

**PHILIPPINE REFINING COMPANY, INC., PLAINTIFF AND APPELLANT
VS. CESAR LEDESMA, DEFENDANT AND APPELLEE.***G. R. No. L-2913. April 27, 1951*

Ponente: BENGZON, J.

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The plaintiff has appealed from a decision of the Court of First Instance of Rizal refusing to compel the defendant Cesar Ledesma to repay a mortgage debt already paid during the Japanese occupation.

It appears that on February 15, 1939, the Philippine Refining Company, a domestic corporation, sold to the defendant Cesar Ledesma, a Filipino citizen, three parcels of land in Paranaque, Rizal, for the total sum of P413,644. The purchaser delivered P103,411 in cash, and for the balance he executed six promissory notes each for the amount of P51,705.50, maturing successively on February 15 of the years 1940, 1941, 1942, 1943, 1944, and 1945. To guarantee the payment of the notes, the three parcels were mortgaged by appropriate documents, which were duly registered.

The first two promissory notes were paid in due course to the plaintiff, which by the way, operates as oil manufacturer and refiner, its capital stock being owned mostly (75 per cent) by British and Dutch interests.

During the Japanese occupation, on or about October 3, 1944, the defendant Cesar Ledesma satisfied the remaining four promissory notes to the Office of the Enemy Property Custodian of the Japanese Army, upon previous demand by the latter. The payment was made in Japanese military notes. Consequently the Japanese authorities caused the mortgage to be cancelled, which cancellation was duly noted in the proper Registry of Deeds.

The sole issue is the validity of the payment thus made. The Court of First Instance held it valid, and released the defendant Cesar Ledesma from all liability to his former creditor the plaintiff herein. The Court followed and applied our decision in *Haw Pia vs. China Banking Corporation*, 80 Phil., 604; 45 Ofr. Gaz., No. 9, Sup. 229, wherein we absolved a pre-war debtor of the China Banking Corporation who had paid his debt during the Japanese occupation with Japanese military notes to the Bank of Taiwan, that had been designated by the Japanese Military to liquidate the aforesaid bank, an enemy-owned institution established in occupied territory. We upheld the validity of the collection effected by the Japanese authorities of credits belonging to enemy nationals.

We said,

"* * * we are of the considered opinion, and therefore hold, that the Japanese military authorities had power, under the International Law, to order the liquidation of the China Banking Corporation and to appoint and authorize the Bank of Taiwan as liquidator to accept payment in question, because such liquidation is not a confiscation of the properties of the bank appellee, but a mere sequestration of its assets which required the liquidation or winding¹ up of the business of said bank. All the arguments to the contrary in support of the decision appealed from are predicated upon the erroneous assumption that the liquidation or winding up of the

affairs of the China Banking Corporation, in order to determine its liabilities and net assets to be sequestrated or controlled, was an act of confiscation or appropriation of private property contrary to Art. 46, Sec. 111 of the Hague Regulations of 1907"

Upon the strength of the Haw Pia doctrine we also validated payments under similar circumstances in Hongkong & Shanghai Banking Corporation vs. Samanillo, 82 Phil., 851; and Gibbs, et al., vs. Rodriguez, 84 Phil., 230.

Appellant argued for, and requested a re-examination of the Haw Pia principle, submitting in addition the monograph of Professor Charles Cheney Hyde of Columbia University, analysing and criticising our position in the aforesaid case. We had occasion to pass on the same article and practically the same arguments in the motion for reconsideration submitted in the Gibbs litigation. We re-affirmed our views. Unnecessary to repeat them here.

Appellant attempts to differentiate this from the Haw Pia controversy by indicating that payment had not been delivered to the Bank of Taiwan, that it is not a bank, and that it is a Philippine corporation and therefore not "a national of hostile countries". The appellees' brief sufficiently answers these points.

Wherefore, applying the aforementioned Haw Pia, Samanillo and Gibbs decisions, the appealed judgment is affirmed, with costs.

Paras, C. J., Feria, Pablo, Montemayor, and Bautista Angelo, JJ., concur.

DISSENTING

PADILLA, J.,

I dissent from the majority opinion for the reasons set forth in my opinions rendered in Del Rosario vs. Sandico, G. R. No. L-867r[1] and La Orden de Padres Benedictinos de Filipinas vs. The Philippine Trust Company,[2] G. R. No. L-2020, both promulgated on 29 December 1949.

[1] 85 Phil., 170.

[2] 85 Phil., 217.

DISSENTING

TUASON, J.,

I dissent from the majority opinion on the grounds stated in the dissents in Haw Pia vs. China Banking Corporation, 45 Off. Gaz., Supp. No. 9, 229,[3] and in other cases in which this Court's decisions were rested on the Haw Pia vs. China Banking Corporation principle.

[3] 80 Phil., 604.

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