

NATIONAL MARKETING CORPORATION (NAMARCO), JOVENAL ALMENDRAS PETITIONERS, VS. HON. GAUDENCIO CLORIBEL, IN HIS CAPACITY AS DIS-TRICT JUDGE OF THE COURT OF FIRST INSTANCE OF MA-NIL...

G.R. No. L-27260. August 08, 1968

Ponente: DIZON, J.

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DIZON, J.:

Before Us now is a motion for reconsideration or clarification filed in due time by respondents based on the following grounds:

"1. The Court erred in resolving the question presented before it in this special civil action by ruling on the correctness, as a matter of law, of the summary judgment rendered by the respondent Judge. The summary judgment of the lower court is not in issue in this case, for the reason precisely that it is the subject of the appeal filed by petitioners with this Court in G. R. N. L-27441.

"2. Assuming, arguendo, that the present controversy cannot be resolved without deciding the merits of the summary judgment rendered by the respondent court, justice and fair play demand that the factual and evidentiary basis supporting the summary judgment should have been taken to account. This basis may be found in the records of G. R. No. L-27441, and this basis, we submit, supports in law the decision of the lower court.

"In the alternative that this Court finds it neither necessary nor appropriate to recon-sider its decision in this case, respondents respectfully pray for clarificatory judgment holding that its resolution of the question presented in this case is without prejudice to, and does necessarily foreclose, the merits of the controversy involved in G. R. No. L--27441."

In our decision promulgated on April 29, 1968 We held, among other things, that the respondent court had erred: (1) in admitting the amended complaint filed in Civil Case No. 64696 because it resulted in transforming the original special civil action for mandamus into an ordinary civil action for specific performance; (2) in rendering, on motion of VILTRA, a summary partial decision inspite of the fact that in the answers filed by the de-fendants they had assailed the contract which VILTRA sought to enforce as not having been duly perfected, and as one against public policy, and on the further ground that VILTRA itself had committed a breach of its obli-gations thereunder.

In connection with the foregoing, We also made the following observations -

"It is obvious, therefore, that the amended pleading, which changed the very nature of the action, was clearly intended to correct VILTRA's error in instituting a special civil action for mandamus to enforce contractual obligations, and that the partial decision summarily rendered by the respondent judge under the irregular circumstances des-cribed above was intended to replace the un-warranted preliminary writ of mandatory in-junction issued by him before the filing and admission of the last amended complaint.

"With regards to the rendition of the summary partial decision, it is clear that the same was irregular because in both answers filed by NAMARCO - one to the first amended complaint for mandamus, and the other to the last or second amended entitled 'For Specific Performance and Damages' - the illegality and unenforceability of alleged contract between VILTRA and NAMARCO - on both legal and factual grounds - was duly raised. Consequently, it was, to say the least, im-provident to issue preliminary mandatory injunction for its performance, or rendered partial judgment precisely requiring compliance with one of its essential features or stipulations. Having arrived at this conclusion, It follows that the several writs issued by the respondent judge for its execution are likewise irregular and void."

Upon the above premises We issued the writs of certiorari and prohibition prayed for in the verified petition filed by petitioners herein.

The allegation made in the motion before Us to the effect that We had erroneously ruled "on the correctness, as a matter of law, of the summary judgment rendered by the respondent judge" in spite of the fact that said judgment was not in issue, is based upon an apparent misapprehension of the meaning of our decision. We say in this connection that We did not rule on the merits of said decision. In other words We did not hold that it was correct or otherwise. What We said was this: that the validity of the contract sought to be enforced by action having been raised as an issue on factual as well as legal grounds, the respondent court was not in a position to render a summary judgment. Moreover, if the summary judgment which said court rendered was the one provided for in Rule 36 of the Rules of Court, the facts of record clearly show that the requirements thereof were not complied with.

The second point raised in the motion for reconsideration is virtually resolved by what We have said heretofore. As We did not decide "the merits of the summary judgment" already referred to, there is no need to consider - as respondents pray - the alleged "factual and evidentiary basis" supporting the same.

As to the alternative prayer "for clarificatory judgment" to make it clear that neither our decision nor our resolution of the pending motion for reconsideration "is without prejudice to x x x the merits of the controversy involving G. R. No. L-27441", We believe that nothing further need be said except this: that our decision and the present resolution do not in any way decide the question of whether or not the contract which VILTRA seeks to enforce against NAMARCO was perfected, and if it was, whether or not it is valid and binding contract.

PREMISES CONSIDERED, the motion for reconsideration is denied but our decision is clarified as above set forth.

Concepcion, C.J., Reyes, Makalintal, Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.

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