



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court's First Division issued a Resolution dated December 5, 2022 which reads as follows:

“G.R. No. 248698 (*Han Phil Industrial, Inc.*,* *petitioner vs. Technology Developers, Inc.*, *respondent*). – This Appeal by *Certiorari*¹ seeks to reverse and set aside the November 14, 2018 Decision² and the July 26, 2019 Resolution³ of the Court of Appeals (*CA*) in CA-G.R. SP No. 141061, which dismissed the petition for *certiorari* filed before it. The *CA* found no grave abuse of discretion on the part of the Regional Trial Court of Makati City, Branch 142 (*Makati RTC*), in denying the Motion to Declare Sheriff's Levy and Sale Null and Void⁴ filed by Han Phil Industrial, Inc. (*petitioner*), through Orders dated March 19, 2015⁵ and May 29, 2015⁶ issued in Civil Case No. 97-2309.

Antecedents

Petitioner alleges that it is the owner of a 1,075-square meter parcel of land located in Lobo, Batangas, covered by Tax Declaration No. 014-00492.⁷

On September 24, 1992, Hun Hyung Park (*Park*), one of petitioner's stockholders, in his personal capacity, leased a property owned by

* Also referred to as “Han-Phil Industrial, Inc.” in some parts of the *rollo*; (see *rollo*, pp. 19, 136, 163); “Han Phil Industries, Inc.” (see *rollo*, pp. 42, 48, 89, 97); “Han-Phil Industries, Inc.” (see *rollo*, pp. 31, 113, 133, 173, 180).

¹ *Rollo*, pp. 8-18.

² *Id.* at 86-96; penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Ronaldo Roberto B. Martin.

³ *Id.* at 103-105.

⁴ *Id.* at 31-35.

⁵ *Id.* at 48; penned by Presiding Judge Dina Pestaño Teves.

⁶ *Id.* at 62.

⁷ *Id.* at 9.

Technology Developers, Inc. (*respondent*). Due to Park's failure to pay rent for several months, respondent filed a complaint for collection of unpaid rentals against Park and petitioner before the Makati RTC, docketed as Civil Case No. 97-2309.⁸

On June 11, 2001, the Makati RTC ruled in favor of respondent and ordered Park to pay ₱1,642,869.12. On the other hand, it dismissed the case against petitioner for lack of cause of action, as petitioner was not privy to the lease contract entered into by Park and respondent.⁹

In executing the decision of the trial court, the court sheriff levied several properties of Park, which included eight cottages situated on petitioner's land in Lobo, Batangas. The properties were sold at a public auction held on January 25, 2006, where respondent won as the lone bidder.¹⁰

Park moved to declare the levy and sale of the property null and void on the grounds of irregularity in the levy procedure and gross inadequacy of price. On March 26, 2006, the Makati RTC denied the motion for lack of merit, ruling that there was no irregularity in the actions of the sheriff in executing the writ. Absent any clear and convincing evidence that the sheriff failed to perform his official duty, the presumption of regularity shall prevail. Anent the allegation of inadequacy of the bid price, the trial court explained that such inadequacy is of no moment considering that the judgment debtor has the right to redeem the properties sold.¹¹

Meanwhile, on January 13, 2006, petitioner filed a third-party claim before the sheriff. In its January 20, 2006 Order, the Makati RTC ordered respondent to secure an indemnity bond, which it posted, allowing the sale to proceed on January 25, 2006.¹²

Aggrieved, petitioner filed a complaint for nullity of the levy and sale of the property before the RTC of Rosario, Batangas, Branch 87 (*Rosario RTC*) on March 20, 2006, docketed as Civil Case No. 06-006, which was dismissed for lack of jurisdiction on December 11, 2008. The December 11, 2008 Decision of the Rosario RTC was affirmed by the CA in CA-G.R. CV

⁸ Id. at 90.

⁹ Id.

¹⁰ Id. at 64.

¹¹ Id. at 90.

¹² Id. at 91.

No. 95016 on September 17, 2012, and was subsequently sustained by this Court, in G.R. No. 206608,¹³ on August 13, 2014.¹⁴

Undaunted, petitioner filed a motion to declare sheriff's levy and sale null and void on September 30, 2014, in Civil Case No. 97-2309, before the Makati RTC. It argued that its property could not be levied because Park was not the owner thereof, and that it had already been absolved of any liability against respondent. Petitioner further argued that it had a distinct and separate personality from Park and its property could not answer for Park's liability.¹⁵

In opposition, respondent claimed that petitioner was merely a conduit of Park.¹⁶

Ruling of Makati RTC

On March 19, 2015 the Makati RTC denied the motion for lack of merit. The relevant portion of the March 19, 2015 Order is reproduced below:

The Court, finding no valid nor cogent and justifiable reason to disturb the previous resolutions issued relative to issues in this case, acts on defendant's move with disfavor.

WHEREFORE, the Motion to Declare Sheriff's Levy and Sale Null and Void is hereby DENIED for want of merit.

SO ORDERED.¹⁷

Petitioner filed its Motion for Reconsideration,¹⁸ which was denied by the Makati RTC on May 29, 2015.

Undaunted, petitioner filed before the CA a Petition for *Certiorari*¹⁹ under Rule 65 of the Rules of Court ascribing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Makati RTC for

¹³ Entitled "*Han-Phil Industries, Inc. v. Technology Developers, Inc.*"; where the Court ruled that the determination of whether or not the levy and sale of a property in execution of a judgment was valid, properly falls within the jurisdiction of the Court that rendered the judgment and issued the writ of execution – the Makati RTC.

¹⁴ *Rollo*, p. 65.

¹⁵ *Id.* at 91.

¹⁶ *Id.*

¹⁷ *Id.* at 48.

¹⁸ *Id.* at 49-51.

¹⁹ *Id.* at 63-71.



denying its motion to declare null and void the levy and sale.

The CA Ruling

The CA held that the Makati RTC did not commit grave abuse of discretion and had rendered judgment accordingly. The *fallo* of the CA decision reads:

WHEREFORE, the petition is **DISMISSED**.

IT IS SO ORDERED.²⁰

According to the CA, petitioner was a stranger in the proceedings for the execution of the decision against Park in Civil Case No. 97-2309 because it was neither a judgment debtor nor an agent thereof. As a stranger or a “third person,” petitioner could only vindicate its claim to a levied property through 1) a *terceria*, or a third-party claim to determine whether the sheriff has rightly or wrongly taken hold of the property not belonging to the judgment debtor or obligor; or 2) an independent “separate action.” The CA found that petitioner availed of the wrong remedy when it filed the present motion to declare sheriff’s sale null and void, as it was neither a *terceria* nor an independent action to vindicate its claim of ownership on the levied property.²¹

Finally, since the filing of the motion to declare sheriff’s sale null and void was not a remedy available to a third party to vindicate its claim to a levied property, the CA found no grave abuse of discretion on the part of the Makati RTC in denying the motion. The Makati RTC had no jurisdiction to rule on the issues regarding petitioner’s right of ownership and possession of the levied properties, which should be the subject of a separate and independent action where such issues could be resolved with finality.²²

Petitioner moved for reconsideration, but the same was denied by the CA, hence this petition.

Issues

Petitioner raises the following arguments:

²⁰ Id. at 95.

²¹ Id. at 92-94.

²² Id. at 95.

1. The CA gravely erred when it ruled on an issue other than what petitioner has raised on appeal. According to petitioner, the issue raised before the CA was whether the Makati RTC gravely abused its discretion in denying the motion to declare sheriff's levy and sale null and void on the ground that it had already resolved the matter before. However, instead of ruling on the issue as raised in the petition, the CA adjudged the issue of whether petitioner availed of the correct remedy. Petitioner posits that the action of the CA was gravely erroneous because it went against the jurisdiction of a petition for *certiorari*, which is limited to the question of whether the court committed grave abuse of discretion.²³

2. The CA gravely erred when it resolved that the proper remedy was to file a separate and distinct action because, as could be recounted, petitioner already filed a complaint before the Rosario RTC, which was dismissed for lack of jurisdiction, and petitioner was told that action should be filed in the court where the judgment and writ of execution were issued.²⁴

The Court's Ruling

The petition has no merit.

Preliminarily, the Court considers the standing of petitioner in relation to Civil Case No. 97-2309. To recapitulate, petitioner was originally impleaded in the present case; however, the case was dismissed as to it for lack of privity to the lease contract between Park and respondent. By virtue of such dismissal, petitioner became a stranger or third person to the case. A "stranger" or "third person" is any person other than the judgment debtor or his agent.²⁵

In the levy on execution of property, a third-party to the case who claims the property levied is provided remedies in Section 16, Rule 39 of the 1997 Rules on Civil Procedure, which reads:

Section. 16. *Proceedings where property claimed by third person.* — If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy

²³ Id. at 14-15.

²⁴ Id. at 15.

²⁵ *Philippine Bank of Communications v. Court of Appeals*, 344 Phil. 90, 95 (1997).

and a copy thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.²⁶

This rule is anchored on the principle that courts cannot execute judgment on properties belonging to third parties. Should the court levy on a property not belonging to a party to the case or other than the judgment obligor, the law grants the adverse stranger due process by virtue of the remedies outlined above.²⁷

As delineated in Sec. 16 of Rule 39, the remedies available to petitioner to vindicate its claim against the sale of its property by the sheriff are either to file: (1) a *terceria* to determine whether the sheriff has rightly or wrongly taken hold of the property not belonging to the judgment debtor or obligor; and (2) an independent “separate action” to vindicate its claim of ownership and/or possession over the foreclosed property.²⁸

The remedy of *terceria* is filed against the sheriff or officer effecting the writ by serving on him an affidavit of the third-party claimant’s title and a copy thereof upon the judgment creditor.²⁹ The officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnifies the officer against such claim by a bond in a sum not greater than the value of the property levied on. An action for damages

²⁶ RULES OF CIVIL PROCEDURE, Rule 19, Sec. 16.

²⁷ *Power Sector Assets and Liabilities Management Corp. v. Maunlad Homes, Inc.*, 805 Phil. 544, 553-554 (2017).

²⁸ *China Banking Corp. v. Spouses Ordinario*, 447 Phil. 557, 563-564 (2003).

²⁹ *Id.* at 564.

may be brought against the sheriff within 120 days from the filing of the bond.³⁰

On the other hand, the other remedy a third-party claimant or stranger may resort to is an independent “separate action.” The purpose of an independent action is to recover ownership or possession of the property seized by the sheriff, whose action may also include damages arising from the wrongful seizure and detention of the property. Such “separate action” must be instituted in a forum of competent jurisdiction, distinct and separate from the action in which the judgment is being enforced, even before or without need of filing a claim in the court that issued the writ.³¹

Terceria and independent separate action are cumulative recourses. Both remedies may be availed of independently of or separately from the other.³² To state the obvious, the subject motion to declare sheriff’s sale null and void is not one of the remedies available to a third-party claimant, such as petitioner.

It would appear that petitioner initiated a *terceria* by filing before the sheriff of the Makati RTC its third-party claim, resulting in the posting of an indemnity bond by respondent. Whether petitioner pursued a claim for damages against the bond is not apparent from the records. At any rate, such fact is immaterial to the resolution of the issue in this case, as the motion subject matter of this appeal is neither a continuation nor a necessary offshoot of such claim.

Neither may the subject motion be considered an independent action. Petitioner submits otherwise, having filed an independent separate action by filing a complaint before the Rosario RTC which, unfortunately, was dismissed for lack of jurisdiction, and which case had been settled by the Court in G.R. No. 206608. It claims that it only followed the ruling of the Court that jurisdiction over the subject matter lay with the court which issued the writ of execution — the Makati RTC.

Aside from the case having become final and executory, the CA was correct in not ruling on the veracity of the dismissal by the Rosario RTC because it was beyond the scope of the action before it. The petition for *certiorari* filed with the CA only challenged the orders of the Makati RTC denying petitioner’s motion to declare sheriff’s sale null and void.

³⁰ *Spouses Sy v. Discaya*, 260 Phil. 401, 407 (1990).

³¹ *China Banking Corp. v. Spouses Ordinario*, supra at 564-565.

³² *Spouses Sy v. Discaya*, supra at 408.

Be that as it may, the Court notes that the action before the Rosario RTC does not appear to be the separate reivindicatory action contemplated by Sec. 16 of Rule 39. The issue therein, rather than hinging on the determination of right to ownership or possession, appears to have been the determination of the validity of the acts of the Makati RTC. Thus the Court ruled that the Rosario RTC had no jurisdiction to nullify the writs of a co-equal court.

On a final note, petitioner alleges that the Makati RTC denied its motion on the ground that the issue raised in said motion had already been ruled upon in its order denying Park's earlier motion in 2006. The Court finds that such interpretation misconstrues the March 19, 2015 Order. Again, the relevant portion of the Makati RTC's order is reproduced for easy reference:

The Court, finding no valid nor cogent and justifiable reason to disturb the previous resolutions issued relative to issues in this case, acts on defendant's move with disfavor.³³

As clearly stated, the order does not specifically mention that the dismissal is based on the same ground as the dismissal of Park's motion. True, the Makati RTC could have been more forthright in providing its reasons for denying the motions; still as discussed above, given that petitioner's motion is not among the remedies available to a third-party claimant over a levied property, the RTC did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner's motion.

WHEREFORE, the petition is **DENIED**. The November 14, 2018 Decision and the July 26, 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 141061 are hereby **AFFIRMED**.

The Notice of Change of Firm Name and Address filed by counsel for petitioner, stating that it changes its firm name and address to Mañacop and Salvan Law Offices, Ground Floor, MHI Building, No. 2-A New York St., Brgy. Immaculate Conception, 1111 Quezon City is **NOTED**, and its prayer that all pleadings, papers, orders, decisions, and other processes pertaining to petitioner be sent to their new address is **GRANTED**.

³³ *Rollo*, p. 48.

SO ORDERED.” *Hernando, J., on wellness leave; Zalameda, J., designated as Acting Working Chairperson per Special Order No. 2939 dated November 24, 2022.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *1/1/23*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

236-I

JAN 26 2023

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