

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**PENTAGON SECURITY and
INVESTIGATION AGENCY,**
Petitioner,

-versus-

**G.R. No. 88114
December 20, 1990**

**VICENTE T. JIMENEZ, ET AL., and
NATIONAL LABOR RELATIONS
COMMISSION, SECOND DIVISION,**
Respondents.

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RESOLUTION

PADILLA, J.:

The issue raised by petitioner is whether there is grave abuse of discretion on the part of the NLRC in upholding the sheriff's issuance of Notice of Levy and Sale on Execution against licensed firearms owned and used by the petitioner, a security agency, in its operations.

Petitioner, a single proprietorship engaged in security services, was ordered to pay the amount of ONE HUNDRED FIFTY SEVEN THOUSAND ONE HUNDRED NINETEEN PESOS AND FOUR CENTAVOS (P157,119.04) representing wages and COLA differentials due its employees, as computed in a Decision of the NLRC dated 21 February 1986. On 22 June 1988, a notice of garnishment was issued

against petitioner, addressed to the PC-SUSIA c/o Col. Norberto M. Lina, Camp Crame, EDSA, Q.C. On 5 June 1988, Deputy Sheriff Silvino B. Santos issued a Notice of Levy and Sale on Execution of Personal Properties against herein petitioner, which personal properties are the licensed firearms in question.

Petitioner filed an urgent petition to quash Notice of Levy and Sale on Execution, claiming exemption from execution under Sec. 12, par. (b), Rule 39 of the Rules of Court.

Labor Arbiter Eduardo Magno denied the petition. The Motion for Reconsideration was likewise denied. On 21 March 1989, the NLRC issued its resolution which is the subject of this petition.

The NLRC held:

“Respondent is a security agency. It is admitted that the licensed firearm is an important implement used in the business but this licensed firearm is not the tools and implements exempted from execution. The question, therefore is whether a person can run his trade or employment without such licensed firearm. The answer is in the affirmative since the person can still run the business or engage in his trade even without such firearm because there are other alternatives open to him.

“Besides, there is no showing that the levied firearms are the only firearms that the respondent-appellant has in its possession. We affirmatively believe therefore that there are firearms still hidden in its armory sufficient enough to answer the call of its security trade or business. In the remote assumption that no firearms remains in respondent’s custody, as practically flowing from the view of Labor Arbiter Magno, respondent can lease or buy from legitimate sources. There (sic) are some of the alternatives which even common layman can expediently comprehend.”

The Solicitor General’s as well as private respondent’s comments submit that firearms of a security agency are not exempt from

execution under Rule 39, Sec. 12, par. (b) of the Rules of Court which provides:

“Sec. 12. Property exempt from execution. — Except as otherwise expressly provided by law, the following property, and no other, shall be exempt from execution:

‘(b) Tools and implements necessarily used by him in his trade or employment;’“

Respondents contend that from the above provision, three (3) things can be deduced, viz:

- “(a) Except in paragraphs (j) and (m), Sec. 12, Rule 39, Rules of Court, the exemptions are accorded to individual debtors.
- (b) The exempt properties are used personally by the debtor or his family, or as tools or implements of the debtor in his trade or employment.
- (c) The properties are necessary for the livelihood of the debtor and his family.” (Rollo, p. 58)

The term “tools and implements” refers to instruments of husbandry or manual labor needed by an artisan craftsman or laborer to obtain his living. Here petitioner is a business enterprise. It does not use the firearms personally, but they are used by its employees. Not being a natural person, petitioner cannot claim that the firearms are necessary for its livelihood. Private respondent invites the Court to take judicial notice of the fact that there are security guards rendering service without firearms.

Petitioner without filing any reply moves for the resolution of the petition.

There is no question, in our mind, that a security agency without firearms to equip its guards is useless.

However, it would appear that the exemption contemplated by the provision involved is personal, available only to a natural person,

such as a dentist's dental chair and electric fan (Belen vs. de Leon, G.R. No. L-16412, 30 Nov. 1962). As pointed out by the Solicitor General, if properties used in business are exempt from execution, there can hardly be an instance when a judgment claim can be enforced against the business entity.

ACCORDINGLY, the petition is **DISMISSED**. However, for security reasons, and to prevent the possibility that the firearms to be sold at the execution sale may fall into the hands of lawless and subversive elements, the sale at public auction should be with the prior clearance and under supervision of the PC-INP authorities.

SO ORDERED.

**Melencio-Herrera, Paras, Sarmiento and Regalado, JJ.,
concur.**