

THE GOVERNMENT OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. EMILIO MA. DE MORETA, DEFENDANT AND APPELLANT.

G.R. No. 45159. April 04, 1939

Ponente: DIAZ, J.

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DIAZ, J.:

In this case, the lower court sentenced the defendant to pay the plaintiff, for the latter's first cause of action, the sum of P34,384, and for the second cause of action, the sum of P20,000, and, as penalty, the sum of P5,000, for expenses of collection and attorney's fees, plus the costs. The defendant appealed from this judgment in so far as it sentences him to pay the plaintiff the sum of P34,384, whereas, his true obligation, according to him, with regard to the first cause of action, is to pay the plaintiff only P34,354; and also in so far as it sentences him to pay as penalty, for the reasons above stated, the sum of P5,000, plus the costs.

The plaintiff, in its brief, agrees with the defendant that it was due to an error in addition that the amount he is required to pay is P34,384 instead of P34,354 only. We are convinced that such an error was committed.

As to the penalty imposed by the lower court on the defendant, the plaintiff insists that the judgment be affirmed. Considering, however, that the two obligations alluded to in the first and second causes of action of the plaintiff were demanded at the same time and in only one suit, and that judgment against the defendant was obtained without difficulty because he himself admitted his obligation and alleged that his failure to pay in time was due to financial difficulties which he had suffered of late, and considering further the reasons given in the decisions in the cases of *Turner vs. Casabar* (38 Off. Gaz., 1425), and in the various cases cited therein, and bearing in mind lastly that in the contracts between the parties, it was stipulated with regard to the penalty, that the costs were included in the amount mentioned, we deem it proper to reduce, as we hereby reduce, the penalty imposed on the defendant, from P5,000 to P2,500 only.

Wherefore, the appealed decision is modified as indicated, without special pronouncement as to costs. So ordered.

Avanceña, C.J., Villa-Real, Imperial, Laurel, Concepcion, and Moran, JJ., concur.

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