

## FIRST DIVISION

[ G.R. No. 126731, July 11, 2002 ]

**ESTEBAN YAU, PETITIONER, VS. THE MANILA BANKING CORPORATION, RESPONDENT.**

[G.R. NO. 128623. JULY 11, 2002]

**THE MANILA BANKING CORPORATION, PETITIONER, VS. ESTEBAN YAU, THE COURT OF APPEALS (SEVENTEENTH DIVISION), AND THE HON. DELIA H. PANGANIBAN, IN HER CAPACITY AS THE PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF MAKATI CITY, BRANCH 64, RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

The twin petitions for review on *certiorari* under Rule 45 of the Rules of Court seek to set aside the Decisions of the Court of Appeals in CA-G.R. SP Nos. 32405<sup>[1]</sup> and 37085.<sup>[2]</sup>

Esteban Yau is the judgment creditor of Ricardo C. Silverio, Sr. by virtue of a Decision<sup>[3]</sup> of the Regional Trial Court of Cebu City, Branch 6 dated March 27, 1991 in Civil Case No. CEB-2058, entitled "Esteban Yau v. Philippine Underwriters Finance Corporation, et al.," which included Silverio as one of the defendants. The decision became final and executory and, accordingly, a writ of execution was issued on September 17, 1992.

Despite service of the writ and demand by the sheriff for the satisfaction of the judgment, the defendants therein, including Silverio, failed to pay said judgment. The only asset of Silverio that could be found for the satisfaction of the judgment was his proprietary membership share in the Manila Golf and Country Club, Inc. (Manila Golf). Accordingly, the sheriff levied upon the Silverio share on December 7, 1992. At the public auction sale on December 29, 1992, Yau emerged as the highest and only bidder of said Silverio share at P2 Million and the corresponding Certificate of Sale issued in his name.<sup>[4]</sup>

However, at the time of the execution sale on December 29, 1992, the Silverio share was already subject to a prior levy pursuant to separate writs of preliminary attachment dated March 27, 1990<sup>[5]</sup> and October 17, 1990<sup>[6]</sup> obtained by the Manila Banking Corporation (Manilabank) from Branches 62 and 64 of the Regional Trial Court of Makati City before which complaints for sums of money, docketed as Civil Case Nos. 90-513<sup>[7]</sup> and 90-271,<sup>[8]</sup> respectively, were pending, in which Silverio is also one of the defendants.

On February 11, 1993, Yau filed separate motions to intervene<sup>[9]</sup> in both cases pending before Branches 62 and 64 of the RTC of Makati City. In an Order<sup>[10]</sup> dated March 29, 1993, Branch 62 denied the motion to intervene in Civil Case No. 90-513 on the ground that the motion was filed after the parties have rested their respective cases and the same will only unduly delay the disposition of the case. Branch 64, on the other hand, granted Yau's motion to intervene in Civil Case No. 90-271 in an Order dated July 1, 1993.<sup>[11]</sup> Manilabank sought reconsideration<sup>[12]</sup> but Branch 64 denied the same in an Order<sup>[13]</sup> dated August 30, 1993. Hence, Manilabank interposed a petition for certiorari<sup>[14]</sup> before the Court of Appeals (CA), docketed as CA-G.R. SP No. 32405.

Meanwhile, in a letter<sup>[15]</sup> dated September 20, 1993, Yau formally requested Manila Golf, through its transfer agent, Far East Bank and Trust Company (FEBTC), to cancel the certificate in the name of Silverio and issue a new certificate in his name by virtue of the Certificate of Sale dated December 29, 1992 issued in his favor. Yau expressly agreed in the letter that the certificate to be issued in his name shall be subject to the preliminary attachments issued in other cases. Manila Golf, however, refused to accede to Yau's request, expressing the apprehension that it could be cited for contempt in view of the fact that notices of garnishment against the Silverio share directed the club "not to remove, transfer or otherwise dispose of" said share.

Thereupon, Yau filed in Civil Case No. CEB-2058 before the RTC Cebu City, (Branch 6) a motion for order directing Manila Golf to issue a certificate in his name.<sup>[16]</sup> Acting upon the motion, the said court issued an Order dated March 6, 1995,<sup>[17]</sup> which was subsequently amended on March 30, 1995,<sup>[18]</sup> directing Manila Golf and/or its transfer agent, FEBTC, to cancel the certificate of proprietary membership share in the name of Silverio, and in lieu thereof to issue a new one in Yau's name, subject to the preliminary attachments in favor of Manila bank.

Without filing a motion for reconsideration, Manilabank filed on May 2, 1995 a petition for certiorari<sup>[19]</sup> before the CA, docketed as CA-G.R. SP No.37085, assailing issuance of the Order of RTC Cebu City dated March 6, 1995, and amended on March 30, 1995. On April 29, 1996, the CA rendered a Decision<sup>[20]</sup> in CA-G.R. SP No. 37085 nullifying the Orders of RTC Cebu City. The appellate court found and declared that when the RTC Cebu City ordered the cancellation of the Silverio share which was in *custodia legis* of RTC Makati City, Branch 64, it interfered with or invaded the jurisdiction of the latter coordinate and co-equal court, hence, said order is null and void. With his motion for reconsideration<sup>[21]</sup> thereto denied on October 14, 1996,<sup>[22]</sup> Yau filed the petition for review subject of G.R. No 126731.

Subsequently, on January 9, 1997, the CA rendered a Decision<sup>[23]</sup> in CA-G.R. SP No. 32405 sustaining the Order of RTC Makati City (Branch 64) dated July 1, 1993, which allowed the intervention of Yau in Civil Case No. 90-271. A Motion for Reconsideration<sup>[24]</sup> of the said Decision was denied by the CA on March 13, 1997.<sup>[25]</sup> Hence, Manilabank interposed the petition for review subject of G.R. No. 128623.

On motion of Manilabank,<sup>[26]</sup> G.R. Nos. 126731 and 128623 were consolidated.<sup>[27]</sup>

In G.R. No. 126731, Yau assails the reversal of the Orders of RTC Cebu City, directing the issuance of a new certificate of title in his name. Yau firstly condemns the Court of Appeals for not dismissing outright the petition of Manilabank in CA-G.R. SP No.

37805 for its failure to seek reconsideration before RTC Cebu City, of the latter's assailed orders prior to filing the petition for certiorari with the CA. He then contends that he is entitled to the issuance of a new certificate in his name after he had purchased the same in an execution sale, despite the Silverio share being subject to a preliminary attachment in favor of Manilabank. Thus, he submits that in issuing the questioned orders, the RTC, Cebu City, did not interfere with or invade the jurisdiction of RTC Makati City, Branch 64, which issued the writ of preliminary attachment pursuant to which the Silverio share was attached.

In G.R. No. 128623, the issue revolves on the legality of the intervention of Yau in Civil Case No. 90-271 before RTC Makati City (Branch 64). Manilabank argues that Yau has no legal interest to justify intervention in Civil Case No. 90-271 before RTC Makati City, Branch 64 nor does he have standing and legal basis to assail the Writ of Attachment dated September 27, 1990. Manilabank submits that whatever rights Yau may have in the subject property can be fully protected, as in fact they are already protected, in a separate proceeding. Besides, the intervention of Yau will unduly delay and prejudice the adjudication of the rights of the original parties in Civil Case No. 90-271 before RTC Makati City, Branch 64. Finally, Manilabank contends that allowing intervention after trial had already been concluded is in violation of the rule that intervention may only be allowed before or during trial.

At the outset, this Court notes that, admittedly, Manilabank did not file a motion for reconsideration of the Orders of RTC Cebu City, which directed Manila Golf to issue a certificate in Yau's name, prior to initiating its petition for certiorari (CA-G.R. SP No. 37085) in the CA. Thus, the petition before the appellate court could have been dismissed outright since, as a rule, the CA, in the exercise of its original jurisdiction, will not take cognizance of a petition for certiorari under Rule 65, unless the lower court has been given the opportunity to correct the error imputed to it. This Court has settled that as a general rule, the filing of a motion for reconsideration is a condition *sine qua non* in order that certiorari shall lie. However, there are settled exceptions to this Rule, one of which is where the assailed order is a patent nullity, as where the court a *quo* has no jurisdiction,<sup>[28]</sup> which is evident in this case.

The Notice of Garnishment of the Silverio share upon Manila Golf brought the property into the *custodia legis* of the court issuing the writ, that is, the RTC Makati City Branch 64, beyond the interference of all other co-ordinate courts, such as the RTC of Cebu, Branch 6. "The garnishment of property operates as an attachment and fastens upon the property a lien by which the property is brought under the jurisdiction of the court issuing the writ. It is brought into *custodia legis*, under the sole control of such court. A court which has control of such property, exercises exclusive jurisdiction over the same, retains all incidents relative to the conduct of such property. No court, except one having supervisory control or superior jurisdiction in the premises, has a right to interfere with and change that possession".<sup>[29]</sup>

Thus, the doctrine of judicial stability or non-interference<sup>[30]</sup> in the regular orders or judgments of a co-equal court, as an accepted axiom in adjective law, serves as an insurmountable barrier to the *competencia* of the RTC Cebu City to entertain a motion, much less issue an order, relative to the Silverio share which is under the *custodia legis* of RTC Makati City, Branch 64, by virtue of a prior writ of attachment. Indeed, the policy of peaceful co-existence among courts of the same judicial plane, so to speak, was aptly described in *Parco v. Court of Appeals*,<sup>[31]</sup> thus: