

**JUAN PALACIOS, ADMINISTRATOR OF THE ESTATE OF THE
DECEASED JOSEFA AGUIRRE, PETITIONER, VS. IÑIGO S. DAZA,
JUDGE OF FIRST INSTANCE OF BATANGAS, AND THE PROVINCIAL
GOVERNMENT OF B...**

G.R. No. L-61. October 16, 1945

Ponente: PERFECTO, J.

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PERFECTO, J.:

The Provincial Government of Batangas instituted expropriation proceedings against Josefa Aguirre. On August 28, 1940, the Court of First Instance of Batangas rendered a decision, fixing the amount plaintiff should pay Josefa Aguirre for the expropriated land. On August 26, 1941, a writ of execution was issued for the collection of said amount. The writ was still not complied with when the last global war broke out.

On July 24, 1945, an alias writ of execution was issued, properties of the plaintiff were attached, and sale at public auction of the same was set for September 15, 1945. On August 21, 1945, plaintiff filed a motion to suspend said alias writ of execution, invoking for said purpose the debt moratorium provided in Executive Order No. 25, issued by the President of the Philippines on November 18, 1944, wherein it is provided:

"III. DEBT MORATORIUM

"1. Payment of all debts and other monetary obligations contracted after December 31, 1941, except debts and other monetary obligations entered into in any area after declaration by Executive Order that such area has been freed from enemy occupation and control, is temporarily suspended pending action by the Commonwealth Government." (41 Off. Gaz., No. 1, pp. 48, 50, April, 1945.)

There presentation of defendant opposed the motion, alleging that the debt sought to be satisfied by the writ of execution was contracted on August 28, 1940, and, therefore, not within the terms of Executive Order No. 25, which only affect debts and other monetary obligations contracted after December 31, 1941.

On August 28, 1945, respondent Judge suspended the effects of the writ of execution issued on July 24, 1945, until the appropriate time would arrive, invoking as authority Executive Order No. 25.

Petitioner, as administrator of the intestate estate of Josefa Aguirre, seeks to annul the said order of respondent judge by the petition for certiorari filed in the present case.

At the hearing set for October 15, 1945, nobody appeared to argue orally.

The discussions in all the pleadings filed in this case revolve on the applicability of Executive Order No. 25. No party mentioned the fact that the same, with respect to debt moratorium, has been amended by Executive Order No. 32, issued by the President of the Philippines on March 10, 1945, in which the pertinent part reads as follows:

"in. DEBT MORATORIUM

"1. Enforcement of payment of all debts and other monetary obligations payable within the Philippines, except debts and other monetary obligations entered into in any area after declaration by President Proclamation that such area has been freed from enemy occupation and control, is temporarily suspended pending action by the Commonwealth Government." (41 Off. Gaz., No. 1, p. 56, April, 1945.)

Although it appears evident that the debt contracted by the Provincial Government of Batangas in the expropriation proceedings was "contracted before December 31, 1941, and therefore does not fall under the debt moratorium provision of Executive Order No. 25, it is covered, however, by the terms of Executive Order No. 82, which eliminated the time limit fixed in the former as starting point for reckoning affected debts and other monetary obligations." We conclude, therefore, that the order complained of, although invoking erroneously Executive Order No. 25, was well taken by virtue of the provisions of Executive Order No. 32. The suspension shall continue pending action by the Commonwealth Government.

Petition dismissed without costs.

Moran, C, J., Ozaeta, Pards, Jarcmillla, Feria, De Joya, Pablo, Bengzon, and Briones, JJ., concur.

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