

## SECOND DIVISION

**[ G.R. No. 116883, September 22, 1998 ]**

**BISHOP NICOLAS M. MONDEJAR, PETITIONER, VS. HON. ROBERTO S. JAVELLANA, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 59, SAN CARLOS CITY, NEGROS OCCIDENTAL, AND DR. OSCAR BROCE, RESPONDENTS.**

### DECISION

**MARTINEZ, J.:**

This petition for certiorari and mandamus filed by Bishop Nicolas M. Mondejar seeks to annul and set aside the Order<sup>[1]</sup> of the Regional Trial Court of San Carlos City, Negros Occidental, Branch 59, dated February 1, 1994, dismissing Cadastral Case No. RTC-280, and the Order<sup>[2]</sup> of August 1, 1994 denying the motion for reconsideration of the order of dismissal.

The antecedent facts of this case are as follows:

In the public auction sale conducted on December 7, 1989 at San Carlos City by the Regional Sheriff of the Regional Arbitration Branch No. IV of the National Labor Relations Commission (NLRC), Bacolod City, private respondent Oscar Broce's real properties covered by TCT Nos. T-10093-A, T-10094-A, (T-16387) 377-A, 7139-A, 7140-A, 7141-A, 7142-A, 7143-A, 7144-A, 7145-A, (T-8603), 188-A, (T-8602) 187-A, and (T-7284) 161-A, all of the San Carlos Cadastre, were sold.

The auction sale was held to satisfy the judgment rendered by the Regional Arbitration Branch of the NLRC against private respondent in RAB VI Case Nos. 0252-82, 0328-82 and 0329-82, entitled "Feliciano Samillano, et al. vs. Central Negros College/Dr. Oscar Broce, et al." The Roman Catholic Bishop of San Carlos City, Inc. (RCBSCCI) was the highest bidder. Thus the properties were awarded to petitioner by virtue of a Certificate of Sale executed by the sheriff on December 8, 1989. On December 8, 1990, the one (1) year period of redemption expired. On December 21, 1990, for failure of private respondent to redeem the property, the sheriff executed the Final Deed of Sale in favor of RCBSCCI.

On February 27, 1991, RCBSCCI, through Bishop Nicolas M. Mondejar, filed with the Regional Trial Court, Branch 59, San Carlos City, Negros Occidental, a "Petition For The Surrender of Certificates Of Title"<sup>[3]</sup> against Dr. Oscar T. Broce and the Philippine National Bank, San Carlos City Branch, docketed as Cadastral Case No. RTC-280, alleging that as absolute owner of the properties it acquired through the auction sale, RCBSCCI is entitled to have the titles thereof transferred in its name, and that the certificates of title of the subject properties are in the possession of the private respondent and the Philippine National Bank, San Carlos City Branch, both of which refused to surrender the titles to the Register of Deeds of San Carlos City in order to effect the issuance of new certificates of title in its own name. The

respondent court set the case for hearing on May 7, 1991. The petition was later amended to implead the Development Bank of the Philippines (DBP) and Rural Bank of San Carlos City, said banks having in their possession other certificates of title. A copy of said amended petition, which was set for hearing on June 4, 1991, was received by private respondent, but the latter did not oppose the same.

On September 16, 1991, petitioner filed a motion seeking the cancellation of Certificates of Title Nos. T-7139, T-10093 and T-10094 and praying for the issuance of new transfer certificates of title in the name of Bishop Nicolas Mondejar. Private respondent was furnished a copy of the motion by registered mail but, again, he did not file any comment/opposition thereto. During the hearing of the motion, the respondent court noticed the error in naming petitioner Bishop Mondejar as the purchaser in the final deed of sale. Accordingly, an urgent motion to amend the final deed of sale was filed by petitioner, which motion was granted by Executive Judge Mariano Y. Basa, Jr. in an order<sup>[4]</sup> dated October 22, 1991, to wit:

"Since the mistake in the name of purchaser has been acknowledged and admitted by the petitioner himself, the Regional Sheriff, Enrico Y. Paredes is hereby ordered to execute within 5 days from today an amended final Deed of Sale with the Roman Catholic Bishop of San Carlos, Inc., as the real and true purchaser instead of MSGR. Nicolas M. Mondejar, Roman Catholic Bishop of the Diocese of San Carlos City, Negros Occidental."

Pursuant to the above-quoted order, the NLRC sheriff executed an amended final deed of sale designating the RCBSCCI as the vendee.

On October 30, 1991, Judge Basa issued an order<sup>[5]</sup> for the surrender of private respondent's certificates of title, thus:

"WHEREFORE, the Court hereby GRANTS the petition and orders:

"1. Dr. Oscar Broce to surrender to the Register of Deeds of San Carlos City within five (5) days from receipt of this order the owner's duplicates of TCT 7139, TCT 10093 and TCT 10094 in his possession, otherwise if he should fail or refuse to do so, the Court hereby orders the cancellation of said titles which shall be thereafter considered null and void.

"2. The Register of Deeds of San Carlos City, Negros Occidental upon receipt of the owner's duplicates of these three titles to cancel the same and issue new titles in the name of the Roman Catholic Bishop of San Carlos City, Inc. after payment of all legal fees.

"3. The Register of Deeds to cancel the owner's duplicates of the three times not surrendered to her by Dr. Oscar Broce as herein ordered by the court within the time frame required, to reconstitute the same on the basis of the original title on file in her office and proceed to issue the new titles to the name of the Roman Catholic Bishop of San Carlos City, Inc.

"SO ORDERED."

This time, private respondent filed a motion for reconsideration of the aforequoted order alleging that he has no interest in the lots covered by the certificates of title mentioned in the order; hence, he could not comply with the same. He then prayed

that the said order be reconsidered to exclude the lots covered by the certificates of title mentioned therein. The respondent court denied the motion in an order<sup>[6]</sup> dated December 12, 1991.

Consequently, the Register of Deeds of San Carlos City, canceled TCT Nos. T-10093, T-10094 and T-7139 and, in lieu thereof, issued TCT Nos. T-11056, T-11057 and T-11055, respectively.<sup>[7]</sup>

Petitioner followed this up with a "Motion For A Writ Of Possession" dated January 24, 1992, praying for the issuance of a writ of possession over the three (3) aforementioned properties. Private respondent opposed the motion on the ground that his wife has filed an action for Annulment of the Sale, Recovery of Ownership and Damages.

On April 8, 1992, the court a quo, through Judge Rodolfo S. Layumas, issued an Order<sup>[8]</sup> granting the petition and directing the (a) sheriff "to place the petitioner or his representative in possession of the properties above-described," and the (b) private respondent or representative "to peacefully deliver possession of the properties to the petitioner." When private respondent moved for a reconsideration of this order, the trial court denied it in an order<sup>[9]</sup> of May 5, 1992.

Private respondent appealed the April 8, 1992 order to the Court of Appeals, but his appeal was dismissed on the ground that the appealed order was in the nature of a writ of execution issued pursuant to the order dated October 30, 1991 which granted the main petition, and which order had become final and executory as no appeal therefrom was interposed by him.

On June 25, 1992, petitioner filed a "Request for Issuance of Writ of Possession"<sup>[10]</sup> of Lot Nos. 20-A, 20-B and 1, covered by TCT Nos. 11056, 11057 and 11055, respectively.

Meanwhile, on July 2, 1992, private respondent, dissatisfied with the dismissal of his appeal, elevated the case to this Court via a petition for review of certiorari, docketed as G.R. No. UDK-11045, but the same was rejected outright in a Resolution dated August 3, 1992<sup>[11]</sup> for: (a) being filed out of time, (b) failure to pay the docket fee and other legal fees, and (c) failure to submit the affidavit of service and the certified true copy of the other assailed order dated May 5, 1992.

On July 22, 1992, petitioner moved for the issuance of a writ of possession of the Central Negros College (CNC) lots covered by TCT Nos. T-7140, T-7141, T-8603, T-8602 and T-7284."<sup>[12]</sup> On December 14, 1992, Judge Rolindo D. Beldia, Jr. granted<sup>[13]</sup> the motion. Pursuant to this order, the OIC Branch Clerk of Court issued the writ of possession<sup>[14]</sup> dated December 21, 1992.

Again, on March 13, 1993, petitioner filed an "Ex-Parte Motion for Cancellation of Entry/Notation on T-11056 and T-11057 for lots 20-A & B of the Registry of Deeds of San Carlos City."<sup>[15]</sup>

After all these proceedings were had, private respondent filed a "Motion to Dismiss"<sup>[16]</sup> dated August 9, 1993, contending that the case is an incident of the execution

of the decision in the labor case rendered by the Regional Arbitration Branch of the NLRC and, therefore, the latter has exclusive jurisdiction over the case. Petitioner opposed the motion invoking the principle of estoppel and laches.<sup>[17]</sup>

In an Order<sup>[18]</sup> dated February 1, 1994, Judge Roberto S. Javellana dismissed the case for lack of jurisdiction, sustaining the theory of the private respondent. The said order likewise declared the orders dated October 22 and 30, 1991 of Judge Basa, and the April 8, 1992 order of Judge Layumas, in the aforesaid case, null and void. Petitioner's motion for reconsideration<sup>[19]</sup> was also rejected in an order dated August 1, 1994.<sup>[20]</sup>

Hence, this petition.

Petitioner asserts that respondent court gravely abused its discretion amounting to lack or in excess of jurisdiction, in dismissing the case. He contends that private respondent's failure to oppose the main petition and in voluntarily submitting to the jurisdiction of the respondent court by actively participating in the proceedings of the case amount to a waiver of private respondent's right to question that same jurisdiction. Petitioner argues that private respondent is barred by estoppel/laches in raising the issue of jurisdiction at a very late date.

In his comment,<sup>[21]</sup> private respondent countered that the petition should be dismissed on the grounds that the proper remedy of petitioner from the assailed order of dismissal is an ordinary appeal to the Court of Appeals; and that even if the present petition for certiorari is the proper remedy, still it has not shown sufficient ground for the issuance of such writ.

We find the petition meritorious.

It is true, as contended by private respondent Oscar Broce, that the petition filed by petitioner Bishop Nicolas Mondejar with the respondent Regional Trial Court, entitled "Petition For The Surrender Of Certificate Of Title," is merely an offshoot or incident in the execution proceedings in the labor case which originated in the Regional Arbitration Branch of the NLRC. This is so because the purpose of said petition is to finish up the proceedings arising from the execution sale, of which petitioner Bishop Mondejar was the highest bidder, and to place him in possession of the properties he bought in said sale. Under the NLRC Manual on Execution of Judgment, Section 15 of Rule VII (Sale of Property on Execution) provides:

*"SECTION 15. Deed and Possession to be Given at Expiration of Redemption Period. By Whom Executed or Given.-* **If no redemption to be made within twelve (12) months after the sale, the purchaser or his assignee, is entitled to a conveyance and possession of the property;** or if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time of redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession, but in all cases the losing party shall have the entire period of twelve (12) months from date of the registration of the sale to redeem the property. **This deed shall be executed by the sheriff making the sale or by his successor in office,** and in the latter case, shall have the same validity as though the

sheriff making the sale had continued in office and executed it.

**"Upon the execution and delivery of said deed** the purchaser, or redemptioner, or his assignee, shall be substituted to and acquire all the right, title, interest and claim of the losing party to the property as of the time of levy, except against the losing party in possession, in which case the substitution shall be effective as of the date of the deed. **The possession of the property shall be given to the purchaser or the last redemptioner by the same sheriff unless a third party is actually holding the property adversely to the losing party."**  
(Emphasis supplied)

It can be deduced from the above-quoted rule that the Regional Arbitration Branch of the NLRC, not the respondent court, has the jurisdiction to resolve said petition. The jurisdiction of the NLRC does not end after the judgment has been satisfied by the full payment to the judgment creditor. Such jurisdiction extends until the highest bidder in the execution sale has been placed in **physical** possession of the subject properties by the same executing sheriff, as in this case. This can be gleaned from the wording of the aforecited law which emphasizes that "unless a third party is **actually holding** the property adversely to the losing party."

Thus, any controversy in the execution of the judgement should be referred to the tribunal which issued the writ of execution since it has the inherent power to control its processes in order to enforce its judgment and orders. To hold otherwise would be to divided the jurisdiction of the appropriate forum in the resolution of incidents arising in execution proceedings. Splitting of jurisdiction, as we have emphasized in **Balais, et al., vs. Velasco, et al.,**<sup>[22]</sup> "is obnoxious to the orderly administration of justice." We reiterate what we said in **Balais** and in the other cases cited therein, thus:

**"Jurisprudence is replete with the rule that a case in which an execution has been issued is considered as still pending so that all proceedings on the execution are proceedings in the suit** (Paper Industries Corporation of the Philippines v. Intermediate Appellate Court, 151 SCRA 161 [1987]; Darwin v. Tokonaga, 197 SCRA 442 [1991]). Moreover, there is no dispute with the view that **the tribunal which rendered the decision or award has a general supervisory control over the process of its execution, and this includes the power to determine every question of fact and law which may be involved in the execution** (Vda. De Paman v. Senerio, 115 SCRA 709 [1982]). x x x.

"Considering in totality the facts of the present case, it is clear that said proceeding, placed in proper perspective, is essentially an offshoot or incident in the enforcement of the final award or decision of the voluntary arbitrator.

"Hence, it is the voluntary arbitrator, from whom the alias writ of execution originated, which has the jurisdiction to determine whether petitioners exceeded their authority in implementing the alias writ of execution **and whether there was already a complete delivery of the personal properties indicated in the Notice of Levy to**