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Dutch Supreme Court explains jurisdiction issue where party faces conflicting court orders

A debtor was ordered by a court, subject to penalties, to hand over certain goods in his possession to the judgment creditor. The same goods were then attached by a third party with a claim against the judgment creditor. The debtor was legally obliged to keep the attached goods in his possession, and the question arose whether he would incur penalties because he had not complied with the court order to hand the goods over. In enforcement proceedings, the district court ruled that the debtor had rightly kept the attached goods in his possession and was not subject to penalties, because he simply could not comply with the court order to hand the goods over. The court of appeal ruled that only the court that issued the initial judgment against the debtor, which was made subject to penalties, had jurisdiction to rule on whether penalties were incurred. The Supreme Court, however, clarified that the reason the debtor could not comply with the court order (the attachment) amounts to creditors default. As a result, the court in enforcement proceedings may rule on whether penalties are incurred if a debtor is unable to comply with a court order for reasons that qualify as creditors default. The Supreme Court decision shows that if this situation arises, clients may ask the court in enforcement proceedings to rule on whether penalties have become due in case of creditors default.

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