

## THIRD DIVISION

**[ G.R. No. 169498, December 11, 2008 ]**

**OSCAR DELOS SANTOS AND ELIZA DELOS SANTOS,  
PETITIONERS, VS. COURT OF APPEALS, RESPONDENT.**

### DECISION

**CHICO-NAZARIO, J.:**

Before this Court is a Special Civil Action for *Certiorari*, Prohibition and Mandamus under Rule 65 of the Revised Rules of Court filed by petitioners spouses Oscar and Eliza delos Santos (spouses Delos Santos), seeking to reverse and set aside the Decision<sup>[1]</sup> dated 28 June 2005 of the Court of Appeals in CA-G.R. SP No. 83234 for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction. In its assailed Decision, the Court of Appeals reversed the Orders dated 10 February 2004 and 1 March 2004 of the Regional Trial Court (RTC) of Valenzuela, Branch 172, in Criminal Case No. 1116-V-99, declaring Saturnino Dy, also known as Juanito Dy (Dy), and Dyson Surface and Coating Corporation (Dyson Corporation) as joint employers of the accused Antonio Sagosoy (Sagosoy), who should both be held liable solidarily with Sagosoy for the injury caused to Ferdinand delos Santos (Ferdinand).

The factual and procedural antecedents of this case are as follows:

On 18 March 1998, at around 7:00 o'clock in the morning, the Isuzu forward van driven by Sagosoy collided with a horse-drawn carriage steered by Oscar delos Santos. Oscar delos Santos was with his four-year-old son Ferdinand who was seated in the carriage. The collision left the horse dead and Ferdinand seriously injured with a broken spinal cord. A surgical operation to repair the broken spinal cord could not be performed on Ferdinand because of his tender age. Thus, Ferdinand's broken spinal cord further caused irreversible damage to his vision, speech, and motor skills.

The van driven by Sagosoy bears plate number ULP 725 registered under the name of Dy of Dyson Corporation.

An Information<sup>[2]</sup> charging Sagosoy with the crime of Reckless Imprudence Resulting in Serious Physical Injuries and Damage to Property was eventually filed before the RTC, which reads:

That on or about the 18<sup>th</sup> day of March, 1998, in Valenzuela, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, being then the driver of an Isuzu Forward Van bearing Plate No. 725, did then and there unlawfully and feloniously drive, manage and operate the same along Tatalon, Ugong, this municipality, in a reckless, negligent and imprudent manner, without taking the

necessary precautions to avoid accident to person and damage to property, and so, as a result of such carelessness, negligence and imprudence, said vehicle driven by the accused, hit and collide with Horse-Drawn Vehicle (Tiburine) causing said Tiburine to be damaged in the amount of P9,200.00 and causing further the death of the horse valued at P75,000.00 to the damage and prejudice of the owner thereof, and as further consequence, Ferdinand delos Santos sustained physical injuries which requires medical attendance for a period of more than 30 days and incapacitated said Ferdinand delos Santos from performing his habitual work for the same period of time.

The case was docketed as Criminal Case No. 1116-V-99.

When arraigned, Sagosoy pleaded not guilty.<sup>[3]</sup>

After trial on the merits, the RTC rendered a Decision<sup>[4]</sup> on 27 September 2002 in Criminal Case No. 1116-V-99 finding Sagosoy guilty of the crime charged, thereby sentencing him to a straight penalty of four (4) months imprisonment and to indemnify the spouses Delos Santos for actual and moral damages resulting from Ferdinand's injury. The *fallo* of the said RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding accused ANTONIO SAGOSOY y NAMALATA guilty beyond reasonable doubt and as principal of the crime of reckless imprudence resulting to serious physical injuries and damage to property, without any attending mitigating or aggravating circumstance and hereby sentences him to a straight penalty of FOUR (4) MONTHS of *arresto mayor*. The accused is further sentenced to pay [the Spouses Delos Santos] the amount of P85,000.00 representing the medical expenses after deducting the amount of P150,000.00 contributed by the employer of the accused, the amount of P9,200.00 representing the cost of repair of the damaged tiburine, the amount of P75,000.00 representing the value of the horse, and the amount of P300,000.00 representing the cost of the operation to be performed on Ferdinand upon reaching the age of 18. Finally, the accused is sentenced to pay [the Spouses Delos Santos] the amount of P500,000.00 as moral damages, to pay Ferdinand delos Santos, through his parents [the Spouses Delos Santos], the amount of P200,000.00 as indemnity, to pay the amount equivalent to 10% of the amount to be collected as reasonable attorney's fees, and to pay the costs of suit, all without subsidiary imprisonment in case of insolvency.

The spouses Delos Santos filed a Motion for the Issuance of Writ of Execution,<sup>[5]</sup> which was favorably acted upon by the RTC. The First Writ of Execution<sup>[6]</sup> was issued on 3 January 2003 commanding the Sheriff to execute and make effective its 27 September 2002 Decision in Criminal Case No. 1116-V-99.

An attempt to satisfy the judgment was made by the Sheriff, but he found no real or personal properties of Sagosoy to answer for the latter's civil liability to the spouses Delos Santos. The unsatisfied Sheriff's Return<sup>[7]</sup> prompted the spouses Delos Santos to file a Motion for the Issuance of Alias Writ of Execution<sup>[8]</sup> against the properties and income of Dy in light of his subsidiary liability as the employer of Sagosoy. The

motion was opposed by Dy who denied that he was the employer of Sagosoy. According to Dy, at the time the accident occurred, Sagosoy was merely doing an isolated and non-business related driving task for him.

After weighing the arguments of the parties, the RTC issued on 30 May 2003 an Order directing the issuance of an Alias Writ of Execution, not just against the income and properties of Sagosoy, but also those of Dy.<sup>[9]</sup> The Alias Writ of Execution<sup>[10]</sup> was issued on 3 June 2003.

Subsequently, the RTC, in an Order dated 23 June 2003, denied Dy's Motion for Reconsideration of its Order dated 30 May 2003.

Dy filed a Petition for *Certiorari* with the Court of Appeals, docketed as CA-G.R. SP No. 78005, averring that the RTC committed grave abuse of discretion in issuing its Orders dated 30 May 2003 and 23 June 2003. The appellate court, however, in a Decision<sup>[11]</sup> dated 28 September 2004, dismissed Dy's Petition and affirmed the questioned RTC Orders. Said Decision of the Court of Appeals in CA-G.R. SP No. 78005 became final and executory on 20 October 2004 as evidenced by the Entry of Judgment already made therein.<sup>[12]</sup>

In the *interregnum*, per the Sheriff's Return dated 6 October 2003, the Alias Writ of Execution was again returned unsatisfied due to the failure of the Sheriff to locate any real or personal property registered in the name of Dy.<sup>[13]</sup>

Unrelenting, the spouses Delos Santos filed a Motion for the Issuance of a Second Writ of Execution before the RTC, identifying Dyson Corporation as the co-employer of Sagosoy, together with Dy. The spouses Delos Santos called the attention of the trial court to particular pieces of evidence to establish that Sagosoy, at the time of the accident, worked for both Dy and Dyson Corporation, namely: (1) Sagosoy's testimony that Dy was doing business in the name of Dyson Corporation; (2) Sagosoy's Social Security System (SSS) record showing that Dyson Corporation was his registered employer; and (3) the Articles of Incorporation of Dyson Corporation establishing that Dy was one of the majority stockholders of Dyson Corporation.<sup>[14]</sup> The spouses Delos Santos also propounded that the accident which caused serious physical injuries to Ferdinand took place while Sagosoy was undertaking an activity in furtherance of the business operations of Dyson Corporation.<sup>[15]</sup>

Dyson Corporation timely opposed the spouses Delos Santos's latest Motion, underscoring the inconsistencies in the spouses Delos Santos's stand on the crucial issue of who was the real employer of Sagosoy. Dyson Corporation averred that the spouses Delos Santos should not be allowed to conveniently shift their position on the said issue, and now joined Dyson Corporation with Dy as Sagosoy's employers after it turned out that Dy alone was financially incapable of satisfying the civil liability under the RTC judgment in Criminal Case No. 1116-V-99.<sup>[16]</sup>

In an Order<sup>[17]</sup> dated 10 February 2004, the RTC granted the spouses Delos Santos's Motion and declared Dy and Dyson Corporation as co-employers of Sagosoy. In its Order, the RTC explained that while the van driven by Sagosoy was owned by Dy, it was being used by Dyson Corporation in its business operations. The RTC further justified that the initial confusion as to the identity of Sagosoy's

employer was understandable and did not render impossible the conclusion that both Dy and Dyson Corporation were Sagosoy's employers who should both accordingly be held liable for the civil liability arising from the crime of which Sagosoy was adjudged guilty.

In an Order<sup>[18]</sup> dated 1 March 2004, the RTC denied the Motion for Reconsideration of Dyson Corporation for no sufficient merit.

For allegedly having been issued with grave abuse of discretion, the RTC Orders dated 10 February 2004 and 1 March 2004 were challenged by Dyson Corporation before the Court of Appeals through a Special Civil Action for *Certiorari*, docketed as CA-G.R. SP No. 83234.

On 28 June 2005, the Court of Appeals promulgated a Decision in CA-G.R. SP No. 83234, finding therein that the issuance by the RTC of its 10 February 2004 and 1 March 2004 Orders was tainted with grave abuse of discretion. The appellate court reasoned that Dy and Dyson Corporation could only be treated as joint employers of Sagosoy upon the piercing of the veil of corporate fiction, which was not warranted in the instant case since it had not been shown that Dy was hiding behind the cloak of Dyson Corporation in order to evade liability. Thus, the *fallo* of the Decision of the Court of Appeals reads:

WHEREFORE, premises considered, the petition is hereby **GRANTED**. We hereby **ANNUL** and **SET ASIDE** the assailed orders. Costa against [the spouses Delos Santos].<sup>[19]</sup>

The spouses Delos Santos filed a Motion for Reconsideration on 10 August 2005 explaining that the delay was caused by their counsel who did not notify them of the receipt of the Court of Appeals Decision dated 28 June 2005. It was only upon inquiry with the RTC on 26 July 2005 that they learned of the appellate court's decision.

The Court of Appeals, in a Resolution<sup>[20]</sup> dated 30 August 2005, refused to give due course to the spouses Delos Santos's Motion for Reconsideration since it was not filed within the reglementary period. According to the appellate court, the spouses Delos Santos thru counsel received a copy of their 28 June 2005 Decision on 26 July 2005. Hence, the spouses Delos Santos had only until 29 July 2005 to move for the reconsideration of the judgment or to appeal it. The Motion for Reconsideration was filed only on 10 August 2005. Resultantly, the Court of Appeals Decision in CA-G.R. SP No. 83234 became final and executory on 19 September 2005.

The spouses Delos Santos are now before this Court seeking the reversal of the Court of Appeals disquisition on the ground of grave abuse of discretion. For the resolution of this Court are the following issues:

I.

WHETHER OR NOT THE FILING OF THE INSTANT SPECIAL CIVIL ACTION FOR *CERTIORARI*, IS PROPER IN THE INSTANT CASE.

II.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN DENYING THE SPOUSES DELOS SANTOS' MOTION FOR RECONSIDERATION.

### III.

WHETHER OR NOT DY AND DYSON CORPORATION ARE JOINT EMPLOYERS OF SAGOSOY AND SHOULD THEREFORE BE HELD SUBSIDIARILY LIABLE FOR THE CIVIL LIABILITY ARISING FROM THE CRIME COMMITTED BY SAGOSOY.

The Court first dispenses with the procedural issues raised by the parties, particularly the propriety of the remedy they chose to avail herein.

The spouses Delos Santos justify their present Petition for *Certiorari*, Prohibition and *Mandamus* by averring the lack of any other plain, speedy or adequate remedy available in the ordinary course of law that could compensate them for the injury caused to their son. On the other hand, Dyson Corporation counters by highlighting the failure of the spouses Delos Santos to timely file their Motion for Reconsideration before the Court of Appeals in CA-G.R. SP No. 83234. Dyson Corporation argues that the special civil action of *certiorari* cannot be invoked as a substitute for the remedy of appeal that was already lost, less so, when the requisites for *certiorari* were not faithfully complied with.

According to Section 1, Rule 65 of the Revised Rules of Court, a petition for *certiorari* may be filed under the following circumstances:

SEC. 1. *Petition for certiorari* -- When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

A writ of *certiorari* may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ cannot be used for any other purpose, as its function is limited to keeping the inferior court within the bounds of its jurisdiction. <sup>[21]</sup>

For *certiorari* to prosper, the following requisites must concur: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law. <sup>[22]</sup>

"Without jurisdiction" means that the court acted with absolute lack of authority. There is "excess of jurisdiction" when the court transcends its power or acts without