

VALENTINA ZAMORA AND BONIFACIO DIONES, PLAINTIFFS AND APPELLEES, VS. TOMAS MEDRAN ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. L-3777. October 31, 1951

Ponente: BENGZON, J.

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BENGZON, J.:

Way back in November, 1945, the court of first instance of Mindoro rendered in these two cases, a judgment the dispositive part of which reads as follows:

"For all the foregoing considerations, the Court declares that Tomas Medran is the real owner of the 2-1/2 hectares of land marked Exh. 5-Medran in the plan Exh. A-Diones; he had been in possession as owner, continuously .since 1913 until he was interrupted by means of force by Bonifacio Diones in the month of May, 1941; that the judgment of the Justice of the Peace of Pinamalayan (Exh. A-Medran, page 7, Civil Case-No, 613) is hereby affirmed, ordering Bonifacio Diones to vacate the land wrongfully occupied by him and to return the same to Tomas Medran. Bonifacio Diones is further ordered to pay Tomas Medran the sum of P1,000 as damages and the costs of these two cases, Civil Cases Hoc. 61 and 883, respectively."

Due to dilatory steps taken by Bonifacio Diones the judgment could not be enforced until December 1949 when upon petition of Tomas Medran, the clerk of court issued an order of execution which included not only the sum of P1,000 as damages and the sum of P89.52 as costs, but also interest at six per cent from May 17, 1941.

Objecting to the payment of interest upon the ground that the judgment does not include it, the defendant Diones deposited the total sum of P1,089.52 with the clerk of court, and by appropriate motion raised the question of his liability to pay interest. After hearing both parties, the court of first instance of Mindoro upheld the objection of the defendant Diones. Hence this appeal by Tomas Medran, which we find to be unmeritorious, because the judgment under execution failed to provide for interest whether rightly or wrongly we do not need to inquire. There is no statute directing that in the execution of judgments for money, legal interest shall necessarily be collected.

"* * * The writ (of execution) should not require the collection of interest when the judgment on which it is issued does not give it, and interest is not allowed by statute. This has been held to be the rule even where interest on judgments is allowed by statute, if the judgment does not include it." C.J.S. Execution p. 216 citing several decisions.

The above doctrines seem to adapt themselves to our procedural system, inasmuch as the practice here is that the writ of execution must conform to the judgment which is to be executed (*Velez vs. Martinez* 63 Phil. 231) the dispositive part of the judgment furnishing guidance to the sheriff, so that when such dispositive part requires defendants to pay jointly, it will be so enforced even if the body of the decision quoted the contract on which the judgment was predicated and such contract specifies txsb defendants' solidary obligation. *Government vs. Vasquez* 1 Of. Gaz. No. 12 p. 57&, *Moran*,. Rules of Court, 3rd Ed. Vol. 1 p. 725. See also *Contreras vs. Felix* 44

Of. Gaz. 4306.

The cases cited by the appellant, to wit, *Montilla vs. Augustinian Corporation* 25 Phil. 447, *Lichauco vs. De Guzman* 38 Phil. 232 and *Seton Donna y. Inouye* 40 Phil. 728 are not applicable.

Rule 53 sec. 6 provides that "when the judgment rendered by the Court of Appeals is upon an interest-bearing claim, it shall bear the same rate of interest; when upon a non-interestbearing claim, it shall bear the legal rate of interest."

This is obviously a principle of adjudication to be followed by the Court of Appeals (and by this Court) in rendering judgments on appeal. It is not a self-executing regulation. Anyway supposing it is self-executing, we are not now enforcing a decision of appellate courts, and therefore the section has no application.

The appellant invokes sec. 8 of Rule 39 of the Rules of Court, the pertinent portion of which directs that the execution "must require the sheriff to satisfy the judgment with interest out of the personal property of the debtor, and if sufficient personal property can not be found, then out of his real property." This rule however merely outlining the procedure to be adopted by the sheriff says in effect that the judgment with interest—if any has been ordered—must first be satisfied out of personal property. It is not a directive for collection of interest on all judgments. For one thing it does not specify for what period of time such interest shall be assessed.

The appealed order will be affirmed with costs.

Paras, C.J., Feria, Pablo, Padilla, Tuason, Reyes, Jugo and Bautista Angelo, JJ., concur.

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