

WARNER, BARNES & CO., LTD., PLAINTIFFS AND APPELLEES, VS. RAMON FLORES, DEFENDANT AND APPELLANT.*G.R. No. 12377. March 29, 1961*

Ponente: PAREDES, J.

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By stipulation of the parties, the following facts are admitted:—

Defendant-appellant Ramon Mores, in November, 1940, purchased from plaintiffs-appellees Warner, Barnes & Co., Ltd., P3,027.90 worth of fertilizer and agreed to pay it on or before December 31, 1941, with 7% annual interest compounded quarterly. To guarantee the payment of the obligation, including interest and expenses of drafting, notarization and registration of the mortgage, the defendant mortgaged to the plaintiff 951 piculs of sugar of the crop year 1941-42. When the mortgaged crops were milled by the Ma-ao Sugar Central in 1941-42, the defendant's rented haciendas produced a total of 1,954.02 piculs of sugar of which 47 % was his share or 918.39 piculs. Out of defendant's share of 918.39 piculs, the plaintiffs received from the sugar central "quedans" for 278 piculs. Neither the plaintiff nor the defendant was able to sell the said 278 piculs or the remaining 640.39 piculs that had no "quedans", because at that time there were no sugar buyers due to lack of shipping facilities and to the eventual involvement of the Philippines in World War II. All the defendant's sugar and other sugar stored in the warehouse of the Ma-ao Sugar Central were burned, lost, destroyed or looted during the Japanese occupation of the province of Negros Occidental. Because the mortgaged sugar was not sold, the indebtedness of the defendant to the plaintiffs had a debit balance of P3,098.72 on April 30, 1942, three weeks before the Japanese occupied said province. On February 28, 1954, the fertilizer account of the defendant with the plaintiffs, had a debit balance of P5,223.41, to which interest should be added at the rate of P0.679.18 per day from March 1, 1954. Annex A of the complaint is the chattel mortgage involved.

On April 3, 1954, the present complaint was filed. The lower court rendered judgment on January 16, 1956. "condenando al demandado a pagar a la demandante la cantidad de P5,223.41 con interes al tipo del P0.67918 diarios computados desde el dia 1.º de Marzo de 1954 hasta su completo pago, mas un 20% sobre todo el importe de esta sentencia en concepto de honorarios de abogado y gastos de cobranza. Las costas se tasaran en contra el demandado". On appeal to the Court of Appeals, said Tribunal certified the case to Us for the questions raised by defendant-appellant are purely legal in nature. In effect, the appellant submits that the court a quo erred: (1) In finding and declaring that defendant shall bear and suffer the loss of the sugar in the warehouse of the Ma-ao Sugar Central; (2) In sentencing and condemning the defendant to pay the plaintiffs the amounts stated in the appealed judgment; and (3) In not declaring that from the sugar produced from the defendant's share, his monetary obligation with the plaintiffs has been completely paid and settled.

Appellant claims that for all legal intents and purposes, the appellees were already paid by him. He cited conditions Nos. 7, 8 and 10 of the chattel mortgage, Annex A, to support his contention.

"7. El Deudor Hipotecario por la presente autoriza y ordena a la Ma-ao Central para que durante la molienda de

la cosecha arriba mencionada, despues que se haya convertido en azucar, retenga de la participacion del mismo los 951 picos gravados con esta hipoteca, y remita mensualmente a la Acreedora Hipotecaria en Iloilo, el quedan correspondiente hasta que se hayan cubierto los 951 picos por la presente hipotecados, extendiendose dicho quedan a nombre del Deudor Hipotecario o a su orden pero, con una nota o memorandum en dicho quedan al sentido de que el azucar representado por el mismo esta hipotecado a Warner, Barnes & Co., Ltd. por el total de su valor. Esta autorizacion es firme e irrevocable sin el consentimiento por escrito de los Sres. Warner, Barnes & Co., Ltd.

8. "Queda tambien estipulado que en caso de que el Deudor Hipotecario dejare de pagar el importe del abono-garantizado por esta hipoteca dentro del plazo fijado en el parrafo 2 de esta escritura, la Acreedora Hipotecaria queda antorizada vender al azucar hipotecado en cualquier tiempo que estime conveniente, por el precio corriente en el mercado; reteniendo del producto de la venta el valor del abono arriba mencionado, juntamente con sus intereses devengados asi como los gastos ocasionados por la venta del referido azucar y entregando el sobrante, si hubiera al Deudor Hipotecario. Para efectuar dicha venta el Deudor Hipotecario, autoriza por al presente a Warner, Barnes & Co., Ltd., para endosar y firmar los quedanes correspondientes en su nombre y representacion ratificando desde ahora dicho acto como si el hubiere ejecutado personalmente.

10. "Y, por ultimo, queda asimismo convenido que en caso deque el Deudor Hipotecario no pudiera moler sus plantaciones de cañadulce por falta de gastos o cualquier otro motivo, la Acreedora Hipotecaria tendra derecho, a opcion suya, a constituirse en la Hacienda * * * y tomar completa posesion de la misma y de sus plantaciones de cañadulce, y de cuantos materiales, aperos de molienda, carabaos y obreros de sean necesarios, y llevara a cabo los trabajos de molienda, cargando a cuenta del Deudor Hipotecario todos los gastos reales y necesarios en que incurra con relacion a dichos trabajos incluyendo la labor, supervisiones, materiales y demas gastos necesarios y justos. Todos los gastos que por estos conceptos desembolsare la acreedora hipotecaria devengaran interes al tipo de . . . % annual, ademas de un 10% sobre el importe total de los gastos por la supervision de dichos trabajos."

In view of the above conditions, the appellant argues, thus: That plaintiffs have the first lien on and the sugar produced by the defendant which lien on all the sugar produced by the defendant which lien has preference over any and all other "gravamen" in the existing sugar of the defendant; the defendant had no control or power to withdraw the sugar from the Ma-ao Sugar Central; the plaintiff company had irrevocable power to sell the sugar of the defendant; the said sugar or net participation of the defendant including his properties, were under the exclusive control of the plaintiffs; the defendant produced sugar for the plaintiffs and this is all that matters; there is no condition in Annex A that of the sugar which were lost or destroyed, the defendant should bear the loss; and not having assumed the risk, the defendant should not be responsible for those events which could not be foreseen or which though foreseen were inevitable (Art. 1174, Civil Code); the defendant, having performed his part of the obligation and not being guilty of fraud, negligence or delay, is deemed to have completely paid and settled his obligation (Arts. 1170 and 1262, Civil Code), and the plaintiffs not having protested either to the defendant or to the central on its inability to sell or dispose the sugar because of the approaching war, the obligation is deemed duly complied with (Art. 1235, Civil Code).

The fundamental error of the defendant, however, may be- seen from the fact that he was the owner of the sugar which was lost, at the time of the loss, hence the fitness of the maxim: "Res Periit Domino Suo". The plaintiffs were mere mortgagees of defendant's sugar. Clause 8, of the Chattel Mortgage, heretofore quoted, did not transfer the ownership of the defendant's sugar to the plaintiffs. It merely authorized the plaintiffs to sell said sugar in case the defendant failed to pay on the maturity date (December 31, 1941), and to retain from the proceeds of the sale the value of the fertilizer bought, with the accrued interest and the expenses of the sale, and any surplus remaining after the defendant's obligation was paid, should be turned over to defendant. If the plaintiffs were the owner of the sugar, there would be no need for the defendant to authorize the former to sell it and the defendant would not

have any right to the surplus over and above his debt. This particular issue is no longer of first impression in this jurisdiction. In the case of *Martinez vs. Philippine National Bank*, 93 Phil., 765 it was held:

"* * *. It (bank) only accepts sugar as security for the payment of its crop loans and later on pursuant to an understanding with the sugar planter, it sells said sugar for them, or the planters find buyers and direct them to the Bank. The sugar was given only as a security for the payment of the crop loan. This is admitted by the appellant as shown by the allegations in its complaint filed before the trial court and also in the brief for appellant filed before us. According to law, the mortgagee or pledgee cannot become the owner of or convert and appropriate to himself the property mortgaged or pledged (Art. 1839, old Civil Code; Art. 2088, new Civil Code). Said property continues to belong to the mortgagor or pledgor. The only remedy given to the mortgagee or pledgee is to have said property sold at public auction and the proceeds of the sale applied to the payment of the obligation secured by the mortgage or pledge.

* * * * *

"In conclusion, we hold that where a warehouse receipt or quedan is transferred or endorsed to a creditor only to secure the payment of a loan or debt, the transferee or endorsee does not automatically become the owner of the goods covered by the warehouse receipt or quedan but he merely retains the right to keep and with the consent of the owner to sell them so as to satisfy the obligation from the proceeds of the sale, this for the simple reason that the transaction involved is not a sale but only a mortgage or pledge, and that if the property covered by the quedans or warehouse receipts is lost without the fault or negligence of the mortgagee or pledgee or the transferee or endorsee of the warehouse receipt or quedan, then said goods are to be regarded as lost on account of the real owner, mortgagor or pledgor."

It is to be noted that the position of the herein plaintiffs is even more advantageous than that of the bank, in the case just cited. In the *Martinez* case, the mortgagor endorsed and delivered the "quedans" representing all the mortgaged sugar to the mortgagee, whereas in the present case, only a part of the "quedans" were delivered to the mortgagees and they were not even endorsed at that. In fact the "quedans" were issued in the name of the mortgagor (Flores), or his order "pero con una nota o memorandum al sentido de que el azucar representado por el mismo esta hipotecado a Warner, Barnes & Co., Ltd. por el total de su valor". Of course, the defendant contends that the *Martinez* case is not applicable to the case at bar; we are fully satisfied, however, that the principles of law announced therein, govern the present case.

Judgment appealed from is affirmed. Costs against the defendant-appellant.

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

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