

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. RAMON G. ENRIQUEZ, DEPUTY SHERIFF OF MANILA, RESPONDENT.

G.R. No. 78391. October 21, 1988

Ponente: PADILLA, J.

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PADILLA, J.:

Appeal by way of certiorari from the decision[*] of the Court of Appeals in CA-G.R. SP. No. 09582, dated 30 April 1987, dismissing the petition for prohibition with preliminary injunction, filed by petitioner Republic of the Philippines against respondent Ramon G. Enriquez, Deputy Sheriff of Manila.

On 28 January 1985, the petitioner, through the Commissioner of Internal Revenue, served a Warrant of Distraint of Personal Property on the Maritime Company of the Philippines to satisfy various deficiency taxes of said company in the total amount of P17,284,882.45, pursuant to unappealed and final tax assessments.[1] On 16 April 1985, a Receipt for Goods, and Things Seized Under Authority of the National Internal Revenue Code was executed, wherein Headquarters, First Coast Guard District, Farola Compound, Binondo, Manila, acknowledged receipt from the Commissioner of Internal Revenue of several barges, vehicles and two (2) bodegas of spare parts belonging to the taxpayer (Maritime Company of the Philippines).[2] On 4 October 1985, the corresponding Notice of Seizure of Personal Property, a copy of which was received by a representative of the Maritime Company of the Philippines, was issued by the Commissioner of Internal Revenue.[3] Among the properties seized were six (6) barges, Barge MCP-1 to Barge MCP-6.

On 11 June 1986, respondent sheriff levied on two (2) barges of the Maritime Company of the Philippines, pursuant to a writ of execution issued on 19 February 1986 by the Regional Trial Court of Manila, Branch 31, in Civil Case No. 85-30134, entitled "Genstar Container Corporation vs. Maritime Company of the Philippines", in favor of the plaintiff therein. Respondent sheriff scheduled a public auction sale of the levied barges on 23 June 1986. The barges, particularly Barge MCP-1 and Barge MCP-4, were among the aforementioned properties distrained and seized by petitioner, through the Commissioner of Internal Revenue.

On 18 June 1986, the Commissioner of Internal Revenue wrote respondent sheriff informing the latter that Barge MCP-1 and Barge MCP-4 were no longer owned by the Maritime Company of the Philippines as said barges had been distrained and seized by the Bureau of Internal Revenue in satisfaction of various deficiency taxes of Maritime Company of the Philippines, thereby registering its adverse claim over said barges. The letter, together with the affidavit of adverse claim and other supporting papers, was filed on 19 June 1986 at the office of respondent deputy sheriff and was received by one "Zenriquez, 6-19-86, Staff II." [4]

On 23 June 1986, respondent deputy sheriff sold at public auction the two (2) barges, MCP-1 and MCP-4, and issued the corresponding sheriff's certificate of sale on the same date to the highest bidder which was the levying creditor.

On 24 July 1986, petitioner filed before the Court of Appeals the aforementioned petition for prohibition with preliminary injunction, alleging that respondent sheriff, Ramon G. Enriquez, acted in excess of his authority or

with grave abuse of discretion when he levied on execution and subsequently auctioned the abovesaid two (2) barges which were the subject of a warrant of distraint and notice of seizure by the Commissioner of Internal Revenue. Petitioner prayed that respondent be ordered to desist and refrain from further proceedings in connection with the execution and that respondent's notice of levy be declared null and void.

In its decision, dated 30 April 1987, the Court of Appeals dismissed the petition, after finding that "(H)e appears to have acted in accordance with law and in keeping with his duties. There is no perceived abuse of authority or grave abuse of discretion." Hence, this appeal.

The only issue to be resolved in this appeal is the validity and effectiveness of the BIR warrant of distraint and notice of seizure of personal property as against the writ of execution issued by the Regional Trial Court and the levy on execution and auction sale of the barges in question.

It is settled that the claim of the government predicated on a tax lien is superior to the claim of a private litigant predicated on a judgment. The tax lien attaches not only from the service of the warrant of distraint of personal property but from the time the tax became due and payable.[5] Besides, the distraint in the subject properties of Maritime Company of the Philippines as well as the notice of their seizure were made by petitioner, through the Commissioner of Internal Revenue, long before the writ of execution was issued by the Regional Trial Court of Manila, Branch 31. There is no question then that at the time the writ of execution was issued, the two (2) barges, MCP-1 and MCP-4, were no longer properties of the Maritime Company of the Philippines. The power of the court in execution of judgments extends only to properties unquestionably belonging to the judgment debtor. Execution sales affect the rights of the judgment debtor only, and the purchaser in an auction sale acquires only such right as the judgment debtor had at the time of sale. It is also well-settled that the sheriff is not authorized to attach or levy on property not belonging to the judgment debtor.[6]

While it is correct for the Court of Appeals to declare that there are other remedies available to the government in connection with its tax claims, yet, the filing of a separate action, in accordance with Section 17, Rule 39, of the Rules of Court would only delay final satisfaction of the tax liabilities of the Maritime Company of the Philippines. The purpose of said rule is to afford a claimant an opportunity to vindicate his ownership over the property levied upon by the sheriff. In the case at bar, however, there is no further need for petitioner to establish its rights over the two (2) barges in question as the evidence on record clearly proves that the barges are under distraint and, in fact, seized by petitioner, through the Commissioner of Internal Revenue, in satisfaction of various final deficiency taxes of the Maritime Company of the Philippines.

The Court of Appeals gave much weight to the claim of respondent sheriff that he was unaware of any adverse claim over the subject barges. This claim is belied by receipt in the office of respondent by one "Zenriquez, 6-19-86, Staff II" of the letter dated 18 June 1986, from the Commissioner of Internal Revenue informing respondent that the two (2) barges were under distraint and no longer owned by the Maritime Company of the Philippines. It was incumbent upon respondent to have reminded, members of his staff to notify him immediately of important communications or papers affecting the discharge of his official duties. Proof of due receipt by respondent's office of the petitioner's adverse claim prevails over respondent's denial thereof. It was not necessary that respondent's personal receipt of the BIR Commissioner's letter be shown on the face of the letter. It is standard operating procedure in government offices to maintain log books which record the inward and outward flow of official documents and papers. Besides, respondent never denied that "Zenriquez, Staff II" was a member of his office staff on 19 June 1986 when the BIR Commissioner's letter registering the petitioner's adverse claim to the subject barges, was received in respondent's office.

WHEREFORE, the instant petition is GRANTED. The appealed decision is SET ASIDE. The notice of levy upon

as well as execution sale of Barges MCP-1 and MCP-4 are ANNULLED and the respondent is ENJOINED from further proceeding with their sale in Civil Case No. 85-30134 of the Regional Trial Court of Manila, Branch 31.

In the event that the execution sale, having been consummated, results in non-recovery of the aforesaid barges, respondent is ordered to remit to the Bureau of Internal Revenue the proceeds of the execution sale of said barges, to be applied in partial satisfaction of the tax liabilities of Maritime Company of the Philippines to the Philippine government.

SO ORDERED.

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

[*] Ponente: Justice Alfredo L. Benipayo; concurring: Justices Lorna S. Lombos-dela Fuente and Ricardo J. Francisco.

[1] Rollo, p. 49.

[2] Id., p. 50.

[3] Id., p. 43.

[4] Id., pp. 46-48.

[5] Hongkong & Shanghai Banking Corporation v. Rafferty, 39 Phil. 145; Bucoy v. Torrejos, 62 Phil. 831.

[6] Sampaguita Pictures, Inc. v. Jalwindor Manufacturers, Inc., 93 SCRA 420; Bayer Philippines, Inc. v. Agana, 63 SCRA 355.

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