

JOSEFA SANTAMARIA, ASSISTED BY HER HUSBAND FRANCISCO SANTAMARIA, JR., PLAINTIFF AND APPELLEE, VS. THE HONGKONG AND SHANGHAI BANKING CORPORATION AND R. W. TAPLIN, DEFENDANTS AND ...

G. R. No. L-2808. August 31, 1951

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal from a decision of the Court of First Instance of Manila ordering the Hongkong and Shanghai Banking Corporation to pay to the plaintiff the sum of P8,041.20 plus the costs of suit. The case was certified to this Court by the Court of Appeals.

The facts of this case as found by the Court of Appeals are as follows:

"Sometime in February, 1937, Mrs. Josefa T. Santamaria bought 10,000 shares of the Batangas Minerals, Inc. thru the offices of Woo, Uy-Tioco & Naftaly, a stock brokerage firm and paid therefor the sum of P8,041.20 as shown by receipt Exh. B. The buyer received Stock Certificate No. 517, Exh. "F", issued in the name of Woo, Uy-Tioco & Naftaly and indorsed in blank by this firm.

"On March 9, 1937, Mrs. Santamaria placed an order for the purchase of 10,000 shares of the Crown Mines, Inc. with R. J. Campos & Co., a brokerage firm, and delivered Certificate No. 517 to the latter as security therefor with the understanding that said certificate would be returned to her upon payment of the 10,000 Crown Mines, Inc. shares. Exh. D is the receipt of the certificate in question signed by one Mr. Cosculluela, Manager of the R. J. Campos & Co., Inc. According to certificate Exh. E, R. J. Campos & Co., Inc. bought for Mrs. Josefa T. Santamaria 10,000 shares of the Crown Mines, Inc. at .225 a share, or the total amount of P2,250.

"At the time of the delivery of stock Certificate No. 517 to R. J. Campos & Co., Inc., this certificate was in the same condition as that when Mrs. Santamaria received it from Woo, Uy-Tioco & Naftaly, with the sole difference that her name was later written in lead pencil on the upper right hand corner thereof.

"Two days later, on March 11, Mrs. Santamaria went to R. J. Campos & Co., Inc. to pay for her order of 10,000 Crown Mines shares and to get back Certificate No. 517. Cosculluela then informed her that R. J. Campos & Co., Inc. was no longer allowed to transact business due to a prohibition order from the Securities and Exchange Commission. She was also informed that her Stock certificate was in the possession of the Hongkong & Shanghai Banking Corporation.

"Certificate No. 517 came into the possession of the Hongkong & Shanghai Banking Corporation because R. J. Campos & Co., Inc. had opened an overdraft account with this bank and to this effect it had executed on April 16, 1936 a document of hypothecation, Exhibit 1, by the term of which R. J. Campos & Co., Inc. pledged to the said bank 'all stocks, shares and securities which I/we may hereafter come into their possession on my/our account and whether originally deposited for safe custody only or for any other purpose whatever or which may hereafter be deposited by me/us in lieu of or in addition to the Stocks, Shares and Securities now

deposited or for any other purposes whatsoever.'

"On March 11, 1937, as shown by Exhibit G, Certificate No. 517, already indorsed by R. J. Campos & Co., Inc. to the Hongkong & Shanghai Banking Corporation, was sent by the latter to the office of the Batangas Minerals, Inc. with the request that the same be cancelled and a new certificate be issued in the name of R. W. Taplin as trustee and nominee of the banking corporation. Robert W. Taplin was an officer of this institution in charge of the securities belonging to or claimed by the bank. As per this request the Batangas Minerals, Inc. on March 12, 1937, issued Certificate No. 715 in lieu of Certificate No. 517, in the name of Robert W. Taplin as trustee and nominee of the Hongkong & Shanghai Banking Corporation. (Exhibits G, H, I, J, 1, 4 and 5.)

According to Mrs. Santamaria, she made the claim to the bank for her certificate, though she did not remember the exact date, but it was most likely on the following day of that when she went to Cosculluela for the purpose of paying her order for 10,000 shares of the Crown Mines, Inc., or else on March 13, 1937. In her interview with Taplin, the bank's representative, she informed him that the certificate belonged to her, and she demanded that it be returned to her. Taplin then replied that the bank did not know anything about the transaction had between her and R. J. Campos & Co., Inc., and that he could not do anything until the case of the bank with Campos shall have been terminated. This declaration was not contradicted by the adverse party.

"In Civil Case No. 51224, R. J. Campos & Co., Inc. was declared insolvent, and on July 12, 1937, the Hongkong & Shanghai Banking Corporation asked permission in the insolvency court to sell the R. J. Campos & Co., Inc., securities listed in its motion by virtue of the document of hypothecation Exhibit 1. In an order dated July 15, 1937, the insolvency court granted this motion.

"On June 3, 1938, 10,000 shares of Batangas Minerals, Inc. represented by Certificate No. 715, were sold to the same bank by the Sheriff for P300 at the foreclosure sale authorized by said order. (Exhibits F, 2 and 3.)

"R. J. Campos, the president of R. J. Campos & Co., Inc., was prosecuted for estafa and found guilty of this crime and was sentenced by the Manila Court of First Instance in Criminal Case No. 54428, to an imprisonment and to indemnify the offended party, Mrs. Josefa Santamaria, in the amount of P8,041.20 representing the value of the 10,000 shares of Batangas Minerals, Inc. (Exhibits I and J.) The decision was later confirmed by the Court of Appeals. (Exhibit J.) The offended party and R. W. Taplin were among the witnesses for the prosecution in this criminal case No. 54428. (Exhibit 4.)

"When Mrs. Santamaria failed in her efforts to force the civil judgment rendered in her favor in the criminal case because the accused became insolvent, she filed her complaint in this case on October 11, 1940. At the trial both parties agreed that the 10,000 Batangas Minerals shares formerly represented by Certificate No. 517 and thereafter by Certificate No. 715, have no actual market value."

The errors assigned by the defendants-appellants as committed by the lower court are:

"I

The trial court erred in finding that the plaintiff-appellee was not chargeable with negligence in the transaction which gave rise to this case.

II

The trial court erred in holding that it was the obligation of the bank to have inquired into the ownership of the certificate when it received it from R. J. Campos & Company and in concluding that the bank was negligent for not having done so.

III

The trial court erred in ordering defendants-appellants to pay to plaintiff the sum of P8,041.20".

- Defendants-appellants contend in the first place that the trial court erred in finding that the plaintiff-appellee was not chargeable with negligence in the transaction which gave rise to this case.

A careful analysis of the facts seems to justify this contention. Certificate of stock No. 517 was made out in the name of Wo, Uy-Tioco & Naftaly, brokers, and was duly indorsed in blank by said brokers. This certificate of stock was delivered by plaintiff to R. J. Campos & Co., Inc. to comply with a requirement that she deposit something on account if she wanted to buy 10,000 shares of Crown Mines Inc. In making said deposit, plaintiff did not take any precaution to protect herself against the possible misuse of the shares represented by the certificate of stock. Plaintiff could have asked the corporation that had issued said certificate to cancel it and issue another in lieu thereof in her name to apprise the holder that she was the owner of said certificate. This she failed to do, and instead she delivered said certificate, as it was, to R. J. Campos & Co., Inc., thereby clothing the latter with apparent title to the shares represented by said certificate including apparent authority to negotiate it by delivering it to said company while it was indorsed in blank by the person or firm appearing on its face as the owner thereof. The defendant Bank had no knowledge of the circumstances under which the certificate of stock was delivered to R. J. Campos & Co., Inc., and had a perfect right to assume that R. J. Campos & Co., Inc. was lawfully in possession of the certificate in view of the fact that it was a street certificate, and was in such form as would entitle any possessor thereof to a transfer of the stock on the books of the corporation concerned. There is no question that, in this case, plaintiff made the negotiation of the certificate of stock to other parties possible and the confidence she placed in R. J. Campos & Co., Inc. made the wrong done possible. This was the proximate cause of the damage suffered by her. She is, therefore, estopped from claiming further title to or interest therein as against a bona fide pledgee or transferee thereof, for it is a well-known rule that a bona fide pledgee or transferee of a stock from the apparent owner is not chargeable with knowledge of the limitations placed on it by the real owner, or of any secret agreement relating to the use which might be made of the stock by the holder (Fletcher, Cyclopaedia of Corporations, section 5562, Vol. 12, p. 521).

On the other hand, it appears that this certificate of stock, indorsed as it was in blank by Woo, Uy-Tioco & Naftaly, stock brokers, was delivered to The Hongkong and Shanghai Banking Corporation by R. J. Campos & Co., Inc., duly indorsed by the latter, pursuant to a letter of hypothecation executed by R. J. Campos & Co., Inc., in favor of said Bank (Exhibit "1"). The said certificate was delivered to the Bank in the ordinary course of business, together with many other securities, and at the time it was delivered, the Bank had no knowledge that the shares represented by the certificate belonged to the plaintiff for, as already said, it was in the form of street certificate which was transferable by mere delivery. The rule is "where one of two innocent parties must suffer by reason of a wrongful or unauthorized act, the loss must fall on the one who first trusted the wrongdoer and put in his hands the means of inflicting such loss" (Fletcher, Cyclopaedia of Corporations, supra).

It is therefore clear that plaintiff, in failing to take the necessary precautions upon delivering the certificate of stock to her broker, was chargeable with negligence in the transaction which resulted to her own prejudice, and as such, she is estopped from asserting title to it as against the defendant Bank.

- The next contention of the defendant is that the trial court erred in holding that it was the obligation of the defendant Bank to have inquired into the ownership of the certificate when it received it from R. J. Campos & Co., Inc. and in concluding that the Bank was negligent for not having done so, contrary to the claim of the plaintiff that defendant Bank acted negligently, if not in bad faith, in accepting delivery of said certificate from R. J. Campos & Co., Inc.

Let us now see the material facts on this point. Certificate No. 517 came into the possession of the defendant Bank because R. J. Campos & Co., Inc. had opened an overdraft account with said Bank and to this effect it had executed on April 16, 1946, a letter of hypothecation by the terms of which R. J. Campos & Co., Inc. pledged to

the said Bank "all Stocks, Shares and Securities which I/we may hereafter come into their possession on my/our account and whether originally deposited for safe custody only or for any other purpose whatever or which may hereafter be deposited by me/us in lieu of or in addition to the Stocks, Shares, and Securities now deposited or for any other purpose whatsoever." On March 13, 1937, plaintiff went to the office of the Bank to claim for her certificate. In her interview with one Robert W. Taplin, the officer in charge of the securities of that institution, she informed him that the certificate belonged to her and she demanded that it be returned to her. Taplin then replied that the Bank did not know anything about the transaction had between her and R. J. Campos & Co., Inc. and that he could not do anything until the case of the Bank with R. J. Campos & Co., Inc. had been terminated. It further appears that when the certificate of stock was delivered by plaintiff to R. J. Campos & Co., Inc., the manager thereof, Sebastian Cosculluela, wrote in pencil on the right margin the name of Josefa T. Santamaria, pursuant to the practice followed by said firm to write on that part of the certificate the name of the owner for purposes of identification. Upon the facts thus stated, the question that asserts itself is: was the defendant Bank obligated to inquire who was the real owner of the shares represented by the certificate of stock, and could it be charged with negligence for having failed to do so?

It should be noted that the certificate of stock in question was issued in the name of the brokerage firm—Woo, Uy-Tioco & Naftaly and that it was duly indorsed in blank by said firm, and that said indorsement was guaranteed by R. J. Campos & Co., Inc., which in turn indorsed it in blank. This certificate is what it is known as street certificate. Upon its face, the holder was entitled to demand its transfer into his name from the issuing corporation. The Bank was not obligated to look beyond the certificate to ascertain the ownership of the stock at the time it received the same from R. J. Campos & Co., Inc., for it was given to the Bank pursuant to their letter of hypothecation. Even if said certificate had been in the name of the plaintiff but indorsed in blank, the Bank would still have been justified in believing that R. J. Campos & Co., Inc. had title thereto for the reason that it is a well-known practice that a certificate of stock, indorsed in blank, is deemed quasi negotiable, and as such the transferee thereof is justified in believing that it belongs to the holder and transferor (*Heyman vs. Hamilton National Bank*, 266 S.W. 1043; *Fletcher*, *Cyclopedia of Corporations*, Vol. 12, pp. 521-524, 525-527; *McNeil vs. Tenth National Bank*, 7 Am. Rep. 341).

The only evidence in the record to show that the certificate of stock in question may not have belonged to R. J. Campos & Co., Inc. is the testimony of the plaintiff to the effect that she had approached Robert W. Taplin on March 13, 1937, and informed him that she was the true owner of said certificate and demanded the return thereof, or its value, but even assuming for the sake of argument that what plaintiff has stated is true, such an incident would merely show that plaintiff has an adverse claim to the ownership of said certificate of stock, but that would not necessarily place the Bank in the position to inquire as to the real basis of her claim, nor would it place the Bank in the obligation to recognize her claim and return to her the certificate outright. A mere claim of ownership does not establish the fact of ownership. The right of the plaintiff in such a case would be against the transferor. In fact, this is the attitude plaintiff has adopted when she filed a charge for estafa against Rafael J. Campos, which culminated in his prosecution and conviction, and it is only when she found him to be insolvent that she decided to go against the Bank. The fact that on the right margin of the said certificate the name of the plaintiff appeared written, granting it to be true, can not be considered sufficient reason to indicate that its owner was the plaintiff considering that said certificate was indorsed in blank by her brokers Woo, Uy-Tioco & Naftaly, was guaranteed by indorsement in blank by R. J. Campos & Co., Inc., and was transferred in due course by the latter to the Bank under their letter of hypothecation. Said indicium could at best give the impression that the plaintiff was the original holder of the certificate.

The Court has noticed that the defendant Bank was willing from the very beginning to compromise this case by delivering to the plaintiff certificate of stock No. 715 that was issued to said Bank by the issuer corporation in lieu

of the original as alleged and prayed for in its amended answer to the complaint dated April 2, 1941. Considering that in the light of the law and precedents applicable in this case, the most that plaintiff could claim is the return to her of the said certificate of stock (*Howson vs. Mechanics Sav. Bank*, 183 Atl., p. 697), the Court, regardless of the conclusions arrived at as above stated, is inclined to grant the formal tender made by the defendant to the plaintiff of said certificate.

Wherefore, the decision of the lower court is hereby modified in the sense of ordering the defendant to deliver to the plaintiff certificate of stock No. 715, without pronouncement as to costs.

Paras, C. J., Feria, Bengzon and Jugo, JJ., concur.

Padilla, J., concurs in the result

DISIDENTE

PABLO, M.,

En mi opinion, la devolucion a la demandante del certificado No. 715 de 10,000 acciones de Batangas Minerals Inc. es una burla sangrienta. Esas acciones ya no valen nada. Cuando valian aun, los demandados las retuvieron; cuando ya no tenian valor, los demandados ya estaban dispuestos a entregarlas a la demandante. Ordenar en una decision su devolucion es administrar justicia huera.

R. J. Campos ha sido condenado por estafa por haber transferido ilegalmente, en perjuicio de la demandante, estas acciones al Hongkong & Shanghai Banking Corporation. En esa causa criminal se debio de haber ordenado la devolucion de las acciones a la demandante. Entonces las acciones valian P8,041.20 y, por eso, se condeno a Campos a pagar a la demandante dicha cantidad. La buena fe del adquirente de una cosa estafada no es razon bastante para que se le prive al verdadero dueno. En asuntos de robo, hurto o estafa, el dueno del objeto del delito no queda privado de la propiedad. Es principio axiomatico de conocimiento general: "doquiera que se halle la cosa, clama por su dueno." La adquisicion del efecto hurtado, robado o estafado, es nula: la cosa continua siendo de la propiedad del dueno que fue victima del delito. En tales casos, se ordena la restitution de la cosa a su legitimo dueno.

Si el Hongkong & Shanghai Banking Corporation obro de buena fe en la obtencion de la posesion del certificado de acciones No. 517 de R. J. Campos & Co., Inc., esa buena fe desaparecio cuando las retuvo a pesar de la reclamacion de la demandante al siguiente dia dandole cuenta de la estafa de que fue victima. Desde aquel momento ya dejo de ser poseedor de buena fe porque ya se entero de que tal certificado no habia sido cedido a R. J. Campos & Co., Inc., sino depositado solamente. El depositario no tiene derecho a ser propietario de la cosa depositada y, como corolario forzoso, no tiene derecho a disponer de la misma. No podia, por tanto, R. J. Campos & Co., Inc. ceder, ni hipotecar (hipoteca Exhibit 1) a Hongkong & Shanghai Banking Corporation el certificado de acciones No517.

Como dicho certificado de acciones fue vendido en publica subasta en 3 de junio de 1938, en el expediente de insolvencia (causa civil No. 51224) de R. J. Campos & Co., Inc. por la cantidad de P300, y el Hongkong & Shanghai Banking Corporation lo compro, solamente desde dicho dia el banco se ha hecho dueno. Antes de dicho dia era solamente acreedor hipotecario de las acciones; pero acreedor de una hipoteca nula porque se trataba de unas acciones estafadas. Por obtener la posesion de esas acciones, el Hongkong & Shanghai Banking Corporation no gasto un solo centimo: las recibio como garantia adicional de una antigua deuda. Cuando el Hongkong & Shanghai Banking Corporation pidio a la oficina de Batangas Minerals, Inc. la cancelacion del certificado de las

acciones y en su lugar se expidiera, como en efecto se expidio, un certificado a nombre de R. W. Taplin, como fideicomisario del banco, obro de mala fe. Un acreedor hipotecario no puede ser dueño de la cosa pignorada. Lo mas que podia pedir era la anotacion de la hipoteca, y no la inscripcion del Hongkong & Shanghai Banking Corporation como dueño de las acciones en los libros de Batangas Minerals, Inc.

El banco retuvo ilegalmente esas acciones; por su retenrion, la demandante perdio la oportunidad de aprovecharse de ellas, vendiendolas, por ejemplo, cuando tenian aun valor en el mercado. Es justo que la demandante reclame del banco el pago de su valor que, segun pronunciamiento judicial en la causa criminal de estafa, monta a P8,041.20. El demandado debe pagar a la demandante dicha cantidad.

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