

HEIRS OF JUAN PRESTO AND JUAN ARCEMO, PLAINTIFFS-APPELLANTS, VS. EREBERTO GALANG, DEFENDANT-APPELLEE.

G.R. No. L-45629. August 31, 1977

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is an appeal from a decision of the Court of First Instance of Oriental Mindoro, Branch II, rendered in civil case R-438, certified to Us by the Court of Appeals on the ground that the same involves solely a question of law.

The record of the case bears out the following incidents:

Sometime on February 14, 1959, the municipal court of Mansalay, Oriental Mindoro, rendered a decision in civil case No. 30 of said court entitled "Juan Presto and Juan Arcemo, plaintiffs, versus Ereberto Galang, et al., defendants" for "Forcible Entry and Detainer" concerning two parcels of agricultural land situated at Sitio Panulong, Barrio of Dipolog, municipality of Mansalay, Oriental Mindoro, the dispositive portion of which judgment reads as follows:

"IN VIEW OF THE FOREGOING, this Court renders judgment in favor of the plaintiffs and against the defendant Ereberto Galang, ordering the said defendant to vacate the land in question; pay the plaintiffs the aggregate sum of ONE THOUSAND FOUR HUNDRED EIGHTY FIVE PESOS (P1,485.00), Philippine Currency annually from May, 1953, as a reasonable value of the use of the land in question annually, including the value of the produce of the same annually; and said defendant to pay the costs." (p. 8, CFI record)

This decision of the municipal court was appealed by Ereberto Galang to the Court of First Instance of the province which was docketed therein as civil case R-842.

On May 13, 1968, the Presiding Judge of the Court of First Instance of Pinamalayan, Oriental Mindoro, Pascual M. Beltran, issued an "Order of dismissal" dismissing said civil case R-842, and We quote:

"Upon calling this case for pre-trial and trial today, counsels of both parties, Atty. Edgardo Acheron for the plaintiffs and Atty. Tomas Matol for the defendants, appeared. Atty. Acheron manifested in open court his motion for the dismissal of this case on the ground that actually there is a pending administrative case on the same land in question between the same parties and that it is preferable for the plaintiffs to desist from prosecuting this case and continue with the administrative case for the determination of right of ownership and possession over the land in litigation. Atty. Matol for the defendants, likewise, joined the motion of the counsel for the plaintiffs by conforming to the dismissal of this case without pronouncement as to damages and costs.

"WHEREFORE, the joint motion of both parties through counsels to dismiss this case without pronouncement as to damages and costs is hereby approved and granted.

"This case is hereby dismissed without damages and costs.

"IT IS SO ORDERED.

"At Roxas, Oriental Mindoro, May 13, 1968.

"(SGD.) PASCUAL M. BELTRAN

Judge "

(p. 22, *ibid*)

On August 1, 1975, the heirs of Juan Presto who was one of the plaintiffs in the abovementioned forcible entry and detainer case and the other plaintiff, Juan Arcemo, filed with the municipal court of Mansalay the present action for "Execution of Judgment" against Ereberto Galang (civil case No. 96) praying that the decision of said court in civil case No. 30 (quoted in pages 1 & 2 of this Decision) be ordered executed inasmuch as it had long become final and executory. (pp. 7 & 8, CFI record)

Summons having been served in civil case No. 96 on defendant Ereberto Galang, the latter, thru counsel, filed a "Motion to dismiss" the complaint principally on the ground that

"The judgment sought for execution has been vacated and rendered without legal effects by the order of dismissal in civil case No. R-842 of the Court of First Instance dated May 13, 1968." (p. 19, CFI record)

The plaintiffs therein filed their opposition to the motion to dismiss claiming *inter alia* that the decision of the municipal court in civil case No. 30 is subsisting, final and executory and may be ordered executed under the provisions of Section 9, Rule 40 of the Rules of Court which provides:

"Effect of appeals.- A perfected appeal shall operate to vacate the judgment of the justice of the peace or the municipal court, and the action shall stand for trial *de novo* upon its merits in accordance with the regular procedure of that court, as if the same had never been tried before and had been originally there commenced. If the appeal is withdrawn, or dismissed for failure to prosecute, the judgment shall be deemed revived and shall forthwith be remanded to the Justice of the Peace or Municipal Court for execution." (p. 31, CFI record)

The municipal court found the motion to dismiss meritorious and accordingly dismissed the complaint for execution of judgment. (p. 33, *ibid.*)

The foregoing order of dismissal of the municipal court was appealed to the Court of First Instance and was docketed therein as civil case 438. (pp. 34-35, *ibid.*) On April 26, 1976, Judge Ildefonso M. Bleza rendered his decision affirming the order of dismissal. (pp. 36-37, *ibid.*) A reconsideration having been denied, said decision was elevated to the Court of Appeals, and the latter, as stated earlier, certified to this Court the appeal.

We find no reversible error in the decision of the trial court under review.

Appellants cannot claim that with the order of dismissal of May 13, 1968 of civil case R-842 by the Court of First Instance of Pinamalayan, Oriental Mindoro, the decision of the municipal court of Mansalay in the forcible entry and detainer case is revived and can be the subject of a writ of execution. Appellants fail to consider that it was not the appeal of defendant Ereberto Galang in said forcible entry and detainer case which was dismissed by Court of First Instance Judge Pascual M. Beltran, but that it was the case itself, on the basis of a motion of counsel for the plaintiffs Juan Presto and Juan Arcemo. The order of dismissal of Judge Beltran expressly states that the parties agreed to desist from prosecuting the forcible entry and detainer case and instead to continue with the administrative case then pending for the determination of the right of ownership and possession over the land in litigation; hence, the order dismissing the case. With the consequent dismissal of the forcible entry and detainer case, the contending parties remained in the same standing or status as they were prior to the filing of said civil case 30 with the municipal court of Mansalay.

It is a settled rule that for purposes of execution of a judgment, it is the dispositive part of the decision which

controls.[1] However, where there is ambiguity or uncertainty, the body of the opinion may be referred to for purposes of construing the judgment because the dispositive part of a decision must find support from the decision's ratio decidendi.[2]

In the case now before Us, there is actually no ambiguity in the dispositive portion of the order of Judge Beltran, but even if there is, the body of the order of dismissal sufficiently dispels such ambiguity. The ratio decidendi of the dismissal of the forcible entry and detainer case is clear on this, and We will repeat:

"x x x Atty. Acheron manifested in open court his motion for the dismissal of this case on the ground that actually there is a pending administrative case on the same land in question between the same parties and that it is preferable for the plaintiffs to desist from prosecuting this case and continue with the administrative case for the determination of right of ownership and possession over the land in litigation. Atty. Matol for the defendants, likewise, joined the motion of the counsel for the plaintiffs by conforming to the dismissal of this case without pronouncement as to damages and costs." (p. 22, CFI record)

The above statements give the reason for the dismissal of the forcible entry case and conclude the matter before Us. There is no decision in the forcible entry case which can be executed. The judgment of the municipal court against Ereberto Galang was vacated upon appeal by the latter to the Court of First Instance and upon the latter's dismissal of the case (not the appeal), that dismissal did not revive the judgment of the municipal court. *Cadit quaestio* - the matter admits of no further argument.

ACCORDINGLY, this appeal is dismissed and the Decision of the Court of First Instance of Oriental Mindoro rendered in civil case R-438 dismissing appellants' complaint for "execution of judgment" is affirmed. With costs against plaintiffs-appellants.

So Ordered.

Teehankee, (Chairman), Makasiar, Martin, Fernandez, and Guerrero, JJ., concur.

[1] *Casilan vs. De Salcedo, et al.*, Jan. 31, 1969, 26 SCRA 744 citing *Neri Edwards, et al. vs. Jose Arce, et al.*, 98 Phil. 688; *Romero Sr., et al. vs. Court of Appeals, et al.*, July 30, 1971, 40 SCRA 172; *Castillo et al. vs. Nagtalon et al.*, Jan. 29, 1962, 4 SCRA 48; *Robles vs. Timario*, April 28, 1960, 107 Phil. 809.

[2] *Filipino Legion Corporation vs. Court of Appeals, Lentija, et al.*, April 30, 1974, 56 SCRA 674, 690, citing *Morelos vs. Go Chin Ling, et al.*, 105 Phil. 814, 818, and others.

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