

G. R. No. 17131

[G. R. No. 17131. June 30, 1922]

SING JUCO AND SING BENGCO, PLAINTIFFS AND APPELLEES, VS. ANTONIO SUNYANTONG AND HIS WIFE VICENTA LLORENTE DE SUNYANTONG, DEFENDANTS AND APPELLANTS.

D E C I S I O N

ROMUALDEZ, J.:

Untitled Document On May 20, 1919, the plaintiffs obtained from Maria Gay a written option to purchase an estate known as "San Antonio Estate," containing more than 2,000 hectares situated in the municipality of Passi, Province of Iloilo, together with the large cattle existing on said estate. The term of the option expired, but the plaintiffs had it extended verbally until 12 o'clock noon of June 17, 1919.

The defendant Antonio Sunyantong was at the time an employee of the plaintiffs, and the preponderance of evidence shows that they reposed confidence in him and did not mind disclosing their plans to him, concerning the purchase of the aforesaid estate and the progress of their negotiations with Maria Gay.

It is also sufficiently established in the record that in one of the conferences held by the plaintiffs among themselves, relative to the purchase of the aforesaid estate, at which the defendant was present, the latter remarked that it would be advisable to let some days elapse before accepting the terms of the transfer as proposed by Maria Gay, in order that the latter might not think that they were coveting said property. This mere remark alone in itself cannot be taken to mean any wrongful intent on the part of said defendant, but it ceases to be innocent when taken in connection with the fact, also proven, that when the defendant met Alipio de los Santos after the latter's return to Iloilo, sent by the plaintiffs to examine the estate and satisfy himself of its condition, and Alipio de los Santos told him of his favorable impression of the estate, he advised De los Santos not to report the estate to the plaintiffs as being so highly valuable, for if it proved a failure they might blame him, De los Santos. One becomes more strongly convinced that this defendant has been unfaithful to

his principals, the plaintiffs, when these circumstances are considered in connection with the fact that at an early hour in the morning of June 17, 1919, on the midday of which the term of plaintiff's option to purchase was to expire, said defendant Antonio Sunyantong called at the house of Maria Gay when she was having breakfast, and offered to buy the estate on the same terms proposed by her and not yet accepted by the plaintiffs, making the offer to buy not for the benefit of the plaintiffs, but for his own wife, his codefendant Vicenta Llorente de Sunyantong. In view of the opportunity that offered itself, but respecting the option granted the plaintiffs, Maria Gay communicated by telephone with Manuel Sotelo, who was acting as broker for the plaintiffs in these transactions, and told him that another buyer of the estate had presented himself who would accept the terms proposed by her and that she would like to know immediately what decision had been reached by the plaintiffs on the matter. In view of Maria Gay's insistence that the plaintiffs give a categorical answer, Sing Bengco, one of the plaintiffs who happened to be present at the time the telephone conversation between Maria Gay and Manuel Sotelo took place, instructed Sotelo to inform her at the time that if she did not care to wait until 12 o'clock, "*ella cuidado*" (she could do as she pleased). This is a purely Philippine phrase, an exact translation of the Tagalog "*siya ang bahala*" and approximately of the Visayan "*ambut sa iya,*" which has very different, and even contradictory, meanings.

It might be interpreted in several different ways, such as a threat on the part of Sing Bengco to take legal action against Maria Gay in case she did not wait until the expiration of the option, or that they would waive all claims to the option and be agreeable to whatever action she might take. Interpreting the phrase to mean that the plaintiffs waived their option to buy, Maria Gay closed the sale of the estate in favor of the defendant Antonio Sunyantong.

Even supposing that this latter interpretation of the phrase in question was the actual intention of Sing Bengco, the action of the defendant Sunyantong in intervening in the negotiations in the manner in which he did does not make him innocent of infidelity in view of the fact that he was an employee of the plaintiffs to whom he owed loyalty and faithfulness.

Even though it be conceded that when he closed the contract of sale with Maria Gay the plaintiff's option had expired, but the fact cannot be denied that he was the cause of the option having precipitously come to such an end. His disloyalty to his employers was responsible for Maria Gay not accepting the terms proposed by the plaintiffs, because of being certain of another less exigent buyer. Without such intervention on the part of the

defendant it is presumed, taking into account all the circumstances of the case, that the sale of the estate in question would have been consummated between Maria Gay and the plaintiffs, perhaps with such advantages to the plaintiffs, as they expected to obtain by prolonging the negotiations.

Such an act of infidelity committed by a trusted employee calculated to redound to his own benefit and to the detriment of his employers cannot pass without legal sanction. *Nemo debet aliena jactura locupletari; nemo ex suo delicto meliorem suam conditionem facere potest.* It is an illicit act committed with culpa, and, therefore, its agent is liable (art. 1089, Civil Code), for the damage caused (art. 1902, *ibidem*). Not identical, but similar, to this infidelity is the abuse of confidence sanctioned in our Penal Code as a generic circumstance, nay as specific aggravating one, and even as an essential element of certain crimes.

This reparation provided for in the Civil Code and applied to the case at bar seems to be limited to the indemnification of damages, as we are not aware of any express provision in said Code which imposes upon the person thus held liable, any obligation, such as that of transferring to plaintiffs the estate in question.

Such principle, however, in case of this nature is generally recognized in our laws, since in the case of commercial agents (*factores*) it is expressly established. Undoubtedly, formerly under the circumstances then prevailing such sanction was not necessary in the field of civil law, because its sphere of action is the general relations of society; but even then it was deemed necessary expressly to protect with such sanction the commercial relations wherein the question of gain was involved, which is sometimes so imperative as to ignore everything, even the very principles of loyalty, honesty, and fidelity.

This specific relief, however, has already come to be applied in this jurisdiction in similar cases, among which can be cited that of Camacho vs. Municipality of Baliuag (28 Phil., 466.)

And in the North American law such sanction is expressly recognized, and a transaction of this nature might be regarded as an "equitable trust" by virtue of which the thing acquired by an employee is deemed not to have been acquired for his own benefit or that of any other person but for his principal, and held in trust for the latter (21 R. C. L., 825; 2 Corpus Juris, 353).

After examination and consideration of the case we do not find in the appealed judgment any of the errors assigned to it; wherefore the same is affirmed with costs against the appellants. So ordered.

Araullo, C. J., Malcolm, Avanceña, and Ostrand, JJ., concur.

DISSENTING

VILLAMOR, I.,

In my opinion, the judgment of the lower court ordering the defendants to execute a deed of conveyance to the plaintiffs of the San Antonio Estate for the same price and with the same conditions as those of the purchase thereof from Maria Gay, which is now in question, should be reversed, for I think that the case has been decided from a point of view which, it may be stated, is strictly moral, but not juridical, as is required in judicial cases.

The defendant Sunyantong is held civilly liable for having purchased the land in question in behalf of his wife, Vicenta Llorente, with knowledge of the fact that the plaintiffs, by whom he was employed, were negotiating with the owner of the land for the purchase of the same. And he is held guilty of infidelity and even of abuse of confidence, under the provisions of article 1902 of the Civil Code.

Accepting the statement of facts which appears in the majority opinion the liability of the defendant Sunyantong should consist in the reparation of the damage caused to the plaintiffs. Has any damage been proven to have arisen from the culpable act of the defendant Sunyantong? I do not think that it has, and indeed no damage could have been caused to the plaintiff Sing Bengco, for the record shows that he had had every opportunity to take advantage of the option that was granted him to buy the land, and until the last moment the owner, in view of the fact that another offer to purchase, which was that of the defendant Sunyantong, was being made to her, requested said Sing Bengco to give her a definite answer and the latter simply answered through Manuel Sotelo that "if she (the owner) could not wait until 12 o'clock *ella cuidado* (she could do as she pleased)." By this the plaintiff Sing Bengco gave it to understand that he waived his right to the option and the owner was free to dispose of the estate. Application is to be made here of the juridical principle *scienti et volenti nihil fit injuria*.

The court itself says in its decision: "This reparation provided for in the Civil Code (art. 1902) and applied to the case at bar seems to be limited to the indemnification of damages,

as we are not aware of any express provision in said Code, which imposes upon the person thus held liable, any obligation, such as that of transferring to plaintiffs the estate in question." But, in an attempt to solve the difficulty, the case of commercial agents and the doctrine laid down in the case of *Camacho vs. Municipality of Baliuag* (28 Phil., 466) are invoked. With all due respect to the opinion of my worthy colleagues, permit me to say that, in my humble opinion, no application can be made to the case at bar of article 288 of the Code of Commerce which says:

"Factors can not transact business for their own account, nor interest themselves in their own name or in that of another person, in negotiations of the same character as those they are engaged in for their principals, unless the latter expressly authorize them thereto.

"Should they negotiate without this authorization, the profits of the negotiation shall be for the principal and the losses for the account of the factor.

"If the principal has granted the factor authorization to make transactions for his own account or in union with other persons, the former shall not be entitled to the profits, nor shall he participate in the losses which may be suffered.

"If the principal has permitted the factor to have an interest in some transaction, the participation of the latter in the profits shall be, unless there is an agreement to the contrary, in proportion to the capital he may have contributed ; and should he not have contributed any capital, he shall be considered a working partner."

It is not necessary to enter into a lengthy discussion in order to demonstrate the inapplicability of the article cited to the case under consideration; it is sufficient to say that, as shown in the record, the plaintiffs, as merchants, were dealing in dry goods and sugar and other articles connected with the sugar business. It does not appear that the firm was also engaged in the purchase of real properties. There is no proof that the defendant Sunyantong was in charge of a commercial establishment, managing it in the name of the plaintiffs. Also, I do not think that the decision of this court in the case of *Camacho vs. Municipality of Baliuag*, *supra*, can be invoked in support of the appealed judgment. In the syllabus of that decision it is said: "The settled doctrine in this jurisdiction is that realty acquired with funds and at the instance of another in the discharge of an undisclosed agency, express or implied, belongs to the principal, and an action lies in favor of such

undisclosed principal to compel a conveyance to himself so long as the rights of innocent third parties have not intervened.”

This is the doctrine maintained in the case of *Camacho vs. Municipality of Baliuag*, above cited, and in that of *Uy Aloc vs. Cho Jan Ling* (19 Phil, 202).

In the first case, Camacho succeeded in registering in his name two parcels of land occupied by the municipality of Baliuag as school and municipal building site. It was proven that the plaintiff Camacho bought said parcels of land at a public auction, having paid the price with money furnished by the then parish priest of the town, Father Prada, who had been requested by influential persons in the locality to furnish the money for the purchase of said lands in order that the same might remain in the hands of the municipality, with the understanding that the latter would repay it to him at a future date. The court held that the plaintiff should execute a conveyance of the lands in dispute to the municipality.

In *Uy Aloc vs. Cho Jan Ling*, the members of a Chinese club agreed to acquire certain real property and for that purpose subscribed a fund and placed it in the hands of the defendant, who made the purchase in his own name. Subsequently he refused to account for the rents of the estate and claimed it as his own. This court held that the parol proof of the trust was sufficient to throw down the rights which the plaintiff had by reason of the duly registered title deeds, and decreed that a conveyance be made by the defendant to the members of the association.

In the cited case of *Camacho vs. Municipality of Baliuag* the court said: “There have been a number of cases before this court in which a title to real property was acquired by a person in his own name while acting in a fiduciary capacity, and who afterwards sought to take advantage of the confidence reposed in him by claiming the ownership of the property for himself. This court has invariably held such evidence competent as between the fiduciary and the *cestui que trust*.”

But in the case under consideration there is no proof of the defendants having acquired the land in question in the name or in behalf of the plaintiffs, or at the request of the latter, or with funds furnished by them. Said defendants had legal capacity to buy (art. 1457, Civil Code) and are not within any of the cases prohibited by article 1459 of the same Code.

To my mind, there is in the cause no sufficient ground for compelling the defendants to transfer the land in question to plaintiffs, and so I am constrained to dissent from the opinion of the majority.

Date created: April 08, 2010