

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**BATONG BUHAY GOLD MINES, INC.,
*Petitioner,***

-versus-

**G.R. No. 86963
August 6, 1999**

**HONORABLE DIONISIO DELA SERNA
IN HIS CAPACITY AS THE
UNDERSECRETARY OF THE
DEPARTMENT OF LABOR AND
EMPLOYMENT, ELSIE ROSALINDA
TY, ANTONIO MENDELEBAR, MA.
CONCEPCION Q. REYES, AND THE
OTHER COMPLAINANTS[*] IN CASE
NO. NCR-LSED-CI-2047-87; MFT
CORPORATION AND SALTER
HOLDINGS PTY., LTD.,**

Respondents.

X-----X

RESOLUTION

PURISIMA, J.:

At bar is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court with a Prayer for Preliminary Injunction and or Restraining Order brought by Batong Buhay Gold Mines, Inc. (BBGMI for brevity)

to annul three orders issued by respondent Undersecretary Dionisio dela Serna of the Department of Labor and Employment, dated September 16, 1988, December 14, 1988 and February 13, 1989, respectively.

The Order of September 16, 1988 stated the facts as follows:

“. on 5 February 1987, Elsie Rosalinda B. Ty, Antonia L. Mendelebar, Ma. Concepcion O. Reyes and 1,247 others filed a complaint against Batong Buhay Gold Mines, Inc. for: (1) Non-payment of their basic pay and allowances for the period of 6 July 1983 to 5 July 1984, inclusive, under Wage Order No. 2; (2) Non-payment of their basic pay and allowances for the period 16 June 1984 to 5 October 1986, inclusive under Wage Order No. 5; (3) Non-payment of their salaries for the period 16 March 1986 to the present; (4) Non-payment of their 13th month pay for 1985, 1986 and 1987; (5) Non-payment of their vacation and sick leave, and the compensatory leaves of mine site employees; and (6) Non-payment of the salaries of employees who were placed on forced leaves since November 1985 to the present, if this is not feasible, the affected employees be awarded corresponding separation pay.

On 9 February 1987, the Regional Director set the case for hearing on 17 February 1987.

On 17 February 1987, the respondent moved for the resetting of the case to 2 March 1987.

On 27 February 1987, the complainants filed a Motion for the issuance of an inspection authority.

X x x

On 13 July 1987, the Labor Standards and Welfare Officers submitted their report with the following recommendations:

‘WHEREFORE, premises considered, this case is hereby submitted with the recommendation that an Order of Compliance be issued directing respondent Batong Buhay

Gold Mines Inc. to pay complainants' Elsie Rosalinda Ty, et al. FOUR MILLION EIGHT HUNDRED EIGHTEEN THOUSAND SEVEN HUNDRED FORTY-SIX PESOS AND FORTY CENTAVOS (P4,818,746.40) by way of unpaid salaries of workers from March 16, 1987 to present, unpaid and ECOLA differentials under Wage Order Nos. 2 and 5 unpaid 13th months pay for 1985 and 1986, and unpaid (sic) vacation/sick/compensatory leave benefits.'

On 31 July 1987, the Regional Director^[1] adopted the recommendation of the LSWOs and issued an order directing the respondent to pay the complainants the sum of P4,818,746.40 representing their unpaid 13th month pay for 1985 and 1986, wage and ECOLA differentials under wage order Nos. 2 and 5, unpaid salaries from 16 March 1986 to present and vacation/sick leave benefits for 1984, 1985 and 1986.

On 19 August 1987, the complainants filed an ex-parte motion for the issuance of a writ of execution and appointment of special sheriff.

X x x

On 21 August 1987, the Regional Director issued an Order directing the respondent to put up a cash or surety bond otherwise a writ of execution will be issued.

X x x

When the respondent failed to post a cash/surety bond, and upon motion for the issuance of a writ of execution by the complainants, the Regional Director, on 14 September 1987 issued a writ of execution appointing Mr. John Espiridion C. Ramos as Special Sheriff and directing him to do the following:

'You are to collect the above-stated amount from the respondent and deposit the same with Cashier of this Office for appropriate disposition to herein complainants under the supervision of the office of the Director.

Otherwise, you are to execute this writ by attaching the goods and chattels of the respondent not exempt from execution or in case of insufficiency thereof against the real or immovable property of the respondent.'

The Special Sheriff proceeded to execute the appealed Order on 17 September 1987 and seized three (3) units of Peterbuilt trucks and then sold the same by public auction. Various materials and motor vehicles were also seized on different dates and sold at public auction by said sheriff.

X x x

On 11 December 1987, the respondent finally posted a supersedeas bond which prompted this Office to issue an Order dated 26 January 1988, restraining the complainants and sheriff Ramos from enforcing the writ of execution."^[2]

BBGMI appealed the Order dated July 31, 1987 of Regional Director Luna C. Piezas to respondent Undersecretary Dionisio de la Serna, contending that the Regional Director had no jurisdiction over the case.

On September 16, 1988, the public respondent issued the first challenged Order upholding the jurisdiction of the Regional Director and annulling all the auction sales conducted by Special Sheriff John Ramos. The decretal portion of the said Order ruled:

"WHEREFORE, the Order dated 31 July 1987 of the Regional Director, National Capital Region, is hereby AFFIRMED. Accordingly, the writ of execution dated 14 September 1987 issued in connection thereto is hereby declared VALID.

However, the public auction sales conducted by special sheriff John Ramos pursuant to the writ of execution dated 14 September 1987 on 24 September 2, 20, 23, and 29 October 1987 are all hereby declared NULL AND VOID. Furthermore, the personal properties sold and the proceeds thereof which have been turned over to the complainants thru their legal

counsel are hereby ordered returned to the custody of the respondent and the buyers respectively.

SO ORDERED.”^[3]

On October 13, 1988, a Motion for Reconsideration of the aforesaid order was presented by the complainants in Case No. NCR-LSED-CI-2047-87 but the same was denied.

On November 7, 1988, a Motion for Intervention was filed by MFT Corporation, inviting attention to a Deed of Sale executed in its favor by Fidel Bermudez, the highest bidder in the auction sale conducted on October 29, 1987.

On December 2, 1988, another Motion for Intervention was filed, this time by Salter Holdings Pty., Ltd., claiming that MFT Corporation assigned its rights over the subject properties in favor of movant as evidenced by a Sales Agreement between MFT Corp. and Salter Holdings Pty., Ltd.

The two Motions for Intervention were granted in the second questioned order dated December 14, 1988, directing the exclusion from annulment of the properties sold at the October 29, 1987 auction sale and claimed by the intervenors, including one cluster of junk mining machineries, equipment and supplies, and disposing thus:

“WHEREFORE, in view of the foregoing, the motions for reconsideration filed by intervenors MFT and Salter are hereby granted. Correspondingly, this Office’s Order dated 16 September 1988 is hereby modified to exclude from annulment “the one lot of junk mining machineries, equipment and supplies as-is-where-is” sold by Sheriff John C. Ramos in the auction sale of 29 October 1987.

X x x”

Motions for Reconsideration were interposed by Batong Buhay Gold Mining, Inc. and the respondent employees but to no avail. The same

were likewise denied in the third assailed Order dated February 13, 1989.

Hence, the petition under scrutiny, ascribing grave abuse of discretion amounting to lack or excess of jurisdiction to the public respondent in issuing the three Orders under attack.

The questioned Orders aforementioned have given rise to the issues: (1) whether the Regional Director has jurisdiction over the complaint filed by the employees of BBGMI; and (2) whether or not the auction sales conducted by the said Special Sheriff are valid.

Anent the first issue, an affirmative ruling is indicated. The Regional Director has jurisdiction over the BBGMI employees who are the complainants in Case Number NCR-LSED-CI-2047-87.

The subject labor standards case of the petition arose from the visitorial and enforcement powers by the Regional Director of Department of Labor and Employment (DOLE). Labor standards refers to the minimum requirements prescribed by existing laws, rules and regulations relating to wages, hours of work, cost of living allowance and other monetary and welfare benefits, including occupational, safety and health standards.^[4] Labor standards cases are governed by Article 128(b) of the Labor Code.

The pivot of inquiry here is whether the Regional Director has jurisdiction over subject labor standards case.

As can be gleaned from the records on hand, subject labor standards case was filed on February 5, 1987 at which time Article 128 (b) read as follows:^[5]

Art. 128 (b) Visitorial and enforcement powers —

“(b) The Minister of Labor or his duly authorized representative shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provisions of this Code based on the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the

appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulations officers and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the ordinary course of inspection.”

Petitioner theorizes that the Regional Director is without jurisdiction over subject case, placing reliance on the ruling in *Zambales Base Inc. vs. Minister of Labor*^[6] and *Oreshoot Mining Company vs. Arellano*.^[7]

Respondent Undersecretary Dionisio C. Dela Serna, on the other hand, upheld the jurisdiction of Regional Director Luna C. Piezas by relying on E.O. 111, to quote:

“Considering therefore that there still exists an employer-employee relationship between the parties; that the case involves violations of the labor standard provisions of the labor code; that the issues therein could be resolved without considering evidentiary matters that are not verifiable in the normal course of inspection; and, if only to give meaning and not render nugatory and meaningless the visitorial and enforcement powers of the Secretary of Labor and Employment as provided by Article 128(b) of the Labor Code, as amended by Section 2 of Executive Order No. 111 which states:

‘The provisions of article 217 of this code to the contrary notwithstanding and in cases where the relationship of employer-employee still exists, the Minister of Labor and Employment or his duly authorized representative shall have the power to order and administer, after due notice and hearing, compliance with the labor standards provision of this Code based on the findings of the findings of labor regulation officers or industrial safety engineers made in the course of inspection, and to issue writs of execution to the appropriate authority for the enforcement of their order, except in cases where the employer contests the findings of the labor regulations officers and raises issues which cannot be resolved without considering evidentiary matters that are not verifiable in the ordinary course of inspection.’

We agree with the complainants that the regional office a quo has jurisdiction to hear and decide the instant labor standard case.

X x x”[8]

The Court agrees with the public respondent. In the case of Maternity Children’s Hospital vs. Secretary of Labor (174 SCRA 632), the Court in upholding the jurisdiction of the Regional Director over the complaint on underpayment of wages and ECOLAs filed on May 23, 1986, by the employees of Maternity Children’s Hospital, held:

“This is a labor standards case and is governed by Art. 128(b) of the Labor Code, as amended by E.O. 111.

X x x

Prior to the promulgation of E.O. 111 on December 24, 1986, the Regional Director’s authority over money claims was unclear. The complaint in the present case was filed on May 23, 1986 when E.O. 111 was not yet in effect.

We believe, however, that even in the absence of E.O. 111, Regional Directors already had enforcement powers over money claims, effective under P.D. 850, issued on December 16, 1975, which transferred labor standards cases from the arbitration system to the enforcement system.”

In the aforecited case, the Court in reinforcing its conclusion that Regional Director has jurisdiction over labor standards cases, treated E.O. 111 as a curative statute, ruling as follows:

“E.O. No. 111 was issued on December 24, 1986 or three(3) months after the promulgation of the Secretary of Labor’s decision upholding private respondents’ salary differentials and ECOLAs on September 24, 1986. The amendment of the visitorial and enforcement powers of the Regional Director (Article 128(b)) by said E.O. 111 reflects the intention enunciated in Policy Instructions Nos. 6 and 37 to empower the

Regional Directors to resolve uncontested money claims in cases where an employer-employee relationship still exists. This intention must be given weight and entitled to great respect. As held in *Progressive Worker's Union, et al. vs. F.P. Aguas, et al.* G.R. No. 59711-12, May 29, 1985, 150 SCRA 429:

‘. The interpretation by officers of laws which are entrusted to their administration is entitled to great respect. We see no reason to detract from this rudimentary rule in administrative law, particularly when later events have proved said interpretation to be in accord with the legislative intent.’

The proceedings before the Regional Director must, perforce be upheld on the basis of Article 128(b) as amended by E.O. No. 111, dated December 24, 1986, this executive order ‘to be considered in the nature of a curative statute with retrospective application.’ (*Progressive Workers' Union, et al. vs. Hon. Aguas, et al. (Supra)*; *M. Garcia vs. Judge A. Martinez, et al.* G.R. No. L-47629, May 28, 1979, 90 SCRA 331).

With regard to the petitioner's reliance on the cases of *Zambales Base, Inc. vs. Minister of Labor (supra)* and *Oreshoot Mining Company vs. Arellano, (supra)*, this is misplaced. In the case of *Zambales Base, Inc.*, the court has already ruled that:

“in view of the promulgation of Executive Order No. 111, *Zambales Base Metals vs. Minister of Labor* is no longer good law. (Emphasis supplied) Executive Order No. 111 is in the character of a curative law, that is to say, it was intended to remedy a defect that, in the opinion of the Legislature (the incumbent Chief Executive in this case, in the exercise of her lawmaking powers under the Freedom Constitution) had attached to the provision under the amendment.

X x x”^[9]

The case of *Oreshoot Mining Corporation*, on the other hand, involved money claims of illegally dismissed employees. As the employer-employee relationship has already ceased and

reinstatement is sought, jurisdiction necessarily falls under the Labor Arbiter. Petitioner should not have used this to support its theory as this petition involves labor standards cases and not monetary claims of illegally dismissed employees.

The Court would have ruled differently had the petitioner shown that subject labor standards case is within the purview of the exception clause in Article 128 (b) of the Labor Code. Said provision requires the concurrence of the following elements in order to divest the Regional Director or his representatives of jurisdiction, to wit: (a) that the petitioner (employer) contests the findings of the labor regulations officer and raises issues thereon; (b) that in order to resolve such issues, there is a need to examine evidentiary matters; and (c) that such matters are not verifiable in the normal course of inspection.^[10]

Nowhere in the records does it appear that the petitioner alleged any of the aforestated grounds. In fact, in its Motion for Reconsideration of the Order of the Regional Director dated August 20, 1987, the grounds which petitioner raised were the following:

- “1. This Honorable Office has no jurisdiction to hear this case and its Order of 31 October 1987 is therefore null and void;
2. Batong Buhay Gold Mines, Inc. is erroneously impleaded as the sole party respondent, the complaint should have been directed also against the Asset Privatization Trust.”

In the other pleadings filed by petitioner in NCR-LSED-C1-2047-87, such as the Urgent Omnibus Motion to declare void the Writ of Execution for lack of jurisdiction and the Oppositions it filed on the Motions for Intervention questioning the legal personality of the intervenors, questions as to the amounts complained of by the employees or absence of violation of labor standards laws were never raised. Raising lack of jurisdiction in a Motion to Dismiss is not the contest contemplated by the exception clause under Article 128(b) of the Labor Code which would take the case out of the jurisdiction of the Regional Director and bring it before the Labor Arbiter.

The only instance when there was a semblance of raising the aforesaid grounds, was when they filed an Appeal Memorandum dated January 14, 1988, before the respondent undersecretary. In the said Appeal Memorandum, petitioner comes up with the defense that the Regional Director was without jurisdiction, as employer-employee relationship was absent, since petitioner had ceased doing business since 1985.

Records indicate that the Labor Standards and Welfare Officers, pursuant to Complaint Inspection Authority No. CI-2-047-87, were not allowed to look into records, vouchers and other related documents. The officers of the petitioner alleged that the company is presently under receivership of the Development Bank of the Philippines.^[11] In lieu of this, the Regional Director had ordered that a summary investigation be conducted.^[12] Despite proper notices, the petitioner refused to appear before the Regional Director. To give it another chance, an order to file its position paper was issued to substantiate its defenses. Notwithstanding all these opportunities to be heard, petitioner chose not to avail of such.

As held in the case of *M. Ramirez Industries vs. Sec. of Labor and Employment*, (266 SCRA 111):

“Under Art. 128(a) of the Labor Code, the Secretary of Labor or his duly authorized representatives, such as the Regional Directors, has visitorial powers which authorize him to inspect the records and premises of an employer at any time of the day or night whenever work is being undertaken therein, to question any employee and investigate any fact, condition or matter, and to determine violations of labor laws, wage orders or rules and regulations. If the employer refuses to attend the inspection or conference or to submit any record, such as payrolls and daily time records, he will be deemed to have waived his right to present evidence.” (Emphasis supplied)

Petitioner’s refusal to allow the Labor Standards and Welfare Officers to conduct inspection in the premises of their head office in Makati and the failure to file their position paper is equivalent to a waiver of its right to contest the claims of the employees. This Court had occasion to hold there is no violation of due process where the

Regional Director merely required the submission of position papers and resolved the case summarily thereafter.^[13] Furthermore, the issuance of the compliance order was well within the jurisdiction of the Regional Director, as Section 14 of the Rules on the Disposition of Labor Standards Cases provides:

“SECTION 14. Failure to Appear. — Where the employer or the complainant fails or refuses to appear during the investigation, despite proper notice, for two (2) consecutive hearings without justifiable reasons, the hearing officer may recommend to the Regional Director the issuance of a compliance order based on the evidence at hand or an order of dismissal of the complaint as the case may be. (Emphasis supplied)

It bears stressing that this petition involves a labor standards case and it is in keeping with the law that “the worker need not litigate to get what legally belongs to him, for the whole enforcement machinery of the Department of Labor exists to insure its expeditious delivery to him free of charge.”^[14]

Thus, their claim of closure for business, among other things, are factual issues which cannot be brought here for the first time. As petitioner refused to participate in the proceedings below where it could have ventilated the appropriate defenses, to do so in this petition is unavailing. The reason for this is that factual issues are not proper subjects of a special civil action for certiorari to the Supreme Court.^[15]

It is therefore abundantly clear that at the time of the filing of the claims of petitioner’s employees, the Regional Director was already exercising visitorial and enforcement powers.

Regional Director’s visitorial and enforcement powers under Art. 128 (b) has undergone series of amendments which the Court feels to be worth mentioning.

Confusion was engendered by the promulgation of the decision in the case of Servando’s Inc. vs. Secretary of Labor and Employment and the Regional Director, Region VI, Department of Labor and

Employment.^[16] In the said case, the Regional Director took cognizance of the labor standards cases of the employees of Servando's Inc., but this Court held that:

“In the case of Briad Agro Development Corporation vs. Dela Cerna and Camus Engineering Corp. vs. Sec. Of labor applying E.O. 111 the Court recognized the concurrent jurisdiction of the Secretary of labor (or Regional Directors) and the labor Arbiters to pass on employees money claims, including those cases which the labor Arbiters had previously exercised jurisdiction. However, in a subsequent modificatory resolution in the Briad Agro Case, dated 9 November 1989, the Court modified its original decision in view of the enactment of RA 6715, and upheld the power of the Regional Directors to adjudicate money claims subject to the conditions set forth in Section 2 of said law (RA 6715).

The power then of the Regional Director (under the present state of law) to adjudicate employees money claims is subject to the concurrence of all the requisites provided under Sec. 2 of RA 6715, to wit:

- (a) the claim is represented by an employer or person employed in domestic or household service, or househelper;
- (b) the claim arises from employer-employee relationship;
- (c) the claimant does not seek reinstatement; and
- (d) the aggregate money claim of each employee or househelper does not exceed P5,000.

x x x”^[17]

The Servando ruling, in effect, expanded the jurisdictional limitation provided for by RA 6715 as to include labor standards cases under Article 128 (b) and no longer limited to ordinary monetary claims under Article 129.

In fact, in the Motion for Reconsideration^[18] presented by the private respondents in the Servando case, the court applied more squarely the P5,000 limit to the visitorial and enforcement power of the Regional Director, to wit:

“To construe the visitorial power of the Secretary of Labor to order and enforce compliance with labor laws as including the power to hear and decide cases involving employee’s claims for wages, arising from employer-employee relations, even if the amount of said claims exceed P5,000 for each employee, would, in our considered opinion, emasculate and render meaningless, if not useless, the provisions of Art. 217 (a) and (6) and Article 129 of the Labor Code which, as above-pointed out, confer exclusive jurisdiction on the Labor Arbiter to hear and decide such employees’ claims, regardless of amount, can be heard and determined by the Secretary of Labor under his visitorial power. This does not, however, appear to be the legislative intent.”

But prevailing law and jurisprudence rendered the Servando ruling inapplicable. In the recent case of Francisco Guico, Jr. versus The Honorable Secretary of Labor & Employment Leonardo A. Quisumbing, GR # 131750, promulgated on November 16, 1998, this Court upheld the jurisdiction of the Regional Director notwithstanding the fact that the amounts awarded exceeded P5,000.

Republic Act 7730, the law governing the visitorial and enforcement powers of the Labor Secretary and his representatives reads:

“Article 128 (b) Notwithstanding the provisions of Articles 129 and 217 of this Code to the contrary, and in cases where the relationship of employer-employee still exists, the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the labor standards provisions of this Code and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection. The Secretary or his duly authorized representative shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the labor

employment and enforcement officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

X x x” (Emphasis supplied)

The present law, RA 7730, can be considered a curative statute to reinforce the conclusion that the Regional Director has jurisdiction over the present labor standards case.

Well-settled is the rule that jurisdiction over the subject matter is determined by the law in force when the action was commenced, unless a subsequent statute provides for its retroactive application, as when it is a curative legislation.^[19]

Curative statutes are intended to supply defects, abridge superfluities in existing laws and curb certain evils. They are intended to enable persons to carry into effect that which they have designed and intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute, was invalid.^[20]

In arriving at this conclusion, the case of Briad Agro Development vs. De la Cerna^[21] comes to the fore. In the said case, RA 6715 was held to be a curative statute. There, the Court ruled that RA 6715 is deemed a curative statute and should be applied to pending cases. The rationale of the ruling of the Court was that prior to RA 6715, Article 217 as amended by E.O. 111, created a scenario where the Labor Arbiter and the Regional Director of DOLE had overlapping jurisdiction over money claims. Such a situation was viewed as a defect in the law so that when RA 6715 was passed, it was treated or interpreted by the Court as a rectification of the infirmity of the law, and therefore curative in nature, with retroactive application.

Parenthetically, the same rationale applies in treating RA 7730 as a curative statute. Explicit in its title^[22] is the legislative intent to rectify the error brought about by this Court’s ruling that RA 6715 covers even labor standards cases where the amounts to be awarded by the Regional Director exceed P5,000 as provided for under RA 6715.

Congressional records relative to Republic Act 7730 reveal that, “this bill seeks to do away with the jurisdictional limitations imposed thru said ruling (referring to Servando) and to finally settle any lingering doubts on the visitorial and enforcement powers of the Secretary of Labor and Employment.”^[23]

All the foregoing studiously considered, the ineluctable conclusion is that the application of RA 7730 to the case under consideration is proper.

Thus, it is decisively clear that the public respondent did not act with grave abuse of discretion in issuing the Order dated September 16, 1988.

The second issue for resolution is the validity of the auction sales conducted by Special Sheriff Ramos. It bears stressing that the writ of execution issued by the Regional Director led to the several auction sales conducted on September 24, 1987, October 2, 1987, October 23, 1987, October 29, 1987 and October 30, 1987.

In the first Order of public respondent, the five (5) auction sales were declared null and void. As the public respondent put it, “the scandalously low price for which the personal properties of the respondent were sold leads us to no other recourse but to invalidate the auction sales conducted by the special sheriff.”^[24]

In the September 16, 1988 Order^[25] of public respondent, the personal properties and corresponding prices for which they were sold were as follows:

“Personal properties sold on September 24, 1987:

1. One (1) unit peterbuilt truck Model 1978 with Engine No. 6A4102-65, Chassis No. 139155-P not running condition.
2. One (1) unit 1978 Model peterbuilt truck with Engine No. 6467-8040, Chassis No. 6A410235, truck with Engine No. (Truck 4) not running condition.

3. One (1) unit 1978 Model peterbuilt truck with Engine No. 6A410319, Chassis No. 139163-P Truck No. 4 not running condition.

Proceeds of Sale P178,000.00

Personal Properties Sold on October 2, 1987:

1. One (1) unit peterbuilt truck model 1978, with Engine No. 6A410347, Chassis No. 1391539-P.
2. One (1) unit peterbuilt truck Model 1978 with Engine No. 6A410325, Chassis No. 139149.
3. One (1) unit payloader (caterpillar with Engine No. (not visible) 966.
4. One (1) unit Forklift; one (1) unit crawler crane, Engine No. (not visible); and one (1) Lot of scrap irons impounded inside the Batong Buhay Compound, Calanan, Kalinga Apayao.
5. One (1) unit panel Isuzu with Engine No. 821 POF200207, Plate No. PBV 386.

Proceeds of Sale P228,750.00

Personal Properties Sold on October 23, 1987:

1. One (1) Unit Toyota Land Cruiser, with Engine No. BO4466340, Chassis No. 81400500227, Plate No. BAT 353, burned, damage not running condition, type of body jeep motor not visible.
2. Two (2) units peterbuilts, damaged, burned motor Nos. (not visible) and Chassis Nos. not visible.
3. One (1) Unit Layland, burned, damaged and Motor No. not visible.

4. Two (units) air compressor, burned, damaged and one (1) generator.
5. One (1) Unit Loader Michigan 50, damaged and burned, and
6. One (1) rock crusher, damaged, burned, scrap iron junk.

Proceeds of Sale P98,000.00

Properties sold on October 29, 1987:

1. One (1) lot of scrap construction materials
2. One (1) lot of scrap mining machineries equipments and supplies.
3. One (1) lot of junk machineries, equipments and supplies.

Proceeds of Sale P1,699,999.99

Personal Properties Sold on October 20, 1987^[*]

1. One (1) lot of scrap construction materials
2. One (1) lot of scrap mining machineries, equipments and supplies

Proceeds of Sale P2,185,000.00

Total Proceeds Sale P4,389,749.99

to satisfy the judgment award in the amount of P4,818,746.00.”

As a general rule, findings of fact and conclusion of law arrived at by quasi-judicial agencies are not to be disturbed absent any showing of grave abuse of discretion tainting the same. But in the case under scrutiny, there was grave abuse of discretion when the public

respondent, without any evidentiary support, adjudged such prices as “scandalously low”. He merely relied on the self-serving assertion by the petitioner that the value of the auctioned properties was more than the price bid. Obviously, this ratiocination did not suffice to set aside the auction sales.

The presumption of regularity in the performance of official function is applicable here. Conformably, any party alleging irregularity vitiating auction sales must come forward with clear and convincing proof.

Furthermore, it is a well-settled principle that:

“Mere inadequacy of price is not, of itself sufficient ground to set aside an execution sale where the sale is regular, proper and legal in other respects, the parties stand on an equal footing, there are no confidential relation between them, there is no element of fraud, unfairness, or oppression, and there is no misconduct, accident, mistake or surprise connected with, and tending to cause, the inadequacy.”^[26]

Consequently, in declaring the nullity of the subject auction sales on the ground of inadequacy of price, the public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction.

But, this is not to declare the questioned auction sales as valid. The same are null and void since on the properties of petitioner involved was constituted a mortgage between petitioner and the Development Bank of the Philippines, as shown by the:

- (a) Deed of Mortgage dated December 28, 1973;
- (b) Joint Mortgage (Amending Deed of Mortgage) dated August 25, 1975;
- (c) Amendment to Joint Mortgage dated October 18, 1976.
- (d) Confirmation of Mortgage dated March 27, 1979; and
- (e) Additional Joint First Mortgage dated March 31, 1981.^[27]

The aforementioned documents were executed between the petitioner and Development Bank of the Philippines (DBP) even prior to the filing of the complaint of petitioner's employees. The properties having been mortgaged to DBP, the applicable law is Section 14 of Executive Order No. 81, dated 3 December 1986, otherwise known as the "The 1986 Revised Charter of the Development Bank of the Philippines," which exempts the properties of petitioner mortgaged to DBP from attachment or execution sales. Section 14 of E.O. 81, reads:

"SECTION 14. Exemption from Attachment. — The provisions of any law to the contrary notwithstanding, securities on loans and/or other accommodations granted by the Bank or its predecessor-in-interest shall not be subject to attachment, execution or any other court process, nor shall they be included in the property of insolvent persons or institutions, unless all debts and obligations of the Bank or its predecessor-in-interest, penalties, collection of expenses, and other charges, subject to the provisions of paragraph (e) of Sec. 9 of this Charter."

In fact, a letter dated January 31, 1990 of Jose C. Sison, Associate Executive Trustee of the Asset Privatization Trust, to the Office of the Clerk of Court of the Supreme Court, certified that the petitioner is covered by Proclamation No. 50 issued on December 8, 1986 by President Corazon C. Aquino.

Quoted hereunder are the pertinent portions of the said letter:^[28]

RE: BBGMI vs. Hon. dela Serna, GR No. 86963

Supreme Court Certiorari

SIR:

X x x

. all the assets (real and personal/chattel) of Batong Buhay Gold Mines, Inc. (BBGMI) have been transferred and entrusted to the Asset Privatization Trust (APT) by virtue of Proclamation

No. 50 dated December 8, 1986 of her Excellency, President Corazon C. Aquino. All the said assets of BBGMI are covered by real and chattel mortgages executed in favor of the Philippine National Bank ('PNB'), the Development Bank of the Philippines ('DBP') and the National Investment and Development Corporation ('NIDC').

X x x

Section 14, Executive Order No. 81:

X x x

Pursuant to the above-quoted provision of law, you are hereby warned that all the assets (real and personal /chattel) of BBGMI are exempted from writs of execution, attachment, or any other lien or court processes. The Government, through APT, shall initiate any administrative measures and remedies against you for any violation of the vested rights of PNB, DBP and APT.

X x x

(SGD.)
JOSE C. SISON

The exemption referred to in the aforecited letter is one of the circumstances contemplated by Rule 39 of the Revised Rules of Court, to wit:

“SECTION 13. Property exempt from execution. — Except as otherwise expressly provided by law, the following properties, and no other, shall be exempt from execution:

x x x

(m) Properties specially exempted by law.

X x x”

Private respondents contend that even if subject properties were mortgaged to DBP (now under Asset Privatization Trust), Article 110^[29] of the Labor Code, as amended by RA 6715, applies just the same. According to them, the said provision of law grants preference to money claims of workers over and above all credits of the petitioner. This contention is untenable. In the case of DBP vs. NLRC,^[30] the Supreme Court held that the workers preference regarding wages and other monetary claims under Article 110 of the Labor Code, as amended, contemplates bankruptcy or liquidation proceedings of the employer's business. What is more, it does not disregard the preferential lien of mortgagees considered as preferred credits under the provisions of the New Civil Code on the classification, concurrence and preference of credits.

We now come to the issue with respect to the second Order, dated December 14, 1988, which declared as valid the auction sale conducted on October 29, 1987 by Special Sheriff John Ramos. Public respondent had no authority to validate the said auction sale on the ground that the intervenors, MFT Corporation and Salter Holdings Pty., Ltd., as purchasers for value, acquired legal title over subject properties.

It is well to remember that the said properties were transferred to the intervenors, when Fidel Bermudez, the highest bidder at the auction sale, sold the properties to MFT Corporation which, in turn, sold the same properties to Salter Holdings Pty., Ltd. Public respondent opined that the contract of sale between the intervenors and the highest bidder should be respected as these sales took place during the interregnum after the auction sale was conducted on October 29, 1987 and before the issuance of the first disputed Order declaring all the auction sales null and void.

On this issue, the Court rules otherwise.

As regards personal properties, the general rule is that title, like a stream, cannot rise higher than its source. 31 Consequently, a seller without title cannot transfer a title better than what he holds. MFT Corporation and Salter Holdings Pty., Ltd. trace their title from Fidel Bermudez, who was the highest bidder of a void auction sale over properties exempt from execution. Such being the case, the

subsequent sale made by him (Fidel Bermudez) is incapable of vesting title or ownership in the vendee.

The Order dated December 14, 1988, declaring the October 29, 1987 auction sale as valid, was issued with grave abuse of discretion amounting to lack or excess of jurisdiction.

WHEREFORE, the petition is hereby **GRANTED**, insofar as the Order dated December 14, 1988 of Undersecretary Dionisio dela Serna is concerned, which Order is SET ASIDE. The Order of September 16, 1988, upholding the jurisdiction of the Regional Director, is **AFFIRMED**. No pronouncement as to costs.

SO ORDERED.

Melo, Vitug, Panganiban and Gonzaga-Reyes, JJ., concur.

-
- [*] Attachment "Q", Rollo, pp. 175-191.
- [1] Rollo, p. 67, penned by Regional Director Luna C. Piezas.
- [2] Rollo, pp. 192-198. Attachment "R". Order of Usec Dionisio dela Serna dated September 16, 1988.
- [3] Rollo, p. 203.
- [4] Section 7, Rule 1, Rules on the Disposition of Labor Standards Cases in the Regional Office, dated September 16, 1987.
- [5] PD 850 as amended by PD 1691, latter became effective May 1, 1980.
- [6] 146 SCRA 51.
- [7] 156 SCRA 498.
- [8] Rollo, pp. 199-200.
- [9] Briad Agro Development Corporation vs. Dionisio dela Serna, 174 SCRA 524.
- [10] SSK Parts Corporation vs. Camas, 181 SCRA 675.
- [11] Rollo, page 65.
- [12] Section 11. Hearing. Where no proof of compliance is submitted by the employer after seven (7) calendar days from receipt of the inspection results, the Regional Director shall summon the employer and the complainants to a summary investigation. In regular routine inspection cases however, such investigation shall be conducted where no complete field investigation can be made for reasons attributable to the fault of the employer or his representatives, such as those but not limited to instances when the field inspectors are denied access to the premises, employment records, or workers of the employer. (Rules on the Disposition of Labor Standards Cases)

- [13] Villadolid vs. Inciong, 121 SCRA 205.
- [14] MOLE Policy Instructions No. 7.
- [15] Philippine Long Distance Company vs. NLRC, 190 SCRA 717.
- [16] 184 SCRA 664.
- [17] 184 SCRA 664; 198 SCRA 156.
- [18] 198 SCRA 156.
- [19] Atlas Fertilizer Corporation vs. Navarro, April 30, 1987.
- [20] Agpalo, Ruben. Statutory Construction. Citing the cases of Del Castillo vs. SEC, 96 Phil 119; Santos vs. Duata, 14 SCRA 1041; DBP vs. CA, 96 SCRA 342.
- [21] 179 SCRA 270.
- [22] Entitled “AN ACT FURTHER STRENGTHENING THE VISITORIAL AND ENFORCEMENT POWERS OF THE SECRETARY OF LABOR AND EMPLOYMENT, AMENDING FOR THE PURPOSE ARTICLE 128 OF PD 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES”, approved by the President on June 2, 1994.
- [23] The records of the House of Representatives showed that Congressman Alberto S. Veloso and Eriberto V. Loreto sponsored RA 7730.
- [24] Rollo, p. 203.
- [25] Rollo, pp. 200-202.
- [*] This was a typographical error as admitted by the public respondent and should have read Oct. 30, 1987. As can be seen from the records, there was no auction sale conducted by the Special Sheriff dated Oct. 20, 1987.
- [26] Francisco, The Revised Rules of Court in the Philippines, supra, page 755.
- [27] Rollo, pp. 478-508.
- [28] Rollo, pp. 451-452.
- [29] Art. 110. Worker preference in case of bankruptcy. — In the event of bankruptcy or liquidation of an employer’s business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provisions of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of government and other creditors may be paid.
- [30] 183 SCRA 328.
- [31] Tolentino, Arturo M. CIVIL CODE OF THE PHILIPPINES, Vol. V, page 65, citing National Bank vs. Wisconsin, C.R. Co., 44 Minn, 224, 46 N.W. 342, 9 L. R. A., 20 Am. St. Rep 566.