

96 Phil. 15

[G.R. No. L-6515. October 18, 1954]

DAGUHOY ENTERPRISES, INC., PLAINTIFF AND APPELLEE, VS. RITA L. PONCE, WITH WHOM IS JOINED HER HUSBAND, DOMINGO PONCE, DEFENDANTS AND APPELLANTS.

D E C I S I O N

MONTEMAYOR, J.:

The Dagunoy Enterprises, Inc., a local corporation, with principal office in the City of Manila filed in the Court of First Instance of the City Civil Case No. 15923 against Rita L. Ponce and her husband Domingo Ponce, for the collection of a loan of P6,190 with interest at 12 per cent per annum from June 24, 1950, plus P2,500 as attorney's fees and P34 as expenses of litigation. Defendant filed an answer admitting practically all the allegations of the complaint, set up affirmative defenses, and a counterclaim asking for the cancellation of the mortgage which secured the payment of the loan of P6,190.

They also filed a petition for the inclusion of Potenciano Gapol as a third party litigant, at the same time filing a third party complaint against him asking for damages in the amount of P25,000. The plaintiff corporation answered the counterclaim and opposed the petition for the inclusion of a third party litigant. Thereafter, plaintiff corporation filed a motion for judgment on the pleadings which petition was opposed by the defendants. Then, on October 9, 1952, the trial court rendered judgment whose dispositive part we reproduce below:

“EN VIUTUD DE TODO LO EXPUESTO, el Juzgado dicta sentencia de acuerdo con los escritos, condenando a los demandados a pagar a la demandante la suma de P6,190 mas sus intereses a razon de 12

por ciento anual desde el 10 de marzo de 1951 hasta su completo pago, mas P1,000 como honorarios de abogado y P34 corao gastos de la incoaccion de esta demanda.

“Asi se ordena.”

Defendants are now appealing from that decision.

The above-mentioned decision was rendered on the pleadings. The facts of the case which we gathered from the said pleadings and which we find are as follows. In the year 1950, defendant-appellant Domingo Ponce was Chairman and Manager and his son Buhay M. Ponce was Secretary-Treasurer, of the plaintiff corporation Daguhoy Enterprises, Inc. On June 24th of said year Rita L. Ponce, wife of Domingo, executed in favor of plaintiff corporation a deed of mortgage over a parcel of land including the improvements thereon, situated in Manila, to secure the payment of a loan of P5,000 granted to her by said corporation, payable within six years with interest at 12 per cent per annum. On March 10, 1951, Rita L. Ponce with the consent of her husband Domingo executed another mortgage deed amending the first one, whereby the loan was increased from P5,000 to P6,190, the terms and conditions of the mortgage remaining the same. Rita and Domingo presented the two mortgage deeds for registration in the office of the register of deeds, but the said register after going over the papers noted defects and deficiencies and advised Rita and Domingo to cure the defects and furnish the necessary data, instead of complying with the suggestion and requirements, the two withdrew the two mortgage deeds and then mortgaged the same parcel of land in favor of the Rehabilitation Finance Corporation (RFC) to secure a loan.

Potenciano Gapol was the majority stockholder in the Daguhoy Enterprises, Inc. and naturally was interested in the security of the payment of the loan aforesaid. Upon learning that the deeds of mortgage were not registered and what is more, that they were withdrawn from the office of the register of deeds and the land covered by the two deeds was again mortgaged to the RFC, he filed Civil Case No. 13753 entitled

“Potenciano Gapol, for and on behalf of Daguhoy Enterprises, Inc. vs. Domingo Ponce and Buhay M. Ponce” for accounting, not only for the amount of the loan of P6,190 but apparently for other sums, possibly on the theory that the loan in question was granted by Domingo and Buhay acting as Chairman-Manager and Secretary-Treasurer, respectively of the corporation. To account for the amount of said loan, Domingo and his son Buhay filed in court in said Civil Case No. 13753 a check of the RFC in the amount of P6,190 in favor of the Daguhoy Enterprises, Inc. and interests amounting to P266.10. After the deposit of said check and interests, Potenciano Gapol in representation of the Daguhoy Enterprises, Inc. petitioned the court in said Civil Case No. 13753 for permission to withdraw the amounts, presumably to apply them to the payment of the loan. Because of the opposition of defendants therein to the withdrawal unless the mortgage by Rita was cancelled the court denied the petition. A second petition for withdrawal was filed by Gapol, agreeing to the cancellation of the mortgage as soon as the amounts were withdrawn from the Court and deposited with the Bank of America, in the name of Dagohoy Enterprises, Inc. Because of the failure of defendants therein to agree to said second petition, the same was similarly denied. Thereafter, the Daguhoy Enterprises, Inc. filed the present action against Rita and her husband Domingo, as already stated, to collect the amount of the loan, including interests. Later plaintiff corporation filed a manifestation on September 18, 1952, saying that in the course of the pretrial conference held that same morning in Civil Case No. 13753 the plaintiff therein waived his cause of action for accounting for said sum, which waiver was approved by the presiding Judge.

Although the original loan of P5,000 including the increase of P1,190 was payable within six years from June 1950, and so did not become due and payable until 1956, the trial court held that under article 1198 of the new Civil Code, the debtor lost the benefit of the period by reason of her failure to give the security in the form of the two deeds of mortgage and register them, including defendants’ act in withdrawing said two deeds from the office of the register of deeds and then mortgaging the same property in favor of the RFC; and so the

obligation became pure and without any condition and consequently, the loan became due and immediately demandable. On this, we agree with the trial Court.

One of the affirmative defenses set up by the defendants is that the plaintiff corporation had no legal capacity to sue for the reason that as a corporation it no longer was in existence because on April 3 6, 1953, at a meeting held by the stockholders and attended by Potenciano Gapol, the majority stockholder, a resolution was adopted dissolving the said corporation, and that as a matter of fact, Gapol was designated Assignee. However, as contended by counsel for the appellee, a mere resolution by the stockholders or by the Board of Directors of a corporation to dissolve the same does not effect the dissolution but that some other step, administrative or judicial, is necessary. Furthermore, as stated by the trial court in its decision, under section 77 of the Corporation Law, a corporation dissolved will continue in existence as a judicial entity for a period of three years after the declaration of its dissolution, to wind up its affairs and protect its interests during the period of liquidation.

The point that remains for determination is the effect, if any, .on the present case, of the deposit of the amount of P6,190 with part of the interest, in Civil Case No. 33753. There is no question that said deposit was in favor of the Daguhoy Enterprises, Inc. and eventually would be given to it. But did the said deposit relieve the present defendants from the payment of interests from the time of the deposit, on the theory that the deposit amounted to a payment of the loan? The answer must be in the negative. It should be remembered that Civil Case No. 13753 though in the same Court of First Instance of Manila, is a separate and different action, for accounting not only for the amount of the loan but for other sums.

The plaintiff in that case was Gapol in behalf of the Daguhoy Enterprises, Inc. and the defendants are Domingo Ponce and his son Buhay M. Ponce. The parties in the present case are different. Furthermore, when the plaintiff in said case 13753 petitioned the trial court for permission to withdraw the deposit, presumably to pay the

loan involved in the present action, his petition was denied by the court because of the opposition of the defendants therein, one of whom is Domingo Ponce, co-defendant of Rita Ponce in the present case. The result was that the present plaintiff corporation could not take possession and dispose of said amount. In other words, the loan is not yet paid.

We find no necessity for or profit in discussing and ruling on the other points raised in the appeal. In view of the foregoing, with the modification that the amount of attorney's fees be reduced from P1,000 to P300 considering that no hearing was held, judgment having been rendered on the pleadings, the decision appealed from is hereby affirmed, with costs. . The sum in the form of an RFC check, and some interest, deposited in Civil Case No. 13753 may be withdrawn to satisfy the judgment in this case, especially to pay the loan of P6.190 and part of the interest due.

Paras, C. J., Pablo, Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Concepcion, and Reyes, J. B. L., JJ., concur.
