

THIRD DIVISION

[G.R. No. 171015, August 25, 2010]

**CONTINENTAL WATCHMAN AND SECURITY AGENCY, INC.,
PETITIONER, VS. NATIONAL FOOD AUTHORITY, RESPONDENT.**

DECISION

BRION, J.:

We resolve in this Decision the petition for review on *certiorari* filed by Continental Watchman and Security Agency, Inc. (*Continental*), addressing the decision, dated July 29, 2005,^[1] and the resolution, dated January 5, 2006,^[2] of the Court of Appeals (CA) in CA-G.R. SP No. 86303, entitled "*Continental Watchman and Security Agency, Inc. v. Hon. Abednego O. Adre, Former Presiding Judge of Branch 88 of the Regional Trial Court of Quezon City and National Food Authority.*" The CA decision and resolution denied Continental's petition for *certiorari* with prayer for temporary restraining order and/or preliminary injunction.

Background Facts

Continental was one of the twelve security agencies awarded contracts in 1990 to provide security services to the National Food Authority (NFA) under NFA Administrator Pelayo J. Gabaldon. These contracts were periodically extended as they expired.

When Romeo G. David became the NFA Administrator, he initiated a review of all the security service contracts and formulated new bidding procedures. Those who wished to provide security services to the NFA had to pre-qualify before they could join the final bidding. In May 1993, an invitation to pre-qualify and bid for the NFA's security services was published in a national newspaper and Continental was among the pre-bidding qualifiers. The final bidding, however, was suspended after the applicants, who failed to qualify, obtained a temporary restraining order that stopped the bidding process.

On July 30, 1993, the NFA wrote Continental that it no longer enjoyed its trust and confidence and that Continental had to "pull out [its] guard[s] from NFA offices, installation and warehouses by 3:00 p.m. of August 16, 1993 to allow the incoming security agency to take over the security services for NFA[.]"^[3] Continental questioned the NFA's decision to terminate its contract, and filed on August 9, 1993, before the Quezon City Regional Trial Court (RTC), a complaint^[4] against the NFA and NFA Administrator David for damages and injunction with prayer for the issuance of a temporary restraining order. Continental asserted in its complaint that from the tenor of the NFA's letter, security service contracts had already been awarded to other security agencies without the requisite public bidding. The case was docketed as **Civil Case No. Q-93-17139.**

RTC Judge Tirso D.C. Velasco issued a temporary restraining order and, later, a writ of preliminary injunction that the NFA challenged before the CA. In its decision^[5] in CA-G.R. SP Nos. 32213, 32230, 32274, 32275, and 32276, the CA held that the writ of preliminary injunction had two parts: (1) the part that ordered NFA and its officers to cease and desist from terminating or implementing the termination of Continental's security service contracts with NFA, and (2) the part that enjoined NFA and its officers from awarding or implementing security service contracts to any other security agencies. The CA annulled the first part of the writ because it violated NFA's right to enter into lawful contracts, but upheld the second part that prevented NFA from awarding security service contracts to other security agencies without the requisite public bidding.

The NFA appealed this CA decision to this Court, and we affirmed it in *National Food Authority v. Court of Appeals*,^[6] under the following *fallo*:

IN VIEW WHEREOF, the petition is dismissed and the decision dated March 11, 1994 and resolution dated April 15, 1994 of the Court of Appeals in CA-G.R. SP Nos. 32213, 32230 and 32274-76 are affirmed. The temporary restraining order issued by this Court on May 18, 1994 is hereby lifted. Treble costs against petitioners.

Based on this decision, Continental moved for the issuance of a writ of execution^[7] for P26.5 million as payment for the security services rendered to the NFA during the period that it was enjoined from terminating its contract with Continental. Continental, later on, amended this amount to P19,803,606.98^[8] and then to P8,445,161.00.^[9]

The NFA opposed these motions because, at that time, the pre-trial and trial in Civil Case No. Q-93-17139 had yet to be held. On October 3, 1996, the RTC heard Continental's motion for execution. Continental presented a witness who testified on the amount of the security services rendered. On October 9, 1996, the RTC issued a writ of execution. The following day, October 10th, P8,445,161.00, from the NFA's deposit with the Philippine National Bank, was garnished.

In view of the garnishment, NFA Administrator David (later joined by the NFA) sought relief from this Court by filing a special civil action for *certiorari* to seek (1) the annulment of the October 9, 1996 order, (2) the annulment of the writ of execution issued pursuant to the October 9, 1996 order, and (3) the issuance of an order directing the RTC to conduct pre-trial and trial. The petition, entitled *David v. Velasco*,^[10] cited the following jurisdictional errors:

I. Respondent judge violated the law and gravely abused his discretion and acted without jurisdiction in granting the writ of execution and issuing it in Civil Case No. Q-93-17139 when no pre-trial and no trial had been held, and no decision had been rendered in said case.

II. The respondent judge violated the law and gravely abused his discretion when he held the hearing of October 3, 1996 without notice to

petitioner thus depriving him of his right to due process.

III. The respondent judge gravely abused his discretion in issuing a writ of execution for P8,445,161.00 based on one document testified to by one incompetent witness for services supposedly rendered after the contract for services had lapsed.

IV. Even assuming *arguendo*, that the order x x x was the respondent judge's decision, and the same was valid, the respondent judge violated the law and gravely abused his discretion when he immediately issued a writ of execution even before 15 days from receipt of said order had lapsed.

On January 13, 1997, we issued a temporary restraining order to enjoin the respondents in the case – Judge Tirso Velasco, Sheriff Ernesto L. Sula, and Continental – from implementing the October 9, 1996 order and writ of execution. In 2001, we declared null and void both the October 9, 1996 order and the writ of execution issued pursuant to that order. We also directed the RTC to proceed and resolve Civil Case No. Q-93-17139 with dispatch.

The NFA, based on our *David* decision, filed a motion before the RTC for the return of the garnished amount with legal interest and damages. The RTC granted this motion in its April 24, 2003 order,^[11] and directed Continental to return the P8,445,161.00 to the NFA. Continental moved for partial reconsideration but the RTC denied the motion.

Continental sought the annulment of the April 24, 2003 order before the CA, through a petition for *certiorari* with prayer for temporary preliminary injunction and/or temporary restraining order in the case docketed as CA-G.R. No. SP-78214. The CA, on August 29, 2003, dismissed the petition because it was *procedurally flawed, at the very least*. Continental moved for the reconsideration of the dismissal, but the CA denied the motion. The decision became final on November 6, 2003, and was entered as final in due course.^[12]

The NFA, based on the finality of the RTC's order of April 24, 2003, moved for execution. The RTC (presided by Judge Abednego Adre) granted the motion.^[13] Continental moved for reconsideration but its motion was denied.^[14] In August 2004, the RTC issued a writ of execution, and, in October 2004, it issued a notice of garnishment to the known creditors of Continental.

It was Continental's turn, at this point, to file a petition for *certiorari* with the CA. It questioned the RTC's issuance of the writ of execution, at the same time praying for a temporary restraining order and/or preliminary injunction. The case was docketed as CA-G.R. SP No. 86303. On April 12, 2005, the CA issued a temporary restraining order^[15] to enjoin Judge Adre and the NFA from serving the notice of garnishment, in the main case, for a period of 60 days from receipt of the order.

On July 29, 2005, the CA handed down the decision presently before us. It denied Continental's petition and likewise denied the motion for reconsideration that followed.

Continental submits the following issues in the present petition.

ISSUES

I

WHETHER OR NOT PETITIONER HAS THE RIGHT TO SET-OFF THE SECURITY SERVICE FEE FOR THE GUARD WHO SERVED DURING THE INJUNCTION WAS VALIDLY IN EFFECT

II

WHETHER OR NOT THE COURT A QUO ACTED PROPERLY WHEN IT DID NOT HOLD IN ABEYANCE THE ISSUANCE OF A WRIT OF EXECUTION ON THE RETURN OF THE ILLEGALLY GARNISHED AMOUNT

The Court's Ruling

We find the petition unmeritorious.

Continental instituted Civil Case No. Q-93-17139, for damages and injunction, to question the NFA's decision to terminate its contract with the former. The complaint likewise prayed for the issuance of a temporary restraining order that the trial court granted.^[16] Thus, Continental continued to provide security services to NFA. When this Court subsequently invalidated the restraining order (thus, cutting short Continental's security services to NFA), Continental filed a motion for the issuance of a writ of execution to collect the cost of security services it provided NFA while the restraining order was in effect.

The RTC granted the motion for the issuance of a writ of execution resulting in the garnishment of its bank deposit for P8,445,161.00. The NFA assailed this garnishment in *David*, where we held that the issuance of the writ of execution was not in order. We said:

Clearly, the final determination of the issues in Civil Case No. Q-93-17139 was still pending when the trial court granted the motion for the issuance of a writ of execution, and issued the writ of execution itself, both dated October 9, 1996.

Noteworthy, private respondent filed a motion for leave to file supplemental complaint, and a supplemental complaint on February 18, 1997, four months after the issuance of the order allowing execution and of the writ of execution itself. There is no rhyme nor reason in the filing of the two pleadings, if a final judgment that would justify the issuance of a writ of execution had already been rendered in the case.

Private respondent relies on the decision of this Court in G.R. Nos. 115121-25, which affirmed the decision of the CA in CA-G.R. SP Nos.