

## FIRST DIVISION

[ G.R. No. 118830, February 24, 2003 ]

**SPOUSES ALFREDO AND ENCARNACION CHING, PETITIONERS,  
VS. COURT OF APPEALS, FAMILY SAVINGS BANK, AND  
FERDINAND J. GUERRERO, SENIOR DEPUTY SHERIFF, MANILA,  
RESPONDENTS.**

### DECISION

**AZCUNA, J.:**

This petition for review on *certiorari*, under Rule 45 of the Rules of Court, seeks to set aside the decision<sup>[1]</sup> of the Court of Appeals in CA G.R. CV No. 31795, dated October 27, 1994, as well as its resolution,<sup>[2]</sup> dated January 27, 1995, denying petitioners' motion for reconsideration.

The facts, gathered from the records of the petition, involve three different cases filed in separate jurisdictions.

On August 6, 1981, respondent Family Savings Bank (Bank) filed a complaint<sup>[3]</sup> with the Court of First Instance (CFI) of Manila, for the collection of a sum of money against its debtor Cheng Ban Yek & Co., Inc. and petitioner Alfredo Ching, who acted as a surety for Cheng Ban Yek & Co., Inc.<sup>[4]</sup> A day after the complaint was filed, the Bank was able to obtain a writ of preliminary attachment against the defendants.<sup>[5]</sup> Armed with a writ of preliminary attachment, the deputy sheriff of the CFI of Manila, herein respondent Ferdinand J. Guerrero, proceeded to levy upon a conjugal property<sup>[6]</sup> belonging to petitioners, spouses Alfredo and Encarnacion Ching.<sup>[7]</sup>

On July 26, 1982, petitioners filed a petition<sup>[8]</sup> with the CFI of Rizal,<sup>[9]</sup> seeking to declare illegal the levy on attachment upon their conjugal property.<sup>[10]</sup> Petitioners claimed that the branch sheriff had no authority to levy upon a property belonging to the conjugal partnership. The trial court, however, dismissed the case on August 8, 1983 for lack of jurisdiction because the subject property was already under *custodia legis* of the CFI of Manila.<sup>[11]</sup>

Meanwhile, summary judgment was rendered in the collection case in favor of the Bank on August 12, 1982.<sup>[12]</sup> The defendants therein, including petitioner Alfredo Ching, appealed the summary judgment to the Court of Appeals.<sup>[13]</sup> While the case was on appeal,<sup>[14]</sup> the trial court granted the Bank's motion for execution pending appeal.<sup>[15]</sup> As a consequence, the attached conjugal property was levied upon and sold through public auction by the deputy sheriff to the Bank on October 10, 1983.<sup>[16]</sup>

On September 5, 1984, in an effort to prevent the deputy sheriff from consolidating

the sale, petitioners filed a second annulment case<sup>[17]</sup> with the Regional Trial Court (RTC) of Makati.<sup>[18]</sup> Petitioners sought to declare void the levy and sale on execution of their conjugal property by reiterating the same argument raised in the first annulment case, *i.e.*, that the branch sheriff had no authority to levy upon a property belonging to the conjugal partnership.<sup>[19]</sup>

On November 15, 1985, while the second annulment case was pending, the Court of Appeals dismissed the appeal filed in the collection case and affirmed *in toto* the summary judgment rendered by the CFI of Manila.<sup>[20]</sup> The matter was elevated to us on a petition for review,<sup>[21]</sup> but was eventually dismissed for having been filed out of time and for lack of merit.<sup>[22]</sup> Hence, the decision in the collection case became final.

On November 13, 1990, the RTC of Makati rendered judgment in the second annulment case in favor of petitioners and declared null and void the levy and sale on execution upon the conjugal property.<sup>[23]</sup> Respondents elevated the decision to the Court of Appeals in CA G.R. CV No. 31795. On October 27, 1994, the Court of Appeals issued the assailed decision, reversing and setting aside the decision of the RTC of Makati.<sup>[24]</sup> The Court of Appeals declared that the Makati annulment case is barred by *res judicata* because of the prior Rizal annulment case and *Manila* collection case. Hence, this appeal.

Petitioners pray for the reversal of the decision of the Court of Appeals on the following grounds:<sup>[25]</sup>

#### I

The Court of Appeals erred in holding that the decisions rendered in the *Manila* collection case and Rizal annulment case, taken together, constitute *res judicata* or bar by prior judgment to the annulment case filed with the RTC of Makati. Assuming there is *res judicata* or bar by prior judgment, the Court of Appeals erred in not holding that respondents have waived this defense.

#### II

The Court of Appeals erred in holding that petitioner Encarnacion Ching waived or abandoned her right or claim on her conjugal property when she did not intervene in the *Manila* collection case.

#### III

In any event, the Court of Appeals erred in not deciding the Makati annulment case on its merits on equitable considerations.

We deny the petition.

The *Makati* annulment case should have been dismissed from the start for lack of jurisdiction. The RTC of Makati does not have the authority to nullify the levy and sale on execution that was ordered by the CFI of Manila, a co-equal court. The determination of whether or not the levy and sale of a property in execution of a

judgment was valid, properly falls within the jurisdiction of the court that rendered the judgment and issued the writ of execution.<sup>[26]</sup>

Beginning with the case of *Orais v. Escaño*,<sup>[27]</sup> down to the subsequent cases of *Nuñez v. Low*,<sup>[28]</sup> *Cabigao v. del Rosario*,<sup>[29]</sup> *Hubahib v. Insular Drug Co., Inc.*,<sup>[30]</sup> *National Power Corp. v. De Veyra*,<sup>[31]</sup> *Luciano v. Provincial Governor*,<sup>[32]</sup> *De Leon v. Hon. Judge Salvador*,<sup>[33]</sup> *Cojuangco v. Villegas*,<sup>[34]</sup> *Darwin v. Tokonaga*,<sup>[35]</sup> we laid down the long standing doctrine that no court has the power to interfere by injunction with the judgments or decrees of a court of concurrent or coordinate jurisdiction. The various trial courts of a province or city, having the same or equal authority, should not, cannot, and are not permitted to interfere with their respective cases, much less with their orders or judgments. A contrary rule would obviously lead to confusion and seriously hamper the administration of justice.

There is no dispute that the subject conjugal property was under *custodia legis* of the CFI of Manila. It was initially attached under a writ of preliminary attachment issued by the CFI of Manila. Said property was later on levied upon and sold under a writ of execution issued by the same court. Since the attachment, levy and sale have been carried out upon orders of the CFI of Manila, any and all questions concerning the validity and regularity thereof necessarily had to be addressed to the CFI of Manila.

Petitioners, however, contend that one of the owners of the property, petitioner Encarnacion Ching, was not a party to the collection case. Not being a party thereto, Encarnacion Ching should be allowed to file a separate case as a third-party claimant and said filing cannot be considered as an encroachment upon the jurisdiction of a co-equal and coordinate court.<sup>[36]</sup>

We do not agree.

Section 16 of Rule 39 of the Rules of Court authorizes a third person, who is not the judgment debtor or his agent, to vindicate his claim to a property levied through an entirely separate and distinct action. Said rule reads as follows:<sup>[37]</sup>

SECTION 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*