

THIRD DIVISION

[G.R. No. 153828, October 24, 2003]

LINCOLN L. YAO, PETITIONER, VS. HONORABLE NORMA C. PERELLO, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 276, MUNTINLUPA CITY, THE EX-OFFICIO SHERIFF, REGIONAL TRIAL COURT, MUNTINLUPA CITY AND BERNADINE D. VILLARIN, RESPONDENTS.

DECISION

CORONA, J.:

Before us is a petition for *certiorari* filed by Lincoln L. Yao, assailing the resolution dated March 22, 2002 and Order dated May 10, 2002, of the Regional Trial Court of Parañaque City, Branch 274,^[1] which respectively granted private respondent Bernadine D. Villarín's petition for prohibition and denied petitioner's motion for intervention.

The present controversy stemmed from a complaint filed by petitioner before the Housing and Land Use Regulatory Board (HLURB) against a certain corporation, PR Builders, Inc. and its managers, Enrico Baluyot and Pablito Villarín, private respondent's husband.

On September 17, 1999, the HLURB rendered a decision rescinding the contract to sell between petitioner and PR Builders, and ordering PR Builders to refund petitioner the amount of P2,116,103.31, as well as to pay damages in the amount of P250,000.

Thereafter, the HLURB issued a writ of execution against PR Builders and its managers, and referred the writ to the office of the Clerk of Court of Muntinlupa for enforcement.

Pursuant to the writ, the deputy sheriff levied on a parcel of land in Canlubang, Calamba, Laguna, registered in the names of spouses Pablito Villarín and private respondent, Bernadine Villarín. The property was scheduled for public auction on March 20, 2002.

On March 19, 2002, private respondent filed before the RTC of Parañaque City, a petition for prohibition with prayer for temporary restraining order and/or writ of preliminary injunction, seeking to enjoin Sheriff Melvin T. Bagabaldo from proceeding with the public auction. Private respondent alleged that she co-owned the property subject of the execution sale; that the property regime between private respondent and her husband was complete separation of property, and that she was not a party in the HLURB case, hence, the subject property could not be levied on to answer for the separate liability of her husband.

On even date, public respondent Judge Norma C. Perrello issued a 72-hour temporary restraining order and set the case for raffle and conference on March 22, 2002.

The case was eventually raffled to RTC, Branch 276, presided by public respondent judge. A conference was then conducted, after which public respondent judge issued the assailed resolution of March 22, 2002 granting private respondent's petition for prohibition and declaring the subject property exempt from execution. Hence, the scheduled auction sale did not materialize.

On April 25, 2002, or more than a month after public respondent judge issued the resolution of March 22, 2002, petitioner filed a motion for intervention. However, public respondent judge denied the motion in her assailed order of May 10, 2002:

ORDER

The MOTION FOR INTERVENTION is denied, considering that this case has long been decided, hence the intervention is too late. There is no case for them to intervene.

Let the decision be executed to satisfy the judgment debt.

SO ORDERED in open Court.^[2]

Aggrieved, petitioner filed the instant petition for *certiorari* imputing grave abuse of discretion to public respondent judge in: (a) declaring the subject property exempt from execution and therefore could not be sold to satisfy the obligation of private respondent's husband, and (b) denying petitioner's motion for intervention on the ground that the same was filed late.

It is a basic precept that the power of the court in the execution of judgments extends only to properties unquestionably belonging to the judgment debtor. The levy by the sheriff on property by virtue of a writ of attachment may be considered as made under the authority of the court only vis-a-vis property belonging to the defendant. For indeed, "one man's goods shall not be sold for another man's debts."

^[3] In the case at bar, the property levied on by the sheriff was clearly not exclusively owned by Pablito Villarin. It was co-owned by herein private respondent who was a stranger in the HLURB case. The property relation of spouses Villarin was governed by the regime of complete separation of property as decreed in the order^[4] dated November 10, 1998 of the Regional Trial Court, Branch 27, Parañaque City.

Articles 145 and 146 of the Family Code governing the regime of complete separation of property provide:

Art. 145. Each spouse shall own, dispose of, possess, administer and enjoy his or her own separate estate, without need of the consent of the other. To each spouse shall belong all earnings from his or her profession, business or industry and all fruits, natural, industrial or civil, due or received during his marriage from his or her separate property. (214a)

Art. 146. Both spouses shall bear the family expenses in proportion to