

**MUTUAL SECURITY INSURANCE CORPORATION, PETITIONER, VS.
HON. COURT OF APPEALS, REMEDIOS M. ALLAS AND CIPRIANO S.
ALLAS, RESPONDENTS.***G.R. No. L-47018. September 11, 1987*

Ponente: FELICIANO, J.

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On 8 May 1965, Petitioner Mutual Security Insurance Corporation (hereafter "Mutual") put up a counterbond in the amount of P55, 000.00 in favor of Manila Investment Co. Inc., for the dissolution of a writ of attachment issued by the Court of First Instance of Manila in a collection suit[1] against Manila Investment. On or about that same date, in consideration of Mutual's putting up the counterbond, an indemnity agreement was executed by Manila Investment and respondent Cipriano Alias where the latter signed not only as President of Manila Investment but also in his personal and individual capacity. Under this agreement, the indemnitors bound themselves jointly and severally to indemnify Mutual whatever it might incur or suffer by virtue of issuance of the counterbond. Manila Investment lost in that collection case and being unable to pay the amount of the judgment, petitioner Mutual paid the judgment debt in the sum of P55, 000.00. When the indemnitors, despite several demands, failed to reimburse Mutual, the latter commenced an action on 4 May 1967 in the Court of First Instance of Manila against Cipriano Allas and his wife Remedios M. Allas to enforce the indemnity Agreement and sought attachment of the spouses' conjugal properties.

In her answer to the complaint, Remedios Allas alleged that she was not a party to the indemnity agreement and had no knowledge thereof; that whatever obligation her husband had incurred in said indemnity agreement was his personal obligation for which the conjugal properties could not be held liable. Respondent Cipriano Alias, on the other hand, alleged that his obligation to Mutual had already been extinguished by a compromise agreement.

On 26 July 1968, the Court of First Instance of Manila, then presided over by Judge Arsenio Solidum, rendered its decision[2] finding respondent Cipriano alone liable under the indemnity agreement and, accordingly, dismissing the complaint with respect to respondent Remedios upon the grounds that she was not a party to the indemnity agreement and that "there was absolutely no evidence that the obligation contracted by her husband and co-defendant - was for the benefit of the conjugal partnership, consequent[ly] she cannot be held personally liable therefore." The dispositive part of said decision read as follows:

"IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered ordering defendant Cipriano Allas to pay to the plaintiff, Mutual Security Insurance Corporation, the sum of P55, 000.00, with interest thereon at the rate of 12% per annum from the dates of payment of said amount by plaintiff to Antonio V. Fernandez in Civil Case No. 29356, plus 15% thereof as attorney's fees, and the costs of the suit.

The complaint with respect to the other defendant, Remedios Allas, dismissed without costs."

From the above decision, only respondent Cipriano Allas appealed to the Court of Appeals, which appeal was docketed as CA-G.R. No. 43278-R.

Petitioner Mutual in the meantime moved for the execution of the trial court's decision, which motion was granted by the trial court in its order of 14 September 1968. Respondent Cipriano moved for the reconsideration of this order while his wife and co-respondent Remedios, in a separate motion, prayed that execution of the decision rendered by Judge Solidum be issued only against her husband's personal or separate property and not against their conjugal partnership properties. Both motions were resolved by the trial court by an order dated 28 September 1968 denying respondent Cipriano's motion for reconsideration while granting that of respondent Remedios by ordering that the writ of execution be specifically issued against her husband's personal and separate properties only.

On 24 March 1976, the Court of Appeals[3] rendered its decision in CA-G.R. No. 43278-R affirming the decision of the trial court. Respondent Cipriano thereafter brought a petition for review on certiorari of this decision before this Court. The petition was denied due course by this Court's resolution of 20 August 1976. Cipriano's motion for reconsideration, was likewise denied and the denial was made final by resolution dated 20 October 1976.

On 3 January 1977, petitioner Mutual moved for the immediate execution of the trial court's decision. Respondent Remedios again filed a motion praying that their conjugal properties be specifically excluded from execution and that the writ of execution be issued instead against the separate properties of her husband and co-respondent Cipriano.

On 22 February 1977, the Court of First Instance of Manila, this time with Judge E.L. Peralta presiding, granted petitioner Mutual's motion for execution and denied the motion of respondent Remedios. The dispositive part of the order read as follows:

"PREMISES CONSIDERED, let a writ of execution issue against such property of Cipriano Alias as is not exempt from execution, including his interest in the assets of his conjugal partnership with his wife Remedios Alias which are not exempt from execution, provided that the writ shall be enforced against the assets of said partnership only should the private property of Cipriano Alias be insufficient to satisfy the judgment, and provided, further, that no prior lien in respect the debts under Article 161 of the Civil Code are subsisting. The writ shall contain the foregoing proviso and the officer implementing it shall strictly comply with its terms. x x x"[4] (Underscoring supplied)

Remedios Allas asked for reconsideration of the order urging that the levy on the conjugal properties was null and void not being in conformity with the decision rendered by Judge Solidum, which had long become final and executory. In an order dated 25 April 1977, Judge Peralta denied Remedios' motion for reconsideration and directed the issuance of a writ of execution enforceable against the leviable assets of Cipriano Allas and those of his conjugal partnership with his wife Remedios.

On appeal by respondent Remedios, the Court of Appeals rendered a decision[5] on 25 August 1977 setting aside the two orders of Judge Peralta issued on 22 February 1977 and 25 April 1977 respectively. The dispositive portion of the Court of Appeals' decision read as follows:

"WHEREFORE, the writ prayed for is hereby granted. The orders of the respondent Court dated February 22, 1977 and April 25, 1977 are set aside. In the issuance of writs of execution satisfy the judgment against Cipriano Allas in Civil Case No. 69389, no levy shall be made on the conjugal partnership properties of said defendant and his spouse Remedios M. Allas. The restraining order issued May 23, 1977 is made a permanent injunction. No costs."

Hence, the present petition for review on certiorari assailing the above decision of the Court of Appeals.

The petition is clearly without merit.

By issuing the two (2) questioned orders, Judge Peralta, as correctly pointed out by the Court of Appeals,

"(did) not merely implement a final decision of his court. The major portions of the two questioned orders of [Judge Peralta] are dedicated to justifying why the conjugal properties of Cipriano Allas and Remedios Allas should answer for obligations incurred by the husband in his regular business. [Judge Peralta] discusses Articles 161 and 163 of the Civil Code, cites Professor Tolentino on how the conjugal property answers even for debts incurred before marriage, and analyzes cases on the liability of the conjugal partnership for debts incurred by the husband. He is rewriting the lower Court's decision. The non-liability of conjugal properties which was already decided in 1968 has been reopened and relitigated in 1977. x x x What private respondent asked and what respondent Judge granted was a correction of the lower Court's 1968 decision and rulings that the conjugal properties should not answer for the obligation." [6]

The two questioned orders, in effect, made respondent Remedios, in respect of whom the complaint had been dismissed, and the conjugal partnership, liable for an obligation for which the respondent husband alone had been held answerable. This kind of amendment obviously entailed a very substantial modification of a judgment which had long become final and executory. The law in this jurisdiction is that once a decision becomes final, even the court which rendered it cannot lawfully alter or modify the same, especially when, as in this case, the alteration or modification is material or substantial. This rule is peremptory even if the judgment is erroneous in the view of the judge looking back at it. As this Court held in *Maramba vs. Lozano*: [7]

"a decision which has become final and executory can no longer be amended or corrected by the court except for clerical errors or mistakes and however erroneous it may be, cannot be disobeyed, otherwise, litigations would be endless and no questions could be considered finally settled."

Moreover, it is elementary that the writ of execution must conform to the judgment which is to be executed and that where the writ of execution is not in harmony with and exceeds the judgment which gives it life, the writ has pro-tanto no validity. [8]

In seeking, however, to justify the orders in question, Mutual argued that what was amended was not the trial court's decision of 26 July 1968 but its subsequent interlocutory order which granted petitioner's motion for execution pending appeal; that the dispositive portion of the decision sought to be executed did not prohibit execution of the decision against the conjugal partnership properties and that, respondent Remedios must bear the consequences of not having filed a motion for clarification of the decision rendered by Judge Solidum.

Mutual's above argument was correctly rejected by the respondent appellate court:

"[t]he power of the lower court to control its interlocutory orders and to modify or amend the same is subject to the condition that said orders must conform to the decision being enforced. A decision which had long become final and executory cannot be further amended or changed through the simple expedient of issuing interlocutory orders contrary to it." [9]

Mutual also contended that Judge Solidum's finding that there was absolutely no evidence that the transaction contracted by respondent Cipriano was for the benefit of the conjugal partnership, was simply a statement of fact in the body of the decision and that, since in the dispositive portion of the decision, nothing was said with respect to the liability of the conjugal partnership, a subsequent order making the said partnership liable was proper. We find no discrepancy whatsoever between the findings of fact and the dispositive portion of Judge Solidum's decision. And if there were any ambiguity or uncertainty in the dispositive portion thereof, the body of the opinion may be referred to for purposes of construing the dispositive part of the judgment. The dispositive part of the decision must find support in the body of the decision spelling out the ratio decidendi [10].

In any case, as the respondent appellate court carefully demonstrated, the liability of the conjugal partnership of

Cipriano and Remedios Allas had been squarely put in issue by Remedios and expressly passed upon by Judge Solidum both in his decision where he held that -

--- "there is absolutely no evidence that the obligation contracted by her husband and co-defendant Cipriano Alias --- was for the benefit of the conjugal partnership: consequent[ly] she cannot be held personally liable therefor."

and in his order of 28 September 1968:

"As regards the motion of the defendant, Remedios Alias, to the effect that the writ of execution against her co-defendant, Cipriano Alias, be enforced only against his personal or separate property and not against the conjugal partnership inasmuch as his right therein is merely inchoate in the sense that pending the liquidation of said conjugal partnership he does not have absolute right in the property and considering the manifestation of counsel for the plaintiff that he is agreeable that said writ of execution be only limited to the separate property of defendant Cipriano Alias, the said writ should be executed only against the separate property of the defendant, Cipriano Allas, and not against whatever right he may have in the conjugal partnership."

WHEREFORE, the Resolution of this Court dated 18 January 1978 giving due course to the petition for review on certiorari is withdrawn and the petition for review is DENIED, and the decision of the Court of Appeals dated 25 August 1977 is hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Fernan, (Chairman), Bidin and Cortes, JJ., concur.
Gutierrez, J., no part, penned CA decision.

[1] Civil Case No. 29356 entitled "Antonio Fernandez vs. Manila Investment Co., Inc."

[2] Rollo, pp. 26-32.

[3] Rollo, pp. 34-42.

[4] Rollo, pp. 46-55.

[5] Rollo, pp. 64-80; C.A.-G.R. No. SP-06674-R; Gutierrez, Jr., J. ponente; de Castro and de la Fuente, JJ., concurring.

[6] Decision, pp. 12-13; Rollo, pp. 75-76; Underscoring supplied.

[7] 20 SCRA 474 (1967); see also *Pariscal vda. de Emmas v. Emmas*, 95 SCRA 47(1980); *Heirs of Patriaca v. CA*, 124 SCRA 413; *Nieva v. Manila Banking Corporation*, 124 SCRA 453 (1983); and *Lonzame v. Amores*, 134 SCRA 386, at 393-394 (1985).

[8] *Bank of Philippine Islands v. Green* 48 Phil. 284 at 287 (1925).

[9] Decision, p. 7; Rollo p. 70.

[10] *Filipino Legion Corporation vs. Court of Appeals, and Lentiga, et al.*, 56 SCRA 674 at 690 (1974) citing *Morales vs. Go Chin Ling*, 105 Phil. 814 at 818 (1959).

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