

FELIX FERIA. ET AL. PLAINTIFFS-APPELLANTS, VS. ISABELA SUGAR CO., INC. DEFENDANT-APPELLEE.*G.R. No. L-3242. October 17, 1952*

Ponente: MONTEMAYOR, J.

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The plaintiff herein are sugar cane planters in Negros Occidental, and the defendant is a domestic corporation domiciled in the municipality of Isabela of the same province and owner of a sugar central located in Isabela, used in milling sugar cane and producing sugar. About the year 1919 or 1920, defendant Company was organized, and with sugar cane planters around its central executed milling contracts (contrato do molienda), a sample of which is Annex "A". The defendant company undertook to transport from the sugar plantations of the planters to the central, their sugar cane, mill it and then divide the sugar thus produced between the planters and the sugar Company in the proportion of 55% to the former and 45% to the latter, for the first fifteen years. The clauses of the said contract (Annex A) referring to the obligations of the sugar Company, pertinent to the present considerations are Nos. 2, 3 and 12 which we quote below:

"2. Construírd, y mantendr en servicio durante el tiempo de este contrato, un ferro-carril de vapor, o de motor, petroleo, gasolina, electrico o de otro modo, o de unos y otros tipos a la vez, para el transporte de la caña, Azucar y abonos, cuy ferro-carril procurara pase por los campos de caña de los hacenderos o tan cerca de ellos como el contorno de las tierras lo permita y la cantidad de caña a transportar a su juicio lo requiera, y construírd ramales de dicho ferrocarril o apartadores, en los sitios que juzgue conveniente o necesario, para facilitar el acceso al mismo de los tranvias particulares de los hacenderos que conduzcan su caña. La construedon y mantenimiento de este ferro-carril y el transporte de la caña en el mismo, hasta la Central, serd por cuenta de esta y libre de todo gasto para los hacenderos. Todas las locomotoras de vapor estaron provistas de parachispas de seguridad, y la fa se tendera sobre un terraplen adecuado, de cinco metros de ancho mas la cantidad necesaria para zanjas imbornales etc. a travez de o lo mas proxima que sea razonable a todas las haciendas, para beneficiarias por igual en tanto como sea posible,

"3. Construírd un cainarin o camarines, cerca de la fabrica o delmuelle, para almacenar durante la zafra y a lo mas hasta 30 de Mayo de cada ano, el azucar obtenido de la caña de las haciendas."

"12. Dara instrucciones al mencionado almacenero, para que, a la presentacion de los quedans debidamente endosados con el entroguese de la Central, entregue los azucares referidos, libres de todo gasto, en almacen de la Central en Isabela o en la de cualquier puerto de Negros Occ."

The sugar central in Isabela is about thirty (30) kilometers from the nearest port. That is the distance between Isabela and the port of Hinigaran where the sugar are picked up by boats or lorchas and transported to the port of Iloilo from where they are exported abroad, particularly the United States, for sale. The question involved in the present case is as to which of the parties is to pay for the transportation of the sugar from the warehouses of the central in Isabela to the port of Hinigaran, the planters claiming that said cost of transportation should be borne by the defendant company, the latter equally contending that the expense of transportation should be charged against

the planters, as has always been done. Both parties agree that clause 12 correctly interpreted is the key to the solution of the controversy, although clauses 2 and 3 will serve to indicate the intentions of the parties as to who should bear said cost of transportation.

The sugar manufactured by the company is contained in sacks and after the division of the sugar has been made, the portion of number of sacks corresponding to each planter is evidenced by a quedan or quedans which are sorts of warehouse receipts showing the number of piculs and class of sugar in each quedan. Presentation of these quedans involved was sufficient authority for the warehouseman to release the amount of sugar called for in said quedan or quedans in favor of the corresponding owners or sugar planters.

At the beginning or during the first years the parties agree that the sugar was transported from the central to the port of San Gregorio in Binalbagan in trucks. Plaintiffs Veraguth, Oppen and Jimenez declared in their testimony that the cost of transportation which was P1.00 per picul of sugar was borne by Defendant Company. Mr. Gil Montilla, Manager of the defendant company, however, claimed that it was borne by the planters themselves. It should be stated in this connection that the railway system of the defendant company which was principally constructed and devoted to the transportation of sugar cane from the sugar plantations of the planters to the mill did not extend to the port because between the central and the sea was the Binalbagan Sugar Central Company's property with its own railway system. This must have been the reason why during the first years the sugar of the plaintiffs was transported by trucks to the coast. However, about the year 1922 through the good offices of the Philippine National Bank, an agreement was entered into by defendant company with the Binalbagan Sugar Central joining the two railway systems, and thereafter the sugar produced by defendant company was shipped to Hinigaran entirely by rail. From 1922 to 1924, for the transportation of the sugar from Isabela to Hinigaran, the defendant charged the sugar owners or planters P0.03 for every picul of sugar, and this encumbrance or gravamen was duly stamped or made to appear on the quedans denominated as "derechos de puerto" which charges were duly paid by the sugar planters. From 1924, either on the initiative of the defendant company or at the suggestion of the planters themselves, the sugar from Isabela was shipped directly to the warehouses of Warner Barnes & Co., in Iloilo and the charges which were then called "flete y seguro hasta Iloilo" and written or stamped on the quedans amounted to P0.25 for each sack or picul, later increased to P0.27 and still later to P0.28. These charges were also paid by the planters without protest. When we say that they were paid by the planters, we mean that according to the practice then followed, instead of making the payments directly to the central, these charges were deducted from the proceeds of the sale of sugar when finally sold.

About the year 1930, specially when the charges denominated flete de seguro hasta Iloilo were increased to P0.28 per picul, possibly because the planters thought it rather onerous or too high, plaintiffs made inquiries from the defendant company and asked for a breakdown of the charges, and it was found that in the P0.28 was included the cost of transportation from Isabela to Hinigaran amounting to P0.05. They protested the charge claiming that said transportation from Isabela to Hinigaran should be free under clause 12 of the contract (Annex "A"). The defendant company indorsed the protest to its legal adviser who after studying the case opined that the charge was valid and so the protest was denied. This denial motivated the filing of the present case in 1932 for the recovery of the cost of transportation of the sugar from Isabela to Hinigaran collected during the previous years by the defendant company. After hearing, Judge Rodas presiding over the trial court after construing clause 12 in connection with the other clauses, particularly clauses 2 and 3, and considering further the attitude and behavior of the parties during those years when the charges had been collected by defendant company and paid by the plaintiffs without protest, held that under the contract (Annex "A"), the charges were valid and so dismissed the complaint. The case is now here on appeal.

After a careful and extensive study of the case, we agree with the trial court that under the contract (Annex "A")

particularly clauses 3 and 12, it was the agreement of the parties that the cost of transportation of the sugar from Isabela to Hinigaran was to be borne by the sugar cane planters. As Judge Rodas well observed, under clause 3 the defendant company was given the option or choice of constructing the camarines or warehouses to store the sugar, either near the mill in Isabela or near the pier. When the Company built warehouses in Isabela it fully complied with its obligation in this respect, and it could make delivery of the sugar from there. It is true that the defendant company has built warehouses also in Hinigaran. But, although there is no evidence as to where the first warehouses were built, whether in Isabela or in Hinigaran, there is reason to believe that the defendant company built bodegas first in Isabela for the immediate storage of the sugar it manufactured. For instance, during the first years when the sugar was first transported by trucks from Isabela to the port of San Gregorio there could not have been bodegas in the port of Hinigaran for otherwise the trucks should have taken the sugar to said warehouses instead of to San Gregorio; but most likely there must have already been warehouses in Isabela to store the sugar after milling. But this is relatively of little significance. What is important is that Defendant Company fully complied with its obligation under the contract by building warehouses in Isabela and storing the sugar there from which and from where plaintiffs could take delivery. If plaintiffs preferred to receive their sugar in Hinigaran and later in Iloilo as they did, it is logical to hold that they must pay for the transportation from Isabela, and as a matter of fact, they did, voluntarily.

The phrase in clause 12 which reads "entregue los azucares referidos, libres de todo gasto, en almacen de la Central en Isabela o en la de cualquier puerto de Negros Occ." may not be entirely clear and could have been more happily phrased or even extended for clarification. But if we bear in mind the choice given to defendant company in clause 3 to build warehouses in Isabela and store sugar there, then any ambiguity in the phrase thus quoted would be dissipated and cleared up and as correctly interpreted by the trial court, the sugar called for in the quedans should be delivered free of all charge in Isabela, but if delivered at the coast, it was to bear transportation charges.

There are other reasons for this interpretation that we give to clause 12. Under clause 2, although it is stipulated by the parties that defendant company must construct a railway system to transport sugar cane, sugar and fertilizer, the last part of clause 2 clearly provides that only transportation of the sugar cane to the central was to be free or on account of the defendant company. This means that any other article or commodity like sugar or fertilizer transported on this railway system of the central was not to be free or gratis. Again, at the time that Annex "A" was executed either in 1919 or 1920, Defendant Company could not very well have undertaken the free transportation of the sugar from the central to the coast because as already stated, its railway system did not extend to the sea. It had to wait about two years and avail itself of the good offices of the Philippine National Bank before it could negotiate with and obtain an agreement with the Binalbagan Sugar Central Co., for the joining of the two railway systems, and only then could its engines and cars reach the port. And for this use of the rails and facilities of the Binalbagan Sugar Central Co., defendant had to pay according to the findings of the trial court about the same amount that it charged the planters, namely, P0.03. Furthermore, if the central could under the contract comply with its obligation by building warehouses in Isabela and make delivery of the sugar there, it was not likely that it would agree to transport the sugar from Isabela to Hinigaran and bear the cost of transportation, especially at a time when it did not have complete facilities for said transportation. As further argument in support of our view, we have the fact that the plaintiffs had voluntarily paid this cost of transportation from Isabela to Hinigaran for a period of at least ten years, without complaint or protest. Assuming for a moment that the agreement of the parties on the payment of this cost of transportation as evidenced by clause 12 were not clear, the fact that defendant company has been collecting and plaintiffs had been paying voluntarily those charges, will show that the parties understood the agreement in that manner. True, three of the planters testified that at the beginning when the sugar was transported in trucks to the port of San Gregorio, the expenses for transportation

was borne by the central, but Mr. Montilla, Manager of the defendant company equally declared that the charges were borne by the planters themselves and the trial court believed him and held that his testimony is supported by the evidence. We are not in a position to overrule and change that finding of the trial court.

Plaintiffs in their brief now contend that although the cost of transportation from Isabela to Hinigaran had been collected from them from 1922 to 1930 or 1931, they paid it because they did not know that it was a charge for transportation from Isabela to Hinigaran, claiming that defendant company fraudulently and in bad faith concealed the real import of said charge under the denomination of "derechos de puerto", and that they thought that they were port charges imposed by law. The denomination may be a misnomer although counsel for the appellee asserts that "derechos de puerto" means the charges up to the port. But as Judge Rodas well observed, the great majority of the planters are highly educated men, professionals and businessmen and they should have known that there is no law imposing charges in connection with the use of the port. If the planters had been more vigilant, and diligent in the protection of their rights, they could have easily made the necessary investigation to determine for themselves the nature of the "derechos de puerto" as they did later but belatedly. They also had their representative at the warehouse of the central who took delivery of the sugar for them. This representative could also have made the necessary inquiry. Furthermore, during the first years when the sugar was first transported in trucks to the port of San Gregorio, there were no such charges or "derechos de puerto". So, plaintiffs should have known that the Government was not collecting any amount in connection with the use of the port. Again, in 1924 and thereafter, when the sugar was transported all the way to Iloilo, there was no "derechos de puerto" included in the amount collected from the planters. From all this, plaintiffs should have known that the Government was not collecting any port charges.

As to the claim now made in the brief of the appellants, that defendant-appellee was guilty of fraud and bad faith in supposedly concealing these transportation charges under the denomination "derechos de puerto", the record shows and the trial court found that neither in the pleadings of plaintiff nor during the hearing and oral argument did plaintiffs make any charge or insinuation about this alleged fraud and bad faith. On the contrary, the trial court found and held that it was not true that the central had been collecting these transportation charges without the knowledge of the planters. Anyway it is now rather late for appellants to make this claim or charge of fraud and bad faith against Defendant Company, and for the first time, on appeal.

In view of the foregoing, and finding no reversible error in the decision appealed from, the same is hereby affirmed with costs.

Paras, Pablo, Bengzon, Padilla, Jugo, Bautista Angelo, and Labrador, JJ., concur.
Feria, Tuason, and Reyes, JJ., did not take part.

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