assailed in the petition at bar.

On either of the foregoing considerations, it is indisputable that the present petition cannot prosper since the issue of first preference claimed by petitioners has been foreclosed by G.R. Nos. 78261-62, while the proceedings and incidents in Civil Case No. 10945 are within the jurisdiction of respondent judge. We make no pronouncement with respect to DBP's prayer for a declaration of ownership and payment of damages sought in said Civil Case No. 10945 which, if still pending, should be definitively resolved as early as practicable by the lower court.

ACCORDINGLY, the instant petition should be, as it is hereby DISMISSED.

SO ORDERED.

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

[1] G.R. No. 78261-62, Mar. 8, 1989.

[2] Petition, Annex N; Rollo, 101-110.

[3] Id., Annex O; *ibid.*, 111.

[4] Id., Annex W; *ibid.*, 170-174.

[5] Id., Annex T; *ibid.*, 139-153.

[6] Rollo, 28-29.

[7] *Ibid.*, 29-30.

[8] Annex E, Petition; Rollo, G.R. Nos. 78261-62, 64-65.

[9] *Abiera, et al. vs. Court of Appeals, et al.*, 45 SCRA 314 (1972). See also *Bayer Phil., Inc., et al. vs. Agana, et al.*, 63 SCRA 355 (1975); *Arabay, Inc. vs. Salvador, et al.*, 82 SCRA 139 (1978); *Polaris Marketing Corporation vs. Plan, et al.*, 69 SCRA 93 (1976); *Santos vs. Sibug, et al.*, 104 SCRA 520 (1981); *Special Servicing Corporation vs. Centro La Paz*, 121 SCRA 748 (1983).

[10] Art. 254, P.D. 442, Labor Code.

[11] 133 SCRA 259 (1984).

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