

VICENTE SY-JUCO AND CIPRIANA VIARDO, PLAINTIFFS AND APPELLANTS, VS. SANTIAGO V. SY-JUCO, DEFENDANT AND APPELLANT.

G.R. No. 13471. January 12, 1920

Ponente: AVANCEÑA, J.

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AVANCEÑA, J.:

In 1902 the defendant was appointed by the plaintiffs administrator of their property and acted as such until June 30, 1916, when his authority was cancelled. The plaintiffs are defendant's father and mother who allege that during his administration the defendant acquired the property claimed in the complaint in his capacity as plaintiffs' administrator with their money and for their benefit. After hearing the case the trial court rendered his decision, the dispositive part of which is the following:

"Wherefore, the court gives judgment for the plaintiffs and orders:

"1. That the defendant return to the plaintiffs the launch Malabon, in question, and execute all the necessary documents and instruments for such delivery and the registration in the records of the Custom House of said launch as plaintiffs' property;

"2. That the defendant return to the plaintiffs the casco No. 2584, or pay to them the value thereof which has been fixed at the sum of P3,000, and should the return of said casco be made, execute all the necessary instruments and documents for its registration in plaintiffs' name at the Custom House; and

"3. That the defendant return to the plaintiffs the automobile No. 2060 and execute the necessary instruments and documents for its registration at the Bureau of Public Works. And judgment is hereby given for the defendant absolving him from the complaint so far concerns:

"1. The rendition of accounts of his administration of plaintiffs' property;

"2. The return of the casco No. 2545;

"3. The return of the typewriting machine;

"4. The return of the house occupied by the defendant; and

"5. The return of the price of the piano in question."

Both parties appealed from this judgment.

In this instance defendant assigns three errors alleged to have been committed by the lower court in connection with the three items of the dispositive part of the judgment unfavorable to him. We are of the opinion that the evidence sufficiently justifies the judgment against the defendant.

Regarding the launch Malabon, it appears that in July, 1914, the defendant bought it in his own name from the Pacific Commercial Co., and afterwards registered it at the Custom House. But this does not necessarily show that

the defendant bought it for himself and with his own money, as he claims. This transaction was within the agency which he had received from the plaintiffs. The fact that he has acted in his own name may be only, as we believe it was, a violation of the agency on his part. As the plaintiffs' counsel truly say, the question is not in whose favor the document of sale of the launch is executed nor in whose name same was registered, but with whose money was said launch bought. The plaintiffs' testimony that it was bought with their money and for them is supported by the fact that, immediately after its purchase, the launch had to be repaired at their expense, although said expense was collected from the defendant. If the launch was not bought for the plaintiffs and with their money, it is not explained why they had to pay for its repairs.

The defendant invokes the decision of this Court in the case of *Martinez vs. Martinez* (1 Phil. Rep., 647), which we do not believe is applicable to the present case. In said case, Martinez, Jr., bought a vessel in his own name and in his name registered it at the Custom House. This Court then said that although the funds with which the vessel was bought belonged to Martinez Sr., Martinez Jr. is its sole and exclusive owner. But in said case the relation of principal and agent, which exists between the plaintiffs and the defendant in the present case, did not exist between Martinez, Sr., and Martinez, Jr. By this agency the plaintiffs herein clothed the defendant with their representation in order to purchase the launch in question. However, the defendant acted without this representation and bought the launch in his own name thereby violating the agency. If the result of this transaction should be that the defendant has acquired for himself the ownership of the launch, it would be equivalent to sanctioning this violation and accepting its consequences. But not only must the consequences of the violation of this agency not be accepted, but the effects of the agency itself must be sought. If the defendant contracted the obligation to buy the launch for the plaintiffs and in their representation, by virtue of the agency, notwithstanding the fact that he bought it in his own name, he is obliged to transfer to the plaintiffs the rights he received from the vendor, and the plaintiffs are entitled to be subrogated in these rights.

There is another point of view leading us to the same conclusion. From the rule established in article 1717 of the Civil Code that when an agent acts in his own name, the principal shall have no right of action against the person with whom the agent has contracted, cases involving things belonging to the principal are excepted. According to this exception (when things belonging to the principal are dealt with) the agent is bound to the principal although he does not assume the character of such agent and appears acting in his own name (*Decision of the Supreme Court of Spain, May 1, 1900*). This means that in the case of this exception the agent's apparent representation yields to the principal's true representation and that, in reality and in effect, the contract must be considered as entered into between the principal and the third person; and, consequently, if the obligations belong to the former, to him alone must also belong the rights arising from the contract. The money with which the launch was bought having come from the plaintiff, the exception established in article 1717 is applicable to the instant case.

Concerning the casco No. 2584, the defendant admits it was constructed by the plaintiff himself in the tatter's ship-yard. Defendant's allegation that it was constructed at his instance and with his money is not supported by the evidence. In fact the only proof presented to support this allegation is his own testimony contradicted, on the one hand, by the plaintiffs' testimony and, on the other hand, rebutted by the fact that, on the date this casco was constructed, he did not have sufficient money with which to pay the expense of its construction.

As to the automobile No. 2060, there is sufficient evidence to show that its price was paid with plaintiffs' money. Defendant's adverse allegation that it was paid with his own money is not supported by the evidence. The circumstances under which, he says, this payment has been made, in order to show that it was made with his own money, rather indicate the contrary. He presented in evidence his check-book wherein it appears that on March 24, 1916, he issued a check for P300 and on the 27th of same month another for P400 and he says that the first installment was paid with said checks. But it results that, in order to issue the check for P300 on March 24 of that

year, he had to deposit P310 on that same day; and in order to issue the other check for P400 on the 27th of the same month, he deposited P390 on that same day. It was necessary for the defendant to make these deposits for on those dates he had not sufficient money in the bank for which he could issue those checks. But, in order to pay for the price of the automobile, he could have made these payments directly with the money he deposited without the necessity of depositing and withdrawing it on the same day. If this action shows something, it shows defendant's preconceived purpose of making it appear that he made the payment with his own funds deposited in the bank.

The plaintiffs, in turn, assign in this instance the following three errors alleged to have been committed by the lower court:

"1. The court erred in not declaring that the plaintiffs did not sell to the defendant the casco No. 2545 and that they were its owners until it was sunk in June, 1916.

"2. The court erred in absolving the defendant from his obligation to render an account of his administration to the plaintiffs, and to pay to the latter the amount of the balance due in their favor.

"3. The court erred in not condemning the defendant to pay to the plaintiffs the value of the woods, windows and doors taken from their lumber-yard by the defendant and used in the construction of the house on calle Real of the barrio of La Concepcion, municipality of Malabon, Rizal."

Concerning the casco No. 2545, the lower court refrained from making any declaration about its ownership in view of the fact that this casco had been leased and was sunk while in the lessee's hands before the complaint in this case was filed. The lower court, therefore, considered it unnecessary to pass upon this point. We agree with the plaintiffs that the trial court should have made a pronouncement upon this casco. The lessee may be responsible in damages for its loss, and it is of interest to the litigants in this case that it be determined who is the owner of said casco that may enforce this responsibility of the lessee.

Upon an examination of the evidence relative to this casco, we find that it belonged to the plaintiffs and that the latter sold it afterwards to the defendant by means of a public instrument. Notwithstanding plaintiffs' allegation that when they signed this instrument they were deceived, believing it not to be an instrument of sale in favor of the defendant, nevertheless, they have not adduced sufficient proof of such deceit which would destroy the presumption of truth which a public document carries with it. Attorney Sevilla, who acted as the notary in the execution of this instrument, testifying as a witness in the case, said that he never verified any document without first inquiring whether the parties knew its content. Our conclusion is that this casco was lawfully sold to the defendant by the plaintiffs.

Concerning the wood, windows and doors given by the plaintiffs to the defendant and used in the construction of the latter's house on calle Real of the barrio of La Concepcion of the municipality of Malabon, Rizal, we find correct the trial Court's decision that they were given to the defendant as his and his wife's property.

Concerning the rendition of accounts which the plaintiffs require of the defendant, we likewise find correct the trial court's decision absolving the latter from this petition, for it appears, from the plaintiffs' own evidence, that the defendant used to render accounts of his agency after each transaction, to the plaintiffs' satisfaction.

From the foregoing considerations, we affirm the judgment appealed from in all its parts except in so far as the casco No. 2545 is concerned, and as to this we declare that, it having been sold by the plaintiffs to the defendant, the latter is absolved. No special findings as to costs. So ordered.

Arellano, C. J., Torres, Johnson, Araullo, Street, and Malcolm, JJ., concur.

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