

GERONIMO T. SUVA, PETITIONER AND APPELLANT, VS. CECILIO CORPUZ, ET AL., RESPONDENTS AND APPELLEES.

G.R. No. L-18397. November 29, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On January 24, 1958, the Court of First Instance of Nueva Ecija rendered decision in Civil Case No. 2438 ordering Geronimo T. Suva to pay Cecilio Corpuz, et al. the sum of P3,600.00 as damages and the costs of suit.

Suva appealed the decision to the Court of Appeals where on December 11, 1959 it was affirmed in all respects. Suva again tried to appeal the decision to the Supreme Court by way of certiorari, but the latter Court, in a resolution entered on March 18, 1960, dismissed the appeal "finding that the questions involved are factual and that there is no merit in the petition."

The decision having become final and executory, the case was remanded to the Court of First Instance of Nueva Ecija for execution, and on September 10, 1960, upon motion of the winning litigants, said court issued the corresponding writ of execution.

On October 11, 1960, Suva filed before the same court of first instance a petition entitled "Petition to Enjoin Enforcement of the Decision of this Honorable Court dated January 24, 1958 in Civil Case No. 2488", praying that said decision be considered as having no force and effect and its execution be permanently enjoined on the grounds of (a) fraud, accident, mistake and excusable negligence; (b) newly discovered evidence; and (c) excessive damages had been awarded or the evidence was insufficient to justify the decision. He also prayed that, pending hearing on the merits, a writ of preliminary injunction be issued in order that the decision may not be immediately executed.

In view of the petition for the issuance of the writ of preliminary injunction, the court set the same for hearing on October 21, 1960, during which Suva's counsel presented documentary evidence in an effort to justify the issuance of the writ, but respondents' counsel manifested his opposition contending that the motion was untenable for the reason that the court has no jurisdiction over the case, the petition states no cause of action, and it is barred by a prior judgment. Thereupon, respondent's counsel moved to dismiss the petition.

Instead of ruling on the oral motion to dismiss, the court ordered respondents' counsel to put it in writing, and after the same had been filed, petitioner registered his opposition thereto. On December 5, 1960, the trial court issued an order denying the motion for the issuance of the writ, but granted the motion to dismiss, finding well-taken the grounds therein stated.

Petitioner took the present appeal directly to this Court purely on questions of law.

It appears that the decision rendered in Civil Case No. 2438 of the Court of First Instance of Nueva Ecija, which was affirmed by the Court of Appeals, became final and executory when the petition for review, by way of certiorari, filed with the Supreme Court was dismissed on the ground that "the questions involved are factual and

that there is no merit in the petition." And when the case was remanded to the court of origin for the execution of the judgment, petitioner commenced the present petition, before the same Court of First Instance of Nueva Ecija for the purpose of enjoining the execution of the decision contending that said decision is invalid and of no force and effect. This cannot now be done considering that the decision has already become final and executory and has been rendered by a court of competent jurisdiction.

It is true that the present petition is founded on the grounds of (a) fraud, accident, mistake or excusable negligence; (b) newly discovered evidence, and (c) excessive damages or insufficiency of evidence, but the same cannot be entertained at this instance because, as already stated, the decision which is sought to be set aside has long become final and executory. Under Section 1, Rule 37, or Section 1, Rule 55, of our Rules of Court, a new trial can only be sought either within 30 days after notice of judgment, or before entry of final judgment, and not when the judgment has become final and executory. And apparently, the petition filed by petitioner is in the nature of a new trial.

It may also be true that, as contended by the petitioner, the damages that were caused to the properties of respondents were not caused by his negligence in taking care of his irrigation system but rather by the big volume of water that entered the irrigation canal caused by flood for which reason he cannot be held responsible for the resulting damages. But even if this fact be true, the same cannot be considered as newly discovered evidence to warrant the reopening of the case. This is a matter that could have been proven in the original case with the exercise of proper diligence which apparently has not been observed by petitioner's counsel. At any rate, the decision in dispute can no longer be set aside being final and executory and having been rendered by a competent court.

In the circumstances, we find no error on the part of the court a quo in dismissing the petition even if in its order the reasons supporting it had not been expressly stated. Its statement that it finds the petition not well-taken after due consideration of the motion to dismiss and the opposition interposed thereto is, in our opinion, a substantial compliance with the law.

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

Padilla, Concepcion, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

Reyes, J. B. L., J., concurs in the result: no showing of extrinsic fraud.

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