

FRANCISCO OSORIO, PLAINTIFF AND APPELLEE, VS. ESTEBAN SALUTILLO AND SANTAS DE SALUTILLO, DEFENDANTS AND APPELLANTS.

G.R. No. L-2475. September 21, 1950

Ponente: MORAN, C.J.

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MORAN, C.J.:

This is an appeal, upon a question of law, taken by the defendants from a Judgment rendered by the Court of First Instance of Davao, in favor of the plaintiff.

According to Exhibit A, plaintiff on May 27, 1947, to from the defendants a loan of P6,000 payable without interest, on May 27, 1952. Payment was guaranteed by a mortgage on real property. The contract contained the following stipulation:

"The conditions of this mortgage are as follows; to wit:

* * * * *

"The other condition is such that due to the fact that I am so busy and preoccupied with the cultivation of another properties during the term or existence of this mortgage the mortgagee, Mr. Esteban Salutillo shall take possession of the two parcels herein mortgaged, and to take charge of the cleaning of the land, and the harvesting on the nuts from the coconut trees planted thereon and the making of coprax. And for his services In managing the land during the existence of the mortgage, we do hereby agree that after deducting all the expenses In the clearing, harvesting and making of coprax which will all be charged to my account (mortgagor) Seventy per cent of the net proceeds from the sale of the coprax shall be the share of the mortgagee (Esteban Salutillo), while the remainder of Thirty per cent shall be my share." (Italics ours.)

On or before March 31, 1948, plaintiff offered to pay the loan, but upon defendants' refusal to accept payment, a complaint was filed and the sum of P6,500 was consigned in court. The only question is whether or not, under the terms of the contract, the loan may be paid on or before March 31, 1948. The court rendered Judgment holding the contract to be unilateral, and that the period therein fixed for payment of the loan is for the benefit of the debtor, who, for that reason, may make payment before May 27, 1952.

This judgment is wrong. The contract of loan expressly stipulates that payment shall be made on May 27, 1952. Article 1127 of the Civil Code provides that—"Whenever a term is fixed in obligations it is presumed as established for the benefit of the creditor and the debtor, unless from their tenor or some other circumstances, it should appear that it has been established for the benefit of one or the other." According to this provision, the term is presumed to be for the benefit of both debtor and creditor, and, therefore, debtor cannot make payment before the time stipulated, without the consent of the creditor. The presumption, of course, is rebuttable.

It is maintained that since the loan is payable without interest, payment before the time stipulated would not harm the creditor. However, one of the conditions stipulated for the loan is, as above stated, that during the term or

existence of the mortgage, the creditor shall have possession of the two parcels of land mortgaged, and will clean them, taking charge of the harvesting of the nuts from the coconut trees, and of the making of the copra, and that for his services, he will be given 70 per cent of the net proceeds of the sale of the copra. Plaintiff himself alleges, in paragraph 6 of his complaint, that the compensation thus stipulated in behalf of the creditor, takes the place of the Interest of the loan. And, according to the deed Exhibit A, this compensation is one of the conditions stipulated for the loan. The contract, therefore, is bilateral and, without the consent of the creditor, payment cannot be made before May 27, 1952.

Judgment is reversed, and defendants-appellants are hereby absolved, with costs against appellee.

Ozaeta, Paras, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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