

**STATE INVESTMENT HOUSE INC., PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. JUDGE PERLITA J. TRIA TIRONA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANC...**

*G.R. No. 90676. June 19, 1991*

Ponente: FELICIANO, J.

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**FELICIANO, J.:**

On 5 April 1982, respondent spouses Rafael and Refugio Aquino pledged certain shares of stock to petitioner State Investment House, Inc. ("State") in order to secure a loan of P120,000.00 designated as Account No. IF-82-0631-AA. Prior to the execution of the pledge, respondent spouses, as an accommodation to and together with the spouses Jose and Marcelina Aquino, signed an agreement (Account No. IF-82--1379-AA) with petitioner State for the latter's purchase of receivables amounting to P375,000.00. When Account No. IF-82-0631-AA fell due, respondent spouses paid the same partly with their own funds and partly from the proceeds of another loan which they obtained also from petitioner State designated as Account No. IF-82-0904-AA. This new loan was secured by the same pledge agreement executed in relation to Account No. IF-82-0631-AA. When the new loan matured, State demanded payment. Respondents expressed willingness to pay, requesting that upon payment, the shares of stock pledged be released. Petitioner State denied the request on the ground that the loan which it had extended to the spouses Jose and Marcelina Aquino (Account No. IF-82-1379-AA) had remained unpaid.

On 29 June 1984, Atty. Rolando Salonga sent to respondent spouses a Notice of Notarial Sale stating that upon request of State and by virtue of the pledge agreement, he would sell at public auction the shares of stock pledged to State. This prompted respondents to file a case before the Regional Trial Court of Quezon City alleging that the intended foreclosure sale was illegal because from the time the obligation under Account No. IF-82-0904-AA became due, they had been able and willing to pay the same, but petitioner had insisted that respondents pay even the loan account of Jose and Marcelina Aquino which had not been secured by the pledge. It was further alleged that their failure to pay their loan (Account No. IF-82-0904-AA) was excused because the petitioner State itself had prevented the satisfaction of the obligation.

The trial court, in a decision dated 14 December 1984 rendered by Judge Willelmo Fortun, initially dismissed the complaint. Respondent spouses filed a motion for reconsideration praying for a new decision ordering petitioner State to release the shares upon payment of respondents' loan "without interest," as the latter had not been in delay in the performance of their obligation. State countered that the pledge executed by respondent spouses also covered the loan extended to Jose and Marcelina Aquino, which too should be paid before the shares may be released.

Acting on the motion for reconsideration, Judge Fortun set aside his original decision and rendered a new judgment dated 29 January 1985, ordering State to immediately release the pledge and to deliver to respondents the shares of stock "upon payment of the loan under Code No. 82-0904-AA."

On appeal, the Court of Appeals affirmed in toto the new decision of the trial court, holding that the loan extended to Jose and Marcelina Aquino, having been executed prior to the pledge was not covered by the pledge which secured only loans executed subsequently. Thus, upon payment of the loan under Code No. IF-82-0904-AA, the shares of stock should be released. The decisions of the Court of Appeals and of Judge Fortun became final and executory.

Upon remand of the records of the case to the trial court for execution, there developed disagreement over the amount which respondent spouses Rafael and Refugio Aquino should pay to secure the release of the shares of stock -- petitioner State contending that respondents should also pay interest and respondents arguing they should not. Respondent spouses then filed a motion with the trial court to clarify the Fortun decision praying that an order issue clarifying the phrase "upon payment of plaintiffs' loan" to mean upon payment of plaintiffs' loan in the principal amount of P110,000.00 alone, "without interest, penalties and other charges."

On 17 February 1989, the trial court, speaking this time through Judge Perlita Tria Tirona, rendered a decision purporting to clarify the decision of Judge Fortun and ruling that petitioner State shall release respondents' shares of stock upon payment by respondents of the principal of the loan as set forth in PN No. 82-0904-AA in the amount of P110,000.00, without interest, penalties and other charges.

Petitioner State appealed Judge Tirona's decision to the Court of Appeals; the appeal was dismissed. The Court of Appeals agreed with Judge Tirona that no interest need be paid and added that the clarificatory (Tirona) decision of the trial court merely restated what had been provided for in the earlier (Fortun) decision; that the Tirona decision did not go beyond what had been adjudged in the earlier decision. The motion for reconsideration filed by petitioner was accordingly denied.

Hence, this Petition for Review contending that no manifest ambiguity existed in the decision penned by Judge Fortun; that the trial court, through Judge Tirona, erred in clarifying the decision of Judge Fortun; and that the amendment sought to be introduced in the Fortun decision by respondents may not be made as the same was substantial in nature and the Fortun decision had become final.

We begin by noting that the trial court has asserted authority to issue the clarificatory order in respect of the decision of Judge Fortun, even though that judgment had become final and executory. In *Reinsurance Company of the Orient, Inc. v. Court of Appeals*,<sup>[1]</sup> this Court had occasion to deal with the applicable doctrine to some extent:

"- - (E)ven a judgment which has become final and executory may be clarified under certain circumstances. The dispositive portion of the judgment may, for instance, contain an error clearly clerical in nature (perhaps best illustrated by an error in arithmetical computation) or an ambiguity arising from inadvertent omission, which error may be rectified or ambiguity clarified and the omission supplied by reference primarily to the body of the decision itself. Supplementary reference to the pleadings previously filed in the case may also be resorted to by way of corroboration of the existence of the error or of the ambiguity in the dispositive part of the judgment. In *Locsin, et al. v. Paredes, et al.*, this Court allowed a judgment which had become final and executory to be clarified by supplying a word which had been inadvertently omitted and which, when supplied, in effect changed the literal import of the original phraseology:

'x x x it clearly appears from the allegations of the complaint, the promissory note reproduced therein and made a part thereof, the prayer and the conclusions of fact and of law contained in the decision of the respondent judge, that the obligation contracted by the petitioners is joint and several and that the parties as well as the trial judge so understood it. Under the juridical rule that the judgment should be in accordance with the allegations, the evidence and the conclusions of fact and law, the dispositive part of the judgment under consideration should have ordered that the debt be paid 'several-ly' and in omitting the word or adverb 'severally' inadvertently, said

judgment became ambiguous. This ambiguity may be clarified at any time after the decision is rendered and even after it had become final (34 Corpus Juris, 235, 326). This respondent judge did not, therefore, exceed his jurisdiction in clarifying the dispositive part of the judgment by supplying the omission.' (Underscoring supplied)

In Filipino Legion Corporation vs. Court of Appeals, et al., the applicable principle was set out in the following terms:

'[W]here there is ambiguity caused by an omission or mistake in the dispositive portion of a decision, the court may clarify such ambiguity by an amendment even after the judgment had become final, and for this purpose it may resort to the pleadings filed by the parties, the court's findings of facts and conclusions of law as expressed in the body of the decision.' (Underscoring supplied)

In Republic Surety and Insurance Company, Inc. v. Intermediate Appellate Court, the Court, in applying the above doctrine, said:

'x x x We clarify, in other words, what we did affirm. What is involved here is not what is ordinarily regarded as a clerical error in the dispositive part of the decision of the Court of First Instance, x x x. At the same time, what is involved here is not a correction of an erroneous judgment or dispositive portion of a judgment. What we believe is involved here is in the nature of an inadvertent omission on the part of the Court of First Instance (which should have been noticed by private respondents' counsel who had prepared the complaint), of what might be described as a logical follow-through of something set forth both in the body of the decision and in the dispositive portion thereof: the inevitable follow-through, or translation into, operational or behavioral terms, of the annulment of the Deed of Sale with Assumption of Mortgage, from which petitioners' title or claim of title embodied in TCT 133153 flows. (Under-scoring supplied)' "[2] (Underscoring in the original; citations omitted)

The question we must resolve is thus whether or not there is an ambiguity or clerical error or inadvertent omission in the dispositive portion of the decision of Judge Fortun which may be legitimately clarified by referring to the body of the decision and perhaps even the pleadings filed before him. The decision of Judge Fortun disposing of the motion for reconsideration filed by respondent spouses Rafael and Refugio Aquino consisted basically of quoting practically the whole motion for reconsideration. In its dispositive portion, Judge Fortun's decision stated:

"WHEREFORE, plaintiffs' 'Motion for Reconsi-deration' dated January 3, 1985, is granted and the decision of this Court dated December 14, 1984 is hereby revoked and set aside and another judgment is hereby rendered in favor of plaintiffs as follows:

- (1) Ordering defendants to immediately release the pledge on, and to deliver to plaintiffs, the shares of stocks enumerated and described in paragraph 4 of plaintiffs' complaint dated July 17, 1984, upon payment of plaintiff's loan under Code No. 82-0904-AA to defendants;
- (2) Ordering defendant State Investment House, Inc. to pay to plaintiffs P10,000.00 as moral damages, P5,000.00 as exemplary damages, P6,000.00 as attorney's fees, plus costs;
- (3) Dismissing defendants' counterclaim, for lack of merit and making the preliminary injunction permanent.

SO ORDERED." [3]

Judge Fortun evidently meant to act favorably on the motion for reconsideration of the respondent Aquino spouses and in effect accepted respondent spouses' argument that they had not incurred mora considering that their failure to pay PN No. IF-82-0904-AA on time had been due to petitioner State's unjustified refusal to release the shares pledged to it. It is not, however, clear to what precise extent Judge Fortun meant to grant the motion for reconsideration. The promissory note in Account No. IF-82-0904-AA had three (3) components: (a) principal of the loan in the amount of P110,000.00; (b) regular interest in the amount of seventeen percent (17%) per annum;

and (c) additional or penalty interest in case of non-payment at maturity, at the rate of two percent (2%) per month or twenty-four percent (24%) per annum. In the dispositive part of his resolution, Judge Fortun did not specify which of these components of the loan he was ordering respondent spouses to pay and which component or components he was in effect deleting. We cannot assume that Judge Fortun meant to grant the relief prayed for by respondent spouses in all its parts. For one thing, respondent spouses in their motion for reconsideration asked for "at least P50,000.00" for moral damages and "at least P50,000.00" for exemplary damages, as well as P20,000.00 by way of attorney's fees and litigation expenses. Judge Fortun granted respondent spouses only P10,000.00 as moral damages and P5,000.00 as exemplary damages, plus P6,000.00 as attorney's fees and costs. For another, respondent spouses asked Judge Fortun to order the release of the shares pledged "upon payment of [respondent spouses'] loan under Code No. 82-0904-AA without interest, as plaintiffs were not in delay in accordance with Article 69 of the New Civil Code ---" (Emphasis supplied). In other words, respondent spouses did not themselves become very clear what they were asking Judge Fortun to grant them; they did not apparently distinguish between regular interest or "monetary interest" in the amount of seventeen percent (17%) per annum and penalty charges or "compensatory interest" in the amount of two percent (2%) per month or twenty-four percent (24%) per annum.

It thus appears that the Fortun decision was ambiguous in the sense that it was cryptic. We believe that in these circumstances, we must assume that Judge Fortun meant to decide in accordance with law, that we cannot fairly assume that Judge Fortun was grossly ignorant of the law, or that he intended to grant the respondent spouses relief to which they were not entitled under law. Thus, the ultimate question which arises is: if respondent Aquino spouses were not in delay, what should they have been held liable for in accordance with law?

We believe and so hold that since respondent Aquino spouses were held not to have been in delay, they were properly liable only for: (a) the principal of the loan or P110,000.00; and (b) regular or monetary interest in the amount of seventeen percent (17%) per annum. They were not liable for penalty or compensatory interest, fixed by the promissory note in Account No. IF-82-0904-AA at two percent (2%) per month or twenty-four (24%) per annum. It must be stressed in this connection that under Article 2209 of the Civil Code which provides that

"x x x [I]f the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum."

the appropriate measure for damages in case of delay in discharging an obligation consisting of the payment of a sum of money, is the payment of penalty interest at the rate agreed upon; and in the absence of a stipulation of a particular rate of penalty interest, then the payment of additional interest at a rate equal to the regular monetary interest; and if no regular interest had been agreed upon, then payment of legal interest or six percent (6%) per annum.[4]

The fact that the respondent Aquino spouses were not in default did not mean that they, as a matter of law, were relieved from the payment not only of penalty or compensatory interest at the rate of twenty-four percent (24%) per annum but also of regular or monetary interest of seventeen percent (17%) per annum. The regular or monetary interest continued to accrue under the terms of the relevant promissory note until actual payment is effected. The payment of regular interest constitutes the price or cost of the use of money and thus, until the principal sum due is returned to the creditor, regular interest continues to accrue since the debtor continues to use such principal amount. The relevant rule is set out in Article 1256 of the Civil Code which provides as follows:

"Art. 1256. If the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignment of the thing or sum due.

Consignment alone shall produce the same effect in the following cases:

- (1) When the creditor is absent or unknown, or does not appear at the place of payment;
- (2) When he is incapacitated to receive the payment at the time it is due;
- (3) When, without just cause, he refuses to give a receipt;
- (4) When two or more persons claim the same right to collect;
- (5) When the title of the obligation has been lost." (Emphasis supplied)

Where the creditor unjustly refuses to accept payment, the debtor desirous of being released from his obligation must comply with two (2) conditions: (a) tender of payment; and (b) consignation of the sum due. Tender of payment must be accompanied or followed by consignation in order that the effects of payment may be produced. Thus, in *Llamas v. Abaya*,<sup>[5]</sup> the Supreme Court stressed that a written tender of payment alone, without consignation in court of the sum due, does not suspend the accruing of regular or monetary interest.

In the instant case, respondent spouses Aquino, while they are properly regarded as having made a written tender of payment to petitioner State, failed to consign in court the amount due at the time of the maturity of Account No. IF-82-0904-AA. It follows that their obligation to pay principal-cum-regular or monetary interest under the terms and conditions of Account No. IF-82-0904-AA was not extinguished by such tender of payment alone.

For the respondent spouses to continue in possession of the principal of the loan amounting to P110,000.00 and to continue to use the same after maturity of the loan without payment of regular or monetary interest, would constitute unjust enrichment on the part of the respondent spouses at the expense of petitioner State even though the spouses had not been guilty of mora. It is precisely this unjust enrichment which Article 1256 of the Civil Code prevents by requiring, in addition to tender of payment, the consignation of the amount due in court which amount would thereafter be deposited by the Clerk of Court in a bank and earn interest to which the creditor would be entitled.

WHEREFORE, the Petition for Review is hereby GRANTED DUE COURSE. The Decision of the Court of Appeals dated 30 August 1989 in C.A.-G.R. No. 17954 and the Decision of the Regional Trial Court dated 17 February 1989 in Civil Case No. Q-42188 are hereby REVERSED and SET ASIDE. The dispositive portion of the decision of Judge Fortun is hereby clarified so as to read as follows:

- "(1) Ordering defendants to immediately release the pledge and to deliver to the plaintiff spouses Rafael and Refugio Aquino the shares of stock enumerated and described in paragraph 4 of said spouses' complaint dated 17 July 1984, upon full payment of the amount of P10,000.00, plus seventeen percent (17%) per annum regular interest computed from the time of maturity of the plaintiffs' loan (Account No. IF-82-0904-AA) and until full payment of such principal and interest to defendants;
- (2) Ordering defendant State Investment House, Inc. to pay to the plaintiff spouses Rafael and Refugio Aquino P10,000.00 as moral damages, P5,000.00 as exemplary damages, P6,000.00 as attorney's fees, plus costs; and
- (3) Dismissing defendants' counterclaim for lack of merit and making the preliminary injunction permanent."

No pronouncement as to costs.

### **SO ORDERED.**

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Davide, Jr., JJ., concur.

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[1] G.R. No. 61250, 3 June 1991.

[2] See also *Campillo v. Margolles*, G.R. No. 67388, 17 April 1991.

[3] Annex "A-6", Comment Petitioners' Petition for Review, Rollo, p. 78.

[4] *Reinsurance Company of the Orient, Inc. v. Court of Appeals*, G.R. No. 61250, 3 June 1991.

[5] 60 Phil. 502 (1934).

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