



Republic of the Philippines
Supreme Court
Manila

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4/10/2015
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FIRST DIVISION

NORTHERN ISLANDS, CO., G.R. No. 203240
INC.,

Petitioner, Present:

- versus -

LEONARDO-DE CASTRO, J.,
Acting Chairperson,**

SPOUSES DENNIS and
CHERYLIN* GARCIA, doing
business under the name and style
"Ecolamp Multi Resources,"

BERSAMIN,
PEREZ,
PERLAS-BERNABE, and
JARDELEZA,*** JJ.

Respondents.

Promulgated:

MAR 18 2015

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Decision² dated January 19, 2012 and the Resolution³ dated August 24, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 97448, ordering the Regional Trial Court of Quezon City, Branch 215 (RTC) to appoint a commissioner to determine the value of the attached properties of respondents Spouses Dennis and Cherylin Garcia (respondents), and to discharge any excessive attachment found thereby.

The Facts

On September 23, 2005, petitioner Northern Islands Co., Inc. (petitioner) filed a Complaint⁴ with application for a writ of preliminary

* "Cherylyn" and "Cherilyn" in some parts of the *rollo*.

** Per Special Order No. 1946 dated March 12, 2015.

*** Designated Additional Member per Special Order No. 1952 dated March 18, 2015.

¹ *Rollo*, pp. 3-23.

² *Id.* at 29-47. Penned by Associate Justice Romeo F. Barza with Associate Justices Noel G. Tijam and Edwin D. Sorongon concurring.

³ *Id.* at 49-50. Penned by Associate Justice Romeo F. Barza with Associate Justices Noel G. Tijam and Edwin D. Sorongon concurring.

⁴ Not attached to the *rollo*.

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attachment, before the RTC against respondents, docketed as Civil Case No. Q-05-53699 (Main Case), which was subsequently amended⁵ on October 25, 2005.⁶ It alleged that: (a) from March to July 2004, petitioner caused the delivery to respondents of various appliances in the aggregate amount of ₱8,040,825.17;⁷ (b) the goods were transported, shipped, and delivered by Sulpicio Lines, Inc., and were accepted in good order and condition by respondents' representatives;⁸ (c) the parties agreed that the goods delivered were payable within 120 days, and that the unpaid amounts would earn interest at a rate of eighteen percent (18%) per annum;⁹ (d) however, the value of the goods were not paid by respondents despite repeated demands;¹⁰ and (e) respondents fraudulently asserted that petitioner had no proof that they had indeed received the quantity of the subject goods.¹¹

In connection with the application for a writ of preliminary attachment, petitioner posted a bond, through Visayan Surety and Insurance Corporation, in the amount of ₱8,040,825.17. On November 7, 2005, the RTC issued the writ sought for.¹²

Instead of filing an answer, respondents filed on November 11, 2001, an Urgent Motion for Extension of Time to File Proper Pleading and Motion for Discovery (Production and Inspection)¹³ (November 11, 2001 Motion), asking the RTC to allow them to photocopy and personally examine the original invoices, delivery cargo receipts, and bills of lading attached to the Amended Complaint, claiming that they could not "come up with an intelligent answer" without being presented with the originals of such documents.¹⁴

Thereafter, or on January 11, 2006, respondents filed a Motion to Discharge Excess Attachment,¹⁵ alleging that the attachment previously ordered by the RTC exceeded by ₱9,232,564.56 given that the estimated value of the attached properties, including the garnished bank accounts, as assessed by their appraiser, Gaudioso W. Lapaz (Lapaz), amounted to ₱17,273,409.73, while the attachment bond is only in the amount of ₱8,040,825.17.¹⁶

⁵ See Amended Complaint (with *Ex Parte* Application for Issuance of Writ of Preliminary Attachment) dated October 17, 2002; *rollo*, pp. 82-89.

⁶ *Id.* at 30.

⁷ *Id.* at 83.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 84.

¹¹ *Id.* at 86.

¹² *Id.* at 30-31.

¹³ Not attached to the *rollo*.

¹⁴ *Rollo*, p. 31.

¹⁵ Dated January 11, 2006. *Id.* at 91-102.

¹⁶ *Id.* at 32.

In an Order¹⁷ dated February 28, 2006, the RTC denied the November 11, 2001 Motion, and, instead, directed respondents to file their answer, which the latter complied with through the filing of their Answer *Ad Cautelam Ex Abudante* with Compulsory Counterclaim¹⁸ on April 3, 2006. Despite this, respondents again filed a Motion for Leave of Court to File Motion for Discovery (Production and Inspection)¹⁹ (Motion for Discovery) on April 7, 2006.²⁰

The RTC Ruling

In an Order²¹ dated June 21, 2006, the RTC, among others, denied the Motion to Discharge Excess Attachment, finding that the appraisal made by Lapaz was not reflective of the true valuation of the properties, adding too that the bond posted by petitioner stands as sufficient security for whatever damages respondents may sustain by reason of the attachment.²²

On the other hand, the RTC granted the Motion for Discovery in accordance with Rule 27 of the Rules of Court, despite petitioner's claim that it did not have the originals of the documents being sought.²³

However, no production or inspection was conducted on July 10, 2006 as the RTC directed since respondents received the copy of the above order only on July 11, 2006.²⁴

On July 25, 2006, respondents filed a Motion for Partial Reconsideration of the Order dated June 21, 2006, specifically assailing the denial of their Motion to Discharge Excess Attachment. In this relation, they prayed that the RTC refer to a commissioner, pursuant to Rule 32 of the Rules of Court, the factual determination of the total aggregate amount of respondents' attached properties so as to ascertain if the attachment was excessive. Also, they prayed that the order for production and inspection be modified and that petitioner be ordered to produce the original documents anew for their inspection and copying.²⁵

The foregoing motion was, however, denied by the RTC in an Order²⁶ dated August 23, 2006 for lack of merit. Thus, respondents elevated the

¹⁷ Not attached to the *rollo*.

¹⁸ Not attached to the *rollo*.

¹⁹ Not attached to the *rollo*.

²⁰ *Rollo*, pp. 8-9 and 32.

²¹ *Id.* at 137-139. Penned by Judge Ma. Luisa C. Quijano-Padilla.

²² *Id.* at 138.

²³ *Id.*

²⁴ *Id.* at 33.

²⁵ *Id.* at 33-34.

²⁶ *Id.* at 140.

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matter to the CA via petition for *certiorari* and mandamus,²⁷ docketed as CA-G.R. SP No. 97448 (*Certiorari* Case).

In the interim, the RTC rendered a Decision²⁸ dated September 21, 2011 in the Main Case. Essentially, it dismissed petitioner's Amended Complaint due to the absence of any evidence to prove that respondents had agreed to the pricing of the subject goods.²⁹

The RTC's September 21, 2011 Decision was later appealed³⁰ by petitioner before the CA on October 27, 2011. Finding that the Notice of Appeal was seasonably filed, with the payment of the appropriate docket fees, the RTC, in an Order³¹ dated January 25, 2012, ordered the elevation of the entire records of the Main Case to the CA. The appeal was then raffled to the CA's Eighth Division, and docketed as **CA-G.R. CV No. 98237**. On the other hand, records do not show that respondents filed any appeal.³²

The CA Ruling in the *Certiorari* Case

Meanwhile, the CA, in a Decision³³ dated January 19, 2012, partly granted the *certiorari* petition of respondents, ordering the RTC to appoint a commissioner as provided under Rule 32 of the Rules of Court as well as the subsequent discharge of any excess attachment if so found therein, and, on the other hand, denying respondents' Motion for Discovery.³⁴

It held that: (a) on the issue of attachment, trial by commissioners under Rule 32 of the Rules of Court was proper so that the parties may finally settle their conflicting valuations,³⁵ and (b) on the matter of discovery, petitioner could not be compelled to produce the originals sought by respondents for inspection since they were not in the former's possession.³⁶

Aggrieved, petitioner filed a Motion for Partial Reconsideration³⁷ on February 13, 2012 but was, however, denied in a Resolution³⁸ dated August 24, 2012, hence, the present petition.

²⁷ Erroneously titled as a petition for review on *certiorari* dated December 15, 2006. Id. at 141-174.

²⁸ Id. at 62-76. Penned by Judge Ma. Luisa C. Quijano-Padilla.

²⁹ Id. at 72.

³⁰ Dated October 24, 2011. Id. at 267-269.

³¹ Id. at 81 and 271.

³² Id. at 10.

³³ Id. at 29-47.

³⁴ Id. at 46.

³⁵ See id. at 41-42.

³⁶ See id. at 45-46.

³⁷ Dated February 6, 2012. Id. at 51-60.

³⁸ Id. at 49-50.

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The Issues Before the Court

The issues presented for the Court's resolution are: (a) whether the RTC had lost jurisdiction over the matter of the preliminary attachment after petitioner appealed the decision in the Main Case, and thereafter ordered the transmittal of the records to the CA; and (b) whether the CA erred in ordering the appointment of a commissioner and the subsequent discharge of any excess attachment found by said commissioner.

The Court's Ruling

The petition is meritorious.

Section 9, Rule 41 of the Rules of Court provides that **in appeals by notice of appeal, the court loses jurisdiction over the case upon the perfection of the appeals filed in due time and the expiration of the time to appeal of the other parties.**

In this case, petitioner had duly perfected its appeal of the RTC's September 21, 2011 Decision resolving the Main Case through the timely filing of its Notice of Appeal dated October 27, 2011, together with the payment of the appropriate docket fees. The RTC, in an Order³⁹ dated January 25, 2012, had actually confirmed this fact, and thereby ordered the elevation of the entire records to the CA. Meanwhile, records do not show that respondents filed any appeal, resulting in the lapse of its own period to appeal therefrom. Thus, based on Section 9, Rule 41, it cannot be seriously doubted that the RTC had already lost jurisdiction over the Main Case.

With the RTC's loss of jurisdiction over the Main Case necessarily comes its loss of jurisdiction over all matters merely ancillary thereto. Thus, the propriety of conducting a trial by commissioners in order to determine the excessiveness of the subject preliminary attachment, being a mere ancillary matter to the Main Case, is now mooted by its supervening appeal in CA-G.R. CV No. 98237.

Note that in *Sps. Olib v. Judge Pastoral*,⁴⁰ the Court, in view of the nature of a preliminary attachment, definitively ruled that the attachment itself cannot be the subject of a separate action independent of the principal action because the attachment was only an incident of such action, viz.:

Attachment is defined as a provisional remedy by which the property of an adverse party is taken into legal custody, either at the commencement of an action or at any time thereafter, as a security for the

³⁹ See id. at 81 and 271.

⁴⁰ 266 Phil 762 (1990).

satisfaction of any judgment that may be recovered by the plaintiff or any proper party.


It is an auxiliary remedy and cannot have an independent existence apart from the main suit or claim instituted by the plaintiff against the defendant. **Being merely ancillary to a principal proceeding, the attachment must fail if the suit itself cannot be maintained as the purpose of the writ can no longer be justified.**

The consequence is that where the main action is appealed, the attachment which may have been issued as an incident of that action, is also considered appealed and so also removed from the jurisdiction of the court *a quo*. **The attachment itself cannot be the subject of a separate action independent of the principal action because the attachment was only an incident of such action.**⁴¹ (Emphases supplied)


That being said, it is now unnecessary to discuss the other issues raised herein. In fine, the petition is granted and the assailed CA rulings are set aside.

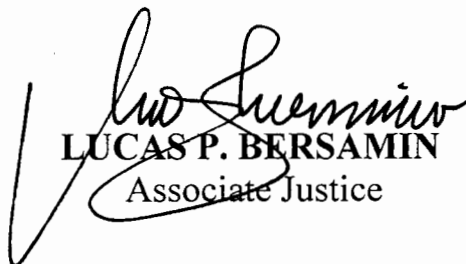
WHEREFORE, the petition is **GRANTED**. The Decision dated January 19, 2012 and the Resolution dated August 24, 2012 of the Court of Appeals in CA-G.R. SP No. 97448 are hereby **SET ASIDE**.

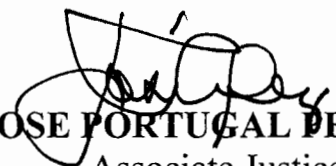
SO ORDERED.


ESTELA M. PERLAS-BERNABE
 Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice
 Acting Chairperson


LUCAS P. BERSAMIN
 Associate Justice


JOSE PORTUGAL PEREZ
 Associate Justice

⁴¹ Id. at 766-767.



FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice