

G. R. No. 18028

[ G. R. No. 18028. April 26, 1922 ]

**C. A. PARTRIDGE, LEON J. LAMBERT, J. D. MCCORD, JOHN A. WATSON, AND JOHN R. EDGAR, PLAINTIFFS AND APPELLANTS, VS. THE SQUIRES BINGHAM COMPANY, A PARTNERSHIP, THE STAPLES-HOWE PRINTING CO., INC., A CORPORATION, C. D. SQUIRES, JOHN C. HOWE, GEORGE SEAVER, E. C. MCCULLOUGH, AND T. J. FOX, DEFENDANTS AND APPELLEES.**

## **D E C I S I O N**

Untitled Document

### STATEMENT

The parties are all residents of Manila.

On January 1, 1911, John B. Edgar was engaged in the book and stationery business at No. 143 Escolta, under the firm name of John R. Edgar & Company. E. C. McCullough was then engaged in the same business nearby on Plaza Goiti. At that time Edgar's assets were about P44,000 and his liabilities about P40,000. It is claimed that in January and February, 1911, the defendant, McCullough, by unfair and improper means, attempted to drive Edgar out of business, and to that end purchased claims against him upon which he threatened judicial proceedings, and to have him declared insolvent. That after various meetings with his creditors, Edgar agreed with them to organize the corporation of John E. Edgar & Company, to which he was to sell and transfer all of his assets, in consideration of which the company should assume and agree to pay all of his debts and liabilities, for which the creditors were to have stock corresponding to the amount of their claims.

That, among other things, all parties agreed that neither of them was to sell or dispose of his stock until the indebtedness, which was assumed, had been fully paid. That about six months after the corporation was organized, and by-mutual agreement among themselves, and in violation of the contract and article 6 of the By-Laws of the company: "No stockholder shall at any time hold or vote more than 49 per cent of the outstanding stock of

the company," the other defendants conspired with McCullough, and over the protest of the plaintiffs, sold and transferred unto him the full amount of their capital stock, by which he became the owner and holder of more than 49 per cent. That at such time McCullough was a competitor and business rival of John R. Edgar & Company. That thereafter the said McCullough did unlawfully usurp the control and management of John R. Edgar & Company, and that, as a result of his management, the Edgar Company became financially embarrassed, and was thrown into the hands of a receiver, by whom its affairs were finally liquidated, and only a small percentage of its indebtedness was paid. That, as a result, the plaintiffs, who were stockholders in John R. Edgar & Company, lost the full amount of their respective holdings of more than P11,000, which they now seek to recover from the defendants upon the ground of an alleged conspiracy to wreck the John R. Edgar & Company for the use and benefit of McCullough. The answer is in the nature of a general denial of any liability or the violation of the contract. After the taking of testimony, the lower court rendered an opinion in which all of the material facts are fully stated, and entered judgment for the defendants, from which plaintiffs appealed, assigning eleven different errors, all of which relate to the weight and value of the evidence upon which the court based its findings.

Johns, J.:

It will be noted that the complaint alleges that on January 1, 1911, Edgar's assets were P44,000 and his liabilities P40,000. That the corporation John R. Edgar & Co. was organized on February 25, 1911. That the capital stock of the corporation was P22,200, and that creditors of the incorporation subscribed to such capital stock to the amount of about P20,000. It is alleged that the remaining creditors, whose claims amounted to about P20,000, accepted the obligation of the corporation and released Edgar.

The briefs are full and exhaustive.

Assuming, without deciding, that the alleged contract against the sale and purchase of stock is valid and could be enforced, there is no merit in plaintiff's claim.

The evidence does not sustain plaintiffs' allegation that McCullough at any time owned more than 49 per cent of the capital stock of the Edgar Corporation, or that there was any conspiracy on the part of the defendants to wreck the corporation or destroy the value of the stock. This could not be done without material injury to the defendants, who were among the heaviest stockholders and creditors of the corporation.

The evidence also tends to show that soon after the corporation was organized, the defendants were ready and willing to purchase plaintiffs' stock at its par value, and that the plaintiffs declined the offer and refused to sell. At this time plaintiffs have no legal right to compel the defendants to make good any losses which they sustained through an error of business judgment.

After having heard the evidence and seen the witnesses testify, the trial court found for the defendants, and, in effect, that the contract was not violated and that plaintiffs' allegations as to a conspiracy were not true.

After a careful examination of the record, we agree with the trial court. The judgment is affirmed, with the costs in favor of the appellees. So ordered.

*Araullo, C. J., Malcolm, Avanceña, Villamor, Ostrand, and Romualdez, JJ., concur.*

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