

**PACIFIC COMMERCIAL COMPANY, PLAINTIFF AND APPELLANT, VS.
GO TIAN GEE & COMPANY, GO TIAN GREE, GO PEN, GO LUY,
AND GO YU CHEE ALIAS GO TO WAN, DEFENDANTS AND APPELLES.**

G. R. No. L-2978. November 29, 1951

Ponente: FERIA, J.

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FERIA, J.:

The pertinent facts in this case, according to the agreed statement or stipulation of facts entered into and submitted to the Court of First Instance of Manila by the parties for decision are, as stated in the appellant's brief in, the following:

"The plaintiff brought suit against the defendants to collect the amounts due on the twelve drafts drawn by said plaintiff on the defendant copartnership, Go Tian Gee & Company, and which were duly accepted by the latter and have matured or fallen due (Stipulation, pars. 2 and 4; Record on Appeal, pp. 28-29). Each and everyone of the twelve drafts were drawn and payable in United States dollars (Stipulation, par. 2; Record on Appeal, pp. 28-29).

"The twelve drafts, when drawn, were turned over by the plaintiff to the National City Bank of New York for collection. However, the first two drafts, No. 3611, for \$1,664.30, United States currency, and No. 3640 for \$1,499.33, United States currency, have been turned over by the National City Bank of New York to the China Banking Corporation for collection at the request of defendant copartnership (Stipulation, par. 9; Record on Appeal, p. 30).

"The plaintiff has demanded of defendant copartnership payment of the amounts due on each of the twelve drafts in United States dollars, the currency called for in them, but defendant copartnership has not paid despite such demands (Stipulation, pars. 5 and 8; Record on Appeal, pp. 29, 30).

"During the month of June, 1943, the defendant copartnership paid to the Bank of Taiwan, liquidator of the Japanese Military Government, the value of the twelve drafts, the payment having been effected in Japanese war notes, at the rate of two pesos Japanese war notes for every United States dollar called for in the drafts mentioned in the complaint (Stipulation, par. Q; Record on Appeal, pp. 29-30). The Bank of Taiwan has not turned over to either the National City Bank of New York or the China Banking Corporation or the plaintiff the United States dollars called for in the twelve drafts (Stipulation, par. 7; Record on Appeal, p. 30)."

The lower court, in its decision rendered upon the facts agreed upon by the parties, held;

"The only question to be decided in this case is whether or not the payment made by the plaintiff (defendant copartnership) to the Taiwan Bank as liquidator appointed by the Japanese Military Administration, has extinguished the defendant copartnership's obligation to the herein plaintiff.

"Plaintiff contends that such payment did not extinguish defendant's indebtedness to plaintiff on the ground that of the 12 drafts in this case there was confiscation of the amount as the liquidator bank did not subsequently turn over to either the national City Bank of New York, the China Banking Corporation, or the herein plaintiff. The Bank of Taiwan, according to the plaintiff, was not authorized by any law, regulation or

measure promulgated by the Japanese Military Government to confiscate, sequester or even administer private property as the drafts above referred to, which are the exclusive private property of the herein plaintiff.

"Plaintiff, in its memorandum, explains that the doctrine in the Haw Pia case cannot be applied in the case at bar because in the first case, there was sequestration of the assets of the bank: while in the instance case there was confiscation.

"Lastly, plaintiff maintains that even if the 12 drafts were, not confiscated but simply administered by the Bank of Taiwan and that it was authorized so to do, still the payment made by the herein defendant did not operate to relieve its obligation to the plaintiff, because the drafts call for payment in United States dollars.

"The question raised in this case has been definitely decided by the Supreme Court in the case of Haw Pia versus China Banking Corporation and subsequently in *C, S, Hodges vs. Mariano Lacson* promulgated by the Court of Appeals.

"In the light of the above-mentioned decisions., this Court is persuaded to adopt the view that the payment of the twelve drafts made by defendant, to the Taiwan Bank has wiped out the copartnership's obligation to the herein plaintiff."

The plaintiff appealed from the decision of the court a quo, and in his brief makes nine assignments of error, which may be reduced to the first three, to wit:

I

"The trial court erred in not holding that the Japanese Military Administration has not promulgated any law, regulation or measure authorizing the Bank of Taiwan as liquidator to confiscate, sequester or administer private property so that the payment made by defendant copartnership to the said Bank of Taiwan was null and void.

II

"The trial court erred in not holding that even if the Japanese Military Administration had authority to direct the liquidation of enemy banks, the twelve drafts in question could not and should not have been included in the liquidation of such enemy banks, as said drafts were not assets of said enemy banks but are private property of plaintiff-appellant.

III

"The trial court erred in not holding that the payment made by defendant copartnership in Japanese war-note pesos to the Bank of Taiwan was null and void, because the twelve drafts were drawn and payable in United States dollars."

The questions raised in the above quoted assignments of error have already been decided against the appellant's contention in many among them, those of *Haw Pia vs. China Banking Corporation*, G. R. No. L-554,[1] April 9, 1948, and *Allison & Gibbs et al., vs. Eulogio Rodriguez Sr. et al.*, G. R. No. L-1494,[2] August 5, 1949. In said cases this Court has taken judicial notice and applied the Japanese Military laws, ordinances, and regulations defining who were nationals of hostile countries and designating the Bank of Taiwan as liquidator of enemy banks and "Bureau of enemy property." As the Bank of Taiwan was authorized to sequester, not only the assets of enemy banks, but also the property of enemy individuals or corporations, whether the drafts in question remained the property of the appellant, and the national City Bank of New York and the China Banking Corporation were holding them only as trustees, as claimed by the appellant, or the title to said drafts was vested in said Banks which became appellant's debtors of the value thereof, the payment of said drafts made by the appellees to the

Bank of Taiwan in Japanese war notes have extinguished that obligation. As to debts in dollars

The above cited case of Gibbs vs.. Rodriguez, held the following:

"The plaintiffs' contention that the debt of the defendants in the present case was payable in dollars or its equivalent in Philippine peso at the option of the plaintiffs is immaterial, because both the Philippine pesos and American dollars at the rate of .one dollar for two pesos -were then legal tender in the Philippines according to Sec. 1612 of the Revised Administrative Code, and for that reason the lower court sentenced the defendants to pay the plaintiffs in dollars or its equivalent in Philippine pesos. Besides we have held in the case of Haw Pia the following:

'But be that as it may, whatever might have been the intrinsic or extrinsic worth of the Japanese war-notes which the Bank of Taiwan has received as full satisfaction of the obligations of the appellee's debtors to it, is as of no consequence in the present case, as we have already stated, the Japanese war-notes were issued as legal tender at par with the Philippine peso, and guaranteed by Japanese Government 'which takes full responsibility for their usage having the correct amount to back them up (Proclamation of Jan. 3, 1942). Now that the outcome of the war has turned against Japan, through their States or Government, payments or compensation in Philippine peso or U. S. dollars as the case may be, for the loss or damage, inflicted on the property by the emergency war measure by the enemy. If Japan had won the war or were the victor, the property or money of said banks sequestered or impounded by her might be retained by Japan and credited to the respective State of which the owners of said banks were nationals, as a payment on account of the sums payable by them as indemnity under the treaties, and the said owners were to look for compensation in Philippine Pesos or U.S. dollars. to their respective States. (Treaty of Versailles and other peace treaties entered at the close of the first World War; VI Hackworth Digest of International Law, p. 232.) And if they cannot get any of sufficient compensation either from' the enemy or from their States, because of their insolvency or impossibility to pay, they have naturally to suffer, as everybody else, the losses incident to all wars.' "

In view of all the foregoing, the judgment appealed from is affirmed, with costs against the appellant. .

Paras, C.J., Pablo, Bengzon, Reyes, Jugo, and Bautista Angelo JJ., concur.

[1] 80 Phil., 604.

[2] 84 Phil., 230.

DISSENTING

PADILLA, J.,

I dissent for the same reasons given in my opinion in the case of La Orden de Padres Benedictinos de Filipinas v. The Philippine Trust Company, [*] G. R. No. L-2020, 47 Off. Gaz., 2894, 2897.

DISSENTING

[*] 85 Phil., 217.

TUASON, J.,

I dissent on the grounds stated in my dissent in the *Haw Pia* and allied appellants.

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