

LA COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, PLAINTIFF AND APPELLEE, VS. CANDIDA OBED, VIUDA DE GALLEGOS, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-4226. March 31, 1909*

Ponente: TORRES, J.

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On the 3d of August, 1906, the representative of the Compañia General de Tabacos de Filipinas filed a complaint against Candida Obed, widow of Gallegos, and against Felipe Gallegos, alleging, among other things, that on February 10, 1904, in Guinobatan, Province of Albay, accounts between the defendants and the copartnership Ballester y Puiggros of Legaspi were liquidated up to January 31, 1904, and there appeared a balance of 2,359.91 pesos in favor of the said copartnership. The defendants engaged to settle the said sum by installments of 200 pesos, payable on the last day of each month, together with interest at the rate of 10 per cent per annum, to be charged at the end of every month on the unpaid balance. As guaranty for said obligation the defendants mortgaged to the said copartnership, Ballester y Puiggros, and to their successors and assigns, certain real and personal property belonging to them, in February, 1904, and which they had received from the late Tomas Gallegos y Zabala, the husband and father of the respective defendants, which property was still undivided; that the said copartnership of Ballester y Puiggros was reorganized under the firm name of Ballester y Albaladejo, and the said credit was transferred thereto as shown by an instrument executed in Legaspi, on the 8th of April, 1905, in the presence of a notary, and by other documents connected therewith; that by means of a public instrument executed and ratified on the 4th of August, 1905, before a notary public of this capital city and other documents connected therewith, the copartnership Ballester y Albaladejo transferred the said credit, among others, to the Compañia General de Tabacos, for which reason the latter is at the present time the lawful owner of the said credit and of its security; and that, as the defendants have not paid in full the amount of the same, the plaintiff prayed that the defendants be sentenced to pay the sum of P1,658.93, and interest thereon at the rate of 10 per cent per annum to be charged in account at the end of each month from the 1st of August, 1906, and costs.

Upon the defendant being duly summoned, Candida Obed answered in writing to the foregoing complaint on the 28th of August, 1906, and set forth: that she admitted the facts as alleged in the first paragraph of the complaint, as well as paragraphs 5 and 6 thereof, only in so far as it concerned the transfer of the credits of the copartnership Ballester y Puiggros to Ballester y Albaladejo, and by the latter to the plaintiff company, and denied all and each one of the allegations in said complaint not expressly admitted in her answer. As a counterclaim, she alleged that the liquidation of accounts of January 31, 1904, referred to in paragraph 2 of the complaint, took place between Ballester y Puiggros and the defendant Felipe Gallegos, and was the result of transactions carried out solely and exclusively by the said Felipe Gallegos without the least intervention on the part of the defendant Candida Obed; that in consequence of the said liquidation of accounts, Candida Obed and her son, the other defendant, had executed and signed a document whereby they jointly and severally acknowledged that they were indebted to the copartnership Ballester y Puiggros in the sum of 2,359.91 pesos, engaging to settle the same by monthly

installments of 200 pesos until the debt should be paid in full; that the signature of Candida Obed was obtained by Felipe Gallegos by means of fraud and deceit, he causing her to believe that the said amount was a former debt due by her late husband to Ballester y Puiggros, which substantial error induced the defendant Obed to sign the said document; that the late Tomas Gallegos did not owe any amount whatever to the firm of Ballester y Puiggros, nor to any of their successors; therefore, the cause of the supposed obligation executed by the defendant Obed is a false one, and for said reason she prayed the court to absolve her of the complaint and to declare that the said document was null and void in so far as it referred to the defendant, and to absolve her from the payment of the costs.

On the 4th of September, counsel for the plaintiff company answered the foregoing counterclaim in writing and denied each and all of the paragraphs of the same, praying the court below to enter judgment as requested in his complaint.

On the 4th of September, 1906, an order was issued by the court declaring the other defendant, Felipe Gallegos, to be in default by reason of his nonappearance in the case.

At the trial evidence was adduced by both parties to the suit, and the documents produced by them were made of record; in view thereof the court below rendered judgment on the 24th of September, 1906, sentencing the defendants to pay jointly and severally the sum of P1,658.93 with interest thereon at the rate of 10 per cent per annum to be charged in account at the end of each month beginning on the 1st of August, 1906, until the full payment of the debt, and costs. The representative of the defendant excepted to the foregoing judgment and moved for a new trial on the ground that the conclusions therein contained were openly and manifestly contrary to the weight and the result of the evidence, and because said judgment was contrary to law; the motion was overruled, to which the petitioner excepted and presented the corresponding bill of exceptions, and, notwithstanding the objections of the plaintiff, the same was approved by the lower court and forwarded to the clerk of this court.

The matter in controversy is the collection of a certain sum of money resulting from a liquidation of accounts, and set forth as a debt in a private document which was acknowledged as authentic by the debtors who signed it.

Under article 1091 of the Civil Code, obligations arising from contracts have legal force between the contracting parties, and must be fulfilled in accordance with their stipulations; and according to the decisions of the supreme court of Spain when applying the provisions of the said article, among which are those of February 20, 1897, and February 13, 1904, the stipulations of a contract are binding on the parties thereto.

Candida Obed, widow of the late Tomas Gallegos, and her son, Felipe Gallegos, acknowledged that they were indebted to the firm of Ballester y Puiggros in the sum of 2,359.91 pesos, Mexican currency, as the balance resulting from the liquidation of accounts effected on January 31, 1904, and they engaged to pay at the end of each month, commencing from the following February, the sum of 200 pesos until the whole amount was paid, together with interest at the rate of 10 per cent per annum to be charged on the balance resulting at the expiration of each month. In addition to this they engaged to pay in Philippine currency at par when the same would become legal tender and the Mexican money be prohibited or depreciated. All this, including other particulars, appears in document Exhibit A signed by the debtors, who, in their sworn testimony, acknowledged the signatures appearing at the foot thereof as being theirs.

Candida Obed was the only defendant who appeared at the trial and appealed from the judgment; the other defendant, Felipe Gallegos, was held to be in default; she alleged, as the basis of her petition to be absolved from the complaint and that the said document be declared null and void in so far as she was concerned, that her signature had been obtained by her son, the said Felipe, by means of fraud and deceit, he having caused her to

believe that the debt shown in said document marked "A" was a debt contracted by her late husband, Tomas Gallegos, and that the cause of said obligation was a false one, because her deceased husband, in life, was not indebted to the said copartnership.

In order to assert that Candida Obed was deceived by her son Felipe when signing the document marked "A," it is indispensable to prove that fraud and deceit were practiced on her, and that she signed the document without being acquainted with its contents; this does not appear from the record, but on the contrary, according to her son, the said Felipe, the contents of the document were interpreted to her in the Bicol dialect before the defendant affixed her signature to it. Besides, that Candida Obed knows and understands Spanish was attested by the witness Pedro Albaladejo, and was also so considered by the trial judge in his judgment; therefore, the first error assigned can not be sustained.

If before Candida Obed signed the document marked "A." she and her codebtor Felipe had already requested by letter from the creditors an extension of the term agreed upon, or promised to effect payment of the debt in question, after the document was executed and signed they again requested in like manner a further extension by reason of lack of means; hence, though it was not proven at the trial that the debtor Obed had signed the said document unknowingly, induced by means of deceit by her aforesaid son and codebtor, the letters which, jointly with the latter, she addressed to the creditors, and the later payments made on account of the indebtedness are equally spontaneous acts which confirm the truth and legitimacy of the obligation contracted by her together with the other defendant.

The record shows that Tomas Gallegos, while in life, received from Ballester y Puiggros the sum of 1,000 pesos on account and by order of his son Felipe. The latter avers that the said sum was not refunded to him by his father, and that he now owes it to the Compañia General de Tabacos which has acquired the rights of the original creditors, and that the same formed part of the debit balance of his account.

Even though the right to recover the 1,000 pesos from Tomas Gallegos, and now from his estate, pertains to the other defendant, Felipe Gallegos, on whose account and order said sum was paid by Ballester y Puiggros, yet since Candida Obed and her said son Felipe have engaged and bound themselves to pay it to the said copartnership as having been received by the deceased husband and father of the obligated parties, in the absence of proof that he had paid his debt while in life, it is strictly just that they be compelled to pay jointly or by halves such amount as they may still owe, together with the interest agreed upon.

To effect the annulment of the obligation contracted by means of document marked "A" it would be necessary to prove that a false reason for the debt was expressed therein. If it is true that the sum of 1,000 pesos, which Tomas Gallegos received from Ballester y Puiggros, while in life, is still unpaid, the obligation contained in the said document is valid and efficient, because it acknowledges a real cause, and the defendant is liable for one-half of the indebtedness; consequently the provisions of article 1276 of the Civil Code, which serve as a basis for the second and fourth errors assigned in the brief of the appellant are not applicable herein.

With regard to the third error, and in spite of the answer and counterclaim presented by the defendant Obed, the obligation contains absolutely nothing to prove that the debtors had contracted an obligation in solidum; for said reason the appellant can only be sentenced to pay one-half of the amount claimed, in accordance with the provisions of articles 1137 and 1138 of the Civil Code.

In order that an obligation may be considered as in solidum it is necessary that it be so expressed, in the contract, because as a general rule, in the absence of such positive stipulation, it is presumably mancomunal, and the debt is presumed to be divided equally among those obligated.

The fact that it was stated in the document above alluded to that mother and son had acknowledged the document marked "A" to mean that they owed jointly and severally the amount therein contained, does not prevent the establishment of the true character of the agreement, to-wit, that the obligation is mancomunal, but not in solidum. The conclusions in a judgment must be established not in accordance with the briefs of the parties, but according to the evidence adduced, and it should be noted that document marked "A." the enforcement of which is sought, does not state that the obligation is in solidum. (Sec. 109, Code of Civil Procedure.)

In view of the foregoing considerations, it is our opinion that the judgment appealed from should be affirmed, as we do hereby affirm it: Provided, however, That the defendants Felipe Gallegos, and Manuel Gallegos, the judicial administrator of the intestate estate of the late Candida Obed, shall be sentenced jointly, or to pay by halves the amount stated in said judgment, with interest thereon at the rate of 10 per cent [per annum] from the 1st of August, 1906, with the costs of the first instance also by halves, and the said administrator to pay all the costs of this second instance.

Arellano, C. J., Mapa, Johnson, Carson, and Willard, JJ., concur.

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