G.R. No. L-6650

**[ G.R. No. L-6650. January 31, 1955 ]**

**COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, ET AL., PLAINTIFF-APPELLANTS, VS. GREGORIO ARANETA, INC., ET AL., DEFENDANTS-APPELLANTS.**

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

**MONTEMAYOR, J.:**

COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, ET AL., PLAINTIFF-APPELLANTS, VS. GREGORIO ARANETA, INC., ET AL., DEFENDANTS-APPELLANTS

The Compañia General de Tabacos de Filipinas, hereafter referred to as TABACALERA is a sociedad anonima organized under the laws of Spain, and authorized to do business in the Philippines. In the year 1927 high executive officers of TABACALERA organized the Central Azucarera de Tarlac, hereafter referred to as AZUCARERA, as a corporation under the laws of the Philippines. Of its 16,000 shares of stock originally subscribed, 13,000 shares were subscribed by TABACALERA, 2,000 shares by its high executive officials and the remaining 1,000 by other persons. Since its organization AZUCARERA continuously and up to the present has been managed by TABACALERA, and in 1943, Lorenzo Correa, then Assistant Manager of TABACALERA was the President of AZUCARERA.

On November 15, 1928, AZUCARERA issued for sale to the public, first mortgage bonds in denomination of 1,000.00 each, payable to bearer on or before November 15, 1943, with interest at the rate of eight per centum (8%) per annum payable semi-annually as per interest coupons attached to the bond certificates. Under said mortgage bonds, TABACALERA was appointed the trustee of all bondholders. Among the bondholders were Francisco Javier de Pitarque y Elio with 8 bonds; Isabel Maria de Ynchausti with 29 bonds; Maria Elia de Ynchausti with 23 bonds; and Ana Maria de Pitarque y de Ynchausti with 18 bonds, all with a total value of P78,000.00.

In April, 1943, AZUCARERA decided to call in all its bonds then outstanding, amounting to 2,500 with a total value of P2,500,000.00. Because it was not then in a position financially to effect the redemption, it decided to borrow the necessary amount of 2,500,000.00 from the Bank of Taiwan. At that time there was a trust mortgage of its properties in the amount of P4,000,000.00 in favor of TABACALERA; there was also a second mortgage on all its properties in the amount of P5,000,000.00 also in favor of TABACALERA. These two mortgages were cancelled

thereby enabling AZUCARERA to mortgage the same properties in favor of the Bank of Taiwan to secure the loan of P2,500,000.00 given to it.

The corresponding notice of redemption was published in two Manila dailies, the Tribune and La Vanguardia, to the effect that the principal and interest will be paid by the trustee (Tabacalera) at its office in Manila "on or after May 15, 1943, against surrender of the bonds and attached interest coupons". Pursuant to said notice numerous bondholders presented their bonds for payment and were paid; and according to the record 717 bonds valued at P717,000.00 held by the TABACALERA were also redeemed and paid by the trustee.

On July 22, 1943, Gregorio Araneta Inc., hereafter referred to as ARANETA INC., representing itself as the duly authorized attorney-in-fact or agent of bondholders Francisco Javier de Pitarque y Elio, Maria de Ynchausti, Maria Elia de Ynchausti and Ana Maria de Pitarque y de Ynchausti, then all residing in Spain, applied for payment according to the plaintiffs TABACALERA and AZUCARERA of the principal and interest of the bonds owned by its principals. According to ARANETA INC., however, it never applied for payment but was notified and was even pressed to present the bonds of its principals for payment. Anyway, Jose Araneta, then President of ARANETA INC., filed with the AZUCARERA the following affidavit:

> "I, JOSE ARANETA, President of the Gregorio Araneta, Inc., and the latter as attorney-in-fact of Da. Maria Elia de Ynchausti, D. Francisco Javier de Pitarque y Elio, Da. Maria Isabel de Ynchausti, and Da. Ana Maria de Pitarque y de Ynchausti, do hereby declare and swear:-
>
> That under date of July 3, 1943, the said Gregorio Araneta, Inc. wrote a letter to the Bank of the Philippine Islands of the following tenor:
>
> 'Muy Srs. Nuestros:
>
> Les agradeceriamos a Vds. nos manden los certificados de los siguientes bonos que estan depositados en su poder para que podamos presentarlos para su cobro a las companies correspondientes, viz:
>
> Casino Español
>
> Cert. No. 499 por 20 obligaciones a/n de D.a Maria Isabel de Ynchausti
> Cert. No. 499 por 20 obligaciones a/n de D.a Maria Isabel de Ynchausti
> Cert. No. 497 por 20 obligaciones a/n de D.a Maria Elia de Ynchausti
> Cert. No. 640 por 10 obligaciones a/n de D. Francisco Javier de Pitarque y Elio
> Cert. No. 573 por 10 obligaciones a/n de D.a Ana Maria de

Pitarque y de Ynchausti

Central Azucarera de Tarlac

23 Bonos Nos. 511/4, 3232, 3234, 3236/7, 3242/3, 3246/52, 3255/61 a nombre de D.a Isabel de Ynchausti de Pitarque.
23 Bonos Nos. 3203/4, 3206, 3206,
3208/9, 3211/3, 3215/8, 3220/1, 3223/4, 3228, 3230, 516/20, a nombre de D.a Maria Elia de Ynchausti.
8 Bonos Nos. 508/9, 1846, 1849, 1851, 1853, 5746,
2748, a nombre D. Francisco Javier de Pitarque y Elio.
10 Bonos Nos. 510,
2739, 2741/4, 3965, 3969/70 a nombre de D.a Ana Maria de Pitarque y de Ynchausti.'

That under date of July 6, 1943, the Bank of the Philippine Islands, in reply to the Above mentioned letter of Gregorio Araneta Inc., answered as follows:

'Muy Sres. Nuestros:

En contestacion a su atenta carta de fecha 3 del presente mes, mucho sentimos no poder remitirles, como nos piden, los titulos de los bonos u obligaciones del Casino Español del Manila y de la Central Azucarera de Tarlac que se detallan en su carta y que obraban en nuestro poder en calidad de deposito en custodia, en razon a que, por orden de fecha 29 de Diciembre de 1941 del anterior Alto Comisionado de los Estados Unidos de America en Filipinas, tales titulos tuvieron que ser entregados por este Banco al mencionado funcionario.

Deplorando el inconveniente que nos priva del placer de complacerles, nos reiteramos de Vds. attos. Y ss. ss.,

PEDRO J. CAMPOS
Presidente'

That for the reasons alleged in the letter of the Bank of the Philippine Islands, the said Gregorio Araneta, Inc. is not in a position to produce the above-mentioned certificates of bonds of Casino Español and the Central Azucarera de Tarlac;

FURTHER, affiant sayeth not.

(Sgd.) JOSE ARANETA"

Because of the non-presentation of the bonds of its principals, AZUCARERA and TABACALERA refused to make payment of the amounts of said bonds and interest, and required ARANETA INC. to specify that it was applying for payment of the principal and interest of the bonds, and that it would undertake to indemnify plaintiffs for any damage that might be caused them if in the future they should

be called upon to make a second payment of the same bonds. Complying with this requirement ARANETA INC. sent a letter to the TABACALERA dated January 23, 1943, which is quoted below:

"GREGORIO ARANETA, INCORPORATED
4 th Floor, Samanillo
Bldg.
Manila

Manila, 23 de Julio de 1943

Compañia Gral. de Tabacos de Filipinas
Marques de Comillas
Manila

Muy Srs. Nuestros:

La presente tiene por objecto informarles que tan pronto como el Banco de las Islas Filipinas nos pueda remitir las obligaciones de la Central Azucarera de Tarlac anotadas en el adjunto affidavit, nos comprometemos a entregar las mismas.

Deseamos tambien hacer constar que asumimos la responsabilidad de reembolsar a Vds. de cualquiera duplicidad de pago en que pueda incurrir a causa de la no presentacion de dichas obligaciones.

De Vds. attos, y ss., ss.,

GREGORIO ARANETA, INCORPORATED
Apoderados de los
Sres:
Maria Isabel de Ynchausti
Maria Elia de Ynchausti
Francisco
Javier de Pitarque y Elio
Ana Maria de Pitarque y de Ynchausti
Isabel de
Ynchausti de Pitarque

Por:

(Fdo.) Jose Araneta
Presidente."

With this letter or undertaking TABACALERA paid the value of the bonds and

interest belonging to the four principals of ARANETA INC. including six other bonds in the name of Isabel de Ynchausti and eight other bonds with interest coupons attached thereto in the name of Ana Maria de Ynchausti which were in the Philippines, in the form of and by means of checks issued by TABACALERA in favor of ARANETA INC. on account of each co-principal, drawn on the Bank of Taiwan, dated August 7, 1943. ARANETA INC. received the abovementioned checks for its principals in payment of the principal and interest of the bonds owned by said principal, and deposited them in the Bank of the Philippine Islands in separate accounts.

After the war, the bond certificates belonging to the four principals of ARANETA INC. which according to the Bank of the Philippine Islands had been delivered to the High Commissioner of the United States, presumably for safekeeping, were returned to ARANETA INC. and they were in turn delivered to the law firm of Ramirez & Ortigas for collection. Said law firm duly advised the AZUCARERA that it had received the bonds in question from ARANETA INC. and asked that the same be noted for purposes of Republic Act No. 62. AZUCARERA through its attorneys advised Ramirez & Ortigas that said bonds not only had already been paid in 1943 but that ARANETA INC. had undertaken to reimburse AZUCARERA for any loss which might be sustained by it in case of double payment, and had promised to deliver said bonds to AZUCARERA as soon as it received them from the Bank of the Philippine Islands. Because of the refusal of ARANETA INC. to deliver to AZUCARERA the said bonds, AZUCARERA and TABACALERA filed present action against ARANETA INC. and its principals to recover them and for damages, including the amount of P754.31 which was the amount of annual premium on the surety bond filed by the AZUCARERA and P10,000.00 as attorney's fees. After trial, the Court of First Instance of Manila presided over by Judge Potenciano Pecson rendered judgment in favor of the plaintiffs and against the defendants, ordering the latter "to deliver to the plaintiffs sixty-four (64) bonds described in paragraph IV of the complaint; and (2) ordering defendant to pay the plaintiffs, attorney's fees in the sum of P5,000.00 and the annual premiums on the bond in the sum of P754.31 with interest on the latter at the rate of six per centum per annum from the date of the filing of the complaint until fully paid," and dismissing the counterclaim of the defendants for lack of sufficient and convincing evidence in support thereof. Both parties have appealed. Plaintiffs appealed because the lower court awarded them only P5,000.00 as attorney's fees and because it held that in May, 1943, AZUCARERA was indebted to the TABACALERA in the sum of P5,000.00 secured by a second mortgage. The defendants appealed, claiming that the trial court erred in holding that ARANETA INC. as attorney-in-fact of its co-defendants applied in 1943 for the redemption of the 78 bonds valued at P78,000.00 in Japanese military notes; in not finding that the payment of the said bonds had been affected through threats, duress and moral coercion; in not holding that the TABACALERA in enabling the AZUCARERA to redeem the bond in 1943 committed a breach of trust against the appellant bondholders; in not holding that the defendants-appellants are now entitled to

receive the redemption price of the bonds from either TABACALERA or AZUCARERA; in holding that appellants had acted in bad faith in refusing to surrender to the plaintiffs the bonds in question in 1947, and adjudging them liable for attorney's fees as well as the annual replevin bond premium for P754.31.

As to whether or not ARANETA INC. applied for the payment of the bonds in question, under the circumstances we are inclined to agree with the trial court that application for payment was made. The notice issued by the AZUCARERA published in two Manila Dailies for the redemption of its bonds was made in general. There was no specific notice to or demand upon ARANETA INC. to present apply for payment of the bonds owned by them. It is even doubtful whether the AZUCARERA then knew that ARANETA INC. was acting as agent or attorney-in-fact for any bond owner, and yet we find the affidavit made by Jose Araneta as President of ARANETA INC. to support its claim that he could not produce and present those bonds for payment. There is, therefore, reason to believe and to hold that ARANETA INC. applied for payment of the bonds of its principals but because of the refusal of AZUCARERA to pay them unless they were produced and surrendered, the affidavit was made.

But it is claimed by ARANETA INC. that there was intimidation and duress exercised over its president into accepting payment of the bonds; that during the Japanese occupation the Japanese authorities had issued notifications and proclamations to the effect that those who held Japanese military notes were authorized to use them in making payments of all kinds and if any person interfered with the circulation of said notes, such person refusing to receive or accept them in payment would be severely punished; that because of Jose Araneta's fear that he might be punished for refusing to accept payment of the bonds in Japanese military notes, he accepted them reluctantly and that under those conditions his acceptance of the payment should be considered invalid as done under duress and coercion. We have already said that ARANETA INC. applied for payment. Applying for payment implies voluntariness which is incompatible with alleged duress and coercion. But even if we consider the attitude of the Japanese occupation authorities in viewing with disfavor, even hostility, any act of rejection of payment of obligations in Japanese military notes, as influencing creditors in accepting payment of pre-war obligations in Japanese military notes and accepted by the creditor though in compliance with the orders of the Japanese military occupant enjoining acceptance of said military notes under severe penalty for non-acceptance, cannot be considered as made under collective and general duress, because an act done pursuant to the laws or orders of competent authorities can never be regarded as executed involuntarily, or under duress or illegitimate constraint or compulsion that invalidates the act. (Philippine Trust Co. vs. Luis Ma. Araneta et al., G.R. No. L-2734, March 17, 1949 [46 O.G. p. 4254].) Moreover, the undertaking of ARANETA INC. included in its letter to TABACALERA dated July 23, 1943, that it assumed responsibility of reimbursing TABACALERA for any damage incurred by reason of double payment of the said bonds should the same be paid twice because they came into the hands of

third parties, far from implying any reluctance or unwillingness to accept payment of the bonds would appear to show willingness, not to say active interest, even desire to accept payment. Why should ARANETA INC. go out of its way and make said undertaking? It did not have the bonds in question because they were being kept in the United States. That would have been a good excuse for not presenting them for payment even if actually notified and called upon to present them. Furthermore, in the letter of ARANETA INC. to the Bank of the Philippine Islands asking for the delivery of the bonds deposited with it, it said that ARANETA INC. needed those bonds in order to cash them (cobro) or have them paid. It did not say that they were being demanded by TABACALERA or AZUCARERA. Besides, in 1943, the Japanese military notes were about at par with the Philippine peso, perhaps slightly less in value. The trial court said that the ratio was 1.50 military notes for one genuine Philippine peso, although in the case of Hernaez et al., v. McGrath et al., G.R. No. L-4044, July 9, 1952, this Tribunal held:

> "The disparity in value, if any, between Japanese war notes and the Philippine peso in February 1943 was not great, however. According to the Ballantyne conversion table, the exchange ratio between the two currencies in February 1943 was P1.00 to P1.10. It is to be kept in mind that this scale did not pretend to be exact. The ratio could have been still even."

So, there could not have been much, if any, valid objection to accepting Japanese military notes in payment. In fact, ARANETA INC. itself was paying its own employees in the same military currency.

As to the validity of payment during occupation of pre-war obligations in Japanese military notes and the alleged reluctance of creditors in accepting said payments, we have uniformly held that said payments were valid –

> "Under the applicable law and uniform decisions of this Court, however, the payment was enforceable irrespective of the attitude of the creditor. The debtor or his successor-in-interest had the right to pay the mortgage in Japanese war notes, which were the authorized currency in circulation, not to say the only currency available. In other words, the payment would have released the mortgage even if it had been tendered by the mortgagor personally and had been turned down by the mortgagee. That was the unfortunate situation into which thousands of prewar creditors were thrust by the war, most of them being forced to accept Japanese military notes when these were little better than useless. Four-square with this case is Reyes v. Zaballero, G.R. No. L-3561, May 23, 1951, in which the debt was paid in December, 1944." (Hernaez et al. vs. McGrath et al., supra.)
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> "When the payment was tendered and consigned by the debtors and accepted by

> the creditors, the same was due and demandable, and the only currency then in circulation was the Japanese fiat money. Not to pay their debts at that time in the only money then in circulation, the plaintiffs would subject themselves to a lawsuit and possible loss of their property. Certainly, they would have to continue paying a high rate of interest.
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> "Payments of pre-war debts in Japanese war notes have been uniformly held valid and effective to discharge the obligations if the contract did not specify the currency with which the debt was to be satisfied and was silent as to the date of maturity. On the authority of these decisions it was immaterial whether duress or coercion, general or specific, was exerted on the creditors." (Gustilo et al. vs. Jagunap et al., G.R. No. L-4249, November 20, 1951)

From whatever angle we view the payment of the bonds in question, the only legitimate conclusion is that it was valid and properly made by the plaintiffs. The bonds were matured and due for payment and AZUCARERA was authorized to redeem them. Even if ARANETA INC. refused to accept payment in defiance of the notices and proclamations issued by the Japanese military occupant, plaintiffs could have consigned the value of said bonds in court and said consignment would have released them from its obligations.[1]

As to the attorney's fees in the amount of P5,000.00 awarded the plaintiffs, we also agree with the trial court that said bonds having been duly and validly paid in 1943, AZUCARERA had every right to their possession and ARANETA INC. was justified in withholding them. Not only this, in its letter to TABACALERA dated July 23, 1943, ARANETA INC. undertook and promised to deliver said bonds as soon as it received them. Far from complying with this undertaking, it is not only refused to give them up but directed its lawyers, RAMIREZ & ORTIGAS, to collect their value. Under these circumstances, we believe that the trial court was justified in awarding damages in the form of attorney's fees. The same thing may be said about awarding damages for the annual premiums on the surety bond filed by plaintiffs.

As to the claim of plaintiffs that the attorney's fees fixed by it at P10,000.00 should not have been reduced to 5,000.00, we do not feel warranted in disturbing the discretion of the trial court on this point.

We deem it unnecessary to discuss and pass upon the other questions raised in the appeal.

IN VIEW OF THE FOREGOING, and finding no reversible error in the decision appealed from, the same is hereby affirmed with costs.

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

Padilla, J., see concurring.

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[1] Reyes vs. Zaballero, G.R. No. L-3561, May 23, 1951.

**CONCURRING OPINION**

**PADILLA, J.**, *concurring*:

I concur in the result. I do not believe there was duress upon the defendant corporation when on behalf of its principals it consented to the redemption of the Central Azucarera de Tarlac bonds.

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Date created: September 15, 2010