

## CHUA A. H. LEE, PETITIONER, VS. EMILIO MAPA, AS AUXILIARY JUDGE OF FIRST INSTANCE PRESIDING OVER THE THIRD BRANCH OF THE COURT OF FIRST INSTANCE OF MANILA, CORNELIO CRUZ, AND HI...

*G.R. No. 29178. March 06, 1928*

Ponente: MALCOLM, J.

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### MALCOLM, J.:

In his petition for a writ of prohibition, Chua A. H. Lee complains of orders entered and promulgated by the Third Branch of the Court of First Instance of Manila, Judges Opisso and Mapa presiding, granting a stay of execution as in excess of the jurisdiction of the court. Although the respondents have deemed it for their best interests to answer the petition, there exists no controversy as to any material fact.

The present petitioner, Chua A. H. Lee, was successful in obtaining a favorable decision in the Third Branch of the Court of First Instance of Manila in civil case No. 30569, the dispositive part of which was as follows:

"Therefore, let judgment be entered in favor of plaintiff and against defendants declaring that Exhibits C and E are loan contracts with the personal property mentioned therein as pledges for security and ordering defendants to pay jointly and severally to plaintiff the sum of six thousand five hundred and twenty pesos (P6,520) with legal interest thereon from the date of the filing of the complaint, September 25, 1926, until paid, and to pay the costs.

"Upon default on the part of the defendants to satisfy the amount of the judgment, the securities above referred to will be sold at public auction according to law, and the proceeds applied to the payment of the amount of this judgment.

"It is so ordered.

"Manila, P. I., March 31, 1927.

"GEO. R. HARVEY

"Judge"

On appeal, the judgment was formally affirmed.[1] After the record was remanded to the court of origin, execution was issued out of that court on November 22, 1927, against the properties of the defendants, Mr. and Mrs. Cruz, without any mention being made of the property specifically pledged to the plaintiff. The defendants appeared and asked for a stay of thirty days in order to raise the necessary funds with which to pay the judgment. This stay was granted by Judge Del Rosario on December 8, 1927. Following correspondence between counsel for the parties in which the attorneys for the defendants indicated their willingness to pay the amount of the judgment provided the pledges were returned to them, which proposition was rejected by the attorney for the plaintiff, Cornelio Cruz and his wife instituted a separate action in the Court of First Instance of Manila against Chua A. H. Lee, being civil case No. 32865 of that court, for the recovery of damages in the total sum of P6,729

arising from the loss of the pledges hereinbefore referred too. On the same date, Mr. and Mrs. Cruz moved for a stay of execution in the case of Chua A. H. Lee vs. Cruz pending final determination of the said civil case No. 32865. That motion was ordered granted by Judge Opisso upon filing by the defendants of a bond in the sum of P7,000 in favor of the plaintiff conditioned on the payment by said defendants of the full amount of the judgment, together with interest and costs. On the presentation of a motion of reconsideration, Judge Mapa stated that he found no ground for setting aside the order, and, therefore, denied the motion.

It is fairly evident that the original decision of Judge Harvey, which was affirmed by this court, contemplated a money judgment in favor of Chua A. H. Lee and against Mr. and Mrs. Cornelio Cruz secured by pledges which were first to be sold at public auction to satisfy the amount of the judgment. Judge Opisso is responsible for the statement in his order that at the time that the case went to trial all of the pawn tickets were in full force and effect. It is on the irregular issuance of the writ of execution in violation of the terms of the judgment, and on the proposition that Chua A. H. Lee as pledgee was in duty bound to preserve the legal validity of the pawn tickets in question by paying the premium thereon that the herein respondents principally rely. Although it is not incumbent upon us at this stage of the proceedings to make any pronouncement on the questions thus indicated, the stand assumed by the herein respondents in the lower court is outlined in order further to elucidate the situation.

In support of his theory of the case, petitioner relies greatly on the cases of Shioji vs. Harvey ([1922], 43 Phil., 333); Cabigao and Izquierdo vs. Del Rosario and Lim ([1922], 44 Phil., 182); and Wolfson vs. Del Rosario and Fajardo ([1924], 46 Phil., 41). The trial judge examined these authorities and found them not applicable to the case.

The doctrine of the cited cases is that whatever was before the appellate court and there disposed of, must be regarded as finally settled, and that the inferior court cannot review or interfere with any matter decided on appeal, or give other or further relief. That, it must be conceded, is a correct exposition of the law. What was stated to this effect in Shioji vs. Harvey, *supra*, and later reaffirmed in Cabigao and Izquierdo vs. Del Rosario and Lim, *supra*, is again adhered to and expressly sanctioned. The decisions in these cases were intentionally framed in emphatic language to keep lower courts from assuming supervisory jurisdiction to interpret or to reverse the judgment of the higher court. But the decisions can only be understood in relation with the facts on which they were predicated and with the corollaries to general doctrines. Thus in Cabigao and Izquierdo vs. Del Rosario and Lim, *supra*, the court was careful to say that "Conceivably, circumstances might arise subsequent to the return of a case from the Supreme Court to the trial court which might justify postponement of the execution of the judgment in the case \* \* \*," while in Wolfson vs. Del Rosario and Fajardo, *supra*, it was pointed out "that the court retains a certain amount of control over a writ of execution even after it leaves its hands."

It is here plain that the defense now relied upon and which is pressed affirmatively in the new action, started in the lower court is such that it could not have been foreseen at the time of the trial of the case. It is also evident that the circumstances now invoked by the herein respondents have arisen subsequent to the remanding of the record from the Supreme Court to the trial court. For these reasons, the case is decidedly not one where an attempt is being made to interpret or to reverse the judgment of the higher court.

In relation with the points above indicated, there joins up the incidental power of a court to amend and control its process and orders so as to make them conformable to law and justice (Code of Civil Procedure, sec. 11, No. 7), and the discretionary power of a Court of First Instance by special order to stay execution (Code of Civil Procedure, sec. 144). In this connection, one ground of relief from an execution refers to facts occurring subsequent to the judgment. So it has been held that a stay may be allowed on grounds which are in their nature peculiarly equitable, as for instance to give defendant an opportunity to set off a claim against plaintiff. And this remains true notwithstanding affirmance of the judgment by the Supreme Court, which imparts no higher quality

than to a final judgment unappealed from, except that it cannot be questioned or reviewed. (23 C. J., 522; Blackburn vs. Reilly [1886], 48 N. J. Law, 82; Ex parte Burrill [1864], 24 Cal., 350.)

We rule that the Judge who issued the order staying the execution and the Judge who denied the motion of reconsideration acted advisedly and within the jurisdiction conferred upon them by law. Hence the petition for the writ of prohibition must be as it is hereby denied, with costs.

Villamor, Ostrand, Johns, Romualdez, and Vill-Real, JJ., concur.

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[1] Chua A. H. Lee vs. Cruz and Serrano de Cruz, G. R. No. 27985, promulgated October 29, 1927, not reported.

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