

THIRD DIVISION

[G.R. No. 107271, September 10, 2003]

**CITY OF CALOOCAN AND NORMA M. ABRACIA, PETITIONERS, VS.
HON. MAURO T. ALLARDE, PRESIDING JUDGE OF BRANCH 123,
RTC OF CALOOCAN CITY, ALBERTO A. CASTILLO, DEPUTY
SHERIFF OF BRANCH 123, RTC OF CALOOCAN CITY, AND
DELFINA HERNANDEZ SANTIAGO AND PHILIPPINE NATIONAL
BANK (PNB), RESPONDENTS.**

DECISION

CORONA, J.:

Assailed in this petition for certiorari is the decision^[1] dated August 31, 1992, of the Court of Appeals in CA G.R. SP No. 27423, ordering the Regional Trial Court of Caloocan City, Branch 123, to implement an alias writ of execution dated January 16, 1992. The dispositive portion read as follows:

WHEREFORE the petition is hereby granted ordering the Regional Trial Court of Caloocan City, Branch 123, to immediately effect the alias writ of execution dated January 16, 1992 without further delay.

Counsel for the respondents are warned that a repetition of their contemptuous act to delay the execution of a final and executory judgment will be dealt with more severely.

SO ORDERED.^[2]

It is important to state at the outset that the dispute between petitioner and private respondent has been litigated thrice before this Court: first, in G.R. No. L-39288-89, entitled *Heirs of Abelardo Palomique, et al. vs. Marcial Samson, et al.*, decided on January 31, 1985; second, in G.R. No. 98366, entitled *City Government of Caloocan vs. Court of Appeals, et al.*, resolved on May 16, 1991, and third, in G.R. No. 102625, entitled *Santiago vs. Sto. Tomas, et al.*, decided on August 1, 1995. This is not to mention the numerous concurrent efforts by the City Government of Caloocan to seek relief from other judicial and quasi-judicial bodies. The present petition for certiorari is the **fourth** time we are called upon to resolve the dispute.

The factual and procedural antecedents follow.

Sometime in 1972, Marcial Samson, City Mayor of Caloocan City, through Ordinance No. 1749, abolished the position of Assistant City Administrator and 17 other positions from the plantilla of the local government of Caloocan. Then Assistant City Administrator Delfina Hernandez Santiago and the 17 affected employees of the City Government assailed the legality of the abolition before the then Court of First Instance (CFI) of Caloocan City, Branch 33.

In 1973, the CFI declared the abolition illegal and ordered the reinstatement of all the dismissed employees and the payment of their back salaries and other emoluments. The City Government of Caloocan appealed to the Court of Appeals. Respondent Santiago and her co-parties moved for the dismissal of the appeal for being dilatory and frivolous but the appellate court denied their motion. Thus, they elevated the case on certiorari before this Court, docketed as G.R. No. L-39288-89, *Heirs of Abelardo Palomique, et al. vs. Marcial Samson, et al.* In our Resolution dated January 31, 1985, we held that the appellate court "erred in not dismissing the appeal," and "that the appeal of the City Government of Caloocan was frivolous and dilatory." In due time, the resolution lapsed into finality and entry of judgment was made on February 27, 1985.

In 1986, the City Government of Caloocan paid respondent Santiago P75,083.37 in partial payment of her backwages, thereby leaving a balance of P530,761.91. Her co-parties were paid in full.^[3] In 1987, the City of Caloocan appropriated funds for her unpaid back salaries. This was included in Supplemental Budget No. 3 for the fiscal year 1987. Surprisingly, however, the City later refused to release the money to respondent Santiago.

Respondent Santiago exerted effort for the execution of the remainder of the money judgment but she met stiff opposition from the City Government of Caloocan. On February 12, 1991, Judge Mauro T. Allarde, RTC of Caloocan City, Branch 123, issued a writ of execution for the payment of the remainder of respondent Santiago's back salaries and other emoluments.^[4]

For the second time, the City Government of Caloocan went up to the Court of Appeals and filed a petition for certiorari, prohibition and injunction to stop the trial court from enforcing the writ of execution. The CA dismissed the petition and affirmed the order of issuance of the writ of execution.^[5] One of the issues raised and resolved therein was the extent to which back salaries and emoluments were due to respondent Santiago. The appellate court held that she was entitled to her salaries from October, 1983 to December, 1986.

And for the second time, the City Government of Caloocan appealed to this Court in G.R. No. 98366, *City Government of Caloocan vs. Court of Appeals, et al.* The petition was dismissed, through our Resolution of May 16, 1991, for having been filed late and for failure to show any reversible error on the part of the Court of Appeals. The resolution subsequently attained finality and the corresponding entry of judgment was made on July 29, 1991.

On motion of private respondent Santiago, Judge Mauro T. Allarde ordered the issuance of an alias writ of execution on March 3, 1992. The City Government of Caloocan moved to reconsider the order, insisting in the main that respondent Santiago was not entitled to backwages from 1983 to 1986. The court *a quo* denied the motion and forthwith issued the alias writ of execution. Unfazed, the City Government of Caloocan filed a motion to quash the writ, maintaining that the money judgment sought to be enforced should not have included salaries and allowances for the years 1983-1986. The trial court likewise denied the motion.

On July 27, 1992, Sheriff Alberto A. Castillo levied and sold at public auction one of

the motor vehicles of the City Government of Caloocan, with plate no. SBH-165, for P100,000. The proceeds of the sale were turned over to respondent Santiago in partial satisfaction of her claim, thereby leaving a balance of P439,377.14, inclusive of interest. Petitioners filed a motion questioning the validity of the auction sale of the vehicle with plate no. SBH-165, and a supplemental motion maintaining that the properties of the municipality were exempt from execution. In his Order dated October 1, 1992, Judge Allarde denied both motions and directed the sheriff to levy and schedule at public auction three more vehicles of the City of Caloocan - [6]

ONE (1) Unit Motor Vehicle (Hunter Station Wagon); Motor No. C-240-199629; Chassis No. MBB-910369C;

ONE (1) Unit Motor Vehicle (Hunter Series 11-Diesel); Engine No. 4FB1-174328, Chassis No. MBB-910345C; Plate No. SDL-653;

ONE (1) Unit Motor Vehicle (Hunter Series 11-Diesel); Engine No. 4FB-165196; Chassis No. MBB 910349C.

All the vehicles, including that previously sold in the auction sale, were owned by the City and assigned for the use of herein petitioner Norma Abracia, Division Superintendent of Caloocan City, and other officials of the Division of City Schools.

Meanwhile, the City Government of Caloocan sought clarification from the Civil Service Commission (CSC) on whether respondent Santiago was considered to have rendered services from 1983-1986 as to be entitled to backwages for that period. In its Resolution No. 91-1124, the CSC ruled in the negative.

On November 22, 1991, private respondent Santiago challenged the CSC resolution before this Court in G.R. No. 102625, *Santiago vs. Sto. Tomas, et al.* On July 8, 1993, we initially dismissed the petition for lack of merit; however, we reconsidered the dismissal of the petition in our Resolution dated August 1, 1995, this time ruling in favor of respondent Santiago:

The issue of petitioner Santiago's right to back salaries for the period from October 1983 to December 1986 having been resolved in G.R. No. 98366 on 16 May 1991, CSC Resolution No. 91-1124 promulgated later on 24 September 1991 – in particular, its ruling on the extent of backwages due petitioner Santiago – was in fact moot and academic at the time of its promulgation. CSC Resolution No. 91-1124 could not, of course, set aside what had been judicially decided with finality x x x the court considers that resort by the City Government of Caloocan to respondent CSC was but another attempt to deprive petitioner Santiago of her claim to back salaries x x x and a continuation of the City's abuse and misuse of the rules of judicial procedure. The City's acts have resulted in wasting the precious time and resources of the courts and respondent CSC. (Underscoring supplied).

On October 5, 1992, the City Council of Caloocan passed Ordinance No. 0134, Series of 1992, which included the amount of P439,377.14 claimed by respondent Santiago as back salaries, plus interest. [7] Pursuant to the subject ordinance, Judge Allarde issued an order dated November 10, 1992, decreeing that:

WHEREFORE, the City Treasurer (of Caloocan), Norberto Azarcon is hereby ordered to deliver to this Court within five (5) days from receipt hereof, (a) manager's check covering the amount of P439,378.00 representing the back salaries of petitioner Delfina H. Santiago in accordance with Ordinance No. 0134 S. 1992 and pursuant to the final and executory decision in these cases.

Then Caloocan Mayor Macario A. Asistio, Jr., however, refused to sign the check intended as payment for respondent Santiago's claims. This, despite the fact that he was one of the signatories of the ordinance authorizing such payment. On April 29, 1993, Judge Allarde issued another order directing the Acting City Mayor of Caloocan, Reynaldo O. Malonzo, to sign the check which had been pending before the Office of the Mayor since December 11, 1992. Acting City Mayor Malonzo informed the trial court that "he could not comply with the order since the subject check was not formally turned over to him by the City Mayor" who went on official leave of absence on April 15, 1993, and that "he doubted whether he had authority to sign the same."^[8]

Thus, in an order dated May 7, 1993, Judge Allarde ordered Sheriff Alberto A. Castillo to immediately garnish the funds of the City Government of Caloocan corresponding to the claim of respondent Santiago.^[9] On the same day, Sheriff Alberto A. Castillo served a copy of the Notice of Garnishment on the Philippine National Bank (PNB), Sangandaan Branch, Caloocan City. When PNB immediately notified the City of Caloocan of the Notice of Garnishment, the City Treasurer sent a letter-advice informing PNB that the order of garnishment was "illegal," with a warning that it would hold PNB liable for any damages which may be caused by the withholding of the funds of the city. PNB opted to comply with the order of Judge Allarde and released to the Sheriff a manager's check amounting to P439,378. After 21 long years, the claim of private respondent Santiago was finally settled in full.

On June 4, 1993, however, while the instant petition was pending, the City Government of Caloocan filed yet another motion with this Court, a Motion to Declare in Contempt of Court; to Set Aside the Garnishment and Administrative Complaint against Judge Allarde, respondent Santiago and PNB. Subsequently, the City Government of Caloocan filed a Supplemental Petition formally impleading PNB as a party-respondent in this case.

The instant petition for certiorari is directed this time against the validity of the garnishment of the funds of the City of Caloocan, as well as the validity of the levy and sale of the motor vehicles belonging to the City of Caloocan. More specifically, petitioners insist that Judge Allarde gravely abused his discretion in:

- (a) ordering the garnishment of the funds of the City of Caloocan deposited with the PNB, since it is settled that public funds are beyond the reach of garnishment and even with the appropriation passed by the City Council, the authority of the Mayor is still needed for the release of the appropriation;

- (b) ordering the levy and sale at public auction of three (3) motor vehicles owned by the City of Caloocan, which vehicles are necessary for public use and cannot be attached nor sold in an execution sale to satisfy a money judgment against the City of Caloocan;

(c) peremptorily denying petitioner City of Caloocan's urgent motions to vacate and set aside the auction sale of the motor vehicle with PLATE NO. SBH-165, notwithstanding that the auction sale by the Sheriff was tainted with serious irregularities, more particularly:

- i. non-compliance with the mandatory posting of the notice of sale;
- ii. non-observance of the procedure that a sale through public auction has to be made and consummated at the time of the auction, at the designated place and upon actual payment of the purchase price by the winning bidder;
- iii. violation of Sec. 21, Rule 39 of the Rules of Court to the effect that sale of personal property capable of manual delivery 'must be sold within the view of those attending the sale;' and,
- iv. the Sheriff's Certificate of Sale contained false narration of facts respecting the actual time of the public auction;

(d) the enforcement of the levy made by the Sheriff covering the three (3) motor vehicles based on an alias writ that has long expired.

The petition has absolutely no merit. The trial court committed no grave abuse of discretion in implementing the alias writ of execution to settle the claim of respondent Santiago, the satisfaction of which petitioner had been maliciously evading for 21 years.

Petitioner argues that the garnishment of its funds in PNB was invalid inasmuch as these were public funds and thus exempt from execution. Garnishment is considered a specie of attachment by means of which the plaintiff seeks to subject to his claim property of the defendant in the hands of a third person, or money owed by such third person or garnishee to the defendant.^[10]

The rule is and has always been that all government funds deposited in the PNB or any other official depository of the Philippine Government by any of its agencies or instrumentalities, whether by general or special deposit, remain government funds and may not be subject to garnishment or levy, in the absence of a corresponding appropriation as required by law:^[11]

Even though the rule as to immunity of a state from suit is relaxed, the power of the courts ends when the judgment is rendered. Although the liability of the state has been judicially ascertained, the state is at liberty to determine for itself whether to pay the judgment or not, and execution cannot issue on a judgment against the state. Such statutes do not authorize a seizure of state property to satisfy judgments recovered, and only convey an implication that the legislature will recognize such judgment as final and make provision for the satisfaction thereof.^[12]