

## SECOND DIVISION

[ G.R. No. 215933, February 08, 2017 ]

**POWER SECTOR ASSETS AND LIABILITIES MANAGEMENT  
CORPORATION (PSALM), PETITIONER, VS. MAUNLAD HOMES,  
INC., RESPONDENT.**

### D E C I S I O N

**PERALTA, J.:**

Assailed in this petition for review on *certiorari* are the Decision<sup>[1]</sup> dated July 30, 2012 and the Resolution<sup>[2]</sup> dated December 10, 2014 issued by the Court of Appeals (CA) in CA-G.R. SP No. 118302.

The antecedent facts are as follows:

Respondent Maunlad Homes, Inc. filed with the Municipal Trial Court in Cities (MTCC), Malolos City, Bulacan, an unlawful detainer case with damages against National Power Corporation (NPC), raffled-off to Branch 1. After trial, the MTCC issued its Decision<sup>[3]</sup> dated October 26, 2009, ordering NPC to vacate the subject premises and surrender physical possession thereof to respondent; to pay reasonable compensation equivalent to Php20.00 per square meter per month of respondent's 25,896-sq. m. properties, reckoned from the date of demand on October 6, 2008, until complete vacation and surrender of the subject premises; and to pay Php20,000.00 as and for attorney's fees and cost of suit.

The NPC appealed the decision to the Regional Trial Court (RTC) of Malolos City, Bulacan, and was raffled-off to Branch 78. The RTC rendered its Decision<sup>[4]</sup> dated May 18, 2010 affirming *in toto* the MTCC decision.

Respondent filed a Motion for Execution which was opposed by the NPC. The NPC also filed a motion for reconsideration of the RTC decision. In an Order dated August 5, 2010, the RTC denied the NPC's motion for reconsideration and granted respondent's motion for execution. On August 25, 2010, a Writ of Execution pending appeal was issued.<sup>[5]</sup> And on September 6, 2010, the sheriff served a Notice of Demand<sup>[6]</sup> of payment to the NPC.

Respondent then filed an urgent motion for issuance of a Break Open Order since the sheriff who tried to implement the writ of execution, by serving the notice of levy on the NPC Warehouse at Barangay Lagundi, Mexico, Pampanga, was prevented by the security guards assigned therein. The NPC argued that the warehouse is being used both by it and the Power Sector Assets and Liabilities Management Corporation (herein petitioner PSALM), an entity created and existing by virtue of Republic Act No. 9136, the Electric Power Industry Reform Act of 2001 (EPIRA Law); that the said law provides that the ownership and all generation assets, IPP

contracts and other NPC disposable assets are transferred to PSALM; and that as of the moment, the ownership of the said items stored in the said warehouse cannot be established with certainty as they are in the process of determining what properties may be retained by the latter.

On October 26, 2010, the RTC issued a Break Open Order<sup>[7]</sup> authorizing the sheriff and his deputies, police officers/escorts, representatives from both parties to enter/break open into the NPC's warehouse facilities located at Barangay Lagundi, Mexico, Pampanga.

On November 4, 2010, the sheriff issued a Notice of Levy<sup>[8]</sup> on execution pending appeal of personal properties/sale of seven (7) units transformer radiator fins, one (1) unit power transformer with Serial No. 77740395, and four (4) pieces angle bars.

The fallo of the notice states:

NOW WHEREFORE, by virtue of said writ of execution pending appeal and in accordance with Rule 39, Section 9 of the Rules of Court, the undersigned sheriff IV will sell at public auction to the highest bidder for CASH and in Philippine Currency, on November 12, 2010 at 10:00 in the morning or soon thereafter, at No. 120 Gapan Olongapo Road, Barangay Lagundi, Mexico, Pampanga, the above-described properties to satisfy the said Writ of Execution pending Appeal.<sup>[9]</sup>

On November 9, 2010, petitioner filed an Affidavit<sup>[10]</sup> of third-party claim with the sheriff pursuant to Section 16, Rule 39 of the Rules of Court, and alleging that it is the owner of the levied properties pursuant to the EPIRA Law. On November 10, 2010, petitioner filed a Manifestation<sup>[11]</sup> with Urgent *Ex Parte* Motion for Issuance of *Status Quo* Order with the RTC arguing that it is the owner of the subject properties pulled out by the sheriff by operation of law; that it is not a party to the instant case and therefore cannot be bound by the judgment therein; that the obligation to pay respondent had not been transferred to it. Petitioner also prayed for the nullification of the levy of its properties and restoring their immediate possession to it.

On November 11, 2010, the RTC issued an Order<sup>[12]</sup> holding in abeyance the public sale of the subject levied properties until further orders.

On February 1, 2011, the RTC issued an Order,<sup>[13]</sup> the dispositive portion of which reads:

WHEREFORE, the foregoing considered, the motion for issuance of Status Quo Order is hereby DENIED. The third-party claim filed by PSALM is likewise denied.

Further PSALM's prayer to nullify the levy of seven units transformers radiator fins, one unit power transformer with serial number E-77740395 and four pieces of angle bars and restoring its immediate possession to the same is DENIED.

Accordingly, the Sheriff of this Court is DIRECTED to proceed with the

implementation of the writ of execution issued in this case in accordance with law and without further delay.

SO ORDERED.<sup>[14]</sup>

On February 21, 2011, the sheriff issued a notice<sup>[15]</sup> of sale on execution of personal properties.

Petitioner filed with the CA a petition for *certiorari* assailing the October 26, 2010 Break Open Order, the November 4, 2010 notice of levy on execution pending appeal, the Order dated February 1, 2011 denying the motion for issuance of *Status Quo* Order and the third-party claim, and the February 21, 2011 notice of sale on execution of personal properties. It alleged that it has no adequate remedy available from the writs and processes issued by the RTC, and that it acted without or in excess of jurisdiction in issuing the assailed orders despite the fact that petitioner is the owner of the subject properties.

On July 30, 2012, the CA issued its assailed Decision dismissing the petition for *certiorari* for being an incorrect remedy.

The CA found, among others, that contrary to the allegation of petitioner that there exists no plain, speedy and adequate remedy obtaining under the circumstances, Section 16, Rule 39 of the Rules of Court provides a more expeditious and encompassing recourse in case a property belonging to a third person is placed under the coverage of the writ of execution and, thereafter, sold at public auction.

Petitioner filed a motion for reconsideration, which was denied by the CA in a Resolution dated December 10, 2014.

Petitioner filed the instant petition for review on *certiorari* alleging the following:

I

THE CA, IN DISMISSING PSALM'S PETITION ON PROCEDURAL GROUNDS, OVERLOOKED PSALM'S PREVIOUSLY FILED THIRD PARTY CLAIM.

II

PSALM OWNS THE PROPERTIES SUBJECT MATTER OF THE ORDERS OF JUDGE SAMPAGA ISSUED AND THE PROCESSES SHERIFF ESGUERRA ISSUED.

III

THE JUDGMENT OBLIGATION IS NOT AMONG THE OBLIGATIONS PSALM ASSUMED.

IV

PSALM WAS NOT A PARTY TO THE CASE IN WHICH THE DECISION THEREIN IS THE SUBJECT OF THE EXECUTION PROCEEDINGS.<sup>[16]</sup>

Petitioner claims that the CA erred in overlooking the fact that it filed a third party claim as provided under Section 16 of Rule 39 of the 1997 Rules of Civil Procedure. Petitioner contends that the CA should have taken consideration of the substantive issues raised in its petition reiterating its ownership of the levied properties. It claims that upon the effectivity of the EPIRA law on June 26, 2001, the ownership of all existing generation assets, IPP contracts, real estate and all other disposable assets of NPC were transferred to it; and that all existing liabilities and outstanding financial obligations of NPC as of June 26, 2001 arising from loans, Issuance of bonds, securities and other instrument of indebtedness were then and there likewise legally transferred and assumed by it. However, since respondent's claim is not among those existing obligations that were transferred to it upon the effectivity of the EPIRA law, it cannot be held liable for the claim even if it were made a party in the case. It contends that there is sufficient ground to annul the levy and sale made by the sheriff since it is not a party in the case, and therefore, not bound by the judgment rendered.

The pivotal issue for resolution is whether the CA erred in dismissing petitioner's petition for *certiorari* assailing the denial of the latter's third party claim for being a wrong remedy.

We find no merit in the petition.

The power of the court in executing judgments extends only to properties unquestionably belonging to the judgment debtor alone.<sup>[17]</sup> An execution can be issued only against a party and not against one who did not have his day in court. <sup>[18]</sup> The duty of the sheriff is to levy the property of the judgment debtor not that of a third person. For, as the saying goes, one man's goods shall not be sold for another man's debts.<sup>[19]</sup> Thus, if the property levied by virtue of a writ of execution is claimed by a third person who is not the judgment obligor, Section 16 of Rule 39 of the 1997 Rules of Civil Procedure provides for the remedy of such third party claimant, to wit:

Sec. 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 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.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.

Under the above-quoted provision, the third-party claimant may execute an affidavit of his title or right to the possession of the property levied, and serve the same to the officer making the levy and a copy thereof to the judgment creditor. This remedy is known as *terceria*.<sup>[20]</sup> The officer shall not be bound to keep the property, unless the judgment creditor 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. An action for damages may be brought against the officer within one hundred twenty (120) days from the date of the filing of the bond. The same section also provides that a third-party claimant may file a proper action to vindicate his claim to the levied property. The proper action mentioned in Section 16 would have for its object the recovery of ownership or possession of the property seized by the sheriff, as well as damages resulting from the allegedly wrongful seizure and detention thereof despite the third party claim and it may be brought against the sheriff and such other parties as may be alleged to have colluded with him in the supposedly wrongful execution proceedings, such as the judgment creditor himself. If instituted by a stranger to the suit in which execution has issued, such proper action should be a totally separate and distinct action from the former suit.<sup>[21]</sup>

In this case, petitioner had filed an affidavit of third-party claim with the sheriff and a motion for issuance of *status quo* order with the RTC to prevent the sale of the levied properties at public auction, nullification of the levy and restoration of the subject properties to it, which were denied by the RTC and, consequently, the sheriff was directed to proceed with the implementation of the issued writ of execution.

The RTC denied the third-party claim as follows:

As to the third-party claim by movant PSALM, this Court also resolves to deny the same for lack of merit.

Section 16 of Rule 39 of the Rules of Court provides:

x x x

In this present case, aside from serving said affidavit of third-party claim to the Sheriff of this Court, claimant PSALM also filed this instant motion for issuance of *status quo* order to prevent the sale of the levied properties at public auction, nullification of the levy and restoration of the subject properties in the possession of PSALM. In effect, instead of the Sheriff requiring the plaintiff-obligee to file an indemnity bond, the Court is constrained to resolve the merit of the third-party claim filed by