

FRANCISCO DALUPAN, PLAINTIFF AND APPELLANT, VS. FRED M. HARDEN, DEFENDANT AND APPELLEE. ESPERANZA P. DE HARDEN AND ABELARDO PEREZ, INTERVENORS AND APPELLEES.*G.R. No. L-3975. November 27, 1951*

Ponente: BAUTISTA ANGELO, J.

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This case came before this Court by virtue of an appeal taken from an order of the Court of First Instance of Manila dated May 19, 1950, setting aside the writs of execution and garnishment issued to the sheriff of Manila commanding him to levy on two checks, one for P9,028.50, and another for P24,546.00, payable to Fred M. Harden which were then in possession of the receiver appointed in the case involving the liquidation of the conjugal partnership of the spouses Fred M. Harden and Esperanza P. de Harden.

The important facts necessary to determine the incident herein involved are: On August 26, 1948, plaintiff filed an action against the defendant for the collection of P113,837.17, with interest thereon from the filing of the complaint, which represents 50 per cent of the reduction plaintiff was able to secure from the Collector of Internal Revenue in the amount of unpaid taxes claimed to be due from the defendant. Defendant acknowledged this claim and prayed that judgment be rendered accordingly. In the meantime, the receiver in the liquidation case No. R-59634 and the wife of the defendant, Esperanza P. de Harden, filed an answer in intervention claiming that the amount sought by the plaintiff was exorbitant and prayed that it be reduced to 10 per cent of the rebate. By reason of the acquiescence of the defendant to the claim on one hand, and the opposition of the receiver and of the wife on the other, an amicable settlement was concluded by the plaintiff and the intervenor whereby it was agreed that the sum of P22,767.43 be paid to the plaintiff from the funds under the control of the receiver "and the balance of P91,069.74 shall be charged exclusively against the defendant Fred M. Harden from whatever share he may still have in the conjugal partnership between him and Esperanza P. de Harden after the final liquidation and partition thereof, without pronouncement as to costs and interests." The court rendered judgment in accordance with this stipulation.

Almost one year thereafter, plaintiff filed a motion for the issuance of a writ of execution to satisfy the balance of P91,069.74, which was favorably acted upon. At that time the receiver had in his possession two checks payable to Fred M. Harden amounting to P33,574.50, representing part of the proceeds of the sale of two lots belonging to the conjugal partnership which was ordered by the court upon the joint petition of the spouses in order that they may have funds with which to defray their living and other similar expenses. One-half of the proceeds was given to Mrs. Harden. The sheriff attempted to garnish these two checks acting upon the writ of execution secured by the plaintiff, but the receivership court quashed the writ, stating however in the order that it will be "without prejudice to the right of Francisco Dalupan to attach the money of the defendant Fred M. Harden, after the same has been delivered to the latter". When said checks were delivered to Jose Salumbides in his capacity as attorney-in-fact of Fred M. Harden, plaintiff immediately secured another writ of garnishment in line with the suggestion of the court, whereupon defendant again filed a motion to quash said writ, and after due hearing, the court granted the

motion setting aside the writ of garnishment, as well as the writ of execution previously issued in the case. This is the order now subject of appeal.

At the outset, it should be stated that the amount which plaintiff is seeking to recover is P91,069.74, as originally demanded in the complaint. This amount, however, has already been reduced to P42,069.74 because of certain partial payments made by the defendant during the pendency of this case in his desire to extend aid to the plaintiff. The two checks which plaintiff attempted to garnish and apply to the judgment rendered in his favor represents in part the proceeds of the sale of two lots belonging to the conjugal partnership which was authorized by the receiver court to provide both spouses with funds necessary to pay their living and other similar expenses. The two checks therefore form part of the assets of the conjugal partnership. They were turned over to defendant Fred M. Harden in pursuance of the order of the Court. Plaintiff claims that they should be applied to his judgment to pay in full the balance of the claim which defendant still owes them. And defendant vigorously objects to this pretense of the plaintiff.

To determine the validity of this claim there is need for us to examine the basis of the writ of execution which is now sought to be enforced, which is the judgment rendered in favor of the plaintiff. The dispositive part of this judgment, which embodies in substance the stipulation of the parties, reads as follows:

"Wherefore, plaintiff and intervenors agree and pray this Honorable Court that judgment be rendered in this case in accordance with the pleadings of plaintiff and defendant, but the sum of P22,767.43 shall be paid out of the fund deposited in the Chartered Bank of India, Australia and China, and under the control of the receiver Abelardo Perez, in Civil Case No. R-59634 of this Court, and the balance of P91,069.74 shall be charged exclusively against the defendant Fred M. Harden from whatever share he may still have in the conjugal partnership between him and Esperanza P. de Harden, after the final liquidation and partition thereof, without pronouncement as to costs and interests."

There can be no mistake as to the true meaning of the terms of the stipulation. Examining these terms we find that the stipulation limits the right of the plaintiff to ask for the execution of the judgment to whatever share Fred M. Harden may still have in the conjugal partnership between him and his wife after the final liquidation and partition thereof. The execution of the judgment is premised upon a condition precedent, which is the final liquidation and partition of the conjugal partnership. Note that the condition does not refer to the liquidation of a particular property of the partnership. It refers to the over-all and final liquidation of the partnership. Such being the stipulation of the parties which was sanctioned and embodied by the Court in its decision, it is clear that the writ of execution asked for by the plaintiff on the two checks is premature.

It is contended that this interpretation is erroneous because "the one and only purpose of specifying therein that the balance of the judgment credit in the sum of P91,069.74 would be chargeable exclusively against Fred M. Harden's share of the conjugal partnership, was to free from the effects of the judgment whatever share Mrs. Esperanza P. de Harden may ultimately obtain from the conjugal partnership upon its liquidation", or, stated in another way, "to clarify the agreement between the appellant and Mrs. Harden to the effect that her share of the conjugal partnership would not in any way be bound to the payment of the balance of the credit or any portion thereof." To this we do not agree. In our opinion, the purpose of the parties in making that stipulation is to defer the payment of the claim until after the share of Fred M. Harden in the assets of the conjugal partnership shall have been determined in order that said defendant may not be burdened with the liability to pay it during the pendency of the receivership. Be it as it may, the fact remains that the terms of the stipulation are clear and it is a well known rule of statutory construction that when the terms of a contract are clear there is no room for interpretation.

It is also contended that "if it be maintained that the partition of the proceeds of the two lots between Mr. and Mrs.

Harden was not final in character for the sole and only reason that said properties did not constitute the whole of the conjugal estate, the order appealed from will open wide the door to fraud, to the end that the appellant may be completely deprived of his right to have the balance of his judgment credit satisfied by execution." We cannot indeed discount the possibility that fraud might be committed by the defendant if we will interpret his attitude in the manner insinuated by the plaintiff, but we fail to perceive how such possibility can justify us in interpreting the stipulation of the parties in a manner contrary to its letter and spirit. The least that we can say is that in the remote case that the defendant should attempt to commit such fraud plaintiff is not left without a remedy. He can protect his right by taking such precautions or steps as may be necessary under the circumstances and we are sure that the court will not begrudge him the help he may need to protect his interest. It will then be the time for the plaintiff to act. Not now. But, in our opinion, the apprehension of the plaintiff is more whimsical than I, as shown by the facts surrounding this incident. Thus, while the stipulation of the parties calls for the payment of the balance of P91,069.74 after the final liquidation of the conjugal partnership, we find in the record that defendant Harden on his own volition, and even at the cost of borrowing money from some friends, made substantial payments to the plaintiff which brought his obligation down to the sum of P42,069.74. This is a clear proof of the good faith of Harden in this regard and of his honest intention to pay his obligation as per his agreement. This act belies the apprehension of the plaintiff.

Another consideration that should be made refers to the proffer made by the plaintiff to the defendant to the effect that "in the event you lose your case with your wife, Mrs. Esperanza P. de Harden, and that after adjudication of the conjugal property what is left with you will not be sufficient for your livelihood, I shall be pleased to write off as bad debt the balance of your account in the sum of P42,069.74" (Exhibit 2). This proffer was contained in a letter sent by the plaintiff to the defendant on March 23, 1949, which was accepted expressly by Fred M. Harden. Harden regarded this proffer as a binding obligation and acted accordingly, and for plaintiff to say now that that proffer is but a mere gesture of generosity or an act of Christian charity without any binding legal effect is unfair to say the least. This is an added circumstance which confirms our view that the understanding between the plaintiff and the defendant is really to defer payment of the balance of the claim until after the final liquidation of the conjugal partnership.

Wherefore, the order appealed from is hereby affirmed, with costs against the appellant.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, and Jugo, JJ., concur.

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