

**KAPISANAN NG MGA MANGAGAWA SA MANILA RAILROAD COMPANY, PLAINTIFF AND APPELLEE, VS. CREDIT UNION KAPISANAN NG MGA MANGAGAWA SA MANILA RAILROAD COMPANY, DEFENDANT AND APPELLANT.**

*G.R. No. L-14332. May 20, 1960*

Ponente: BENGZON, J.

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**BENGZON, J.:**

In the Manila court of first instance, the plaintiff, a duly registered labor organization, sued to recover a sum of money from the defendant, a credit and cooperative association.

The parties submitted the cause for decision upon a stipulation of facts, in view of which the court rendered judgment ordering payment by defendant of the sum of P49,900.00 plus stipulated interest of one per centum (1%) per annum from 1953 until fully paid, and the costs.

The defendant appealed in due time. It does not dispute the fact, declared by the court a quo, that from 1950 to 1951 "defendant borrowed from plaintiff the total amount of P104,000.00 payable within ten years in ten equal annual installments; that pursuant to the terms of the loan contract between the parties, there is now due and owing to the plaintiff, from 1950 up to the present, the sum of P68,400.00 of which the defendant has only paid P18,500.00, leaving a balance of P49,900.00 \* \* \*."

However, pointing to the stipulation that:

"from 1950 to 1953, inclusive, when the General President of plaintiff and the Chairman of the defendant credit union, one and the same person, Mr. Vicente K. Olazo, and the majority members of the Board of the two associations were the same, no payment was made by the defendant to the plaintiff and during the said period the amount of P26,800.00 was due and unpaid."

Defendant insists that the sum of P26,800.00 that became due and payable during that period (1950-1953) should not be now paid since "Mr. Vicente K. Olazo and the majority members of the Board of the plaintiff-appellee were the same officers of the defendant-appellant during 1950 to 1953 or in other words, the creditor in this case being also the debtor from 1950 to 1953, same can be considered as a merger of creditor and debtor under Article 1276 of the New Civil Code."

Such argument is clearly untenable. There was never any merger of the two juridical entities. They kept their own identities and activities: the one was duly registered and operated under Commonwealth Act 213 and Republic Act 875, while the other functioned under the provisions of the National Cooperative Act (Act 2508 as amended). In fact, one is now suing the other—a thing that would not happen had there been a fusion. Note that only a majority—not all—of the members of the boards of the two organizations were the same persons.

Invoking Sec. 148 of Republic Act No. 203 to the effect that no suit shall be instituted against a cooperative "until the expiration of two months after notice in writing" to the Administrator, appellant pleads for denial of

plaintiff's demand for being premature: no previous notice. But, as appellee says in reply, this legal provision took effect only on June 22, 1957, i.e., after this litigation had been filed in January 1957. And there is nothing in the Act to indicate the legislator's intention to make it retroactive or applicable to litigations already pending before the courts.

Wherefore, finding no merit in the assignments of error discussed in appellant's brief, we have to affirm, and hereby affirm, the appealed judgment with costs. So ordered.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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