

ALFREDO CASTRO, PETITIONER, VS. JOSE T. SURTIDA, JUDGE OF THE COURT OF FIRST INSTANCE OF CAMARINES SUR, AND SINFOROSA CASTRO, RESPONDENTS.

G.R. No. L-3236. August 11, 1950

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

In two cases Nos. R-57 and R-58 in the Court of First Instance of Camarines Sur, Sinforosa Castro and her brother Alfredo Castro arrived at an amicable settlement as a result of which, the two submitted to the trial court a signed agreement entitled "amicable settlement" and prayed the court to render judgment in accordance with the terms thereof. Under that agreement, Alfredo ceded all his right, title and interest in a certain lot on which his house was constructed subject to the following conditions:

"(a) That Sinforosa Castro hereby allows Alfredo Castro to have his house remained in the same lot where it is constructed for a period of two (2) years beginning the date of the signing of this Agreement, without any rents therefor.

"(b) That at the end of the said two years, Sinforosa Castro may either pay to Alfredo Castro the reasonable value of the said house or Alfredo Castro may pay Sinforosa Castro the reasonable rent of the lot wherein the house is constructed but in the event the two could not agree on the reasonable value of the house or the reasonable rent for the lot, where it stands, then Alfredo Castro should remove the said house." (p. 2, Annex A)

The agreement was dated April 12, 1947. The lower court approved the agreement, made it part of the decision, and rendered judgment in accordance with its terms and conditions, ordering the parties to observe faithfully and be bound by its stipulations. The decision is dated May 27, 1947. On May 23, 1949, that is a little more than two years after the signing of the agreement when according to its terms, the period of Alfredo's free enjoyment of the lot expired, Alfredo filed in court a motion entitled "Motion to Deposit Rentals", alleging that his sister, Sinforosa, refused either to pay for the house or fix a reasonable amount for the rental of the lot, and further claiming the reasonable rental of said lot based on Republic Act No. 66 which fixes it at a sum not to exceed 20 per cent of its annual assessment value, which is P1,230, to be P20.50 a month; and consigning the amount of P41 equivalent to the rentals for two months from April 13, 1949 to June 12, 1949. He asked that the rentals for said two months be declared paid, and that in the future he be allowed to deposit future rentals should Sinforosa refuse to accept the same.

In a counter motion dated May 30, 1949, Sinforosa Castro, alleged that the period of two years within which her brother Alfredo had been given permission to occupy the lot had already expired, and inasmuch as she wants to occupy said lot, she asked that the motion of Alfredo be overruled and that in its place an order of execution of the decision be entered ordering him to remove his house from said lot in accordance with the agreement of the parties approved by the court and directing him to deliver the possession of the lot to her.

Acting upon the two motions the trial court in an order dated June 22, 1949, after quoting and making references

to that part of the agreement already reproduced, found that under said agreement Sinforosa can not be compelled to accept or to receive the rents for the use of the land after the expiration of two years because she wants to take possession of the land, and so ordered Alfredo to remove his house from the land, in question, giving him 30 days to do so.

Alfredo tried to appeal from said order. The trial court, however, in another order dated July 26, 1949, declared said order to be non-appealable, and denied the appeal, inasmuch as, according to the trial Judge, it merely referred to the manner of interpreting the terms of the agreement on which the decision was based and not to any issue raised in the case, and that should the defendant believe that the interpretation given by the court is wrong then he should institute a separate case.

In order to compel the trial court to allow him to appeal from the order of execution and to approve his record on appeal, Alfredo has now filed with us a petition for mandamus with a request for a writ of preliminary injunction. By resolution of this Court and upon the filing of a bond in the sum of P500.00, the corresponding writ of preliminary injunction was issued.

Ordinarily, an order of execution of a final judgment is not appealable. Otherwise, as was said by this Court in the case of *Molina vs. De la Riva*, (8 Phil. 571), a case could never end, for as often as an order for execution of judgment was made it could be excepted to and the case brought here for review.

However, it is obvious that the tenor of the writ of execution may not vary the terms of the judgment it seeks to enforce (*Ang Lin Chi vs. Hon. Castelo*, 46 Off. Gaz., 4848; 83 Phil., 263); and an execution must conform to the judgment on which it is issued in every essential particular (33 C. J. S. 210). Where such order of execution in the opinion of the defeated party varies the terms of the judgment and does not conform to the essence thereof, or when the terms of the judgment are not entirely clear and there is room for interpretation and the interpretation given by the trial court as contained in its order of execution is wrong in the opinion of the defeated party, the latter should be allowed to appeal from the said order so that this appellate Tribunal may pass upon the legality and the correctness of the said order. Of course, as we have already stated, if the terms of the judgment are so clear that there can be no room for doubt about their meaning, and the order substantially conforms to said terms of the judgment and that the special Civil action of mandamus is resorted to only for delay and to embarrass the winning party, this Court will summarily dismiss the petition.

In the present case, however, we are not prepared to say that considering the rental law invoked by the petitioner, he may be summarily ejected from the lot in question although he is willing to pay the amount of rental allowed or fixed by the rental law. Neither are we prepared to say off-hand that Sinforosa, the owner of the lot may be compelled to allow the petitioner to continue in the occupation of the lot by his paying the rental, over her claim that she needs the premises for her own use. The parties should be given an opportunity to discuss and support their respective claims and their respective interpretations of their original agreement on which the judgment was based.

In view of the foregoing, the order denying the appeal is hereby set aside and the respondent Judge is directed to permit the appeal and to approve the record on appeal if otherwise in conformity with the requirements of law. No pronouncement as to costs.

Moran, C.J., Ozaeta, Pablo, Bengzon, Tuason, and Reyes, JJ., concur.

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