

**PABLO V. ZAGALA AND PABLO V. ZAGALA & CO., PETITIONERS,
VS. THE HONORABLE JOSE B. JIMENEZ, IN HIS CAPACITY AS
PRESIDING JUDGE OF BRANCH VI, COURT OF FIRST INSTANCE OF
MANILA, AN...**

G.R. No. L-33050. July 23, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a petition for certiorari and mandamus directly elevated by the petitioners to this Court from the then Court of First Instance (now Regional Trial Court) of Manila. It seeks the review and annulment of the Orders of the respondent judge dated November 7, 1970, denying the petitioners' Motion For Fixing The Peso Value Of Judgment In Dollars And For Issuance Of Writ Of Execution To Enforce The Same, as well as the one dated December 19, 1970, denying for lack of merit the petitioners' Motion For Reconsideration. Also, it prays that the respondent judge be ordered to grant the petitioners' motion for the fixing of the peso equivalent of the judgment in dollars as contained in the decision of the trial court in Civil Case No. 69895, and be compelled to issue the writ of execution to enforce the same judgment.

On June 21, 1967, the petitioners filed with the trial court a complaint for the collection of sums of money allegedly due them from the private respondent. The said complaint was docketed as Civil Case No. 69895. The private respondent filed his answer to the said complaint on January 13, 1968.

One of the causes of action contained in the complaint concerns the collection of a certain amount of money which the private respondent allegedly owes the petitioners as collection agents of Moller & Rothe, Inc. The pertinent parts of the complaint that are material to this case are quoted below, to wit:

"x x x x x x x x

"4. That, on or about October 29, 1964 and December 1, 1965, the defendant ordered from the Moller & Rothe, Inc., New York City, through the plaintiff Company as its Philippine Representative, several rolls of book paper for use in his business, the same to be paid by means of 90-day drafts to be drawn by Moller & Rothe, Inc. against the said defendant;

"5. That, pursuant to the said order, Moller & Rothe, Inc. shipped to the defendant, first, under its Invoice No. 5544 dated March 11, 1965, forty-three (43) rolls of book paper, basis 50 lbs., valued at DOLLARS FOUR THOUSAND THREE HUNDRED ONE AND 94/100 (\$4,301.94) or roughly SIXTEEN THOUSAND EIGHT HUNDRED SIXTY-THREE AND 60/100 (P-16,863.60) PESOS, in Philippine currency, based on the prevailing official rate of P-3.92 to the dollar; and second, under its Invoice No. 6643 dated February 10, 1966, fifty-six (56) rolls of book paper, basis 50 lbs., valued at DOLLARS SIX THOUSAND ONE HUNDRED SIX AND 86/100 (\$6,106.86) or roughly TWENTY-THREE THOUSAND NINE HUNDRED THIRTY-EIGHT AND 89/100 PESOS (P-23,938.89) in Philippine currency, based on the aforesaid official rate of P3.92 to the dollar now prevailing;

"6. That, as above stated the importations made by the defendant were effected on the strength of two 90-day sight drafts drawn on the defendant by Moller & Rothe, Inc. based on the face value of Invoices Nos. 5544 and 6643, and payable to the exporter's depository Banks in New York through their local correspondents, to wit: the Philippine National Bank and the Philippine Bank of Commerce;

"7. That, the two 90-day sight drafts drawn against the defendant by Moller & Rothe, Inc. to cover the importations above mentioned were duly accepted by the said defendant, and the rolls of book paper imported by and shipped to him by the said exporting Company have been duly released to him by the Bureau of Customs and receipt thereof to his satisfaction has long been acknowledged by the defendant;

"8. That the plaintiffs have been duly authorized by Moller & Rothe, Inc. to effect the collection from the defendant of the money value of the importations made by the latter as above stated, in collaboration with the two correspondent banks, namely, the Philippine National Bank and the Philippine Bank of Commerce;

"9. That the ninety-day periods within which the two sight drafts drawn against the defendant should have been paid have long expired, but despite repeated demands made on the defendant by the plaintiffs and the correspondent Banks aforesaid, the said defendant has failed and refused, and up to the present time continues to fail and to refuse to pay his said accounts with the Moller & Rothe, Inc. to the full satisfaction of the latter, and to date the said defendant has paid only the meagre amount of \$1,004.66 leaving an unpaid balance of \$9,404.14 due and unpaid to Moller & Rothe, Inc.;

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"11. That, Moller & Rothe, Inc. has assigned to plaintiff Pablo V. Zagala the credit above-described and it has accordingly executed a deed of assignment in favor of the said plaintiff, photostat copy of which is hereto attached and made an integral part hereof as Annex "A", and the defendant has been duly advised this assignment;

"12. That, as can be seen from the attached deed of assignment there is now due and payable to the plaintiff Pablo V. Zagala as assignee, the total amount of \$9,404.14 or in terms of Philippine currency, at the prevailing rate of P3.92 to the dollar, the amount of P36,864.23, itemized as follows: on Invoice No. 5544, \$3,297.28, or P12,925.34, and on Invoice No. 6643, the amount of \$6,106.86 or P23,938.89 which amounts the defendant has failed to pay to the said plaintiff up to the present time, demands to this effect notwithstanding." [1]

In the prayer of the complaint, the portion which corresponds to the above-quoted cause of action reads —

"P R A Y E R

"WHEREFORE, plaintiffs respectfully pray that after due hearing, judgment be rendered in favor of the plaintiffs and against the defendant, ordering the latter to pay to the former:

1. On the FIRST CAUSE OF ACTION, the amount of U.S. \$9,404.14 equivalent to P36,864.23 at the current exchange rate of P3.92 to the dollar, or the equivalent amount thereof based on the exchange rate officially prevailing at the time of payment, plus interest thereon at nine (9%) percent based and computed in U.S. dollars from the maturity dates of the drafts in question until full payment." [2]

Without entering into any trial on the merits and after the case had been set for pre-trial, the petitioners and the private respondent entered into a Compromise Agreement under date of May 17, 1968. They filed this agreement with the trial court on the same date.

Based on the said Compromise Agreement, the Hon. Jose G. Bautista, who was then the Presiding Judge of Branch VI of the Court of First Instance of Manila, and in whose sala this case was assigned, rendered a decision which is hereby reproduced, thus:

"DECISION

"Plaintiffs filed this suit for a sum of money on June 23, 1967. After answer was filed on January 15, 1968, pre-trial was set on March 11, 1968. Subsequent hearings were postponed to give the parties time to settle their differences and as compromise is in sight. Yesterday afternoon, the parties filed the following:

'COMPROMISE AGREEMENT

'COME now the parties in the above-entitled case, assisted by their respective counsel, and to this Honorable Court, by way of settlement of the claims of the plaintiffs, agree, covenant, and stipulate as follows:

'1. That, the defendant is willing to pay the claims of the plaintiffs as embodied in the complaint, and to this end has asked the plaintiffs who have agreed thereto, for a period of time within which to effect a settlement of the said claims;

'2. That, as a matter of fact the defendant has applied for a loan with the Development Bank of the Philippines which has approved the same, and it has accordingly written letters of guaranty to the Philippine National Bank and the Philippine Bank of Commerce for the settlement by the said Development Bank of the Philippines of all accounts of defendant including those claimed by the plaintiffs in their complaint;

'3. That, if settlement has not been effected up to this date, the delay has been caused by procedural matters which accompany bank transactions of this nature;

'4. That, the plaintiffs have agreed to have their claims settled through the banks above outlined by the defendant;

'5. That, they are willing to give the defendant the time he needs to effect the settlement of plaintiffs' claim; and conformably thereto they bind themselves to hold in abeyance the execution of any judgment which this Honorable Court may render pursuant to this agreement;

'6. That, parties agree that in a period of one month from date hereof and upon settlement of plaintiffs' claim they can consider the case closed; otherwise, the plaintiffs may file the necessary motion for the issuance of the writ of execution to enforce the judgment to be rendered by this Honorable Court under this agreement.

'Manila, May 17, 1968."

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"WHEREFORE, the above-quoted compromise agreement is hereby approved and the parties are strictly enjoined to comply with the terms and conditions thereof, which is made an integral part of the dispositive portion of this decision.

"SO ORDERED.

"Manila, Philippines, May 18, 1968.

(Sgd.) JOSE G. BAUTISTA
Judge"[3]

The above-quoted judgment was not fully complied with by the private respondent, prompting the petitioners to file with the trial court a motion for the fixing of the peso value of the judgment in dollars and for the issuance of a writ of execution to enforce the same on October 26, 1970. Acting on this motion, the respondent judge, the Hon. Jose B. Jimenez, the new Presiding Judge of Branch VI of the Court of First Instance of Manila, issued the disputed Order dated November 7, 1970, hereinbelow reproduced as follows:

"O R D E R

"Upon consideration of the motion filed on October 26, 1970, by counsel for the plaintiffs praying that this Court fix the peso value of the judgment in the first cause of action in the complaint (which is in dollars) at the present rate of P6.55 to the dollar, as per certification of the Far East Bank and Trust Company;

"Said motion is hereby DENIED. To grant it would be tantamount to amending, or varying the terms of the Compromise judgment which has become final and executory.

"Movants anchor their petition on the phrase 'or the equivalent amount thereof based on the exchange rate officially prevailing at the time of payment' but said phrase or condition is not embodied in the complaint which is the basis of the compromise judgment referred to. Paragraph 1 of the Compromise Agreement merely states that the 'defendant is willing to pay the claims of the plaintiffs as embodied in the complaint and to this end has asked plaintiffs who have agreed thereto for a period of time within which to effect payment of said claims.' The quoted phrase 'or the equivalent amount, etc.,' is only contained in the prayer of the complaint which, as already held in numerous cases, is not a part of the complaint proper.

"WHEREFORE, as already said, the motion referred to, is hereby DENIED for lack of merit.

"SO ORDERED.

"Manila, Philippines, November 7, 1970.

(Sgd.) JOSE B. JIMENEZ
Judge"[4]

On December 15, 1970, the petitioners promptly filed a motion for the reconsideration of the above order. However, the respondent judge denied the motion in an Order dated December 19, 1970, which reads as follows:

"O R D E R

"For lack of merit, the motion for reconsideration of the Order of this Court dated November 7, 1970, filed by counsel for the plaintiffs is hereby DENIED.

"SO ORDERED.

"Manila, Philippines, December 19, 1970.

(Sgd.) JOSE B. JIMENEZ
Judge"[5]

Hence, this petition was brought to this Court.

This petition is anchored on the correct interpretation of the judgment in Civil Case No. 69895, the decision which reproduced the parties' Compromise Agreement, vis-a-vis, the original complaint filed by the petitioners in the trial court.

It must be remembered that the first and the most important clause in the Compromise Agreement states:

"That, the defendant is willing to pay the claims of the plaintiffs as embodied in the complaint x x x." (Italics supplied.)[6]

The rest of the provisions in the Agreement are mere statements of the manner and time upon which payment will

be effected.

A careful analysis of the allegations under the first cause of action in the petitioners' complaint clearly shows that the action is basically for the recovery of the amount of U.S. \$9,404.14, representing the unpaid balance of the value of some ninety- nine (99) rolls of book paper imported by the private respondent from Moller & Rothe, Inc., a New York Firm represented in the Philippines by the petitioners.[7] The private respondent was supposed to pay for his orders after the lapse of 90 days based on the dates of two sight drafts which were drawn by Moller & Rothe, Inc., covering the said importations. But since the private respondent failed to make good his payments, except for the amount of U.S. \$1,004.66,[8] Moller & Rothe, Inc., assigned the said credit to the petitioners in a deed of assignment[9] and on the basis of which the petitioners filed the original complaint.

It must be noted at this juncture that the petitioners' claim in their complaint for an amount in U.S. dollars is lawful in this jurisdiction. The transaction which gave birth to the private respondent's liability and which served as the basis for the petitioners' first cause of action is covered by the exception in Republic Act No. 529, as amended by Republic Act No. 4100.[10] Hereunder, the pertinent portion of which is reproduced, thus:

"SECTION 1. Every provision contained in, or made with respect to, any domestic obligation to wit, any obligation contracted in the Philippines which provision purports to give the obligee the right to require payment in gold or in a particular kind of coin or currency other than Philippine currency or in an amount of money of the Philippines measured thereby, be as it is hereby declared against public policy, and null, void, and of no effect, and no such provision shall be contained in, or made with respect to, any obligation hereafter incurred. The above prohibition shall not apply to x x x (d) import-export and other international banking, financial investment and industrial transactions. With the exception of the cases enumerated in items (a), (b), (c) and (d) in the foregoing provision, in which cases the terms of the parties' agreement shall apply, every other domestic obligation heretofore or hereafter incurred, whether or not any such provision as to payment is contained therein or made with respect thereto, shall be discharged upon payment in any coin or currency which at the time of payment is legal tender for public and private debts: x x x." (Italics supplied).

In this case, it is true that in paragraphs 5 and 12 of the complaint, the petitioners stated the peso equivalent of the U.S. \$9,404.14 that they were asking for. However, it is also true that in paragraph 9 thereof, the petitioners made plain that the amount due and unpaid to Moller & Rothe, Inc., is U.S. \$9,404.14.

The deed of assignment, wherein Moller & Rothe, Inc., assigned to the herein petitioners the amount owed by the private respondent, precisely stated the amount in U.S. dollars, with no equivalent amount in any other form of currency. It is hereunder quoted as follows:

"ASSIGNMENT

"KNOW ALL MEN BY THESE PRESENTS, That MOLLER & ROTHE, INC., a corporation duly organized and existing under, and by virtue of, the laws of the State of New York and having its principal place of business at 99 Park Avenue, Borough of Manhattan, City and State of New York (herein called the 'Assignor') for valuable consideration to it in hand paid by PABLO V. ZAGALA of 1002-1004 R. Hidalgo, Manila, Philippines (herein called the 'Assignee'), the receipt of which is hereby acknowledged, does hereby assign, transfer and set over to the said Assignee, his heirs, executors, administrators and assigns all right, title and interest of the Assignor in and to those certain overdue sight drafts, together with interest thereon, drawn by Assignor against Francisco G. Guballa, Manila, Philippines, as follows:

"1. Sight draft No. CM-5544 in the original sum of U.S. \$4,404.14 reduced by payments of U.S. \$1,004.66 to a present balance of U.S. \$3,297.28, now in the hands of The Chase Trust Company for collection.

"2. Sight draft No. C 6643 in the original sum of U.S. \$6,106.86, now in the hands of the Chemical Bank New

York Trust Company for collection.

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From the foregoing, it is clear that in filing the complaint, the petitioners intended to recover from the private respondent the amount of U.S. \$9,404.14. This amount in U.S. dollars is the petitioners' claim embodied in the complaint which the private respondent bound himself to pay pursuant to the judgment in Civil Case No. 69895. We agree with the petitioners' explanation that the only reason why they stated the peso equivalent of their claim was to facilitate and simplify the computation of the judicial costs.

Moreover, this Court cannot sustain the narrow interpretation of the Compromise Agreement by the court a quo. The agreement did not refer to the claim in the body of the complaint only but as "embodied" in the complaint. The complaint should, therefore, be read in its totality including the prayer. And therein what is sought by the petitioners is the recovery of the claim in U.S. dollars or its equivalent amount in peso based on the officially prevailing exchange rate at the time of payment.

According to the case of Phoenix Assurance Company vs. Macondray & Co., Inc.,[12] a judgment awarding an amount in U.S. dollars may be paid with its equivalent amount in local currency based on the conversion rate prevailing at the time of payment. If the parties cannot agree on the same, the trial court should determine such conversion rate. Needless to say, the judgment debtor may simply satisfy said award by paying in full the amount in U.S. dollars.

Therefore, when the petitioners, in this case, filed their motion to fix the peso value of the judgment in dollars, they only intended to exercise a right granted to them by the present jurisprudence — that the trial court shall determine or fix the conversion rate prevailing at the time of payment. The respondent judge erred in refusing to grant said motion.

As regards the petitioners' prayer for a writ of mandamus to compel the respondent judge to issue the writ of execution to enforce the judgment in Civil Case No. 69895, suffice it to declare that it is in order. It is well-settled that a compromise judgment is not appealable and is immediately executory unless a motion is filed to set aside the compromise on the ground of fraud, mistake or duress, in which event an appeal may be taken from the order denying the motion.[13]

WHEREFORE, the writ of certiorari prayed for is hereby GRANTED and the Order dated November 7, 1970, denying the petitioners' Motion For Fixing The Peso Value Of Judgment In Dollars And For Issuance Of Writ Of Execution To Enforce The Same, as well as the Order dated December 19, 1970, denying for lack of merit the petitioners' Motion For Reconsideration, are accordingly annulled and set aside. The respondent judge and/or his successor in office is hereby ordered to fix the current peso equivalent of the amount in U.S. dollars awarded by the judgment in Civil Case No. 69895. Let a writ of execution issue forthwith to enforce the compromise judgment rendered by the trial court. No pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[1] Complaint, pp. 31-33, Rollo.

[2] Ibid., p. 34, Rollo.

[3] Petition, pp. 6-7, Rollo.

[4] Ibid., p. 8, Rollo.

[5] Ibid., pp. 9-10, Rollo.

[6] Petition, p. 6, Rollo.

[7] Complaint, pp. 31-33, Rollo.

[8] Ibid., p. 32, Rollo.

[9] Pp. 37-39, Rollo.

[10] An Act To Assure Uniform Value To Philippine Coin and Currency. (Approved on June 16, 1950.)

[11] Assignment, p. 37, Rollo.

[12] No. L-25048, May 13, 1975, 64 SCRA 15.

[13] De los Reyes vs. De Ugarte, L-82, December 1, 1945; Enriquez vs. Padilla, L-782, September 17, 1946.

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