



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**POWER SECTOR ASSETS AND
LIABILITIES MANAGEMENT
CORPORATION (PSALM),**
Petitioner,

G.R. No. 215933

Present:

CARPIO, J., *Chairperson*,
PERALTA,
MENDOZA,
LEONEN, and
JARDELEZA,* *JJ.*

- versus -

MAUNLAD HOMES, INC. ,
Respondent.

Promulgated:

08 FEB 2017

X ----- X

DECISION

PERALTA, J.:

Assailed in this petition for review on *certiorari* are the Decision¹ dated July 30, 2012 and the Resolution² dated December 10, 2014 issued by the Court of Appeals (CA) in CA-G.R. SP No. 118302.

The antecedent facts are as follows:

Respondent Maunlad Homes, Inc. filed with the Municipal Trial Court in Cities (MTCC), Malolos City, Bulacan, an unlawful detainer case with damages against National Power Corporation (NPC), raffled-off to Branch 1. After trial, the MTCC issued its Decision³ dated October 26, 2009, ordering NPC to vacate the subject premises and surrender physical possession

* Designated Additional Member per Special Order No. 2416 dated January 4, 2017.
¹ Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justice Vicente S. E. Veloso and Associate Justice Edwin D. Sorongon, concurring; *rollo*, pp. 37-48.
² *Id.* at 50-51.
³ Per Judge Mario B. Capellan.

thereof to respondent; to pay reasonable compensation equivalent to Php20.00 per square meter per month of respondent's 25,896-sq. m. properties, reckoned from the date of demand on October 6, 2008, until complete vacation and surrender of the subject premises; and to pay Php20,000.00 as and for attorney's fees and cost of suit.

The NPC appealed the decision to the Regional Trial Court (RTC) of Malolos City, Bulacan, and was raffled-off to Branch 78. The RTC rendered its Decision⁴ dated May 18, 2010 affirming *in toto* the MTCC decision.

Respondent filed a Motion for Execution which was opposed by the NPC. The NPC also filed a motion for reconsideration of the RTC decision. In an Order dated August 5, 2010, the RTC denied the NPC's motion for reconsideration and granted respondent's motion for execution. On August 25, 2010, a Writ of Execution pending appeal was issued.⁵ And on September 6, 2010, the sheriff served a Notice of Demand⁶ of payment to the NPC.

Respondent then filed an urgent motion for issuance of a Break Open Order since the sheriff who tried to implement the writ of execution, by serving the notice of levy on the NPC Warehouse at Barangay Lagundi, Mexico, Pampanga, was prevented by the security guards assigned therein. The NPC argued that the warehouse is being used both by it and the Power Sector Assets and Liabilities Management Corporation (herein petitioner PSALM), an entity created and existing by virtue of Republic Act No. 9136, the Electric Power Industry Reform Act of 2001 (EPIRA Law); that the said law provides that the ownership and all generation assets, IPP contracts and other NPC disposable assets are transferred to PSALM; and that as of the moment, the ownership of the said items stored in the said warehouse cannot be established with certainty as they are in the process of determining what properties may be retained by the latter.

On October 26, 2010, the RTC issued a Break Open Order⁷ authorizing the sheriff and his deputies, police officers/escorts, representatives from both parties to enter/break open into the NPC's warehouse facilities located at Barangay Lagundi, Mexico, Pampanga.

On November 4, 2010, the sheriff issued a Notice of Levy⁸ on execution pending appeal of personal properties/sale of seven (7) units

⁴ Per Judge Gregorio S. Sampaga, Civil Case No. 21-M-2010; *rollo*, pp. 64-69.

⁵ *Id.* at 70-72.

⁶ *Id.* at 73.

⁷ *Id.* at 74-76.

⁸ *Id.* at 77-78.

transformer radiator fins, one (1) unit power transformer with Serial No. 77740395, and four (4) pieces angle bars.

The fallo of the notice states:

NOW WHEREFORE, by virtue of said writ of execution pending appeal and in accordance with Rule 39, Section 9 of the Rules of Court, the undersigned sheriff IV will sell at public auction to the highest bidder for CASH and in Philippine Currency, on November 12, 2010 at 10:00 in the morning or soon thereafter, at No. 120 Gapan Olongapo Road, Barangay Lagundi, Mexico, Pampanga, the above- described properties to satisfy the said Writ of Execution pending Appeal.⁹

On November 9, 2010, petitioner filed an Affidavit¹⁰ of third-party claim with the sheriff pursuant to Section 16, Rule 39 of the Rules of Court, and alleging that it is the owner of the levied properties pursuant to the EPIRA Law. On November 10, 2010, petitioner filed a Manifestation¹¹ with Urgent *Ex Parte* Motion for Issuance of *Status Quo* Order with the RTC arguing that it is the owner of the subject properties pulled out by the sheriff by operation of law; that it is not a party to the instant case and therefore cannot be bound by the judgment therein; that the obligation to pay respondent had not been transferred to it. Petitioner also prayed for the nullification of the levy of its properties and restoring their immediate possession to it.

On November 11, 2010, the RTC issued an Order¹² holding in abeyance the public sale of the subject levied properties until further orders.

On February 1, 2011, the RTC issued an Order,¹³ the dispositive portion of which reads:

WHEREFORE, the foregoing considered, the motion for issuance of Status Quo Order is hereby DENIED. The third-party claim filed by PSALM is likewise denied.

Further PSALM's prayer to nullify the levy of seven units transformers radiator fins, one unit power transformer with serial number E-77740395 and four pieces of angle bars and restoring its immediate possession to the same is DENIED.



⁹ *Id.* at 78.

¹⁰ *Id.* at 187-189.

¹¹ *Id.* at 82-90.

¹² *Id.* at 93.

¹³ *Id.* at 147-153.

Accordingly, the Sheriff of this Court is DIRECTED to proceed with the implementation of the writ of execution issued in this case in accordance with law and without further delay.

SO ORDERED.¹⁴

On February 21, 2011, the sheriff issued a notice¹⁵ of sale on execution of personal properties.

Petitioner filed with the CA a petition for *certiorari* assailing the October 26, 2010 Break Open Order, the November 4, 2010 notice of levy on execution pending appeal, the Order dated February 1, 2011 denying the motion for issuance of *Status Quo* Order and the third-party claim, and the February 21, 2011 notice of sale on execution of personal properties. It alleged that it has no adequate remedy available from the writs and processes issued by the RTC, and that it acted without or in excess of jurisdiction in issuing the assailed orders despite the fact that petitioner is the owner of the subject properties.

On July 30, 2012, the CA issued its assailed Decision dismissing the petition for *certiorari* for being an incorrect remedy.

The CA found, among others, that contrary to the allegation of petitioner that there exists no plain, speedy and adequate remedy obtaining under the circumstances, Section 16, Rule 39 of the Rules of Court provides a more expeditious and encompassing recourse in case a property belonging to a third person is placed under the coverage of the writ of execution and, thereafter, sold at public auction.

Petitioner filed a motion for reconsideration, which was denied by the CA in a Resolution dated December 10, 2014.

Petitioner filed the instant petition for review on *certiorari* alleging the following:

I

THE CA, IN DISMISSING PSALM'S PETITION ON PROCEDURAL GROUNDS, OVERLOOKED PSALM'S PREVIOUSLY FILED THIRD PARTY CLAIM.

II

PSALM OWNS THE PROPERTIES SUBJECT MATTER OF THE ORDERS OF JUDGE SAMPAGA ISSUED AND THE PROCESSES SHERIFF ESGUERRA ISSUED.

¹⁴ *Id.* at 153.

¹⁵ *Id.* at 154-155.

III

THE JUDGMENT OBLIGATION IS NOT AMONG THE OBLIGATIONS PSALM ASSUMED.

IV

PSALM WAS NOT A PARTY TO THE CASE IN WHICH THE DECISION THEREIN IS THE SUBJECT OF THE EXECUTION PROCEEDINGS.¹⁶

Petitioner claims that the CA erred in overlooking the fact that it filed a third party claim as provided under Section 16 of Rule 39 of the 1997 Rules of Civil Procedure. Petitioner contends that the CA should have taken consideration of the substantive issues raised in its petition reiterating its ownership of the levied properties. It claims that upon the effectivity of the EPIRA law on June 26, 2001, the ownership of all existing generation assets, IPP contracts, real estate and all other disposable assets of NPC were transferred to it; and that all existing liabilities and outstanding financial obligations of NPC as of June 26, 2001 arising from loans, issuance of bonds, securities and other instrument of indebtedness were then and there likewise legally transferred and assumed by it. However, since respondent's claim is not among those existing obligations that were transferred to it upon the effectivity of the EPIRA law, it cannot be held liable for the claim even if it were made a party in the case. It contends that there is sufficient ground to annul the levy and sale made by the sheriff since it is not a party in the case, and therefore, not bound by the judgment rendered.

The pivotal issue for resolution is whether the CA erred in dismissing petitioner's petition for certiorari assailing the denial of the latter's third party claim for being a wrong remedy.

We find no merit in the petition.

The power of the court in executing judgments extends only to properties unquestionably belonging to the judgment debtor alone.¹⁷ An execution can be issued only against a party and not against one who did not have his day in court.¹⁸ The duty of the sheriff is to levy the property of the judgment debtor not that of a third person. For, as the saying goes, one man's goods shall not be sold for another man's debts.¹⁹ Thus, if the property levied by virtue of a writ of execution is claimed by a third person who is not the judgment obligor, Section 16 of Rule 39 of the 1997 Rules of Civil Procedure provides for the remedy of such third party claimant, to wit:

¹⁶ *Id.* at 17.

¹⁷ *Villasi v. Garcia*, G.R. No. 190106, January 15, 2014, 713 SCRA 629.

¹⁸ *Id.*

¹⁹ *Id.*, citing *Corpus v. Pascua*, A.M. No. P-11-2972, September 28, 2011, 658 SCRA 239, 248.

Sec. 16. Proceedings where property claimed by third person. - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.

The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

When the writ of execution is issued in favor of the Republic of the Philippines, or any officer duly representing it, the filing of such bond shall not be required, and in case the sheriff or levying officer is sued for damages as a result of the levy, he shall be represented by the Solicitor General and if held liable therefor, the actual damages adjudged by the court shall be paid by the National Treasurer out of such funds as may be appropriated for the purpose.

Under the above-quoted provision, the third-party claimant may execute an affidavit of his title or right to the possession of the property levied, and serve the same to the officer making the levy and a copy thereof to the judgment creditor. This remedy is known as *terceria*.²⁰ The officer shall not be bound to keep the property, unless the judgment creditor files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. An action for damages may be brought against the officer within one hundred twenty (120) days from the date of the filing of the bond. The same section also provides that a third-party claimant may file a proper action to vindicate his claim to the levied property. The proper action mentioned in Section 16 would have for its object the recovery of ownership or possession of the property seized by the sheriff, as well as damages resulting from the allegedly wrongful seizure and detention thereof despite the third party claim and it may be brought against the sheriff and such other parties as may be alleged to have colluded with him in the supposedly wrongful execution proceedings, such as the judgment creditor himself. If instituted by a stranger to the suit in which

²⁰

Naguit v. CA, G.R. No. 137675, December 5, 2000, 347 SCRA 60.



execution has issued, such proper action should be a totally separate and distinct action from the former suit.²¹

In this case, petitioner had filed an affidavit of third-party claim with the sheriff and a motion for issuance of *status quo* order with the RTC to prevent the sale of the levied properties at public auction, nullification of the levy and restoration of the subject properties to it, which were denied by the RTC and, consequently, the sheriff was directed to proceed with the implementation of the issued writ of execution.

The RTC denied the third-party claim as follows:

As to the third-party claim by movant PSALM, this Court also resolves to deny the same for lack of merit.

Section 16 of Rule 39 of the Rules of Court provides:

xxx

In this present case, aside from serving said affidavit of third-party claim to the Sheriff of this Court, claimant PSALM also filed this instant motion for issuance of *status quo* order to prevent the sale of the levied properties at public auction, nullification of the levy and restoration of the subject properties in the possession of PSALM. In effect, instead of the Sheriff requiring the plaintiff-obligee to file an indemnity bond, the Court is constrained to resolve the merit of the third-party claim filed by PSALM.

However, it must be emphasized that the resolution of this Court is limited only to a determination of whether the Sheriff acted correctly in the performance of his duties. It cannot pass upon the question of title to the property, with any character of finality. It only treats of that matter in so far as may be necessary to decide if the sheriff acted correctly or not.

After giving an opportunity to vindicate their claim and after a judicious examination of the arguments posed by all of the parties, this Court finds that PSALM has not been able to satisfactorily establish their claim of ownership over the subject properties.

First, claimant PSALM has not presented sufficient proof of ownership over the said levied properties. It merely claimed that the subject properties were transferred by operation of law in view of the passage of EPIRA in 2001. It did not submit any document evidencing ownership. It even failed to present any document that the levied property is among those included in the inventoried property of PSALM. The doctrine of “*Ei incumbit probatio qui dicit, non qui negat*” or “He who asserts, not he who denies, must prove” is applicable in this present case.

²¹ *Id.*, citing *Estonina v. Court of Appeals*, G.R. No. 111547, January 27, 1997, 266 SCRA 627; *Consolidated Bank and Trust Corp. v. Court of Appeals*, G.R. No. 80063, January 23, 1991, 193 SCRA 159; *Sy v. Discaya*, G.R. No. 86301, January 23, 1990, 181 SCRA 378 ; *Ong v. Tating*, G.R. No. 61042, April 15, 1987, 149 SCRA 265.

Second, a careful perusal of EPIRA, particularly Sections 49, 50, 51 and 56, in relation to Section 1 of Rule 21 of its Implementing Rules and Regulations, would show that ownership of NPC's assets, herein levied properties included, is not *ipso jure* or by operation of law as there is the need to execute certain documents evidencing transfer of ownership and possession. This Court agrees with the plaintiff-appellee that these documents are conditions precedent that are needed to be performed and executed in order to have a valid transfer.

Section 1, Rule 21 of the IRR provides:

NPC and PSALM shall take such measures and execute such documents to effect the transfer of ownership and possession of all assets, rights and privileges, liabilities required by the Act to be transferred by NPC to PSALM.

Third, even if the transfer is by operation of law, it would be an injustice and inequitable, to say the least, to interpret the aforesaid provision as to effect the transfer only of the assets and properties of NPC but not its obligation and liabilities. The assets and properties transferred should also account for the liabilities and obligations incurred by NPC. In fact, Section 49 of the said law explicitly states that PSALM should not only assume and take ownership of all existing NPC generations assets, liabilities and IPP contracts, real estate and other disposable assets.

In the instant case, plaintiff Maunlad Homes, Inc. is already on the stage of reaping the fruits of its labor after it had judiciously battled the case with the court *a quo* and this Court. Injustice is manifest if they would not be awarded what is due them merely on the ground of technicalities and evasive measures undertaken by its adversary.²²

In *Spouses Sy v. Hon. Discaya*,²³ We held that for the remedy of *terceria* to prosper, the claim of ownership or right of possession to the levied property by the third-party claimant must first be unmistakably established, thus:

x x x A third person whose property was seized by a sheriff to answer for the obligation of the judgment debtor may invoke the supervisory power of the court which authorized such execution. Upon due application by the third person and after summary hearing, the court may command that the property be released from the mistaken levy and restored to the rightful owner or possessor. What said court can do in these instances, however, is limited to a determination of whether the sheriff has acted rightly or wrongly in the performance of his duties in the execution of judgment, more specifically, if he has indeed taken hold of property not belonging to the judgment debtor. The court does not and cannot pass upon the question of title to the property, with any character of finality. It can treat of the matter only insofar as may be necessary to decide if the sheriff has acted correctly or not. It can require the sheriff to restore the property to the claimant's possession if warranted by the evidence.

²² *Rollo*, pp. 150-152.

²³ G.R. No. 86301, January 23, 1990, 181 SCRA 378.

However, if the claimant's proofs do not persuade the court of the validity of his title or right of possession thereto, the claim will be denied.²⁴

Independent of the above-stated recourse, a third-party claimant may also avail of the remedy known as "*terceria*," provided in Section 17, Rule 39, by serving on the officer making the levy an affidavit of his title and a copy thereof upon the judgment creditor. The officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnifies the officer against such claim by a bond in a sum not greater than the value of the property levied on. An action for damages may be brought against the sheriff within one hundred twenty (120) days from the filing of the bond.

The aforesaid remedies are nevertheless without prejudice to "any proper action" that a third-party claimant may deem suitable to vindicate "his claim to the property." Such a "proper action" is, obviously, entirely distinct from that explicitly prescribed in Section 17 of Rule 39, which is an action for damages brought by a third-party claimant against the officer within one hundred twenty (120) days from the date of the filing of the bond for the taking or keeping of the property subject of the "*terceria*."

Since the RTC denied the third-party claim for failure of petitioner to satisfactorily establish its claim of ownership over the subject properties, the latter filed with the CA a petition for *certiorari* assailing such denial and claimed that there is no plain, speedy and adequate remedy in the ordinary course of law. The petition for *certiorari* was dismissed by the CA for being a wrong remedy.

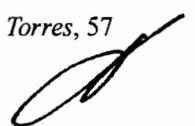
We affirm the dismissal.

A petition for *certiorari* under Rule 65 of the Rules of Court may be filed when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law. An adequate remedy has been defined as a remedy which is equally beneficial, speedy and sufficient, not merely a remedy which at some time in the future will bring about a revival of the judgment of the lower court complained of in the *certiorari* proceeding, but a remedy which will promptly relieve the petitioner from the injurious effects of that judgment and the acts of the inferior court or tribunal.²⁵

Notably, petitioner cannot appeal from the denial of its third-party claim since it is not one of the parties in the action where the writ of

²⁴ *Id.* at 382-383.

²⁵ *Conti v. CA*, G.R. No. 134441, May 19, 1999, 307 SCRA 486, 495, citing *Silvestre vs. Torres*, 57 Phil. 885. (1933)



execution was issued,²⁶ as the unlawful detainer case was between respondent and the NPC. Also, the denial of the third-party claim is not appealable as provided under the above-quoted Section 16, Rule 39 of the Rules of Court since the remedy of a third party claimant is to file a separate and independent action to vindicate his claim of ownership or right of possession of the levied properties against the judgment creditor or the purchaser of the property at the public auction sale. It is in this separate and independent action that the issue of the third-party claimant's title to the levied properties can be resolved with finality.

In *Queblar v. Garduño*,²⁷ we declared:

The appeal interposed by the third-party claimant-appellant is improper, because she was not one of the parties in the action who were exclusively Venancio Queblar as plaintiff and Leonardo Garduño as defendant. Considering the provisions of said section 451 of the Code of Civil Procedure, as amended by Act No. 4108,²⁸ the appealed order was not appealable. The appeal that should have been interposed by her, if the term "appeal" may properly be employed, is a separate reivindicatory action against the execution creditor or the purchaser of her property after the sale at public auction, or a complaint for damages to be charged against the bond filed by the judgment creditor in favor of the sheriff.²⁹

Hence, petitioner's claim in their jurisdictional allegations in its petition for *certiorari* filed with the CA that it was constrained to file the petition for *certiorari* under Rule 65 to protect its rights and interest over the subject properties because of the absence of a plain, speedy and adequate remedy, is contradicted by the procedure laid down under Section 16 of Rule 39, *i.e.*, the third-party claimant may file an independent action to vindicate its claim of ownership to the levied property. Where a specific remedy has been laid down by our rules for the protection or enforcement of rights, the same should be resorted to. In *Solidum v. CA*,³⁰ We held:

We have held that neither an appeal nor a petition for *certiorari* is the proper remedy from the denial of a third-party claim. In the case of Northern Motors, Inc. v. Coquia, the petitioner filed, among others, a third-party claim which was denied by the respondent judge in the disputed resolution. Northern Motors, Inc. thereafter filed a petition for *certiorari* to nullify the resolution and order of the respondent judge. In resolving whether the respondent judge acted with grave abuse of discretion in denying petitioner's third-party claim, the Court held:

Pursuant to [Section 17, Rule 39 of the Revised Rules of Court], a third-party claimant has two remedies, such as, an action for damages

²⁶ *Solidum v. CA*, G.R. No. 161647, June 22, 2006, 492 SCRA 261.

²⁷ 67 Phil. 316 (1939).

²⁸ Section 16, Rule 39.

²⁹ *Queblar v. Garduño*, *supra* note 26, at 319-320.

³⁰ *Id* at 26.

against the sheriff to be brought within 120 days from the filing of the bond, and a separate and independent action to vindicate his claim to the property. In the case at bar, petitioner's and intervenor's remedy against the bond proved to be unavailing because of the disputed order of the respondent Judge canceling the indemnity bond. Such an order as well as the order denying a motion to reconsider the same in effect discarded or quashed the third-party claims. What then would the remedy be of the third-party claimants?

In the recent case of *Serra vs. Rodriguez*, xxx this Court (First Division), thru Mr. Justice Makasiar, ruled:

From the denial of a third-party claim to defeat the attachment caused to be levied by a creditor, neither an appeal nor a petition for certiorari is the proper remedy. The remedy of petitioner would be to file a separate and independent action to determine the ownership of the attached property or to file a complaint for damages chargeable against the bond filed by the judgment creditor in favor of the provincial sheriff.

In *Lara vs. Bayona*, L-7920, May 10, 1955, this Court, thru Mr. Justice Concepcion, later Chief Justice, in denying the petition for certiorari to set aside the order of the lower court quashing the third-party claim of a chattel mortgagee, held:

Pursuant to this provision, nothing contained therein shall prevent petitioner "from vindicating his claim to the property by any proper action." Neither does the order complained of deprive petitioner herein of the opportunity to enforce his alleged rights by appropriate proceedings. In short, he has another "plain, speedy and adequate remedy in the ordinary course of law," and, hence is not entitled either to a writ of certiorari or to a writ of prohibition.

The Court further held that since the third-party claimant is not one of the parties to the action, he could not, strictly speaking, appeal from the order denying its claim, but should file a separate reivindicatory action against the execution creditor or a complaint for damages against the bond filed by the judgment creditor in favor of the sheriff. The rights of a third-party claimant should be decided in a separate action to be instituted by the third person. In fine, the appeal that should be interposed, if the term appeal may be properly employed, is a separate reivindicatory action against the execution creditor or complaint for damages to be charged against the bond filed by the judgment creditor in favor of the sheriff.³¹

And in such separate action, the court may issue a writ of preliminary injunction against the sheriff enjoining him from proceeding with the execution sale,³² which is a speedy and adequate remedy to immediately

³¹ *Solidum v. CA*, *supra*. at 270-271.

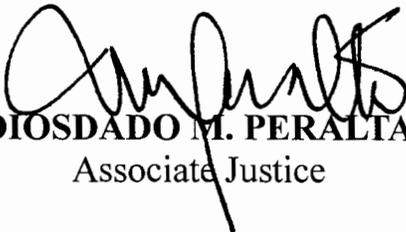
³² *Ong v. Tating*, G.R. No. L-61042, April 15, 1987, 149 SCRA 265, citing *Abiera v. Court of Appeals*, G.R. No. L-26294, May 31, 1972, 45 SCRA 314; *Bayer Phil. v. Agana*, G.R. No. L-38701, April 8, 1975, 63 SCRA 355.

relieve petitioner from the adverse effects of the lower court's judgment. Thus, the CA did not err in saying that Section 16 of Rule 39 provides a more expeditious and encompassing recourse from the denial of its third-party claim.

Considering our foregoing discussions, We need not address the other issues raised by petitioner regarding its right to ownership and possession of the levied properties.

WHEREFORE, the petition is **DENIED**. The Decision dated July 30, 2012 and the Resolution dated December 10, 2014 issued by the Court of Appeals in CA-G.R. SP No. 118302 are hereby **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
 Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
 Associate Justice
 Chairperson


JOSE CATRAL MENDOZA
 Associate Justice


MARVIC M.V.F. LEONEN
 Associate Justice


FRANCIS H. JARDELEZA
 Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ANTONIO T. CARPIO
 Associate Justice
 Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

