

ENRIQUE M. BARRETTO, PLAINTIFF AND APPELLANT, VS. THE CITY OF MANILA, DEFENDANT AND APPELLEE.

G.R. No. 4372. March 27, 1908

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

The question brought before us by the present appeal is whether or not the period fixed by a court, under the provisions of article 1128 of the Civil Code, can be extended.

The first paragraph of the above-mentioned article is as follows: "Should the obligation not fix a period, but it can be inferred from its nature and circumstances that there was an intention to grant it to the debtor, the courts shall fix the duration of the same."

This case refers to a donor who, on June 16, 1885, donated to the city of Manila a piece of land, in the following terms: "* * *, but I make this donation on condition that no structures shall be erected upon the land and that it will not be devoted to any purpose other than the beautifying of the vicinity, and for this purpose the city should acquire such of the adjoining land as may be necessary to form with mine a public square with gardens and walks."

On the 19th of the same month and year, the corregimiento of Manila, on behalf of the municipal corporation, expressed to the donor its thanks for the gift and requested him to send the title deeds for the due execution of the deed of conveyance.

On May 31, 1903, the donor brought suit on the ground that from the 17th of June, 1885, the apuntamiento of the city of Manila had entered into possession of the land, and, for a period extending over eighteen years, it had neither complied with the condition imposed, nor had it required the execution of a formal deed of gift of the property, wherefore the donor prayed the court to declare the donation to be null and void, together with other remedies sought for in his petition. The Court of First Instance of the city of Manila entered judgment for the plaintiff giving him "possession of the land described in the complaint * * *, and that the possession thereof be returned to the plaintiff by the defendant, the city of Manila, together with the costs of this action."

On February 6, 1907, this court rendered the following opinion: "The judgment of the Court of First Instance awarding the plaintiff possession of the property is reversed, and the cause is remanded to the Court of First Instance for determination of the time within which the contiguous property must be acquired by the city in order to comply with the condition of the donation" (7 Phil. Rep., 416, 420) ; this judgment having been rendered on the ground that:—"The contract having fixed no period in which the condition should be fulfilled, the provisions of article 1128 of the Civil Code are applicable and it is the duty of the court to fix a suitable time for its fulfillment."

The plaintiff, by a motion dated July 18, 1907, requested the court to fix the period in question, and on the 27th of the same month, the following order was entered : "It is hereby ordered that the time within which the defendant shall comply with the conditions of the donation, be and is hereby fixed until the 30th of September, 1907."

On the 2d of October following, the plaintiff presented a motion, praying—"that the court declare the judgment rendered in his favor to be final, and order the execution thereof without delay."

The latter motion was heard on the 5th of said month and year, and by order of the same date, the court modified its former order and extended the period until the 8th of November, 1907.

The plaintiff excepted thereto, and presented to this court the corresponding bill of exceptions, together with the following:

"ASSIGNMENT OF ERRORS.

"I.

"The court erred in giving the defendant city a new period in which to comply with the conditions of the donation, after the expiration of the time allowed on the 26th of July, 1907.

"II.

"The court erred in denying the motion of the plaintiff, dated October 2, 1907, requesting the court to make final the judgment of July 27, 1907."

The first error assigned leaves no room for doubt. The period fixed by a court supplements that of the contract. In the present case, it is equivalent to an act or a contract of donation entered into on the following terms: I donate my land on condition that it will not be devoted to any purpose other than that of embellishment, and to this end the municipality should acquire the adjoining land on or before the 30th of September, 1907. The agreement being entered into in this manner, the court can not change the date of the fulfillment of the obligation, as it has no authority to modify the law governing the contract.

From the very moment the parties gave their acceptance and consent to the period fixed by the court, said period acquired the nature of a covenant; because the effect of such acceptance and consent by the parties is exactly the same as if they had expressly agreed upon it, and, it having been agreed upon by them, it became a law governing their contract, and it is evident that the court has no power to change or modify the same.

Courts may extend only a period allowed by a judicial decree for the fulfillment of an obligation, but not a period fixed by a judgment which becomes part of a contract. The latter is not designated simply for the execution of a judicial decree and, in consequence merely procedural in its nature; it is a period fixed in a final judgment and is *res judicata*, and as such forms an integral part of the imperfect contract which gave rise to its designation by the court, and thenceforward part of a perfect and binding contract.

In the motion of October 2, wherein the plaintiff prayed that "the judgment rendered in his favor be made final, and that execution thereof be ordered without delay," the said plaintiff alluded to the final judgment formerly rendered by the lower court in this action, and furthermore says that the Court of First Instance designated the 30th of September, 1907, "on condition that, in case of failure to comply with said period, execution of the judgment would be carried out in favor of the plaintiff, and possession of the land given him."

The order of the court of July 27, 1907, contains no provision of this nature, and the judgment rendered in favor of the plaintiff can not be executed, because, as already stated, this court reversed the same.

The second error assigned by the appellant appears to be more in accordance with the merits of the case, and says: "The court erred in denying the motion of the plaintiff, dated October 2, 1907, requesting the court to make final the judgment of July 27, 1907." In consequence thereof, the appellant, in his brief, prayed for "the reversal of the order issued by the lower court under date of October 5, 1907, declaring the order of July 27, 1907, to be valid and in full force."

All that has been said above is what is shown by the records in this case. The petition of the appellant being in accordance with the law, we reverse the order of the lower court, dated October 5, 1907, and declare that of July 27 of the same year to be in force, without special ruling as to the costs of this appeal. So ordered.

Torres, Mapa, Johnson, Carson, Willard, and Tracey, JJ., concur.

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