Supreme Court E-Library

Deputy Chief of Police of Ozamiz City. 4. That in view of the appointment of the petitioner-appellant as Chief of Police and the resignation of the respondent-appellee Timoteo Padilla as Deputy Chief of Police, the issue of who is entitled to the position of Deputy Chief of Police of Ozamiz City has become moot and academic."[1] In the light of the above supplemental pleading, the petition being one for *quo warranto*, it is apparent that the suit has indeed become moot and academic.

WHEREFORE, in the light of the foregoing, this suit for certiorari is dismissed. Without pronouncement as to costs.

Makalintal, Zaldivar, Ruiz Castro, Barredo, Makasiar, Antonio, and *Esguerra, JJ.*, concurs.

Concepcion, C.J., and *Teehankee, J.*, did not take part.

[G.R. No. L-34964. January 31, 1973]

CHINA BANKING CORPORATION and TAN KIM LIONG, *petitioners-appellants, vs.* HON. WENCESLAO ORTEGA, as Presiding Judge of the Court of First Instance of Manila, Branch VIII, and VICENTE G. ACABAN, *respondents-appellees.*

SYLLABUS

1. **MERCANTILE LAW; BANKS AND BANKING; PROHIBITION AGAINST DISCLOSURE OF BANK DEPOSITS, R.A. NO. 1405; INAPPLICABILITY THEREOF TO INSTANT CASE.**— The lower court did not order an examination of or inquiry into the deposit of B & B Forest Development Corporation, as contemplated in the law. It merely required Tan Kim Liong to inform the court whether or not the defendant B & B Forest Development Corporation had a deposit in the China Banking Corporation only for purposes of the garnishment issued

[1] Supplemental Pleading, November 28, 1972.

Supreme Court E-Library

by it, so that the bank would hold the same intact and not allow any withdrawal until further order.

2. **ID.; ID.; ID.; SCOPE; GARNISHMENT TO INSURE SATISFACTION OF JUDGMENT, NOT INCLUDED.**— From the discussion of the conference committee report of the two houses of Congress it is clear that the prohibition against examination of or inquiry into a bank deposit under Republic Act 1405 does not preclude its being garnished to insure satisfaction of a judgment. Indeed there is no real inquiry in such a case, and if the existence of the deposit is disclosed the disclosure is purely incidental to the execution process. It is hard to conceive that it was ever within the intention of Congress to enable debtors to evade payment of their just debts, even if ordered by the Court, through the expedient of converting their assets into cash and depositing the same in a bank.

APPEARANCES OF COUNSEL

Sy Santos, del Rosario & Associates for petitioners-appellants.

Tagalo, Goza & Associates for respondents-appellees.

D E C I S I O N

MAKALINTAL, *J.:*

The only issue in this petition for certiorari to review the orders dated March 4, 1972 and March 27, 1972, respectively, of the Court of First Instance of Manila in its Civil Case No. 75138, is whether or not a banking institution may validly refuse to comply with a court process garnishing the bank deposit of a judgment debtor, by invoking the provisions of Republic Act No. 1405.*

On December 17, 1968 Vicente Acaban filed a complaint in the court *a quo* against Bautista Logging Co., Inc., B & B Forest Development Corporation and Marino Bautista for the collection

* An Act Prohibiting Disclosure of or Inquiry into, Deposits with any Banking Institution and Providing Penalty Therefor.

Supreme Court E-Library

of a sum of money. Upon motion of the plaintiff the trial court declared the defendants in default for failure to answer within the reglementary period, and authorized the Branch Clerk of Court and/or Deputy Clerk to receive the plaintiff's evidence. On January 20, 1970 a judgment by default was rendered against the defendants.

To satisfy the judgment, the plaintiff sought the garnishment of the bank deposit of the defendant B & B Forest Development Corporation with the China Banking Corporation. Accordingly, a notice of garnishment was issued by the Deputy Sheriff of the trial court and served on said bank through its cashier, Tan Kim Liong. In reply, the bank's cashier invited the attention of the Deputy Sheriff to the provisions of Republic Act No. 1405 which, it was alleged, prohibit the disclosure of any information relative to bank deposits. Thereupon the plaintiff filed a motion to cite Tan Kim Liong for contempt of court.

In an order dated March 4, 1972 the trial court denied the plaintiff's motion. However, Tan Kim Liong was ordered "to inform the Court within five days from receipt of this order whether or not there is a deposit in the China Banking Corporation of defendant B & B Forest Development Corporation, and if there is any deposit, to hold the same intact and not allow any withdrawal until further order from this Court." Tan Kim Liong moved to reconsider but was turned down by order of March 27, 1972. In the same order he was directed "to comply with the order of this Court dated March 4, 1972 within ten (10) days from the receipt of copy of this order, otherwise his arrest and confinement will be ordered by the Court." Resisting the two orders, the China Banking Corporation and Tan Kim Liong instituted the instant petition.

The pertinent provisions of Republic Act No. 1405 relied upon by the petitioners reads:

"Sec. 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of absolutely confidential nature and may not be examined, inquired or looked into by any

Supreme Court E-Library

person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

"Sec. 3. It shall be unlawful for any official or employee of a banking institution to disclose to any person other than those mentioned in Section two hereof any information concerning said deposits.

"Sec. 5. Any violation of this law will subject offender upon conviction, to an imprisonment of not more than five years or a fine of not more than twenty thousand pesos or both, in the discretion of the court."

The petitioners argue that the disclosure of the information required by the court does not fall within any of the four (4) exceptions enumerated in Section 2, and that if the questioned orders are complied with Tan Kim Liong may be criminally liable under Section 5 and the bank exposed to a possible damage suit by B & B Forest Development Corporation. Specifically referring to this case, the position of the petitioners is that the bank deposit of judgment debtor B & B Forest Development Corporation cannot be subject to garnishment to satisfy a final judgment against it in view of the aforequoted provisions of law.

We do not view the situation in that light. The lower court did not order an examination of or inquiry into the deposit of B & B Forest Development Corporation, as contemplated in the law. It merely required Tan Kim Liong to inform the court whether or not the defendant B & B Forest Development Corporation had a deposit in the China Banking Corporation only for purposes of the garnishment issued by it, so that the bank would hold the same intact and not allow any withdrawal until further order. It will be noted from the discussion of the conference committee report on Senate Bill No. 351 and House Bill No. 3977, which later became Republic Act No. 1405, that it was not the intention of the lawmakers to place bank deposits beyond the reach of execution to satisfy a final judgment. Thus:

"Mr. MARCOS. Now, for purposes of the record, I should like the Chairman of the Committee on Ways and Means to clarify this

Supreme Court E-Library

further. Suppose an individual has a tax case. He is being held liable by the Bureau of Internal Revenue for, say, P1,000,000 worth of tax liability, and because of this the deposit of this individual is attached by the Bureau of Internal Revenue.

"Mr. RAMOS. The attachment will only apply after the court has pronounced sentence declaring the liability of such person. But where the primary aim is to determine whether he has a bank deposit in order to bring about a proper assessment by the Bureau of Internal Revenue, such inquiry is not authorized by this proposed law.

"Mr. MARCOS. But under our rules of procedure and under the Civil Code, the attachment or garnishment of money deposited is allowed. Let us assume, for instance, that there is a preliminary attachment issued by the court and this preliminary attachment is for garnishment or for holding liable all moneys deposited belonging to a certain individual, but such attachment or garnishment will bring out into the open the value of such deposit. Is that prohibited by this amendment or by this law?"

"Mr. RAMOS. It is only prohibited to the extent that the inquiry is limited, or rather the inquiry is made only for the purpose of satisfying a tax liability already declared for the protection of the right in favor of the government; but when the object is merely to inquire whether he has a deposit or not for purposes of taxation, then this is fully covered by the law.

"Mr. MARCOS. And it protects the depositor, does it not?

"Mr. RAMOS. Yes, it protects the depositor.

"Mr. MARCOS. The law prohibits a mere investigation into the existence and the amount of the deposit.

"Mr. RAMOS. Into the very nature of such deposit.

"Mr. MARCOS. So I come to my original question. Therefore, preliminary garnishment or attachment of the deposit is not allowed?

"Mr. RAMOS. No, without judicial authorization.

"Mr. MARCOS. I am glad that is clarified. So that the established rule of procedure as well as the substantive law on the matter is amended?

"Mr. RAMOS. Yes. That is the effect.

Supreme Court E-Library

"Mr. MARCOS. I see. Suppose there has been a decision, definitely establishing the liability of an individual for taxation purposes and this judgment is sought to be executed . . . in the execution of that judgment, does this bill, or this proposed law, if approved, allow the investigation or scrutiny of the bank deposit in order to execute the judgment?

"Mr. RAMOS. To satisfy a judgment which has become executory.

"Mr. MARCOS. Yes, but, as I said before, suppose the tax liability is P1,000,000 and the deposit is half a million, will this bill allow scrutiny into the deposit in order that the judgment may be executed?

"MR. RAMOS. Merely to determine the amount of such money to satisfy that obligation to the Government, but not to determine whether a deposit has been made in evasion of taxes."

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"Mr. MACAPAGAL. But let us suppose that in an ordinary civil action for the recovery of a sum of money the plaintiff wishes to attach the properties of the defendant to insure the satisfaction of the judgment. Once the judgment is rendered, does the gentleman mean that the plaintiff cannot attach the bank deposit of the defendant?

"Mr. RAMOS. That was the question raised by the gentleman from Pangasinan to which I replied that outside the very purpose of this law it could be reached by attachment.

"Mr. MACAPAGAL. Therefore, in such ordinary civil cases it can be attached?

"Mr. RAMOS. That is so.

(Vol. II, Congressional Record, House of Representatives, No. 12, pp. 3839-3840, July 27, 1955)

It is sufficiently clear from the foregoing discussion of the conference committee report of the two houses of Congress that the prohibition against examination of or inquiry into a bank deposit under Republic Act 1405 does not preclude its being garnished to insure satisfaction of a judgment. Indeed there is no real inquiry in such a case, and if the existence of the deposit is disclosed the disclosure is purely incidental to the execution process. It is hard to conceive that it was ever within the intention

Supreme Court E-Library

of Congress to enable debtors to evade payment of their just debts, even if ordered by the Court, through the expedient of converting their assets into cash and depositing the same in a bank.

WHEREFORE, the orders of the lower court dated March 4 and 27, 1972, respectively, are hereby affirmed, with costs against the petitioners-appellants.

Zaldivar, Ruiz Castro, Fernando, Barredo, Makasiar, Antonio, and *Esguerra, JJ.,* concurs.

Concepcion, C.J. and *Teehankee, J.,* did not take part.

[G.R. No. L-35232. January 31, 1973]

REPUBLIC OF THE PHILIPPINES and THE LOCAL CIVIL REGISTRAR OF OLONGAPO CITY, *petitioners, vs.* HONORABLE AUGUSTO M. AMORES, Judge, Court of First Instance of Zambales and MERLITA L. CO, *respondents.*

SYLLABUS

1. **CIVIL LAW; CIVIL REGISTRY; CORRECTION OF ENTRY IN THE RECORD OF BIRTH; SUBSTANTIAL CHANGES NOT SANCTIONED BY ART. 412 OF THE CIVIL CODE; INSTANT CASE.**— Merlita L. Co, a natural daughter of a Filipino and a Chinese national, sought in a verified petition before respondent court authority for the correction of the entries in her birth record relative to her name, name of her father, the civil status of her parents and her own status, which she sought to be changed from "legitimate" to "illegitimate." It was averred that the entries were due to the errors of Anita Arcela, the midwife who attended her birth. The errors sought to be corrected, which involved changes of citizenship, legitimacy of paternity or filiation, or legitimacy of marriage, had long been settled as substantial and controversial and are not authorized to be altered or corrected under the summary procedure sanctioned by Art. 412 of the New Civil Code.