

**GERONIMO G. ESGUERRA AND CRISTINA G. ESGUERRA,
PETITIONERS-APPELLANTS, VS. THE HONORABLE FELIPE M.
VILLANUEVA, MUNICIPAL JUDGE OF DAGUPAN CITY, THE
PROVINCIAL SHERIFF OF PANGASI...**

G.R. No. L-23191. December 19, 1967

Ponente: CONCEPCION, C. J.

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CONCEPCION, C. J.:

Direct appeal, on questions purely of law, from a decision of the Court of First Instance of Pangasinan dismissing petitioner's complaint.

On July 13, 1961, petitioner Geronimo G. Esguerra — hereinafter referred to as Esguerra — and respondent Isidro de Guzman — hereinafter referred to as De Guzman — the latter acting in his own behalf and in that of a corporation (Institute of Electronics) he then intended to organize — which eventually was not organized — entered into a contract whereby Esguerra leased to De Guzman a portion of the Esguerra-Gueco building, belonging to Esguerra and his wife, Cristina Gueco — hereinafter referred to collectively as the Esguerras — and located at Torres Bugallon Street, Dagupan City, for a term of ten (10) years, beginning from July 12, 1961, at a monthly rental of P300.00, up to July 11, 1962, and P400.00 thereafter, payable in advance within the first 10 days of each month. Inasmuch as De Guzman had failed to pay the rental from February to August, 1962, aggregating P1,800.00, in addition to the sum of P300.00, representing the balance of the purchase price of equipment bought by him from the Esguerras, on August 6, 1962, respondent's mother, Segunda de Guzman — hereinafter referred to as Mrs. De Guzman — executed, in favor of the Esguerras, a promissory note for P2,100.00, payable as follows: P1,000.00, not later than August 12, 1962, and the balance of P1,100.00 not later than August 31, 1962. The promissory note further stipulated that:

"If the first payment of P1,000.00 as stated above is not paid on the date it falls due, August 12, 1962, this note or the entire value thereof becomes immediately due and demandable."

None of the aforementioned payments having been made when due, the Esguerras commenced, on September 11, 1962, Civil Case No. 1074 of the Municipal Court of Dagupan City, against Mrs. De Guzman, for the collection of said sum of P2,100.00, with interest thereon from August 6, 1962, plus interest, at the legal rate, on the aggregate amount due on September 11, 1962, and P520.00 as and for attorney's fees and expenses of litigation. Three (3) days later, Esguerra instituted Civil Case No. 1075 of the same court, against De Guzman, to recover:

"(a) The sum of P160.00 representing the unpaid rentals in arrears for the period from July 12, 1962 to August 12, 1962, with interest thereon at the legal rate from and after August 17, 1962, the date of the formal demand;

"(b) The amount of P400.00 monthly rental from and after August 12, 1962, until defendant finally vacates the leased premises;

"(c) The sum of P2,000.00, as liquidated damages, as stipulated in the lease agreement Annex 'A' and its

corresponding interest, at the legal rate, from the filing of this complaint;

“(d) The sum of P400.00, as and for attorney’s fees.”

On the same date, writs of attachment were issued in the two cases. Soon thereafter, or on October 22, 1962, the parties therein reached a compromise agreement to the effect that:

"1. That both defendants in the above-entitled cases admit, jointly and severally, liability to plaintiffs in the amount of TWO THOUSAND TWO HUNDRED AND SIXTY PESOS (P2,260.00) which they promise to pay on or before November 26, 1962;

"2. That should defendants fail to perform their respective undertakings in the first two foregoing paragraphs hereof:

“(a) Defendant Segunda D. de Guzman agrees and urges the Honorable Court to render judgment immediately against her for the total amount claimed by plaintiffs-spouses in Civil Case No. 1074 now pending before this court;

“(b) Defendant Isidro de Guzman agrees and urges the Honorable Court to immediately cause the promulgation of judgment against him for all the amounts claimed by the plaintiff, Geronimo G. Esguerra, in his complaint in Civil Case No. 1075;

“(c) That upon failure of any or both of defendants herein to perform their respective undertakings under this compromise agreement, they agree and urge the Honorable Court to cause immediate execution of the judgment against them upon their respective properties which have been attached under process in connection with the proceedings in the above-mentioned civil cases;" (Exh. "E", pp. 38-39, Record on Appeal.)

This compromise agreement was approved by Judge Felipe M. Villanueva, of the aforementioned municipal court, in a judgment dated November 27, 1962 the dispositive part of which reads:

"WHEREFORE, finding the said compromise agreement not to be contrary to moral, public policy and law, the same is hereby approved and judgment is rendered in these two cases accordingly. Also, the parties are hereby enjoined to abide with the terms and conditions of the same compromise agreement."

Admittedly, the sum of P2,260.00 was not paid or delivered to the Esguerras on or before November 26, 1962. On motion of the Esguerras, Judge Villanueva issued, therefore, on December 14, 1962, the corresponding writs of execution in cases Nos. 1074 and 1075. Alleging that De Guzman had, through his counsel, delivered to Esguerra P800.00, on December 13, 1962, and P1,460.00, on January 5, 1963, and that the receipt of said sums by the Esguerras constituted full satisfaction of the aforementioned judgment by compromise, De Guzman and his mother, Mrs. De Guzman — hereinafter referred to as the respondents — filed, on February 4, 1962, a joint motion for the release of the properties seized pursuant to the writs of attachment above referred to. This motion was, on February 11, 1963, granted by Judge Villanueva.

A reconsideration of the order to this effect having been denied, on February 23, 1963, the Esguerras instituted, against respondents herein, the provincial sheriff of Pangasinan and Judge Villanueva, on February 28, 1963, the present action for certiorari, prohibition and mandamus, with preliminary injunction, which was docketed as Civil Case No. D-1450, of the Court of First Instance of Pangasinan, to annul the orders of Judge Villanueva of February 11, and 23, 1963; to restrain Judge Villanueva from enforcing said orders; and to compel him to issue an alias writ of execution for the satisfaction of the unpaid balance of the judgment in said Civil Cases Nos. 1074 and 1075. After appropriate proceedings, the Court of First Instance rendered the decision appealed from, dismissing the petition herein. Hence this appeal by the Esguerras.

Respondents maintain, and the lower court held, that the "receipt" of said sums of P800.00 and P1, 400.00 by the Esguerras constituted "acceptance" of the incomplete and irregular performance of respondents' obligation under the judgment in cases Nos. 1074 and 1075, and that, this "acceptance" having been made without any "protest or objection" on the part of the Esguerras, said obligation must be "deemed fully complied with," pursuant to Article 1235 of the Civil Code of the Philippines.

This theory is based upon the premise that "receipt" of a partial payment is necessarily an "acceptance" thereof, within the purview of said provision, and that the Esguerras had not protested or objected to said payment. Such premise is untenable. The verb "accept," as used in Article 1235, means to take as "satisfactory or sufficient," or to "give assent to," or to "agree" or "accede" to an incomplete or irregular performance. The circumstances obtaining in the case at bar clearly show that the Esguerras had neither acceded or assented to said payment, nor taken the same as satisfactory or sufficient compliance with the judgment aforementioned.

Indeed, the day immediately following that of the first payment of P800.00, or on December 14, 1962, the Esguerras asked Judge Villanueva to issue the corresponding writs of execution in the two (2) cases. Thus, the Esguerras patently manifested their dissatisfaction with ---- which necessarily implied an objection or protest to — said partial payment. Moreover, Judge Villanueva must have so understood the reaction of the Esguerras to the same payment, for he was present when it was made, and still he caused the writs to be issued. What is more, the respondents evidently had the same impression, for, otherwise, they would not have paid the additional sum of P1,460.00 on January 5, 1963. Then, again, the insistence of the Esguerras in causing the attached properties of respondents herein to be disposed of, pursuant to the writs of execution, despite said additional payments, leave no room for doubt that the former had never regarded the partial payments as satisfactory compliance with the latter's obligation under said judgment.

After all, the law does not require the protest or objection of the creditor to be made in a particular manner or at a particular time. So long as the acts of the creditor, at the time of the incomplete or irregular payment by the debtor, or within a reasonable time thereafter, evince that the former is not satisfied with or agreeable to said payment or performance, the obligation shall not be deemed fully extinguished. In the case at bar, the Esguerras had performed said acts within such time.

WHEREFORE, the decision appealed from should be, as it is hereby, reversed, and another one shall be entered directing respondent Municipal Judge to issue the corresponding alias writs of execution, with costs against respondents Isidro de Guzman and Mrs. Segunda de Guzman.

IT IS SO ORDERED.

Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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