

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER VS. HON, SANTIAGO TAÑADA, JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, AND QUIRICO DEL MAR, RESPONDENTS.

G.R. No. L-32532. March 29, 1974

Ponente: CASTRO, J.

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CASTRO, J.:

In 1951 the Rehabilitation Finance Corporation (hereinafter referred to as the RFC), the predecessor of the herein petitioner Development Bank of the Philippines, granted Quirico del Mar (hereinafter referred to as the respondent) a P6,000 loan, secured by a promissory note and a real estate mortgage on three titled parcels of land.

In 1957 the respondent, pursuant to Republic Act 897,[1] offered to the RFC his backpay certificate in settlement of the amount then due on his loan. The RFC refused to accept his backpay certificate; so he, together with Fabian Aliño who also sought to settle his account with the RFC, brought suit in the Court of First Instance of Cebu (civil case R-5324) to compel the said RFC to accept their backpay certificates.

On May 22, 1958 the court a quo rendered judgment ordering the RFC to accept the backpay certificates of the respondent and Alino for application to their respective outstanding obligations.

In accepting the respondent's backpay certificate, the RFC discounted the said certificate at the rate of 2% per annum in relation to its thirty-year maturity period. This right of the RFC to impose a discount the respondent subsequently questioned in another action he filed with the Court of First Instance of Cebu (civil case R-6455).

On June 28, 1963 the court a quo dismissed the respondent's petition, ruling that Republic Act 897 authorized the discount at 2% per annum. The respondent then interposed an appeal to this Court. On August 8, 1967 this Court affirmed the decision of the court a quo and dismissed the respondent's petition.[2]

In March 1967 the petitioner, as successor-in-interest of the RFC, caused the commencement of proceedings in extrajudicial foreclosure of the real estate mortgage executed by the respondent in its favor, invoking the exhaustion of the proceeds of the respondent's backpay certificate. This prompted the respondent to file another action against the petitioner with the Court of First Instance of Cebu (civil case R-9880), seeking restraint of the foreclosure as well as a declaration that his outstanding indebtedness has been fully paid.

On May 26, 1970 the respondent — notwithstanding the pendency of civil case R-9880 — filed with the court a quo a motion for the execution of the judgment in civil case R-5324. This motion the petitioner duly opposed.

On July 10, 1970 the Honorable Santiago Tañada (hereinafter referred to as the respondent judge) of the Court of First Instance of Cebu issued an order which reads:

"After thorough perusal and due consideration of the pending incident, the Court has no other alternative except to execute the decision rendered by this Court in the exercise of its ministerial duty.

"It is for respondent bank to file the corresponding action if ever it believes that petitioner's certificates of

indebtedness have already been exhausted.

"Let an alias writ of execution issue for the enforcement of the judgment rendered by this Court."

The petitioner moved for reconsideration of the order aforequoted, which the respondent judge denied in an order dated August 21, 1970.

Hence, the present recourse through certiorari by the petitioner, seeking relief from the orders dated July 10, 1970 and August 21, 1970 issued by the respondent judge. The petitioner also applied for a writ of injunction to restrain the court a quo from enforcing its order dated July 10, 1970 which directed the execution of the judgment in civil case R-5324. Upon posting of a bond by the petitioner, this Court issued the desired writ of injunction per its resolution dated September 18, 1970.

The only issue of consequence posed by the case at bar relates to the enforceability of the judgment dated May 22, 1958 in the manner adopted by the respondent — through a mere motion for execution filed on May 26, 1970.

Section 6 of Rule 39 of the Rules of Court recognizes (1) the right of a prevailing party to a writ of execution of the judgment he obtained by filing a motion within five years from the date the said judgment becomes final and executory; and (2) after the lapse of the five-year period but before the prescriptive period of ten years^[3] sets in, the right of the same prevailing party to enforce the judgment by instituting an ordinary civil action.

The respondent asserts timeliness of his motion for execution, alleging the filing of the same within five years from the date the judgment sought to be executed became final and executory. He relates the period of limitation of five years to August 8, 1967 on the ground that the judgment in R-5324 never became final because the said judgment stated no fixed amount payable to the petitioner, and the amount became fixed and definite only when this Court, in its judgment dated August 8, 1967 in L-22254, *supra*, stated the amount collectible by the said petitioner. The respondent considers as incomplete the judgment in R-5324, and, therefore, not final and not enforceable by execution.

1. For execution to issue, Rule 39 of the Rules of Court, on Execution, Satisfaction and Effect of Judgments, requires a definitive judgment — one that "decide[s] finally the rights of the parties upon the issue submitted, by specifically denying or granting the remedy sought by the action."^[4] A judgment which leaves certain matters for settlement and determination for its completion in a subsequent proceeding constitutes an incomplete judgment and such judgment produces no effect for it neither acquires finality nor becomes executory.^[5]

In civil case R-5324, the respondent and Aliño sought, by mandamus, to compel the RFC to accept their backpay certificates in settlement of their respective debts. The sole issue in the said case, as correctly pointed out by the court a quo, related to the applicability of the ruling in *Florentino and Zandueta vs. Philippine National Bank*,^[6] which makes the acceptance of backpay certificates in settlement of debts in favor of the government or its entities obligatory upon "the Government or [to] any of its branches or instrumentalities, or the corporations owned or controlled by the Government." Adjudicating in favor of the respondent and Aliño, the court a quo, in its judgment of May 22, 1958 (in R-5324) ordered the RFC to accept the backpay certificates of the said respondent and Aliño.

The most cursory examination of the judgment dated May 22, 1958 easily shows that it is a definitive judgment. It disposed of the issue as to whether or not Republic Act 897 imposed upon the RFC the obligation to accept the backpay certificates of the respondent and Aliño. The dispositive portion specifically granted the remedy sought by the respondent and Aliño.

2. The suggestion of the respondent that the determination of the amount chargeable against his backpay certificate constituted an issue in L-22254, fails to find support in this Court's decision dated August 8, 1967. This

Court noted therein, with regard to the amount the RFC sought to charge against the respondent's backpay certificate, that the "[A]ppellant [the respondent herein] does not question the correctness of these figures; only the right to impose a discount." As aptly observed by the petitioner, the promissory note and the real estate mortgage contract executed by the respondent in its favor already stated the fixed and definite amount assignable to it under the backpay certificate.

3. The uncontradicted statement of the petitioner that the court a quo, upon motion of the respondent and Aliño, already issued an initial writ of execution on November 13, 1958, also completely reveals that the respondent himself even then considered the said judgment final and executory. Otherwise, no need then existed for him to obtain a writ for that purpose if he himself still believed the judgment dated May 22, 1958 unenforceable. This writ, however, the record-shows, failed to accomplish its purpose, for the respondent himself refused to negotiate his backpay certificate on its discounted value. This refusal of the respondent, culminating in civil case R-6455, effected neither interruption nor extension of the five-year period within which a judgment may be executed on motion, for the clear and unmistakable language of section 6 of Rule 39 precludes any action (dilatory or otherwise) taken by the prevailing party from operating to interrupt or to extend the five-year limitation period.

4. In sum, the respondent filed his motion for execution of the judgment dated May 22, 1958 in civil case R-5324 only on May 26, 1970 — more than twelve years after the said judgment became final and executory. Section 6 of Rule 39 no longer permits the respondent either to seek the execution of the said judgment by mere motion or to enforce the same by an independent action.

ACCORDINGLY, judgment is hereby rendered (1) granting the writ of certiorari; (2) declaring the orders a quo dated July 10, 1970 and August 21, 1970 null and void; and (3) making permanent the writ of preliminary injunction issued by this Court on September 18, 1970 against the enforcement of the aforecited orders. Costs against the respondent Quirico del Mar.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] "AN ACT TO FURTHER AMEND REPUBLIC ACT NUMBERED THREE HUNDRED AND FOUR BY EXTENDING THE BENEFITS OF THE LAW TO MEMBERS OF THE PHILIPPINE ARMY AND OF RECOGNIZED GUERRILLA FORCES AND OFFICERS OF THE PHILIPPINE SCOUTS AND BY ALLOWING THE USE OF CERTIFICATES OF INDEBTEDNESS FOR THE PURCHASE OF PUBLIC LANDS AND GOVERNMENT PROPERTIES, AND FOR THE PAYMENT OF OBLIGATIONS SUBSISTING AT THE TIME OF APPROVAL OF THIS ACT."

[2] Quirico del Mar vs. Rehabilitation Finance Corporation, L-22254, August 8, 1967, 20 SCRA 932.

[3] Articles 1144 and 1152, Civil Code of the Philippines; Philippine National Bank vs. Bondoc, L-20236, July 30, 1965.

[4] Cu Unjieng E Hijos vs. Mabalacat Sugar Co., et al., 70 Phil. 380.

[5] Ignacio, et al. vs. Hilario, et al., 76 Phil. 605; Quetulio vs. Hon. Flores and Segundo, 110 Phil. 284; Municipality of San Juan vs. National Waterworks and Sewerage Authority, L-22047, August 31, 1967.

[6] 98 Phil. 959.

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