

THIRD DIVISION

[CA-G.R. SP No. 134185, January 30, 2015]

LUIS MARIO R. JOSE, PETITIONER, VS. HON. MARIVIC T. BALISI-UMALI AS PRESIDING JUDGE OF RTC, MANILA, BRANCH 20 AND RENE MANUEL R. JOSE/CYNTHIA JOSE, RESPONDENTS.

D E C I S I O N

GONZALES-SISON, M., J.:

By Petition for Certiorari under Rule 65 of the Rules of Court, petitioner Luis Mario R. Jose seeks to reverse, annul and set aside the Order dated 29 July 2013, issued by the respondent Court, the dispositive portion of which states, thus:

"In light thereof, the instant Motion is GRANTED. The Court appointed receiver of the DOMEL REALTY & DEVELOPMENT CORPORATION is however directed to furnish the Court the taxable years for which the released amount shall be applied, the specific properties and the amount of the real estate taxes to be paid thereon.xx xx xx xx"

SO ORDERED."^[1]

as well as the Order dated 02 December 2013 which denied petitioner's Motion for Reconsideration.

On 01 December 2005, a Complaint for Sum of Money and Damages with prayer for writ of preliminary attachment was filed by plaintiffs Rene Jose and Cynthia Jose (private respondents herein) against the Spouses Domingo and Emilia Jose and Domel Realty and Development Corporation docketed as Civil Case No. 05-114000. A writ of preliminary attachment was issued by the trial court in an Order dated 06 December 2005.

On 18 September 2008, private respondents filed an Amended Complaint for Sum of Money and this time, only against Spouses Jose.

On 05 March 2009, petitioner, as one of the heirs of the late Domingo Jose and as a substitute party-defendant, filed an Answer.

On 02 March 2012, petitioner filed a Motion to Withdraw Rental Deposits to be released and remitted to the City Treasurer of Manila by way of payment for the real estate taxes.

On 28 January 2013, the trial court issued an Order, to wit:

"In light thereof, the instant Motion is GRANTED. Movant is however directed to furnish the Court the taxable years for which the released amount shall be applied, the specific properties and the amount of the

real estate tax to be paid thereon.

SO ORDERED.^[2]

A Motion to Amend Order (Re: Order dated 28 January 2013) was filed by the private respondents, insofar as the recipient and beneficiary of the garnished amount are concerned, upon the following grounds--

1. THE GARNISHED AMOUNT, IF IT SHOULD BE RELEASED, SHOULD PAY FOR TAXES PERTAINING TO PROPERTIES REGISTERED IN THE NAME OF DOMEL REALTY AND DEVELOPMENT CORPORATION ("DOMEL CORPORATION"), AND NOT FOR THE PROPERTIES NAMED IN THE ORDER; AND
2. SINCE THE GARNISHED AMOUNT BELONGS TO DOMEL CORPORATION, IT SHOULD BE RELEASED TO THE COURT-APPOINTED RECEIVER OF THE CORPORATION.

On 03 May 2013, an Order was issued by the trial court, the dispositive portion of which states, thus –

*"Thus, in light of the foregoing, the Motion to Amend Order is **DENIED**.*

SO ORDERED.^[3]

Private respondent filed a Motion for Reconsideration and on 29 July 2013, the trial court issued the impugned Order granting private respondents' Motion and directing the court appointed receiver of the DOMEL REALTY & DEVELOPMENT CORPORATION to furnish the court the taxable years for which the released amount shall be applied, the specific properties and the amount of the real estate taxes to be paid thereon.^[4]

Both petitioner and private respondents filed their respective Motion for Reconsideration and the same was denied by the trial court in an Order^[5] dated 02 December 2013.

Hence, this petition under Rule 65 of the Rules of Court with the following grounds relied upon for the relief prayed for, to wit:

1

WHETHER OR NOT THE RESPONDENT COURT HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR [IN] EXCESS OF JURISDICTION WHEN IT GAVE THE TASK OF PAYING THE REAL ESTATE TAXES OF SUBJECT PROPERTIES TO A STRANGER (RECEIVER) WHO HAS NO PARTICIPATION IN THIS CASE.

2

WHETHER OR NOT THE RESPONDENT COURT HAS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR [IN] EXCESS OF JURISDICTION WHEN IT ISSUED THE ASSAILED ORDERS.

Petitioner submits that the issuance of the first assailed Order is premised on the misinformation and misrepresentation made by the private respondents that "the funds garnished and sought to be released were rentals payable to the DOMEL Realty and Development Corporation for which a receiver has already been appointed by the Court, the Court finds valid basis to amend its Order dated January 28, 2013." He also claims that the respondent court did not have jurisdiction over the person of Domel and the court-appointed receiver never entered his appearance either by way of an intervention or in any manner whatsoever.

Moreover, petitioner surmises that the reason for respondent court's *volte face* is the clout being enjoyed by the private respondents' counsel, she being the teacher of the child of the presiding judge as evidenced by the affidavit executed by a former aide of private respondent Rene Jose, Mr. Vittorio L. Del Rosario who allegedly does not impute any wrongdoing against the presiding judge, but he "only insinuates" that private respondents' former counsel was so confident of a favorable resolution due to the fact that the child of the presiding judge is her student.

Thus, petitioner concludes that the respondent court has acted with grave abuse of discretion tantamount to lack or in excess of jurisdiction when it gave the task of paying the real estate taxes of subject properties to a stranger (receiver) who has no participation in this case and on which the respondent court did not have jurisdiction over his person.

On the other hand, private respondent Rene Jose maintains that the RTC-Manila (Branch 20) is correct when it ruled that the rental payments be released to pay Domel's real estate tax obligations.

The Petition is bereft of merit.

The respondent court did not commit a grave abuse of discretion when it issued the questioned orders. Grave abuse of discretion, in order that the instant petition for certiorari may prosper, "implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."^[6] We have reviewed the questioned orders and the circumstances under which they were issued and came to a conclusion that the trial court did not gravely abuse its discretion in issuing them.

Let us take the Orders dated 29 July 2013 and 02 December 2013, respectively. The first Order amended the motion for reconsideration filed by private respondents, stating that:

"In its Order dated April 10, 2013, the Court acknowledged that the corporate existence of the DOMEL Realty and Development Corporation expired on September 30, 2008 and that the certificate of registration of the NEW DOMEL was revoked by the Securities and Exchange Commission in its Decision dated May 10, 2010.

The plaintiff in its Motion for Reconsideration pointed to the Court that a receiver for the assets and properties of DOMEL had already been