



By the order of the court, Judge David A Wiseman

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FOR PUBLICATION

IN THE SUPERIOR COURT

OF THE

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

MARITES A. AURELIO, ET. AL.,)
)
 Plaintiffs,)
)
 vs.)
)
 BIENVENIDA C. CAMACHO, ET. AL.,)
)
 Defendants.)
 _____)

CIVIL ACTION NO. 10-0021

**ORDER GRANTING PLAINTIFF'S
MOTION FOR THE SEIZURE OF REAL
PROPERTY**

I. SYNOPSIS

THIS MATTER came on for hearing on May 26, 2011 at 1:30 p.m. in Courtroom 223A on Plaintiff's Motion for the Seizure of Real Property pursuant to an Order in Aid of Judgment. Counsel Joshua Berger appeared on behalf of Plaintiff. Counsel Reynaldo Yana appeared on behalf of Defendant. Both parties have submitted their written arguments regarding this Motion. Based on oral arguments, the parties briefs, and the records and files in this matter, the Court is prepared to issue its ruling below.

II. BACKGROUND

This matter commenced as a labor action by several employees who were in an employment relationship with Defendant and were the victims of, as stated by the Administrative Hearing Officer, "flagrant violations of numerous provisions of the Non-Resident Workers Act and its Rules and Regulations." This was with respect to Defendant's treatment of Plaintiff. The Hearing Officer also stated

1 that, “fraud and deceit permeate every aspect of Defendants’ business activities.”

2 As a result of the Labor Hearing, the Court found Defendant liable for unpaid wage claims and
3 overtime, unauthorized deductions, and miscellaneous other violations and rendered a finding of liability
4 of Defendant to Plaintiff in the sum of \$157,511.20, which at the time of filing this Motion was in the sum
5 of approximately \$162,426.15.

6 This Court issued a Judgment in said amount and Plaintiff is now seeking enforcement of the
7 Judgment requesting that the Court order Defendant’s real property in the Philippines be sold or transferred
8 to satisfy the Judgment. As of February 11, 2011, Defendant has only paid a total of \$75.00 on said
9 Judgment.

10
11 **III. DISCUSSION**

12 The issue before the Court is whether or not Defendant’s claim of a homestead exemption under 7
13 CMC § 4210(c) prevents Plaintiff from proceeding on Defendant’s real property located outside of this
14 jurisdiction.

15 It is undisputed that Defendant’s real property is a townhouse in the Republic of Philippines and that
16 Defendant does not live there, but resides with her family at her dwelling on Saipan.

17 The statute in question reads in pertinent part:

18 Land and interest in Land. All interest in land, **but any interest owned**
19 **solely by a judgment debtor, in his or her own right**, may be ordered sold
20 or transferred under an order in aid of judgment if the Court making the order
21 deems that justice so requires and finds as a fact that after the sale or transfer,
22 the debtor will have sufficient land remaining to support himself or herself
23 and those persons directly dependent on the debtor according to recognized
24 local custom and the law of the Commonwealth. No person not of Northern
25 Marianas descent may acquire any interest in such land, by sale, transfer, or
otherwise, except as otherwise provided by law.

23 Although Defendant claims that said statutory authority is the basis for a claimed exemption, the
24 same statute conversely authorizes the Court to transfer property to Plaintiff. Pursuant to 7 CMC § 4102(c),
25

1 this Court, if it deems that justice so requires, and if an interest in land is owned solely by the judgment
2 debtor, may issue an order that land be transferred or sold pursuant to an Order in Aid of Judgment in order
3 to satisfy a judgment or to partially satisfy a judgment. The only caveat is that the debtor must have
4 sufficient land remaining after such a transfer to live upon. This is commonly known as the “Homestead
5 Exemption.”

6 Here, Defendant cannot claim the homestead protection in CMC § 4210(c) because the exemption
7 is limited, as a matter of law, to real property within the CNMI. In other words, this code section has no
8 “extra territorial” force. See *In re Drenttel*, 302 B.R. 26 (D.Minn. 2003); *In re Peters*, 91 B.R. 401, 403
9 (W.D. Tex. 1988). “Homestead statutes can have no extra-territorial force; they must be construed to apply
10 solely to homesteads within the state.” *Drenttel at 32*.

11 The Court notes Defendant’s arguments, that Plaintiff, on the one hand is saying that the statutory
12 exemption has no relation to property outside the CNMI and then on the other hand, wishes to execute on
13 such property outside the jurisdiction. However, a Court Order to Defendant to transfer by deed, real
14 property in another jurisdiction, would not raise any inconsistency in said statute because it would be an
15 Order to Defendant, subject to the jurisdiction of this Court, and further, enforceable by contempt
16 proceedings for disobedience.

17 In addition, the Court finds that Defendant has two pieces of property, one a long term leasehold of
18 fifteen years in the CNMI where she lives with her present husband and others, and one a “condominium”
19 in the Philippines where her older sister resides. The debtor is actually residing on Saipan. By her own
20 testimony, Ms. Camacho has resided in Saipan since 1987, and only makes erratic and sporadic trips to
21 return to the Philippines, for medical reasons. The Court therefore finds that it would be in the interest of
22 Justice to have said property transferred and that after a sale or transfer of Defendant’s said real property
23 that Defendant will have sufficient land remaining to support herself. Accordingly, the homestead
24 exemption claimed by Defendant is hereby denied.

25 **Plaintiff’s Motion is hereby granted.**

1 **SO ORDERED this 28th day of June, 2011.**

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David A. Wiseman, Associate Judge