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But a cursory glance of the several amounts awarded as compensation reveals a sum total exceeding the maximum of Six Thousand Pesos (₱6,000.00) allowed by law by way of compensation benefits under Act 3428, as amended. Accordingly, the award in the amount of only Six Thousand Pesos (₱6,000.00) is correct. The counsel's fee of Three Hundred Pesos (₱300.00), however, should be increased to Six Hundred Pesos (₱600.00) or 10% of the compensation benefits.

WHEREFORE, the decision of the Workmen's Compensation Commission sought to be reviewed is set aside and the clarificatory and modifying Order of November 8, 1974 is reinstated, with a partial modification increasing the attorney's fees to Six Hundred Pesos (₱600.00).

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, De Castro, and *Herrera, JJ.*, concur.

SECOND DIVISION

[G.R. No. L-44886. January 31, 1979]

NORA VILLAMAYOR (Also known as Nora Aunor), *petitioner, vs.* **THE HON. LEONOR INES LUCIANO, Presiding Judge of the Juvenile and Domestic Relations Court of Quezon City and LUCIANO M. DOMINGUEZ,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; COURT LACKS JURISDICTION TO MODIFY OR AMEND FINAL AND EXECUTORY JUDGMENT. — It is beyond the power of the courts to issue a writ of execution for the payment of the

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principal obligation with the interest thereon, when the judgment contains no provision on the interest to be paid on the judgment credit.

2. **ID.; ID.; ID.; ESTOPPEL CANNOT VALIDATE VOID ORDERS.** — Estoppel cannot validate a void order, issued without jurisdiction since jurisdiction exists as a matter of law, and may not be conferred by consent of the parties, or by estoppel.

APPEARANCES OF COUNSEL

Alfredo A. Villaruz and Rosa A. Villaruz for petitioner.
Melquiades P. de Leon for respondents.

D E C I S I O N

CONCEPCION JR., *J.*:

Petition for *certiorari* to annul and set aside the orders of the respondent Judge dated April 3, 1975 and September 2, 1976.

In Special Proceedings No. QC-00657 of the Juvenile and Domestic Relations Court of Quezon City, entitled: "In the Matter of the Guardianship of the Minor Nora Villamayor, popularly known as Nora Aunor; Norberto Amoranto, Guardian," the herein private respondent, Luciano M. Dominguez, filed a motion praying for the payment of his monthly legal retainer's fees of ₱3,000.00 from May, 1971 to May, 1974.

On December 4, 1974, an order was issued by the respondent court directing the guardian of the estate of the minor to pay attorney's fees to Atty. Luciano M. Dominguez, herein private respondent, the amount of ₱108,000.00 within 30 days from receipt of the order.

On February 7, 1975, Atty. Dominguez asked for the issuance of a writ of execution, alleging non-compliance with said order, but the court granted the award a grace period of 15 days within which to comply with the order of December 4, 1974.

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The grace period given the ward elapsed without her complying with the order of December 4, 1974, so that on April 3, 1975, the respondent court ordered the issuance of a writ of execution against the ward for ₱108,000.00, plus legal interests thereon from December 4, 1974.[1] The corresponding writ of execution was issued on the same day.

Thereafter, the private respondent manifested that he had been paid the sum of ₱113,011.35, in satisfaction of the judgment credit and the amount of ₱5,324.55 remains unpaid; and that while he had received from the estate of the minor the amount of ₱43,592.05 on July 21, 1975, the said amount was for the settlement of his other claims against the ward, but not as partial payment of the judgment credit.

The petitioner also manifested that the private respondent had collected and/or received from her the total amount of ₱155,603.40 or ₱47,603.40 in excess of the amount the private respondent was granted in the order of December 4, 1974.

On March 10, 1976, the petitioner filed a motion with the respondent court to declare the order of April 3, 1975 null and void insofar as it requires the payment of interests on the amount awarded to respondent Dominguez and for the refund of the excess amount paid by the petitioner to the private respondent.[2]

On September 2, 1976, the respondent court issued an order, the dispositive portion[3] of which reads as follows:

"WHEREFORE,

"1) Atty. Luciano Dominguez's request for payment embodied in his Manifestation of January 28, and June 10, 1976 is granted only up to the amount of ₱4,466.71. Within fifteen (15) days from receipt, ward Nora Villamayor and her guardianship estate is hereby ordered to pay the same, under pain of contempt;

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[1] *Rollo*, p. 79.

[2] *Id.*, p. 4.

[3] *Id.*, pp. 9, 13.

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"2) Ward's Motion of March 10, 1976 is hereby DENIED, for the time being; and

"3) Let this case be set for reception of evidence re application of payment in the sum of ₱43,592.05 on July 21, 1975, on October 11, 1976 at 8:00 o'clock in the morning."

Now claiming that the order of April 3, 1975, directing the payment of interests on the amount of ₱108,000.00 and the order of September 2, 1976, specifying the amount to be paid as interests, to have been issued in excess of jurisdiction; and that there is no appeal or other plain, speedy and adequate remedy in the ordinary course of law, the ward Nora Villamayor filed the instant petition to annul and set aside the said orders.

The petitioner argues that the order of December 4, 1974, ordering the estate of the ward to pay Atty. Dominguez the amount of ₱108,000.00, had already become final and executory so that the orders of April 3, 1975 and September 2, 1976, amending or modifying the order of December 4, 1974 by requiring the payment of interests on the amount adjudicated, were illegally issued.

The defense is estoppel, in that the petitioner had acquiesced to, or recognized and ratified the partial execution of the judgment ordering the payment of interests on the judgment credit. The private respondent more particularly refers to the writs of garnishment served by the sheriff upon petitioner's debtors and private respondent was able to collect the amount of ₱112,011.38 as of October 23, 1975, an amount which included part of the interest on the judgment credit, and the statement of counsel for the petitioner wherein she allegedly waived petitioner's right to question the payment of interest on the judgment credit of ₱108,000.00.

In *Robles vs. Timario*,[4] the Court ruled that it is beyond the power of the courts to issue a writ of execution for the payment of the principal obligation with the interest thereon, when the judgment contains no provision on the interest to be paid on the

[4] 107 Phil. 809.

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judgment credit. Considering that in the instant case, the order of December 4, 1974, ordering the payment of ₱108,000.00 to the private respondent, did not provide for the collection of interest on the said amount, the Order of April 3, 1975, directing the issuance of a writ of execution against the petitioner for the amount of ₱108,000.00, plus legal interest thereon on December 4, 1974, was clearly made without or in excess of jurisdiction.

The plea of estoppel is without merit, for estoppel cannot validate a void order, issued without jurisdiction since jurisdiction exists as a matter of law, and may not be conferred by the consent of the parties, or by estoppel. Besides, it cannot be said for certain that the petitioner had acquiesced to the payment of interest on the amount of ₱108,000.00 in view of the petitioner's claim for the refund of the amount collected by the private respondent in excess of the said amount of ₱108,000.00.[5]

WHEREFORE, the petition is granted and the orders of the respondent court dated April 3, 1975 and September 2, 1976 are hereby annulled and set aside insofar as the said orders require the payment of interest on the amount of ₱108,000.00. Cost against the private respondent.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Aquino, and *Santos, JJ.*, concur.

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[5] See Motion, p. 82, *rollo.*