

## THIRD DIVISION

[ G.R. No. 202531, August 17, 2016 ]

**GOMECO METAL CORPORATION, PETITIONER, VS. THE COURT OF APPEALS, AND \* PAMANA ISLAND RESORT HOTEL AND MARINA CLUB, INCORPORATED, RESPONDENTS.**

### DECISION

**PEREZ, J.:**

This is a petition for *certiorari*,<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated 28 December 2011 and Resolution<sup>[3]</sup> dated 28 June 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 119053.

The facts:

#### Parties and Civil Case No. 4349-V-94

Petitioner Gomeco Metal Corporation (Gomeco) is a domestic corporation engaged in the business of selling steel and metal products. Respondent Pamana Island Resort Hotel and Marina Club, Inc. (Pamana), on the other hand, is a domestic-corporation engaged in the business of operating leisure resorts.

In 1994, Gomeco filed a Complaint for Collection of Sum of Money (Complaint) against Pamana before the Regional Trial Court (RTC) of Valenzuela City. In the Complaint, Gomeco sought to collect payment for the stainless steel products<sup>[4]</sup> it sold to Pamana in 1991. The Complaint was raffled to Branch 75 and was docketed as Civil Case No. 4349-V-94.

In 1997, Gomeco and Pamana entered into a Compromise Agreement<sup>[5]</sup> to end litigation in Civil Case No. 4349-V-94. The compromise agreement, which required Pamana to pay Gomeco P1,800,000.00, was consequently approved by the RTC in an Order dated 16 January 1997.<sup>[6]</sup>

#### Writ of Execution and First Notice of Levy

Of the P1,800,000.00 that was due Gomeco under the compromise agreement, however, Pamana was actually able to pay only P450,000.00. This eventually led the RTC, on 2 March 1998, to issue an order directing Pamana, within twenty (20) days from its receipt thereof, to pay Gomeco P1,350,000.00 or the remaining balance under the compromise agreement. Such order, however, was unheeded by Pamana.

Thus, the RTC, upon application therefor by Gomeco, issued a Writ of Execution<sup>[7]</sup> on 7 May 1998 commanding the court's sheriff, then one Jaime T. Montes (Sheriff Montes), to enforce the court-approved compromise agreement against Pamana.

Pursuant to the writ of execution, Sheriff Montes first garnished Pamana's bank accounts by sending notices of garnishment with the Philippine National Bank, Metropolitan Bank and Trust Company, Westmont Bank, Union Bank and Prudential Bank. The garnishment of Pamana's accounts with the aforementioned banks yielded futile results, however, as the same failed to satisfy, whether fully or in part, Pamana's indebtedness.

Hence, on 22 May 1998, Sheriff Montes issued a *Notice of Levy*<sup>[8]</sup> placing under levy on execution one of Pamana's real estate properties—the 53,285 square meter Pequeña Island in Subic, Zambales. On the belief that the Pequeña Island is property not registered under the Torrens System, such island was identified in the notice of levy by Tax Declaration No. 007-0001 with Property Index No. 016-13-007-01-001.<sup>[9]</sup>

Notable, moreover, are the following entries in the notice of levy:

1. The amount of the levy on the Pequeña Island was fixed at "P2,065,500.00."
2. The property being levied, *i.e.*, Pequeña Island, was referred to as "*personal properties*" of Pamana.

*Notice of Sheriff's Sale, Execution Sale and CA-G.R. SP No. 62391*

On 11 December 2000, with Pamana's indebtedness still unsatisfied, Sheriff Montes issued a *Notice of Sheriff Sale*<sup>[10]</sup> on the Pequeña Island. Like the notice of levy, the notice of sheriff's sale identified the Pequeña Island through Tax Declaration No. 007-0001 with Property Index No. 016-13-007-01-001. It set the public auction of the Pequeña Island on 10 January 2001.

The notice of sheriff's sale bears the following entries:

1. The amount of levy on the Pequeña Island was fixed at "P2,065,00[0].00."
2. The property levied and the subject of public auction, *i.e.*, the Pequeña Island, was referred to as the "*personal/real properties*" of Pamana.

The notice of sheriff's sale was duly posted and published in a newspaper of general circulation in the manner required by Section 15(c) of Rule 39 of the Rules of Court.

On 28 December 2000, Pamana filed a Petition for Prohibition (with prayer for the issuance of a temporary restraining order) before the CA, seeking to nullify the notice of sheriff's sale and enjoin the public auction of the Pequeña Island scheduled thereunder. The Petition was docketed in the CA as CA-G.R. SP No. 62391 and impleaded Gomeco and Sheriff Montes as respondents. On 9 January 2001, *i.e.*, a day before the public auction of the Pequeña Island was scheduled to take place pursuant to the notice of sheriff's sale, the CA issued a temporary restraining order (TRO) against holding such public auction.

Despite the TRO issued by the CA, however, the public auction of the Pequeña Island still pushed through, as scheduled, on 10 January 2001. As it happened, the TRO was not served upon Gomeco and Sheriff Montes until moments after the public

auction was already concluded.

At the 10 January 2001 public auction, Gomeco became the winning bidder for the Pequeña Island at the price of P2,065,000.00.

Aggrieved by the turn of events, Pamana filed a Supplementary Petition in CA-G.R. SP No. 62391 asking the CA to strike down as null and void the 10 January 2001 public auction of the Pequeña Island.

On 22 March 2001, a *Sheriff's Certificate of Sale* covering the Pequeña Island was issued in favor of Gomeco. On 28 March 2001, the said certificate was registered<sup>[11]</sup> with the Register of Deeds (RD) of Iba, Zambales, under the Registry of Unregistered Properties pursuant to Section 194 of Republic Act No. 2711 or the Revised Administrative Code of 1917, as amended by Republic Act No. 3344.<sup>[12]</sup>

#### Decision of the CA in CA-G.R. SP No. 62391

On 19 February 2002, the CA rendered a Decision<sup>[13]</sup> in CA-G.R. SP No. 62391 declaring as null and void the Notice of Sheriff's Sale and the 10 January 2001 public auction of the Pequeña Island. Underlying such declaration is the CA's finding that the Notice of Levy and the Notice of Sheriff's Sale were fatally defective due to their erroneous indication that the levy thereunder was enforceable up to the amount of P2,065,000.00, instead of only up to the P1,350,000.00 remaining indebtedness of Pamana under the compromise agreement plus other lawful fees.<sup>[14]</sup>

Gomeco filed a Motion for Reconsideration.

Acting on Gomeco's Motion for Reconsideration, the CA issued a Resolution<sup>[15]</sup> dated 9 July 2002. In the said Resolution, the CA modified its earlier Decision and declared the levy and the ensuing 10 January 2001 public auction to be valid *but* only to the extent of the P1,350,000.00 remaining indebtedness of Pamana plus 12% legal interest thereon and other lawful fees in the implementation of such levy and auction.<sup>[16]</sup>

Pamana, in turn, filed a Motion for Reconsideration.

On 16 January 2003, the CA issued a Resolution<sup>[17]</sup> wherein it affirmed in all respects its 9 July 2002 Resolution except only to the inclusion of the "12% legal interest" as a component of the entire amount satisfiable by the levy and execution sale.

The 16 January 2003 Resolution of the CA became final and executory on 10 February 2003.<sup>[18]</sup>

#### Motion for Clarification in CA-G.R. SP No. 62391

After the finality of the 16 January 2003 Resolution, Pamana filed with the CA a *Motion for Clarification* in CA-G.R. SP No. 62391. In the said motion, Pamana asked the CA to require disclosure of the list of properties in the Pequeña Island that were

levied upon and sold during the 10 January 2001 public auction, and their corresponding values.

Pamana's Motion for Clarification rests on the following key assumptions:

1. The object of the Notice of Levy is not actually the Pequeña Island itself but only the "*personal properties*" in the said island;
2. The 10 January 2001 public auction resulted in the sale not of the Pequeña Island but only of certain properties therein;
3. The notice of levy, the Minutes of Auction Sale and the Sheriffs Return, however, did not specify which personal properties in the Pequeña Island were actually levied and sold during the 10 January 2001 public auction; and
4. The Minutes of Auction Sale and the Sheriffs Return did not reveal for how much Pamana's properties in the Pequeña Island had been sold during the 10 January 2001 public auction.

The CA, at first, denied Pamana's Motion for Clarification. However, on 17 September 2004, the CA issued a Resolution<sup>[19]</sup> directing Deputy Sheriff Montes to "*point out which of petitioner's specific properties [in the Pequeña Island] had been levied and sold in public auction and to determine the exact value of said properties if sufficient to satisfy in full the judgment debt of [P]1,350,000.00 and other lawful expenses*" and to "*return to [Pamana] such amount, if any, in excess of the judgment debt.*"<sup>[20]</sup>

TCT No. T-38774

Meanwhile, on 29 January 2003, Gomeco was issued a *Sheriff's Final Deed of Sale*<sup>[21]</sup> over the Pequeña Island. The Sheriffs Final Deed of Sale attested that Pamana had failed to exercise his right of redemption on the Pequeña Island within the period allowed by law and that, as a consequence thereof, Gomeco was now absolute owner of the said island. Like the Sheriffs Certificate of Sale, the Sheriffs Final Deed of Sale was registered<sup>[22]</sup> with the RD of Iba, Zambales, under the Registry of Unregistered Properties pursuant to Section 194 of the Revised Administrative Code of 1917, as amended.

Sometime in March 2003, however, Gomeco discovered that the Pequeña Island was not, as it formerly believed, unregistered property but was in fact registered land under Transfer Certificate of Title (TCT) No. T-38774 in the name of Pamana. This discovery prompted Gomeco to file, before the RTC in Civil Case No. 4349-V-94, a Motion for the Cancellation of Pamana's Title and the issuance of a new title in its (Gomeco) name (Motion for Cancellation of Title).

On 5 January 2005, the RTC issued an Order<sup>[23]</sup> granting Gomeco's Motion for Cancellation of Title and directing the RD of Iba, Zambales, to cancel Pamana's title over Pequeña Island and to issue a new title in lieu thereof in the name of Gomeco. In the body, as well as the dispositive portion of the said Order, however, the RTC mistakenly identified Pamana's title as TCT No. T-387~~4~~4 instead of TCT No. T-387~~7~~4.

Against the foregoing Order of the RTC, Pamana filed an Urgent Motion for Reconsideration and a Motion for Correction of the Order dated 5 January 2005 (Motion for Correction).

In its Urgent Motion for Reconsideration, Pamana assails the 5 January 2005 Order of the RTC primarily for being contrary to the resolutions of the CA in CA-G.R. SP No. 62391. Pamana alleged that it was erroneous for the RTG to recognize Gomeco's absolute ownership over the Pequeña Island since the CA, in CA-G.R. SP No. 62391, already substantially nullified the levy and public auction on the said island. Pamana also contended that the Sheriffs Final Deed of Sale was still premature in light of the 17 September 2004 Resolution of the CA that required an accounting of the properties sold and the proceeds realized from the 10 January 2001 public auction. For Pamana, no such final deed of sale can be issued in favor of Gomeco unless the 17 September 2004 Resolution is first complied with to the letter.

In its Motion for Correction, on the other hand, Pamana asked that its title over Pequeña Island, as stated in the 5 January 2005 Order, be changed from TCT No. T-387~~44~~ to TCT No. T-387~~7~~4.

On 20 April 2005, Gomeco, for its part, filed a Motion to Order the Appointed Sheriff to Annotate the Notice of Levy, Deed of Sale and Sheriffs Final Deed "of Sale [in] TCT No. T-38774 (Motion to Order Annotation). In the said motion, Gomeco prayed that the RTC, pending the possible cancellation of TCT No. T-38774 and the issuance of a new title in its name, order the annotation of the Notice of Levy, Certificate of Sheriff s Sale and the Sheriffs Final Deed of Sale in TCT No. T-38774.

On 3 March 2011, the RTC issued an Order:<sup>[24]</sup>

1. Denying Pamana's Urgent Motion for Reconsideration;
2. Granting Pamana's Motion for Correction;
3. Granting Gomeco's Motion to Order Annotation; and
4. Directing its incumbent sheriff, for the purpose ascertaining the total amount of money for which the levy and sale of the Pequeña Island were meant to satisfy, to compute the actual amount of the lawful fees and expenses incurred in connection with the enforcement of the writ of execution.

In compliance with the directive regarding the computation of the actual amount of lawful fees and expenses in the enforcement of the writ of execution, Sheriff Louie C. Dela Cruz (Sheriff Dela Cruz) submitted to the RTC its Report<sup>[25]</sup> dated 16 March 2011. In the said report, the lawful fees and expenses for the enforcement of the writ of execution were pegged at P111,767.75.

On 25 March 2011, the RD of Iba, Zambales cancelled TCT No. T-38774 in the name of Pamana and,1 in lieu thereof, issued TCT No. 044-2011000502 in favor of Gomeco.