

J. ANTONIO ARANETA, PETITIONER, VS. ANTONIO M. PEREZ AND THE HONORABLE EMIGDIO V. NIETES, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, RESPONDENTS.

G.R. No. L-26117. July 17, 1980

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari and mandamus, seeking, respectively, (1) the annulment of two orders issued by the Court of First Instance of Manila denying, in effect, the motion for execution of the judgment in its Civil Case No. 50707, and, (2) the issuance of a writ to compel the court a quo to grant the writ of execution prayed for to enforce the judgment aforesaid, as affirmed with modification by this Court in G.R. Nos. L-20787 and L-20788.[1]

The background facts are narrated in the decision of this Court in the aforementioned cases, to wit:

"On June 16, 1961, Antonio M. Perez executed a promissory note wherein he agreed to pay J. Antonio Araneta, or order, the sum of P3,700.00 119 days from said date, or on October 13, 1961, and if it is not paid on the date of maturity, to pay interest at 9% per annum on the amount of the loan, and P370.00 as attorney's fees in addition to costs and other disbursements taxable under the Rules of Court.

"The note having become due and Antonio M. Perez having failed to pay it despite demand made upon him to do so, Araneta filed on October 31, 1961 a complaint in the Municipal Court of Manila to collect its import under the terms therein stipulated (Civil Case No. 92265).

"In his answer, defendant Perez admitted the execution of the promissory note as well as his failure to pay it despite its maturity and demand, but he averred certain allegations that were irrelevant to the complaint. Thus, Perez alleged that the proceeds of the note were applied by him to the payment of the medical treatment of his minor daughter Angela Perez y Tuason, who is the beneficiary of the trust then administered by Araneta as trustee in Special Proceeding No. Q-73 of the Court of First Instance of Quezon City, and that the trust estate is bound to pay the expenses of said treatment because they were for the benefit of said minor and so the personal fund he borrowed from Araneta and for which he executed the aforesaid promissory note should be paid by Araneta in the manner above-stated. In the same answer, Perez set up a counterclaim demanding several amounts by way of moral damages, exemplary damages, and attorney's fees.

"On motion for judgment on the pleadings filed by Araneta, and without any opposition on the part of defendant Perez, the municipal court rendered a decision on April 23, 1962 ordering Perez to pay the amounts prayed for in the complaint and dismissing his counterclaim for damages. His motion for reconsideration having been denied, Perez appealed to the court a quo where the appeal was docketed as Civil Case No. 50707 and where he filed practically the same answer he filed in the municipal court.

"In the meantime, or on February 8, 1962, Perez filed a complaint in the Municipal Court of Manila against Araneta in his capacity as trustee of the minor child Angela Perez y Tuason in Special Proceeding No. Q-73 of the Court of First Instance of Quezon City wherein, making reference to Civil Case No. 92265 filed against

him by Araneta, he repeated the same allegations contained in the answer he interposed to the complaint of Araneta and prayed that Araneta as trustee be required to pay Perez the amount of P3,700.00 advanced by the latter in order to meet the obligation of the trust estate. And on the basis of a motion to dismiss filed by Araneta as trustee, and over the opposition of Perez, the municipal court dismissed the latter's complaint. His motion for reconsideration having been denied, Perez appealed to the court a quo where his case was docketed as Civil Case No. 50706 and where he filed an amended complaint against Araneta.

"Considering that the two cases involved the same parties and the same promissory note, they were ordered consolidated. And on September 7, 1962, the court a quo issued a joint order wherein it affirmed the judgment on the pleadings rendered by the municipal court in Civil Case No. 50707, while it affirmed the order of dismissal that was likewise issued by the same court in Civil Case No. 50706."

It was this joint order that upon appeal to this Court was affirmed with modification. The dispositive portion of the lower court's order reads thus:

"WHEREFORE, in view of the foregoing, the court affirms the judgment on the pleadings rendered by the municipal court on April 23, 1962, in Civil Case No. 92265 or Civil Case No. 50707, and orders the defendant therein to pay the plaintiff the sum of P3,700.00 with interest thereon at the rate of 9% per annum from Oct. 13, 1961, until the principal shall have been fully paid, plus the sum of P370 for expenses and attorney's fees, as well as the costs of the suit in both instances."

while that of this Court was as follows:

"WHEREFORE, with the modification that the payment of interest on the note should start from the date of extrajudicial demand, or Oct. 18, 1961, we hereby affirm the order appealed from in all other respects, without pronouncement as to cost."

Soon after this Court had remanded the records of the cases above-mentioned to the court below, or on August 24, 1965, Araneta filed with the court a quo a motion for execution in Civil Case No. 50707 (Appendix "C" pp. 30-31, Rollo) along with a bill of costs (Appendix "D", p. 32, Rollo); and the motion for execution aforesaid was granted by the lower court in an order dated September 21, 1965 (Appendix "F", pp. 45-47, Rollo), notwithstanding the opposition thereto (Appendix "E", pp. 34-36, Rollo) filed by Perez. The latter's motion for reconsideration of that order was denied in an order issued by the same court on October 13, 1965 (Appendix "G", p. 48, Rollo). Still later, however, upon certain allegations made by Perez in a subsequent motion (Appendix "H", pp. 49-51, Rollo) and manifestation (Appendix "J", p. 55, Rollo), the court below reconsidered the orders above-mentioned and, in an order dated December 6, 1965, it denied, in effect, the motion for execution it had previously granted. Basis of the change of mind of the court a quo may be gleaned from the order referred to which pertinently reads as follows:

"In the order of this Court dated October 13, 1965, the motion for reconsideration of the defendant to the order of this Court dated September 21, 1965, was denied. In the said order of this Court dated September 21, 1965, it is made manifest that the plaintiff, in his capacity as trustee in Sp. Proc. No. Q-73, sent a check to the defendant as the judicial guardian of his daughter, Angela Tuason, in the sum of P3,441.52, corresponding to the share of said Angela Tuason, in the net income of the trust estate for a particular period (Annex A of the defendant's opposition, September 10, 1965).

"The defendant returned the check to the plaintiff as trustee without indorsing it although with instructions that the plaintiff, in his personal capacity, appropriate the said sum of P3,441.52 in payment of his personal obligation. The plaintiff refused because the check was not endorsed by the defendant and because the said defendant had no authority to pay his personal obligation with funds due to his ward, and because the amount of P3,441.52 was not enough to pay for the promissory note in the sum of P3,700.00, plus interest and attorney's fees, as shown in Annex D of the defendant's opposition of September 10, 1965. The plaintiff again

returned the check to the defendant with his letter dated September 25, 1963 (Annex F of defendant's opposition).

"It appearing, however, that the defendant had obtained an order from the guardianship court authorizing him as guardian of Angela Tuason to assign in favor of J. Antonio Araneta the amount of P3,700.00, and that in his letter of September 23, 1963, the defendant's counsel, Atty. Al-fonso Felix, Jr., advised the plaintiff of the said order and returned again the check to the plaintiff, the Court takes cognizance of this fact of the proffer of payment by the defendant and considers the said payment as a payment authorized by the guardianship court, confirming the act of the guardian which has the effect of settling the obligation of the guardian. Under the circumstances the plaintiff could have paid himself with the amount and considered the obligation paid with the amount represented in the check in the total sum of P3,700.00.

"It appears further that the balance in the amount of P1,479.74 has been deposited with the Clerk of this Court on November 16, 1965, which, as exposed in the motion of the plaintiff, represents the balance due in the sum of P927.18, plus interest of P175.20 and attorney's fees in the sum of P370.00, which fully represents the total balance of the amount still due and owing to the plaintiff.

"For all the foregoing, the order of this Court granting execution of judgment is hereby reconsidered, and the plaintiff is ordered to credit to himself the value of the check in the sum of P3,700.00 as ordered by the guardianship court, plus P1,479.74 deposited with the Clerk of Court which he is authorized to withdraw at any time after receipt of this order."

On April 12, 1966, the order above-quoted was again reconsidered by the trial court, upon motion of Araneta, in the following language:

"Upon consideration of the motion for reconsideration of the order of this Court dated December 6, 1965, as well as the opposition thereto, and finding the said motion for reconsideration to be well-taken, the Court hereby reconsiders its order of December 6, 1965, and orders the plaintiff to credit to himself the amount of P3,441.52 presently in his possession as trustee. The Clerk of Court is hereby ordered to turn over to the plaintiff the sum of P258.48 (P3,700.00 minus P3,441.52), plus interest of 9% per annum on the amount of P3,700.00 from October 18, 1961, up to the time when the plaintiff was advised of the authority granted to him as trustee to apply the funds of the ward in the amount of P3,441.52, plus costs in the sum of P78.00 to be taken from the amount of P1,472.38 in the possession of the Clerk of Court, as per his manifestation of March 10, 1966."

On April 23, 1966, Araneta filed a motion for clarification of the last mentioned order, pointing out that in the said order of April 12, 1966, the court did not specify what it considers to be the time when the plaintiff was advised of the authority granted to him as trustee to apply the funds of the ward in the amount of P3,441.52, and also failed to direct the payment of attorney's fees in the amount of P370.00 awarded in the final judgment of the court a quo as modified by this Court; and in respect of such points, Araneta sought, in effect, the reconsideration of the order referred to. The motion was denied by the trial court in an order it issued on May 7, 1966 which reads:

"Not finding the motion for clarification of the order of April 12, 1966 to be necessary as the same had been fully threshed (out already), as shown by the record, the motion for reconsideration is hereby denied."

Upon the circumstances above-narrated, Araneta has taken the position that the lower court had acted with grave abuse of discretion in the premises and, consequently, as we have earlier said, Araneta now seeks the annulment of the above-quoted orders of December 6, 1965 and April 12, 1966 and prays, instead, for the issuance of a writ of mandamus ordering the court a quo to issue the writ of execution exactly as prayed for by him.

There can be no dispute that the judgment of the court a quo, the execution of which is sought by petitioner

Araneta, has become final and executory after the same was affirmed with modifications by this Court. Ordinarily, petitioner should be entitled to its execution, as in fact, the court below did so direct in its order of September 21, 1965. It cannot be denied, however, that upon motion and manifestation of respondent Perez, the lower court was apprised of the fact that the guardianship court had authorized Perez — as guardian of his daughter Angela Tuason who is the beneficiary of a trust estate administered by petitioner Araneta as trustee - to assign in favor of petitioner the amount of P3,700.00, and of the additional fact that respondent Perez had likewise deposited with the Clerk of Court concerned, the amount of P1,472.38 which Perez claims to be the balance of the obligation then owing to petitioner under the judgment sought to be executed. It follows, therefore, that the order directing issuance of a writ of execution it had previously issued was no longer necessary, and, accordingly, it changed the tenor of the order referred to in its subsequent order of December 6, 1965, and directed petitioner, instead, to credit to himself the sum of P3,700.00 as ordered by the guardianship court, plus the P1,479.74 deposited with the Clerk of Court which he was authorized to withdraw anytime. Accordingly, it is quite clear that the trial court did nothing more than to make its actuation vis-a-vis the execution prayed for by petitioner conformable to the facts, law and justice by declaring in the light of the incontrovertible facts before him that to issue a writ of execution in the manner prayed for by petitioner was a superfluity, since by merely crediting to himself (petitioner) the check of P3,441.52 and withdrawing from the Clerk of Court the P1,472.38 deposited by private respondent, there would be a full satisfaction already of the judgment sought to be executed.

All other points raised in the petition are too insubstantial in amount and importance to require any ruling from this Court, taking into account the relationship between and the respective well known means of the parties. Any small differences in amounts and the necessity of renewing the check in question should be duly attended to by them without having to bother the courts any further, as long as the tenor of the foregoing opinion is substantially observed.

IN VIEW WHEREOF, the petition is dismissed. No costs.

Aquino, Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

[1] L-20787 & L-20788, J. Antonio Araneta, plaintiff-appellee, vs. Antonio M. Perez, defendant-appellant, were appeals from the joint decision of the court a quo in its Civil Cases Nos. 50706 & 50707, which were also jointly decided by this Court on June 29, 1965. (14 SCRA 498)

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