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FIRST DIVISION

[G.R. No. 50900. April 9, 1985]

COMPAÑIA MARITIMA, *petitioner*, *vs.* COURT OF APPEALS and PAN ORIENTAL SHIPPING CO., *respondents.*

[G.R. No. 51438. April 9, 1985]

REPUBLIC OF THE PHILIPPINES (BOARD OF LIQUIDATORS), *petitioner, vs.* COURT OF APPEALS and PAN ORIENTAL SHIPPING CO., *respondents.*

[G.R. No. 51463. April 9, 1985]

PAN ORIENTAL SHIPPING CO., *petitioner*, *vs.* COURT OF APPEALS, COMPAÑIA MARITIMA and THE REPUBLIC OF THE PHILIPPINES (BOARD OF LIQUIDATORS), *respondents.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; DAMAGES; COMPENSATION OR SET-OFF; ELEMENTS NOT FULFILLED; CASE AT BAR.—REPUBLIC maintains that compensation or set-off took place between it and PAN-ORIENTAL as of February 3, 1951, the date the latter was dispossessed of the vessel. For compensation to take place, one of the elements necessary is that the debts be liquidated. In this case, all the elements for compensation to take place were not present on the date of dispossession, or on February 3, 1951. The amount expended for repairs and improvements had yet to be determined by the Trial Court pursuant to the Decision of this Court promulgated on October 31, 1964. At the time of dispossession also, PAN-ORIENTAL was still insisting on its right to purchase the vessel. The obligation of REPUBLIC to reimburse PAN-ORIENTAL for expenses arose only after this Court had so ruled. Rentals for the use of the vessel by PAN-ORIENTAL were neither due and demandable at the time of

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dispossession but only after this Court had issued its Resolution of August 27, 1965.

2. **ID.; ID.; ID.; OBLIGATION NOT EXTINGUISHED BY COMPENSATION; INTEREST ACCRUING AS LONG AS OBLIGATION SUBSISTS.**— More, the legal interest payable from February 3, 1951 on the sum of P40,797.54, representing useful expenses incurred by PAN-ORIENTAL, is also still unliquidated since interest does not stop accruing "until the expenses are fully paid." Thus, we find without basis REPUBLIC's allegation that PAN-ORIENTAL's claim in the amount of P40,797.54 was extinguished by compensation since the rentals payable by PAN-ORIENTAL amount to P59,500.00 while the expenses reach only P40,797.54. Deducting the latter amount from the former, REPUBLIC claims that P18,702.46 would still be owing by PAN-ORIENTAL to REPUBLIC. That argument loses sight of the fact that to the sum of P40,797.54 will still have to be added the legal rate of interest "from February 3, 1951 until fully paid."

3. **ID.; ID.; ID.; ID.; PAYMENT OF INTEREST NOT RENDERED STALE; CASE AT BAR.**— Since we are holding that the obligation of REPUBLIC to pay P40,797.54 to PAN-ORIENTAL was not extinguished by compensation, the obligation of REPUBLIC to pay legal interest on said amount has neither become stale as REPUBLIC contends. Of special note is the fact that payment of that interest was the specific ruling of this Court in its Resolution of August 27, 1965, thus: "x x x For this reason, Froilan and the Republic of the Philippines are declared jointly and severally liable, not only for reimbursement to Pan Oriental, of the legitimate necessary expenses incurred on the vessel, *but also for payment of legal interest thereon*, computed from the date of the defendant's dispossession of the property. x x x" The amount of P6,937.72 a month ordered to be paid by REPUBLIC and MARITIMA to PAN-ORIENTAL until the latter is paid its useful and necessary expenses is likewise in order. That amount represents the damages for the wrongful issuance of the Writ of Replevin and was computed as follows: P4,132.77 for loss of income by PAN-ORIENTAL plus P2,804.95 as monthly depreciation of the vessel in lieu of the charter hire.

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4. ID.; ID.; PRINCIPLE OF *RES JUDICATA* INAPPLICABLE FOR FAILURE TO APPEAL, ERROR IN COMPUTING NECESSARY EXPENSES NO LONGER QUESTIONABLE.— We find no merit in MARITIMA's contention that the alleged damages on account of wrongful replevin was barred by *res judicata*, and that the application for damages before the lower Court was but a mere adoption of a different method of presenting claims already litigated. For the records show that an application for damages for wrongful replevin was filed both before this Court and thereafter before the Trial Court after this Tribunal specifically remanded the issue of those damages to the Trial Court there to be heard and decided pursuant to Rule 60, Section 10 in relation to Rule 57, Section 20. The matter of legal compensation which MARITIMA has also raised has been previously discussed. Parenthetically, PAN-ORIENTAL can no longer raise the alleged error of the Trial Court in computing the necessary and useful expenses at only P40,797.54 when they should be P87,267.30, since it did not appeal from that Court's Decision.

APPEARANCES OF COUNSEL

Quisumbing, Caparas, Tobias, Ilagan, Alcantara y Mosqueda for Pan Oriental Shipping Co.

Rafael Dinglasan for Compañia Maritima.

RESOLUTION

MELENCIO-HERRERA, *J.:*

The above-entitled three (3) cases stemmed from the Decision of this Court, dated October 31, 1964, entitled "Fernando A. Froilan *vs.* Pan-Oriental Shipping Co., et al. and our four (4) subsequent Resolutions of August 27, 1965, November 23, 1966, December 16, 1966, and January 5, 1967, respectively.

The antecedental background is narrated in the aforestated Decision, the pertinent portions of which read:

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[1] 12 SCRA 276 [1964].

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"On March 7, 1947, Fernando A. Froilan purchased from the Shipping Administration a boat described as MV/FS-197 for the sum of P200,000.00, with a down payment of P50,000.00. To secure payment of the unpaid balance of the purchase price, a mortgage was constituted on the vessel in favor of the Shipping Administration x x x.

x x x

"Th(e) contract was duly approved by the President of the Philippines.

"Froilan appeared to have defaulted in spite of demands, not only in the payment of the first installment on the unpaid balance of the purchase price and the interest thereon when they fell due, but also failed in his express undertaking to pay the premiums on the insurance coverage of the vessel, obliging the Shipping Administration to advance such payment to the insurance company. x x x"

Subsequently, FROILAN appeared to have still incurred a series of defaults notwithstanding reconsiderations granted, so much so that:

"On February 21, 1949, the General Manager (of the Shipping Administration) directed its officers x x x to take immediate possession of the vessel and to suspend the unloading of all cargoes on the same until the owners thereof made the corresponding arrangement with the Shipping Administration. Pursuant to these instructions, *the boat was, not only actually repossessed, but the title thereto was registered again in the name of the Shipping Administration, thereby re-transferring the ownership thereof to the government.*

"On February 22, 1949, Pan Oriental Shipping Co., hereinafter referred to as Pan Oriental, offered to charter said vessel FS-197 for a monthly rental of P3,000.00. Because the government was then spending for the guarding of the boat and subsistence of the crew-members since repossession, the Shipping Administration on *April 1, 1949*, accepted Pan Oriental's offer "in principle" subject to the condition that the latter shall cause the repair of the vessel, advancing the cost of labor and drydocking thereof, and the Shipping Administration to furnish the necessary spare parts. *In accordance with this charter contract, the vessel was delivered to the possession of Pan Oriental.*

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"In the meantime, or on February 22, 1949, Froilan tried to explain his failure to comply with the obligations he assumed and asked that he be given another extension up to March 15, 1949 to file the necessary bond. Then on March 8, Froilan offered to pay all his overdue accounts. However, as he failed to fulfill even these offers made by him in these two communications, the Shipping Administration denied his petition for reconsideration (of the rescission of the contract) on March 22, 1949. It should be noted that while his petition for reconsideration was denied on March 22, it does not appear when he formally formulated his appeal. In the meantime, as already stated, the boat has been repossessed by the Shipping Administration and the title thereto re-registered in the name of the government, and delivered to the Pan Oriental in virtue of the charter agreement. On June 2, 1949, Froilan protested to the President against the charter of the vessel.

x x x

"On June 4, 1949, the Shipping Administration and the Pan Oriental formalized the charter agreement and signed a bareboat contract with option to purchase, containing the following pertinent provisions:

"III. CHARTER HIRE, TIME OF PAYMENT.- The CHARTERER shall pay to the owner a monthly charter hire of THREE THOUSAND (P3,000.00) PESOS from date of delivery of the vessel, payable in advance on or before the 5th of every current month until the return of the vessel to OWNER or purchase of the vessel by CHARTERER.

"XII. RIGHT OF OPTION TO PURCHASE.- The right of option to purchase the vessel at the price of P150,000.00 plus the amount expended for its present repairs is hereby granted to the CHARTERER within 120 days from the execution of this Contract, unless otherwise extended by the OWNER. This right shall be deemed exercised only if, before the expiration of the said period, or its extension by the OWNER, the CHARTERER completes the payment, including any amount paid as Charter hire, of a total sum of not less than twenty-five percentum (25%) of said price of the vessel.

"The period of option may be extended by the OWNER without in any way affecting the other provisions, stipulations, and terms of this contract.

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"If, for any reason whatsoever, the CHARTERER fails to exercise its option to purchase within the period stipulated, or within the extension thereof by the OWNER, its right of option to purchase shall be deemed terminated, without prejudice to the continuance of the Charter Party provisions of this contract. The right to dispose of the vessel or terminate the Charter Party at its discretion is reserved to the OWNER.

"XIII. TRANSFER OF OWNERSHIP OF THE VESSEL.- After the CHARTERER has exercised his right of option as provided in the preceding paragraph (XII), the vessel shall be deemed conditionally sold to the purchaser, but the ownership thereof shall not be deemed transferred unless and until all the price of the vessel, together with the interest thereon, and any other obligation due and payable to the OWNER under this contract, have been fully paid by the CHARTERER.

x x x

"XXI. APPROVAL OF THE PRESIDENT.- This contract shall take effect only upon approval of His Excellency, the President."

"On September 6, 1949, the Cabinet revoked the cancellation of Froilan's contract of sale and restored to him all his rights thereunder, on condition that he would give not less than P10,000.00 to settle partially his overdue accounts and that *reimbursement of the expenses* incurred for the repair and drydocking of the vessel performed by Pan Oriental was to be made in accordance with future adjustment between him and the Shipping Administration (Exh. I). Later, pursuant to this reservation, Froilan's request to the Executive Secretary that the Administration advance the payment of the expenses incurred by Pan Oriental in the drydocking and repair of the vessel, was granted on condition that Froilan assume to pay the same and file a bond to cover said undertaking (Exh. III).

"On September 7, 1949, the formal bareboat charter with option to purchase filed on June 4, 1949, in favor of the Pan Oriental was returned to the General Manager of the Shipping Administration without action (not disapproval), only because of the Cabinet resolution of September 6, 1949 restoring Froilan to his rights under the conditions set forth therein, namely, the payment of P10,000.00 to settle partially his overdue accounts and the filing of a bond to guarantee the reimbursement of the expenses incurred by the Pan Oriental in the drydocking and repair of the vessel. But Froilan again failed to

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comply with these conditions. And so the Cabinet, considering Froilan's consistent failure to comply with his obligations, including those imposed in the resolution of September 6,1949, resolved to reconsider said previous resolution restoring him to his previous rights. And, in a letter dated December 3, 1949, the Executive Secretary authorized the Administration to continue its charter contract with Pan Oriental in respect to FS-197 and enforce whatever rights it may still have under the original contract with Froilan (Exh. 188).

x x x

"On August 25, 1950, the Cabinet resolved once more to restore Froilan to his rights under the original contract of sale, on condition that he shall pay the sum of P10,000.00 upon delivery of the vessel to him, said amount to be credited to his outstanding accounts; that he shall continue paying the remaining installments due, and that he shall *assume the expenses* incurred for the repair and drydocking of the vessel (Exh. 134). Pan Oriental protested to this restoration of Froilan's rights under the contract of sale, for the reason that when the vessel was delivered to it, the Shipping Administration had authority to dispose of the said property, Froilan having already relinquished whatever rights he may have thereon. Froilan paid the required cash of P10,000.00 and as Pan Oriental refused to surrender possession of the vessel, he filed an action for replevin in the Court of First Instance of Manila (Civil Case No. 13196) to recover possession thereof and to have him declared the rightful owner of said property.

"Upon plaintiff's filing a bond of P400,000.00, the court ordered the seizure of the vessel from Pan Oriental and its delivery to the plaintiff. Pan Oriental tried to question the validity of this order in a petition for certiorari filed in this Court (G.R. No. L-4577), but the same was dismissed for lack of merit by resolution of February 22, 1951. Defendant accordingly filed an answer, denying the averments of the complaint.

"The Republic of the Philippines, having been allowed to intervene in the proceeding, also prayed for the possession of the vessel in order that the chattel mortgage constituted thereon may be foreclosed. Defendant Pan Oriental resisted said intervention, claiming to have a better right to the possession of the vessel by reason of a valid and subsisting contract in its favor, and *of its right of retention, in view of the expenses it had incurred for the repair of the*

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said vessel. As counterclaim, defendant demanded of the intervenor to comply with the latter's obligation to deliver the vessel pursuant to the provisions of the charter contract.

x x x

"Subsequently, Compañia Maritima, as purchaser of the vessel from Froilan, was allowed to intervene in the proceedings (in the lower court), said intervenor taking common cause with the plaintiff Froilan. In its answer to the complaint in intervention, defendant set up a counterclaim for damages in the sum of P50,000.00, alleging that plaintiff secured the Cabinet resolutions and the writ of replevin, resulting in its deprivation of possession of the vessel, at the instigation and inducement of Compañia Maritima. This counterclaim was denied by both plaintiff and intervenor Maritima.

"On September 28, 1956, the lower court rendered a decision upholding Froilan's (and Compañia Maritima's) right to the ownership and possession of the FS-197.

x x x

"It is not disputed that appellant Pan Oriental took possession of the vessel in question after it had been repossessed by the Shipping Administration and title thereto reacquired by the government, and *operated the same from June 2, 1949 after it had repaired the vessel until it was dispossessed of the property on February 3, 1951,* in virtue of a bareboat charter contract entered into between said company and the Shipping Administration. In the same agreement, appellant as charterer, was given the option to purchase the vessel, which may be exercised upon payment of a certain amount within a specified period. The President and Treasurer of the appellant company, tendered the stipulated initial payment on January 16, 1950. Appellant now contends that having exercised the option, the subsequent Cabinet resolutions restoring Froilan's rights on the vessel, violated its existing rights over the same property. To the contention of plaintiff Froilan that the charter contract never became effective because it never received presidential approval, as required therein, Pan Oriental answers that the letter of the Executive Secretary dated December 3, 1949 (Exh. 118), authorizing the Shipping Administration to continue its charter contract with appellant, satisfies such requirement (of presidential approval). It is to be noted, however, that said letter was signed by the Executive Secretary only and not under authority of the President. The same, therefore,

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cannot be considered to have attached unto the charter contract the required consent of the Chief Executive for its validity.

x x x" (Italics ours)

This Court then held:

"In the circumstances of this case, therefore, the resulting situation is that neither Froilan nor the Pan Oriental holds a valid contract over the vessel. However, since the intervenor Shipping Administration, representing the government practically ratified its proposed contract with Froilan by receiving the full consideration of the sale to the latter, for which reason the complaint in intervention was dismissed as to Froilan, and since Pan Oriental has no capacity to question this actuation of the Shipping Administration because it had no valid contract in its favor, the decision of the lower court adjudicating the vessel to Froilan and its successor Compañia Maritima, must be sustained. Nevertheless, under the circumstances already adverted to, Pan Oriental cannot be considered a possessor in bad faith until after the institution of the instant case. However, since it is not disputed that said appellant made useful and necessary expenses on the vessel, *appellant is entitled to the refund of such expenses with the right to retain the vessel until he has been reimbursed therefor* (Art. 546, Civil Code). As it is by the concerted acts of defendants and intervenor Republic of the Philippines that appellant was deprived of the possession of the vessel over which appellant had a lien for his expenses, appellees Froilan, Compañia Maritima, and the Republic of the Philippines are *declared liable for the reimbursement to appellant of its legitimate expenses, as allowed by law, with legal interest from the time of disbursement.*

"Modified in this manner, the decision appealed from is affirmed, without costs. *Case is remanded to the lower court for further proceedings in the matter of expenses.* So ordered. (Italics supplied).

On August 27, 1965, this Court, in resolving a Motion for Reconsideration filed by FROILAN and MARITIMA, ruled:

"In G.R. No. L-11897 (Fernando A. Froilan *vs.* Pan Oriental Shipping Co.); before us are (1) a motion, filed by appellant Pan Oriental, to reconsider the ruling made in this case sustaining Froilan's right to ownership and possession of the vessel FS-197, and holding that there was never a perfected contract between said movant and the intervenor Republic of the Philippines; and (2) a motion by

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plaintiff-appellee Fernando A. Froilan and intervenor-appellee Compaña Maritima, for reconsideration of the deicsion insofar as it declared said movants, together with intervenor Republic of the Philippines, liable for reimbursement to appellant Pan Oriental of the latter's legitimate necessary expenses made on the vessel in question.

"1. Appellant Pan Oriental's Motion must be denied.

"It may be remembered that in the instant case, the alleged approval of the charter contract or permission to proceed with said contract was given by the Executive Secretary in his own name and not under the authority of the President.

x x x x.x x x x x x

"2. Anent, appellant's motion, considering that the writ of replevin, by virtue of which appellant Pan Oriental was divested of possession of the vessel FS-197, was issued by the lower court on February 8, 1951 at the instance of plaintiff Froilan and with the cooperation of intervenor Republic of the Philippines, which accepted the payment tendered by him (Froilan) notwithstanding its previous dealings with Pan Oriental; and whereas, the intervenor Compañia Maritima acquired the same property only on December 1, 1951, it is clear that only plaintiff Froilan and the intervenor Republic of the Philippines may be held responsible for the deprivation of defendant of its right to the retention of the property until fully reimbursed of the necessary expenditure made on the vessel. For this reason, Froilan and the Republic of the Philippines are declared jointly and severally liable, *not only for reimbursement to Pan Oriental, of the legitimate necessary expenses incurred on the vessel, but also for payment of legal interest thereon, computed from the date of the defendant's dispossession of the property.* However, as defendant was in actual possession of the vessel from April 1, 1949 to February 7, 1951, *it must be required to pay reasonable rental for the use thereof, at the rate of P3,000.00 a month* — the same rate specified as rental in the imperfected charter contract — *which shall be deductible from whatever may be due and owing the said party by way of reimbursable necessary expenses and interest.* This rental shall commence from the time defendant Pan Oriental actually operated the vessel, which date shall be determined by the lower court.

Case is remanded to the court of origin for further proceedings on the matter of *necessary expenses, interest and rental,* as directed in our decision and this resolution." (Italics supplied).

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On November 23, 1966, acting on a second Motion for Reconsideration filed by PAN ORIENTAL, this Court resolved:

"In case G.R. No. L-11817, Fernando A. Froilan, et al., appellees, *vs.* Pan Oriental Shipping Company, appellant, the latter filed a second motion for reconsideration, alleging that the Resolution of this Court of August 27, 1965 denying its motion for reconsideration of December 16, 1964 is not in accordance with law; and that the modification of the judgment following the *ex parte* motion for reconsideration of appellee Froilan is contrary to due process.

"Considering that foregoing motion as well as the opposition thereto by plaintiff-appellee and intervenor-appellee Compañia Maritima, the Court RESOLVED to amend the ruling in this case by holding intervenor-appellee Compañia Maritima, because of its actual knowledge of the circumstances surrounding the purchase by Froilan of the vessel in question from the Shipping Administrator, jointly and severally liable with the other appellees, for reimbursement to appellant of the necessary expenses incurred and expended by the latter on the said vessel, minus the amount of rentals due from the appellant for the use thereof for the period it was actually operated by Pan Oriental. The period of actual operation shall not include the time when the vessel was drydocked."

On December 16, 1966, acting on PAN ORIENTAL's Motion for Reconsideration or Application for Damages on account of the wrongful issuance of the Writ of Replevin, this Court issued a Resolution as follows:

"Before us again in Case G.R. No. 11897 (Fernando A. Froilan *vs.* Pan Oriental Shipping Co. et al) is a motion for reconsideration or Application for damages filed by respondent Pan Oriental Shipping Co., allegedly on account of the wrongful issuance of the writ of replevin, pursuant to Rule 60, Section 10, in relation to Rule 57, Section 20 of the Revised Rules of Court. Considering that by virtue of our resolution dated August 27, 1965, this case has been ordered to be remanded to the Court of origin for further proceedings on the matter of necessary expenses, interest and rentals, and since evidence would have to be presented if the application for damages is allowed, the Court resolved, first, to deny the present motion for reconsideration and, second, to refer the application to the trial court, there to be heard and decided as prescribed by law and the Rules. (see last sentence, Section 20, Rule 57)."

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Pursuant thereto, the case was remanded to the Court of First Instance of Manila, Branch VI (Civil Case No. 13196). After the evidence of the parties was received and assessed by a Commissioner, said Court issued an Order, dated June 4, 1975, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing consideration, the Court orders the intervenor Compañia (plaintiff Fernando A. Froilan's successor-in-interest) and Intervenor Republic of the Philippines (Board of Liquidators) jointly and severally to pay defendant Pan Oriental Shipping Company the sum of P6,937.72 a month from the time 'it was dispossessed on February 3, 1951' until it is paid its useful and necessary expenses; the sum of P40,797.54 actual amount expended for the repairs and improvements prior to the operation of the vessel on June 1, 1949 with legal interest from the time of disbursement of said legitimate expenses. The Court also orders the intervenor Republic of the Philippines to return the sum of P15,000.00 tendered by defendant Pan Oriental Shipping Company as provided in the option with legal interest from January 16, 1950, the date it was paid by the latter.

SO ORDERED."[2]

The amount of P6,937.72 ordered to be paid monthly represented the lower Court's computation of damages of PAN-ORIENTAL for deprivation of the right to retain the vessel.[3]

On appeal by REPUBLIC and MARITIMA to the then Court of Appeals, judgment was promulgated decreeing:

"WHEREFORE, in the light of the foregoing pronouncements, the judgment appealed from is hereby MODIFIED as follows:

"Ordering intervenors-appellants Republic and Compañia Maritima, jointly and severally, to pay appellee Pan Oriental Shipping Company the sum of P40,797.54 with legal interest from February 3, 1951 until fully paid but there shall be deducted therefrom the amount of P59,500.00 representing the unpaid rentals due the Republic of the Philippines; and *AFFIRMED* in all other respects."

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[2] Pp. 114-115, Amended Record on Appeal.

[3] p. 53, Original Record on Appeal.

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In other words, (a) the date from which interest is to be paid on the amount of P40,797.54 is from February 3, 1951, the date of dispossession, and not from the time of disbursement and (b) the unpaid rentals due the Republic are deductible from the amount of expenses payable to PAN-ORIENTAL. It should be recalled that the deduction of rentals from the amount payable to PAN-ORIENTAL by REPUBLIC was pursuant to this Court's Resolutions of August 27, 1965 and November 23, 1966, *supra*.

From the foregoing Decision, the parties filed their respective Petitions for Review now before us.

For clarity, the sums ordered to be paid by MARITIMA and the REPUBLIC, jointly and severally, to PAN-ORIENTAL are: (a) the sum of P6,937.72 a month from February 3, 1951, the date of PAN-ORIENTAL's dispossession, in the concept of damages for the deprivation of its right to retain the vessel "until it is paid its useful and necessary expenses"[4]; (b) the sum of P15,000.00, representing PAN-ORIENTAL's deposit with REPUBLIC for the purchase of the vessel, "with legal interest from January 16, 1950," the date PAN-ORIENTAL had paid the same[5]; and (c) the sum of P40,797.54 representing the expenses for repairs incurred by PAN-ORIENTAL, "with legal interest from February 3, 1951 until fully paid," minus the amount of P59,500.00 representing the unpaid rentals due the REPUBLIC.[6] The legal rate of interest is made payable only on the last two amounts (b) and (c).

REPUBLIC attributes the following errors to the Appellate Court: (1) in not holding that compensation by operation of law took place as between REPUBLIC and PAN-ORIENTAL as of the date of dispossession; (2) in not holding that the obligation of the REPUBLIC to pay legal interest on the

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[4] Trial Court's Order of June 4, 1975.

[5] *Ibid.*

[6] Decision, Court of Appeals.

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amount of useful and necessary expenses from February 3, 1951 had become stale and ineffective; (3) in affirming the Order of the Trial Court that MARITIMA and REPUBLIC, jointly and severally, pay to PAN-ORIENTAL the sum of P6,937.72 a month from the time it was dispossessed of the vessel on February 3, 1951 until it is paid its useful and necessary expenses; and (4) in not holding that the Trial Court had no jurisdiction to order the return of P15,000.00 to PAN-ORIENTAL.

MARITIMA, for its part, aside from assailing the sums it was ordered to pay PAN-ORIENTAL, jointly and severally, with REPUBLIC, echoed the theory of compensation and added that the question of damages on account of alleged wrongful replevin was not a proper subject of inquiry by the Trial Court when it determined the matter of necessary expenses, interest and rentals.

REPUBLIC's Submissions

1) REPUBLIC maintains that compensation or set-off took place between it and PAN-ORIENTAL as of February 3, 1951 the date the latter was dispossessed of the vessel. For compensation to take place, one of the elements necessary is that the debts be liquidated.[7] In this case, all the elements for compensation to take place were not present on the date of dispossession, or on February 3, 1951. The amount expended for repairs and improvements had yet to be determined by the Trial Court pursuant to the Decision of this Court promulgated on October 31, 1964. At the time of dispossession also, PAN-ORIENTAL was still insisting on its right to purchase the vessel. The obligation of REPUBLIC to reimburse PAN-ORIENTAL for expenses arose only after this Court had so ruled. Rentals for the use of the vessel by PAN-ORIENTAL were neither due and demandable at the time of dispossession but only after this Court had issued its Resolution of August 27, 1965.

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[7] Article 1279, Civil Code.

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More, the legal interest payable from February 3, 1951 on the sum of P40,797.54, representing useful expenses incurred by PAN-ORIENTAL, is also still unliquidated[8] since interest does not stop accruing "until the expenses are fully paid."[9] Thus, we find without basis REPUBLIC's allegation that PAN-ORIENTAL's claim in the amount of P40,797.54 was extinguished by compensation since the rentals payable by PAN-ORIENTAL amount to P59,500.00 while the expenses reach only P40,797.54. Deducting the latter amount from the former, REPUBLIC claims that P18,702.46 would still be owing by PAN-ORIENTAL to REPUBLIC. That argument loses sight of the fact that to the sum of P40,797.54 will still have to be added the legal rate of interest "from February 3, 1951 until fully paid."

But although compensation by operation of law cannot take place as between REPUBLIC and PAN-ORIENTAL, by specific pronouncement of this Court in its Resolution of November 23, 1966, *supra,* the rentals payable by PAN-ORIENTAL in the amount of P59,500.00 should be deducted from the sum of useful expenses plus legal interest due, assuming that the latter amount would still be greater. Otherwise, the corresponding adjustments can be made depending on the totality of the respective amounts.

2) Since we are holding that the obligation of REPUBLIC to pay P40,797.54 to PAN-ORIENTAL was not extinguished by compensation, the obligation of REPUBLIC to pay legal interest on said amount has neither become stale as REPUBLIC contends. Of special note is the fact that payment of that interest was the specific ruling of this Court in its Resolution of August 27, 1965, thus:

"x x x For this reason, Froilan and the Republic of the Philippines are declared jointly and severally liable, not only for

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[8] Article 1279, Civil Code.

[9] Decision, Court of Appeals.

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reimbursement to Pan Oriental, of the legitimate necessary expenses incurred on the vessel, *but also for payment of legal interest thereon,* computed from the date of the defendant's dispossession of the property. x x x"

3) The amount of P6,937.72 a month ordered to be paid by REPUBLIC and MARITIMA to PAN-ORIENTAL until the latter is paid its useful and necessary expenses is likewise in order. That amount represents the damages for the wrongful issuance of the Writ of Replevin and was computed as follows: P4,132.77 for loss of income by PAN-ORIENTAL plus P2,804.95 as monthly depreciation of the vessel in lieu of the charter hire.

It should further be recalled that this Court, in acting on PAN-ORIENTAL's application for damages in its Resolution of December 16, 1966, *supra,* did not deny the same but referred it instead to the Trial Court "there to be heard and decided" since evidence would have to be presented. Moreover, this Court found that PAN-ORIENTAL was "deprived of the possession of the vessel over which (it) had a lien for these expenses"[10] and that FROILAN and REPUBLIC "may be held responsible for the deprivation of defendant (PAN-ORIENTAL) of its right to retention of the property until fully reimbursed on the necessary expenditures made on the vessel."[11]

4) The return of P15,000.00 ordered by the Trial Court and affirmed by the Appellate Court was but just and proper. As this Court found, that sum was tendered to REPUBLIC "which together with its (PAN-ORIENTAL's) alleged expenses already made on the vessel, cover 25% of the cost of the vessel, as provided in the option granted in the bareboat contract (Exhibit "C"). This amount was accepted by the Administration as deposit x x x." Since the purchase did not eventually materialize for reasons attributable to REPUBLIC, it is but just that the deposit be returned.[12] It is futile to allege that PAN-ORIENTAL

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[10] Decision of October 31, 1964.

[11] Resolution of August 27, 1965.

[12] Article 1988, Civil Code.

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did not plead for the return of that amount since its prayer included other reliefs as may be just under the premises. Courts may issue such orders of restitution as justice and equity may warrant.

MARITIMA's Position

We find no merit in MARITIMA's contention that the alleged damages on account of wrongful replevin was barred by *res judicata,* and that the application for damages before the lower Court was but a mere adoption of a different method of presenting claims already litigated. For the records show that an application for damages for wrongful replevin was filed both before this Court and thereafter before the Trial Court after this Tribunal specifically remanded the issue of those damages to the Trial Court there to be heard and decided pursuant to Rule 60, Section 10 in relation to Rule 57, Section 20.[13]

The matter of legal compensation which MARITIMA has also raised has been previously discussed.

Parenthetically, PAN-ORIENTAL can no longer raise the alleged error of the Trial Court in computing the necessary and useful expenses at only P40,797.54 when they should be P87,267.30, since it did not appeal from that Court's Decision.

In a nutshell, we find that the appealed Decision of the Trial Court and of the then Court of Appeals is in consonance with the Decision and Resolutions of this Court.

ACCORDINGLY, the judgment appealed from is hereby affirmed. No costs.

SO ORDERED.

Teehanke (Chairman), Plana, Relova, Gutierrez Jr., de la Fuente. and *Alampay, JJ.,* concur.

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[13] Resolution of December 16, 1966.