

JUAN MAGBANUA, PETITIONER, VS. HONORABLE CONRADO BARRIOS, JUDGE, COURT OF FIRST INSTANCE OF ILOILO, AND NICOLASA POMARIN, RESPONDENTS.

G.R. No. 48414. October 22, 1941

Ponente: OZAETA, J.

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OZAETA, J.:

It may be said in this case that the mountains laboured and brought forth a mouse. Prominent counsel filed voluminous pleadings with numerous exhibits thereto annexed; and after going thru them, we find that the only controversy between the parties is whether the 30 cavans of palay involved in the litigation measure 75 liters, or 150 liters, a cavan. The facts out of which that controversy arose are briefly as follows:

Juan Magbanua sued Lucilo Calibara in the justice of the peace court of Pototan, Iloilo, for a sum of money, and obtained a writ of preliminary attachment which the sheriff levied on 30 cavans and 6 gantas of palay. Nicolasa Pomarin, estranged wife of Lucilo Calibara, intervened and claimed the palay as her own. The justice of the peace decided the case in favor of Juan Magbanua, to whom he awarded the 30 cavans and 6 gantas of palay in full payment of Lucilo Calibara's indebtedness to him. Intervenor Nicolasa Pomarin appealed to the Court of First Instance, which rendered judgment in her favor, ordering the plaintiff Juan Magbanua to deliver to her 30 cavans and 6 gantas of palay or to pay to her its value at the current market price.

After that judgment became final, the question arose as to whether the cavans mentioned contained 75 liters or 150 liters each. Citing the Spanish dictionary, counsel for the plaintiff contended that a cavan contains 75 liters. Indeed, Commonwealth Act No. 617, approved June 4, 1941, provides that "the ganta shall contain three liters. The intervenor, on the other hand, contended that what she claimed was the 30 cavans and 6 gantas which the sheriff had taken away from her and which contained 150 liters a cavan, as stated by the sheriff himself in his return.

Upon verification of the sheriff's return, which stated that he attached "sixty-one sacks of palay equivalent to thirty cavanese and six gantas more or less (at 150 liters per cavan) in the presence of the defendant and the two witnesses," Judge Conrado Barrios, in an order dated November 1, 1940, sustained the contention of the intervenor and ordered that the writ of execution be issued in accordance with section 19 of rule 59 of the Rules of Court, which provides that if the defendant recovers judgment against the plaintiff, all the property attached remaining in the hands of the sheriff shall be delivered to the defendant and the order of attachment discharged. In a subsequent order dated March 4, 1941, resolving a motion of the plaintiff to order the clerk of the court to stick to the dispositive part of the decision in issuing the writ of execution in favor of the intervenor, Judge Barrios said that altho exhibit 1 of the intervenor Nicolasa Pomarin speaks only of cavans of palay, these "cavans" must refer to the return of the sheriff on the attachment and, therefore, the phrase "cavanese de palay" inserted in the decision should be interpreted in relation to the said return of the sheriff.

That interpretation by the court of its own decision is assailed by the petitioner in this certiorari proceeding,

contending that the court had no jurisdiction to amend its decision after it had become final.

Petitioner's contention is without merit. The court did not amend its decision but merely clarified the phrase "cavanes de palay" contained in its dispositive part in view of the ambiguity that arose in connection with the execution of said judgment. Since what the intervenor claimed was the specific amount of palay seized from her by the sheriff and the court sustained her claim, and since the sheriff's return showed that the palay he seized from the intervenor consisted of 61 sacks or 30 cavans and 6 gantas of 150 liters each cavan it is clear that the court's interpretation of its decision was correct, and that it had the power to enter the orders complained of so as to make the writ of execution conformable to law and justice. (See section 5 M, rule 124.)

The orders of the respondent judge are affirmed, with costs against the petitioner. So ordered.

Abad Santos, Diaz, Moran, and Horrilleno, JJ., concur.

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