

**PACIFIC COMMERCIAL COMPANY, PLAINTIFF AND APPELLEE, VS.
ABOITIZ & MARTINEZ ET AL., DEFENDANTS. JOSE MARTINEZ,
DEFENDANT AND APPELLANT.**

G. R. No. 25007. March 02, 1926

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-25007/>

OSTRAND, J.:

In April, 1919, Arnaldo F. de Silva, Guillermo Aboitiz, Vidal Aboitiz and Jose Martinez formed "a regular, collective, mercantile partnership" with a capital of P40,000 of which each of the partners Aboitiz and De Silva furnished one-third. The partner Jose Martinez was an industrial partner and furnished no capital; it was provided in the partnership article that he was to receive 30 per cent of the profits and that his responsibility for losses should not exceed the amount of the profits received by him.

On April 27, 1922, the partnership, through its duly authorized representative, Guillermo Aboitiz, executed a promissory note in favor of the plaintiff, the Pacific Commercial Company, for the sum of P23,168.71, with interest at 12 per cent per annum until fully paid and an additional sum of 10 per cent as attorney's fees and costs of collection in the event it became necessary to resort to judicial proceedings. As security for the payment of the note, the partnership executed a chattel mortgage in favor of the plaintiff on certain personal property therein described.

For failure of the partnership to pay the debt, the chattel mortgage was foreclosed, the mortgaged property sold, and the proceeds of the sale, P2,000, was paid over to the plaintiff on December 28, 1923. No further payment on the note appears to have been made and, on January 4, 1924, the present action was brought for the recovery of the unpaid balance with interest. Upon trial, the court below rendered judgment in favor of the plaintiff and against the partnership for the sum of P27,951.68 and for the payment of interest on the capital of P21,168.71 at the rate of 10 per cent per annum from the 31st of October, 1924, until paid, together with 10 per cent on the amount due for fees for collection in accordance with the terms of the aforesaid note. The judgment further provided that execution should first issue against the property of the partnership Aboitiz & Martinez and that in the event of the insolvency of the partnership, it might issue against the property of the partners De Silva and Aboitiz, and in the event of their insolvency, then against the property of the industrial partner Jose Martinez. From this judgment Martinez appealed to this court and here maintains that under article 141 of the Code of Commerce he, as a mere industrial partner, cannot be held responsible for the partnership's debt.

The case is practically identical with that of the *Compañia Maritima vs. Munoz* (9 Phil., 326), in which this court held the industrial partners secondarily liable for the debts of the partnership, but on the strength of the vigorous dissenting opinion of Chief Justice Arellano in that case, the appellant argues that the decision therein was erroneous and should now be overruled. With all due respect for the legal acumen of the first Chief Justice of this Court, we are still of the opinion that the case was correctly decided. Article 127 of the Code of Commerce, reads as follows:

"All the members of the general copartnership, be they or be they not managing partners of the same, are liable personally and in solidum with all their property for the results of the transactions made in the name and for the account of the partnership, under the signature of the later, and by a person authorized to make use thereof."

The language of this article is clear and specific and must be taken to mean exactly what it says, namely, that all the members of a general copartnership are liable with all their property for the results of the duly authorized transactions made in the name and for the account of the partnership. On the other hand, article 141, upon which the appellant relies and which provides that "losses shall be computed in the same proportion among the capitalist partners without including the industrial partners, unless by special agreement the latter have been constituted as participants therein," is susceptible of two different interpretations of which that given it in the *Compañia Maritima* case, *supra*, i. e., that it relates merely to the distribution of losses among the partners themselves in the settlement of the partnership affairs and has no reference to partnership obligations to third parties, appears to us to be the more logical.

There is a marked distinction between a liability and a loss, and the inability of a partnership to pay a debt to a third party at a particular time does not necessarily mean that the partnership business, as a whole, has been operated at a loss. The partnership may have outstanding credits which for the moment may be unavailable for the payment of debts, but which eventually may be realized upon and yield profits more than sufficient to cover all losses. Bearing this in mind it will be found that there in reality is no conflict between the two articles quoted; one speaks of liabilities, the other of losses.

The judgment appealed from is affirmed with the costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, 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.