

ENRIQUE MEDINA, PETITIONER, VS. SOTERO B. CABAUG, ETC., ET AL., RESPONDENTS.*G.R. No. 48074. December 03, 1941*

Ponente: ABAD SANTOS, J.

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This is an original proceeding in which the petitioner seeks to obtain a writ of prohibition commanding the respondents to desist from enforcing the writ of execution issued on December 24, 1940 by the respondent Judge of the Court of First Instance of Negros Oriental in civil case No. 1019, entitled Monico Cabanela vs. Enrique Medina.

The record discloses the following pertinent facts: On May 22, 1935 the respondent Monico Cabanela instituted civil case No. 1019 in the Court of First Instance of Negros Oriental against the petitioner Enrique Medina for the recovery of the sum of P5,000. On October 25, 1937 judgment was rendered in favor of Monico Cabanela and against Enrique Medina for the sum of P3,500, with legal interest from the date of the filing of the complaint and with costs. Upon appeal by the petitioner (CA-G. R. No. 2824), this judgment was, on June 29, 1940, affirmed by the Court of Appeals. Under date of July 6, 1940, Monico Cabanela filed in the Court of Appeals a motion for the dismissal of the case, on the alleged ground that the real debtor was one Timoteo Moreno, and not the petitioner Enrique Medina. Under date of July 8, 1940 the latter filed in the Court of Appeals a motion for new trial and reconsideration, on the alleged ground that the respondent Monico Cabanela had made an express admission to the effect that the petitioner did not owe him anything. This was followed by the petitioner's supplemental motion for new trial dated July 26, 1940, alleging that Monico Cabanela had agreed to accept as he in fact received, from Enrique Medina the sum of P1,500 in full settlement of his claim against Timoteo Moreno. Under date of July 31, 1940 Monico Cabanela filed a petition withdrawing his motion to dismiss the case in the Court of Appeals, on the ground that, when he signed said motion, he was made to believe by the petitioner Enrique Medina that the case was still pending decision, and that under this belief he agreed to accept from the petitioner, in full settlement of his claim, the sum of P3,000, half of which was received by Cabanela on July 8, 1940. The remaining P1,500 was to be paid in October of the same year. The Court of Appeals denied, on August 17, 1940, the petitioner's motion for reconsideration and new trial, and granted the motion for withdrawal of the respondent Monico Cabanela. The petitioner attempted to appeal to this Court from the decision of the Court of Appeals, but his petition for review on certiorari was denied on September 24, 1940 for having been filed out of time. On December 24, 1940 the respondent Judge of the Court of First Instance of Negros Oriental issued a writ of execution with a view to enforcing the judgment against the petitioner for the sum of P3,500, with legal interest from May 22, 1935, plus the sheriff's fees and P90 as costs. On the same date, December 24, 1940, the provincial sheriff notified the petitioner that, unless he paid within twenty days the total sum of P4,764.55 covering the principal, interest, costs and sheriff's fees, he would proceed to enforce the writ of execution thus issued.

In this proceeding the petitioner claims that, under a receipt signed by the respondent Monico Cabanela on July 8, 1940 (Exhibit C), the latter accepted from the petitioner the sum of P1,500 in full payment of his claim in civil

case No. 1019 of the Court of First Instance of Negros Oriental (CA-G. R. No. 2824). The respondents admit that Cabanela had received P1,500 from the petitioner and signed the aforesaid receipt, but they allege that Cabanela did so upon the representation by the petitioner that the Court of Appeals had not yet decided the case in question. In other words, it is contended by the respondents that the petitioner, after having known that the judgment in civil case No. 1019 was affirmed by the Court of Appeals, and without the knowledge or intervention of counsel for Monico Cabanela, induced the latter to accept less than one half of the judgment in full satisfaction thereof. Upon the other hand, it is alleged by the petitioner that Monico Cabanela had knowledge of the judgment of the Court of Appeals when he signed Exhibit C, and calls our attention to the fact that, in the administrative case filed by Cabanela against the petitioner, Cabanela testified that on July 6 or 7, 1940 he was informed by the petitioner of the motion for reconsideration filed by him.

We are inclined to sustain the respondent's contention for the following reasons (1) Even admitting that Cabanela was informed by Medina that the latter filed a motion for reconsideration, such information does not necessarily mean that Cabanela was thereby likewise informed that the judgment in his favor for P3,500 was affirmed by the Court of Appeals; (2) The denial by the Court of Appeals of the petitioner's motion for new trial in which it was alleged that Cabanela had agreed to accept P1,500 in complete settlement of his claim (see Exhibit E), and the granting by the same court of Cabanela's motion for withdrawal in which it was alleged that the latter accepted the alleged full settlement because he did not know that the Court of Appeals had already affirmed the judgment of the Court of First Instance of Negros Oriental, strongly supports Cabanela's claim as to what actually transpired between him and Medina; (3) Exhibits G-I and F show that respondent Monico Cabanela did not know on July 6, 1940 that the Court of Appeals had already affirmed the judgment in the latter's favor for P3,500; (4) The alleged full settlement was effected by the petitioner directly with respondent Monico Cabanela, without the knowledge or intervention of the latter's counsel.

Having reached the conclusion that Monico Cabanela was not aware of the confirmatory judgment of the Court of Appeals when he signed Exhibit C, it follows that the settlement evidenced thereby is void, inasmuch as under article 1817, in connection with article 1265 of the Civil Code, a compromise vitiated by error or deceit is void. This we hold, notwithstanding the fact that under article 1819 of the same Code "ignorance of the existence of a judgment which has not become final, is not cause for attacking the compromise," because in the present case the petitioner not only knew that there was such judgment of the Court of Appeals but advisedly caused Monico Cabanela to accept the alleged full settlement by representing that their case had not yet been disposed of in Cabanela's favor.

It results that the respondent Judge of the Court of First Instance of Negros Oriental did not act without or in excess of his jurisdiction or with grave abuse of discretion in issuing the writ of execution now complained of. Hence, the petition for a writ of prohibition is denied, with costs against the petitioner; it being understood, however, that, in the enforcement of the writ of execution in question, the petitioner will be given credit for the sum of P1,500 already paid by him to the respondent Monico Cabanela.

The writ of preliminary injunction heretofore issued is hereby dissolved.

Diaz, Moran, and Ozaeta, JJ., concur.

Horrilleno, M., disidente:

Este es un recurso de "prohibition" promovido por Enrique Medina, recurrente, contra el Honorable Juez de Primera Instancia de Negros Oriental y otros, recurridos. Se pide en el, entre otras cosas, que la orden de ejecucion expedida por el recurrido Juez en la causa civil No. 1019 contra el recurrente, sea declarada nula y sin

valor alguno; y que se ordene a los recurridos que desistan de ejecutar la decision dictada en dicha causa civil No. 1019.

Los hechos expuestos en la decision del Tribunal en este asunto son correctos; y de ellos se desprende que el recurrente era demandado en la causa civil No. 1019 del Juzgado de Primera Instancia de Negros Oriental. La demanda tenia por objeto reclamar el pago de la suma de P3,000. El asunto fue decidido a favor del demandante, el recurrido Monico Cabanela. El recurrente, como demandado en el mencionado asunto, apelo de la sentencia para ante el Tribunal de Apelaciones, y este la confirmo. El recurrente convino con el referido Cabanela en pagarle la suma de P1,500 como satisfaccion completa del importe de la sentencia. Cabanela acepto este convenio, otorgando al efecto el Exhibito C que se acompaña a la solicitud presentada en este asunto, y cuyo tenor es como sigue:

"RECIBO DE PAGO

"He recibido del Sr. Enrique Medina, la suma de mil quinientos PESOS (P1,500) moneda filipina, en metalico y cash, en este mismo acto, como pago total de mi reclamacion en la Causa Civil No. 1019, CA-G. R. No. 2824, y hago constar que renuncio ya y doy por pagada, cualquier otra cantidad exigible del Sr. Enrique Medina, en virtud de dicha causa civil, en consideration a este pago de P1,500 pago que no esperaba recibir tan pronto.

"Hago constar que en realidad esta suma debe ser pagada por Timoteo Moreno, que es el verdadero deudor, pues en conciencia el Sr. Enrique Medina, nunca me ha debido nada.

"Dumaguete, Negros Oriental, Julio 8, 1940.

(Fdo.) "Monico Cabanela

"Demandante

"C. C. 1019, CA-2824."

En la misma fecha que lleva el documento arriba transcrito, el recurrente presento un pedimento de nueva vista en la repetida causa civil No. 1019 (C. A. No. 2824), fundado en la declaration hecha por el recurrido Monico Cabanela, de que un tal Timoteo Moreno era el verdadero deudor suyo y no el recurrente (Exhibito D). El 26 de Julio del mismo ano 1940, se presento otra peticion suplementaria de nueva vista, en la que se alegaba que el importe de la sentencia dictada en la causa habia sido ya totalmente pagado. Monico Cabanela se opuso a esta peticion, alegando que el otorgamiento de dicho documento Exhibito C, arriba transcrito, fue obtenido mediante fraude, porque, segun el, se le hizo creer que el asunto no estaba todavia decidido a su favor por el Tribunal de Apelaciones cuando, en realidad, se habia ya confirmado la sentencia del Tribunal inferior por el de Apelaciones, que desestimo la peticion de nueva vista. Devueltos los autos al Juzgado de Primera Instancia de Negros Oriental, Monico Cabanela, por medio de sus abogados, pidio la ejecucion de la sentencia, a lo que el Recurrente se opuso, fundandose en que dicha sentencia ya habia sido satisfecha completamente, en virtud de la transaccion habida entre las partes y mediante el pago que hizo de la suma de P1,500 entregada al recurrido Monico Cabanela. El Juzgado, sin celebrar juicio alguno sobre el incidente, desatendio lo alegado por el recurrente, fundando se en que la expedition de una orden de ejecucion era deber ministerial del escribano del tribunal. Se pidio que se reconsiderara tal dictamen del Juzgado de Primera Instancia de Negros Oriental, peticion que fue, asimismo, desestimada. La cuestion, por tanto, es la siguiente: i Tenia o no derecho el recurrente a que se le oyera, alegando, como alegaba, que la sentencia, cuya ejecucion se solicitaba, habia sido ya totalmente satisfecha, en virtud del documento Exhibito C, cuyo otorgamiento y autenticidad estan admitidos por el recurrido Monico Cabanela?

Se sostiene en la opinion de la mayoria esta proposition: que habiendo suscrito Cabanela el Exhibito C por habersele hecho creer por el recurrente, que el asunto no se habia fallado aun por el Tribunal de Apelaciones,

cuando en realidad ya estaba decidido por dicho Tribunal, la transaccion a que se refiere el mencionado exhibito es fraudulenta; y, por consecuencia, el Juez recurrido no se excedio de su jurisdiction ni abuso de su facultad discrecional al ordenar que se ejecutara la sentencia.

No estamos conformes con tal dictamen. Notese, y notese bien, que la cuestion de si el documento Exhibito C es o no fraudulento, entrana un punto de hecho, el cual no ha sido objeto de ningun pronunciamiento judicial por un tribunal competente. Y cual es el tribunal con jurisdiction para hacer tal pronunciamiento. Sobre este extremo, hallamos en 127 American State Reports, 708, 109 lo siguiente:

"b. When the judgment is Satisfied.—When it is claimed that a judgment has been fully satisfied, there is no doubt that the court will not permit the plaintiff to proceed under his execution until the claim is disposed of, but if there is any controverted issue of fact, the court will not usually determine it on mere motion, but will leave the parties to settle it by some appropriate suit, meantime staying the execution of the judgment until the opportunity for such settlement is afforded: Freeman on Judgments, Sec. 50; Freeman on Executions, Sec. 77. Sometimes, however, the court wherein the judgment is will undertake to determine the question on motion for the entry of satisfaction of the judgment, and by this proceeding execution will, in effect, be recalled and perpetually stayed: Rutland's Admr. vs. Pippin, 7 Ala. 469; King vs. Nimick, 34 Pa. 297; Lewis vs. Linton, 207 Pa. 320, 56 Atl. 874."

En Freeman on Executions (Third Edition) paginas 436, 437, se dice:

"When from any cause the person about to be injured by the enforcement of a satisfied judgment has no remedy at law, or when his legal remedy has been exhausted, he may obtain an injunction. If the satisfaction of the judgment is denied, and hence an issue of fact is presented for trial and determination, the remedy by motion, because it does not permit of a regular and advantageous trial of this issue, ought not to be regarded as adequate, and hence the defendant should be allowed to secure relief by an independent suit."

Tenemos, pues, que, en otras jurisdicciones, cuando, como ocurre en el presente caso, se discute si la tencia esta o no ya satisfecha, tal cuestidn de hecho debe resolverse en una action independiente. Ahora bien,i cual es el procedimiento que debe seguirse bajo nuestras leyes para determinar si la sentencia, cuya ejecucidn se solicita, ya ha sido o no satisfecha? Lo senala el artfculo 43 de la Regla 39 del Nuevo Reglamento de los tribunales, que dispone:

"Art. 43. Orden sobre la admision de pago o el registro del pago de la sentencia sin admision.—Siempre y cuando, y no por virtud de ejecucion, se satisficiera realmente la sentencia, el ejecutante o su abogado debera otorgar y ratificar, o hacer constar la admision de pago, segun se dispone en el articulo anterior, y, previa moci6n y notificacion, el Juzgado podra disponer que asi se haga por el ejecutante o por su abogado, o podra ordenar el registro de tal pago sin dicha admision."

Ahora bien; segun esta disposici6n legal, quien alega haber satisfecho totalmente la sentencia contra el dictada, debe acudir al tribunal correspondiente, previa notificacion a la otra parte, y solicitar que se expida una carta de pago o que, en su defecto, se anote en los autos del asunto el pago hecho, lo cuai es precisamente lo que habia hecho el recurrente (vease el Exhibit L) al oponerse a la petici6n del recurrido Cabanela de que se ejecutara dicha sentencia. Pero, el Juez recurrido, fundandose en que la ejecucion de una sentencia es un acto ministerial del escribano del tribunal, sin dar oportunidad a las partes para sustanciar sus respectivas alegaciones, desestimo lo solicitado por el recurrente. Este hizo mas todavia: denegada su peticion, presento una demanda contra Cabanela, en que, alegando casi los mismos hechos que habia expuesto en el Exhibit L, pedia, entre otras cosas, que se expidiera un interdicto prohibitorio contra dicho Cabanela; pero, otra vez, sin dar oportunidad al recurrente a sustentar los hechos alegados en su demanda, el Juez recurrido sobreseyo la misma. (Vease Exhibit "S".) Es inconcuso, pues, que al recurrente no se le habia dado oportunidad para demostrar lo alegado por el; y que no

existe ningiin dictamen judicial sobre si el tantas veces mencionado documento Exhibito C es o no f raudulento.

Segun las Leyes Nos. 3 y 259 del Commonwealth, enmendatorias delCodigo Administrativo Revisado, la jurisdiccion de este Tribunal es una apelada, excepto en los casos expresamente senalados por la Ley, cuyo conocimiento originario le incumbe. La pretension del recurrente de que ya habia satisfecho totalmente la sentencia contra el no es, a nuestro juicio, una de las cuestiones o casos que caen bajo la jurisdiccion originaria de este Tribunal. Para que pueda decidir este punto, es necesario que se le someta el mismo mediante apelacion contra el dictamen del tribunal competente, que en este caso es el Juzgado de Primera Instancia de Negros Oriental, y no de otro modo. Se sostiene, pues, que esta Superioridad f allo un punto de hecho que no le incumbia decidir originariamente. La cuestion que se le somete en este recurso, es una puramente de derecho, o sea, si discutiendose por las partes el hecho de si la sentencia contra el recurrente esta o no totalmente satisfecha, el Juez recurrido se excedio de su jurisdiccion o abuso de sus facultades discrecionales, al no dar oportunidad al recurrente, en un juicio, a probar sus alegaciones. Creemos que bajo el articulo 43 de la Regla 39 del Nuevo Reglamento de los tribunales, arriba acotado, el exceso de jurisdiccion o abuso de dichas facultades discrecionales son patentes.

Writ of preliminary injunction dissolved.

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