

TRINIDAD FERNANDEZ AND BASILISA FERNANDEZ, PLAINTIFFS AND APPELLANTS, VS. BENJAMIN G. GARRIDO, DEFENDANT AND APPELLEE.*G.R. No. 14807. March 17, 1920*

Ponente: TORRES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14807/>**TORRES, J.:**

On February 26, 1899, Brigida Lansag and the defendant Benjamin C. Garrido entered into a contract by virtue of which the former was to deliver to the latter one hundred sixty-six (166) head of large cattle to be taken care of and preserved with the understanding that the young produced thereby were to be divided into two equal parts between the parties without any responsibility on the part of the defendant to answer for the loss which might have been caused by sickness or accident, provided the owner has been notified thereof, and with the right of selling the young which he may deem convenient, delivering one-half of the proceeds of the sale to the owner of the cattle or to her daughter Basilisa Fernandez (Exhibit B, p. 37).

Upon the death of Brigida Lansag in 1903 or 1904, her two daughters Basilisa Fernandez and Trinidad Fernandez, the plaintiffs herein, entered into an agreement with the defendant Benjamin C. Garrido to carry on the former contract under the same conditions as formerly established during the lifetime of Brigida Lansag, that is, Benjamin C. Garrido is to continue as usufructuary of the large cattle that had been delivered to him by the deceased Brigida Lansag, then in his possession, with the right to participate in the increase thereof, share and share alike with the two sisters (pp. 86, 87, sten. notes).

On July 12, 1916, Trinidad Fernandez filed a complaint with the Court of First Instance of Leyte and, after alleging the existence of the aforementioned contract, and the fact that since the death of her mother Brigida Lansag she has received from the defendant only 19 head of cattle out of the 2,000 into which the original number under the care of the said defendant, Benjamin C. Garrido, has multiplied, prayed that the latter be ordered to deliver to her the 166 head which the capital of the partnership, originally consisted plus one-half of the aforementioned 2,000 head, deducting therefrom the 19 head she has already received before or in default thereof to pay the amount in cash at the rate of P50 per head, with the costs of this instance against the defendant.

In answer to this complaint, the defendant denied generally all the essential allegations thereof, and prayed for the dismissal of the same with costs against the plaintiff.

After the foregoing answer has been filed, Basilisa Fernandez appeared and asked the court to allow her to intervene as party plaintiff, and in effect alleged that she takes for her complaint all the averments of the plaintiff Trinidad Fernandez and that she had the same interest as the latter in the cattle in question for she is her sister.

The court having admitted the intervention of Basilisa Fernandez as party plaintiff, the defendant amended his former answer, denying generally all the essential averments of the plaintiff's complaint, and alleged as special defense that the cause of action of the latter has already prescribed.

The case having been tried and the evidence adduced by both parties heard, the court on October 23, 1917, rendered its decision declaring that a liquidation has already been had between the parties and that the plaintiffs have no longer any right to the cattle existing in the possession of the defendant, and absolved the latter from the complaint, with costs against the plaintiffs.

Against this decision counsel for the plaintiffs excepted, interposed an appeal, and filed the corresponding bill of exceptions after the motion for a new trial was overruled. The court having approved said bill of exceptions, same was forwarded to the clerk of this court together with the evidence adduced at the trial.

The question involved in the trial court and raised in this court on this appeal by the assignments of error submitted by the appellants is very simple, and is reduced only to whether or not liquidation has already been made between the parties, and the corresponding portion has been delivered to each interested party, thereby dissolving the partnership then existing between them.

In the Exhibit 5 dated June 26, 1913, Trinidad Fernandez declared having received 26 head of cattle from Benjamin C. Garrido, and that the latter was then free from all responsibility (see Exhibit 5, p. 61 of the rec. and p. 14 of the B. of E.).

In the Exhibit 12 Basilisa Fernandez declares on July 3, 1913, having received from Benjamin C. Garrido 6 cows as the share belonging to her (Exhibit 12, p. 72 of the rec. and p. 15 of the B. of E.).

Both sisters admit having signed the two foregoing documents Exhibits 5 and 12, respectively (pp. 77 and 102, sten. notes), but pretend that when they signed them they did not understand the contents thereof because they did not read them (pp. 79 and 103, sten. notes).

Benjamin C. Garrido testified that he personally made a liquidation with Basilisa Fernandez in Villahermosa; that some time afterwards and when the son of Basilisa Fernandez, named Mariano Casaos, was in Villahermosa, he drafted Exhibit 12 and delivered it to the said Mariano Casaos at the same time when he delivered the cows corresponding to the latter's mother in order that said animals may be placed on board the vessel of one Constantino Martinez, and carried to Caibiran where Basilisa Fernandez was, and there deliver them to her and ask her to sign this document Exhibit 12; that in effect that was what happened, and the said Constantino Martinez on his return brought with him this document signed by Basilisa Fernandez (pp. 130-132, sten. notes).

Basilisa Fernandez admitted that her son Mariano was the bearer of Exhibit 12 and that the cows were sent to her on board the vessel of Constantino Martinez where her son was sailing, and that said Constantino Martinez, who was managing the vessel, did not land so that she signed Exhibit 12 only in the presence of her son, who was also the one who asked her to sign it in order to deliver same on that very moment to Constantino Martinez (pp. 102, 103, sten. notes).

Basilisa Fernandez speaks Spanish, according to her own admission (p. 106, sten. notes), and it appears from the evidence that she understands this language and testified in Spanish, for it is shown in the record that in the course of her testimony she asked the court but once to have a question propounded to her translated into Visaya which shows that she possesses enough if not perfect knowledge of the Spanish language. Benjamin C. Garrido cannot ignore this circumstance, it being shown that he received various letters from her written in Spanish during the year 1910 (Exhibits 8 to 11, pp. 65-70). Moreover, before drafting Exhibit 12, Basilisa Fernandez had been in Benjamin C. Garrido's house in Villahermosa (p. 132, sten. notes), and she is his comadre [godmother] (p. 90, sten. notes) a fact presupposing certain intimate relations, as Basilisa Fernandez says that formerly they were friends; and as Benjamin C. Garrido is a Spaniard, a fellow countryman of plaintiff's father, according to their counsel's own declaration, it is evident that, the defendant Benjamin C. Garrido and the plaintiff Basilisa

Fernandez knowing how to speak Spanish, it was impossible that they had not talked to each other in this language.

It is therefore a fact that when Benjamin C. Garrido drafted Exhibit 12 and forwarded it to Basilisa Fernandez through her own son Mariano Casaos or his friend Constantino Martinez, he knew that Basilisa Fernandez understood the Spanish language and would know the contents of said Exhibit 12, which Basilisa Fernandez would have to read, it being: very short and simple. Now then under these circumstances it is morally impossible that Benjamin C. Garrido would have drafted Exhibit 12 in the form he had done it, simply for the purpose of securing an evidence of liquidation which has never taken place, because he who attempts to deceive and defraud another will not follow this procedure. Hence, in drafting the document Exhibit 12, its author did not contemplate enriching himself at the expense of another. Wherefore, the contents of Exhibit 12 are true as well as the facts and circumstances, the existence of which is logically inferred from the contents thereof, i. e., that there has been a liquidation assented to by both parties, a definite partition of the cattle which is the object of the partnership and a complete delivery of the portions thereof which belonged to the interested parties.

Having established the incontrovertible fact that there had been a liquidation at least between Basilisa Fernandez and Benjamin C. Garrido wherein, after determining the portion corresponding to said Basilisa Fernandez, there was necessarily left fixed that portion belonging to her sister Trinidad Fernandez, it is then easy to affirm the probability, if not the certainty, of the fact mentioned in Exhibit 5, which had been signed by Trinidad Fernandez only a few days before Exhibit 12 was signed by her sister Basilisa Fernandez.

Taking into consideration all the foregoing facts in the light of all the circumstances which appear in the records in an incontrovertible manner, we shall reach the inevitable conclusion that Benjamin C. Garrido's allegation is true, i. e., that there had been a final liquidation between Benjamin C. Garrido and the two sisters, the plaintiffs.

In fact, Trinidad Fernandez admits having¹ received from Benjamin C. Garrido 25 cows in June, 1913, having sent 7 of them to Maasin and the remainder having been left to the care of Paula Sabinay, the defendant's wife (pp. 51 and 52, sten. notes). It is evident that said cattle are those mentioned in Exhibit 5 although this document mentions 26 head, because Trinidad Fernandez herself says that it was on the day on which she signed Exhibit 1, i. e., it was on the 25th of June, 1913 (see Exhibit 1, p. 56 of the rec. and p. 13 of the B. of E.), when she received the 25 head of cattle (p. 76, sten. notes), and that Exhibits 1 and 5 were executed before her departure from Villahermosa, departure which took place on the 26th of June, 1913, the date of Exhibit 5, in order to appear of record the fact that she left the 19 head of cattle, which she could not carry with her, in the possession and care of Paula Sabinay (pp. 76 and 82, sten. notes), thereby admitting that she had received 26 (not 25) head when she was in Villahermosa and that she had executed the documents Exhibits 1 and 5, in order to acknowledge the receipt of the said 26 head (Exhibit 5) and fix the conditions under which the 19 head were to be left in the possession and care of Paula Sabinay (Exhibit 1), the same conditions under which Benjamin C. Garrido took care of Brigida Lansag's cattle.

When Trinidad Fernandez was asked why she took so many cattle or cows from the possession of Benjamin C. Garrido, she answered that the reason was the fact that she needed them in order to defray the expenses of repairing her house in Maasin which had been destroyed by a baguio [typhoon] (p. 51, sten. notes). But this is not true because, far from hiding the real motive establishing the falsity of her pretension, it clearly shows that if she took away those cattle it was because said act gave end to her relations with Benjamin C. Garrido, i. e., the contract of partnership was thereby definitely dissolved for she herself admitted that the animals which she left to the care of Paula Sabinay were received by the latter on condition that she would take care and preserve them in order that they would multiply and that they were to divide the young which may be had (p. 52, sten. notes).

Now then, if it is true that she took these 26 animals in order to sell them to defray out of the proceeds thereof the expenses of the repairs of her house in Maasin, why did she then permanently leave those animals in the possession of Paula Sabinay on the condition that the latter should rear them, the increase thereof to be afterwards divided between them? It is therefore evident that at that time Trinidad Fernandez did not need all the said animals, and if she took them, it was because that act was to dissolve the partnership she had with Benjamin C. Garrido, and the latter is thereby exonerated from all responsibility, as Exhibit 5 says.

Counsel for the appellants argues that the latter signed Exhibits 1, 5 and 12 without understanding in details the contents thereof. But his argument only proves that in maintaining this theory he did not have a detailed knowledge of the contents of the record.

In effect, speaking of the Exhibits 1 and 5, counsel says that it is incomprehensible as it is improbable that Benjamin C. Garrido would have been relieved from all responsibilities in order to transfer them to Paula Sabinay, the woman whose marriage to Benjamin C. Garrido had caused the relaxation of the friendly relations between the latter and Trinidad Fernandez.

It is really incomprehensible that, the partnership having been dissolved, Trinidad Fernandez would have had any dealings with Paula Sabinay, if it be supposed that the latter was the cause of the unfaithfulness or inconstancy of Benjamin C. Garrido. But this supposition is false for Paula Sabinay was married to Benjamin C. Garrido afterwards, i. e., in 1915 (p. 163, sten. notes), and when the liquidation was effected in 1913, the plaintiffs were still in very good terms with Benjamin C. Garrido and with the same Paula Sabinay, as admitted by said plaintiffs, the latter admitting that it was in November, 1916 (p. 90, sten. notes) and in 1915 (pp. 63 and 68, sten. notes) that Basilisa Fernandez and Trinidad Fernandez, respectively, were in bad terms towards Benjamin C. Garrido, inasmuch as in her letter dated the 22d of August, 1913, which was addressed to Constantino Martinez, Trinidad Fernandez considers Paula Sabinay as her friend (Exhibit 6, p. 62).

Therefore, having established the fact that when the documents Exhibits 1, 5 and 12 were executed in 1913, the parties were still in good terms, it is not strange that Trinidad Fernandez, being unable to carry along with her to Maasin all the cattle corresponding to her as her portion in the liquidation and division which were made to her entire satisfaction, would have left the 19 head under the care of Paula Sabinay.

Counsel for the appellants also argues that Exhibit 5 was artfully prepared for if Benjamin C. Garrido would deem it convenient to exonerate himself from any responsibility it would be enough to tear up this document; and if Paula Sabinay would deem it convenient to exonerate herself of her responsibility of the cattle in her possession belonging to Trinidad Fernandez, she had only to destroy the document. However, it has been forgotten in this allegation that if Exhibit 5 were destroyed, Benjamin C. Garrido as well as Paula Sabinay would remain responsible: first, because Benjamin C. Garrido would not have any evidence of the liquidation that had been carried out, second, because Constantino Martinez—who knew that Paula Sabinay had cattle belonging to Trinidad Fernandez, not only because he was in Villahermosa when the said cattle were delivered to Paula Sabinay (pp. 75, 76, sten. notes), but because he was one of those who signed the Exhibit 5 and was then a friend and attorney in fact afterwards of Trinidad Fernandez (p. 79, sten. notes and Exhibit 7, fol. 63) might be able to testify against Benjamin Garrido and Paula Sabinay.

Moreover, counsel for the appellants is also wondering why it appears in Exhibits 1, 5 and 12, that 26 head were allotted to Trinidad Fernandez and 6 to Basilisa Fernandez when both of them have equal participation in the cattle in question. But this pretension once more shows a real or apparent ignorance of the result of the proceedings, for the appellants themselves admit that during the lifetime of the contract they had been taking different amounts of money and cattle from Benjamin C. Garrido in part payment of their respective shares (pp.

64-68 and 86-87, sten. notes).

Besides the foregoing circumstances from which it can be certainly inferred that there had been a real and final liquidation of the partnership between the parties, the same Exhibits 1, 5 and 12 support this conclusion, it being not possible to uphold the appellant's pretension that they signed said exhibits without the knowledge of the contents thereof.

In fact, it appears in the records that the plaintiffs testified in Spanish at the hearing and talked in Spanish (pp. 75, 106 and 126, sten. notes) and their testimonies reveal little sign of flexibility and an uncommon intelligence and experience, for on various occasions the court had to order them to answer what they were asked for because they were trying to evade the cross-questions as much as possible, having shown in the course of their testimonies a sagacious intelligence and a mastery of the circumstances equal if not more than that of the clever attorney of the opposing party who subjected them under the most rigid cross-examination. Now then, can it be believed that two persons of the character and frame of mind of the sister plaintiffs had been surprised and deceived when asked to sign the three documents Exhibits 1, 5 and 12 ?

Moreover, the testimonies of these two plaintiffs are so improbable, contradictory and insincere that they cannot be given any credit.

In fact, Trinidad Fernandez attempted to make the court believe that in June, 1913, she took 25 head of cattle from Benjamin C. Garrido which she needed to meet the expenses of the repairs of her house, but in the following line she said that she left 18 of them in the possession of Paula Sabinay to be taken care of in order that they might reproduce (pp. 51-52, sten. notes). She also had the sagacity to say that she did not know whether the signature appearing in the letter Exhibit 2 was her own, and stubbornly maintained that she could not see her signature because her eyes were aching, nor could she be made to change her theory by reminding her of the oath she took before the court as witness. But a few moments afterwards she could see and acknowledge her signature in the letter Exhibit 3 (p. 61, sten. notes). Upon reading to her her letters Exhibits 3 and 4 which were written in Spanish, she understood them very well, but when Exhibit 1, which is also written in Spanish, was read to her, she asked that same be translated to her in Visaya, alleging that she could not understand Spanish (pp. 74, 75, sten. notes). Now then, can a person who testifies according to the dictates of her fancy be given any faith when by her uncorroborated testimony she pretends to deny the contents of a document signed by her and when another disinterested person, Constantino Martinez, who for a time had been her attorney-in-fact, assures (p. 176, sten. notes) that she read it before affixing her signature thereon?

Almost the same thing can be said of Basilisa Fernandez, for she testified in the beginning that there was no rinderpest in Villahermosa in 1902, but confronted by the cross-examination, she had to modify her testimony stating that in 1902 few cattle died, and at last openly contradicted herself by admitting that there really was rinderpest in 1902, even though afterwards she insisted that there was none according to her belief. She also denied in the beginning that there was rinderpest in Villahermosa in 1910, but on account of her own letter dated November 4, 1910 (Exhibit 9, p. 64), in which she was inquiring from Garrido if how many head of cattle were left after the rinderpest, alleging however that all the cattle constituting the partnership did not die (p. 93, sten. notes), and in spite of this admission she again denied that there was rinderpest in Villahermosa in 1910, saying that according to her belief it occurred in 1900 (p. 94, sten. notes).

However, where the case acquires a repugnant character is in the testimony of Basilisa Fernandez concerning her letter Exhibit 8 dated July 26, 1910, (p. 65) addressed to Benjamin C. Garrido in which she talked about the rinderpest in 1902, and asked Benjamin C. Garrido that if any one would ask him about her cattle, he should answer that all had perished from the rinderpest in 1902.

As has already been said, Basilisa Fernandez attempted to deny the existence of rinderpest in 1902 and that in 1910, and wanted to establish the existence of that in 1900 as certain, in which, according to her, few cattle died. But upon seeing that she was contradicted by her letter Exhibit 8, she twice tried to evade the questions propounded to her by answering things of which she was not asked until the judge, being vexed by these evasions, had to interrupt and ordered her to answer the question, and then she said that what Exhibit 8 purports to say is not false (pp. 94, 95, sten. notes). But then upon being asked whether what said Exhibit 8 purports to say was or was not a lie, she answered that Benjamin had instructed her what to say: i. e., that none of the cattle was saved. Then she immediately requested the court to translate the question in Visaya, in spite of the fact, as has already been said, that she understood and was talking in Spanish. And when the interpretation sought was complied with, she unhesitatingly testified that the content of the document Exhibit 8 is false (pp. 95, 96, sten. notes).

The judge, who saw the witnesses testify, says in his decision that, comparing the attitude of the plaintiffs with that of the defendant and his witnesses, he is forced to conclude that there is no sufficient ground to support the plaintiffs' theory.

The revocation of the judgment of the trial court is sought for in this instance, but in the brief of the appellants, who ask for this revocation, the evidence of record is not fully discussed except Exhibits 1, 5 and 12. And from what has been mentioned about these documents and the oral evidence, there are noted an inadequate knowledge of the proceedings and a lack of a careful study of the evidence thereof.

This is not the first time that briefs of this kind have been presented, and this court is not obliged under the law to review the evidence if the appellant beforehand has not taken the trouble to examine the same and thereby show that the lower court had committed an error, because article 497 of the Code of Civil Procedure only provides that this court may review the evidence when there has been a motion presented in the trial court that the decision appealed from is not sufficiently justified by the evidence, but does not order that said review must necessarily be made. Wherefore, presuming that the decision of the lower court is justified by the evidence, this court will not reverse it or review the evidence, unless the appellant points out in his brief the evidence or the collection of evidence showing the error of the lower court.

In view of the foregoing considerations in which the errors attributed to the judgment appealed from are refuted, same is affirmed as we do hereby affirm it, with costs against the appellant. So ordered.

Arellano, C. J., Araullo, Street, Malcolm, and Avanceña, 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.