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Abstract

Whenever the minutes written by the judges reveal a certain conclusion (e.g. affirm a lower's court decision), while the decision – which is deemed to have the same wording – reveals a different one (e.g. reverse the lower's court decision), the material error comprised in the court decision may be corrected according to the minutes.

Keywords:

Court decision, material error, minutes.

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Decision identification

Galati Court of Appeals – 2nd Civil Section, Romania
Decision of 28.07.2015 – case no.1712/91/2014/A1/a1*

Decision

Holding of the opinion of Civil Decision no.120/A of 29.04.2015 of the Galati Court of Appeals, Romania, rendered in the case no.1712/91/2014/A1*/a1, states that the court analyses the appeal of C. SRL against the Civil Decision no.75 of 17.02.2015 of the Vrancea County Court, Romania. Nonetheless, the disposition of Civil Decision no.120/A states upon the suspension of the execution of that County Court decision, which is a different matter.

On 07.07.2015, the judicial administrator of C. SRL, C.I. IPURL Focsani, Romania, asked the Galati Court of Appeals to clarify its decision in regard of the contradiction between the holding of the opinion and the disposition.

During the hearings held on 28.07.2015, the Galati Court of Appeals analyzed the claim and stated that it was not a request for clarification, but a request for correction of material error comprised in the court decision.

Analyzing the request made by CI IPURL Focşani, Galati Court of Appeals stated:

The facts

The judicial administrator of C SRL, CI IPURL Focsani, requested for the clarification of Civil Decision no.120/A of 29.04.2015 of the Galati Court of Appeals, as the disposition of the decision was inconsistent with its motivation.

According to the minutes written by the judges in that case, the Court analyzed the appeal of C. SRL against Civil Decision no.75 of 17.02.2015 of the Vrancea County Court. Nonetheless, the disposition of the court decision – which is deemed to have the same wording – reveals a solution on a different matter (suspension of the execution of that County Court decision).

The law

According to article no.443 of the Romanian Civil Procedure Code, the parties may request the court to clarify its decision if it states contradictory dispositions or if the decision is unclear concerning its meaning or application. In the current case, there is no such haziness or contradictory statements, but the disposition of the decision is inconsistent with its holding of the opinion.

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This is the result of joining to the holding of the opinion, while editing the decision, of a different text from the minutes written by the judges.

Such a situation is regulated by a different legal norm – the one regarding the material errors correction. According to article no. 442 of the Romanian Civil Procedure Code, the errors regarding names, positions of the parties or their statements, the ones regarding mathematical calculus and any other material errors in the decisions may be corrected by request or by court's initiative. Therefore, the request made by the judicial administrator of C. SRL, C.I. IPURL Focsani, does not concern the clarification of the decision, but correction of material errors.

As a result, the Court corrected the error comprised in the Civil Decision no.120/A of 29.04.2015 of the Galati Court of Appeals by replacing the wrong text in the disposition of the decision with the one in the minutes written by the judges.

The solution is traditional under Romanian civil procedure legislation, either old (Civil Procedure Code of 1865) or new (Law no.134/2010 regarding Civil Procedure Code, in force beginning with 15.02.2013). The opposite solution – according to which the inconsistency between the holding of the opinion and the disposition of a civil decision rendered it null and void – was rarely uphold by courts and was intensely criticized by the legal doctrine.

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