

**HORNAN C. MACAMAY, PEDRO ALFONSO, VICTORIO L. TIANIO AND
ROLANDO D. CARPIO, PETITIONERS, VS. MELCHORA C. TEJANO, AS
THE CASHIER III OF THE NATIONAL LABOR RELATIONS
COMMISSION, R...**

G.R. No. 82860. June 20, 1988

Ponente: GRIÑO-AQUINO. J.

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GRIÑO-AQUINO. J.

On April 15, 1987, judgment was rendered by Labor Arbiter Daisy G. Cauton-Barcelona in favor of the petitioners in NLRC NCR Case No. 12-4046-85 entitled, "Hornan C. Macamay, et al. vs. Delta Motors Corporation and its President, Mr. Ricardo C. Silverio, Sr., respondents," the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby declared ordering the respondent to pay the complainants their respective separation pay computed from the rate of one (1) month salary for every year of service." (Annex "B").

The judgment having become final and executory, a writ of execution was issued on July 14, 1987 (Annexes "C" and "C-I") which NLRC Deputy Sheriff Silvino B. Santos implemented by levying on certain personal properties of the Delta Motors Corporation and selling them at public auction on September 23, 1987 for P176,000.00 to the highest bidder, Freston Manlangit, of Parang, Marikina, Metro Manila (Annex "D"). An advance payment of P20,000.00 was made by the highest bidder to the Deputy Sheriff who in turn paid this amount to the petitioners.

On September 25, 1987, the NLRC Executive Director issued a writ of injunction in NLRC Injunction Case No. 1549 entitled, "Asset Privatization Trust, petitioner versus Hornan C. Macamay, Pedro Q. Alfonso, Victorio L. Tianio and Rolando Carpio and Labor Arbiter Daisy Cauton-Barcelona, respondents" staying the execution of the decision in NLRC NCR Case No. 12-4046-85, until further orders.

On October 1, 1987, Deputy Sheriff Santos deposited with the NLRC Cashier III, Melchora C. Tejano, at her office at the Phoenix Building, Intramuros, Manila, the proceeds of the auction sale of Delta Motors' properties to Freston Manlangit, in the sum of P176,000.00, as the buyer had not yet withdrawn the properties purchased by him.

On November 16, 1987, the Asset Privatization Trust (APT), intervened in NLRC NCR Case No. 12-4046-85, and filed therein a motion to annul the auction sale and to approve the compromise agreement between APT and the petitioners (Annex L'F'). However, the Med-Arbiter denied that motion and disapproved the compromise agreement between APT and the petitioners. On December 29, 1987, the Med Arbiter issued an order to break open the Delta Motors Compound to enable the Deputy Sheriff to deliver to the buyer the properties purchased by him under the Certificate of Sale dated September 23, 1987 (Annex "G").

On January 7, 1988, the petitioners asked the Med-Arbiter to order the respondent NLRC Cashier to pay to them the amount of P176,000.00 deposited with her. The Med-Arbiter granted the motion but the respondent NLRC

Cashier III refused to comply with the Med-Arbiter's order, due to verbal advice from Commissioner Edna Perez that the writ of injunction in NLRC Case No. 1549 prohibits the release of the funds. Petitioners forthwith elevated the matter to this Court, seeking a writ of mandamus to compel the Cashier to release the funds to them.

The petition is clearly premature. The petitioners should exhaust their administrative remedies in the NLRC, for the Med-Arbiter is certainly not the highest authority in the Department of Labor and Employment, hence, she does not have the final word on the matter.

WHEREFORE, the petition for mandamus is denied.

SO ORDERED.

Narvasa (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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