

**BA FINANCE CORPORATION, PETITIONER, VS. COURT OF APPEALS,
HON. PONCIANO C. INOPIQUEZ, PRESIDING JUDGE OF BRANCH XIV
OF THE RE-GIONAL TRIAL COURT OF MANILA, AND WILSON SIY,
RESPO...**

G.R. No. 84294. October 16, 1989

Ponente: FELICIANO, J.

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FELICIANO, J.:

The petitioner here asks us to review on certiorari a Court of Appeals' decision which affirmed a trial court order denying BA Finance Corporation's notice of appeal for having been filed beyond the fifteen-day reglementary period.

On 15 June 1986, Yanky Hardware Company, Inc. ("Yanky") applied for and was granted by BA Finance Corporation ("BA Finance"), a credit accommodation in the form of a discounting line under which the former could from time to time discount with, and assign its trade receivables to, BA Finance. To secure the payment of all loans obtained or to be obtained, Yanky executed a chattel mortgage[1] over its stock-in-trade or merchandise inventory in favor of BA Finance. To guarantee those loans, Antonio Ngui Yek Siem, President and General Manager of Yanky, executed a continuing suretyship agreement[2] in favor of BA Finance.

On various occasions, Yanky drew on that credit accommoda-tion and executed in favor of BA Finance separate deeds of assignment.

In time, BA Finance demanded from Yanky the payment of its accumulated obligations which, as of 20 October 1981, had allegedly reached the amount of P559,565.00, or the delivery of the mortgaged chattels for purposes of extrajudicial foreclosure.

On 21 October 1981, BA Finance filed with the then Court of First Instance ("CFI") a complaint against Yanky and Antonio Ngui Yek Siem for replevin with damages or, in the alternative, payment of the amount of P559,565.00 plus interest. BA Finance contended that it had the right to take possession of the chattels described in the chattel mortgage or to be paid the total amount of the loans plus interest since Yanky had breached the conditions of the chattel mortgage by failing to pay the amounts secured thereby.

On 26 October 1981, the CFI ordered the seizure of all the merchandise inventories and other personal properties described in the chattel mortgage. Sheriff Rolando Balingit accordingly seized chattels found in the premises of Yanky and later transferred these to BA Finance's warehouse. Balingit submitted a sheriff's receipt[3] dated 26 October 1981 containing a list of the properties seized, and a sheriff's return[4] dated 4 November 1981. But on 5 November 1981, sheriff Balingit filed another report[5] dated 5 November 1981 which according to him superseded the earlier list, stating therein that this list was arrived at after he and some BA Finance employees had conducted a re-inventory of the replevied chattels in BA Finance's warehouse.

Yanky and Antonio Ngui Yek Siem filed an answer claiming that since not all of their obligations were due, BA

Finance had as yet no cause of action against them.

Meanwhile, Yanky came into deep financial difficulties. Rizal Commercial Banking Corporation ("RCBC"), China Banking Corporation ("China Bank") and International Corporate Bank ("InterBank") intervened in the replevin case as creditors of Yanky. During a pre-trial conference on 27 February 1984 RCBC moved for the sale at public auction of the replevied chattels in order to prevent further depreciation of their value. BA Finance and the rest of the intervenors accepted[6] that suggestion; on the same day, the CFI accordingly issued an order stating among other things that:

"Considering that all lawyers appearing in this case have agreed to the sale of the properties enumerated in the list of properties mortgaged, page 40 of the record at public auction, under the supervision of the Deputy Sheriff of this court, upon the joint motion of Atty. Noel Ebarle for plaintiff and Atty. Venerando Parungo for intervenor RCBC, the pre-trial conference is hereby reset to April 2, 1984 at 8:30 sharp. The court directs that the proceeds of the auction sale be deposited in a government bank.

x x x x x x x x."[7]

After having been rescheduled twice, a public auction sale was finally conducted on 31 April 1984 at BA Finance's Warehouse in Epifanio de los Santos Ave., Mandaluyong, Metro Manila. The highest bidder was private respondent Wilson Siy whose winning bid was P60,000.00. After the sale, Deputy Sheriff Rodolfo P. Torella submitted a Sheriff's Report.[8] BA Finance, however, moved to cancel the auction sale on the ground that while it (BA Finance) was ready to bid for the auctioned properties for P150,000.00, it had been improperly deprived of its right to participate in the bidding by the sheriff who insisted that BA Finance pay for its bid in cash. BA Finance was thus forced to put together P150,000.00 in bills and since the counting of the bills took sometime, its representative arrived late for the bidding. The trial court cancelled[9] the auction sale on the ground that the price realized was shockingly low, the auction sale having been hastily conducted. Later, however, this order was reconsidered by the trial court after Siy posted a bond in the amount of P140,000.00.

Siy then filed a Motion with the trial court seeking the production and delivery of certain chattels allegedly sold in the auction sale but not delivered by BA Finance to him. BA Finance countered that the chattels referred to by Siy as still undelivered were those included in an inventory list attached to the sheriff's report dated 5 November 1981, which list had not been furnished to BA Finance prior to the auction sale and which, more importantly, according to BA Finance, listed not only chattels replevied by Yanky but also other personalty which had been repossessed from BA Finance's other clients. The trial court appointed a commissioner to look into the matter. The first commissioner rendered a report stating that BA Finance should produce or account for certain undelivered personal properties. BA Finance and the intervenor banks opposed this report and the court disapproved it. A second commissioner was designated by the trial court. This commissioner similarly reported that not all of the properties mortgaged and sold at a public auction had been delivered to Siy as highest bidder. The second report was approved by the trial court in an order[10] dated 11 June 1985.

BA Finance moved for reconsideration of this last order of the trial court, without success. On 24 September 1985, the CFI issued an order the dispositive portion of which required BA Finance to deliver the allegedly missing chattels or their value:

"WHEREFORE, subject to the modification as stated above, the order of this Court dated July 31, 1985 is hereby reconsidered and modified accordingly. The Motion for Issuance of a Writ of Execution is denied.

The plaintiff is hereby directed to deliver to highest bidder Wilson Siy the aforementioned list of properties or if not possible the equivalent amount thereof. And for this purpose, Atty. Noel O. Ebarle is hereby directed to manifest in writing within five (5) days from receipt hereof his preference as to the basis of the price whether

to follow the pricelist as already stated on page 40 of the records or the current price in which case there is a necessity of appointing a committee to canvass the current price. And if the plaintiff chooses the latter, then this Court is hereby appointing Atty. Francisco Sanchez III, legal researcher of this Court as Chairman and one representative for the highest bidder, as members. And if the choice is the former, then it is only a matter of computation. In the event that there is no manifestation from the plaintiff within five (5) days from receipt of this Order, then it is understood that the price list as stated on page 40 of the records (list of mortgaged properties) would be the basis for the Court to determine the price of the undelivered properties."[11] (Underscoring supplied)

This time, it was Siy who filed a Motion for Recon-sideration. He contended that because BA Finance was depository of the chattels, it should be made liable to him for damages for having failed to deliver the chattels listed in an inventory dated 27 October 1981. The Court issued an order dated 22 January 1986 which provided in its dispositive portion as follows:

"WHEREFORE, the order of September 24, 1985 is hereby amended and/or modified in that the plaintiff [BA Finance] is hereby directed to deliver to the highest bidder, Wilson Siy, the properties appearing in the list of inventory attached to the Sheriff's report dated November 5, 1981 as appearing on pp. 188-200 of the record of this case minus the properties already delivered on June 28, 1984 to Mr. Wilson Siy, and if this is not possible, to pay the equivalent amount thereof. In determining the amount of these properties, the Court hereby appoints a committee to be chaired by Atty. Francisco Sanchez III, Legal Researcher of this Court, and one representative each from the plaintiff and the highest bidder, as members, to canvass the current price of the subject properties and to make a report thereon within twenty (20) days from the date the committee is formed."[12] (Underscoring supplied)

On 20 February 1986, i.e., twenty-three (23) days after its receipt of the order last quoted above, BA Finance filed its notice of appeal and a record on appeal with the CFI. The trial court, however, in an order dated 2 June 1986, disapproved the notice of appeal and record on appeal as having been filed out of time. BA Finance's Motion for Reconsideration of this order was denied.

BA Finance then went to the Court of Appeals on a Petition for Mandamus and Certiorari, seeking to set aside the CFI's orders of 2 June 1986 and 16 July 1986. Petitioner there urged that the CFI order of 22 January 1986 had resolved, not the replevin case itself but rather an incidental issue therein; that the case was one where multiple appeals were proper; and that, therefore, the reglementary period for appeal was thirty (30) days and not fifteen (15) days.

The Court of Appeals dismissed[13] the Petition, ruling that since the order of the CFI dated 22 January 1986 had fully disposed of the replevin case, the applicable reglementary period for appeal was fifteen (15) days from BA Finance's receipt of a copy of that order. The Court of Appeals concluded that petitioner's notice of appeal had not been seasonably filed.

Thus, this Petition for Review.

Two (2) issues are raised here: the first relates to the character of the order of the trial court dated 22 January 1986; the second concerns the reglementary period applicable in respect of an appeal from that order of the trial court.

1. The principal case filed by BA Finance against Yanky was, we already noted, for replevin, and in the alternative, collection of the amount of the loans, plus interest, owed by Yanky to BA Finance. Sections 9 and 10 of Rule 60 on "Delivery of Personal Property," of the Revised Rules of Court state that:

"SEC. 9. Judgment. - After a trial of the issues the court shall find in whom is the right of possession and the value of the property and shall render judgment in the alternative for the delivery thereof to the party entitled to

the same, or for the value in case delivery cannot be made, and also for such damages as either party may prove, and for costs."

"SEC. 10. Judgment to include recovery against sureties. - The amount, if any, to be awarded to either party upon any bond filed by the other in accordance with the provisions of this rule, shall be claimed, ascertained, and granted under the same procedure as prescribed in section 20 of Rule 57." (Underscoring supplied)

The 22 January 1986 order of the trial court merely directed BA Finance to turn over to Wilson Siy, as highest bidder in the public sale, properties which had allegedly been sold at a public auction but which had supposedly remained undelivered to the latter. That order never passed upon the right of either of the original parties, BA Finance or Yanky Hardware, to take or keep possession of the replevied items. That order, moreover, did not resolve a claim by BA Finance that not all the movables mortgaged under the chattel mortgage had in fact been replevied by the sheriff from Yanky's premises. Neither did that order determine whether BA Finance was entitled to collect P559,565.00 as loans due and payable from Yanky and surety Antonio Ngui Yek Siem. We think it clear that what had been issued by the trial court on 22 January 1986 was not a judgment which disposed of the causes of action pleaded by BA Finance or the defenses raised by Yanky and surety Antonio Ngui Yek Siem. Rather, that order resolved what was initially merely an incident of the principal case but which, under the Court of Appeals' decision, threatens to overwhelm the parties to the original suit.

It must be recalled that Yanky's creditor banks had intervened in the replevin case and that upon the suggestion of one of the banks, the chattels subject matter of the replevin suit were sold to avoid further deterioration in value pending resolution of the main case. Respondent Wilson Siy was neither an original party nor an intervenor in the replevin case; he was a total stranger vis-a-vis the original parties and the intervenors. Nonetheless, we must recognize that the 22 January 1986 order of the trial court purported to resolve the right of Wilson Siy to receive the disputed movable properties and accordingly BA Finance's obligation to deliver to Siy those same properties; to this limited extent, i.e., so far as concerns the dispute between BA Finance and Wilson Siy, the trial court's order was clearly a final one.

It is a firmly settled rule that only a final order or judgment on the merits may be the subject of an appeal. A judgment on the merits is one rendered after a determination of which party is in the right and must prevail, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point.^[14] In other words, after a final order or judgment, the court should have nothing more to do in respect of the relative rights of the parties to the case. Conversely, "an order that does not finally dispose of the case and does not end the Court's task of adjudicating the parties' contentions in determining their rights and liabilities as regards each other, but obviously indicates that other things remain to be done by the Court, is interlocutory."^[15]

2. The second issue to be resolved is: what was the applicable reglementary period for appealing the 22 January 1986 order of the trial court to the Court of Appeals?

Two (2) reglementary periods for perfecting appeals were established by the Interim Rules and Guidelines promulgated by the Supreme Court on 11 January 1983 for the implementation of the Judiciary Reorganization Act of 1981 (B.P. Blg. 129), Section 19 of which provides as follows:

"Section 19. Period on Appeals. --

(a) All appeals, except in habeas corpus cases and in the cases referred to in paragraph (b) hereof, must be taken within fifteen (15) days from notice of the judgment, order, resolution or award appealed from.

(b) In appeals in special proceedings in accordance with Rule 109 of the Rules of Court and other cases wherein multiple appeals are allowed, the period of appeals shall be thirty (30) days, a record of appeal being required."

Under the above-quoted section, the reglementary period to appeal is, not fifteen (15) days, but rather thirty (30) days in: (1) appeals in special proceedings; and (2) "other cases wherein multiple appeals are allowed." In the instant case, as already pointed out, the questioned order finally disposed of the incident involving BA Finance and Wilson Siy and his claim to certain chattels stored in BA Finance's warehouse, but not the main action itself between BA Finance, Yanky Hardware and the intervenor banks. The principal action itself has not yet reached the trial stage, which trial would relate not to the chattels that were disposed of or allegedly disposed of by public sale but rather to the disposition of the proceeds (or whatever proceeds are properly due from Wilson Siy) of such sale, and to the alternative demand for payment of the outstanding obligations of Yanky Hardware to BA Finance. We believe and so hold that given the actual circumstances of the instant case, it must be regarded as falling within the term "other cases wherein multiple appeals are allowed". It follows that the applicable reglementary period for appeal is thirty (30) days, the record on appeal being required since the expediente of the case must remain with the trial court so that the case may proceed to trial on the merits of the claims between the principal parties and the intervenors.

We note also that prima facie, to prevent BA Finance from appealing the order of the trial court dated 22 January 1986 may result in a serious miscarriage of justice. Private respondent Wilson Siy submitted a bid for and paid the amount of P60,000.00 which he presumably felt was the reasonable value of the personal properties subjected to the public sale. The questioned order of the trial court requires BA Finance to deliver to Siy as vendee in the public sale chattels with the total estimated value of P2.3 million which represents a truly extraordinary rate of return of 3,800 percent on Wilson Siy's original investment. This circumstance by itself suggests that somewhere a serious mistake of fact, or an eccentric interpretation of the terms of the chattel mortgage contract or possibly even deliberate fraud may have vitiated the proceedings below concerning Wilson Siy's claims, to the obvious prejudice of BA Finance, or Yanky Hardware and surety Antonio Ngui Yek Siem, or the intervenor banks, or some or all of these. Equitable considerations thus support the conclusion reached above.

In the interest of orderly procedure, Wilson Siy should not have been allowed by the trial court to introject himself in the principal case by the filing of a motion for delivery of chattels allegedly sold but undelivered to him by BA Finance at public auction. His proper recourse was to institute an independent suit against the sheriff and BA Finance. As it is, the de facto intervention of Wilson Siy in the proceedings between BA Finance and Yanky Hardware and the intervenor banks has already resulted in undue delay in such proceedings.

WHEREFORE, the Petition for Review on Certiorari is hereby GRANTED and the Decision of the Court of Appeals dated 30 April 1987 and the Orders of the trial court dated 2 June 1986 and 16 July 1986, are hereby REVERSED and SET ASIDE. The trial court is hereby DIRECTED to approve the notice of appeal and the record on appeal filed by petitioner. Costs against private respondent.

SO ORDERED.

Fernan, C.J., (Chairman), Bidin, and Cortes, JJ., concur.
Gutierrez, Jr., J., on leave.

[1] Record, pp. 56-59.

[2] Ibid, pp. 60-61.

[3] Ibid, pp. 67-68.

[4] Ibid, pp. 176-177.

- [5] Ibid, p. 73.
- [6] Rollo, Annex "A" of Petition, p. 31.
- [7] Ibid, Annex "E" of Petition, p. 49; underscoring supplied.
- [8] Record, pp. 101-102.
- [9] Ibid, pp. 103-105.
- [10] Record, pp. 216-229.
- [11] Ibid, p. 252.
- [12] Ibid, pp. 263-264.
- [13] Rollo, Annex "A" of Petition, pp. 29-33.
- [14] Santos v. IAC, 145 SCRA 238 (1986); De Ocampo v. Republic, 9 SCRA 440 (1963).
- [15] Investment, Inc. v. Court of Appeals, 147 SCRA 334 at 340 (1987). See also Antonio v. Samonte, 1 SCRA 1072 (1961); Kapisanan ng mga Manggagawa sa MRR v. Yard Crew Union, 109 Phil. 1143 (1960); PLDT Employees Union v. PLDT Co. Free Telephone Workers Union, 97 Phil. 424 (1955); Hodges v. Villanueva, 90 Phil. 255 (1951); Nico v. Blanco, 81 Phil. 213 (1948); Rios v. Rios, 79 Phil. 243 (1947).

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