

JAMES MCI. HENDERSON, PHILIPPINE ALIEN PROPERTY ADMINISTRATOR, AND THE NATIONAL RUBBER GOODS, MANUFACTURING CO., INC., PETITIONERS, VS. BIENVENIDO A. TAN, JUDGE OF THE COURT OF ...

G.R. No. L-3223. October 10, 1950

Ponente: REYES, J.

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REYES, J.:

The National Rubber Goods Manufacturing Company, Inc. is a Philippine corporation with a capital stock of P1,000,000 divided into shares of the par value of P100 each. As 4,619 of those shares were Japanese-owned, the Philippine Alien Property Administrator, as the official designated by the President of the United States to hold and administer enemy properties located in the Philippines, took title to the said shares by virtue of Vesting Order No. P-62 issued on March 20, 1947, and having thereby become the owner of 72 percent of the subscribed capital stock of the company, also undertook the management and control of its affairs and assets.

On June 24, 1947, the herein respondent Joseph Arcache is claiming to be the mortgage creditor of the company in the sum of P70,000 by virtue of a deed of mortgage purporting to have been constituted on September 24, 1942, on 19 parcels of registered company land situated in Rizal city, instituted an action in the Court of First Instance of Rizal for the foreclosure of said mortgage. Neither the Philippine Alien Property Administrator nor the company received personal notice of this action, but following summons by publication and the lapse of the reglementary period for filing an answer, the company w/s declared in default and on October 2, 1947, judgment was rendered against it and in favor of Joseph Arcache for the amount of the mortgage debt and interests and for the sale of the mortgaged property, but with the following proviso:

"In view however, of the executive order regarding moratorium, which orders a suspension of the payment for all monetary obligations incurred after December 8, 1941, but before the liberation of the Philippines, it is hereby ordered that no execution shall issue in this case until after ninety (90) days from the lifting of said executive order."

Though notified of the above, judgment the Philippine Alien Property Administrator took no steps to question the same, the said officer not being then aware of any facts that could be set up as a defense against the mortgage, with the result that the judgment became final in due time. This was the status of the case when on March 15, 1949, Joseph Arcache, without notice to the company or to the Philippine Alien Property Administrator, filed a motion for the lifting of that portion of the judgment which suspended its, execution until after 90 days from the lifting of the executive order on moratorium, alleging as a ground for said motion that (1) the defense of moratorium had been waived by the company by reason of its failure to invoke the same; (2) the mortgaged properties had been abandoned by the company; (3) the said properties were delinquent in the payment of taxes; and (4) the company was not entitled to the benefits of the Moratorium Law (Republic Act No. 342) for the reason that the said law was intended to be for the benefit of debtors who intended to pay and not for those who

had no such intention. No one having appeared at the hearing to oppose the motion, despite notice thereof by publication, the court by its order dated May 9, 1949, granted the motion and authorized the sale of the mortgaged properties for the satisfaction of the mortgage debt. Pursuant to this order the mortgaged properties were auctioned by the sheriff and awarded to Joseph Arcache as the highest bidder, the corresponding sheriff's deed of sale having been subsequently executed in his favor and confirmed by the court on June 30, 1949.

Though notice of the hearing of Arcache's motion to lift the moratorium clause in the judgment was made by publication, the Philippine Alien Property Administration never had actual knowledge of said motion or hearing, nor of the order of May 9, 1949, and the sale of the mortgaged properties to Arcache, and only came to know of these matters on July 6, 1949, when one of his employees happened to go to the Office of the Register of Deeds of Rizal City in connection with some other business and there learned that Arcache had presented for registration in said office the sheriff's deed of sale covering the mortgaged properties. Following this discovery the company and the Philippine Alien Property Administrator filed a petition to have the said order of May 9, 1949, and the sale of the mortgaged properties declared void. But as the petition did not prosper, they came to this Court with a petition for certiorari to have the order of May 9, 1949, and the proceedings taken thereunder declared null and void.

The main question for determination is whether the court may by an interlocutory order change its judgment after the same has already become final. As a general rule, unless control over it has been retained in some proper manner, or a statute otherwise provides, no judgment can be amended after it has become final, except as to clerical errors or misprisions. As stated by Freeman in his book on Judgments (5th ed., par. 141, p. 269) ; "The power of courts to correct clerical errors and misprisions and to make the record speak the truth by nunc pro tunc amendments after the term does not enable them to change their judgments in substance or in any material respect. * * * Consequently it is well settled that, in the absence of statute permitting it, the law does not authorize the correction of judicial errors, however flagrant and glaring they may be, under the pretense of correcting clerical errors. To entitle a party to an order amending a judgment, order, or decree, ordinarily, he must establish that the entry as made does not conform to what the court ordered."

It is obvious that the lower court has not merely corrected a clerical error, for the inclusion of the moratorium clause in the judgment must have been a deliberate act calculated to produce its intended effect, which was to suspend the execution of the judgment. The error may be one of law, but it cannot by any means be considered clerical. And the correction may not be justified on the ground that its purpose was merely to give due course to the judgment as the court alleges. If the judgment could not under its terms be executed until the lifting of the moratorium, it would not be giving it due course to change its terms by deleting the clause that prevented its execution.

It is, however, urged that the part of the judgment referring to moratorium which was lifted by the court below did not in reality constitute a part of said judgment for the question of moratorium had not been raised in the case. This is an assertion which flies in the face of facts, for it clearly appears that the moratorium clause in the judgment forms a material and substantial part thereof. And even conceding that it was an error for the trial court to embody such a clause in its judgment because, as the respondent Arcache alleges, the defense of moratorium had not been raised and that the debtor corporation was not entitled to it because it had no intention to pay the debt, that error should have been corrected by appeal and not by recourse to the power of the court to correct clerical errors or misprisions. As Freeman says in his book already cited, the failure of the court to render judgment according to law must not be treated as a clerical misprision (par. 142, page 277), and the rule applies whether the correction consists in introducing something which ought not to be there, (par. 145, page 281), and judgments upon default are governed by the same rules in this respect as judgment rendered after an error or trial (par. 159, page 311).

It follows that the lower court had no power to excise the moratorium clause from its judgment in the way it did after the judgment had become final. Such an act was in excess of its jurisdiction and could, therefore, be corrected by certiorari. (Section 1, Rule 67, Rules of Court; II Moran, Comments on the Rules of Court, Second Revised Edition, p. 123.)

In view of the foregoing, the order of May 9, 1949 and the consequent proceedings had thereafter are hereby declared void, including the order confirming the deed of sale made in favor of respondent Arcache. With costs against the said respondent.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Tuason, and Montemayor, JJ., concur.

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