

ROSARIO OCHING ET AL., PETITIONERS, VS. SOTERO RODAS, JUDGE OF FIRST INSTANCE OF MANILA, AND BARTOLOME SAN DIEGO, RESPONDENTS.*G.R. No. L-1419. July 31, 1947*

Ponente: TUASON, J.

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The sole question presented for our decision involves the applicability of the debt moratorium, Executive Order No. 25 as amended by Executive Order No. 32, to execution of monetary judgments in actions brought under the Workmen's Compensation Act. The petitioners obtained such judgment, which is now *Anal*, against Bartolome San Diego, one of the respondents herein, and moved for its execution, San Diego pleaded the Moratorium Order, and the Honorable Sotero Rodas, judge, denied the motion.

The pertinent provision of Executive Order No. 32 amending Executive Order No. 25 is as follows: "Enforcement of payment of all debts and other monetary obligations payable within the Philippines, except debts and other monetary obligations entered into in any area after declaration by Presidential Proclamation that such area has been freed from enemy occupation and control, is temporarily suspended pending action by the Commonwealth Government."

That this provision suspends execution of judgments for money is now settled. (*Palacios vs. Daza* and *Provincial Government of Batangas*, 75 Phil., 279; *Tarnate vs. Daza*, 76 Phil., 853.) That it excludes from its operation obligations arising under the Workmen's Compensation Act in favor of employees for physical injuries sustained in the line of duty and other labor accidents is untenable. Executive Order No. 32 is very comprehensive and evinces no intent to make any exceptions, save as to the time the debt was incurred. It is plain and unambiguous leaving no occasion for construction. A cursory reading thereof brings the inescapable conclusion that it embraces "all debts and other monetary obligations" regardless of their source, or the indigence of the creditor, or the opulence of the debtor and his ability to pay. Deeply sympathizing with the petitioners, the courts can not lend them a helping hand. Their remedy lies elsewhere.

The petition is denied without costs.

Paras, Bengzon, Hontiveros, and Padilla, JJ., concur.

DISSENTING**HILADO, J.:**

I find it impossible to reconcile my views with those expressed in the majority opinion. I take it that the Workmen's Compensation Act was enacted in pursuance of the principle of social justice enunciated in Article II, section 5 of the Constitution. Said law was placed in the statute books for the execution of the national policy "to

insure the well-being and economic security of all the people," in the words of the afore-cited constitutional provision, having regard to the fact that the workman is an essential and indispensable factor in the economic development and welfare of the nation, the amelioration of whose lot was deemed by the framers to be a peremptory necessity due to his centuries of relegation to a position of social abandonment and oblivion. Article II of the Constitution is entitled "Declaration of Principles," and it would seem that the provision of its section 5 for the promotion of social justice is in itself a declaration of the people's national policy in the matter. And in the absence of a convincing showing to the contrary, the President of the Philippines, in promulgating the moratorium executive orders, should not be taken to have intended to deviate from that national policy—which he could not constitutionally do anyway—much less to nullify the beneficent provisions of the Workmen's Compensation Act which, in its section 32, establishes priority in favor of actions thereunder over others, excepting only habeas corpus cases, election contests, and criminal cases wherein the accused are detained, and in its section 34, confers the same priority upon the compensation therein provided for over other credits against the employer that the law gives to due and unpaid wages.—This in the first place.

In the second, under the doctrine laid down in *Tarnate vs. Daza* (76 Phil., 853), and the rules, hereinbelow cited, regarding judgments as constituting debts or obligations, those herein involved and owed by the respondent Bartolome San Diego to the several petitioners in each of the three above-entitled cases consisted in the judgment of this Court itself promulgated on December 17, 1946. In *Tarnate vs. Daza*, supra, it was said by this Court, with all the ten Justices present voting unanimously, that the obligation in favor of Vicente A. Tarnate therein considered was "created * * * by the order of Judge Modesto Castillo dated April 18, 1944," ordering "the heirs of the intestate of Paula Agoncillo to pay to the respondent Vicente A. Tarnate, in equal parts, the sum of P1,204," and it was there held that the obligation was covered by the amendatory moratorium order, Executive Order No. 32, dated March 10, 1945. In the instant case, following said holding, the obligation was created by the judgment of this Court of December 17, 1946, when the entire Philippines had already been liberated, for which reason the said obligation was not covered by the aforementioned executive order. That the said judgment became the "debt" of the employer to the dependents of his deceased employees by the principle that a judgment, particularly a money judgment, is a debt, and the other principle of the merger in the judgment of the original cause of action, after which merger the old debt ceases to exist and the new judgment debt takes its place, is solidly supported by the authorities.

"SEC. 144. Judgment as debt.—A judgment has been described as a debt, indebtedness, or evidence of indebtedness, as a debt of record, or as a security of record showing a debt due from one person to another. In some cases, it has been declared that a judgment is a higher form of the debt on which the action is brought." (30 Am. Jur., 896.)

"According to the views of Blackstone, a judgment constitutes a debt." (*Powell vs. Oregonian R. Co.*, [CC], 13 Sawy, 535; 36 F., 726; 2 L. R. A., 270 [Note 10, p. 896, 30 Am. Jur.].)

"SEC. 150. Generally.—One effect of a judgment is to merge therein the cause of action on which the action is brought, from the date of the judgment, * * *." (30 Am. Jur., 903.)

"SEC. 158. Effect of doctrine.—Upon the merger of a cause of action in a judgment, the old debt ceases to exist and the new judgment debt takes its place." (30 Am. Jur., 906.)

The above rules find their counterpart in article 1971 of the Civil Code. This article speaks of the period of prescription of actions for the enforcement of obligations reduced to judgment as commencing from the day the judgment became final; which clearly indicates that the judgment thus rendered creates an obligation as of the day the judgment becomes final, which is substantially the same as the principle of merger of the cause of action in the judgment in the Anglo-American law.

In the third place, the very nature of the claims involved in these compensation cases militates against their being considered as "debt and other monetary obligations", within the meaning of Executive Order No. 32, before they were reduced to judgment. In the cases at bar, the claims for compensation made by the dependents of the deceased workmen and the subject of the respective cases pending in the courts upon the promulgation of the executive order, were unliquidated until the final judgment was rendered. In other words, the employer could not be required to pay any amount until the rendition of the final judgment, for up to that time he did not know what amount to pay for the simple reason that the amount depended upon many factors which had to be considered and appreciated in the judgment, there being no agreement between the parties (a) that he was bound to pay and (b) as to the amount he should pay. The case was unlike one, for example, involving a debt of a definite amount under a contract of Joan with or without interest, or a case of a debt after account stated without any dispute between creditor and debtor respecting the accuracy of the statement, etc.

In the fourth place, in our above cited decision of December 17, 1946 (77 Phil., 730), with all the ten Justices present concurring, we held that compensation under the Workmen's Compensation Act "is an item in the cost of production which must be included in the budget of any well-managed industry." Under this, the owner of the industry is supposed and expected to include such item in his budget from time to time, and naturally he is supposed and expected to do so in adequate amounts, no less than in his provision for the other expenses of his trade. If so, it is an item which should not be deemed included in the moratorium order.

For all the foregoing considerations, I vote to grant the petition.

MORAN, C. J.:

I concur in this dissent.

PABLO, M.:

Concurro con esta disidencia.

DISSENTING

PERFECTO, J.:

The facts in this case are clearly stated in the following paragraphs of respondent's memorandum dated May 28, 1947:

"Respondent Bartolome San Diego was the owner of two fishing boats known as the 'M/S Bartolome S' and 'M/S San Diego II.' Petitioner Dionisia Abueg in case No. G. R. No. L-1419 is the widow of the deceased Amado Nuñez who was a machinist on board of the 'M/S San Diego II.' Petitioner M. C. de Salvacion in case No. G. R. L-1420 is the widow of the deceased Victoriano Salvacion, who was also a machinist on board the 'M/S San Diego II'. Petitioner Rosario Oching in G. R. No. L-1421 is the widow of the deceased Francisco Oching who was the patron of the 'M/S Bartolome S'. On October 1, 1941, while the above-named fishing boats were engaged in fishing operations around Mindoro Island they were caught by a typhoon, as a consequence of which they were sunk. Petitioner's respective decedents Amado Nuñez, Victoriano Salvacion and Francisco Oching perished in the calamity. The two fishing boats were not covered by any insurance.

"On refusal of the respondent Bartolome San Diego to pay petitioners' demands, these actions were commenced in the Court of First Instance of Manila. Respondent Bartolome San Diego defended himself, mainly, on the ground that he was not liable on petitioners' claim because of the total loss of the vessels.

"On agreement of the parties, the above entitled cases were consolidated and on motion for judgment on the

pleadings, a single judgment was rendered by the trial court in favor of petitioners and against the respondent Bartolome San Diego. The latter filed his notice of appeal and, pursuant thereto, the original records of these cases were forwarded to the Court of Appeals which, in turn, forwarded them to this Honorable Court for the reason that only questions of law were involved.

"While these cases were on file with this Honorable Court, the records were destroyed during the battle for the liberation of Manila. On petition of counsel for petitioners, the records of these cases were deemed reconstituted by resolution of this Honorable Court of April 29, 1946.

"On December 17, 1946, this Honorable Court rendered a decision against respondent Bartolome San Diego, affirming the judgment of the lower court, with costs.

"On February 28, 1947, counsel for respondent filed a petition for execution of judgment in the Court of First Instance of Manila, which petition was granted by an order of said Court of First Instance dated March 14, 1947.

"On March 20, 1947, counsel for Bartolome San Diego filed a motion for reconsideration to set aside the order of execution of judgment issued by the Court of First Instance of Manila, invoking the provisions of Executive Order No. 25, as amended by Executive Order No. 32, which declares a debt moratorium.

"On March 25, 1947, respondent, the Honorable Judge Sotero Rodas of the Court of First Instance of Manila, issued an order granting the motion for reconsideration of Bartolome San Diego dated March 20, 1947, in which order set aside and revoked the previous order of March 14, 1947, ordering the execution of the judgment, based on the provisions of debt moratorium declared under Executive Order No. 25, as amended by Executive Order No. 32.

"This order of respondent, the Honorable Judge Sotero Rodas of the Court of First Instance of Manila dated March 25, 1947 is the one sought to be reviewed by petitioners in this petition for certiorari."

The three consolidated cases, CA-Nos. 773, 774, 775, which were decided by us on December 17, 1946 (77 Phil., 730), were finally submitted to us for decision upon memoranda filed by the parties, the last one by plaintiffs-appellees on July 24, 1946, which was filed in answer to the memorandum for defendant-appellant filed on July 5, 1946.

The petition for reconstitution was filed by plaintiffs-appellees on January 8, 1946. A hearing for reconstitution was set on March 22, 1946, all parties having been notified. On March 25, 1946, appellees moved that appellant be ordered to produce and to present copy of appellee's brief which was furnished him and that in the event that no such copy could be produced, appellees be permitted to file again their brief. On March 28, 1946, appellant answered that he was agreeable to the filing by plaintiffs-appellees of a new brief, as no copy of the first brief can be filed.

On April 29, 1946, the case was declared duly reconstituted, and at the same time plaintiffs-appellees were authorized to file a new brief, which was done on May 9, 1946.

On May 10, 1946, appellant prayed that he be permitted to withdraw the copy of his printed brief, presented for reconstitution purposes, so as to be able to print additional copies thereof. The petition was granted on May 15. On June 20, 1946, appellant moved to be authorized to file a memorandum within 15 days, which motion was granted on June 24. An 11-page memorandum was filed.

The several steps taken for the reconstitution of the combined three cases are mentioned to show that if defendant-appellant Bartolome San Diego wanted to avail himself of the benefits of the debt moratorium decreed in Executive Order No. 25, as amended by Executive Order No. 32, he had plenty of time and opportunity to do

so. Of course, he could not have invoked the debt moratorium in his brief, which was filed before the executive orders decreeing it were issued, but when this case was reconstituted and when San Diego filed his memorandum on July 5, 1946, he could have invoked the debt moratorium and opposed the decision of the case. He chose instead to have the case decided as we finally did on December 17, 1946. He did not even move for the reconsideration of the decision, which he allowed to become final and executory without any delay. Entry of judgment was made on January 3, 1947, and days after the records were remanded to the Court of First Instance of Manila for execution of the judgment.

Only after the lower court ordered the issuance of a writ of execution on March 14, 1947, did San Diego invoke for the first time the debt moratorium in his motion, filed on March 20, 1947, to set aside the order of execution.

We are of opinion that the lower court erred in setting aside its order to execute the judgment. Bartolome San Diego cannot invoke the benefits of the debt moratorium provided by Executive Orders Nos. 25 and 32 on two grounds: First, because the debt moratorium does not apply to obligations created by law, such as the compensation provided in the Workmen's Compensation Act No. 3428, license fees, etc., and second, that, even if San Diego was entitled to invoke the benefits of said debt moratorium, he waived such right when he submitted the cases for our final decision without raising said defense.

The enforcement of the obligations created by law cannot be suspended or cancelled without repealing the corresponding provisions of law, and there is nothing in Executive Orders Nos. 25 and 32, providing for such repeal. Implied repeal cannot be supposed, much less in the case of workmen's compensation. Executive Orders Nos. 25 and 32 were issued to minimize the sufferings of the less fortunate, and workmen's compensation has been provided as a measure of social justice to improve the economic situation of the financial underdogs, the laborers.

For all the foregoing, we are of opinion that the order of the lower court dated March 25, 1947, be set aside and execution of the judgment be undertaken under the order of said court dated March 14, 1947.

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