

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM,
PETITIONER, VS. THE HON. ROSALIO A. DE LEON, AS JUDGE OF THE
REGIONAL TRIAL COURT OF MANILA, BRANCH II, OSCAR V.
ATAYDE, AS DEPUTY S...**

G.R. NO. 78380. March 15, 1990

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a special civil action of certiorari under Rule 65 of the Rules of Court, with prayer for preliminary injunction and/or temporary restraining order, to enjoin the respondents from enforcing the writ of execution issued by respondent Judge on March 16, 1987 in Civil Case No. 80390, on the ground that he acted in excess of his jurisdiction and with grave abuse of discretion in issuing it, and that the petitioner Metropolitan Waterworks and Sewerage System [(or MWSS), formerly National Waterworks & Sewerage Authority (or NWSA)] has no other plain, speedy and adequate remedy in the ordinary course of the law as the Deputy Sheriff has already garnished the deposits of the petitioner in the Philippine National Bank.

On July 17, 1970, private respondents filed an action for specific performance and damages against the petitioner in the Regional Trial Court of Manila, where it was docketed as Civil Case No. 80390. During the pendency of the case, the parties agreed to submit the controversy to a Board of Arbitrators pursuant to Republic Act No. 876.

After extensive hearings, the Arbitration Board rendered a decision-award on August 11, 1972, ordering MWSS to pay the private respondents, Integrated Construction Services, Inc. and Engineering Construction, Inc., the sum of P15,518,383.61 less P2,329,433.41, to be set aside as a trust fund to pay creditors of the joint venture in connection with the project, or a net award of P13,188,950.20 with interest of 6% per annum from the filing of the complaint until fully paid.

The award was confirmed by respondent Judge on September 9, 1972 and it became final and executory.

On October 2, 1972, the petitioner and the private respondents entered into an agreement, the pertinent portions of which provided as follows:

"1. In lieu of the provision of 6% interest on the net award from the date of the filing of the complaint up to the date that it is paid, the MWSS would only pay a straight 6% interest on such amount without computing the period of time involved;

"2. In lieu of the cost of arbitration to be divided equally between the MWSS and the joint venture, the cost of arbitration will be borne solely by the Joint Venture;

"3. The amount of P127,622.31 representing the rental of NWSA-owned equipment deducted from the net award of P13,188,950.20, plus the six (6%) percent straight interest;

"4. The amount of P197,267.79 representing the claims already paid by MWSS to the V.V. Dionisio

Construction, Inc., as well as the amount of P265,539.67 shall be reimbursed to the MWSS from the Trust fund for Third party Claims in the amount of P2,329,433. 41; and

“5. That the MWSS agrees to pay within fifteen (15) days after the official release of this Resolution and after the joint venture shall have signed a written CONFORME on the result of the conferences in a separate letter to be sent by the MWSS and waived any and all claims that the Joint Venture may have had or now have, for, upon or by reason of any manner, cause or thing whatsoever against the NWSA, MWSS, or its successor in interest.

"As a result of the above-cited understanding, the net payable amount is computed as follows:

Net Amount Awarded
by the Board of
Arbitrators

P13,188,950.20

Plus: Straight 6% interest...

791,337.01

Total.....

P13,980,287.21

Less: Amount of Rental of NWSA-owned
pieces of equipment.....

127,622. 31

Net amount Due the
Joint Venture

P13,852,664.90

5th Counter-Claim (Trust Fund for payment
of 3rd party claims).....

2,329,433.41

Less: Claim of V. V. Dionisio Const. Co.,
Inc., already paid ...

P 197,267.79

Rental of equipment and salaries of operators already paid to Deogracias Estrella

68,271.88

P265,539.67

P2,063,893.74"

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(pp. 6-7, Rollo.)

On September 21, 1972, the MWSS adopted Board Resolution No. 132-72, embodying the terms and conditions of the agreement. On October 2, 1972, the MWSS sent a letter-agreement to private respondents quoting the Board Resolution granting MWSS some discounts from the amount payable under the decision?award, consisting of certain reductions in interests, net principal award and in trust fund, provided that the MWSS would pay the judgment, less the discounts, within fifteen (15) days therefrom on or before October 17, 1972. Private respondents signed the said letter-agreement and extended the period to pay the judgment less the discounts, to October 31, 1972. However, the MWSS paid only on December 22, 1972, the amount of P13,437,084.95 leaving a balance of P1,261,510.88 stated in the decision on the original award.

In June 1975, after the last balance of the trust fund had been released to satisfy the creditor's claims, the private respondents filed a motion for execution in Civil Case No. 80390 against the MWSS, for the balance due under the decision-award. The petitioner opposed the execution alleging payment and estoppel.

On July 10, 1975, the respondent Judge denied the motion for execution on the ground that the parties had novated the award by their subsequent letter-agreement. Private respondents moved for reconsideration but the same was denied. They filed a petition for Mandamus in the Supreme Court (G.R. No. L-41117) alleging that respondent Judge unlawfully refused to comply with his ministerial duty to order the execution of the unsatisfied portion of the final and executory award.

On December 29, 1986, this Court rendered a decision granting the writ of mandamus and directed the present Regional Trial Judge of the Branch that handled this case originally to grant the writ of execution for the balance due under the award.

"WHEREFORE, We hereby set aside the assailed orders, and issue the writ of Mandamus directing the present Regional Trial Judge of the Branch that handled this case originally to grant the writ of execution for the balance due under the award." (p. 11, Rollo.)

Petitioner filed a motion for reconsideration but the same was denied in this Court's resolution dated February 26, 1987 (Annex D, Petition).

Private respondents then filed in the lower court (now the Regional Trial Court, Branch II of Manila) an Urgent Ex-Parte Motion for the Issuance of Writ of Execution against the petitioner to satisfy the amount of P2,786,981.16. The respondent Judge issued an order on March 16, 1987, granting the motion, and the Clerk of Court issued an order to the sheriff to enforce the writ of execution.

Petitioner filed a Manifestation and urgent Motion praying that the execution against it should be for the amount of P1,261,510.88 only, as ordered by this Court in the decision of December 29, 1986 in G.R. No. L-41117, and not the amount of P2,786,981.16 stated in the writ of execution.

Private respondents opposed the motion. Nevertheless, on April 10, 1987, respondent Judge issued an order clarifying his order of March 16, 1987, as follows:

"WHEREFORE, the Order of Execution dated March 16, 1987 shall be interpreted to mean the amount of P1,261,510.68* plus interest thereon at the rate of 6% per annum from December 23, 1972 until the said

amount is fully paid." (p. 116, Rollo.)

Pursuant to that order, Deputy Sheriff Oscar V. Atayde of the lower court garnished petitioner's deposits in the Philippine National Bank on April 28, 1987, hence, this petition praying this Court to set aside respondent Judge's orders dated March 16, 1987 and April 10, 1987 and to order the petitioner to pay private respondents only the amount of P1,261,510.88 in accordance with the decision dated December 29, 1986.

Respondents argue that the award referred to in the decision of this Court in G.R. No. L-41117 was the award made by the Board of Arbitrators which the lower court confirmed, in the amount of P13,188,950.20, with straight interest of 6% per annum from the date of the filing of the complaint on July 17, 1970 until full payment thereof.

After a partial payment of P13,437,084.95 was made by the defendant MWSS to the private respondents on December 22, 1972, the remaining balance is only P1,261,510.88 computed as follows:

"Net award

P13,188,950.20

Add: 6% interest from

July 17, 1970 to

December 22, 1972

1,925,225.58

Total due on Dec. 22, 1972

P15,114,175.78

Less: 3% Contractor's

Tax Withheld by NWSS

P 415,579.95

Payment on Dec. 22, 1972

13,852,664.90

13,437,084.95

Balance due under the award

P1,261,510.88"

(pp. 121-122, Rollo.)

The petition has no merit. The petitioner under the letter-agreement of October 2, 1972 was allowed to pay, and the private respondents agreed to accept, a straight interest of 6% only, "without computing the period of time involved" since the filing of the collection suit on July 17, 1970, provided full payment of the award be made by the debtor (petitioner) on or before October 31, 1972. However, as of December 22, 1972, MWSS was able to pay only P13,437,084.95, leaving a balance of P1,261,510.88. After delaying payment of this balance for the past eighteen (18) years, its claim to a condonation of the interest is totally inequitable and unacceptable. It would in effect give the defaulting judgment debtor a premium for bad faith and delay in the satisfaction of the judgment debt.

The respondent Judge, therefore, did not commit any grave abuse of discretion in ordering payment of the balance of P1,261,510.88 due under the award with 6% interest per annum from December 23, 1972 until fully paid.

WHEREFORE, the petition is dismissed. The temporary restraining order which this Court issued on May 25, 1987 is hereby lifted and set aside. This decision is immediately executory. Costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

* Should be P1,261,510.88.

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