

ADRIANO MENDOZA, PETITIONER AND APPELLANT, VS. FRANCISCA DE GUIA, RESPONDENT AND APPELLEE.

G.R. No. L-1628. November 09, 1949

Ponente: OZAETA, J.

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OZAETA, J.:

Appeal by certiorari from a decision of the Court of Appeals. The facts as found by the latter are briefly as follows:

In the year 1920 appellant borrowed from appellee P1,200, with which he purchased a parcel of land containing a fishpond, situated in the municipality of Noveleta, Cavite. To guarantee the payment of the loan appellant mortgaged the said land to appellee. The land was gradually improved and converted into a fishpond and salt beds. To defray the cost of the improvements appellee advanced additional sums to appellant which, together with the original amount of P1,200, reached the total of P6,646.52 by the middle of 1930.

On October 21, 1929, appellant executed a notarial document in favor of appellee whereby he delivered to the latter the possession of the land in question with the stipulation that appellee shall administer and exploit the fishpond and salt beds for a period of five years and deliver to appellant one third of the produce thereof. This document is known in the record as Exhibit H.

On June 11, 1930, another document, Exhibit A-1, was executed by appellant in favor of appellee wherein he stated the following: That he is the owner of the land in question, described in original certificate of title No. 1133 of the office of the register of deeds of Cavite; that on April 17, 1920, he executed a mortgage in favor of appellee to guarantee payment of an indebtedness of P1,200 plus what he might spend for the improvements of said land; that up to said date he not only had not paid any amount on account of said indebtedness but had obtained from appellee various additional sums of money which, together with the original amount, aggregated P6,646.52, all of which had been invested in the improvement of said land; that the original mortgage of April 17, 1920, had not been registered; and that to guarantee the payment of said indebtedness of P6,646.52 within five years from June 11, 1930, he conveyed by way of mortgage all his right, title, interest, and participation in and to the said parcel of land in favor of appellee.

In the meantime the appellee continued in possession of the land in question under the contract Exhibit H. Appellant was unable to pay the mortgage within the period therein stipulated. In 1936, when appellee demanded payment, appellant "confessed that he could not pay for lack of funds and authorized plaintiff [appellee] to continue in possession of the property, pursuant to Exhibit H, and to apply his share of one third of the products on account of his debt." In 1939 appellant dispossessed appellee of the property, and the present action was then commenced by appellee to foreclose the mortgage.

In assailing the decision of the Court of Appeals in favor of appellee, appellant makes the following assignments of error:

"1. That the Honorable Court of Appeals erred in relying upon Exhibit H and in holding that said Exhibit H and respondent's Exhibit A-1 are not incompatible documents;

"2. That the Honorable Court of Appeals erred in not declaring that the mortgage provided in Exhibit A-1 dissolves the partnership provided in Exhibit H;

"3. That the Honorable Court of Appeals erred in refusing to apply the fruits of the premises to the payment of the obligation; and

"4. That the Hon. Court of Appeals has committed the following errors of law in its computation of the status of accounts of respondent, thus, (1) by considering the alleged parol agreement that the fruits from 1920 to 1929 taken by plaintiff is compensation of the loan given in Exh. E: and (2) in not interpreting Exhibit I-X, which it held genuine, as evidence of full payment of the P6,646.52."

The appeal hinges on the interpretation of the two documents Exhibits H and A-1. It is contended for appellant that the mortgage Exhibit A-1 novated and superseded the previous contract Exhibit H because the two documents are incompatible. The trial court so held, but the Court of Appeals found no incompatibility between the two documents and reversed that ruling.

The burden of appellant's contention is that, with the elimination of Exhibit H, Exhibit A-1 would in effect become a contract of antichresis and all the harvests obtained by appellee from the land mortgaged should be applied to the payment of appellant's indebtedness.

Article 1204 of the Civil Code provides: "In order that an obligation may be extinguished by another which substitutes it, it shall be necessary that it be so declared expressly, or that the old" and new obligations be incompatible in every respect." Thus an obligation may be extinguished through novation either expressly or impliedly.

There is nothing in Exhibit A-1 which expressly revokes, or in any way refers to, Exhibit H. Neither do we find an implied revocation of Exhibit H by Exhibit A-1. We agree with the Court of Appeals that there is no incompatibility between these two documents. The fact that at the time the mortgage Exhibit A-1 was executed the mortgagee was in possession of the mortgaged property under the contract Exhibit H, whereby the creditor-mortgagee was to administer and exploit said property and deliver one third of the produce to the debtor-mortgagor, did not cancel the previous contract Exhibit H and convert the contract of mortgage Exhibit A-1 into a contract of antichresis. As a matter of fact, after the execution of Exhibit A-1 appellee continued to deliver to appellant one third of the produce of the land until the year 1936, when appellant, according to the Court of Appeals, authorized appellee "to continue in possession of the property, pursuant to Exhibit H, and to apply his share of one third of the products on account of his debt." It was only then (1936), therefore, that the mortgage became in a way antichretic in the sense that the debtor's one-third participation in the fruits of the property was to be applied to the payment of the loan.

The Court of Appeals found that two thirds of the produce of the land which the appellee retained for himself under Exhibit H was lawful and Just compensation for his work in administering and exploiting the property and for the use of his money invested in said property, on which he charged no interest. According to the Court of Appeals, the total value of two thirds of the net produce of the land during all the period it was under the administration of the appellee represented less than 12%, and perhaps not even 6%, a year of the capital of P6,646.52 advanced by appellee to appellant.

Appellant contends that since there was no express agreement as to interest appellee was not entitled to it, and that therefore all the fruits of the land should be applied to the payment of the principal. This contention is devoid of merit both in law and in equity. In granting to appellee two thirds of the produce of the land by means of Exhibit

H, appellant must have taken into consideration the fact that he was not paying any interest on the capital furnished by appellee and invested in the purchase and improvement of said land.

The foregoing suffices to resolve adversely to appellant the latter's first three assignments of error.

The fourth and last assignment of error involves a question of fact rather than of law. The Court of Appeals found that on September 4, 1934, the parties signed Exhibit I-X (which we do not find in the reconstituted record), stating therein that they had liquidated the accounts relative to the operation of the fishpond and salt beds for four periods and that nothing was due to either party. Appellant now contends that said Exhibit I-X was a liquidation of his indebtedness to appellee; in other words, that said document must be considered "as evidence of full payment of the sum of P6,646.52." The Court of Appeals found from the evidence that it was only a liquidation of the accounts relative to the operation of the fishpond up to September 4, 1934, and we cannot review and reverse that finding.

The Court of Appeals further found that from 1936 to 1939) when appellee was ejected from the land in question, the total sum of P3,072 was realized from the sale of the produce of the land, and that one third of said amount, or P1,024, which corresponded to appellant, should be applied on account of the loan secured by the mortgage, thus leaving a balance of P5,622.52. That finding of fact is likewise conclusive upon this court.

The judgment is affirmed, with costs against the appellant.

Moran, C.J., Paras, Feria, Bengzon, Padilla, Tuazon, Reyes, and Torres, JJ., concur.

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