

JOSE SISON AND EMILIO SISON, PLAINTIFFS AND APPELLANTS, VS. F. M. YAP TICO AND AMANDO AVANCEÑA, PROVINCIAL SHERIFF OF ILOILO, DEFENDANTS AND APPELLEES.*G.R. No. 11583, February 08, 1918*

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11583/>**JOHNSON, J.:**

The principal question presented by this appeal is whether or not the mortgagor of a chattel mortgage is relieved from liability by paying the mortgagee after the mortgage has been assigned to a third person, when he has no actual notice of said transfer.

The pertinent facts as they appear in the record are: That on the 11th day of April, 1912, the plaintiffs borrowed of Eugenio Kilayko the sum of P2,000; that to guarantee the payment of said sum they executed and delivered to the said Kilayko a chattel mortgage covering machinery, crops and a number of carabaos; that said debt was due and payable on or before the 30th day of May, 1913; that the mortgagors had to deliver to the mortgagee (Kilayko) in the city of Iloilo their entire crop of sugar for the years 1912-13; that in compliance with the mortgage the plaintiffs herein did deliver sugar for said years from time to time in the city of Iloilo at the bodega (warehouse) of the defendant Yap Tico at the request of the said Kilayko; that finally a liquidation was made and there was found to be still due the mortgagee (Kilayko) the sum of P650; that that sum was sent to the mortgagee by a representative of the mortgagors (Antonio Horrilleno) and was by him delivered to Kilayko; that upon the delivery of said sum (P650) the mortgagee (Kilayko) on the 14th day of May, 1914, executed and delivered a cancellation of said mortgage; that in the month of May, 1912, the mortgagee (Kilayko) assigned and transferred said mortgage to the defendant herein, F. M. Yap Tico; that said assignment and transfer were duly registered upon the 14th day of April, 1913, nearly one year after the transfer had been made; that the cancellation of said mortgage as above indicated was duly registered on the 19th day of December, 1914; that neither Kilayko nor Yap Tico gave any notice whatever to the plaintiffs herein that said mortgage had been transferred; that the plaintiffs had no notice that the mortgage had been transferred nor that said transfer had been registered; that at the time the last payment was made on said mortgage (14th day of May, 1914) the mortgagee (Kilayko) gave no notice to the mortgagors, or to their representative, that the mortgage had been transferred, but upon the contrary made a search among the papers of his office attempting to find it, and not being able to find it at that time, promised to return the same to the mortgagors as soon as he could find it; that later the assignee of said mortgagee (Yap Tico), in accordance with the provisions of the Chattel Mortgage Law (Act No. 1508), proceeded to foreclose said mortgage, and the sheriff attached and took possession of all the property which said mortgage covered. It is admitted that the sheriff, as well as Yap Tico, were notified by the plaintiffs, at the time of said attachment, that the mortgage had been paid and cancelled. Notwithstanding that notice the sheriff insisted upon enforcing the attachment, and the plaintiffs, after some delay, obtained the release of the property so attached by the execution and delivery of a bond. This action was brought for the purpose of recovering the property, together with damages caused by said alleged illegal attachment.

The defendants answered by a general denial. Upon the issue presented by the petition and answer, the cause was brought on for trial, and after hearing the respective parties, the Honorable J. S. Powell, judge, rendered a judgment relieving the defendants from all liability under the complaint and ordered that the defendants recover of the plaintiffs the sum of P2,000, with interest at 12 per cent from the 28th day of May, 1912, and the costs of the suit. From that judgment the plaintiffs appealed to this court.

The fact is not denied that while the mortgage in question was transferred by the mortgagee, Kilayko, to the defendant, Yap Tico, within less than two months after its execution and delivery, and that the plaintiffs had delivered sugar at the bodega of Yap Tico from time to time covering a period of nearly two years in partial payment of said mortgage, Yap Tico never gave notice or intimated to the plaintiffs that he was the owner of said mortgage. It is further established beyond question that the plaintiffs had no notice whatever of said transfer, unless the registration of said assignment had the effect of giving them notice, until long after the full amount of said mortgage had been paid to the original mortgagee, Kilayko, and said mortgage had been cancelled.

Unless the recording of the assignment operated as notice to the mortgagors their payment of the same, without actual notice of said transfer, relieved them from all liability under said mortgage. Article 1527 of the Civil Code provides that a debtor who, before having been informed of the assignment, pays the creditor, shall be free from the obligation. (See also, to the same effect, arts. 152 and 154 of the Mortgage Law.)

Manresa, in commenting upon the provisions of article 1527 of the Civil Code, after discussing the articles of the Mortgage Law, says:

"We have said that article 1527 deals with the individual phase or aspect which presupposes the existence of a relationship with third parties, that is, with the person of the debtor. Let us see in what way.

"The above-mentioned article states that a debtor who, before having knowledge of the assignment, should pay the creditor shall be released from the obligation.

"In the first place, the necessity for the notice to the debtor in order that the assignment may fully produce its legal effects may be inferred from the above. It refers to a notice and not to a petition for the consent which is not necessary. We say that the notice is not necessary in order that the legal effects may be fully produced, because if it should be omitted, such omission will not imply that the assignment will not exist legally, but that its effects will be limited to the parties thereto; at least, they will not reach the debtor.

"* * * * *

"Let us go to the legal effects produced by the failure to give the notice. In the beginning, we have said that the contract does not lose its efficacy with respect to the parties who made it; but article 1527 determines specifically one of the consequences arising from the failure to give the notice, for it evidently takes for granted that the debtor who, before having knowledge of the assignment, should pay the creditor shall be released from the obligation. So that if the creditor assigned his credit, acting in bad faith and taking advantage of the fact that the debtor does not know anything about the assignment because the latter has not been notified, and collects its amount, the debtor shall be free from the obligation, inasmuch as it has been legally extinguished by a payment which fully redounds to his benefit. The assignee can take advantage of all civil and criminal actions against the assignor, but he can ask nothing from the debtor, because the latter did not know of the assignment, nor was he bound to know it; the assignor should blame himself for his failure to have the notice made.

"* * * * *

"Hence, there not having been any notice to the debtor, the existence of his knowledge of the assignment should

be proved by him who is interested therein; and the debtor is not bound to prove his ignorance." (10 Manresa, 384, 385, 387.)

The question, whether or not the registration of the assignment operated as notice, ipso facto, to the mortgagors, we are inclined to answer in the negative, for the reason that the law does not require such assignments to be recorded. While such assignments may be recorded, the law is permissible and not mandatory. The filing and recording of an instrument in the office of the registrar, when the law does not require such filing and recording, does not constitute notice to the parties. (Burck vs. Taylor, 152 U. S., 634; 5 Corpus Juris, 934.)

The debtor or party liable on contracts like the one in question is not affected by the assignment, until he has notice thereof, and consequently he may set up against the claim of the assignee any defense acquired before notice that would avail him against the assignor had there been no assignment, and payment by the debtor to the assignor, or any compromise or release of the assigned claim by the latter before notice will be valid against the assignee and discharge the debtor. (Vanbuskirk vs. Hartford Fire Insurance Co., 14 Conn., 141; Clodfelter vs. Cox, 1 Sneed [Tenn.], 330; 60 Am. Dec., 157; Johnston vs. Allen, 22 Fla., 224; Shields vs. Taylor & Tarpley, 25 Miss., 13.)

In the case of Shields vs. Taylor & Tarpley, supra, the court said:

"No man is bound to remain a debtor; he may pay to him with whom he contracted to pay; and if he pay before notice that his debt has been assigned, the law holds him exonerated, for the reason that it is the duty of the person who has acquired a title by transfer to demand payment of the debt to give his debtor notice.

"Any act which a person may be compelled to perform by a proceeding at law may be done voluntarily, and he will be protected by the law."

It is generally held that if the law does not require a particular instrument to be recorded or registered, the recording of that instrument will not be constructive notice of its existence to anyone. (Burck vs. Taylor, 152 U. S., 634; Stewart vs. Kirkland, 19 Ala., 162; Lambert vs. Morgan, 110 Md., 1; Dial vs. Inland Logging Co., 52 Wash., 81.)

The rule is very well stated in 4 Cyc. (pp. 33, 34) :

"Until notice of the assignment is given to the debtor, it will not bind him so as to deprive him of equities arising between the date of the assignment and the date when he received notice thereof. As to such equities, the assignment takes effect from the time the debtor receives notice and not from the time of the assignment."

In the case of Dial vs. Inland Logging Co., supra, the court said:

"We are not aware of any statute, and none has been called to our attention, requiring or authorizing the recording of an assignment of a lien of the character of the one in this case. In the absence of such a statute, the recording of the assignment to the respondent before the assignment to the appellant did not operate as constructive notice."

It seems to be clear, then, that a debtor is protected if he pays his creditor without actual notice that the debt has been assigned. Such notice must be actual, and the recording of the assignment, there being no law requiring the same, will not operate as constructive notice to the debtor.

With reference to the question of damages, the proof shows that, by reason of the said attachment of the property included within the mortgage and the deprivation of the plaintiffs of the possession thereof, they were unable to grind certain sugar cane then already harvested and to reduce to sugar some juice already prepared, amounting to, as the record shows, 52 picos of sugar, which was worth P5 per pico. The damages resulting from the loss of sugar would be P260. The evidence relating to the other damages claimed is too indefinite upon which to base a

finding.

It will be remembered that the defendants presented a general denial. They did not pray for affirmative relief. In view, however, of the conclusions which we have reached it is unnecessary to discuss the question whether a judgment for an affirmative relief can be based upon a general denial.

For the foregoing reasons, it is hereby ordered and decreed that the judgment of the lower court be reversed; that all the property which was taken possession of by the sheriff under the said foreclosure proceedings be returned to the plaintiffs if it has not already been done; that the bond theretofore given by the plaintiffs to secure possession of said property be cancelled; and that a judgment be rendered in favor of the plaintiffs and against the defendant Yap Tico in the sum of P260, with interest at the rate of 6 per cent from the 8th day of March, 1915, and costs. So ordered.

Arellano, C. J., Araullo, and Malcolm, JJ., concur.

CONCURRING OPINION

CARSON, J., concurring;

I concur.

I accept the ruling of the majority that, under all the circumstances of this case, payment of the mortgage indebtedness to the original mortgagee relieved the mortgagor of liability under the mortgage.

But I cannot give my assent to the dictum of the principal opinion to the effect that "if the law does not require a particular instrument to be recorded or registered, the recording of the instrument will not be constructive notice of its existence to any one."

As I read them, none of the cases or authorities cited in the principal opinion support that proposition.

The ratio decidendi of all these cases and authorities would seem to be that if the law does not authorize or require a particular instrument to be recorded or registered, the recording of that instrument will not be constructive notice of its existence to any one.

The distinction between the two propositions in this jurisdiction is *Vital*. Our statute, though it does not require the registry of transfers of chattel mortgages, expressly authorizes and provides for the registry of such transfers. (Sec. 15, "The Chattel Mortgage Law," Act No. 1508.)

A few citations (*italics mine*) from the authorities and leading cases mentioned in the majority opinion, will be sufficient, I think, to sustain my contention.

The doctrine announced in 5 Corpus Juris, section 77, page 909, is that:

"Where the statute does not authorize the registry of assignments of choses in action, the filing and recording of them imparts no notice to any one."

The ground of the decision in the case of *Burck vs. Taylor* (152 U. S., 634), as set forth in the syllabus was that—

"The filing of an instrument for record in a public office of a state, for the record of which the statute of the state makes no provision, carried with it no notice to other parties.

"If notice was essential to charge them, actual notice should have been given, at least in the absence of a statute providing some means for constructive notice."

So, in the case of *Dial vs. Inland Logging Company* (52 Wash., 81), the court, in ruling upon the question we are now considering, said:

"We are not aware of any statute, and none has been called to our attention, requiring or authorizing the recording of an assignment of a lien of the character of the one in this case. In the absence of such a statute, the recording of the assignment to the respondent before the assignment to the appellant did not operate as constructive notice. It follows, therefore, that the appellant had neither actual nor constructive notice of the assignment to the respondent."

The elementary rule is stated as follows in *Bouvier's Law Dictionary* (Rawle's Revision, vol. 2, p. 849):

"But all conveyances and deeds which may be de facto recorded are not to be considered as giving notice: in order to have this effect, the instruments must be such as are authorized to be recorded, and the registry must have been made in compliance with the law, otherwise the registry is to be treated as a mere nullity, and it will not affect a subsequent purchaser or incumbrancer unless he has actual notice; (2 Sch. & L., 68; 4 Wheat., 466; 1 Johns. Ch., 300; 1 Story, Eq. Jur., sec. 403; 5 Me., 272) ; but where a statute makes it discretionary to record an instrument, the effect of recording is in no wise lessened, but is deemed a constructive notice the same as if the recording had been required" (77 Pa., 373).

The doctrine is set forth as follows in section 651 of *Pomeroy's Equity Jurisprudence* (vol. 2):

"The form and kind of instrument.—The record operates as a constructive notice only when the instrument itself is one of which the registration is required or authorized by the statute. The voluntary recording, therefore, of an instrument, when not authorized by the statute, would be a mere nullity, and would not charge subsequent purchasers with any notice of its contents or of any rights arising under it."

Our statute does not require the registry of transfers of chattel mortgages, but it expressly authorizes and provides for their registry in the public records, and the reasoning of all the authorities clearly indicate that when such a transfer is actually recorded in the manner and form provided by law, all persons, who thereafter acquire an interest in the mortgage or the mortgaged property, are charged with constructive notice of the transfer.

A contrary ruling would render of no practical effect the provisions of the statute authorizing and providing for the registry of transfers of chattel mortgages. It would mar the symmetry and utility of the law providing for the execution and registry of chattel mortgages. And all this without authority of law, and in reliance upon an erroneous interpretation and application of the doctrine announced by the authorities cited in support of the ruling.

From what has been said it seems clear that the ruling of the court in the case at bar, declaring that the registry of transfer of chattel mortgage did not charge the mortgagor with notice of the transfer, cannot be maintained, on the ground that our statute does not require the registry of such transfers. We must look elsewhere for the true ground upon which our disposition of this appeal can securely rest.

It affirmatively appears that the transfer of the mortgage from the mortgagee to the defendant, Yap Tico, was made soon after the date of the execution of the mortgage. That although Yap Tico recorded the transfer of the mortgage, he thereafter held himself out to the plaintiff (the mortgagor) as the agent of the mortgagee, and did in fact act as the agent of the mortgagee for the purpose of collecting payments upon the mortgage indebtedness, which payments, as it appears, were turned over to his principal, the mortgagee, or credited in his account with Yap Tico; that he continued to hold himself out as the agent of the mortgagee throughout the entire course of these transactions, and as such agent accepted on behalf of his principal a number of shipments of sugar, delivered by the mortgagor on account of his mortgage indebtedness and in strict compliance with the terms of the mortgage instrument; that the mortgagor had no actual notice of the transfer, of the mortgage until after he had paid the total

amount of the mortgage indebtedness, the last payment being made to the mortgagee himself, in total ignorance of the transfer of the mortgagee's interest therein to the defendant, Yap Tico; and that it was not until after the mortgage indebtedness had been paid in full to the mortgagee that the defendant Yap Tico gave actual notice of the assignment of the mortgage, and demanded payment of the full amount of the indebtedness.

In the light of these facts, Yap Tico cannot be heard to demand payment of the mortgage indebtedness on the ground that he is entitled thereto as the registered assignee of the mortgage, and that payment to the mortgagee did not extinguish the debt. By his own conduct he is estopped from setting up such a claim. Having held himself out to be the agent of the mortgagee and accepted payment of the greater part of the indebtedness after the date of the assignment, in the name of and in behalf of the mortgagee, it is inconceivable that he should be permitted to enforce payment of the amounts thus collected a second time. And even as to the balance of the indebtedness paid directly to the mortgagee, it seems clear that Yap Tico is estopped from demanding repayment, because his own conduct was such as to lull any suspicion on the part of the debtor that the mortgage indebtedness had been assigned to him, and to justify the debtor in the belief that so far as he, Yap Tico, was concerned there was no reason to suspect the existence of the assignment or to search the records in order to ascertain the true nature of Yap Tico's relations with the mortgagee. In truth, Yap Tico's willful silence and failure to give actual notice of the assignment under all the circumstances fairly justifies the inference of an intent to defraud the mortgage debtor, and to take advantage of his lack of knowledge of the assignment to compel him to pay the amount of his indebtedness twice over.

What has been said completely and sufficiently disposes of the merits of the case actually before us, but in view of the general discussion as to the effect of the registry of an assignment of a mortgage in this jurisdiction, I deem it proper to direct attention to the question whether the assignee of a mortgage should, in any event, be permitted to recover from the mortgagor any part of the mortgage indebtedness paid to the mortgagee without actual notice.

The courts are not altogether uniform upon the question whether the record of an assignment should be held to amount to constructive notice to the mortgagor himself. Some of the courts have held that "the recording of an assignment of a mortgage will not give constructive notice thereof to the mortgagor, so as to invalidate subsequent payments on the mortgage debt made by him to the mortgagee, and that actual notice of the assignment is necessary to charge the mortgagor, except where the mortgage is security for a negotiable note." This, partly on the ground that the recording of such an instrument operates merely as constructive notice to subsequent purchasers, and partly on the ground that, except where the debt is evidenced by a negotiable instrument, search of the record should not be necessary every time a payment of principle or interest is made on the mortgage indebtedness. Some States have made express provisions to this effect by statute. In others the record of an assignment is held to be 'notice to the mortgagor as well as to subsequent purchasers. (See cases cited in notes to textbook authorities cited below.) But I do not deem it necessary to express an opinion at this time as to what should be the rule in this regard in this jurisdiction, and merely invite attention to the question, lest it might be assumed that my general observations as to the legal effect of the registry of an assignment in this jurisdiction foreclose this question so far as I am concerned. I regard it as still open. (See discussion of this question in sec. 480, Jones on Mortgages, vol. 1, 7th ed., and sec. 649 of Pomeroy's Equity Jurisprudence, vol. 2, 3d ed.)

CONCURRING OPINION

STREET, J., concurring:

I concur in the result attained in this case and desire to express the reasons upon which my conclusion is based. The case presented is that where the mortgagor named in a chattel mortgage has paid the mortgage debt to the

mortgagee without being informed that the credit had been assigned. The assignee now seeks to enforce the mortgage against the property and thus in effect to compel the mortgagor to pay the debt a second time.

Section 4 of the Chattel Mortgage Law (Act No. 1508) contains the following language:

"A chattel mortgage shall not be valid against any person except the mortgagor, his executors or administrators, unless the possession of the property is delivered to and retained by the mortgagee or unless the mortgage is recorded in the office of the register of deeds, etc."

Section 15 of the same Act contains the following language:

"Every register of deeds shall keep a book of records of chattel mortgages; shall certify on each mortgage left for record the date, hour and minute when the same was by him received; record in such book any chattel mortgage, transfer, or discharge, and the officer's return of sale upon any mortgage, etc."

Under the provision first above-quoted, the mortgage, it will be noted, is valid as against the mortgager, his executors or administrators, without the necessity of being recorded in any case. Under section 15 it is expressly required that the officer who keeps the record of chattel mortgages shall record therein the documents mentioned; and so far as the performance of this ministerial duty is concerned there is evidently the same authority for recording the transfer, or assignment, of a chattel mortgage as there is for recording the chattel mortgage itself. In section 4, as we have seen, the effect of a failure to register the chattel mortgage is dened in the statement that an unregistered chattel mortgage shall not be valid except as against the mortgagor. There is no provision in the Act defining the effect of either the registration or nonregistration of a transfer of a mortgage, and this point must be determined by reference to general principles.

The Chattel Mortgage Law was adopted by the Philippine Commission from the laws relative to registration prevailing in the States of the American Union; and the problem presented in the present case is therefore one arising upon the interpretation of an Act applying the principles of that system to these Islands. It may be well to explain in a word that, according to the common-law ideas, registration is merely a species of notice. The act of registering a document is never necessary in order to give it legal effect between the parties. The purpose of the Legislature in providing a system of registration is to afford means of publicity so that persons dealing with property may search the records and thereby acquire security against instruments the execution of which has not been revealed.

We find the general principle applicable in the case now before us formulated in a well-known encyclopedic work as follows:

"The recording of an assignment of a mortgage will not usually give constructive notice thereof to the mortgagor so as to invalidate subsequent payments on the mortgage debt made by him to the mortgagee. Actual notice of such assignment is necessary to bind the mortgagor, except where the mortgage secures a negotiable note." (Am. Eng. Encyc. Law, 2d ed., vol. 24, p. 148.)

It is sometimes stated in the decisions that the recording of a conveyance is notice to all the world, but this is too broad; and the more accurate statement is that the record imparts constructive notice to such persons only as would have been entitled to protection against the conveyance in case it had not been recorded, or, in other words, to such persons as are under a legal obligation to search for it. The operation of the record is prospective and not retrospective. It is only a subsequent conveyance which defeats a prior unrecorded conveyance, and therefore only persons who acquire their rights subsequently to the registration can be said to be charged with notice of a recorded conveyance. (Am. & Eng. Encyc. Law, 2d ed., vol. 24, p. 146.) The doctrine thus stated is fully and absolutely sustained by a great number of American authorities, of which a few are here mentioned. (George vs.

Wood, 9 Allen [Mass.], 80, 85 Am. Dec. 741; Foster vs. Carson, 159 Pa. St., 477, 39 Am. St. Rep., 696; Murphy vs. Barnard, 162 Mass., 72, 44 Am. St. Rep., 340; White vs. McGregor, 92 Tex., 556, 71 Am. St. Rep., 875; Lynchburg Perpetual Building, etc., Co. vs. Fellers, 96 Va., 337, 70 Am. St. Rep., 851.)

Of course, it would have been competent for the Legislature to declare that the registration of the transfer of a mortgage should operate as constructive notice to prior parties as well as subsequent purchasers; but we have never seen any enacted law in which a rule so sweeping has been declared. In the absence of such a provision it is apparent that registration should be considered prospective in its operation, as indicated in the authorities already cited.

The doctrine of the civil law, as expressed in article 1527 of the Civil Code, is entirely accordant with the view just expressed, for it is there stated that a debtor who, before having knowledge of the assignment, should pay the creditor shall be released from the obligation. This article is in no wise modified by anything in Act No. 1508, and we think it furnishes a general rule for the guidance of the courts in determining the application of the provisions of that Act upon the point now before us.

From what has been said it will be apparent that, in the opinion of the undersigned, the result reached in this case should be based on the proposition that, although the recording of a transfer of a chattel mortgage is authorized under the law, such Act does not affect the original debtor with notice.

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.