

NATIONAL POWER CORPORATION, PETITIONER, VS. THE HON. COURT OF APPEALS, HON. ELISA R. ISRAEL, IN HER CAPACITY AS PRESIDING JUDGE, RTC, NATIONAL CAPITAL JUDICIAL REGION, MANILA AN...

G.R. No. 93238. August 31, 1992

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review by certiorari to annul and set aside the decision dated March 9, 1990 of the Court of Appeals[1] affirming the Order dated April 21, 1989 of the Regional Trial Court of Manila, Branch IV in Civil Case No. 79092 ordering petitioner National Power Corporation to remit the unsatisfied amount of P340,971.45 plus interest to private respondent Philippine Commercial and Industrial Bank (now Philippine Commercial International Bank) in a judgment dated November 26, 1970 of the trial court.

It appears on record that private respondent Philippine Commercial International Bank (PCIB) instituted a complaint against B.R. Sebastian & Associates, Inc. with the then Court of First Instance of Manila in Civil Case No. 79092 for the recovery of a sum of money.

On November 26, 1970, the trial court rendered a decision in favor of respondent PCIB wherein B.R. Sebastian & Associates, Inc. was ordered to pay respondent PCIB the amount of P580,228.19 which decision was affirmed by the Court of Appeals and the same became final and executory on March 2, 1972.

Meanwhile, B.R. Sebastian & Associates, Inc. instituted a complaint against petitioner with the then Court of First Instance of Manila, Branch XX in Civil Case No. 77140 for collection of a sum of money. After trial on the merits, said court rendered a decision ordering petitioner to pay B.R. Sebastian & Associates, Inc. the amount of P2,007,157.00 which became final and executory on June 20, 1976.

On July 20, 1976, the trial court issued an alias writ of execution against B.R. Sebastian & Associates, Inc. for the recovery of a sum of money in Civil Case No. 79092.[2] Pursuant to said writ, the sheriff of Manila thru its deputy Ruben Gatmaitan issued on July 21, 1976 a Notice of Garnishment to the petitioner's treasurer wherein said notice attached and levied upon all the goods, effects, and monies in the possession and control of petitioner belonging to B.R. Sebastian & Associates, Inc., particularly the judgment in Civil Case No. 77140 in the amount of P2,007,157.00 to satisfy the amount of P580,228.19 adjudged to be paid by B.R. Sebastian & Associates, Inc. to respondent PCIB in Civil Case No. 79092.[3]

On March 11, 1978, the trial court in Civil Case No. 79092 issued an order directing petitioner to deliver to the Sheriff of Manila or to respondent PCIB the amount in its possession minus the contractors tax of P60,215.71 belonging to B.R. Sebastian & Associates, Inc. equivalent to the money judgment stated in the Notice of Garnishment in said case.[4]

On June 30, 1978, an acknowledgment receipt covering PNB Check No. 739673 dated June 29, 1978 in the

amount of P249,256.74 was issued by respondent PCIB in partial compliance of said Notice of Garnishment[5] leaving a balance of P340,971.45.

Subsequent attempts by respondent PCIB to compel petitioner to deliver the remaining balance of the garnished amount were continuously turned down by the latter forcing the former to seek the recovery of said amount in Civil Case No. 79092 with respondent trial judge as well as instituting an independent action for damages with the then Court of First Instance of Rizal, located at Pasig, (Civil Case No. 39255), which was dismissed, as it is the court trying Civil Case No. 79092 which has jurisdiction to enforce the collection of said balance.

On November 8, 1988, respondent PCIB filed a Motion with the respondent trial court[6] to Require the National Power Corporation to Satisfy the Judgment of November 26, 1970 in Civil Case No. 79092. It prays that an order be issued directing petitioner to remit the "unsatisfied amount" of P340,971.41 plus interest and other bank charges from July 21, 1976 until full payment thereof is made as it is the respondent trial court that has jurisdiction to enforce and satisfy the judgment of November 26, 1970 in Civil Case No. 79092 as stated the decision of the Court of Appeals in CA-G.R. CV No. 9678. The motion was granted in the Order of April 21, 1989.[7]

Dissatisfied with said Order, petitioner went up to the Court of Appeals in a Petition for Certiorari, where it was also unsuccessful, resulting in the dismissal of the petition.[8]

Unfazed, petitioner elevated the matter to this Court in a Petition for Review, alleging that -

1. The writ of execution issued by the court a quo on July 16, 1976 has long expired; and that
2. The period to revive the judgment of November 26, 1970 in Civil Case No. 79092 has already prescribed.

We find no merit in the petition.

Section 6 of Rule 39 of the Revised Rules of Court provides that a judgment may be executed on motion within 5 years from the date of its entry or from the date it became final and executory and, thereafter, and before it is barred by the statute of limitations, it may be enforced by an independent civil action. The prescriptive period for the enforcement of a judgment by ordinary action is 10 years computed from the time the judgment became final[9] and the lifetime of a writ of execution is 60 days after its receipt by the levying officer.[10] However, in the case at bar, it was the petitioner who caused the delay in the payment of the remaining balance of the aforesaid Notice of Garnishment. Therefore, the delay of more than 10 years from the time the judgment of November 26, 1970 became final and executory should not be counted in computing the 5-year period in executing a judgment by motion, since the delay was not respondent's doing but petitioner's. It is well-settled that:

"In computing the time limited for suing out an execution, although there is authority to the contrary, the general rule is that there should not be included the time when execution is stayed, either by agreement of the parties for a definite time, by injunction, by the taking of an appeal or writ of error so as to operate as a supersedeas, by the death of a party, or otherwise. Any interruption or delay occasioned by the debtor will extend the time within which the writ may be issued without scire facias." [11]

Thus, the filing by respondent PCIB of a motion requiring petitioner to remit the unsatisfied amount of the Notice of Garnishment on November 8, 1988 is still seasonable and well within the 5-year period since the statute of limitations has been devised to operate primarily against those who slept on their rights and not against those desirous to act but cannot do so for causes beyond their control.[12]

WHEREFORE, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Penned by Justice Justo P. Torres, Jr. with the concurrence of Justice Santiago M. Kapunan and Justice Emeterio C. Cui.

[2] CA Rollo, p. 28.

[3] Id., at p. 29.

[4] Id., at p. 30.

[5] Id., at p. 31.

[6] C.A. Rollo, p. 32.

[7] Id., at p. 46.

[8] Id., at pp. 106, 112.

[9] Articles 1144 and 1152, Civil Code of the Philippines.

[10] Section 11 of Rule 39 of the Revised Rules of Court.

[11] Provincial Government of Sorsogon vs. Vda. de Villaroya, 153 SCRA 291 (1987).

[12] Republic vs. CA, 137 SCRA 220 (1985).

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