

**ANTONIO L. CASTELO, BERNABE B. BANSON, LOURDES A. BANSON,
AND POMPEYO DEPANTE, PETITIONERS, VS. THE COURT OF
APPEALS, 12TH DIVISION, AND MILAGROS DELA ROSA,
RESPONDENTS.**

G.R. No. 96372. May 22, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

On 15 October 1982, petitioners Antonio Castelo, Bernabe Banson, Lourdes Banson and Pompeyo Depante entered into a contract denominated as a "Deed of Conditional Sale" with private respondent Milagros Dela Rosa involving a parcel of land located in 1524 España Street, Sampaloc, Manila, 84.19 square meters in area. The agreed price of the land was Two Hundred Sixty Nine Thousand, Four Hundred and Eight Pesos (P269,408.00). Upon signing the contract, private respondent paid petitioners One Hundred Six Thousand Pesos (P106,000.00) leaving a balance of One Hundred Sixty Thousand Four Hundred and Eight Pesos (P163,408.00).

The Deed of Conditional Sale also stipulated that:

"x x x x x x x x

b) The balance of P163,408.00 to be paid on or before December 31, 1982 without interest and penalty charges;

c) Should the said balance [remain unpaid] by the VENDEE, the VENDORS hereby agree to give the VENDEE a grace period of SIX (6) months or up to June 30, 1983 to pay said balance provided that interest at the rate of 12% per annum shall be charged and 1% penalty charge a month shall be imposed on the remaining diminishing balance." [1] (Underscoring supplied)

Private respondent Dela Rosa was unable to pay the remaining balance on or before 30 June 1983.

On 29 July 1983, petitioners filed an action for specific performance with damages in the Regional Trial Court (RTC) of Manila against Dela Rosa.

The RTC, in a decision dated 17 August 1984 rendered by Judge Antonio Q. Malaya, ordered the rescission of the Deed of Conditional Sale.

Petitioners then went on Certiorari to the Court of Appeals questioning the trial court's decision rescinding the Deed of Conditional Sale. They claimed that rescission of the contract was only an alternative relief available under the Civil Code, while they, in their complaint before the RTC, had asked for specific performance with damages.

In a decision written by Castro-Bartolome, J., dated 21 November 1986, the Court of Appeals, in CA G.R. No. 07938-SP, annulled and set aside the RTC's decision of 17 August 1984. In its dispositive portion, the Court of Appeals decision stated:

"WHEREFORE, the writ of certiorari is hereby granted annulling the decision of Judge Malaya dated August 17, 1984 and a new one entered:

- 1) allowing the amendment of the complaint to conform to the evidence already presented and defaulted defendant to answer the amendment within the reglementary period; and
- 2) ordering the defendant to comply with her obligation under the conditional sale to pay the balance of the conditional sale in the amount of P163,408.00, to pay interest and in default thereof the rescission thereof is the alternative." [2] (Underscoring supplied)

Petitioners filed a motion for execution of the 17 August 1984 judgment of the trial court as modified by the 21 November 1986 judgment of the Court of Appeals. Private respondent opposed this motion.

A writ of execution of the 21 November 1986 judgment of the Court of Appeals was issued by the trial court on 2 September 1988. Accordingly, a Sheriff's Notice to Pay Judgment was served on private respondent Dela Rosa requiring her to pay petitioners a total of One Hundred Ninety Seven Thousand Seven Hundred Twenty Three Pesos and Sixty Eight Centavos (P197,723.68), computed as follows:

"Principal -----

P163,408.00

plus interest of

12% (per contract)

from 21 Nov. 1986 to

2 Sept. 1988 -----

34,315.68

Total amount of judgment

(excluding sheriff's fees

and expenses) -----

P197,723.68" [3]

Petitioners filed a motion for reconsideration and a separate motion for alias writ of execution contending that the sum of P197,723.68, based on the Sheriff's own computation, was erroneous. They argued that the obligation of private respondent was to pay (a) interest at the rate of twelve percent (12%) per annum plus (b) one percent (1%) penalty charge per month, from default, i.e., from 1 January 1983:

"e) That the amount to be paid by the Defendant should be P398,814.88 instead and not P197,723.68 or a difference of P201,091.20; detailed computation of which are as follows:

Unpaid balance

.....

P163,408.00

with interest of 12%

P.A. and 1% penalty
charge a month

January to December 1983

.....

39,217.92

January to December 1984

.....

39,217.92

January to December 1985

.....

39,217.92

January to December 1986

.....

39,217.92

January to December 1987

.....

39,217.92

January to August 1988.

.....

26,145.28

1% interest per month (P268.16)

the interest for one (1)

year @ 24%.....P 39,217.92

x 5 years

P196,089.60

Interest from January to
August 1988

.....

26,145.28

Interest from January

1983 to August 1988

.....

222,234.88

Principal

.....

163,408.00

P385,642.88

Plus Real Estate Tax Paid

.....

13,172.00

Amount due to Plaintiffs

.....

P398,814.88"[4]

They also claimed that the amount arrived at by the Sheriff was inconsistent not only with the Court of Appeal's

decision of 21 November 1986, but also the stipulations in the "Deed of Conditional Sale."

In an Order of 18 April 1990, the trial court denied the motion for alias writ of execution and the motion for reconsideration. In denying petitioners' motions, the trial court stated that it did not have authority to enlarge the scope of the dispositive portion of the Court of Appeals' decision which was the subject of execution. Moreover, the trial court continued, the phrase "to pay interest" found in the dispositive portion of the Court of Appeals' 21 November 1986 decision did not refer to the stipulation in the "Deed of Conditional Sale" but rather to the legal rate of interest imposed by the Court of Appeals which started to run from 12 February 1987, the date of entry of judgment. Had it intended otherwise, the Court of Appeals would have declared so.

Petitioners moved for reconsideration of the 18 April 1990 Order, without success.

Petitioners then went on Certiorari for the second time to the Court of Appeals claiming that the trial court had acted with grave abuse of discretion in issuing its Orders dated 18 April 1990 and 18 June 1990. The petition, docketed as C.A.-G.R. SP No. 22464, was, however, dismissed for lack of merit. The Court of Appeals, speaking this time through Luna, J., pronounced that:

"Indeed, what must be the subject of execution is the "new one" or new decision (referring to the Court of Appeals' decision in CA-G.R. No. 07938 SP dated 21 November 1986), wherein this Court decreed in paragraph "2" of the dispositive portion, ordering the "defendant x x x to pay the balance of the conditional sale in the amount of P163,408.00, to pay interest x x x." Being a "new" judgment or decision, the computation of the "interest" on the balance of the conditional sale should commence from the date of its ENTRY on February 12, 1987, when the decision became FINAL and EXECUTORY. It is the DECISION of this Court WHICH DECREED PAYMENT and ACCRUAL OF INTEREST."[5]

Hence this Petition for Review contending that, in the Luna, J. decision, the Court of Appeals had erred in ignoring the stipulation for payment of interest in case of default found in the "Deed of Conditional Sale."

The instant Petition does not seek a review of the decision of the Court of Appeals dated 21 November 1986, issued in CA G.R. No. 07938-SP, which long ago became final and executory. The Petition before us now presents the issue of what is the correct interpretation of the phrase "to pay interest" set out in the dispositive portion of the 21 November 1986 decision of Castro-Bartolome, J.

The established doctrine is that when the dispositive portion of a judgment, which has become final and executory, contains a clerical error or an ambiguity arising from an inadvertent omission, such error or ambiguity may be clarified by reference to the body of the decision itself. In *Reinsurance Company of the Orient, Inc. v. Court of Appeals*,^[6] the Court surveyed the applicable case law in the following manner:

"It is true that even 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.* (63 Phil. 87 [1936]), 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 severally, 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). The respondent judge did not, therefore, exceed his jurisdiction in clarifying the dispositive part of the judgment by supplying the omission. (63 Phil. at 91-91)'

In *Filipino Legion Corporation v. Court of Appeals, et al.* (56 SCRA 674 [1974]), 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.' (56 SCRA at 691; also *Presbitero v. Court of Appeals*, 129 SCRA 443 [1984])

In *Republic Surety and Insurance Company, Inc. v. Intermediate Appellate Court* (152 SCRA 309 [1987]), the Court 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, which type of error is perhaps best typified by an error in arithmetical computation. 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 respondent's 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 flow.' (152 SCRA at 315)"[7] (Emphases in the original)

The question we must resolve is whether or not there is an ambiguity or clerical error and inadvertent omission in the dispositive portion of the decision of *Castro-Bartolome, J.*, dated 21 November 1986, which may legitimately be clarified by referring to the body of the decision and perhaps even the pleadings filed before her. It will be recalled that the second paragraph of the dispositive portion of that decision of *Castro-Bartolome, J.* ordered private respondent *dela Rosa*

"to comply with her obligation under the conditional sale to pay the balance of the conditional sale in the amount of P163,408.00, to pay interest and in default thereof the rescission thereof is the alternative." (Emphases supplied)

The dispositive portion itself failed to specify expressly whether *Castro-Bartolome, J.* was referring to the payment of interest in accordance with the terms and conditions of the "Deed of Conditional Sale" or whether, as *Luna, J.* was to hold almost four (4) years later that the requirement of "to pay interest" related, not to the interest provisions of the Conditional Sale Deed between petitioners and private respondent, but rather to legal interest on the amount of the unpaid balance of the purchase price of the land which would begin to accrue from the date of the entry of the *Castro-Bartolome* judgment on 12 February 1987. *Luna, J.* said:

"It is settled that the only portion subject of execution is the dispositive portion of a judgment. The judgment of the Honorable Court of Appeals does not refer to the interest referred to in the Conditional Deed of Sale. Said judgment or dispositive portion cannot be stretched or enlarged to refer to the interest indicated in the Conditional Deed of Sale. If that were the intention of the Honorable Court of Appeals, as contended by plaintiffs, it would have said so in black and white. This Court is not authorized to re-write, alter, amend or

change the above-mentioned dispositive portion of the judgment of the Honorable Court of Appeals.

By a fair interpretation, the interest therein referred to is the legal rate of interest imposed by the Honorable Court of Appeals which must commence from the entry of judgment on February 12, 1987. At this stage, it appearing that the Decision of the Honorable Court of Appeals had long become final and executory. This Court has no more jurisdiction to entertain reception of evidence in the matter of the execution of the dispositive portion of the judgment of the Honorable Court of Appeals.[8] (Italics supplied)

It thus appears that the Castro-Bartolome decision was ambiguous in the sense that it was too cryptic. Examination of the body of that decision, however, sheds no light on the reference intended by Castro-Bartolome, J. in directing private respondent to pay interest." Luna, J. himself had to resort to "fair interpretation." We believe that, in these circumstances, we must assume that Mme. Justice Castro-Bartolome meant to decide in accordance with law; that we cannot fairly assume that she was unfamiliar with the applicable law or that she had intended to grant petitioners less than that they were entitled to under the law. Thus, the important question is: under the circumstances which were before Castro-Bartolome, J., what should private respondent dela Rosa have been held liable for in accordance with law?[9]

We believe and so hold that the phrase "to pay interest," found in the dispositive portion of the Castro-Bartolome decision must, under applicable law, refer to the interest stipulated by the parties in the Deed of Conditional Sale which they had entered into on 15 October 1982. We note, in the first place, that the phrase "to pay interest" comes close upon the heels of the preceding phrase "to comply with her obligation under the conditional sale to pay the balance ---of P163,408.00." A strong inference thus arises that the "interest" required to be paid is the interest stipulated as part of the "obligation [of private respondent dela Rosa] under the conditional sale [agreement] to pay the balance of [the purchase price of the land]."

There is, in the second place, no question that private respondent dela Rosa had failed to pay the balance of P163,408.00 on or before 31 December 1982. The applicable law is to be found in Article 2209 of the Civil Code which provides as follows:

"If 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 percent (6%) per annum." (Underscoring supplied)

Under Article 2209, 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 in the contract of the parties. In the absence of a stipulation of a particular rate of penalty interest, payment of additional interest at a rate equal to the regular or monetary interest, becomes due and payable. Finally, if no regular interest had been agreed upon by the contracting parties, then the damages payable will consist of payment of legal interest[10] which is six percent (6%) or, in the case of loans or forbearances of money, twelve percent (12%) per annum.[11] Applying Article 2209 to the instant case, we must refer to the "Deed of Conditional Sale" which, as already noted, had specifically provided for "interest at the rate of 12% per annum" and a "1% penalty charge a month [to] be imposed on their remaining diminishing balance." There was, it thus appears, no need for the subsequent Luna, J. decision to refer at all to the payment of legal interest from the time of entry of the Castro-Bartolome decision.

The contention of private respondent that Article 2209 of the Civil Code is not applicable in this case because the interest referred to therein is given as compensation for the use of money, not for the incurring of delay as in the instant case,[12] need not detain us for long. Article 2209 governs transactions involving the payment of indemnity in the concept of damages arising from delay in the discharge of obligations consisting of the payment of a sum of money.[13] The "obligation consisting in the payment of a sum of money" referred to in Article 2209

is not confined to a loan or forbearance of money. The Court has, for instance, consistently applied Article 2209 in the determination of the interest properly payable where there was default in the payment of the price or consideration under a contract of sale[14] as in the case at bar. Article 2209 has also been applied by this Court in cases involving an action for damages for injury to persons and loss of property;[15] to actions for damages arising from unpaid insurance claims;[16] and an action involving the appropriate rate of interest on just compensation that is payable for expropriated lands.[17]

The stipulation in the "Deed of Conditional Sale" requiring the payment of interest is not unlawful. The validity of the contract of conditional sale itself has not been put to question by private respondent dela Rosa and there is nothing in the record to suggest that the same may be contrary to law, morals, good custom, public order or public policy. Accordingly, the contractual stipulation must be regarded as binding and enforceable as the law between the parties.[18]

We turn, therefore, to the examination of the contractual stipulation on interest which we quoted in full earlier. Under the terms of that stipulation, private respondent was bound, and entitled, to pay the balance of P163,408.00 on or before 31 December 1982 without incurring any liability for any interest and penalty charges. During the grace period of six (6) months, that is, from 1 January 1983 to 30 June 1983, private respondent vendee was given the right to pay the said balance or any portion that had remained unpaid provided that "interest at the rate of 12% per annum shall be charged and 1% penalty charge shall be imposed on the remaining diminishing balance." We observe that residual ambiguity infects this particular portion of the stipulation on payment of interest. The question is whether, during the period of 1 January 1983 up to 30 June 1983, 12% interest per annum plus 1% penalty charge a month was payable "on the remaining diminishing balance;" or whether during the period from 1 January 1983 to 30 June 1983, only 12% per annum interest was payable while the 1% per month penalty charge, would in addition begin to accrue on any balance remaining unpaid as of 1 July 1983.

We believe that the contracting parties intended the latter view of their stipulation on interest; for if the parties had intended that during the grace period from 1 January 1983 to 30 June 1983, interest consisting of 12% per annum plus another 12% per annum (equivalent to 1% per month), or a total of 24% per annum, was payable, then they could have simply said so. Instead, the parties distinguished between interest at the rate of 12% per annum and the 1% a month penalty charge. The interpretation we adopt is also supported by the principle that in case of ambiguity in contract language, that interpretation which establishes a less onerous transmission of rights or imposition of lesser burdens which permits greater reciprocity between the parties, is to be adopted.[19]

Summarizing the import of the contractual stipulation of the parties:

(1)

During the period from 1 January 1983 up to 30 June 1983, private respondent vendee dela Rosa was bound to pay interest at the rate of 12% per annum on the unpaid balance of P163,408.00.

(2)

Commencing on 1 July 1983, and until full payment, dela Rosa was bound to pay interest at the rate of 12% per annum plus another 12% per annum (or 1% penalty charge a month), or a total of 24% per annum, to be computed on the "remaining diminishing [unpaid] balance."

Private respondent finally contends that she had already complied with her obligation considering that after she had been served with a writ of execution dated 2 September 1988, she deposited with the trial court on 7 September 1988 the amount stated therein, that is, the amount of P197,723.68.[20] Obviously, this contention raises a question of fact; just as obvious, however, is the rule that questions of fact cannot be raised in a petition

for review on certiorari before this Court. At all events, private respondent's factual contention is properly addressed not to this Court, but rather to the trial court during execution proceedings. In the interest of complete resolution of this drawn out litigation and of achieving substantial justice, we would add that if the trial court finds that, in point of fact, the amount of P197,723.68 had indeed been deposited with the trial court on 7 September 1988, then the total amount due from private respondent should be correspondingly reduced by the application of the amount of the deposit in accordance with the rules on application of payments.[21] Conversely, the interest yield or civil fruits of the deposit, commencing from date of application of the deposit as partial payment, would pertain to petitioners who have not thus far enjoyed the use of the monies deposited.

The conclusion we have reached renders it unnecessary to pass upon the other contentions made by private respondent.

WHEREFORE, for all foregoing, the Petition for Review is hereby GRANTED. The Decision of the Court of Appeals dated 22 August 1990 in C.A.-G.R SP No. 22464 (the Luna, J. decision) is hereby REVERSED and SET ASIDE and the dispositive portion of the Decision by Castro-Bartolome, J., dated 21 November 1986, in C.A.-G.R No. 07938-SP is hereby CLARIFIED as follows:

"WHEREFORE, the writ of certiorari is hereby GRANTED annulling the Decision of Judge Malaya dated August 17, 1984 and a new one entered:

(1)

allowing the amendment of the complaint to conform to the evidence already presented and defaulted defendant to answer the amendment within the reglementary period;

(2)

ordering the defendant to comply with her obligation under the conditional sale to pay the balance of the conditional sale in the amount of P163,408.00, to pay interest on the amount of the balance remaining unpaid during the period from 1 January 1983 to 30 June 1983 at the rate of 12% per annum; and, from 1 July 1983 until full payment of the amount due, to pay interest at the rate of 12% per annum plus another 12% per annum (i.e., 1% penalty charge per month), or a total of 24% per annum, on the balance remaining unpaid; and

(3)

in default thereof, the rescission of the "Deed of Conditional Sale" is the alternative."

No pronouncement as to costs.

SO ORDERED.

Romero, Melo, and Vitug, JJ., concur.
Francisco, J., on leave.

[1] Deed of Conditional Sale, Annex "D," p. 2; CA Records, p. 15.

[2] Court of Appeals Decision dated 22 August 1990, "Annex B," pp. 1-2.

[3] Sheriff's Notice to Pay Judgment, "Annex C," CA Records, p. 14.

[4] Rollo, pp. 25-26.

[5] Court of Appeals Decision, 22 August 1990, p. 14; Rollo, p. 30.

[6] 198 SCRA 19 (1991).

[7] Reinsurance Company of the Orient, Inc. v. Court of Appeals, 198 SCRA 19 at 28-29 (1991).

[8] Rollo, p. 28.

[9] See, in particular, State Investment House, Inc. v. Court of Appeals, 198 SCRA 390 (1991).

[10] State Investment House, Inc. v. Court of Appeals, *supra*.

[11] Eastern Shipping Lines, Inc. v. Hon. Court of Appeals and Mercantile Insurance Company, Inc., 234 SCRA 78 (1994); Pilipinas Bank v. Court of Appeals, 225 SCRA 268 (1993); Tio Khe Chio v. Court of Appeals, 202 SCRA 119 (1993).

[12] Memorandum for Private Respondent, p. 30.

[13] Eastern Shipping Lines, Inc. vs. Hon. Court of Appeals and Mercantile Insurance Company, Inc., 234 SCRA 78 (1994); National Power Corporation vs. Angas, 208 SCRA 542 (1992).

[14] Solid Homes, Inc. vs. Court of Appeals, 170 SCRA 63 (1989); Philippine Virginia Tobacco Administration vs. Tensuan, 188 SCRA 628 (1990); Pilipinas Bank vs. Court of Appeals, 225 SCRA 268 (1993).

[15] Reformina vs. Tomol, Jr., 139 SCRA 260 (1985).

[16] Tio Khe Chio vs. Court of Appeals, 202 SCRA 119 (1991).

[17] National Power Corporation vs. Angas, 208 SCRA 542 (1992).

[18] Article 1306, Civil Code. See also Reparations Commission vs. Visayan Packing Corporation, 193 SCRA 531 (1991); Jovellanos vs. Court of Appeals, 210 SCRA 126 (1992).

[19] Article 1378, Civil Code. See Gacos v. Court of Appeals, 212 SCRA 8 (1992); Heirs of Severo Legaspi, Sr. v. Vda. de Dayot, 188 SCRA 509 (1990); Labasan v. Lacuesta, 86 SCRA 16 (1978); Perez v. Cortes, 15 Phil. 211 (1910); Olino v. Medina, 13 Phil. 379 (1909).

[20] Memorandum for Private Respondent, p. 26.

[21] Articles 1252-1254, Civil Code.

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