

AMOS G. BELLIS, PETITIONER, VS. HONORABLE CARLOS A. IMPERIAL, JUDGE OF FIRST INSTANCE OF MANILA, AND THE CITY OF MANILA, RESPONDENTS.

G.R. No. 30225, December 22, 1928

Ponente: JOHNS, J.

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JOHNS, J.:

This is a certiorari proceeding founded upon an alleged misconstruction of the decision of the Court of First Instance in the civil case No. 29017, which was affirmed by this court in the case G. R. No. 28133,[1] in which the following judgment was rendered:

"1. In favor of the defendant Amos G. Bellis and against the plaintiff City of Manila, on said defendant's cross-complaint against plaintiff City of Manila and defendants Benita Quiogue de V. del Rosario and Salvador V. del Rosario, for the sum of twenty-seven thousand twenty-one and 68/100 Pesos (P27,021.68) being 60.28 per cent of the total rentals due and unpaid under the contract of lease (Exhibit N) on the property known as the 'Manila East High School' from February 20, 1925, to and including the present month of May 1927, with legal interest from the date of this judgment until paid.

"2. In favor of the defendants Benita Quiogue de V. del Rosario and Salvador V. del Rosario and against the plaintiff City of Manila, on said defendants' cross-complaint, for the sum of two thousand seven hundred thirtythree and 30/100 Pesos (P2,733.30), being the total of the rents due and unpaid under the contract of lease (Exhibit N) on the property known as the 'Manila East High School' from January 1, 1925 to February 19, 1925, inclusive, at the rate of P1,640 a month; and for the sum of seventeen thousand eight hundred four and 93/100 pesos (P17,804.93), being 39.72 per cent of the total rents due and unpaid, under the contract of lease (Exhibit N) on the property known as the 'Manila East High School' from February 20, 1925, to and including the present month of May 1927, with legal interest from the date of this judgment until paid.

"3. In favor of the defendant Amos G. Bellis and against the defendants Benita Quiogue de V. del Rosario and Salvador V. del Rosario, jointly and severally, on said defendant Bellis cross-complaint against said defendants, for the sum of one thousand six hundred forty-seven and 68/100 pesos (P1,647.68) of the amount hereinabove adjudicated to said defendants Benita Quiogue de V. del Rosario and Salvador V. del Rosario for the period from January 1, 1925, to February 19, 1925, inclusive, being 60.28 per cent of the amount awarded as rents to said defendants for said period of time, the said P1,647.68 being the rents due and unpaid which, accrued upon the mortgaged property after the mortgage fell due and before confirmation by the court of the foreclosure sale, and the said sum of P1,647.68 shall be applied upon the deficiency judgment in favor of said Amos G. Bellis and against Benita Quiogue de V. del Rosario and Salvador V. del Rosario in civil case No. 26401 in this court.

"4. In favor of the defendant Amos G. Bellis for a preference over the amount of P17,804.93 as rentals herein adjudged in favor of the defendants Benita Quiogue de V. del Rosario and Salvador V. del Rosario for the period beginning February 20, 1925, and ending with the month of May, 1927, to the amount of any balance remaining due on the said deficiency judgment in favor of Amos G. Bellis and against Benita Quiogue de V.

del Rosario and Salvador V. del Rosario in said civil case No. 26401, after applying as a credit thereon the said sum of P1,647.68 hereinbefore adjudged in favor of said Amos G. Bellis and against the other defendants in this case.

"5. Without any especial findings as to costs."

After the decision of this court became final and the record was returned to the lower court, the City of Manila on May 3, 1928, paid to Amos G. Bellis, for and on account of the judgment against it, the sum of P23,380.82 which Bellis accepted as a partial payment only of his judgment, and promptly demanded the payment of the balance, which he claimed and asserted, amounted to P9,331.03, with interest, which included the costs in this court, and he prayed the lower court for an order that an execution might issue against the property of the City for that amount. The petition was set down for hearing on July 2, 1928, at which time the City of Manila appeared and contended, through its City Attorney, that it was not liable for legal interest on the amount of the judgment, because it had made two separate deposits with the clerk of the court to be applied to the satisfaction of the judgment. July 10, 1928, the lower court ordered that execution issue against the city as prayed for by the petitioner for the sum of P9,291.03, with interest thereon at 6% per annum from May 3, 1928. On a petition for a rehearing the lower court amended its order of July tenth by reducing the amount for which the execution should issue to P7,943.09, with interest thereon at 6% per annum from May 3, 1928, to which the petitioner duly excepted and filed a motion for a reconsideration which was denied, for which he prays for a review of the order of the lower court of July 27, 1928, reducing the amount, upon the ground that the order of the court of July 27, 1928, was null and void and without its jurisdiction.

In other words, the petitioner contends that the decision of the lower court of July 10, 1928, was right, and that its decision of July 27, 1928, in which it made a reduction of P1,347.94 in the amount, was wrong.

It is elementary law that the lower court cannot modify a final decision of this court, and that the judgment of the lower court must in all things conform to, and abide by, the mandate of this court, and in the instant case that is what the lower court did in the judgment which it rendered on July 10th.

The judgment of this court specifically finds the amount which the City of Manila would pay Bellis and the rate of interest which should be paid on that amount. Upon the theory that the City of Manila had made certain deposits with the clerk of the court to be applied to the satisfaction of the judgment, the lower court in its order of July 27th sought to relieve the city from the payment of accrued interest amounting to P1,347.94. There is no evidence, claim or pretense that Bellis was ever notified of the making of such deposits and the purpose for which they were made, or that in the aggregate they were sufficient to satisfy the amount of the judgment. To stop the payment of interest, it was the duty of the city not only to make a tender for the full amount of the judgment, but in addition thereto, it should have notified Bellis of the making of such deposit and the purpose and intent for which it was made, and he would then be in a position to either accept the tender as made and draw down the money or reject it. That was not done in this case, and for such reasons the City continued to remain liable for the payment of the interest specified in the final judgment of this court. Neither was anything done by either party after the rendition of the final judgment which would authorize the lower court to modify its terms or conditions. If any error, was committed in the rendition of the original judgment, the city at the proper time and in the proper manner should have applied for, and obtained, relief before the judgment became final. It could not wait until after the judgment became final and then have such error, if any, corrected by the lower court.

The judgment of the lower court of July 10, 1928, was right, and as it was modified in its order of July 27, 1928, it was wrong and is reversed for want of jurisdiction, and the case is remanded to the lower court for such other and further proceedings as are not inconsistent with this opinion, with costs in favor of the petitioner. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

[1] City of Manila vs. Bellis, 51 Phil., 636.

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