

THE BACHRACH GARAGE AND TAXICAB CO. (INC.), PLAINTIFF AND APPELLEE, VS. VICENTE GOLINGCO, DEFENDANT AND APPELLANT.

G.R. No. 13761. July 12, 1919

Ponente: AVANCEÑA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-13761/>

AVANCEÑA, J.:

This case is brought for the recovery of a sum of money. Three causes of action are alleged. By the first cause of action, the plaintiff claims the amount of P7,583.93 with interests thereon from December 14th (the year not being mentioned therein), till the date it is fully paid in addition to the 25 per cent of the total amount. By the second cause of action, he claims the amount of P1,059.17 with interests thereon until fully paid plus the 25 per cent of the total amount; by the third cause of action, the amount of P1,534.75 with legal interests thereon. The lower court rendered judgment sentencing the defendant, for the first cause of action, to pay the amount of P7,583.93 with 10 per cent interest thereon from January 19, 1917, plus 12 1/2 per cent on the said amount; for the second cause of action, P1,059.17 with the same interest from the said date plus 12[^] per cent on the same amount; for the third, P1,534.75 with legal interest from January 19, 1917. From this judgment, the defendant appealed.

On this appeal, the appellant assigns three errors as having been committed by the trial judge, which we shall examine separately:

"FIRST ERROR.

"The lower court erred in not imputing the amount of ^7,000 to that of P8,750, as partial payment of the price of a truck, M. White, of 45 horse-power, the object of the promissory note Exhibit A."

The first error assigned refers to the first cause of action. On August 23, 1915, the defendant subscribed in favor of the plaintiff a promissory note (Exhibit A), to the following effect: "P8,750.

"BACHRACH'S GARAGE & TAXICAB CO., (INC.)

"MANILA, August 23, 1915.

"In Manila, on the 1st day of September, 1916, after this date, without days of grace, for value received, I jointly and severally promise to pay to E. Bachrach or to his order the sum of eight thousand seven hundred and fifty pesos, with the corresponding interests from this date at the rate of 10 per cent per annum, the right to protest and notice being hereby completely and expressly waived.

"We, moreover, bind ourselves, in case it should become necessary to employ an attorney for the recovery of this note, to pay to the holder of the said note 25 per cent of the capital and interests of the said note, by way of fees for the attorney who may be employed to so recover it."

On February 16, 1916, the defendant wrote to the plaintiff the following letter, Exhibit 1:

"Tabaco, February 16, 1916.

"Messrs. Bachrach's Garage

"& Taxicab Co., Inc.

"DEAR SIRS : Enclosed is a check No. 203 for the amount of P7,000 against Jose Maria Aldecoa, in your favor, on the account of the price of a truck M. White of 45 horse-power. The balance of said price of P1,750 shall be paid to you in June, when I go there to settle all my accounts.

"You will please deliver the truck together with its accessories and license to Mr. Ricardo Lanuza, who is coming on board the steamer Sorsogon.

"I remain, your sincere friend."

On the 23d of the same month of February, 1916, the plaintiff answered the above-quoted letter of the defendant, as follows, which is Exhibit C: "Mr. Vicente Golingco,

"Tabaco, Albay, P. I.

"DEAR SIR AND FRIEND: Enclosed with your esteemed letter of the 16th instant, we received the sum of P7,000 in check which we apply to the payment on account of the purchase price of the White truck, of 45 horse-power, the price of which is P9,000. The truck is being shipped to you today.

"The absence of an answer from you to our telegram of last Saturday makes us believe of your conformity to the same.

"Your representative, Mr. Lanuza, will be the bearer of the accessories of the same as well as the license of the truck.

"We have been wondering why, after you have promised to buy from us a special car which we have reserved for you for three months at your special order, you have not decided to purchase, for which reason you have disappointed us.

"Very truly yours,

"BACHRACH'S GARAGE & TAXICAB CO.

"By....."

The question raised in this first assignment of error is whether, as alleged, by the defendant, the payment of P7,000 which appears in Exhibit 1 is on the account of the promissory note for P8,750, Exhibit A. The trial court decided this question affirmatively, but declared that the plaintiff, in his answer Exhibit C made another application of this payment without the objection of the defendant. The court concludes that the payment of P7,000 in Exhibit 1 should not be understood as applied to the note for P8,750 (Exhibit A). The defendant contends on this appeal that the plaintiff had no right to change in this manner the application of the payment of P7,000. We do not need to decide this question. After having examined all these three documents, we come to the conclusion that the payment of P7,000, which the defendant makes in his letter Exhibit 1 is not a payment for the note, Exhibit A.

Exhibit 1 seems to convey clearly that the payment of P7,000 which the defendant makes therein refers to the price of a 45 horse-power M. White truck, which the defendant wanted to be delivered to Ricardo Lanuza together with its accessories and license. It is likewise clear that the defendant, in its answer Exhibit C, in saying that it applied the P7,000 to the price of the 45-horse-power White truck, referred to the every truck together with its accessories and license, which was to be delivered to Lanuza as the defendant desired. It, therefore, appears clearly that the application which the defendant desired to make in his letter Exhibit 1, wherein he made the payment of P7,000. is the same application which the plaintiff made, according to its answer Exhibit C.

It is, however, necessary to explain one circumstance. According to the tenor of the defendant's letter Exhibit 1, it

appears to have been understood by him that the price of 45-horse-power M. White truck, of which he speaks in his letter, is P8,750. On the other hand, the price of the 45horse-power White truck, referred to by the plaintiff in its answer Exhibit C is P9,000. It is to be concluded that the object of the plaintiff in saying in its letter that the price of the truck is P9,000 was to rectify the belief of the defendant as shown by this letter, that this price is P8,750. Hence, in its answer, the plaintiff speaks of a telegram sent to the defendant and which has not been answered by the latter, which facts has led the plaintiff to say: "The absence of an answer from you to our telegram of last Saturday makes us believe of your conformity to the same." This undoubtedly refers to the rectification with regard to the price of the truck.

Examining the terms of the promissory note Exhibit A, we find that the P8,750 for which the defendant appears to be indebted to the plaintiff is not the price of the 45-horsepower M. White truck which is referred to in the defendant's letter Exhibit 1.

In this Exhibit A of August 23, 1915, the defendant stated that he owed the plaintiff this amount of P8,750 with the obligation to pay an interest of 10 per cent per annum on said debt from that date. We fail to understand how it can be interpreted that this amount is the price of the 45-horse-power M. White truck, which the defendant, on February 16, 1916, had not yet received and only requested on this date that it be sent through Ricardo Lanuza. We fail to understand why the defendant, on August 23, 1915, issued a promissory note, with the obligation of paying interests, in payment of a truck which he had not yet received, and which, as has been seen, was not received by him until after February 16, 1916.

Moreover, it should be noted that the promissory note Exhibit A, is an obligation with a period which did not expire till after September 1, 1916. This is a period which should be presumed to have been established for the benefit of both the creditor and debtor, inasmuch as it can not be inferred from the tenor of the promissory note or from other circumstances that such term has been established in favor of one or the other. (Article 1827, Civil Code.) Such term benefits the defendant for it gives him time to pay the debt. It also benefits the plaintiff, as he can recover the interest on the debt so long as the latter is not paid. Neither could the plaintiff exact payment nor the defendant make payment before the expiration of the term. As the defendant's letter Exhibit 1, wherein he makes the payment of P7,000, is dated February 16, 1916, before the said note became due, it should be presumed that it is not a payment for this note which the defendant on that date was neither obliged nor able to pay.

With regard to the first error assigned, our conclusion is that the payment of P7,000 which the defendant makes in his letter Exhibit 1 does not refer to his note for P8,750, Exhibit A. According to article 1172 of the Civil Code, a person owing several debts of the same kind in favor of a single creditor may declare at the time of making a payment to which of them it is to be applied. If, in making use of this right, the defendant applied the payment of P7,000 to another debt, he can not now claim that it is understood to be applied to his note for P8,750, Exhibit A.

"SECOND ERROR.

"The court erred in sentencing the defendant to pay to the plaintiff corporation: 1. (a) the eight per cent, (b) the ten per cent and (c) the twelve and one-half per cent of the P7,583.93 which is the amount claimed in the first cause of action. 2. (a) the eight per cent (8 per cent), (b) the ten per cent (10 per cent) and (c) the twelve and one-half per cent (12 1/2 per cent) of P1,059.17 which is the sum claimed, in the second cause of action."

As may be seen, the promissory note Exhibit A, the object of the first cause of action, amounts to P8,750. The amount of P1,921.67 was paid on account, on November 2, 1915. When this partial payment was made, there was due on the amount of P8,750, the amount of P138.05 as interests at the rate of 8 per cent per annum, as alleged in the complaint; deducting from P8,750 the amount of P1,921.67, the value of the promissory note was thus reduced on November 2, 1915, to P6,828.33. The trial court added to this balance the interests of P138.05 and

sentenced the defendant to pay interest on this amount thus accumulated from November 2, 1915, till January 19, 1917, when the complaint was filed. In this manner, the lower court has adjudicated to the plaintiff interest on accrued interests till November 2, 1915. This is an error. Article 1109 of the Civil Code only permits, accrued interests to earn legal interest from the time they have been judicially claimed. Section 5 of Act No. 2655 also prohibits accrued interests to earn interest, except when there has been an agreement or when they have been judicially claimed. In this case the lower court awarded to the plaintiff these interests over the accrued interests, without an agreement to that effect and before they had been judicially claimed.

It also appears that the lower court sentenced the defendant to pay an interest of 10 per cent on the accrued interests from January 19, 1917, when the complaint was presented, until it should have been fully paid. This is also an error. Section 5 of the above-cited Act No. 2655 only permits an interest of 6 per cent on accrued interests from the time they are judicially claimed.

With regard to the amount of P1,059.17 to which the second cause of action refers, it is seen that the P1,000 is the amount of the original debt contracted by the defendant on May 15, 1916, and P59.17 are the interests accruing thereon till January 19, 1917, the date of the filing of the complaint. The lower court sentenced the defendant to pay the interest of 10 per cent of this entire amount from January 19, 1917, until it should have been fully paid. For the same reasons we have already indicated, it is error for the lower court to have sentenced the defendant to pay 10 per cent interest on P59.17 the accumulated interests on the capital, because the defendant should have been sentenced to pay 6 per cent interest only. (Section 5, Act No. 2655.)

Hence, the judgment that the court should render in connection with the first two causes of action should be to sentence the defendant to pay the amount of P6,828.33 with 10 per cent interest per annum from January 19, 1917; to pay the amount of "P755.70 with 6 per cent interest per annum from January 19, 1917; for the second cause of action, to pay P1,000 with 10 per cent interest per annum from January 19, 1917; and to pay P59.17 with 6 per cent interest per annum from January 19, 1917.

In the promissory notes subscribed by the defendant for the amounts stated in the first and second causes of action, the defendant bound himself to pay to the plaintiff 25 per cent of the capital and interests, by way of counsel fees, in case that, for noncompliance with his obligation, it would become necessary for the plaintiff to employ an attorney for the collection of the amount of the said notes. By virtue of this stipulation, the lower court sentenced the defendant to pay 12 1/2 per cent on the capital and accrued interests, thus reducing to one-half the 25 per cent agreed upon in the notes.

The defendant contends that this 25 per cent which was reduced to 12¹/₂ per cent by the lower court is illegal and contrary to Act No. 2655, inasmuch as, in addition to the interests stipulated in the said notes, it exceeds the interest allowed by this Act. We are of the opinion that the rate specified in this Act is not applicable to the instant case. In an obligation to pay a certain sum of money, the interest is a form of indemnification for damages. These damages may consist in the loss of the very thing itself or in the deprivation of the enjoyment which should have been obtained through its use. In ..a certain case, whatever may be the damages that the word interest in its broad sense may include, it appears clearly that the interest which is the object of computation according to Act No. 2655 is only that which represents the enjoyment or gain which is not obtained. We do not believe that it is the intention of the legislator to extend this computation to the resultant damages which make up the loss suffered. The stipulation that in case of noncompliance the debtor shall pay a fixed amount for the fees of the attorney who may be employed by the creditor for the purpose of enforcing compliance with the obligation is not deemed to be an interest within the purview of Act No. 2655, and neither is the computation fixed in the said Act applicable thereto. It is not an indemnity for gain which can not be realized, but an amount which the creditor spends and which constitutes a loss really suffered by reason of the noncompliance with the obligation. It is not a payment

which the debtor is necessarily obliged to make, inasmuch as he can avoid making such payment by complying with his obligation. It is clear that, when the amount stipulated for the attorney's fees is so exorbitant that it exceeds that which should justly be paid for that purpose, the excess shall be considered as indirect or simulated interest, according to the spirit of the law, and should therefore be subject to the computation. In the case at bar, however, the 12 1/2 per cent of the amount due to which the trial reduced the 25 per cent stipulated represent, in our opinion, the amount which the plaintiff was justly obliged to pay for his attorney's fees, and should not be considered as interest in the computation of the latter. Therefore, the lower court did not err in sentencing the defendant to pay 12 1/2 per cent on the amount due.

"THIRD ERROR,

"The lower court erred: (a) in sentencing the defendant; and (b) in not sentencing the plaintiff corporation to pay to the defendant the sum of P¥678.50 which is the difference between the amounts paid by the latter and the total amount claimed by the former in his complaint, excluding interests and costs."

The first part of this error is decided in the manner indicated hereinbefore. With regard to the second part, we have examined the evidence and fail to find any ground sustaining the contention of the appellant.

In view of the foregoing, the judgment appealed from is hereby affirmed, with the following modification: The defendant shall pay to the plaintiff, for the first cause of action, the amounts of P6,828.33 with 10 per cent interest per annum from January 19, 1917, and P755.60 with 6 per cent interest per annum from January 19, 1917; for the second cause of action, the amount of P1,000 with 10 per cent interest per annum from January 19, 1917, and P59.17 with 6 per cent interest per annum from January 19, 1917. There is no special finding as to costs. So ordered.

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

Malcolm, J., concurs in the result.

Judgment modified.

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.