

ASSOCIATED INSURANCE & SURETY CO., INC., PLAINTIFF AND APPELLANT, VS. BACOLOD-MURCIA MILLING COMPANY, INC., MAMERTO TINGSON, BUENAVENTURA C. ANLAP AND EXPECTACION CABILES, DEFEN...

G.R. No. L-12334. May 22, 1959

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a8350ddec43b/>

LABRADOR, J.:

Appeal from an order of the Court of First Instance of Manila, Hon. Bienvenido A. Tan, presiding", dismissing the complaint upon motion of defendant Bacolod-Murcia Milling Co., Inc.

In the first cause of action of plaintiff-appellant's complaint he alleges that defendant Mamerto Tingson, a planter adherent, to the defendant-appellee Bacolod-Murcia Milling Co., Inc., obtained from the latter a crop loan of P27,640.00 on the condition that Tingson post a bond equivalent to 25% of the crop loan; that in compliance with said requirement, plaintiff-appellant, at the request of Tingson, executed in favor of the defendant-appellee a surety bond in the amount of P6,910 to guaranty the payment of 25% of the crop loan extended; that among the provisions of the surety bond are the following:

"1. The obligee, in accepting this bond, binds itself and agrees that the share of the principal in the proceeds of the harvest of the principal's crop for which the crop loan hereby covered has been granted by the obligee shall be utilized to the full amount of such share towards the liquidation, settlement and payment of principal's indebtedness on account of such crop loan and until such indebtedness is hereby fully covered no part of such principal's share shall be utilized to liquidate, settle and pay any indebtedness of the principal on account of any other crop loan which might have been granted to the principal prior to the execution hereof.

"2. The obligee further agrees not to grant hereafter any additional loan to the principal in excess of the share of the principal in the expected income from the principal's harvest during the crop year or season covered thereby without the prior written consent of the surety.

"3. The liability of the ASSOCIATED INSURANCE & SURETY COMPANY, INC., under this bond will expire upon complete payment by the principal and/or said surety of whatever debit balance may remain of the aforesaid crop loan, but only to the aforesaid limit of P6,910.00, upon liquidation of the Bacolod-Murcia Milling Company, Inc. of the said crop loan pursuant to the terms thereof.

"4. NOW, THEREFORE if the above bounden principal shall in all respects dully and fully observe and perform all and singular the terms and conditions of the Chattel Mortgage executed in favor of the Bacolod-Murcia Milling Company, Inc. on—for the crop year 1953-1954, then this obligation shall be null and void, otherwise to remain in full force and effect."

that defendant-appellee, in violation of express terms of the bond, issued to Tingson a loan much more in excess of the planter's expected income from his harvest during the crop year for which the crop loan was granted, without the prior consent of the surety; that in accordance with paragraph 1 of the terms of the bond,

defendant-appellee should have notified appellant of the amount which Tingson had obtained from the credit line granted to him under the crop loan agreement; that also pursuant to the above-quoted condition appellee should have advised appellant of the actual proceeds from the harvest of Tingson and notified appellant in advance of the sale and disposition of the sugar of the appellee so that appellant may know its liability and adequately protect its interest; and that appellee failed to give the notice required in paragraphs 5 and 7 of the complaint, in violation of the terms and conditions of the surety bond.

In its second cause of action, appellant alleges that it is a condition sine qua non of the surety bond agreement that appellee should extend to Tingson loans that will be utilized exclusively for planting, clearing, cultivation and harvesting the crop of the planter for the crop year for which the loan was granted and that in violation of the latter deliberately utilized for purposes other than those mentioned in the agreement and herein above mentioned; that as a result of the illegal diversion of the loan Tingson was not able to produce crops sufficient to cover the loan under the agreement; that if such diversion was not made Tingson could have planted in the ordinary course of events more crops than he had actually harvested, thereby relieving appellant of responsibility or liability under the bond.

As an alternative cause, it is alleged that simultaneously with the execution of the surety bond, defendants Anlap and Cabiles acted as indemnitors in favor of the appellant; that Tingson failed to liquidate in full the loan which he had obtained from the appellee, of which loan 25% was guaranteed by the appellant; that appellant was notified by appellee that the planter had an outstanding balance of P20,000, and demand was made by the latter to the former for the payment of P6,910 under the terms of the surety bond; that in the event appellant becomes liable to the appellee under the provisions of the agreement, appellant would have a good and valid cause of action against the defendant planter, and defendants Anlap and Cabiles; and that defendants Anlap and Cabiles had also undertaken to pay 15% of the amount due to the appellant, by way of liquidated damages. It is prayed that appellant be relieved of the obligation under the first and second causes of action, and by way of alternative, that planter Tingson and his indemnitors be required to pay the amount required to be paid from the appellant, with damages and attorney's fees.

Appellee Bacolod-Murcia moved to dismiss the complaint on the ground that the cause of action of plaintiff surety has not yet accrued, inasmuch as there has been no allegation whatsoever that the plaintiff has voluntarily paid, or been made to pay the amount guaranteed by it, and that the allegations in the complaint are matters of defense. The court below sustained the above motion and dismissed the complaint, and upon its refusal to reconsider its order of dismissal, the present appeal was brought to this Court.

The appeal must be sustained. The indemnity agreement contains an express obligation of the obligee Bacolod-Murcia not to grant any loan to the planter in excess of the latter's share in the crop harvest without the prior written consent of the surety. The complaint alleges that the defendant milling company violated this express provision of the bond, giving Tingson an amount as loan much more in excess of his expected income during the crop year, without appellant's prior written consent.

In the second cause of action, it is alleged in the complaint that the condition of the agreement was that ;the loan to be extended Tingson was to be used exclusively for clearing, planting, cultivating and harvesting the crop year, but that appellee allowed Tingson to utilize the loan for purpose other than those specified, by reason of which Tingson was not able to produce crops sufficient to cover the loan. The truth of the allegations of the complaint must be assumed, in a motion to dismiss, and if it was true that there was an agreement that, the loan would be utilized only for clearing, planting, cultivating and harvesting, but that defendant company gave loans deliberately used for purposes other than those, mentioned, as a result of which Tingson was not able to get an income sufficient to cover the loan, then there was a violation of the agreement.

Under the first cause of action, the appellee has violated an express condition of the indemnity agreement; under the second cause of action, there was also a violation of an alleged condition sine qua non of the same agreement.

These violations are a breach of the terms of the agreement and produce a right of action in favor of the plaintiff-appellant. It is true that appellant has not yet paid any amount under the indemnity agreement, but it is also alleged that a demand for the payment of the sum of P6,910 has already been made upon it (par. 16, complaint). It is also true that the allegations made by the appellant in its complaint could be used as defenses in action for the recovery of the said amount, but that is no reason for holding that plaintiff-appellant has no cause of action.

The purpose of appellant's action is to obtain a release from liability under the terms of the agreement, and the cancellation of the bond (See Rec. on Appeal, p. 11). The right to this relief is justified by a breach of the terms of the agreement.

For the foregoing considerations, the order of dismissal appealed from should be, as it is hereby, reversed and set aside, and the case is remanded to the lower court for further proceedings. Costs against the appellee.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Concepcion, and Endencia, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.