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The Action for Annulment of Precautionary Attachment Procedures in Algerian Legislation

HAOUAM NACIM
University of Algiers 1
Maître.Haouam@gmail.com

Abstract ;

The action for annulment of Precautionary Attachment procedures is a legal mechanism aimed at protecting the parties' rights from illegal or defective measures taken without sufficient legal justification. Although Algerian law grants the creditor the right to request precautionary seizure to secure their claim, it also provides legal means and mechanisms to prevent abuse of this right. This article analyzes the legal nature of the annulment action, its conditions and procedures, and examines the practical applications of Algerian jurisprudence.

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1. ***Introduction***

Precautionary Attachment is a significant legal instrument established by the Algerian legislator to protect the rights of creditors. However, this measure remains subject to a set of procedures and conditions that must be respected; otherwise, it risks annulment. The importance of this topic lies in balancing two conflicting interests: the creditor's interest in securing their right, and the debtor's interest in protecting their financial estate from unjustified restrictions.

From this perspective, the central problematic of this study emerges, which can be formulated as follows: "To what extent can the legislation achieve a practical balance between ensuring the effectiveness of the Precautionary Attachment as a protective measure for the creditor, and safeguarding the debtor's legal guarantees through annulment procedures?"

This main problematic gives rise to a set of subsidiary questions, including:

- What is the legal framework and the formal and substantive procedures for Precautionary Attachment in its various forms according to the Algerian Civil and Administrative Procedure Code?
- What are the cases and aspects of annulment that affect the procedures of Precautionary Attachment, and what is the legal basis for each?

Proceeding from this problematic and these questions, this study aims to analyze the Nullity Action against Precautionary Attachment procedures. It will do so by clarifying all procedures related to Precautionary Attachment—not only the attachment of funds in the debtor's possession but also other cases provided for in the Code, such as attachment on industrial and commercial property, real estate, and others—in order to identify the substantive procedures whose violation leads to annulment by virtue of an explicit text.

To address this, the study is structured into two main sections:

Section One: The General Legal Framework of Precautionary Attachment

This section will establish the conceptual and legal foundations of Precautionary Attachment, examining its definition, characteristics, pillars, and various forms as stipulated by the Algerian legislator.

Section Two: Procedures of Precautionary Attachment and Related Disputes

This section will delve into the practical implementation of Precautionary Attachment, detailing its procedural steps.

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It will then focus on the disputes arising from it, primarily through the Nullity Action and the Action to Lift the Attachment, analyzing their conditions and legal grounds.

2. *The General Legal Framework of Precautionary Attachment*

2.*1 Precautionary Attachment and its Pillars*

The Algerian legislator addressed the procedures for Precautionary Attachment in Articles 646 to 666 of the Civil and Administrative Procedure Code. Article 646 defines it as: "Placing the movable and immovable funds of the debtor under judicial custody and preventing him from disposing of them. The attachment is undertaken at the creditor's risk." Doctrinal definitions unanimously agree that Precautionary Attachment is the act of placing a debtor's asset under judicial custody to avert the risk of the creditor being unable to collect their debt, for fear that the debtor might dissipate their assets by concealing or disposing of them. It is thus merely a legal means to preserve the general lien granted to the creditor over the debtor's assets, aiming to render the debtor's dispositions regarding the attached assets unenforceable against the creditor, in addition to restricting the debtor's right to use and exploit these assets.

Thus, Precautionary Attachment can be defined as a precautionary measure resorted to by a creditor, whether they hold an enforceable instrument or not, with the aim of placing the debtor's movable and immovable assets under judicial custody to prevent the debtor from disposing of them through any legal or material act that would remove them from the scope of the general lien for the attaching creditor. It is issued only in cases of necessity and by way of an Order on Petition.

From the aforementioned definition and the text of Articles 646 and 647 of the Civil and Administrative Procedure Code, it is evident that precautionary attachment is characterized by several features:

1. The creditor can effect a precautionary attachment whether they hold an executory title or not; it is permissible to effect such an attachment even if the creditor holds no official or customary instrument. It suffices that there are apparent justifications for the debt.

2.Effecting a precautionary attachment requires the issuance of an order for its execution by the judge, who must verify the existence of a state of necessity, i.e., if there is urgency and a threat to the general lien, which Article 647 refers to as the "fear of losing the security."

3. Precautionary attachment can be effected on movables and immovables, whether in the possession of the debtor or

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held by a third party, because its purpose is to secure the asset through material procedures to prevent the debtor from dissipating it until the creditor obtains an executory title.

4.Precautionary attachment is available to a creditor for a sum of money if their debt is certain and due. These two conditions must be present in the claimed right for all types of attachment; however, it is not required to be precisely quantified, as an approximate amount of the debt for which the attachment was authorized suffices.

2.2 Forms of Precautionary Attachment

There are several cases and forms of precautionary attachment, including:

2.2.1 Attachment on the Debtor's Movables in General

-The legislator established a general rule for precautionary attachment in Articles 646 and 647 of the Civil and Administrative Procedure Code, authorizing the creditor to execute the attachment on their debtor's assets whenever they fear the loss of the general lien for their rights. Since precautionary attachment is a temporary measure, its application requires the fulfillment of the condition of urgency. Urgency in this context is the danger threatening the security of the right. This flexible condition expresses the need for urgency, making precautionary attachment a means for the creditor to preserve the security of their right from the danger of delayed enforcement protection (executory attachment). This danger is represented by the likelihood of the debtor dissipating the assets constituting this security. Consequently, whenever the security of the creditor's right is threatened, they may request a precautionary attachment. The assessment of the "fear" condition stipulated in Article 647 of the Civil and Administrative Procedure Code here is the fear of losing the general lien for the creditor's right. This is left to the judge issuing the attachment order, who assesses this fear based on the debtor's financial, personal, and social circumstances, and the ease with which they might dissipate their assets.

-The judge, when signing the attachment order, must balance these circumstances against the justifications presented by the creditor for authorizing the attachment. This objective assessment by the judge is a matter of fact. Examples where a state of necessity exists include:

- If the creditor fears their debtor's flight and there are serious reasons for this.

-If the securities for the debt are threatened with loss.

-If the debtor is a merchant and serious reasons have arisen that suggest they might dissipate or conceal their assets.

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2.2.2 Other Cases of Precautionary Attachment Stipulated in the Civil and Administrative Procedure Code

1.Precautionary Attachment on Industrial and Commercial Property:

To protect intellectual property and in line with the texts for this protection, Article 650 of the Civil and Administrative Procedure Code allows the owners of patented inventions or legally registered and protected creations or products to provisionally attach samples of counterfeit goods or imitated products. Accordingly, Article 650 authorizes patent owners to approach the President of the Court within whose jurisdiction the assets to be attached are located or the debtor's domicile, to obtain an Order on Petition. A Minutes of Attachment is then drawn up by the Bailiff of Justice, describing the seized product, sample, or model, placing it in a sealed and wrapped container, and depositing it along with a copy of the Minutes with the registry of the territorially competent court to be used as evidence in proceedings against the debtor.

2.Precautionary Attachment on a Business Premises (Fonds de Commerce):

Article 651 allows a creditor to provisionally attach the debtor's business premises according to Article 78 of the Commercial Code, emphasizing that the attachment is on the material elements composing the business, which are equipment, machinery, and goods, excluding the intangible elements represented by the clientele and goodwill, which cannot be attached due to their nature. The Bailiff of Justice must notify the attachment order to the debtor, then draw up a Minutes of Attachment along with an inventory of all equipment and goods present in the business with an estimated description, deliver a copy to the debtor, and notify them of the appointment of a custodian. The attachment order must be registered with the administration responsible for the commercial register (National Center for the Commercial Register) within fifteen days from its issuance date and published in the official bulletin for legal announcements; otherwise, the attachment is null and void. In this case, the applicant for attachment must provide proof of standing and interest, and the President of the Court must check this before signing the attachment order.

3.Precautionary Attachment on Real Estate:

Article 652 of the Civil and Administrative Procedure Code allows a creditor to provisionally attach their debtor's real estate. The order for precautionary attachment on real estate must be registered with the Land Conservation Office within whose jurisdiction the property is located within fifteen days from its issuance date; otherwise, the attachment is null and void.

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It is noted here that the new law permits precautionary attachment on real estate, unlike the old law which restricted it to movables, aligning with some comparative laws like French and Lebanese law, and contrasting with Egyptian law which does not recognize precautionary attachment on real estate, arguing that real estate is fixed and cannot be dissipated by the debtor. However, some Egyptian jurists themselves have criticized this justification, arguing that the physical impossibility of dissipating real estate does not prevent its legal dissipation through dispositive acts like sale or donation.

4.Precautionary Attachment on a Tenant's Assets:

This is a type of precautionary attachment stipulated by the legislator in Articles 653 to 656 of the Civil and Administrative Procedure Code. Under these provisions, owners of buildings and agricultural lands, and their original tenants, may execute a lessor's attachment on the movables, furniture, and fruits located in these properties in fulfillment of due rent. The lessor may also execute a precautionary attachment on the assets of sub-tenants of buildings, agricultural lands, fields, or orchards located in the premises they occupy. Precautionary attachment may also be executed on the fruits of those lands in fulfillment of due rent.

The substantive conditions for this type of attachment are:

-The Attaching Creditor: Must be the owner of the property or a sub-lessor.

-The Debtor (Attached Party): Is the tenant of the property under a valid and legally existing lease contract at the time of attachment, whether they rented it from the owner, the original tenant, the beneficiary, or the person in possession.

-The Attached Asset: These are the movables located in the leased property. If they are moved from their location without the lessor's consent and the lessor holds a lien right stipulated by law, the lessor may execute a precautionary attachment on them provided that sixty days have not passed since their removal.
As for formal conditions, the attachment procedures are carried out in the same manner as those for executory attachment after obtaining permission from the judge in the cases stipulated by law. Tenants may obtain a judgment lifting the attachment if they prove they have paid the rent due to them. The judge's permission for the attachment is via an Order on Petition and is notified to the debtor.

5.Attachment on the Movables of an Itinerant Debtor:

This is a type of precautionary attachment whereby any creditor, even without holding an instrument, may obtain

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permission from the judge to carry out an attachment on movables located in the area where the creditor resides and owned by their itinerant debtor. The creditor may be appointed as custodian of these movables if they are in their possession; otherwise, another custodian is appointed – Article 657 of the Civil and Administrative Procedure Code based on their request.

6.Revendicatory Attachment (Saisie Révendication):

Regulated by the legislator in Article 658 of the Civil and Administrative Procedure Code, this type of precautionary attachment is permitted by law for the owner of a movable, the holder of a real right in rem over it granting a right of pursuit, or the holder of a right of retention, if they wish to secure it, place it under judicial custody, and prevent its possessor from disposing of it pending the filing or adjudication of a recovery action. Examples include: attachment executed by a lessor on movables removed from the leased property without their consent, and attachment executed by a wife on marital movables immediately upon leaving the marital home to place the movables under judicial custody for fear of their dissipation until ownership is determined. Its execution requires obtaining permission from the President of the Court. The creditor can recover the attached items after the attachment is confirmed by a judgment.

Revendicatory attachment, as the term "revendication" implies, means reclaiming and recovering the attached property from the hands of its possessor. Therefore, the following conditions are required for its execution :

-The applicant for attachment must be the owner of the movable or the holder of a right of retention over it.

-A third party must be in possession of the movable.

-The possessor holding the movable must not rely on a legal basis – as possession of a movable is a title of ownership – such as being a possessor in good faith with a valid title, thus becoming the owner pursuant to Article 835 of the Civil Code, for example, if they purchased the movable under a sale contract from someone who appears to be the owner, like an apparent heir. In this case, this attachment cannot be executed.

-The attachment must be made before filing the recovery action; it is not permissible to combine revendicatory attachment and a recovery action, as the latter preserves the owner's right through urgent proceedings and within a short period not exceeding fifteen days (Article 716 of the Civil and Administrative Procedure Code). Therefore, there is no benefit in having a precautionary attachment on the same property during the same time frame.

The procedures for revendicatory attachment involve submitting the

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attachment request to the President of the Court where the possessor is domiciled or where the assets to be attached are located. The request includes the identity of the attaching party, the debtor, and a description of the movables subject to attachment. The President issues an attachment order specifying the attached movable. Based on this order, the Bailiff of Justice draws up a Minutes of Attachment, delivers a copy to the debtor (the possessor of the assets), and informs them that they have been appointed as custodian or chooses another person to appoint as custodian. If the possessor of the movable objects to this attachment on the grounds that they are the owner by a valid title, the attachment procedures are suspended, and the Bailiff of Justice draws up a Minutes of a dénonciation de conflit (notice of dispute) which is delivered to the parties to be submitted to the President of the Court within a maximum period of three days from the date of objection. However, the legislator did not stipulate any penalty if the parties fail to submit the dispute within the period mentioned in Article 658, paragraph 2 of the Civil and Administrative Procedure Code.

Since revendicatory attachment aims to secure the movable asset and prevent the possessor from disposing of it, this attachment must be confirmed by a judgment from the merits judge affirming the validity of the attachment and ordering the restitution of the attached items to their owner (i.e., the court rules that they are the owner of the movable). The court may dismiss the claim, resulting in the lifting of the attachment. Once the attachment is confirmed by a final judgment, it is enforced in kind (direct enforcement) by compelling the judgment debtor to deliver the movable in their possession. Therefore, this type of attachment does not end with the sale of the attached movable and distribution of its price like ordinary precautionary attachment, but rather aims at its recovery, hence the name "revendicatory."

3. Procedures of Precautionary Attachment and Related Disputes

3.1 Procedures of Precautionary Attachment

Competent Court: Territorial jurisdiction lies with the court within whose district the debtor is domiciled or where the assets to be attached are located, if it concerns a precautionary attachment on movables. In the case of precautionary attachment on real estate, the request must be filed before the court of the property's location according to Article 722 of the Civil and Administrative Procedure Code.

Submitting the Attachment Request: The legislator did not specify a form or format for the creditor's request, but settled judicial practice dictates that it be via a written petition to the President of the Court. It includes the name, surname,

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profession, and domicile of the attaching creditor, and the name, surname, and domicile of the debtor. Then a brief exposition of the cause of the debt and the instruments justifying it, with mention of its estimation if specified in the debt instrument. It is noted that some writers believe precautionary attachment can be ordered through an urgent motion, and even the Supreme Court has found this permissible, justifying it by the absence of a legal text prohibiting it and the preservation of the debtor's right of defense due to its temporary nature, whether by Order on Petition or through an urgent motion. However, this has been contested by other writers, and we support their view, as the proper functioning of the judiciary is a matter of public policy, especially concerning the legislator's distinction between administrative and judicial functions. The intent is the public good, not individual interests. Each function is independent when the judge exercises it, and since ordering attachment, of any type, is an administrative function of the judge (specifically the President of the Court), transforming this function into a judicial one is, in our view, a violation of public policy.

Issuance of a Precautionary Attachment Order: The President of the Court verifies that the petition fulfills the formal and substantive conditions, especially the standing of the applicant and the justifications for the attachment, and issues an Order on Petition effecting the attachment.

Notification and Execution of the Attachment Order: Once the creditor obtains the precautionary attachment order, they must notify it to the debtor according to Article 659 of the Civil and Administrative Procedure Code. The Bailiff of Justice immediately executes the attachment and draws up a Minutes of Attachment and an inventory of assets in the debtor's possession or under the control of their subordinate (over whom they have actual supervisory and directive authority, like a servant, doorman, or driver). A copy is delivered to the debtor under penalty of nullity, and they are appointed as custodian. If the subject of the attachment is commercial instruments drawn in favor of the debtor, they must be specified in the Minutes and deposited with the court registry along with the original Minutes against a receipt, according to Article 664. If the subject is jewelry or valuable items, according to Article 665, the Minutes must include, in addition to their inventory, a precise description and an appraisal of their value by an expert appointed by an Order on Petition or by the administration responsible for hallmarking precious metals, in the presence of the debtor or their legal representative or after proper summons. The expert's report is attached to the Minutes, and then the items are placed in a sealed and wrapped container after

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weighing and appraisal, with mention in the Minutes and a description of the seals, and deposited with the court registry against a receipt.

After completing the inventory and notifying the attachment to the debtor by the Bailiff of Justice, the debtor is informed that they have been appointed as custodian, unless the attachment order stipulates the appointment of another custodian. In that case, both the debtor and the garnishee (if any) must be notified, and a Minutes of Attachment of movables is drawn up. The garnishee is appointed as custodian. This notification to the garnishee serves as a demand for them to declare the assets owned by the debtor and deposited with them within eight days of the official notification of the attachment order, under penalty of civil and professional liability for any material damage caused to the attaching creditor.

Effects of Precautionary Attachment: The purpose of effecting a precautionary attachment is to place the attached asset under judicial custody and prevent the debtor from disposing of it to the prejudice of the creditor. It produces the following effects:

-Immediate Effect of Attachment: As soon as the official notification of the precautionary attachment order is made to the debtor, attachment follows immediately, and consequently, the attached asset (movable or immovable) is placed under judicial custody.

-Non-Transfer of Possession: The second effect of attachment is that the attached asset remains in the possession of the debtor until the attachment is confirmed or an order is issued to lift it. As long as the attached asset remains in the debtor's possession, they may benefit from it, like a prudent head of household, and acquire its fruits while preserving them, according to Article 660.

-Unenforceability of Dispositions After Attachment: Any legal disposition by the debtor of the attached assets after the attachment is executed and notified is unenforceable against the attaching creditor, and subjects the disposer to the penalties related to attached assets (Articles 364 and 365 of the Penal Code). However, the debtor may lease the attached assets with the permission of the President of the Court that ordered the attachment, by way of an Order on Petition.

Confirmation of Precautionary Attachment: The attaching creditor must file an Action to Validate Attachment within a maximum period of fifteen days from the date of the attachment order; otherwise, the attachment and subsequent procedures are null and void – Article 662. Comparative legislation refers to this as an action for the validity of the attachment. The Action to Validate Attachment is a substantive action brought

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before the merits judge to examine both the substance of the debt and the validity of the attachment. It is filed according to the usual procedures before the competent court (subject-matter and territorially). The judgment issued therein settles the dispute regarding the underlying right. If the precautionary attachment was effected after the substantive action was filed before the merits judge, the request for confirmation is submitted to the same merits judge before whom the aforementioned action is pending, via an additional memorandum joined to the original case for a joint ruling in a single judgment, without regard to the time limits stipulated in Article 662, by virtue of Article 648.

In both cases, if the court decides the Action to Validate Attachment by affirming the debt, it rules on the validity of the precautionary attachment and its confirmation. Consequently, the attaching creditor collects their debt by selling the attached assets and obtaining their right from the proceeds. However, pursuant to Article 666, the court may order the lifting of the attachment wholly or partially if the debtor justifies their request with serious and legitimate reasons. If the court dismisses the action for failure to prove the debt, it must lift the attachment, as the attachment in this case would have been effected without justification. It may also rule on civil compensation if necessary. Article 666 also allows the court to sentence the attaching creditor to a civil fine of not less than twenty thousand dinars.

Conversion of Precautionary Attachment to Executory Attachment: Contrary to what was stipulated in Article 369/1 of the old Civil Procedure Code regarding the necessity of obtaining an Order on Petition from the President of the Court to convert precautionary attachment to executory attachment, the legislator did not specify in the Civil and Administrative Procedure Code the method for this conversion. Therefore, once the court rules to affirm the debt and the validity and confirmation of the precautionary attachment, and this judgment acquires the authority of res judicata, and the preliminaries of enforcement are undertaken – specifically the official notification of the executory title and the demand for payment according to Articles 612 and 613, and the Bailiff of Justice draws up a Minutes of default – the precautionary attachment thereby converts to an executory attachment. Subsequently, the assets attached provisionally are sold in the same manner as movables and immovables are sold in an executory attachment.

3.2 Disputes Relating to the Annulment of Precautionary Attachment

Disputes may arise concerning the procedures of precautionary attachment in general, or one of its specific forms

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(attachment on industrial/commercial property, real estate, tenant's assets, assets of an itinerant debtor, or revendicatory attachment), particularly objections to a procedure that is susceptible to annulment. We find that the legislator has established specific procedures regarding the possibility of requesting annulment according to Article 643 of the Civil and Administrative Procedure Code, which we will study separately. Among the disputes arising from precautionary attachment is what is called the "Action to Lift the Attachment," which, according to the legislator, is linked to precautionary attachment. One of its causes, under paragraph 1 of Article 663, is related to the nullity resulting from the lapse of the right to confirmation due to the expiration of the legally prescribed period. This is detailed in two points :

- Nullity Action against precautionary attachment procedures.

- Action to Lift the Attachment.

3.2.1 Nullity Action against Precautionary Attachment Procedures

In the context of violating procedural provisions, we attempt, within the framework of the Nullity Action, to distinguish the procedures that are subject to it in the context of precautionary attachment, considering its conditions: the existence of a text providing for the annullability of the procedure as a fundamental principle for distinction, along with the necessity of fulfilling the other conditions for ruling annulment, which are proving harm by the party invoking annulment. Also, annulment is not ruled if the purpose of the procedure has been achieved or if it has been cured by the passage of the time limit for declaring its nullity, according to Article 643.

By examining the general bases for determining procedural nullity in form, it must be explicitly stipulated by text. According to this rule, it was necessary to search for the points of annullability in the articles regulating precautionary attachment and distinguish its procedures within the framework of the Nullity Action under Article 643, through the following points:

-In the official notification of the precautionary attachment order and the Minutes of Attachment and inventory: Examining Article 659, we find it refers to Article 688, which concerns the conditions for the official notification of the attachment order for executory attachment on movables and the drawing up of its Minutes of Attachment and inventory. The nullity of the attachment in case of their violation is stipulated within the framework of the Nullity Action against attachment procedures. To avoid repetition, this will be studied together with the annulment of executory

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attachment in the part related to official notification.

-In precautionary attachment on the debtor's business premises: Article 651 stipulates the necessity of registering the attachment order with the administration responsible for the commercial register and publishing it in the official bulletin for legal announcements within fifteen days of its issuance; otherwise, the attachment is null and void. Consequently, any interested party may file a Nullity Action against the precautionary attachment order related to the business premises if the time limit is not respected, within the framework of the conditions for the Nullity Action under Article 643.

-In precautionary attachment on real estate: Article 652 stipulates the necessity of registering the attachment order with the Land Conservation Office within whose jurisdiction the attached property is located within fifteen days of its issuance; otherwise, the attachment is null and void. Consequently, any interested party may also file a Nullity Action against the precautionary attachment order on real estate if the time limit is not respected, within the framework of the conditions for the Nullity Action under Article 643.

- In the confirmation of precautionary attachment: The attachment order lapses mandatorily by text of Article 662 if fifteen days pass from its issuance date without filing the Action to Validate Attachment; otherwise, the attachment and subsequent procedures are null and void. Since the legislator placed the failure to file the Action to Validate Attachment within the legally specified period in Article 663(1) as one of the causes for the Action to Lift the Attachment (as will be explained later via an urgent motion), the question arises: Is it permissible, despite this option, to file a Nullity Action against attachment procedures for failure to file the Action to Validate Attachment within its time limit? The answer is that, practically, it may not be raised, being satisfied with the ruling to lift the attachment, which erases all effects of the attachment and renders it as if it never existed – the same goal as annulment. However, there is no legal impediment to filing a Nullity Action, given the fulfillment of the substantive conditions of the action (existence of an explicit text providing for the annullability of the procedure). Moreover, it is the only means for a third party with an interest to request annulment, as their Action to Lift the Attachment might be rejected for lack of standing, since the legislator did not clarify that a third party with an interest has standing to bring an Action to Lift the Attachment. Consequently, the rules of the Nullity Action against attachment procedures can be used in this regard.

Regarding other procedures of precautionary attachment, aside from the substantive elements of the procedural act (subject matter, cause, capacity of

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parties, competence of the official), which may be grounds for a Nullity Action, the other articles related to precautionary attachment concerning some procedures as mandatory and obligatory, yet the absence of a text prescribing nullity for their violation, pursuant to Article 60, renders a ruling of nullity inadmissible.

3.2.2 Action to Lift the Attachment

The Algerian legislator, by virtue of Article 663 of the Civil and Administrative Procedure Code, permitted the claim to lift the attachment via an urgent motion in the following cases:

-If the creditor does not seek to file the Action to Validate Attachment within the period stipulated in Article 662 above.

-If the debtor deposits financial sums with the court registry or the Bailiff of Justice's office to cover the principal debt and costs.

-In any case where the tenant or sub-tenant proves they have paid the due rent in the case of a lessor's attachment on the tenant's movables.

Therefore, it is the substantive dispute raised concerning the precautionary attachment of the debtor's asset, or the precautionary attachment of the debtor's assets held by a third party (according to the reference in Article 675 of the same law), to demand the lifting of the attachment due to the existence of one of the cases mentioned in Article 663, including the failure to file the Action to Validate Attachment within its time limits. In defining this type of substantive dispute, it must be clarified that comparative legislation does not mean the same "Action to Lift the Attachment" as in Algerian law. Arab legislations mentioned the Action to Lift the Attachment only for garnishment, defining it as the action filed by the debtor against the creditor demanding the lifting of the attachment and its effects, so they can receive their attached funds from the garnishee. In contrast, the Egyptian legislator did not mention it for precautionary attachment, rather considering the penalty resulting from failure to file the action for the validity of the attachment (equivalent to the Action to Validate Attachment in Algerian law) within eight days as considering the attachment as if it never occurred, according to Article 320/3 of the Egyptian Code of Civil Procedure, which is equivalent to Articles 620 Lebanese, 220 Kuwaiti, 215 Saudi. Therefore, we alert researchers in this field to the necessity of verifying the terms and their actual meaning in the subject, which we address below:

-Procedures of the Action to Lift the Attachment: The Action to Lift the Attachment is filed before the Urgent Matters Judge by the debtor, demanding the lifting of the precautionary attachment executed against them due to

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the existence of one of the cases mentioned in Article 663, against the attaching creditor. The Bailiff of Justice must necessarily be joined as a party.

-Judgment in the Action to Lift the Attachment: The Urgent Matters Judge rules by an urgent order to lift the attachment (i.e., declaring its nullity) or to reject the request (i.e., the attachment remains valid and effective). The judgment deciding the Action to Lift the Attachment, as an urgent order, is subject to appeal through the means prescribed for this type of judgment.

4. *CONCLUSION*

This study shows that the Nullity Action against precautionary attachment procedures represents an important legal means to monitor the legality of attachment procedures and ensure a balance between the interests of creditors and debtors. It is clear that the Nullity Action is of a substantive nature, aiming to protect the procedural system more than protecting the litigation parties. The Algerian legislator has been keen to regulate this action within a specific legal framework, emphasizing the necessity of an explicit text on nullity and the existence of harm. However, practical application is not without problems, most notably the duality of legal means between the Nullity Action and the Action to Lift the Attachment, which calls for the need to establish effective judicial control over precautionary attachment orders, such as the ambiguity of some provisions related to the standing to file the action. This requires more clarity and precision in the legal texts through legislative intervention to clarify some ambiguities in the texts related to the effects of an annulment judgment, to ensure the effectiveness of this legal means in achieving justice. It is also advisable, from the debtor's side, to encourage the judiciary to adopt compensation as a means to deter abuse in requesting precautionary attachment.

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