

EDUARDO GANA, PLAINTIFF AND APPELLANT, VS. THE PROVINCIAL SHERIFF OF LAGUNA AND FELICIDAD YATCO, DEFENDANTS AND APPELLEES.

G.R. No. L-11693. February 08, 1917

Ponente: CARSON, J.

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CARSON, J.:

We are of opinion that plaintiff in these proceedings failed utterly to overcome the presumption of the fraudulent execution of the chattel mortgage on which he relies; a presumption which arises under the provisions of article 1297 of the Civil Code, it appearing that the chattel mortgage was executed in his favor by his brother on May 5, 1913, three days after a money judgment had been entered against his brother and in favor of Felicidad Yatco, one of the defendants in these proceedings. In order to overcome this presumption of fraud, it was incumbent upon the plaintiff to establish affirmatively that the chattel mortgage was executed in good faith for a good and valuable consideration (a titulo oneroso) and we are satisfied that not only did he fail to do so, but that all the circumstances surrounding the execution of this instrument, as disclosed by the record in this case, tend very strongly to confirm the presumption that the chattel mortgage was executed by the brother of the plaintiff with intent to defraud his judgment creditor. (Cf. Peñas vs. Mitchell, 9 Phil. Rep., 587.)

We conclude that the judgment entered in the court below should be affirmed, with the costs of this instance against the appellant. So ordered.

Torres, Moreland, Trent, and Araullo, JJ., concur.

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