

FIRST DIVISION

[A.M. No. RTJ-00-1574, March 28, 2001]

GORGONIO S. NOVA, COMPLAINANT, VS. JUDGE SANCHO DAMES II, REGIONAL TRIAL COURT, BRANCH 38, DAET, CAMARINES NORTE, RESPONDENT.

R E S O L U T I O N

PARDO, J.:

The case is a complaint^[1] against Judge Sancho Dames II, presiding judge, Regional Trial Court, Camarines Norte, Branch 38, Daet, in connection with his issuance of a temporary restraining order in Civil Case No. 6859, entitled "Sps. Cesar Barcelona and Vilma Jalgalado-Barcelona vs. Hon. Fructuoso T. Aurellano, et al.", restraining NLRC Sheriff Norberto B. Meteoro from conducting the scheduled public auction of real property of Vilma J. Barcelona levied on execution pursuant to a final decision of the NLRC in NLRC RAB V Case No. 05-12-00141-95, entitled Gorgonio C. Nova, complainant, vs. R. A. Broadcasting Corporation, Vilma Jalgalado-Barcelona and Deo N. Trinidad, respondents.

The complaint alleged that, in issuing the temporary restraining order, respondent judge acted with gross ignorance of the law because regular courts had no jurisdiction to hear and decide questions which arose and were incidental to decisions, orders or awards rendered in labor cases.

The facts are as follows:

In 1995, complainant Gregorio S. Nova filed with the NLRC Regional Arbitration, Branch V, Legaspi City, a complaint for illegal dismissal, underpayment of wages, non-payment of holiday pay, rest day, overtime pay, 13th month pay and other allowances, backwages, separation pay and damages against the R.A. Broadcasting Corporation/Station DZRM, represented by its Vice President for Operations Vilma J. Barcelona and Station Manager Deo Trinidad.^[2]

On July 31, 1996, Labor Arbiter Fructuoso T. Aurellano rendered a judgment, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered ordering R. A. BROADCASTING CORP./DZRM, VILMA J. BARCELONA and DEO TRINIDAD to solidarily pay the complainant the total sum of ONE HUNDRED ELEVEN THOUSAND SIX HUNDRED SIXTY-NINE PESOS and 60/100 (P111,669.60).

"SO ORDERED."

In time, respondent appealed the decision to the NLRC in Quezon City.

On October 7, 1996, the NLRC dismissed the appeal. Respondent moved for reconsideration but the NLRC denied the motion as it was filed out of time. Aggrieved by the resolution, on March 12, 1997, respondent filed with this Court a petition for certiorari.^[3] On March 17, 1997, the Court dismissed the petition and also denied the motion for reconsideration thereafter filed.

The decision having become final, on January 7, 1998, the NLRC issued an *alias* writ of execution. Pursuant thereto, on February 3, 1998, Labor Sheriff Norberto B. Meteoro levied on real property belonging to Sps. Cesar and Vilma Barcelona and scheduled the auction sale on June 16, 1998, at 10:00 a. m.

On June 9, 1998, Vilma J. Barcelona and her husband Cesar Barcelona filed with the Regional Trial Court, Camarines Norte, Daet a civil action for damages with temporary restraining order due to the wrongful attachment of their property.^[4] This was raffled to Branch 38, presided over by respondent Judge.

On June 15, 1998, respondent Judge finding that there was extreme urgency and that irreparable injury would result to the plaintiff before the matter can be heard on notice, issued a temporary restraining order, restraining the NLRC Sheriff from conducting the scheduled public auction on June 16, 1998.

Hence, on January 5, 1999, complainant filed this administrative charge against Judge Sancho Dames II, alleging that the issuance of the temporary restraining order constituted a violation of Article 254 of the Labor Code which prohibited the issuance of temporary restraining order or preliminary injunction in a case arising from a labor dispute. He further submitted that the regular courts had no jurisdiction to hear and decide questions which arose and were incidental to the decisions, orders or awards rendered in labor cases.^[5]

On April 28, 1999, the Court Administrator referred the complaint to respondent judge for comment.^[6]

In his answer filed on June 2, 1999, respondent judge claimed that he issued the temporary restraining order to maintain the subject of controversy in *status quo* until the hearing of the application for permanent injunction; that Vilma Jalgado-Barcelona, Vice-President for Operations, and Deo Trinidad, the Station Manager, were ordered to solidarily pay with the defendant corporation despite the fact that the corporation had a distinct personality from its officers; that Cesar Barcelona, not being a judgment debtor, would lose his property *via* public auction for an alleged labor dispute he had nothing to do with; that injunction will lie to prevent alienation of conjugal property; that all properties acquired during the marriage are presumed to belong to the conjugal partnership property, thus the subject property belonged to the conjugal partnership of spouses Cesar Barcelona and Vilma Jalgado-Barcelona and could not be alienated *via* public auction; that injunction to prevent a wrong would be favored than a course requiring plaintiffs to wait and seek damages after the wrong had been done; and that the instant case involved a judicial question and thus, should be dismissed.^[7]

We referred the case to Court of Appeals Associate Justice Remedios A. Salazar-