

ALIPIO N. CASILAN, PLAINTIFF-APPELLANT, VS. CONCEPCION KAPUNAN DE SALCEDO, ET AL., DEFENDANTS-APPELLEES.*G.R. No. L-23247. January 31, 1969*

Ponente: ZALDIVAR, J.

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In Civil Case No. 340 of the Court of First Instance of Leyte, plaintiff-appellant Alipio N. Casilan, in 1946, filed a complaint against Concepcion Kapunan de Salcedo, Iluminada Fernandez Vda. de Kapunan and Marita Antonia Salcedo, to recover the title and possession of a parcel of land situated in Tacloban City. Juanita, Trinidad, Rupert, Jr., Emma, Lilia, Socorro and Rosario, all surnamed Kapunan, intervened in the case, claiming to be co-owners of the land, being heirs of their late father, Ruperto Kapunan.

It appears that the land in question was originally owned by the spouses Ruperto Kapunan and Iluminada Fernandez. On October 2, 1935 the spouses Kapunan donated the land to their daughter, Concepcion Kapunan de Salcedo. On December 23, 1939, Concepcion Kapunan de Salcedo executed a deed of donation of the land in favor of her daughter, Marita Antonia Salcedo. The donation was accepted by Iluminada Fernandez Vda. de Kapunan in her capacity as the guardian of the donee Marita Antonia Salcedo, who was then a minor. On November 4, 1944, Concepcion Kapunan de Salcedo and Alipio N. Casilan executed a deed of conditional sale of the land in question wherein the former accepted the latter's offer to purchase the land for a price of P6,500.00; the former thereby received from the latter the sum of P2,000.00 as part of the purchase price, and the balance of P4,500.00 to be paid within three years from that date. The balance of P4,500.00 was actually paid by Alipio N. Casilan to Concepcion Kapunan de Salcedo on June 14, 1945.

Upon the issues having been properly joined, and after trial, the Court of First Instance of Leyte rendered a decision dismissing the complaint and declaring the sale of the land in question by Concepcion Kapunan de Salcedo to Alipio N. Casilan null and void. On appeal, the Court of Appeals reversed the decision of the Court of First Instance of Leyte and declared Alipio N. Casilan the owner of the land and entitled to the possession thereof. An appeal was brought to the Supreme Court from the decision of the Court of Appeals,[1] and this Court reversed the decision of the Court of Appeals and declared that the sale made by Concepcion Kapunan de Salcedo to Alipio N. Casilan is null and void. This Court declared valid both the donation made by the spouses Ruperto Kapunan and Iluminada Fernandez to Concepcion Kapunan de Salcedo, and the donation made by Concepcion Kapunan de Salcedo to Marita Antonia Salcedo. The concluding part of this Court's decision reads as follows:

"In conclusion, we find and so hold that the donation of the property in dispute to Marita Antonia Salcedo by Concepcion K. Salcedo was valid, and consequently the sale thereof by the latter in favor of respondent Alipio N. Casilan was null and void. Said respondent, however, may still recover what he has paid under the equitable principle that no one shall be unjustly enriched or benefited at the expense of another." [2]

"Wherefore, the decision complained of is reversed and the sale of the property in controversy in favor of respondent Alipio N. Casilan declared null and void.

"Without costs."

The above-mentioned decision of this Court became final and executory.

On May 22, 1963, Alipio N. Casilan filed with the Court of First Instance of Leyte, in the same Civil Case No. 340, a motion entitled "Motion asking the return to the purchaser of the selling price paid to the defendant Concepcion Kapunan de Salcedo, with interest". In the motion, Alipio N. Casilan, as plaintiff in the case, alleged that according to the decision of the Supreme Court, the defendant Concepcion Kapunan de Salcedo received from him the sum of P2,000.00 on November 4, 1944 as partial payment of the purchase price of the land in question, and the sum of P4,500.00 on June 14, 1945 as the balance of the purchase price, or the total purchase price in the sum of P6,500.00. Invoking the portion of the decision of this Court which says "Said respondent, however, may still recover what he has paid under the equitable principle that no one shall be unjustly enriched or benefited at the expense of another", Alipio N. Casilan prayed the Court of First Instance of Leyte "that a writ of execution be issued by the Clerk of Court, commanding that of the personal and real properties of defendant Concepcion Kapunan de Salcedo the amount of Six Thousand Five Hundred Pesos (P6,500.00) be collected, plus the legal interest of P2,000.00 from November 4, 1944, and the legal interest of P4,500.00 from June 14, 1945, at the rate of 6% a year, until said amounts are fully paid for." [3]

On August 10, 1963, defendant Concepcion Kapunan de Salcedo filed an opposition to the above-mentioned motion of plaintiff Alipio N. Casilan, upon the ground that the decision of the Supreme Court "contains no judgment or pronouncement specifically or definitely ordering or requiring the defendant Concepcion Kapunan de Salcedo to pay to the plaintiff the sum of P6,500.00, much less the interest thereof." [4]

After the parties had been given opportunity to file their memoranda in support of their respective contentions, the Court of First Instance of Leyte, on November 14, 1963, issued an order denying the motion of Alipio N. Casilan which prayed for a writ of execution against the properties of defendant Concepcion Kapunan de Salcedo. In its order of denial, the lower court stated that the statement in the decision of this Court which reads: "Said respondent, however, may still recover what he has paid under the equitable principle that no one shall be unjustly enriched or benefited at the expense of another" is not a part of the dispositive portion of the decision but constitutes a part of the opinion or conclusion of the Court, and that statement merely recognizes the existence of a right of the plaintiff to recover what he had paid. In its order the lower court suggests that the proper action for the recovery of the sum paid by the plaintiff be taken, conformable to the recognition made by the Supreme Court of the right of the plaintiff to recover said sum.

His motion for reconsideration of the order of November 14, 1963 having been denied, plaintiff Alipio N. Casilan brought the present appeal to this Court from the said order, on a question of law.

The only question to be resolved in the present appeal is whether that statement in the decision of this Court, before the dispositive part thereof, which reads: "Said respondent (referring to appellant Alipio N. Casilan), however, may still recover what he has paid under the equitable principle that no one shall be unjustly enriched or benefited at the expense of another" may serve as a basis for the lower court to issue a writ of execution against the properties of defendant Concepcion Kapunan de Salcedo, so said appellant may thereby recover what he had paid to said defendant. In other words, may that statement be considered a judgment against defendant Concepcion Kapunan de Salcedo?

Let it be noted that the action brought by Alipio N. Casilan, as plaintiff in Civil Case No. 340 in the Court of First Instance of Leyte, was for the recovery of title and possession of a parcel of land. The recovery of the amount paid by Alipio to Concepcion was never an issue in the case. What was litigated in the case was the validity of: (1) the donation of the land by the spouses Kapunan to their daughter Concepcion Kapunan de Salcedo -- because this

donation was questioned by the other children of the spouses who intervened in the case; (2) the donation of the land made by Concepcion Kapunan de Salcedo to her daughter Marita Antonia Salcedo; and (3) the sale of the same land by Concepcion Kapunan de Salcedo to Alipio N. Casilan. This Court ruled that the two donations were valid and the sale by Concepcion to Alipio was null and void. But this Court did not order Concepcion to pay or return to Alipio the purchase price of the land, with interest. Thus, the dispositive portion of the decision of this Court simply says:

"Wherefore, the decision complained of is reversed and the sale of the property in controversy in favor of respondent Alipio N. Casilan declared null and void."

We agree with the contention of counsel for appellee Concepcion Kapunan de Salcedo -- and as upheld by the lower court -- that the portion of the decision of this Court that is relied upon by appellant Alipio Casilan in his motion for execution is simply an opinion of the Court and does not constitute the judgment itself.

"In the case of a trial court a judgment must be distinguished from an opinion. The latter is the informal expression of the views of the court and cannot prevail against its final order or decision. While the two may be combined in one instrument, the opinion forms part of the judgment. So.... there is a distinction between the findings and conclusions of a court and its judgment. While they may constitute its decision and amount to a rendition of a judgment they are not the judgment itself. They amount to nothing more than an order for judgment, which, of course, must be distinguished from the judgment." (Freeman on Judgments, Vol. I, 5th Edition, page 6).

Settled is the rule in this jurisdiction that what can be the subject of execution is that which is ordained or decreed in the dispositive part of the decision. In the case of *Rosario Neri Edwards, et al., vs. Jose Arce, et al.*, 98 Phil. 688, 692, this Court said;

"... In fact, the only portion of the decision that became the subject of execution is what is ordained or decreed in such dispositive part. Whatever may be found in the body of the decision can only be considered as part of the reasons or conclusions of the court and while they may serve as guide or enlightenment to determine the ratio decidendi, what is controlling is what appears in the dispositive part of the decision"[5]

It appearing that the dispositive part of the decision in question does not ordain or decree that appellee Concepcion Kapunan de Salcedo should pay appellant Alipio N. Casilan the sum of P6,500.00 with legal interest, the court a quo committed no error when it denied said appellant's motion for a writ of execution against the properties of appellee Concepcion Kapunan de Salcedo.

WHEREFORE, the order of the Court of First Instance of Leyte in its Civil Case No. 340, dated November 14, 1963, which is appealed from, is affirmed, with costs against plaintiff-appellant Alipio N. Casilan.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] *Juanita Kapunan, et al., vs. Alipio N. Casilan, et al.*, G.R. No. L-8178, October 31, 1960.

[2] Underscoring supplied.

[3] As quoted from the prayer of the motion; pp. 15-16, Record on Appeal.

[4] As quoted from the Opposition; p. 17, Record on Appeal.

[5] See also Philippine Sugar Institute vs. Court of Industrial Relations, et al., L-18930, February 28, 1967, and the cases cited therein; Magdalena Estate, Inc. vs. Caluag, L-16250, June 30, 1964; Castillo, et al., vs. Nagtalon, L-17079, January 29, 1962, and the cases cited therein.

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