

JOSE GARRIDO, PETITIONER, VS. JOSE PEREZ CARDENAS, RESPONDENT.

G. R. No. 10631. April 25, 1958

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-10631-2/>

CONCEPCION, J.:

This is a petition for review, by certiorari, of a decision of the Court of Appeals, reversing that of the Court of First Instance of Manila, and absolving respondent, J. Perez Cardenas, from the complaint, without costs.

It appears that on May 26, 1941, said respondent and Pedro Camus executed, in favor of petitioner, Jose Garrido, the promissory note Exhibit A, which is of the following tenor:

"For value received, PEDRO CAMUS as principal, and J. Perez Cardenas as guarantor in solidum hereby promise to pay to the order of Jose Garrido, the sum of Two Thousand (P2,000.00) Pesos Philippine Currency, in the following manner:

During the first twelve consecutive months beginning June 1941, the sum of P360.00 in twelve equal installments of P30.00, each installments to be paid on or before the fifth day of every month;

Then the balance of P1,640 in thirty-two equal installments of P50.00 and one last installment of P40.00 beginning the thirteenth month and consecutively thereafter, each installment to be paid on or before the fifth day of every month;

And PEDRO CAMUS as principal, and J. PEREZ CARDENAS as guarantor in solidum hereby agree that if any two installments are not paid according to the tenor of this instrument, the whole principal sum then remaining unpaid shall forthwith become due and payable immediately;

And PEDRO CAMUS as principal, and J. Perez Cardenas as guarantor in solidum, also promise and agree to pay a sum equivalent to 20% of the unpaid principal as attorney's fees in case this note is not paid according to its tenor and is placed in the hands of an attorney for collection."

The amount thereof not having been paid, despite demands, Garrido brought an action for its recovery in the Municipal Court of Manila (Civil Case No. 15799). Said action was dismissed, however, for want of jurisdiction, whereupon petitioner instituted the case at bar, against Camus and Perez Cardenas, in the Court of First Instance of Manila, for the same purpose. Only Perez Cardenas filed his answer, for Camus could not be summoned, his whereabouts being unknown. In due course, said court subsequently rendered a decision, the dispositive part of which reads:

"FOR THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment in favor of plaintiff Jose Garrido and against Defendant Jose Perez Cardenas, sentencing the latter to pay the former the sum of P2,000.00 with 6% interest thereon from the filing of the complaint on December 15, 1953, until its full payment, plus the sum of P200.00 for attorney's fees. No pronouncement is made as to costs."

On appeal, taken by Perez Cardenas, this decision was reversed by the Court of Appeals, upon the ground that the

promissory note in question is unenforceable, its cause or consideration being unlawful and contrary to public order and to the proper administration of justice. Hence, this petition for review by certiorari, filed by Garrido, who now maintains that the Court of Appeals erred:

"1. * * * in holding that the question of illegality of consideration of the promissory note may be raised for the first time on appeal in spite of the fact that the same was never raised in the court below and is not within the issues made by the parties in their pleadings.

"2. * * * in holding the contract, which is but a promise to civilly indemnify petitioner of the amount embezzled from him, as null and void, and in not applying the doctrine laid down in the case of *Hibberd vs. Rhode and McMillan*, 32 Phil., 476."

The first assignment of error is untenable. If the consideration for the promissory note upon which plaintiff's cause of action relies were contrary to law, morals, good customs, public policy or public order, the contract between the parties thereto would legally, be "inexistent and void from the beginning." (Art 1409, par. [1], Civil Code of the Philippines.) Inasmuch as the finding of the lower court, on this point, was based upon petitioner's own evidence, it was proper to consider the same in the decision appealed from. The petitioner could not be entitled to a judgment in his favor if his own proof showed that he has no cause of action, because the contractual relation upon which his claim relies is inexistent, from a legal viewpoint.

As regards the second assignment of error, the finding of the Court of Appeals is as follows:

"* * * el mismo apelado, libre y voluntariamente, tal vez sin darse cuenta de la consecuencia de su acto, retalo antes y durante el juicio que la causa o consideracion del pagare en cuestion era para evitar que Pedro Camus, el codemandado del apelante, fuese procesado por estafa (Exh. B. y Trans, n.t., pp. 2 y 4). Como que inmediatamente despues de su otorgamiento, la denuncia por estafa que ya estaba en manos de la fiscalia, fue retirada o 'dismissed'—segun declaracion del mismo apelado (Trans, n.t., p. 6)

"De las mismas pruebas del apelado, resulta claro y evidente que la causa del pagare cuya redencion se trata de compeler es ilegal, por ser contrario a la ley, a la moral y al orden publico. Por consiguiente, es inexistente, nulo ab initio, no produce efecto legal ninguno y su pago no puede judicialmente imponerse a sus otorgantes, uno de ellos, en su calidad de fiador solidario, el aqui apelante (Arts. 1352 y 1409 del nuevoCodigo Civil y Art. 1235 del antiguo; *Arroyo vs. Berwin*, 36 Phil., 386; *Velez vs. Ramas*, 40 Phil, 787; *Navarro vs. Yuan*, 43 Off. Gaz., p. 1675; *Reyes vs. Gonzales*, 45 Off. Gas., p. 831)."

The testimony of Garrido upon which this finding is based, was to the effect that before the war, Pedro Camus had swindled him in the sum of P2,000.00, for which reason he (Garrido) filed a complaint against him (Camus) in the Office of the City Fiscal of Manila, where the following transpired, in the words of Garrido:

"* * * I went to the Fiscal's Office and I remember it was Fiscal Dinglagan who first investigated the case, and in front of me he told Atty. Camus, 'You better settle this with Mr. Garrido otherwise I will have to prosecute you because the evidence against you is strong.' Then Atty. Camus told me that he was willing to settle the matter with me. And so I told him, 'Alright, provided that you guarantee to me that you will pay me this amount, I will give you the opportunity to settle it.' I then asked him how he propose to pay this amount. Then he told me that he is an employee of the Law Office of Atty. J. Perez Cardenas, and then he asked me whether I would be agreeable to a promissory note to be signed by him in solidum with Atty. J. Perez Cardenas. And I told him 'You may prepare the promissory note and the conditions, and if I will see that it in all right I will accept it.' (Italics ours.)

It does not appear from the foregoing that Exhibit A was made in consideration of petitioner's promise or obligation either to withdraw his complaint for estafa, or not to prosecute him, or not to testify against him, or to suppress any evidence against him, or otherwise to interfere with the proper administration of justice. That no

such undertaking existed or was the cause for the execution of said Exhibit A, is more apparent from the testimony of respondent J. Perez Cardenas, who said:

"Yo no he tenido nada que ver en el asunto anterior de Pedro Camus con el Sr. Garrido. Yo he oido solamente que el Sr. Camus le habia estafado al Sr. Garrido cuando el ejercia la profesion de abogacia en Baguio, porque parece ser que el Sr. Garrido, segun he visto en los documentos, le habia dado dinero a Pedro Camus para comprar algunos 'claims'. El caso es que el Sr. Camus, en ese año 1941, cuando nadie piensa en la guerra, me pidio que le garantizara para librarle de la estafa; y yo le he garantizado firmando ese pagare. Pero para poner las cosas en su lugar, yo no he ido a la oficina del Sr. Garrido, ni a su casa, ni he firmado en frente de el ese pagare como el ha dicho. El pagare lo firme en mi oficina en la Nacional City Bank Building; pero no niego mi firma.

"Q—When Pedro Camus went to you i'or you to sign Exhibit A; is it not true that he told you that if you will sign the said Exhibit A the case against him will be dismissed? "

A—I don't know anything about that. I have no intervention at all in this Exhibit A.

"Q—Did he not tell you anything why you have to sign Exhibit A in his favor in accordance with the information given to you?

"A—In accordance with the information he gave me, he has certain obligations in favor of Mr. Garrido and that he wanted to have an extension of time within which to pay it. But later on I came to know that it was the result of a case of swindle made by Mr. Camus on Mr. Garrido long after I signed that promissory note.

"Q—Why did you sign the promissory note?

"A—Because I thought I could help the young man, who was then a young lawyer, develop himself a better man. I helped him because he pretended to me to be a good lawyer."

In short, petitioner did not deal with respondent prior to, or at the time of, the execution of the promissory note. It was Camus who asked respondent to sign it. Respondent did not even know that a complaint for swindling had been filed with the Office of the City Fiscal and was pending therein. Respondent was merely advised by Camus that he had "certain obligations in favor of Mr. Garrido and that he (Camus) wanted to have an extension of time within which to pay it." And respondent signed the promissory note because he thought he could thereby "help the young man, who was then a young lawyer, develop himself a better man". This certainly is not contrary to law, morals, good customs, public order or public policy. The circumstance that because of respondent's signature on Exhibit A, petitioner "withdrew" his complaint and the case against Camus was "dropped", does not alter the situation materially. In this connection, there is a substantial analogy between the present case and that of *Hibberd vs. Rohde and McMillian* (32 Phil, 476). In the language of Mr. Justice Trent, the facts therein were:

"* * * McMillian was in the retail liquor business and secured a stock of merchandise valued at P1,200 from Brand & Hibberd and sold it. Alleging that they delivered the merchandise to him on deposit only, Brand & Hibberd filed a complaint of estafa against McMillian. McMillian was arrested and released on bond pending the preliminary hearing before the justice of the peace. The defendant Rohde was a practicing attorney and undertook McMillian's defense in the estafa case. Rohde testified that he was well acquainted with the nature of the transaction between the firm of Brand & Hibberd and McMillian; that the merchandise was sold outright to McMillian; that he knew the estafa complaint was absolutely without foundation; and that McMillian could not possibly be convicted; but that one Sullivan informed him after the preliminary hearing was held that he knew positively that McMillian would be bound over for trial in the Court of First Instance. In rebuttal,

Sullivan testified that what he told Rohde was that he was satisfied from the evidence introduced at the hearing that McMillian would be held for trial in the Court of First Instance. Upon the strength of Sullivan's statement, Rohde agreed to sign the note reproduced above if Brand & Hibberd would withdraw the estafa complaint. He did this because he did not want his client to remain in confinement pending his trial in the Court of First Instance, which would not have occurred for three months. His client was sick at the time and Rohde was afraid that confinement in the jail for such a period of time would seriously endanger his health. After the execution of the note, Brand & Hibberd moved in the justice court that the estafa complaint be dismissed and this motion was granted by the presiding justice. In the order dismissing the complaint, the justice stated that, from the evidence introduced at the hearing he was convinced that there was no sufficient basis for a criminal action, but that the controversy was of a civil character. Rohde subsequently paid two hundred pesos in the note. The note was signed to the plaintiff L. O. Hibberd, on June 10, 1911." (p. 481; italics ours.)

A suit having been brought subsequently on the promissory note against its makers, the latter alleged by way of special defense—which respondent herein has not done—that the consideration for said contract was illegal. This Court held such defense is untenable. We quote from the decision therein:

"* * * The trial court found as a fact that tins consideration of the note was the compromise of a public offense. We do not think that the evidence justifies this conclusion. It is true that the defendant Rohde testified that the consideration of the note was 'the withdrawal of the false charge against him (McMillian) and to get him out of jail.' But it is also in evidence that McMillian owed Brand & Hibberd the full amount of the note and Rohde knew this fact before he signed the note. There is no charge that Brand & Hibberd filed the criminal complaint with a view of extorting a settlement of their claim against McMillian. The hearing at the preliminary investigation was duly had and all the evidence was before the justice of the peace before the agreement represented by the note was wade. It is not shown that Brand & Hibberd agreed not to testify in any further criminal proceedings against McMillian, or that they would suppress any evidence in their possession, or that they would solicit the State's prosecutor or any other Government official whose authority extend to the criminal case, to not hold the defendant for trial. What they actually did was to move in open court for a dismissal of the complaint. This is all they did so far as the record shows, and that it was satisfactory to the defendant Rohde is apparent from the fact that he subsequently made partial payments on the note.

"There can be no doubt that the agreement which resulted in the execution of the note was entered into by Brand & Hibberd with an eye to the satisfaction of their pecuniary claim against McMillian. From the testimony of Rohde himself it appears that he strongly insisted that McMillian was not guilty of the crime charged, and no doubt his ability as a lawyer tended to convince the complainant that the criminal charge was unjustified. If they became converted to this view of the matter, they no doubt more readily consented not to actively assist in the further prosecution of the criminal complaint. We do not think the record justifies a more radical conclusion as to what Brand & Hibberd agreed to do with reference to the criminal phase of the transaction than that they promised not to further actively participate in the case. The record does not justify the conclusion that they went further and agreed to actively assist in preventing the due investigation of the criminal charge by suppressing evidence, by declining to appear against McMillian if duly sub-poenaed as witnesses, or by other means. In our opinion, the case is similar in many aspects to *Goodrum vs. Merchants & Planters Bank* (102 Ark., 326), to which we have referred above. The record indicates the same passivity on the part of the injured party and the same publicity of: the criminal charge. There having been no agreement to interfere with the due administration of the criminal law, we are constrained to hold that no part of the consideration of the note declared upon is illegal or against public policy. The plaintiff is therefore entitled to judgment." (Pp. 486-486; Italics ours.)

Referring now to the case at bar, Camus, like McMillian, had been the subject of a criminal complaint and was advised that action adverse to him would be taken thereon. Moreover, there was no question about his obligation to pay the amount of the promissory note Exhibit A, and, after the execution thereof, the complaint was dropped. Although the order of dismissal of the case against McMillian stated that the evidence against him did not suffice

to warrant criminal action, he thought that the justice of the peace would find otherwise. Similarly, despite the circumstance that Garrido believed Camus guilty of estafa, the evidence before us is not enough to justify a finding that said crime had really been committed. Indeed, it is to be assumed that the complaint against Camus was dropped upon the recommendation of the assistant city fiscal who investigated the case, and that such recommendation must have stated that the evidence against the accused was insufficient to secure his conviction. Otherwise the City Fiscal would have had no choice but to disapprove the recommendation and order the filing of the corresponding information against Camus. In short, there is a legal parity between the two cases.

Those cited in support of respondent's pretense are not in point. The contract involved in *Arroyo vs. Berwin* (36 Phil., 386-387), specifically provided that one of the obligations contracted thereby was "that the plaintiff would ask the prosecuting attorney to dismiss * * * the proceedings against Marcela Juaneza and Alejandro Castro for the crime of theft." No such obligation has been contracted in the present case.

Likewise, the cause of action in *Velez vs. Ramas* (40 Phil., 787) was based upon a contract stating that it had been entered into "in order to prevent said woman (Restituta Quirante) from being brought before the courts for the unlawful acts she has executed," and the offended parties therein had agreed "to suspend the action they intend to bring against Restituta Quirante," so that, in the words of the Supreme Court, "the purpose of the contracting parties was to prevent a prosecution for crime: and the injured parties on their part, agree to suspend the criminal proceedings which they had intended to promote," for which reason "the only consideration" for defendants' promise to pay "was the engagement of the plaintiffs whereby they bound themselves to suspend criminal proceedings." There was no such undertaking in the case at bar. What is more, respondent's testimony shows that he did not know of the existence of criminal proceedings against Camus, at the time of the execution of Exhibit A, and that Camus then merely wanted "an extension of time to pay" Garrido.

The case of *Reyes vs. Gonzales* (45 Off. Gaz., 831) refers to a deed of mortgage with a false cause, the true consideration for which was the release of the accused in a criminal case or the dismissal of the same. Besides, it did not appear that said accused admitted either the offense charged or their liability, and in consequence of said contract, "the investigation was stifled." Precisely this Court refused to apply therein the view taken in *Hibberd vs. Rohde and McMillian* (supra), because *McMillian*—in the same manner as Camus, in the case at bar, but, unlike the accused in the *Gonzales* case—had been investigated and his obligation to pay the complainant was admitted. Needless to say, the undisputed obligation of Camus to refund to Garrido the sum of P2,000 is sufficient consideration for the execution of Exhibit A, and, as respondent's testimony suggests, was his only consideration therefor.

Wherefore, the decision of the Court of Appeals is hereby reversed and another one shall be entered affirming that of the Court of First Instance of Manila, with costs against respondent Jose Perez Cardenas. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B. L., 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.