

WORLD MACHINE ENTERPRISES, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND J.R. LITHOPLATES, RESPONDENTS.

G.R. No. 72019. December 20, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Can the issuance of a writ of execution of a compromise judgment be appealed and consequently recalled, notwithstanding that said writ had already been enforced and satisfied during the pendency of a Motion to Recall the Issuance of said Writ?

This is the sole issue for resolution in this case, the antecedent facts of which are as follows:

Private respondent J.R. Lithoplates (hereinafter referred to as private respondent) purchased a printing press machine from petitioner World Machine Enterprises (hereinafter referred to as petitioner) payable in monthly installments. The sale was evidenced by a promissory note. To secure the note, private respondent executed a chattel mortgage over a piece of personal property belonging to it, described as follows:

"One (1) unit SOLNA COLOUR

OFFSET PRESS MODEL 8000

SERIES SINGLE, SIZE 18"

x 24 3/4" Complete with

standard accessories and

electrics"[1]

It was stipulated in both the promissory note and the chattel mortgage contract that in the event of failure to pay one (1) or two (2) consecutive monthly installments, the entire balance shall become due and payable and petitioner shall have the right to repossess the subject property or to foreclose the chattel mortgage, at its election.

Private respondent defaulted in its payments to petitioner. Consequently, petitioner demanded payment, or the surrender of the above-described property for the purpose of foreclosure, but despite repeated demands, private respondent was unable to comply therewith.

Thus, on February 22, 1983, petitioner filed a complaint for replevin and/or a sum of money against private respondent before the Regional Trial Court of Quezon City, Branch 99. The complaint was docketed as Civil Case No. Q-37443.[2]

During the hearing of the case on the merits, the parties submitted a Compromise Agreement dated April 30, 1983, the complete text of which reads as follows:

"COME NOW the parties in the above-entitled case, and unto this Honorable Court respectfully submit this

compromise agreement:

1. - Defendant (J.R. Lithoplastes) admits that its obligation to the plaintiff in the amount of Sixty Six Thousand (P66,000.00) Pesos including interest, arrearages, litigation expenses and other charges is due and demandable;
2. - Defendant agrees to settle the foregoing amount under the following schedule of payments, to wit:
 - a) Ten Thousand (P10,000.00) Pesos upon signing of the contract;
 - b) Twenty Three Thousand (P23,000.00) Pesos on or before May 30, 1983; and
 - c) Thirty Three Thousand (P33,000.00) Pesos on or before July 30, 1983;
3. - Plaintiff agrees to return the machine subject matter of the instant complaint to the defendant upon payment by the latter of the Twenty Three Thousand (P23,000.00) Pesos stipulated in paragraph 2 (b) hereof;
4. - Defendant further agrees to insure the said machine and the proceeds of which is payable to the plaintiff;
5. - The other terms and conditions the promissory note and chattel mortgage contract relative to the machine subject matter of the instant complaint in so far as applicable and not in conflict with the terms and conditions of the compromise agreement shall remain valid and binding to which defendant agrees to strictly comply with;
6. - The parties hereby agreed that if defendant violates any and/or all the foregoing terms and conditions set forth in this compromise agreement, a writ of execution to seize the printing press machine subject matter of the instant complaint shall immediately be issued upon motion of the plaintiff and defendant waives his right to a notice and hearing thereof and all payments made by virtue of this compromise agreement shall be forfeited in favor of the plaintiff as rentals of the machine and as liquidated damages.

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed of this Honorable Court that a decision be rendered based on the foregoing compromise agreement."[3] (underscoring supplied)

Presiding Judge Bienvenido C. Vera-Cruz approved the aforequoted compromise agreement in toto in a decision promulgated on May 27, 1983.[4]

It is uncontroverted that on May 30, 1983, private respondent failed to pay the second installment of P23,000.00, in violation of paragraph 2 of the compromise agreement. Private respondent, through its representative, Jaime Ragiles, requested petitioner for an extension of time to pay as it was awaiting the release of its loan from the Integral Management and Development Consultancy for thirty thousand pesos (P30,000.00),[5] with which sum it intended to pay petitioner. As proof thereof, private respondent showed petitioner a copy of the certification of approval of the loan from said company dated May 30, 1983.[6] Petitioner admits that it granted private respondent, through counsel, only up to June 1, 1983 to pay the second installment. Petitioner likewise admits that it made inquiries into the said loan, but after learning that it would be approved only upon submission of the necessary documents, and that there is no specific date for its release, petitioner proceeded to file a motion for writ of execution with the trial court on June 2, 1983.[7]

On the other hand, private respondent claims that when it approached petitioner for an extension, it sought to get the same in writing, but the counsel of petitioner assured the private respondent that the request for extension can easily be accommodated. Hence, private respondent continues, it did not persist in procuring the written extension and relied on the word of counsel for petitioner. Private respondent insists that petitioner was guilty of bad faith in filing the motion for writ of execution despite the extension granted through counsel.

At any rate, the motion for execution was granted and a writ of execution dated June 7, 1983 was accordingly issued. The very next day, private respondent filed an Urgent Ex-Parte Motion to Recall the Writ of Execution,

containing all of the above allegations. Petitioner filed an opposition thereto, setting forth its own version as aforementioned. Meanwhile, the writ of execution was implemented by Deputy Sheriff Florencio Pangilinan on June 10, 1983, and was duly satisfied as evidenced by the Sheriff's Return dated June 17, 1983.[8]

Private respondent then filed a Manifestation alleging that the writ of execution should be recalled on the ground that it had not yet been enforced. Petitioner countered by manifesting that the writ of execution had already been served and that the machine subject matter of the writ had already been sold in accordance therewith.

After due hearing, the trial court issued an Order dated June 30, 1983, denying the Motion to Recall the Writ of Execution filed by private respondent.[9]

On July 2, 1983, private respondent filed a Notice of Appeal of the aforementioned Order of the trial court, which was given due course, despite the opposition of petitioner. The case was docketed in the then Intermediate Appellate Court (now Court of Appeals) as CA-G.R. CV No. 02146.[10]

After the parties had filed their respective briefs, the respondent court rendered a decision dated February 28, 1985, recalling the Writ of Execution issued by the trial court, ordering the petitioner to return the printing press machine to private respondent, and ordering the latter to pay its entire obligation of FIFTY-SIX THOUSAND PESOS (P56,000.00) to petitioner within one month from the finality of the decision.[11]

The respondent court found that a verbal extension of time to pay was indeed granted by petitioner to private respondents on account of the fact that petitioner made inquiries into the loan sought to be obtained by private respondent.

Petitioner filed a Motion for Reconsideration of the decision of the respondent court, which was denied.

Hence, the instant petition for certiorari.

Petitioner raises four assignments of error, namely that:

"I. THE RESPONDENT COURT ERRED IN NOT DISMISSING THE APPEAL OF RESPONDENT J.R. LITHOPLATES, SUCH REMEDY NOT BEING LEGALLY PROPER OR APPROPRIATE;

"II. THE RESPONDENT COURT ERRED IN NOT CONSIDERING THE APPEAL MOOT AND ACADEMIC;

"III. THE RESPONDENT COURT ERRED IN CONCLUDING THAT PETITIONER WORLD MACHINE ENTERPRISES EXTENDED THE PERIOD OF PAYMENT OF THE OBLIGATION CONTRARY TO THE UNDISPUTED FACTS AND THE FILING OF THE MOTION FOR EXECUTION;

"IV. THE RESPONDENT COURT HAS ERRONEOUSLY EFFECTED A SUBSTANTIAL ALTERATION OR CHANGE IN THE TERMS AND CONDITIONS OF A COMPROMISE JUDGMENT ALREADY SATISFIED."[12]

The petition is impressed with merit.

The respondent Court of Appeals gravely erred when it reversed the Order appealed from and recalled the Writ of Execution issued by the trial court, for the following reasons:

First, as correctly contended by petitioner, there is no longer anything to recall, as the writ of execution had already been duly served and satisfied. Its recall has therefore, been rendered moot and academic.

Second, the compromise agreement executed by the parties and approved by the trial court is controlling. It is clear therefrom that a violation of any of its terms and conditions shall entitle petitioner to the issuance of a writ

of execution, with private respondent waiving its right to notice and hearing of the same.

Well-settled is the rule that a judicial compromise has the force of law and is conclusive between the parties.[13] A compromise has upon them the effect and authority of *res judicata*. [14] Therefore, private respondent is bound by the compromise agreement it entered into with petitioner. Since it defaulted on the payment of the second installment, execution was properly sought by petitioner, and accordingly issued by the trial court.

Third, a judgment based on a compromise is generally not appealable, as enunciated in the case of *Serrano et al. vs Reyes et al.*[15] The reason for the rule is that “when both parties enter into an agreement to end a pending litigation and request that a decision be rendered approving said agreement, it is only natural to presume that such action constitutes an implicit, as undeniable as an express, waiver of the right to appeal against said decision”.[16] Granting that what was appealed in the instant case is the issuance of the writ of execution and not the compromise agreement itself, the distinction is but superficial because the questioned writ of execution was issued pursuant to the compromise agreement and may be considered as part thereof. The net result is that the compromise agreement is what is actually being appealed, specifically the provision on execution. The Court of Appeals clearly violated the above-mentioned rule on the non-appealability of judgments on compromise when it entertained the appeal of petitioner.

Fourth, what private respondent is actually trying to achieve by seeking the recall of the writ of execution is to obtain judicial recognition of what would amount to a modification of the compromise judgment. This modification refers to the alleged verbal grant of extension of time to pay the second installment.

The alleged modification of the compromise judgment is a question of fact, which the trial court presumably passed upon with adequacy during the hearing and proceedings to resolve the Motion to Recall the Writ of Execution. The appellate court should therefore not have disturbed the finding of the trial court that there was no such extension as implied in its appealed Order. The court *a quo* is in the best position to determine said question, especially considering that the judgment sought to be modified is based entirely on a compromise agreement between the parties. Time and again We have ruled that the determination by the trial court is entitled to the highest respect, and that as a general rule, appellate courts will not disturb the factual findings of the trial court.[17]

Furthermore, the rule on modification of compromise judgments clearly provides that if a court renders a judgment on compromise, it generally cannot modify the compromise unless the parties consent (underscoring supplied) or unless there is a hearing to determine the presence or absence of vitiated consent.[18] Following this rule, the court *a quo* could not have recognized the alleged extension which is the modification sought, without the consent of the petitioner. The record of the case clearly shows that petitioner did not give its consent to the requested extension. On the contrary, petitioner in fact opposed the same, as evidenced by its Opposition to the Motion to Recall the Writ of Execution. Moreover, the fact that petitioner filed for the issuance of a writ of execution indicates a clear intent to abide by the terms of the compromise agreement.

Fifth, there was no reversible error on the part of the trial court when it held that the writ of execution should not be recalled based on the mere allegation of a verbal extension of time of payment purportedly granted by petitioner, since such allegation is unsubstantiated by concrete evidence.

The only admissions made by petitioner are: (1) that upon the request of private respondent, it granted the latter a period of two days from May 30, 1983, or until June 1, 1983, to pay the second installment, and (2) that it made injuries into the loan being applied for by private respondent, which the latter declared it would use to pay petitioner.

These admissions are not sufficient to hold that petitioner did allow private respondent to pay only upon the release of the loan, thereby modifying the approved compromise agreement, and removing the right of petitioner to move for execution upon any default of payment.

The contention of private respondent is that the verbal assurance of accommodation given by the counsel of petitioner regarding its request for extension is already equivalent to a grant of said request. The claim is self-serving and entirely uncorroborated. By no stretch of the imagination can such assurance from the counsel of petitioner qualify as a clear grant of extension.

Sixth, the pronouncement of the appellate court that the fact that petitioner made inquiries is conduct indicative of the fact that it really granted an extension of time to pay is erroneous. The inquiries made amounts to an express grant of extension no more than the verbal assurances of accommodation made by the counsel of petitioner. Inquiries into the release of a loan of one's debtor is only to be expected of a concerned creditor, especially so if said loan is declared by the debtor to be the sum from which the payment of the debt shall be taken.

This latter finding was based on Article 1371 of the New Civil Code, which declares that the contemporaneous and subsequent acts of the parties may be principally considered to judge the intention of the contracting parties. The application of said article is improper because said provision presupposes that the terms of a particular contract are not clear; hence, there is a need to look at the intention of the parties by other means. In the instant case, there is no ambiguity in the terms of the approved compromise agreement. The intention of the parties is clear therefrom.

Lastly, petitioner is correct in its assertion that the best proof that it granted no extension is the fact that the very day after the lapse of the two-day "grace period" which it granted to private respondent, petitioner immediately filed for the issuance of a Writ of Execution pursuant to the terms of the compromise judgment. The latter prevails over any unproven subsequent modification.

The claim of extension of private respondent is nothing but a lame excuse for its failure to pay, and is not entitled to any consideration. If the loan application was really meant to be a part of the compromise agreement, meaning that the second installment should be paid on the agreed date on the condition that the loan would be released by then, private respondent should have ensured that it be incorporated therein, or it should not have signed the compromise agreement at all if it could not comply therewith.

In sum, between a judgment based on a compromise agreement voluntarily signed by the parties to a case, with the blessings of the trial court, and an unsupported allegation of modification of said judgment by only one of the parties, the former must prevail.

At this juncture, it is worthy to note several points which further weaken private respondent's position. Petitioner has averred that notwithstanding the favorable decision of the Court of Appeals to private respondent, the latter has not complied with said decision, which was rendered almost six years ago. In short, the balance of the debt due, or FIFTY-SIX THOUSAND PESOS (P56,000.00), remains unpaid to this day. Moreover, private respondent failed to file its comment to the instant petition, as well as its Memorandum, contrary to the orders of this Court. It has not participated at all in the hearing of this petition. All these reveal evident bad faith on the part of private respondent, further justifying a judgment against it.

WHEREFORE, in view of the foregoing, the instant petition is hereby GRANTED. The decision of the respondent Court of Appeals dated February 28, 1985 is hereby REVERSED AND SET ASIDE, and the order of the trial court dated June 30, 1983 denying the Motion to Recall the Writ of Execution is REINSTATED. Double costs against private respondent.

SO ORDERED.

Narvasa, (Chairman), Cruz, Grino-Aquino, and Medialdea, JJ., concur.

- [1] Page 52, Rollo.
- [2] Page 33, Ibid.
- [3] Pages 65-66, Ibid.
- [4] Pages 67-68, Ibid.
- [5] Page 71, Ibid.
- [6] Page 70, Original Records.
- [7] Page 65, Ibid.
- [8] Pages 19-20, Rollo.
- [9] Page 86, Ibid.
- [10] Page 21, Ibid.
- [11] Pages 36-37, Ibid.
- [12] Pages 22-23, Ibid.
- [13] United Housing Corporation v. Dayrit, G.R. No. 76442, January 22, 1990.
- [14] Article 2037, New Civil Code.
- [15] 110 Phil 536 (1960).
- [16] Ibid.
- [17] People vs. Ibal, 143 SCRA 317 (1986).
- [18] Yboleon vs. Sison, 59 Phil 281 (1933).

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