

**MARY MCD. BACHRACH, PLAINTIFF AND APPELLANT, VS.
PHILIPPINE TRUST CO. AND LA ORDEN DE PP. BENEDICTINOS DE
LAS ISLAS FILIPINAS, DEFENDANTS AND APPELLEES.**

G.R. Nos. L-10367-68. April 25, 1961

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f049e2cb0e16/>

DIZON, J.:

On January 1, 1928, appellee La Orden de PP. Benedictinos etc., hereinafter referred to as La Orden, a Corporation sole, organized and existing under the laws of the Philippines, offered for sale a series of bonds numbered from 1 to 900, of a par value of P500.00 each, Philippine currency. They were to mature serially from 2 to 15 years (from 1930 to 1943), each to bear interest at the rate of 8% per annum, payable semi-annually, upon presentation of the corresponding interest coupon attached to each bond, as they became due.

Appellant Bachrach bought forty (40) of the bonds numbered 211 to 230 (with maturity date on Jan. 1, 1936) and numbered 788 to 807 (with maturity date on Jan. 1, 1943), all numbers inclusive.

Appellants Staffords also purchased similar bonds, described as follows:

BONDS NOS.

MATURITY DATE

526-550—Inclusive

25

Bonds

Jan. 1, 1941

582-606—Inclusive

25

Bonds

Jan. 1, 1942

778-787—Inclusive

10

Bonds

Jan. 1, 1943

821-830—Inclusive

10

Bonds

Jan. 1, 1948

TOTAL

70

Bonds

To guarantee the payment of the principal and interest of the bonds La Orden executed on Jan. 1, 1928 a Mortgage-Deed of Trust (Exhibit A) in favor of appellee Philippine Trust Co., a domestic corporation, as Trustee for the benefit of the bondholders, on certain real properties belonging to it, all situated in the City of Manila.

As La Orden defaulted in the payment of the principal and interests due on the bonds, fourteen bond-holders—appellants herein amongst them—owning more than 25% in amount of the bonds then outstanding, thru Atty. Alva J. Hill, took steps to collect payment due and further made a written request to the Philippine Trust Co. to make a formal demand upon La Orden for the payment of all accrued interests. The demand was made but in spite of several extensions granted to La Orden the latter was not able to meet its obligation. For this reason Atty. Hill requested the Philippine Trust Co. to bring suit. As a result, the latter—hereinafter referred to as the Trustee—on behalf of the bondholders and pursuant to the authority granted to it in the deed of trust already referred to, instituted an action against La Orden (Civil Case No. 58809 of the Court of First Instance of Manila) on February 20, 1941 for the payment of the value of the outstanding bonds and interests due thereon, praying at the same time for the appointment of a Receiver for the mortgaged properties. As in its answer to the complaint La Orden agreed to the appointment of a Receiver, the court granted the petition on March 13, 1941, and thereafter the Receiver appointed by the Court took possession of all the mortgaged properties. All the bondholders were notified of this action. Atty. Alva J. Hill acknowledged receipt of the notice in behalf of his clients and further expressed hope that the plan of the Receiver to make payment to the bondholders would materialize soon, and thanked the Trustee for what it had done in the premises.

Upon several orders of the Court dated April 22, and May 6, 1941 and July 24 and September 11, 1941, the Receiver—with the help of the Trustee and La Orden—tried to sell the mortgaged properties but all their efforts were in vain.

Upon the outbreak of the last World War, the properties remained in the possession of the Receiver. Efforts exerted at that time to sell them also failed until June, 1944 when Juan Pellicer Co., Inc. offered to buy them for the sum of P900,000.00. This offer having been accepted by the parties, the same was approved by the Court. After the Trustee, had received the purchase price—part of which, namely, the sum of P475,592.00 in Japanese military notes,—in full payment of the outstanding bonds, their interests due and other pending obligations, he executed the corresponding deed of cancellation of the mortgage on July 21, 1944. Notice of such payment was published in the newspaper "Tribune" on July 13, August 1 and August 8, 1944 by the Trustee, informing the bondholders that all bonds and interests thereon were due and payable at its office any day during office hours,

but while some bondholders collected the value of, and the interests due on their bonds, appellants failed to do the same. On or about August 1, 1944 the Receiver submitted to the Court its report relative to the sale of the mortgaged properties, the delivery of the sum of P900.000.00 to the Trustee—part of it in payment of the bonds, interests due thereon and all other pending obligations—and the discharge or cancellation of the mortgage. It was filed together with a petition, with the conformity of all the parties to the case, for its approval, and it was so approved by the Court on August 8, 1944.

Upon liberation Executive Order No. 49 was promulgated invalidating all deposits made during the war in Japanese military notes. Subsequently, Mary McD. Bachrach, now substituted by Domingo P. Dizon, Executor of her estate, on the one hand, and J. W. Ferrier, Sr., in his capacity as Administrator of the Intestate Estate of the deceased Marie B. Stafford, and Harry' E. Stafford (both now substituted by M. R. Sotelo and Charles K. Stafford, as administratrix and administrator of the estates of the deceased spouses Marie Stafford and Harry E. Stafford, respectively), on the other, instituted separate actions against the Trustee (Philippine Trust Co.) and La Orden in the Court of First Instance of Manila (Civil Cases Nos. 1103 and 11428) to recover from them the value of their bonds, plus all interests due thereon etc.

The principal defense interposed by La Orden was that the bonds owned by appellants as well as all interests due thereon had been fully paid. On the other hand, the principal defense interposed by the Trustee was that, in its aforesaid capacity, it was under obligation to receive, as in fact it did receive from La Orden, the amount necessary to cover, for purposes of payment, the par value of appellants' outstanding bonds, with the accrued interests thereon; that because said deposit constituted payment, it was its obligation, as Trustee, to execute, as it did execute, the release and cancellation of the Mortgage—Deed of Trust mentioned in the complaint; that its only obligation, as Trustee, to appellants was to deliver to them the Japanese military notes which were deposited with it on July 1, 1944 by La Orden in full payment of appellants' bonds and accrued interests thereon, obligation which it has always been ready, willing and able to perform.

After a joint trial of the two cases the lower court rendered judgment absolving "defendant in both cases * * * from all liability in connection with the mortgaged bonds in question, with costs against the plaintiff", from which decision the present, appeal was taken.

Laying aside incidental issues unnecessarily raised and extensively discussed by appellants in their brief, the fundamental question raised by them—as far as La Orden is concerned—is whether the payment or deposit made by the latter mentioned heretofore constitutes a valid payment and discharge of its obligation to appellants and other bondholders. And, as far as the Trustee is concerned, the question to be determined is whether it had committed any breach of trust or was guilty of bad faith, negligence and/or imprudence in the performance of its duties as Trustee, rendering it liable for damages to appellants as bondholders.

There is no question that La Orden defaulted in the payment of the principal and interests due on the bonds in question and of others outstanding on or about the year 1937, and that as a result, fourteen bondholders, including appellants herein, owning more than 25% in amount of the bonds aforesaid, after protracted and vain attempts to collect from La Orden, requested the Trustee on February 27, 1941 to bring the matter to court. This the Trustee did, pursuant to the provisions of Section 4, Article III of the Mortgage—Deed of Trust—according to which, upon default and upon written request of holders of 25% in amount of the bonds then outstanding, the Trustee shall take judicial proceedings by suit or otherwise, as the Trustee, with the advice of counsel, shall deem to be to the best interests of the holders of the bonds. As already stated, during the pendency of said case (Civil Case No. 58809 of the Court of First Instance of Manila) a Receiver was appointed; the Receiver took possession of the mortgaged properties and was authorized to sell them so that with the proceeds of the sale he may have the amount necessary to pay appellants' bonds, such efforts having been in vain until the offer made by Juan Pellicer Co., Inc. in the

month of June, 1944, was accepted by the Receiver and approved by the Court; that the purchase price of P900,000.00 was paid by the purchaser to the Receiver and by the latter turned over to the Trustee, part of it, in the sum of P475,592.00, in full payment of all the outstanding bonds—including those of appellants—together with all interests due thereon; that for this reason the Trustee had to execute the corresponding deed of cancellation of the mortgage on July 21, 1944. Bearing in mind that the action instituted by the Trustee was precisely for the purpose of collecting the principal and interests due on the aforesaid bonds—including those owned by appellants—it requires no further argument to show that, by means of the deposit or payment thus made, the obligation of La Orden in relation to its outstanding bonds and interests due thereon was completely satisfied and discharged.

But appellants contend that the Trustee, in receiving and accepting the deposit aforesaid, was acting as an agent of La Orden and not theirs. This is untenable. As already stated, the action for collection was authorized by the Deed of Trust and was instituted on behalf and for the benefit of the bondholders. Whatever may be the law in other jurisdictions regarding the matter, the fact is that under the Deed of Trust Exhibit A the Trustee not only had the right but the duty to institute the aforesaid action on behalf and for the benefit of the bondholders after default on the part of La Orden and after receiving the required request from bondholders who owned at least 25%, in amount, of the bonds. Consequently, when the proceeds obtained from the sale of the mortgaged properties—duly authorized and approved by the court—was paid to the Receiver and forthwith delivered to the Trustee, the inescapable conclusion can be no other than that La Orden had fully complied with its obligation to pay the bonds. It must be borne in mind furthermore that all the proceedings relative to this sale and deposit with the Trustee of the amount necessary to effect full payment of all outstanding bonds were approved by the court, with the conformity of the parties to the case. The latter, therefore, are now precluded from contesting the validity and legal effectiveness thereof. It is therefore obvious that the ownership of the money deposited with the Trustee was vested in the bondholders from the moment of its deposit, and from this it necessarily follows that when the deposit was voided by Executive Order No. 49, the loss had to be borne by the bondholders pursuant to the principle of *res perit domino suo*.

With respect to the liability for damages demanded from the Trustee, appellants claim that the latter had made no valid tender of payment to them; that, by not filing suit earlier; by allowing the constitution on the mortgaged properties of a lien superior to that of the bondholders; by improvidently executing a deed of cancellation of mortgage, and by its failure to actually effect payment to the bondholders with the amount deposited with it, the Trustee was guilty of bad faith and/or negligence, and so must be made to suffer the damages resulting from the invalidation of the amount deposited. All these contentions, in our opinion, are without merits.

Even assuming that a tender of payment to the bondholders was necessary, it appears that under the Deed of Trust, the obligation of the Trustee, after the deposit had been made, was to hold the same to the credit of the bondholders and to deliver the money so deposited to said bondholders upon presentation of the bonds and interest-coupons attached thereto. Undoubtedly, to comply with this duty, the Trustee in this case published a notice in the "Tribune" of July 13, August 1 and August 8, 1944, informing all bondholders that they could come to its office any day during office hours to receive payment of the principal and interests due on their bonds. In fact, some bondholders did appear and collect, but appellants failed to do the same. This notice was published in accordance with the procedure laid down in Section 4, Article I of the Deed of Trust, albeit it was not required by the provisions of Section 5 of the same Article—which were the provisions applicable to the case. This clearly shows that the Trustee had practically gone out of its way to protect the interests of the bondholders, more specifically, to enable them to collect the amount they were entitled to.

The alleged constitution of a lien on the mortgaged properties superior to that of the bondholders, as evidenced by

the "Agreement for Credit Advances" (Exhibits Y & 8) appears to have been approved by the court as shown on page 3 of the exhibit itself. The advances secured by the alleged, superior lien were made by the Trustee in accordance with Section 1, Article V of the Deed of Trust, according to which the Trustee was entitled to be reimbursed for all proper outlays, liabilities and expenses made in connection with the performance of its duties as Trustee and to a reasonable compensation for its services, and such expenses or advances shall be deemed secured by the indenture and "shall be paid out of any moneys coming into the possession of the Trustee and prior to any payment of, or on account of, the interest or principal of the bonds secured thereunder and prior to any other claims hereby secured". This provision of the Deed of Trust is, of course, binding on all those who purchased the bonds.

In connection with the failure of the Trustee to take prompt court action against La Orden, it appears that whatever delay there was in the filing of the suit against the latter was due, in great measure, to the bondholders themselves who had consented to give La Orden repeated extensions of time within which to meet its obligation. Had the Trustee unreasonably delayed the filing of the action after it had been requested to bring suit by the bondholders who owned at least 25%, in amount, of the outstanding bonds, it could have been different, but in this case there is no question that the suit was brought within a reasonable time after the request or demand to that effect was made.

As far as the release of the mortgage is concerned, appellant's contention is absolutely without merits. It was the duty of the Trustee to give the said discharge upon payment of the value of the bonds and interests due thereon at the time.

In view of the conclusions we have arrived at regarding the main questions involved in this appeal, we deem it unnecessary to consider the others which, at any rate, are already indirectly resolved by what has been said heretofore.

Wherefore, the decision appealed from is hereby affirmed, with costs.

Bengzon, Acting C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, and Paredes, 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.