

**LAND SETTLEMENT AND DEVELOPMENT CORPORATION, PLAINTIFF
AND APPELLANT, VS. GARCIA PLANTATION CO., INC., AND/OR
SALUD GARCIA AND VICENTE B. GARCIA, DEFENDANTS AND
APPELLEES.**

G. R. No. L-17820. April 24, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

This is a case of specific performance of contract, instituted by the Land Settlement and Development Corporation, against the Garcia Plantation Co., Inc. and/or Salud C. de Garcia and Vicente B. Garcia, for the recovery of the sum of P5,955.30, representing the unpaid balance of the purchase price of two tractors, bought by the defendant Garcia Plantation Co., Inc. from the plaintiff. Salud C. de Garcia was made alternative co-defendant because of two promissory notes executed by her, whereby she personally assumed the account of the company with the plaintiff, and the defendant Vicente B. Garcia was included as husband of Salud C. de Garcia. The defendants, in their Answer, admitted the execution of the two promissory notes, but contended that the same had been novated by a subsequent agreement contained in a letter (Exh. L) sent by Filomeno C. Kintanar, Manager, Board of Liquidators of the LASADECO, giving the defendant Salud C. de Garcia an extension up to May 31, 1957, within which to pay the account, and since the complaint was filed on February 20, 1957, they claimed that the action was premature and prayed that the complaint be dismissed. The plaintiff in the reply and answer to the counterclaim, admitted the due execution and genuineness of the letter marked Exhibit L, but contended that the same did not express the true intent and agreement of the parties, thereby placing the fact in issue, in the pleadings.

After several postponements requested by both parties on the ground of pending amicable settlement, trial on the merits was ordered and held on July 25, 1957, at 1:00 o'clock in the afternoon. At the trial, the defendant admitted all the documentary evidence adduced by the plaintiffs, showing that they were indebted to said plaintiff. However, when the plaintiff presented Atty. Lucido A. Guinto, Legal Officer of the Board of Liquidators, to testify on the true agreement and the intention of the parties at the time the letter (Exh. L for the defendants), was drafted and prepared, the lower court presided by the Hon. B. A. Tan, upon the objection of the counsel for defendants, ruled out said testimony and prevented the introduction of evidence under the parol evidence rule (See. 22, Rule 123). Plaintiff also intended to present Mr. Kintanar, the writer of the letter, to testify on the same matter, but in view of the ruling of the lower court, it rested its case. The lower court dismissed the case, stating that the action was premature. Plaintiff appealed to the Court of Appeals, which certified the case to Us, pointing that the questions presented were purely legal in nature.

Appellants allege that the lower court erred (1) In forcing the parties to trial despite requests by both parties for more time to submit an amicable settlement of the case; (2) In excluding parol evidence, tending to prove the true intention and agreement of the parties and the existence of a condition precedent, before the extension granted the defendants, contained in Exhibit L, could become effective and (3) In holding that the action was premature and

in dismissing the case on this ground.

The disposal of the second issue would render the determination of the other issues unnecessary. The fact that the letter, Exhibit L, failed "to express the true intent and agreement of the parties", Section 22, Rule 123, had been put in issue by the Answer of the plaintiff to defendants' counterclaim (*Heirs of De la Rama vs. Talisay-Silay Milling Co.*, 54 Phil., 580). The parol evidence consisted of the testimony of Attys. Guinto and Kintanar, to the effect that in view of the plea of defendant Vicente B. Garcia to give the defendants an extension of time to pay their accounts, Atty. Kintanar gave the defendants up to May 31, 1957, to coincide with their ramie harvest "provided that they will make a substantial down payment immediately, with the understanding that upon non-payment of the substantial amount, the extension shall be deemed as not granted and the LASADECO shall feel free to seek redress in court". That there was such condition precedent is manifested by the second paragraph of the letter Exhibit L, quoted hereunder:

"November 20, 1956

Mrs. Salud de Garcia

Tacurong, Cotabato

Dear Madam:

Please be advised that the Board has granted you an extension up to May 31, 1957, within which to pay your account.

This matter has been the subject of agreement between your husband and this office.

Respectfully,

(Sgd.) FILOMENO C. KINTAHAR"

The subject of agreement alluded to in the second paragraph of the above letter, was the condition to be complied with or the consideration given for the extension of time, within which the Garcia spouses pay their account. The lower court should have admitted the parol evidence sought to be introduced to prove the failure of the document in question to express the true intent and agreement of the parties. It should not have improvidently and hastily excluded said parol evidence, knowing that the subject-matter treated therein, was one of the exceptions to the parol evidence rule. When the operation of the contract is made to depend upon the occurrence of an event, which, for that reason is a condition precedent, such may be established by parol evidence. This is not varying the terms of the written contract by extrinsic agreement, for the simple reason that there is no contract in existence; there is nothing to which to apply the excluding rule (*Heitman vs. Commercial Bank of Savannah*, 6 Ga. App. 584, 65 SE 590, cited in *Comments on the Rules of Court*, 1957 Ed., 200). "* *". This rule does not prevent the introduction of extrinsic evidence to show that a supposed contract, never became effective by reason of the failure of some collateral condition or stipulation, prerequisite to liability" (*Peabody & Co. vs. Bromfield and Ross*, 38 Phil., 841). The rule excluding parol evidence to vary or contradict a writing, does not extend so far as to preclude the admission of extrinsic evidence, to show prior or contemporaneous collateral parol agreements between the parties, but such evidence may be received, regardless of whether or not the written agreement contains reference to such collateral agreement (*Robles vs. Lizarraga Hnos.*, 50 Phil., 387). In the case at bar, reference is made of a previous agreement, in the second paragraph of letter Exhibit L, and although a document is usually to be interpreted in the precise terms in which it is couched, Courts, in the exercise of sound discretion, may admit evidence of surrounding circumstances, in order to arrive at the true intention of the parties (*Aves & Alzona vs. Orilleneda*, 70 Phil., 262). Rulings to the same effect were also announced by the United States courts (*Payne vs.*

Campbell, 6 E & B, 370; Wilson vs. Powers, 131 Mass. 540; Blewitt vs. Brown, 142 NY 357; Burke vs. Delany, 153 US 228).

Had the trial court permitted, as it should, the plaintiff to prove the condition precedent to the extension of the payment, the said plaintiff would have been able to show that because the defendants had failed to pay a substantial down payment, the agreement was breached and the contract contained in Exhibit "L", never became effective and the extension should be considered as not having been given at all. So that, although the complaint was filed on February 20, 1957, three months before the deadline of the extension on May 31, 1957, there would be no premature institution of the case. The lower court, therefore, erred in dismissing the case.

The decision appealed from is reversed, and case remanded to the lower court for further proceeding's. Costs against the appellees.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala and Makalintal, JJ., concur.

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