

F.V. LARRAGA AND FLORENTINA ENTEREZO, PLAINTIFFS AND APPELLEES, VS. EULOGIA B. BAÑEZ ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-1544. August 25, 1949*

Ponente: PARAS, J.

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On November 26, 1941, the defendants obtained a loan of 5,000 from the plaintiffs, payable within three years with interest at the rate of ten per cent per annum, and to secure the same the defendants executed a mortgage in favor of the plaintiffs over a lot situated in Tacloban, Leyte. On April 18, 1944, the defendants paid to the plaintiffs in Japanese military notes the principal of P5,000, plus P1,352.50 as interest. In virtue of this payment, the plaintiffs executed an instrument releasing the mortgage.

On February 13, 1945, the plaintiffs filed in the Court of First Instance of Leyte a complaint against the defendants, alleging that the plaintiffs were compelled to accept the payment tendered by the defendants merely in obedience to the instructions of the Japanese military authorities and to avoid the possible punishment that a refusal to accept might bring about, and praying that said payment and the instrument of release executed by the plaintiffs on April 18, 1944, be declared null and void. After answer by the defendants and trial, the Court of First Instance of Leyte rendered judgment holding that the defendants had made a valid tender of payment which the plaintiffs were bound to accept, regardless of their apprehension as to the consequences of their refusal; that the payment of P5,000 in Japanese money on April 18, 1944, was valid only to the extent of one-third of its value in Philippine peso; that the interest on the loan was fully paid; that the cancellation of the mortgage was valid only in so far as one-third of P5,000 is concerned, said mortgage being subsisting as to the unpaid balance of P3,333.33 1/3. The judgment accordingly sentenced the defendants to pay to the plaintiffs the sum of P3,333.33 1/3 after the debt moratorium shall have been duly lifted, and ordered that, upon default on the part of the defendants, the mortgage be foreclosed. From this judgment the defendants have appealed.

The lower court is correct in holding that the payment tendered by the defendants and accepted by the plaintiffs was valid, but it erred in holding that said payment was valid only to the extent of one-third of the indebtedness. In the case of *Haw Pia vs. China Banking Corporation*, 80 Phil. 604; 45 Off. Gaz. (Supp. to No. 9), 229, we have already made the pronouncement that the military occupant, in the exercise of its governmental power, has the right to issue military currency as legal tender, and that whatever might have been the intrinsic or extrinsic worth of the Japanese war notes is of no consequence, said war notes having been issued as legal tender at par with the Philippine peso. Accordingly, the payment made by the defendants in the amount of P5,000 must be considered as having satisfied the full indebtedness of the defendants amounting to P5,000.

In view of this conclusion, it follows that the mortgage executed by the defendants to secure said indebtedness had ceased to be in force, the principal obligation having been paid up. It is therefore immaterial whether the deed, of cancellation executed by the plaintiffs was tainted with reluctance on their part. At any rate, in the case of

Philippine Trust Company vs. Araneta, et al., G.R. No. L-2734, decided on March 17, 1949, it has been ruled in effect that there was no collective and general duress exercised by the Japanese military occupant in ordering that war notes might be used in making payments of all kinds and that any attempt to interfere with the circulation of said notes, such as rejection of payment with said notes, would be considered hostile and punished severely.

Wherefore, the appealed judgment is hereby reversed and the defendants are absolved from the complaint, with costs against the plaintiffs and appellees. So ordered.

Moran, C. J., Ozaeta, Feria, Montemayor, and Reyes, JJ., concur.

CONCURRING

TUASON, J.:

I concur in the result. This concurrence is based on the fact that the plaintiffs have not proved that they were coerced into accepting the payment. Having accepted the payment, the plaintiffs are estopped to repudiate it.

PADILLA, J.:

I join Mr. Justice Tuason in his opinion.

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