

**TEODORO KALAMBAKAL AND PANTALEON DELGADO, PLAINTIFFS
AND APPELLEES, VS. VICENTE PAMATMAT ET AL., DEFENDANTS
AND APPELLANTS.***G.R. No. 10595. March 28, 1916*

Ponente: TORRES, J.

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This appeal by bill of exceptions was filed by counsel for defendants from the judgment of April 18, 1913, wherein the judge of the Court of First Instance of Laguna directed that a writ of permanent injunction issue against defendants, their attorneys, agents or mandataries, enjoining them from impeding or preventing plaintiffs from holding mains in the cockpit of the Samahang Umu-unlad Association; from impeding the use by plaintiffs of the said cockpit and the personal property contained therein for such other purposes as plaintiffs deemed necessary and suitable for the proper management of the aforementioned association, and enjoining them from performing any acts whatever tending to molest plaintiffs in the management of the property of said association. Defendants were ordered to pay to plaintiffs, for the use and occupation of the cockpit and other property of the Samahang Umu-unlad Association, as indemnity, the sum of P20 monthly, from May 20, 1912, until the date on which plaintiffs should recover possession of said cockpit and other property of the association, now in the hands of the defendants. It was further ordered that, from the total of such indemnity, the sum of P15 should be deducted for the three days of the month of June, 1912, when mains were allowed but could not be held by defendants in the cockpit in question, for the reason that the preliminary injunction issued in the present case was then in force. The costs of the case were assessed against defendants.

By a writing of May 31, 1912, counsel for the plaintiff receivers of the property of the Umu-unlad Association (in liquidation) filed suit in the Court of First Instance of Laguna against Vicente Pamatmat, Licerio de Leon, and Romualdo Sarmiento, alleging as a cause of action that on May 20, 1912, plaintiffs, as such receivers of the property of the aforementioned association, took possession of this property, among which was a building that was erected for use as a cockpit, situated in the barrio of Santo Angel, municipality of Santa Cruz, and certain furniture and fixtures necessary for the use of said cockpit; that, on the 26th and 30th of May, 1912, plaintiffs were unable to conduct mains therein as they were prevented from so doing by defendants, who claimed that they had leased said cockpit and the property contained therein belonging to the Samahang Umu-unlad Association, from one Martin Angeles, who had been the managing director of the aforementioned association; plaintiffs alleged that the Martin Angeles mentioned had no authority, as such managing director, to lease to any person or company the building, furniture and fixtures of the Samahang Umu-unlad Association; that plaintiffs believed defendants would continue to prevent them from holding mains in said cockpit, and that such action on the part of defendants would render the management of the association ineffective and cause great damage to the latter company, unless the court issue a writ of injunction restraining defendants from impeding plaintiffs from holding mains in the disputed building. Counsel therefore prayed the court that upon the deposit of a proper bond, a preliminary injunction issue against defendants, and that after trial, judgment be rendered making permanent said

injunction, with the costs against defendants.

After the issuance of said preliminary injunction, defendants prayed by written motion that it be dissolved upon the deposit of a proper bond. The court granted the motion, on condition that a bond for P500 be filed and ordered that there be included as defendants the 29 persons interested in the present suit, to wit; Martin Angeles, Josef a Angeles, Bernardino Delgado, Froilan Magpili, Melecio Pambuan, Victor Cordova, Valentin Policarpo, Andrea Albay, Antonio Garcia, Hugo Ponce, Apolonio Cambel, Castor Garcia, Cornelio Talabis, Tiburcio Bonifacio, Crespin Tovias, Flora Villanueva, Manuel Comandante, Geronimo Ramirez, Julian Sottomayor, Vicente Lolote, Vicente Limpanco, Licerio A. de Leon (already included in the original complaint), Maria Gatdula, Jorge Ecuaras, Telesfora Tubias, Cenon Papa, Espiridion Daran, Mariano Padua, Silvina Agus, and Fructuoso Angeles.

On July 9, 1912, counsel for defendants answered the aforementioned complaint, admitted Paragraphs I, II, III, and IV, and denied generally and specifically all the rest thereof. In special defense he set forth that defendants were in lawful possession of the cockpit and likewise of the fixtures thereof, all belonging to the Samahang Umu-unlad Association, on account of having leased them since the 1st of May, 1912, from Martin Angeles, the director who was managing the aforesaid association and a person duly authorized to grant a lease of said property, as plaintiffs were aware; that defendants had never attempted to infringe the rights, or curtail the interests of the plaintiffs, but on the contrary, the plaintiffs are the ones who had tried to prevent the holding of mains in said cockpit, their object being to close it and to favor the cockpit of the municipality, in which plaintiffs were not entirely uninterested. In counterclaim he alleged besides that through the false and unfounded accusations of and malicious acts performed by plaintiffs in order to molest and injure defendants rather than to protect the interests of the Samahang Umu-unlad Association, thereby causing the arrest and deprivation of liberty of said defendants and their caretaker Eulogio Medina, plaintiffs had injured defendants to the amount of P250; and that by said acts, and by plaintiffs having prevented defendants from conducting mains in the cockpit in question on the 2d, 9th, and 16th of June, 1912, and on the afternoon of the 7th of the same month and year by seizing all the chairs and other furniture of the cockpit, and also by their having prevented the mains that were to have been held on the 23d and 30th of June of the same year, plaintiffs. caused damage to defendants to the amount of P765. Defendants' counsel therefore prayed that his clients be absolved from the complaint and that plaintiffs be ordered to pay defendants the sum of P250 for the damage caused the latter, besides the sum of P765 as indemnity for the profits defendants failed to obtain by reason of plaintiffs' acts, and that the costs be assessed against the latter.

The case came to trial, evidence was introduced by both parties, and the court rendered the judgment aforementioned, to which counsel for defendants excepted and in writing moved for a reopening of the case and a new trial. This motion was denied, exception was taken by defendants, and the bill of exceptions was presented, approved, and forwarded to the clerk of this court.

The issues raised in these proceedings consist of whether the plaintiffs Teodoro Kalambakal and Pantaleon Delgado, as receivers of the property of the Samahang Umu-unlad Association, were or were not entitled to take possession of the cockpit belonging to said association and situated in the barrio of Santo Angel, municipality of Santa Cruz, for the purpose of managing it as might best suit the interests of said association in liquidation; and whether, on this account, they were entitled to a writ of injunction against the lessees of the cockpit restraining the latter from preventing the holding of mains therein by the said receivers.

The Samahang Umu-unlad Association was organized by a number of persons for the purpose of conducting the cockpit business in the barrio of Santo Angel, municipality of Santa Cruz. Its managing director, or president, as he was called by some of the witnesses, was the defendant Martin Angeles, although it is to be noted that the association was not governed by any articles of incorporation or by-laws. For certain reasons connected with the

business, a man named Bando, one of the partners, filed suit in the Court of First Instance of Laguna against the director, Martin Angeles, requesting the dissolution of the association and an accounting by said managing director; he further asked for the appointment of two receivers who should assume charge of all the property of the association during the period of the liquidation and rendering of accounts (Exhibit C, p. 22, of the file of documentary evidence), and the plaintiffs Kalambakal and Delgado were duly appointed as such receivers. For these reasons, by an order of May 20, 1912, the court ordered the manager, Martin Angeles, immediately to deliver to the appointed receivers all the property belonging to the Samahang Umu-unlad Association. This order was complied with by Angeles, on that same day by delivering to the receivers, on receipt, the property specified in his report to the court, in which report Angeles stated that he had complied with said order of May 20, 1912, and that the receivers had taken over all the property of the association, with the exception of the contract of lease of the cockpit executed by and between himself and the defendants Licerio de Leon, Bernardo (or Romualdo) Sarmiento and Vicente Pamatmat, which they did not accept as valid (Exhibit 3, p. 22, and the certificate, p. 17).

The plaintiff receivers did not recognize as valid said contract of lease executed by Martin Angeles in behalf of Licerio de Leon and his partners, because of the smallness of the amount of rental stipulated therein, viz., P10, claiming that it was to the prejudice of the management as a larger rental could have been obtained; and as defendants continued to hold mains in the cockpit subsequent to May 20, 1912 (the date when the receivers took possession of all the real and personal property belonging to the association), on the authority of the contract executed in their behalf by Martin Angeles, and, at the same time, prevented the receivers from taking possession of the cockpit building, these latter filed the complaint aforementioned.

The contract to which defendants refer and on which they base the defense that they are in lawful possession of the cockpit in question, is the document Exhibit 2 (pp. 18 to 20 of the evidence), dated May 1, 1912, by which Martin Angeles leased to Licerio de Leon and his two partners the said cockpit belonging to the Samahang Umurunlad Association for an indeterminate period. This contract was not executed by Angeles in the name of or in representation of the association, of which he styles himself the president or managing director, for the name of the association, Samahang Umu-unlad, does not appear in said instrument; it was executed by Martin Angeles, not in his capacity as representative of the association which owned the cockpit, but as a private party. Said lease was to commence to take effect in May, but from that month until September, 1912, inclusive, the lessees were not to pay any rent, for the reason that they were to make repairs on the cockpit building, but at the expiration of said five months the lessees were to pay P5 per month as rental for the cockpit and another P5 per month to the owner of the land on which the cockpit stood, that is, the lessee himself, Licerio de Leon. This contract executed on May 1, 1912, was not certified before a notary until the 22d of the same month and year. (Exhibit 2, p. 19.)

The plaintiff receivers are not obliged to respect the contract of lease executed by Martin Angeles on May 1, 1912, for the reason that it was not ratified before a notary until the 22d of May of that year, that is, two days after the receivers had taken possession of the property belonging to the association in liquidation, and because the contract of lease, Exhibit 2, ratified before a notary on May 22, 1912, cannot affect the receivers—third persons, who by judicial order had taken possession, on May 20, 1912, of all the property of the Samahang Umu-unlad Association, among which was the cockpit, together with its furniture and fixtures, leased to defendants. Furthermore, Martin Angeles had no authority to lease the said building.

According to article 1225 of the Civil Code, the contract of lease drawn up in a private document of the date of May 1, 1912, creates an obligation that affects the persons who signed it, Martin Angeles and the lessees Licerio de Leon and associates, but, as documentary evidence, it has no force or value except from the date of May 22, 1912, when it was certified before a notary public and acquired the character of a public document, for, pursuant to the provisions of article 1227 of the Civil Code:

"The date of a private instrument shall be considered, with regard to third persons, only from the date on which it may have been filed or entered in a public registry, from the death of any of those who signed it, or from the date on which it may have been delivered to a public official by virtue of his office."

As the plaintiff receivers, on May 20, 1912, assumed charge and took possession of the property of said association, among which was the cockpit in question, with its furniture and fixtures, it is undeniable that, from that date of May 20, 1912, the said receivers were the only persons empowered to contract in regard to and dispose of the cockpit, and no other person, even though a member of the association, could have given a lease on the cockpit as did Martin Angeles, because, pursuant to section 175 of the Code of Civil Procedure, said property was in custodia legis and could not be the subject of contract without permission of the court that appointed the receivers.

Defendants have vigorously striven to prove that Martin Angeles, as president or managing director of said association, had been duly authorized and empowered by vote of the members to enter into any contract and take any action with regard to said cockpit; that he, Angeles, increased the number of the shares of the association to 400; that he admitted two shareholders, and obtained the lease of Licerio de Leon's lot for the purpose of building the cockpit thereon, all without prior authorization of the other partners, and that power was duly conferred upon him by the association to lease the cockpit to any person.

The Samahang Umu-unlad Association was organized without any sort of articles of incorporation and consequently there were no by-laws to govern the acts of its members and employees; and, as it is not shown that the association was organized in accordance with the provisions of the Code of Commerce, it must be considered to be a civil association (Code of Commerce, art. 1).

In view of the fact, then, that the association possesses no articles of incorporation or by-laws for its government, the decision of all questions of moment that may arise must always depend upon the majority of the votes of the members assembled at a meeting called for the purpose. Francisco Talabis, who acted as secretary of the association, testified that whenever it was necessary to make any contract in regard to the operation or the lease of the cockpit, all the members of the association were called together to decide the matter. In illustration, he said that when the manager Martin Angeles executed the lease in October, 1909, with Emilio Elchico, this contract had already been decided upon in the meeting of members, called for the purpose by said Angeles; as proven by the notice of meeting Exhibit A. This testimony was corroborated by the witness Vicente Bandy.

Notwithstanding the statement made by Martin Angeles, that he was authorized by the association to lease the cockpit, he himself said (p. 20, record) that he had only been granted power "to confer with Emilio Elchico;" and the secretary, Talabis, explained that the vote of confidence that had been given to Angeles was to enable the latter to take charge of the management and repair of the cockpit building, and that the vote did not include the power to lease the cockpit without the consent of the members of the association.

The fact of Angeles having leased the cockpit to Simeon Pambuan and subsequently, after the expiration of the term of two years of the contract with Emilio Elchico, to defendants, cannot be considered as an implicit grant of that power by the members of the association, for one of these, the witness Vicente Bandy, testified that he had no knowledge of the leases executed subsequent to Elchico's, because Martin Angeles executed them without the agreement and consent of his fellow members being first had or their taking part in the matter.

So that the acts of Martin Angeles in calling the members of the association to general meetings to adopt resolutions concerning the association virtually supplied the lack of articles of incorporation and formed rules for the government of the affairs of the association and of the members among themselves; and as it was not proven that, after that period of meetings and convocations of the members for the purpose of adopting resolutions on

matters pertaining to the association, the latter had authorized Martin Angeles to act for it in business matters, it cannot be held that the contract executed by him with defendants on May 1, 1912, by which he leased the cockpit to them, was valid and binding, inasmuch as the act performed by Angeles was not previously nor subsequently sanctioned by a majority of the members of the Samahang Umu-unlad Association.

The cockpit rented for P20 per month; therefore, by Martin Angeles' having leased it to defendants for the sum of P10, it is evident that the association suffered damage in its interests, and, consequently, is entitled to have defendants, who benefited by the low rental, pay to said receivers an indemnity of P10 per month, one-half of the sum first mentioned, counting from May 20, 1912, the date when the receivers took charge of the property of the association, but from the aggregate resultant sum there shall be deducted the amount of P15 for the three days of the month of June, during which the lessees could not hold mains on account of the injunction which was issued at plaintiffs' request.

Considering that the contract of lease on which defendants rely in order to hold the cockpit of the Samahang Umu-unlad Association is totally valueless and unenforcible with respect to said judicial receivers, because it was executed after the plaintiff receivers took possession of the property of the association; and as these latter had a right, by virtue of their official position, to take charge of the property of the association, it is evident that said receivers are entitled to ask that a writ of permanent injunction issue against the defendant lessees (sec. 164, Code of Civ. Proc.) restraining them from continuing in their occupancy of the cockpit in question and directing them to deliver the possession thereof to said receivers.

For the foregoing reasons, whereby the errors assigned are deemed to have been refuted, and as the judgment is in accordance with the law and the merits of the case as disclosed by the evidence, said judgment should be, as it is hereby, affirmed, with the costs against appellants. So ordered.

Arellano, C. J., Johnson, and Trent, JJ., concur.

Moreland, J., concurs in the result.

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