

FORTUNATO HALILI, PLAINTIFF-APPELLANT, VS. MARIA LLORET AND RICARDO GONZALES LLORET AS ADMINISTRATOR OF THE ESTATE OF THE LATE FRANCISCO GONZALES, DEFENDANTS-APPELLANTS.*G.R. No. L-20218. August 08, 1967*

Ponente: MAKALINTAL, J.

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The present case involves the implementation of the judgment of this Court in G. R. No. L-6306, promulgated May 26, 1954, ordering defendant Ricardo Gonzales Lloret to pay plaintiff Fortunato Halili "the sum of P100,000 which should be adjusted in accordance with the Ballantyne scale of values."

Execution of the judgment was first sought by plaintiff on July 15, 1957. Defendant opposed, alleging that the judgment was incomplete since it did not specify the date on which the Ballantyne scale should be applied. The trial court stayed execution and suggested that plaintiff have the matter clarified. Accordingly he filed a motion for that purpose before this Court, but it was denied on the ground that the judgment had already become final. The proceedings continued below, where an order was issued on September 6, 1958, sustaining plaintiff's contention that the conversion into Philippine currency of the amount awarded in the judgment should be according to the scale of values in June 1944. Upon motion for reconsideration by defendant, however, the order was modified on October 24, 1958, adopting the scale as of August 1944. Under the previous order the amount stated in the judgment is equivalent to P6,666.33; under the amendatory one it is equivalent to P4,000.00.

Both parties appealed. Plaintiff insists on June 1944 as the material conversion period; defendant says it should be January 1945, when the converted value was only P833.33.

The 1954 decision of this Court reveals the following pertinent facts: The sum of P100,000 awarded therein represents a partial payment or deposit made by plaintiff to defendant Gonzales Lloret on six parcels of land owned by the intestate estate of which the latter was administrator, which were the subject of negotiations for their sale wherein plaintiff, as prospective vendee, was represented by Attorney Teofilo Sauco. The check for said amount was delivered to Gonzales Lloret in June 1944 and deposited by him to his bank account forthwith. The negotiations, however, fell through before the contract of sale could be perfected, and suit for recovery was commenced after the war, culminating in the judgment now sought to be implemented.

We believe that the issue was resolved correctly by the court a quo in its amendatory order of October 24, 1958. Our decision in the main case is clear enough when it said:

"According to the evidence, when the transaction was called off because of the failure of Sauco to appear on the date set for his last conference with Lloret, the latter attempted to return the said amount to Sauco on August 2, 1944, who declined to accept it on the pretext that he had another buyer who was willing to purchase the lands for the sum of P500,000 and that if that sale were carried out Lloret could just deduct that amount from the purchase price. That offer to return, in our opinion, cannot have the effect of relieving Lloret from

liability. His duty was to consign it in court as required by law. His failure to do so makes him answerable therefor to the plaintiff which he is now in duty bound to pay subject to adjustment under the Ballantyne Scale of Values."

The duty to make the consignment in court arose when the offer to return the money was not accepted - which was in August 1944; and it was defendant's failure to perform that duty that made him "answerable to plain-tiff," the precise extent of his liability to be sub-ject to adjustment under the Ballantyne Scale of values. In other words it was the liability as of that time - August 1944 - that should be adjusted. In June 1944 no liability had yet attached and so the conversion rate as of that month cannot be applied. On the other hand, it would have been unjust and inequitable for defendant to wait (as he now says he could have done) until January 1945 before making the consignment of the money in court, knowing as he did that the Japanese war currency was fast depreciating in value and considering that, after all, defendant may be presumed to have used and benefited from that money in August 1944, when it was worth considerably more than in January 1945.

The order appealed from is affirmed, without pronouncement as to costs.

Reyes, J.B.L., Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on leave.

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