

EMILIANO J. VALDEZ, PLAINTIFF AND APPELLEE, VS. LEON SIBAL 1.&DEG;, DEFENDANT AND APPELLANT.

G.R. No. L-21178. March 18, 1924

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

In his last amended complaint the plaintiff prays for judgment against the defendant for the sum of P14,464.61, with interest thereon at the rate of 12½ per cent per annum from August 1, 1921, and P2,703.72 as penalty and damages, with the costs.

In his answer the defendant sets up a special defense, cross-complaint and counterclaim and prays that he be absolved from the complaint, that certain documents signed by him be declared void and of no effect, and the plaintiff be sentenced to pay him P4,000, as damages on account of the attachment levied upon his property, with the costs.

The lower court rendered judgment against the defendant and in favor of the plaintiff for the sum of P15,187.12 with interest thereon at the rate of 12½ per cent per annum from August 1, 1921, plus P3,839.12 as liquidated damages with the costs.

This judgment is attacked and assailed in this court as erroneous: (1) In that it does not declare Exhibits U, B, and B-1 to be usurious contracts and therefore void; (2) in that it finds the defendant to be indebted to plaintiff in the sum of P15,187.12 and sentences him to pay interest thereon at the rate of 12½ per cent per annum plus the sum of P3,839.12 as damages, with the costs; and (3) in that the motion for new trial was overruled.

The evidence shows that the defendant Leon Sibal 1.º has, on different occasions, received several amounts of money from the plaintiff.

On September 14, 1920, a document was executed by and between the plaintiff and the defendant which is marked Exhibit U (fol. 110, original record), and is literally as follows:

"UNITED STATES OF AMERICA

"PHILIPPINE ISLANDS

"I, Leon Sibal 1.º, married with Victoria Dayrit, of age, agriculturist and resident of Bamban, Tarlac, P. I., do hereby freely and spontaneously state and declare:

"First.—That in consideration of the sum of P12,833.30 to me paid by Mr. Emiliano J. Valdez, merchant, and doing business in Angeles, Pampanga, P. I., do hereby declare that I have sold to said Mr. Valdez all such sugar as I may obtain during the agricultural year 1920-1921 from my sugar-cane in my estate situated in Pascuala, barrio of Sto. Rosario, Capas, Tarlac, P. I., and in the land I have leased from Francisco Talavera, the owner thereof, situated in the barrio of Sto. Rosario, Capas, Tarlac, P. I., at such current price in the month of November of this year, 1920, as may be quoted by the firm of W. F. Stevenson & Co. Ltd., of Manila, the same to be placed in

Manila, all the expenses for loading, freight charges, repacking, etc., being for my account, a tare of 7 pounds to be allowed if the weighing is made in the station of Capas, every fraction of a kilo to be disregarded for every four bayones (sacks).

"Second.—That I agree to deliver to Mr. Valdez all the sugar above-mentioned which is estimated at not less than 1,500 piculs as soon as I begin to mill, which will be in or before the month of November of this year and to make weekly deliveries from such date until the end of March, 1921; and in case of my breaking this contract, I agree to pay Mr. Valdez all such damages as may be caused him, the same not to be less than P4 for each picul I may fail to deliver, and in addition thereto the sum of P2,000 in case of litigation.

"Third.—That I, Bmiliano J. Valdez, having read and known the contents of the contract hereinbefore executed in my favor, I do hereby accept the same in all its parts.

"In testimony whereof we have hereunto set our hands in Angeles, Pampanga, P. I., this 14th day of September, 1920.

(Sgd.)

"Leon Sibal 1.º

"Emiliano J. Valdez

"In the presence of:

(Sgd.) "Pedro Guilas

"Eliseo Villa del Rey"

On the same date said parties executed two documents, Exhibits B and B-l (fols. 62-64, respectively, original record), wherein to secure the payment of P12,833.30 payable on December 31, 1920, with interest at the rate of 12% per cent per annum, plus 25 per cent on the principal for attorney's fees and expenses of collection, there were mortgaged by the defendant in the first document (Exhibit B) all the sugar-cane growing in his estate in Pascuala, barrio of Sto. Rosario, Capas, Tarlac, and in a land leased by him, situated in said barrio, together with a steam-engine boiler with its machinery and accessories, and in the second document (Exhibit B-l), a parcel of land situated in the sitio of Pascuala of the aforesaid barrio. The first of these documents is registered as a chattel mortgage.

The principal sum appearing on these three documents is the same, 12,833.30. The defendant asserts that he did not receive it entirely, but only P12,000 on two occasions, and that the P833.30 is interest included by the plaintiff in the first amount without his knowledge or consent. The parole evidence introduced on this point is not, however, sufficient to overthrow, with regard to the amount received, the probative force of these three documents, which the defendant admits having signed.

While the first document, that is to say Exhibit U, says that the defendant, in consideration of the aforesaid sum, has sold to the plaintiff all the crop of sugar of the agricultural year, 1920-1921, which was to be gathered from the lands therein mentioned, yet the other two documents, Exhibits B and B-l, in referring to the same amount of money, do not consider it as an advance payment on account of the sale, but a debt.

The plaintiff testified (fol. 49, st. n.) that the amounts paid by him to the defendant were not precisely for the crop sold, but as advance payment on account of the sale of the sugar, and that it was an error of the one who prepared the document that a promissory note was inserted in Exhibits B and B-1 (folios 53, 55, st. n.). The defendant, in turn, testified that the P12,000 received by him were as advance payment on account of the crop aforementioned (fols. 93, 94, st. n.).

Both parties, therefore, agree in substance that the amounts received by the defendant from the plaintiff were not a loan but in consideration of the crop mentioned, converted into sugar, which the former had agreed to deliver to the latter in the document Exhibit U.

While the evidence oral and documentary as a whole tends to show that the contract was that of a mere loan, yet in view of the unanimous interpretation given thereto by the parties, which interpretation is the one to be followed, being authentic and the sense in which both parties, according to their own testimony, understood the contract, we cannot construe it otherwise. It was, therefore, according to this, a contract of sale in which the price was to be that of the sugar to be obtained from the aforesaid crop of the defendant, at such price as might be quoted by the firm of W. F. Stevenson Co., Ltd., in November, 1920, which crop was to be not less than 1,500 piculs, all in accordance with the document Exhibit U.

The first assignment of error made by the defendant cannot therefore be held to be of any merit, in which said defendant considers such a contract as a loan, when he himself testified (fols. 93, 94, st. n.) that it was not a loan.

According to the evidence, the defendant received from the plaintiff the following amounts:

Twelve thousand eight hundred thirty-three pesos and thirty centavos as stated in Exhibit U;

Two thousand three hundred fifty pesos received on several occasions, as evidenced by the receipts C to LL, both inclusive.

One thousand six hundred seventy-four pesos, P384.81, and P64.69 admitted at the trial (fol. 6, st. n.).

To these sums there must be added that of P14.25 (Exhibit O) paid by the plaintiff for the recording of one of the mortgages aforementioned.

These amounts make a total of P17,321.05, which, as appears from the record, were paid by the plaintiff to the defendant on account of the price of the sugar to be obtained from the crop covered by the agreement.

Now we turn to consider whether or not the defendant fulfilled his obligations under the contract Exhibit U.

According to this contract the defendant agreed to deliver not less than 1,500 piculs of sugar.

The evidence shows that he did not deliver but 1,079.04 piculs (fol. 11, st. n.), having, therefore, failed to deliver 420.96 piculs of the 1,500 he had agreed to deliver. We cannot, however, abide by this result because in paragraphs III and V of the complaint (fol. 179, original record, and p. 18, B. of E.), it is alleged that the defendant failed to deliver 175.93 piculs. In alleging this smaller amount, the plaintiff may have his reasons which do not, however, appear in the evidence. We take this amount as the correct one, being the number of piculs alleged and contained in the number established in the record.

The sugar delivered by the defendant was classified, as shown by Exhibits T to T-7, and quoted according to the stipulations made by the plaintiff and the defendant, stated in the documents' Exhibits P and Q (fols. 80 and 81, original record).

The defendant questions the validity of these stipulations, alleging that he signed them in the belief that they were only to be used with the other customers of the plaintiff. The evidence as a whole does not support such a

contention of the defendant. It appears that the firm of W. F. Stevenson Co., Ltd., had not made any quotation of sugar in November, 1920, such as is referred to in the contract Exhibit U. It appears, at any event, that the plaintiff and the defendant agreed afterwards not to be governed by such quotations' of November, 1920. At any rate, even supposing that the stipulations Exhibits P and Q were knowingly fraudulent, as between the plaintiff and the defendant, neither of them can now repudiate such stipulations made by both of them in bad faith. In order that fraud may be a ground for nullity of a contract it is necessary, among other things, that it was not employed by the two contracting parties (art. 1270, Civil Code). Furthermore, the market price at which sugar was quoted at the time was not sufficiently proven.

The defendant, therefore, stands bound by the stipulation contained in Exhibits P and Q and cannot go against the agreement therein set forth as to the price of sugar. Bearing these prices in mind, and the sugar delivered by the defendant, according to the weights and classifications stated in Exhibits T to T-7, we have that the total value of the sugar delivered by the defendant to the plaintiff amounts to P3,869.76. But the plaintiff himself admits in paragraphs IV and VI of his last amended complaint that it is £3,913.44. We must, therefore, abide by this express admission of the plaintiff and declare the latter amount as the true one.

The amounts advanced by the plaintiff to the defendant on account of this sale of the sugar of the latter amounting to 9P17,321.05 and the value of the sugar delivered by the defendant not amounting but to P3,913.44, the latter is under the obligation to return to the plaintiff the difference between these two amounts, that is to say, P13,407.61.

There appears in the note inserted in Exhibits B and B-1 a stipulated interest of 12½ per cent. But the plaintiff himself testified that it was an error of the one who prepared said documents to have made the aforesaid note to appear therein. Such an interest, or any other, does not appear in the contract Exhibit U, where the damages that might be caused by the breach of the contract were fixed at P4 for each picul of sugar that may not be delivered and P2,000 in case of litigation. The damages having thus been foreseen and liquidated, which, after all, are the ground for charging interest upon the principal, and it not sufficiently appearing that the parties had in fact stipulated such interest, as claimed by the plaintiff, we find that the latter has no right to recover any such interest.

He has, however, the right to recover P4 for each picul of sugar not delivered and the P2,000 stipulated in the contract Exhibit U, inasmuch as it does not appear from the record that there was any sufficient justification for not delivering the 1,500 piculs of sugar promised.

As we have seen, and as stated in the plaintiff's complaint, the defendant failed to deliver 175.93 piculs, which at the rate of P4 per picul make 7703.72.

As to the last error assigned by the defendant-appellant, the latter argues under the theory that the contract in question is one of loan. We have already seen that the defendant himself did not consider it so in his testimony and therefore the provisions of section 8 of Act No. 2655 are not applicable to this case.

For all of the foregoing reasons, the judgment appealed from is modified, and the defendant is sentenced to pay the plaintiff the sum of P13,407.61 with legal interest thereon from the date of the publication of this decision, plus the sum of P703.72 for his failure to deliver 175.93 piculs of sugar and in addition thereto the sum of P2,000, which was stipulated to be paid in case of litigation, as is the present action.

Without special finding as to costs. So ordered.

Araullo, C. J., Street, Malcolm, Avanceña, Ostrand, and Johns, JJ., concur.

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