

MARIANO A. ALBERT, PLAINTIFF AND APPELLEE, VS. UNIVERSITY PUBLISHING CO., INC., DEFENDANT AND APPELLANT.

G.R. No. L-15275. October 24, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal by defendant from the order of the Court of First Instance of Manila for the issuance of a writ of execution ordering it to pay plaintiff through the administrator of the intestate estate of Mariano A. Albert, the sum of P15,000.00, plus legal interests thereon from filing of the complaint until fully paid and P22.00 as costs.

It appears that for the sum of P30,000.00 to be paid in 8 quarterly installments, plaintiff agreed to write a manuscript for defendant and deliver it on or before December 31, 1948. Defendant defaulted after having paid P7,000.00, so plaintiff sued for the balance of P23,000.00. Defendant claimed that plaintiff failed to deliver the manuscript on time. However, the Court of First Instance of Manila, finding that defendant had breached the contract, ordered it to pay plaintiff P23,000.00 (Civil Case No. 9267). On appeal, this Court reduced the damages to P15,000.00, and with this modification affirmed the lower court's decision (G R. No. L-9300, April 18, 1958). Plaintiff having moved for execution upon finality of the decision, the trial court issued the order now subject of appeal.

Defendant claims that it should be made to pay only P8,000.00, arguing that the P7,000.00 it had previously paid to plaintiff must be deducted from the P15,000.00 which this Court ordered it to pay.

Defendant's stand is untenable. For breach of contract, the trial court found defendant liable to plaintiff for liquidated damages of P30,000.00, deducted from this the P7,000.00 and, in the dispositive part of its decision, ordered defendant to pay plaintiff "P23,000.00 with legal interest from the date of the filing of the complaint until the whole amount shall have been fully paid." In equitably reducing the liquidated damages to P15,000.00, this Court had already taken into consideration the fact that the trial court had deducted the P7,000.00 from the amount of P30,000.00. The same P7,000.00 cannot be deducted a second time from the P15,000.00 liquidated damages awarded by this Court, it having been previously deducted in arriving at the amount of P23,000.00. Defendant's appeal was from the judgment ordering it to pay P23,000.00, the very amount which was reduced by this Court to P15,000.00.

This being the sole modification made on the lower court's judgment, defendant should, therefore, pay legal interests from the filing of the complaint until it pays in full the amount of P15,000.00.

Wherefore, the appealed order is affirmed with costs.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, and Paredes, JJ., concur.

Order affirmed.

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