

SENTINEL INSURANCE CO., INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. FLORELIANA CASTRO-BARTOLOME, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, SEVENTH JUDICI...

G.R. No. 52482. February 23, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

Before us is a petition seeking the amendment and modification of the dispositive portion of respondent court's decision in CA-G.R. No. SP-09331,[1] allegedly to make conform with the findings, arguments and observations embodied in said decision, which relief was denied by respondent court in its resolution, dated January 15, 1980,[2] rejecting petitioner's ex parte motion filed for that purpose.[3]

While not involving the main issues in the case threshed out in the court a quo, the judgment in which had already become final and executory, the factual backdrop of the present petition is summarized by respondent court as follows:

“Petitioner Sentinel Insurance, Co., Inc., was the surety in a contract of suretyship entered into on November 15, 1974 with Nemesio Azcueta, Sr., who is doing business under the name and style of 'Malayan Trading' as reflected in SICO Bond No. G(16)00278 where both of them bound themselves, ‘jointly and severally, to fully and religiously guarantee the compliance with the terms and stipulations of the credit line granted by private respondent Rose Industries, Inc., in favor of Nemesio Azcueta, Sr., in the amount of P180,000.00.’ Between November 23 to December 23, 1974, Azcueta made various purchases of tires, batteries and tire tubes from the private respondent but failed to pay therefor, prompting the latter to demand payment but because Azcueta failed to settle his accounts, the case was referred to the Insurance Commissioner who invited the attention of the petitioner on the matter and the latter cancelled the Suretyship Agreement on May 13, 1975 with due notice to the private respondent. Meanwhile, private respondent filed with the respondent court of Makati a complaint for collection of sum of money against herein petitioner and Azcueta, docketed as Civil Case No. 21248 alleging the foregoing antecedents and praying that said defendants be ordered to pay jointly and severally unto the plaintiff:

- a) The amount of P198,602.41 as its principal obligation, including interest and damage dues as of April 29, 1975;
- b) To pay interest at 14% per annum and damage dues at the rate of 2% every 45 days commencing from April 30, 1975 up to the time the full amount is fully paid:

xxx xxx xxx

"After petitioner filed its answer with counterclaim, the case, upon agreement of the parties, was submitted for summary judgment and on December 29, 1975, respondent court rendered its decision with the following dispositive portion:

'xxx xxx xxx

a) To pay interest on the principal obligation at the rate of 14% per annum at the rate of 2% every 45 days commencing from April 30, 1975 until the amount is fully paid.'

"The decision having become final and executory, the prevailing party moved for its execution which respondent judge granted and pursuant 'thereto, a notice of attachment and levy was served by respondent Provincial Sheriff upon the petitioner. On the same day, however, the latter filed a motion for 'clarification of the judgment as to its real and true import because on its face, it would appear that aside from the 14% interest imposed on the principal obligation, an additional 2% every 45 days corresponding to the additional penalty has been imposed against the petitioner which imposition would be usurious and could not have been the intention of respondent Judge.' But the move did not prosper because on May 22, 1971, the judge denied the motion on the theory that the judgment, having become final and executory, it can no longer be amended or corrected." [4]

Contending that the order was issued with grave abuse of discretion, petitioner went to respondent court on a petition for certiorari and mandamus to compel the court below to clarify its decision, particularly Paragraph 1(a) of the dispositive portion thereof.

Respondent court granted the petition in its decision dated December 3, 1979, the disquisition and dispositive portion whereof read:

"While it is an elementary rule of procedure that after a decision, order or ruling has become final, the court loses its jurisdiction over the same and can no longer be subjected to any modification or alteration, it is likewise well-settled that courts are empowered even after such finality, to correct clerical errors or mistakes in the decisions (Potenciano vs. CA, L-11569, 55 O.G. 2895). A clerical error is 'one that is visible to the eyes or obvious to the understanding' (Black vs. Republic, 104 Phil. 849)

"That there was a mistake in the dispositive portion of the decision cannot be denied considering that in the complaint filed against the petitioner, the prayer as specifically stated in paragraph (b) was to 'order the latter to pay interest at 14% per annum and damage dues at the rate of 2% every 45 days commencing from April 30, 1975 up to the time the amount is fully paid.' But this notwithstanding, the respondent court in its questioned decision decreed, the petitioner 'to pay interest on the principal obligation at the rate of 14% per annum and 2% every 45 days commencing from April 30, 1975 until the amount is fully paid,' so that, as petitioner correctly observes, it would appear that on top of the 14% per annum on the principal obligation, another 2% interest every 45 days commencing from April 30, 1975 until the amount is fully paid has been imposed against him (petitioner). In other words, 365 days in one year divided by 45 days equals 8-1/9 which, multiplied by 2% as ordered by respondent judge would amount to a little more than 16%. Adding 16% per annum to the 14% interest imposed on the principal obligation would be 30% which is veritably usurious and this cannot be countenanced, much less sanctioned by any court of justice.

"We agree with this observation and what is more, it is likewise a settled rule that although a court may grant any relief allowed by law, such prerogative is delimited by the cardinal principle that it cannot grant anything more than what is prayed for, for certainly, the relief to be dispensed cannot rise above its source (Potenciano vs. CA, supra.)

"WHEREFORE, the writ of certiorari is hereby granted and the respondent judge is ordered to clarify its judgment complained of in the following manner:

xxx xxx xxx

a) to pay interest at 14% per annum on the principal obligation and damage dues at the rate of 2% every 45 days commencing from April 30, 1975 up to the time the full amount is fully paid;" [5]

xxx xxx xxx

As earlier stated, petitioner filed an ex parte motion seeking, to amend the above-quoted decretal portion which respondent court denied, hence the petition at bar.

The amendment sought, ostensibly in order that the dispositive portion of said decision would conform with the body thereof, is the sole issue for resolution by the Court. Petitioner itself cites authorities in support of its contention that it is entitled to a correct and clear expression of a judgment to avoid substantial injustice.[6] In amplification of its plaint, petitioner further asseverates that respondent court should not have made, an award for "damage dues" at such late stage of the proceeding since said dues were not the subject of the award made by the trial court.[7]

We disagree with petitioner.

To clarify an ambiguity or correct a clerical error in the judgment, the court may resort to the pleadings filed by the parties, the findings of fact and the conclusions of law expressed in the text or body of the decision.[8]

Indeed, this was what respondent court did in resolving the original petition. It examined the complaint filed against the petitioner and noted that the prayer as stated in Paragraph (b) thereof was to "order defendant to pay interest at 14 per centum and damage dues at the rate of 2% every 45 days commencing from April 30, 1975 up to the time the full amount is fully paid." [9]

Insofar as the findings and the dispositive portion set forth in respondent court's decision are concerned, there is really no inconsistency as wittingly or unwittingly asserted by petitioner.

The findings made by respondent court did not actually nullify the judgment of the trial court. More specifically, the statement that the imposition of 2% interest every 45 days commencing from April 30, 1975 on top of the 14% per annum (as would be the impression from a superficial reading of the dispositive portion of the trial court's decision) would be usurious is a sound observation. It should, however, be stressed that such observation was on the theoretical assumption that the rate of 2% is being imposed as interest, not as damage dues which was the intendment of the trial court.

Certainly, the damage dues in this case do not include and are not included in the computation of interest as the two are of different categories and are distinct claims which may be demanded separately, in the same manner that commissions, fines and penalties are excluded in the computation of interest where the loan or forbearance is not secured in whole or in part by real estate or an interest therein.[10]

While interest forms paid of the consideration of the contract itself, damage dues (penalties, and so forth) are usually made payable only in case of default or nonperformance of the contract.[11] Also, although interest is subject to the provisions of the Usury Law,[12] there is no policy or provision in such law preventing the enforcement of damage dues although the effect may be to increase the sum payable beyond the prescribed ceiling rates.

Petitioner's assertion that respondent court acted without authority in appending the award of damage dues to the judgment of the trial court should be rejected. As correctly pointed out by private respondent, the opening sentence of Paragraph 1(a) of the dispositive portion of the lower court's decision explicitly ordered petitioner to pay private respondent "the amount of P198,602.41 as principal obligation including interest and damage dues," which is a clear and unequivocal indication of the lower court's intent to award both interest and damage dues.[13]

Significantly, it bears mention that on several occasions before petitioner moved for a clarificatory judgment, it offered to settle its account with private respondent without assailing the imposition of the aforementioned

damage dues.[14] As ramified by private respondent:

"2. x x x the then counsel of record for the petitioner, Atty. Porfirio Bautista, and Atty. Teodulfo L. Reyes, petitioner's Assistant Vice-President for Operations, had a conference with the undersigned attorneys as how to petitioner will settle its account to avoid execution. During the conference, both parties arrived at almost the same computation and the amount due from petitioner, which includes 2% damage dues every 45 days from 30 April 1975 until the amount is fully paid, under the judgment. No question was ever raised as regards same.

xxx xxx xxx

"5. The very face of Annex 'D' shows that the '2%' damage dues being questioned by the present counsel of petitioner had been mentioned no less than TEN (10) TIMES and was clearly and distinctly defined by petitioner and included in the computation of its obligation to herein petitioner as '2% penalty for every 45 days.'

xxx xxx xxx

"Petitioner's pretense that it was not the intent of the court to award the damage dues of 2% every 45 days commencing 30 April 1975 is belied by the fact (and this is admitted by petitioner) that upon agreement of the parties, the case before the lower court was submitted for summary judgment; in other words, the case was submitted upon the facts as appear in the pleadings with no other evidence presented and a fact that appears clearly in the pleadings is that the defendants in the case before the lower court were under contract to pay private respondent, among others, the damage dues of 2% every 45 days commencing on 30 April 1975 until the obligation is fully paid; x x x." [15]

Respondent court demonstrably did not err in ordering the clarification of the decision of the trial court by amending the questioned part of its dispositive portion to include therein the phrase "damage dues" to modify the stated rate of 2%, and thereby obviate any misconception that it is being imposed as interest.

ACCORDINGLY, certiorari is hereby DENIED and the decision of respondent Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Penned by Justice Jose B. Jimenez, with Justices Hugo E. Gutierrez and Justiniano F. Cortes concurring.

[2] Rollo, 116.

[3] Ibid., 112.

[4] Ibid., 108-110.

[5] Ibid., 110-111.

[6] Ibid., 99.

[7] Ibid., 28-29.

[8] Republic Surety and Insurance Co., Inc. vs. Intermediate Appellate Court, 152 SCRA 309 (1987).

[9] Rollo, 110, 35.

[10] Secs. 2 and 3, Act No. 2655, as amended by Presidential Decree No. 116.

[11] Arts. 1170 and 2201, Civil Code.

[12] Central Bank Resolution No. 224, dated December 3, 1982, has for the present suspended the interest rate ceilings imposed by Act No. 2655 on loans.

[13] Brief for Private Respondent, 9-10.

[14] Rollo, 90.

[15] Brief for Private Respondent, 2-3, 9.

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