

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
THIRD DIVISION**

**CO TUAN, SAMUEL ANG, JORGE LIM,  
and EDWIN GOTAMCO,**  
*Petitioners,*

*-versus-*

**G.R. No. 117232  
April 22, 1998**

**NATIONAL LABOR RELATIONS  
COMMISSION and CONFEDERATION  
OF LABOR UNIONS OF THE  
PHILIPPINES,**  
*Respondents.*

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**DECISION**

**PURISIMA, J.:**

In this Special Civil Action for *Certiorari* and Prohibition with Preliminary Injunction, petitioners question the authority of respondent National Labor Relations Commission to rule on the validity of the sale of properties between the petitioners and Buda Enterprises, and to determine if fraud vitiated the sale so as to evade payment of respondent Union's claims against the said company.

The pertinent facts are, as follows:

On August 31, 1987, judgment was rendered by Labor Arbiter Dominador M. Cruz for the complainant (now private respondent) Confederation Labor Unions of the Philippines, Buda Enterprises Chapter (CLUP, for short) against respondent Buda Enterprises in a Complaint for unfair labor practice, illegal dismissal and various monetary claims. The Labor Arbiter likewise ordered the respondent company to reinstate the individual complainants and to pay them full backwages from the time of their dismissal to actual reinstatement.

The decision became final and executory and a writ of execution was then issued. Five parcels of land covered by Transfer Certificates of Title Nos. T-154200, T-154201, T-154201, T-154203, and T-154204 allegedly belonging to Buda Enterprises but later found to be registered under the names of the petitioners Co Tuan, Samuel D. Ang, Jorge J. Lim and Edwin Gotamco, were levied upon.

On January 21, 1988, upon learning of such levy, the petitioners filed an Urgent Motion to Quash the Writ of Execution, claiming that they hold valid and lawful title to the said properties by virtue of the “Extra-judicial Settlement and Sale of the Estate of the Deceased Edilberto Soriano” executed as early as August 25, 1987 by the heirs of the deceased Edilberto Soriano, one of whom was Lourdes Soriano, the proprietress and manager of Buda Enterprises. It was also alleged that none of the heirs, except Lourdes Soriano, were parties in the labor case.

The motion was granted and complainants appealed to the National Labor Relations Commission asking that the Labor Arbiter be ordered to implead the movants (herein petitioners) as respondents, and praying that the sale between the movants and the respondent company, Buda Enterprises, be declared void. Petitioners also appealed, praying for the restitution or payment of the value of their properties.

On May 31, 1991, the National Labor Relations Commission directed the Labor Arbiter of origin to implead the movants and to conduct a hearing “. . . to determine whether the sale was made by the respondents to herein movants-claimants to avoid the payment of

their claims and further to determine the legality of other incidents related thereto.”

The case was assigned to Labor Arbiter Numeriano Villena who rendered on June 25, 1992 a decision holding that his Office was incompetent to determine whether fraud tainted the questioned sale.

Complainants again appealed such decision, contending that the Labor Arbiter gravely abused its discretion in ignoring the directives of the Commission to implead the movants and conduct a hearing.

On appeal, the Commission ruled that:

“The Labor Arbiter erred in not impleading the movants-claimants in view of the allegation that the respondents have promised to pay them their claims out of the proceeds of the sale, implying that the sale was consummated to evade the fulfillment of their promise to pay their lawful claims.”

The decision stated that if such allegation is proven, the next course of action would be to pay the complainant’s claims out of the proceeds of the sale and that this could only be done if the claimants/movants were impleaded. The order to implead the movants and to conduct a hearing was reiterated.

Aggrieved, petitioners have come to this Court, attributing grave abuse of discretion to respondent Commission in rendering the said decision and in issuing the aforementioned Order, theorizing that NLRC is incompetent to determine the legality of the sale between the petitioners and the respondent company, the task being judicial in nature.

Petitioners base their stance on the case of Asian Footwear, etc. versus Antonio Soriano, Hon. Benigno L. Vivar, Executive Labor Arbiter, et. al, (G.R. Nos. 711695-703, May 20, 1986) where this Court ruled that if there is suspicion that the sale of properties “. . . was not in good faith, i.e. was made in fraud of creditors, a government functionary like the respondent labor arbiter is incompetent to make a determination. The task is judicial and the proceedings must be adversary.”

Petitioners likewise contend that since there is a third-party claim over subject properties, the NLRC cannot mandate the enforcement of the writ of execution because “the power of the NLRC to execute its judgment extends only to properties unquestionably belonging to the judgment debtor,” citing the case of Hon. Ariel Santos versus Hon. William Bayhon (G.R. No. 88643, July 23, 1991).

The private respondent, CLUP, on the other hand, agrees with the decision of the NLRC, averring that the authority of NLRC proceeds from Section 2, Rule VI of the NLRC Manual of Instructions for Sheriffs which provides:

“Section 2. Proceedings. — If property levied upon be claimed by any person other than the losing party or his agent, such person shall make an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title and shall file the same with the sheriff and copies thereof served upon the Labor Arbiter or proper officer issuing the writ and upon the prevailing party. Upon receipt of the third-party claim, all proceedings with respect to the execution of the property subject of the third-party claim shall automatically be suspended and the Labor Arbiter or proper officer issuing the writ shall conduct a hearing with due notice to all parties concerned and resolve the validity of the claim within ten (10) working days from receipt thereof and his decision is appealable to the Commission within ten (10) working days from notice, and the Commission shall likewise resolve the appeal within the same period. (Emphasis supplied).”

Private respondent union also alleged that the petitioners are estopped from questioning the jurisdiction of NLRC after submitting themselves to the jurisdiction of the Commission when they interposed their Motion to Quash. It is theorized that they cannot now be allowed to question the jurisdiction of the Commission after obtaining affirmative relief from it.

In its Comment, public respondent NLRC seeks the denial of the petition under consideration on the ground of prematurity, there

being a plain, speedy and adequate remedy in the ordinary course of law such as a motion for reconsideration of the assailed decision.

The Solicitor General, in the Manifestation and Motion filed in lieu of a Comment, pointed out that the NLRC erred in ordering the holding of a hearing to prove that the respondent company did promise to pay complainants' claims out of the proceeds of the questioned sale. It was pointed out that such a hearing would serve no useful and legal purpose as the commitment cannot in any way bind the petitioners who were not parties to said commitment.

As regards the NLRC Manual cited by private respondents, the Solicitor General noted that the same was lifted from Section 17, Rule 39 of the Revised Rules of Court, and its application is limited to a determination of whether the sheriff has acted correctly in enforcing the writ of execution.

The Petition is impressed with merit.

As aptly argued by petitioners, the issue posed before this Court by the petition is not of first impression. It was ruled upon in the case of *Asian Footwear vs. Soriano* (supra) decided on May 20, 1986. In the said case, parcels of land bought by Asian Footwear Rubber Corporation from Jacinto Rubber and Plastics Company were levied upon by the Deputy Sheriff on the strength of an alias writ of execution issued by the Labor Arbiter. Asian resisted the execution, claiming that the properties sought to be levied upon were its own and not Jacinto's, having bought subject properties when Jacinto had already ceased its business operations. The sheriff's report to the Arbiter intimated that Asian was a purchaser in bad faith and therefore the writ of execution could be enforced against it.

Acting on the case, this Court pronounced that "if there is nonetheless suspicion that the sale of the Jacinto properties was not in good faith, i.e. was made in fraud of creditors, a government functionary like the respondent labor arbiter is incompetent to make a determination. The task is judicial and the proceedings must be adversary."

The respondents cannot be reproached for their reliance upon the authority of Section 2, Rule VI of the NLRC Manual of Instructions

for Sheriffs quoted above. As provided under the Revised Rules of the NLRC (Section 4, Rule IX), the sheriff of the Commission, or other officer acting as such, must “be guided strictly by the Sheriff’s Manual which shall form part of these Rules”; and under Sec. 2, Rule VI of the said Manual, when a third party claims the property subject of the execution and files an affidavit thereto, the Labor Arbiter shall “conduct a hearing and resolve the validity of the claim.”

A cursory reading of the above rule indicates that, indeed, there appears to be an inconsistency between the said rule and the decided case. However, such Rule prescribes the procedure to be followed by the sheriff (or the arbiter or officer of the Commission) if the levied property is claimed by any person other than the losing party or his agent. It applies only to the sheriff and such other officers; and only when the third-party claimant chooses to file his claim with the Labor Arbiter or the NLRC. It does not limit the procedure to be followed by the third-party claimant himself.

It should be noted that a person having a third-party claim has two options by which he or she can maintain his right of action. Under Section 17, Rule 39 of the Revised Rules of Court, after which the aforesaid section of the Sheriff’s Manual has been patterned, a third person who claims that his property has been wrongfully seized, may file an action for damages against the sheriff within 120 days from the filing of the bond (this remedy is known as *terceria*).

The same rule gives the third party claimant another option to bring an entirely separate and distinct action from that in which the execution issued — “nothing herein shall prevent such claimant or any third person from vindicating his claim to the property by any proper action.” More so when the action arises out of an entirely different transaction.

In the case at bench, assuming *arguendo* that respondent Buda Enterprises had committed to pay its employees’ claims out of the proceeds of the sale of properties between the said company and the petitioners, such sale is a transaction entirely distinct from the agreement with the employees. It is worth noting that as evidenced by a public document, the sale was executed between the heirs of Edilberto Soriano and the petitioners and none of these heirs were

parties to the labor case instituted by the union against the company except Lourdes Soriano who was its proprietress and manager.

Furthermore, as held in the case of *Ong vs. Tating*, 149 SCRA 267, Rule 39, Section 17 is limited to a determination of whether or not the sheriff has acted correctly in enforcing the writ of execution. "The Court does not and cannot pass upon the question of title to the property with any character of finality. The rights of a third party claimant over properties levied upon by the sheriff cannot be decided in the action where the third party claims have been presented but in the separate action instituted by such claimants." (see also *Bayer vs. Agana* 63 SCRA 355; *Palaris vs. Plan* 69 SCRA 93; *Lorenzana vs. Cayetano* 78 SCRA 485; *Roque vs. CA* 93 SCRA 540).

In a long line of cases, this Court has pronounced that the power of the court, or the NLRC, for that matter, to execute its judgment extends only to properties unquestionably belonging to the judgment debtor. (*Santos vs. Bayhon*, 199 SCRA 525; *Special Servicing Co. vs. Centro La Paz*, 121 SCRA 748; *New Owners/Management of TML Garments Inc. vs. Zaragosa*, 170 SCRA 563). Therefore, if the property under levy does not belong to the judgment debtor in the NLRC case, it could not be validly levied upon by the sheriff for the satisfaction of the judgment therein. Even upon a mere prima facie showing of ownership by the third party claimant, if the third party claim does not involve nor grows out of, a labor dispute, a separate action for injunctive relief against such levy may be maintained in court. (*Peñalosa vs. Villanueva*, 177 SCRA 77 citing the case of *National Mines and Allied Workers' Union vs. Vera*, 133 SCRA 259).

Anent respondent NLRC's submission that the present petition is premature for not resorting to a motion for reconsideration before the Commission, we rule in the negative. Although the filing of a motion for reconsideration is a condition sine qua non in order that certiorari shall lie, this rule is subject to certain recognized exceptions (*Liberty Insurance Corp. vs. CA*, 222 SCRA 37).

In the case of *Klaveness Maritime Agency vs. NLRC*, 232 SCRA 448, this Court ruled that a prior motion for reconsideration is not indispensable for the commencement of certiorari proceedings if the errors sought to be corrected had been duly heard and passed upon.

In this case, the appealed decision of the respondent Commission, as admitted by the Commission itself, and contained in the dispositive portion of its decision, is but a reiteration of its first ruling which ordered the remanding of the case to the Labor Arbiter to implead the petitioners and to conduct a hearing. Hence, it was already given the opportunity to pass upon and correct its mistakes, which is the primary purpose of a motion for reconsideration, and the issue of its authority to decide on the validity of the questioned sale had been duly heard.

Finally, the contention of private respondent Union that the petitioners are estopped from assailing the authority of the NLRC after having submitted itself to its jurisdiction through the filing of a Motion to Quash the Writ of Execution, is untenable. Precisely, the reason why petitioners moved to quash the writ of execution was because the NLRC's jurisdiction over the properties sought to be levied upon was put in issue.

**WHEREFORE**, the petition is **GRANTED** and the decision of respondent National Labor Relations Commission dated September 12, 1994 in NLRC NCR 3-1145-86 is **REVERSED** and **SET ASIDE**. No pronouncement as to costs.

**SO ORDERED.**

**Narvasa, C.J., Romero and Kapunan, JJ., concur.**