

RAMCAR, INC., PLAINTIFF AND APPELLANT, VS. CHINA BANKING CORPORATION, DEFENDANT AND APPELLEE.

G.R. No. L-8772. April 27, 1956

Ponente: BENGZON, J.

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BENGZON, J.:

On December 12, 1950 the Manila court of first instance rendered judgment requiring the China Banking Corporation, defendant, to pay plaintiff Ramcar Inc. the sum of P16,271.72 with interest, plus damages of P5,000 etc. The defendant appealed to the Court of Appeals. Nevertheless plaintiff asked for, and obtained, execution pending appeal; and pursuant thereto, defendant turned over to the former the total sum of P21,089.39 on January 11, 1951.

In due course the matter was decided by the Court of Appeals whose judgment on February 28, 1953 as amended, contained this dispositive part:

"Wherefore, the Court renders judgment in favor of the Plaintiff-Appellee and against the Defendant-Appellant, ordering the latter to pay the former the sum of P16,168.88, with interest at the rate of 6 per cent from the date of the filing of the complaint, until the said sum shall have been fully paid, with costs against the said Defendant-Appellant."

Upon return of the expediente, the defendant pointed to its overpayment and asked that plaintiff refund to it "whatever amount is due the latter after deducting the interest and cost from the filing of the case until January 10, 1951 inclusive." The Manila court so ordered.

The plaintiff appealed such order reiterating its contention that, it may deduct interest not only up to January 10, 1951 but up to the decision of the Court of Appeals, February 28, 1953. The defendant argued, and the Manila court held, that interest was not 'due after January 10, 1951 inasmuch as defendant had delivered P21,088.39, to plaintiff on January 11, 1951.

This appeal has no merit. The Court of Appeals in February 1953 modified the order of the Manila court of first instance by requiring the China, Bank to pay Ramcar Inc. P16,168.88 (instead of P21,088.39) with interest * * * until the said sum shall have been fully paid. Inasmuch as the said sum had been fully paid January 11, 1951' (upon execution pending appeal), it logically follows that plaintiff is entitled to interest only up to January 10, 1951. The plaintiff had full use of the money on January 11, 1951; wherefore in law and equity it may not demand interest thereon for the days thereafter.

The order is affirmed, with costs against appellant.

Paras, C. J., Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion, Reyes, J. B. L. and Endentia, JJ., concur.

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