

94 Phil. 816

[G.R. No. L-6691. April 27, 1954]

GAUDENCIO DAY AND LUCIA MANALESE, PETITIONERS, VS. THE JUDGE OF THE COURT OF FIRST INSTANCE OF TARLAC AND GERARDO P. TIOSECO, RESPONDENTS.

D E C I S I O N

PARAS, C.J.:

In Civil Case No. 4094 of the Court of First Instance of Tarlac, Gaudencio Day and Lucia Manalese, plaintiffs, vs. Tomas Laxamana, Gerardo Tioseco, Florentino Lising, and Register of Deeds of Tarlac, defendants, said court rendered on April 24, 1940, a decision the dispositive parts which read as follows:

“En vista de todo lo expuesto, se declaran nulos y de ningun valor los documentor Exhlbitos D, E y F, y se ordena la cancelacion por el registrador de titulos de Tarlac del Certificado de Transferencia de Titulo No. 8780 (Exhibito E), y la expedicion de otro en su lugar y a nombre de los demandantes, libre de toda carga y gravamen, se condena a los demandantes a pagar al demandado Gerardo Tioseco la suma de P2,609.14, mas los intereses acumulados a razdn de -12 por ciento anual desde el 3 de mayo de 1935 hasta su complete pago; se condena a Gerardo Tioseco y Tomas Laxamana a pagar mancomunada y solidariamente a Florentino Lising la suma de P4,200 mas sus intereses legates desde el 9 de mayo de 1934 hasta su complete pago; se sobreseen todas las demas demandas, contrademandas y reconvenciones que no hayan sido objeto de adjudication expresa en esta decision con las costas a cargo de los demandados Laxamana y Tioseco.

“Se autoriza la

enmienda de los escritos en la causa que han menester ser enmendado para ajustarlos a las pruebas y a la sentencia que aqui se dicta, para evitar la incoacion de ulteriores demandas y la multiplicidad de pleitos.”

From this judgment only the defendant Florentino Lising appealed to the Supreme Court which, on September 23, 1943, rendered a decision the dispositive part of which reads as follows:

“The judgment appealed from is hereby modified, and the simulated sale in favor of Tomas Laxamana and the transfer certificate of title issued in his favor as well as the deed of sale executed by Laxamana in favor of Florentino Lising are hereby set aside, and the Register of Deeds of Tarlac is ordered to issue another certificate in the name of plaintiffs free from all encumbrances; Gerardo to pay, jointly and solidarily, Florentino Lising the sum of P4,200 with legal interest thereon from May 9, 1934, and, in case of insolvency, the parcel of land in question may be sold, plaintiffs having the right to suspend the sale by paying Florentino Lising the said sum of P4,200 with legal interest from May 9, 1934, and with such payment, the sum of P2,609.14 together with its interest which plaintiffs owe Gerardo Tioseco is deemed paid. With costs against Gerardo Tioseco and Tomas Laxamana alone.”

On December 20, 1945, the defendant Gerardo Tioseco, through counsel, filed a motion for the execution of the decision in his favor and against the plaintiffs Gaudencio Day and Lucia Manalese. This motion was opposed by the latter and the Court of First Instance of Tarlac denied the same in its order dated April 30, 1946, in view of the Debt Moratorium, Executive Order No. 32. On May 29, 1948, the defendant Gerardo Tioseco, likewise by counsel, moved for the execution of the judgment in his favor and against the plaintiffs Gaudencio Day and Lucia Manalese. This motion was denied by the Court of First Instance of Tarlac in its order of June 21, 1948, again on account of the Debt Moratorium, Executive Order No. 32. For the third time, or on

September 20, 1949, the defendant Gerardo Tioseco filed a petition, through his counsel, reiterated on September 21, 1949, praying for the execution of his judgment against plaintiffs Gaudencio Day and Lucia Manalese. This petition was granted by the Court of First Instance of Tarlac in its order dated December 22, 1949, the judgment to be executed being that portion of the decision which provides as follows: “. . . se condena a los demandantes a pagar al demandado Gerardo Tioseco la suma de P2,609.14 mas los intereses acumulados a razon de 12 por ciento anual desde el 3 de mayo de 1953 hasta su complete pago . . .” Failing to get a reconsideration of this order, the plaintiffs Gaudencio Day and Lucia Manalese have come to this Court by way of a petition for certiorari and prohibition, seeking the annulment of said order and a directive against the Judge of the Court of First Instance of Tarlac to desist from issuing any writ of execution.

The main issue raised herein involves a mere mathematical operation to determine whether the third petition for execution filed by the defendant (respondent herein) Gerardo Tioseco on September 20, 1949, and granted by the Court of First Instance of Tarlac on December 22, 1949, is within the five-year period during which a judgment may be executed on motion. In this connection, it is significant that the respondent Court of First Instance of Tarlac, in the order now complained of, expressly found that only the defendant Florentino Lising had appealed from the decision of April 24, 1940, and that said decision became final in May, 1940, in so far as it referred to the judgment in favor of Gerardo Tioseco against the plaintiffs Gaudencio Day and Lucia Manalese for the sum of P2,609.14. Indeed, said finding was used by the court as the basis for holding that Gerardo Tioseco's credit against Gaudencio Day and Lucia Manalese was a pre-war credit for purposes of the Debt Moratorium. We have, therefore, to accept May, 1940, as the starting point in computing the five-year period. From said date up to March 10, 1945, when Executive Order No. 32, otherwise known as the Moratorium Law, took effect 4 years and 10 months had elapsed, considering, in accordance with the liberal computation adopted by the herein petitioner, May, 1940, and March, 1945, as whole months. From July 26, 1948, when Republic Act No. 342 (lifting

partially the Debt Moratorium) took effect, up to September 20, 1949, when the respondent Gerardo Tioseco filed his petition for execution, 1 year, 1 month and 24 days expired. Summing up, from May, 1940, when the decision became final, up to September 20, 1949, when the third petition for execution was filed, excluding the period when the Debt Moratorium was effective, a total of 5 years, 11 months and 24 days had transpired. It necessarily follows that the petition for execution filed on September 20, 1949, and granted by the respondent Court on December 22, 1949, was very much out of the five-year period within which a judgment may be executed on motion (section 6, Rule 39, of the Rules of Court).

We are, therefore, constrained to hold, as it is our judgment, that the herein petition for certiorari and prohibition be granted, and the order of the respondent Judge of December 22, 1949, be as it is hereby set aside. So ordered with costs against the respondent other than respondent Judge.

Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.
