

LUZON SURETY CO., INC., PETITIONER, VS. JOSEFA AGUIRRE DE GARCIA, VICENTE GARCIA AND THE FOURTH DIVISION OF THE COURT OF APPEALS, RESPONDENTS.*G.R. No. L-25659. October 31, 1969*

Ponente: FERNANDO, J.

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The crucial question in this petition for the review of a decision of the Court of Appeals, to be passed upon for the first time, is whether or not a conjugal partnership, in the absence of any showing of benefits received, could be held liable on an indemnity agreement executed by the husband to accommodate a third party in favor of a surety company. The Court of Appeals held that it could not. Petitioner Luzon Surety Co., Inc., dis-satisfied with such a judgment, which was an affirmance of a lower court decision, would have us reverse. We do not see it that way. The Court of Appeals adjudicated the matter in accordance with law. We affirm what it did.

As noted in the brief of petitioner Luzon Surety Co., Inc., on October 18, 1960, a suit for injunction was filed in the Court of First Instance of Negros Occidental against its Provincial Sheriff by respondent-spouses, Josefa Aguirre de Garcia and Vicente Garcia "to enjoin [such Sheriff] from selling the sugar allegedly owned by their conjugal partnership, pursuant to a writ of garnishment issued by virtue of a writ of execution issued in Civil Case No. 3893 of the same Court of First Instance * * * against the respondent Vicente Garcia * * *." [1]

There was a stipulation of facts submitted. There is no question as to one Ladislao Chavez, as principal, and petitioner Luzon Surety Co., Inc., executing a surety bond in favor of the Philippine National Bank, Victorias Branch, to guaranty a crop loan granted by the latter to Ladislao Chavez in the sum of P9,000.00. On or about the same date, Vicente Garcia, together with the said Ladislao Chavez and one Ramon B. Lacson, as guarantors, signed an indemnity agreement wherein they bound themselves, jointly and severally, to indemnify now petitioner Luzon Surety Co., Inc. against any and all damages, losses, costs, stamps, taxes, penalties, charges and expenses of what-soever kind and nature which the petitioner may at any time sustain or incur in consequence of having become guarantor upon said bond, to pay interest at the rate of 12% per annum, computed and compounded quarterly until fully paid; and to pay 15% of the amount involved in any litigation or other matters growing out of or connected therewith for attorney's fees.

It was likewise stipulated that on or about April 27, 1956, the Philippine National Bank filed a complaint before the Court of First Instance of Negros Occidental, docketed as its Civil Case No. 3893, against Ladislao Chavez and Luzon Surety Co., Inc. to recover the amount of P4,577.95, in interest, attorney's fees, and costs of the suit. On or about August 8, 1957, in turn, a third-party complaint against Ladislao Chavez, Ramon B. Lacson and Vicente Garcia, based on the indemnity agreement, was instituted by Luzon Surety Co., Inc.

Then, as set forth by the parties, on September 17, 1958, the lower court rendered a decision condemning Ladislao Chavez and Luzon Surety Co., Inc., to pay the plaintiff jointly and severally the amount of P4,577.95 representing the principal and accrued interest of the obligation at the rate of 6% per annum as of January 6, 1956, with a daily

interest of P0.7119 on P4,330.91 from January 6, 1956, until fully paid, plus the sum of P100.00 as attorney's fees, and to pay the costs. The same decision likewise ordered the third party defendants, Ladislao Chavez, Vicente Garcia, and Ramon B. Lacson, to pay Luzon Surety Co., Inc., the total amount to be paid by it to the plaintiff Philippine National Bank.

On July 30, 1960, pursuant to the aforesaid decision, the Court of First Instance of Negros Occidental issued a writ of execution against Vicente Garcia for the satisfaction of the claim of petitioner in the sum of P8,839.97. Thereafter, a writ of garnishment was issued by the Provincial Sheriff of Negros Occidental dated August 9, 1960, levying and garnishing the sugar quedans of the now respondent-spouses, the Garcias, from their sugar plantation, registered in the names of both of them.[2] The suit for injunction filed by the Garcia spouses was the result.

As noted, the lower court found in their favor. In its decision of April 30, 1962, it declared that the garnishment in question was contrary to Article 161 of the Civil Code and granted their petition, making the writ of preliminary injunction permanent. Luzon Surety, Inc. elevated the matter to the Court of Appeals, which, as mentioned at the outset, likewise reached the same result. Hence this petition for review.

We reiterate what was set forth at the opening of this opinion. There is no reason for a reversal of the judgment. The decision sought to be reviewed is in accordance with law.

As explained in the decision now under review: "It is true that the husband is the administrator of the conjugal property pursuant to the provisions of Art.163 of the new Civil Code. However, as such administrator the only obligations incurred by the husband that are chargeable against the conjugal property are those incurred in the legitimate pursuit of his career, profession or business with the honest belief that he is doing right for the benefit of the family. This is not true in the case at bar for we believe that the husband in acting as guarantor or surety for another in an indemnity agreement as that involved in this case did not act for the benefit of the conjugal partnership. Such inference is more emphatic in this case, when no proof is presented that Vicente Garcia in acting as surety or guarantor received consideration therefor, which may redound to the benefit of the conjugal partnership."[3]

In the decision before us, the principal error assigned is the above holding of the Court of Appeals that under Article 161 of the Civil Code no liability was incurred by the conjugal partnership. While fully conscious of the express language of Article 161 of the Civil Code, petitioner, in its well-written brief submitted by its counsel, would impress on us that in this case, it could not be said that no benefit was received by the conjugal partnership. It sought to lend some semblance of plausibility to this view thus: "The present case involves a contract of suretyship entered into by the husband, the respondent Vicente Garcia, in behalf of a third person. A transaction based on credit through which, by our given definitions, respondent Vicente Garcia, by acting as guarantor and making good his guaranty, acquires the capacity of being trusted; adds to his reputation or esteem, enhances his standing as a citizen in the community in which he lives, and earns the confidence of the business community. He can thus secure money with which to carry on the purposes of their conjugal partnership."[4]

While not entirely without basis, such an argument does not carry conviction. Its acceptance would negate the plain meaning of what is expressly provided for in Article 161. In the most categorical language, a conjugal partnership under that provision is liable only for such "debts and obligations contracted by the husband for the benefit of the conjugal partnership." There must be the requisite showing then of some advantage which clearly accrued to the welfare of the spouses. There is none in this case. Nor could there be, considering that the benefit was clearly intended for a third party, one Ladislao Chavez. While the husband by thus signing the indemnity agreement may be said to have added to his reputation or esteem and to have earned the confidence of the business community, such benefit, even if hypothetically accepted, is too remote and fanciful to come within the

express terms of the provision.

Its language is clear; it does not admit of doubt. No process of interpretation or construction need be resorted to. It peremptorily calls for application. Where a requirement is made in explicit and unambiguous terms, no discretion is left to the judiciary. It must see to it that its mandate is obeyed. So it is in this case. That is how the Court of Appeals acted, and what it did cannot be impugned for being contrary to law.[5]

Moreover, it would negate the plain object of the additional requirement in the present Civil Code that a debt contracted by the husband to bind a conjugal partnership must redound to its benefit. That is still another provision indicative of the solicitude and tender regard that the law manifests for the family as a unit. Its interest is paramount; its welfare uppermost in the minds of the codifiers and legislators.

This particular codal provision in question rightfully emphasizes the responsibility of the husband as administrator.[6] He is supposed to conserve and, if possible, augment the funds of the conjugal partnership, not dissipate them. If out of friendship or misplaced generosity on his part the conjugal partnership would be saddled with financial burden, then the family stands to suffer. No objection need arise if the obligation thus contracted by him could be shown to be for the benefit of the wife and the progeny if any there be. That is but fair and just. Certainly, however, to make a conjugal partnership respond for a liability that should appertain to the husband alone is to defeat and frustrate the avowed objective of the new Civil Code to show the utmost concern for the solidarity and well-being of the family as a unit.[7] The husband, therefore, as is wisely thus made certain, is denied the power to assume unnecessary and unwarranted risks to the financial stability of the conjugal partnership.

No useful purpose would be served by petitioner assigning as one of the errors the observation made by the Court of Appeals as to the husband's interest in the conjugal property being merely inchoate or a mere expectancy in view of the conclusion thus reached as to the absence of any liability on the part of the conjugal partnership. Nor was it error for the Court of Appeals to refuse to consider a question raised for the first time on appeal. Now as to the question of jurisdiction of the lower court to entertain this petition for injunction against the Provincial Sheriff, to which our attention is invited, neither the Court of Appeals nor the lower court having been asked to pass upon it. Of course, if raised earlier, it ought to have been seriously inquired into. We feel, however, that under all the circumstances of the case, substantial justice would be served if petitioner be held as precluded from now attempting to interpose such a barrier. The conclusion that thereby laches had intervened is not unreasonable. Such a response on our part can be predicated on the authoritative holding in *Tijam v. Sibonghanoy*. [8]

WHEREFORE, the decision of the Court of Appeals of December 17, 1965, now under review, is affirmed with costs against petitioner Luzon Surety Co., Inc.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Teehankee, and Barredo, JJ., concur.
Reyes, J.B.L., J., see concurring opinion.

[1] Brief for Petitioner, p. 3.

[2] *Ibid*, Appendix, pp. 39-42.

[3] *Ibid*, pp. 46-47.

[4] *Ibid*, pp. 24-25.

[5] Cf. *People v. Mapa*, 20 SCRA 1164 (1967); *Pacific Oxygen & Acetylene Co. v. Central Bank*, 22 SCRA 917 (1968); *Dequito v. Lopez*, 22 SCRA 1352 (1968); *Padilla v. City of Pasay*, 23 SCRA 1349 (1968); *Garcia v.*

Vasquez, 27 SCRA 505 (1969); La Perla Cigar & Cigarette Factory v. Capapas, L-27948 & 28001-11, July 31, 1969; Mobil Oil Philippines v. Diocares, L-26371, Sept. 30, 1969.

[6] Article 165, New Civil Code.

[7] Cf. Report of the Code Commission, p. 17 (1948).

[8] 23 SCRA 29 (1968). Cf. Carillo v. Allied Workers' Association, 24 SCRA 566 (1968).

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