

ZACARIAS ROBLES, PLAINTIFF AND APPELLEE, VS. LIZARRAGA HERMANOS, DEFENDANT AND APPELLANT.*G.R. No. 26173. July 13, 1927*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of Occidental Negros by Zacarias Robles against Lizarraga Hermanos, a mercantile partnership organized under the laws of the Philippine Islands, for the purpose of recovering compensation for improvements made by the plaintiff upon the hacienda "Nahalinan" and the value of implements and farming equipment supplied to the hacienda by the plaintiff, as well as damages for breach of contract. Upon hearing the cause the trial court gave judgment for the plaintiff to recover of the defendant the sum of P14,194.42, with costs. From this judgment the defendant appealed.

It appears that the hacienda "Nahalinan," situated in the municipality of Pontevedra, Occidental Negros, belonged originally to the spouses Zacarias Robles and Anastacia de la Rama, parents of the present plaintiff, Zacarias Robles. Upon the death of Zacarias Robles, sr., several years ago, his widow Anastacia de la Rama was appointed administratrix of his estate; and on May 20, 1913, as widow and administratrix, she leased the hacienda to the plaintiff, Zacarias Robles, for the period of six years beginning at the end of the milling season in May, 1915, and terminating at the end of the milling season in May, 1920. It was stipulated that any permanent improvements necessary to the cultivation and exploitation of the hacienda should be made at the expense of the lessee without right to indemnity at the end of the term. As the place was in a run-down state, and it was foreseen that the lessee would be put to much expense in bringing the property to its productive capacity, the annual rent was fixed at the moderate amount of P2,000 per annum.

The plaintiff accordingly entered upon the property, in the character of lessee; and, in order to put the farm in good condition, he found it necessary to make various improvements and additions to the plant. Briefly stated, the changes and additions thus effected were these: Substitution of a new hydraulic press; reconstruction of dwelling house; construction of new houses for workmen; building of camarins; construction of chimney; reconstruction of ovens; installment of new coolers; purchase of farming tools and many head of carabao, with other repairs and improvements. All this expense was borne exclusively by the lessee, with the exception that his mother and coheirs contributed P1,500 towards the expense of the reconstruction of the dwelling house, which was one-half the outlay for that item. The firm of Lizarraga Hermanos was well aware of the nature and extent of these improvements, for the reason that the lessee was a customer of the firm and had purchased from it many of the things that went into the improvements.

In 1916, or three years before the lease was to expire, Anastacia de la Rama died, leaving as heirs Zacarias Robles (the plaintiff), Jose Robles, Evarista Robles, Magdalena Robles, Felix Robles, and the children of a deceased daughter, Purificacion Robles. Shortly thereafter Zacarias Robles, Jose Robles, and Evarista Robles acquired by purchase the shares of their coheirs in the entire inheritance; and at this juncture Lizarraga Hermanos came forward with a proposal to buy from these three all of the property belonging to the Robles estate (which included

other properties in addition to the hacienda "Nahalinan").

In course of the negotiations an obstacle was encountered in the fact that the lease of Zacarias Robles still had over two years to run. It was accordingly proposed that he should surrender the last two years of his lease and permit Lizarraga Hermanos to take possession as purchaser in June, 1918. A surrender of the two years of the lease would naturally involve a heavy sacrifice on the part of Zacarias Robles not only because the rent which he was bound to pay was low, but because he had already made most of the expenditures in outfitting the farm which would be necessary for farming operations during the entire period of the lease.

The plaintiff alleges and the trial court found, upon what we believe to be sufficient proof, that, in consideration that the plaintiff should shorten the term of his lease to the extent stated, the defendant agreed to pay him the value of all betterments that he had made on the hacienda and furthermore to purchase from him all that belonged to him personally on the hacienda, including the crop of 1917-18, the cattle, farming implements and equipment, according to a valuation to be made after the harvest. The plaintiff agreed to this; and the instrument of conveyance by which the three owners, Zacarias, Jose and Evarista Robles, conveyed the property to Lizarraga Hermanos was accordingly executed on November 16, 1917.

The effective clauses of conveyance by which each of the three owners transferred their respective interest to the purchaser read as follows:

"(a) Por la presente, Don Jose Robles, en consideracion a la cantidad de P25,266.37 que declara haber ya recibido de la casa comercial Lizarraga Hermanos, vende, cede y traspasa a la mencionada casa comercial Lizarraga Hermanos, representada en este acto por D. Severiano Lizarraga, como gerente de la misma, sus sucesores y causahabientes, todos sus derechos, interes y participacion en la testamentaria de la difunta Da. Anastacia de la Rama, como uno de los herederos forzosos de la misma y todos los derechos, interes y participacion adquiridos conjuntamente por el y sus hermanos Da. Evarista Robles y D. Zacarias Robles de D. Rafael Campos y Hurtado y de Da. Magdalena Robles.

"(b) Y Da. Evarista Robles, con la debida licencia marital de su esposo D. Enrique Martin, quien concurre al otorgamiento de este documento, en consideracion a la cantidad de P23,036.43, que declara haber ya recibido de la casa comercial Lizarraga Hermanos, representada en este acto por D. Severiano Lizarraga, como gerente de la misma, sus sucesores y causahabientes, vende, cede y traspasa todos sus derechos, intereses y participacion en la testamentaria de la difunta Da. Anastacia de la Rama, como una de las herederas forzosas de la misma, y todos los derechos, interes y participacion adquiridos por ella juntamente con sus hermanos D. Jose Robles y D. Zacarias Robles de D. Rafael Campos y Hurtado y de Da. Magdalena Robles.

"(c) Y, finalmente, D. Zacarias Robles, en consideracion a la cantidad de P32,589.59 que la casa Lizarraga Hermanos, representada en este acto por D. Severiano Lizarraga, por la presente promete pagarle en o antes del 30 de mayo de 1917, con los intereses a razon de 8 por ciento anual, vende, cede y traspasa a favor de la mencionada casa comercial Lizarraga Hermanos, sus sucesores y causahabientes, todos sus derechos, interes y participacion en la testamentaria de la difunta Da. Anastacia de la Rama, como uno de los herederos forzosos de la misma, y todos los derechos, interes y participacion adquiridos por el, juntamente con sus hermanos, Da. Evarista Robles y D. Jose Robles, de D. Rafael Campos y Hurtado y de Da. Magdalena Robles."

It will be seen from the clauses quoted that the plaintiff received some thousands of pesos of the purchase money more than his brother and sister. This is explained by the fact that the plaintiff was a creditor of his mother's estate while the other two were debtors to it; and the difference in the amounts paid to each resulted from the adjustments of their respective rights. Furthermore, it will be noted that the three grantors in the deed conveyed only their several rights, interest, and share in the estate of their deceased mother; and precisely the same words are used in defining what was conveyed by Zacarias Robles as in defining what was conveyed by the other two. These words are noteworthy, and in the original Spanish they run as follows: "Sus derechos, interes y

participacion en la testamentaria de la difunta Da. Anastacia de la Rama, como uno de los herederos forzosos de la misma." What was conveyed by the plaintiff is not defined as being, in part, the hacienda "Nahalinan," nor as including any of his rights in or to the property conveyed other than those which he possessed in the character of heir.

No reference is made in this conveyance to the surrender of the plaintiff's rights as lessee, except in fixing the date when the lease should end; nor is anything said concerning the improvements or the property of a personal nature which the plaintiff had placed on the hacienda. The plaintiff says that, when the instrument was presented to him, he saw that in the sixth paragraph it was declared that the plaintiff's lease should subsist only until June 30, 1918, instead of in May, 1920, which was the original term, while at the same time the promise of the defendant to compensate for him for the improvements and to purchase the existing crop, together with the cattle and other things, was wanting; and he says that upon his calling attention to this, the representative of the defendant explained that this was unnecessary in view of the confidence existing between the parties, at the same time calling the attention of the plaintiff to the fact that the plaintiff was already debtor to the house of Lizarraga Hermanos in the amount of P49,000, for which the firm had no security. Upon this manifestation the plaintiff subsided; and, believing that the agreement with respect to compensation would be carried out in good faith, he did not further insist upon the incorporation of said agreement into this document. Nor was the supposed agreement otherwise reduced to writing.

On the part of the defendant it is claimed that the agreement with respect to compensating the plaintiff for improvements and other things was never in fact made. What really happened, according to the defendant's answer, is that, after the sale of the hacienda had been effected, the plaintiff offered to sell the defendant firm the crop of cane then existing uncut on the hacienda, together with the carabao then in use on the place. This proposition was favorably received by the defendant; and it is admitted that an agreement was arrived at with respect to the value of the carabao, which were taken over for the agreed price, but it is claimed with respect to the crop that the parties did not come into accord.

Upon the issue of fact thus made we are of the opinion that the preponderance of the evidence supports the contention of the plaintiff—and the finding of the trial court—to the effect that, in consideration of the shortening of the period of the lease by nearly two years, the defendant undertook to pay for the improvements which the plaintiff had placed on the hacienda and take over at a fair valuation, to be made by appraisers, the personal property, such as carabao, tools, and farming implements, which the plaintiff had placed upon the hacienda at his own personal expense. The plaintiff introduced in evidence a letter (Exhibit D), written on March 1, 1917, by Severiano Lizarraga to the plaintiff, in which reference is made to an appraisal and liquidation. This letter is relied upon by the plaintiff as constituting written evidence of the agreement; but it seems to us so vague that, if it stood alone, and a written contract were really necessary, it could not be taken as sufficient proof of the agreement in question. But we believe that the contract is otherwise proved by oral testimony.

When testifying as a witness for the defense Carmelo Lizarraga himself admitted—contrary to the statement of defendant's answer—that a few days before the conveyance was executed the plaintiff proposed that the defendant should buy all the things that the plaintiff then had on the hacienda, whereupon the Lizarragas informed him that they would buy those things if an agreement should be arrived at as to the price. We note that as regards the improvements the position of the defendant is that they pertained to the hacienda at the time the purchase was effected and necessarily passed with it to the defendant.

As against the denials of the Lizarragas we have the direct testimony of the plaintiff and his brother Jose to the effect that the agreement was as claimed by the plaintiff; and this is supported by the natural probabilities of the case in connection with a subsequent appraisal of the property, which was rendered futile by the course pursued

by the defendants. It is, however, unnecessary to enter into details with respect to this, because, upon examining the assignments of error of the appellant in this court, it will be found that no exception has been taken to the finding of the trial court to the effect that a verbal contract was made in the sense claimed by the plaintiff. I

We now proceed to discuss seriatim the errors assigned by the appellant. Under the first, exception is taken to the action of the trial court in admitting oral evidence of a contract different from that expressed in the contract of sale (Exhibit B); and it is insisted that the written contract must be taken as expressing all of the pacts, agreements and stipulations entered into between the parties with respect to the acquisition of the hacienda. In this connection stress is placed upon the fact that there is no allegation in the complaint that the written contract fails to express the agreement of the parties. This criticism is in our opinion not well directed. The case is not one for the reformation of a document on the ground of mistake or fraud in its execution, as is permitted under section 285 of the Code of Civil Procedure. The purpose is to enforce an independent or collateral agreement which constituted an inducement to the making of the sale, or part of the consideration therefor. There is no rule of evidence of wider application than that which declares extrinsic evidence inadmissible either to contradict or vary the terms of a written contract. The execution of a contract in writing is deemed to supersede all oral negotiations or stipulations concerning its terms and the subject-matter which preceded the execution of the instrument, in the absence of accident, fraud or mistake of fact (10 R. C. L., p. 1016). But it is recognized that this rule is to be taken with proper qualifications; and all the authorities are agreed that proof is admissible of any collateral, parol agreement that is not inconsistent with the terms of the written contract, though it may relate to the same subject-matter (10 R. C. L., p. 1036). As expressed in a standard legal encyclopaedia, the doctrine here referred to is as follows: "The rule excluding parol evidence to vary or contradict a writing does not extend so far as to preclude the admission of extrinsic evidence to show prior or contemporaneous collateral parol agreements between the parties, but such evidence may be received, regardless of whether or not the written agreement contains any reference to such collateral agreement, and whether the action is at law or in equity." (22 C. J., p. 1245.) It has accordingly been held that, in case of a written contract of lease, the lessee may prove an independent verbal agreement on the part of the landlord to put the leased premises in a safe condition; and a vendor of realty may show by parol evidence that crops growing on the land were reserved, though no such reservation was made in the deed of conveyance (10 R. C. L., p. 1037). In the case before us the deed of conveyance purports to transfer to the defendant only such interests in certain properties as had come to the conveyors by inheritance. Nothing is said concerning the rights in the hacienda which the plaintiff had acquired by lease or concerning the things that he had placed thereon by way of improvement or had acquired by purchase. The verbal contract which the plaintiff has established in this case is therefore clearly independent of the main contract of conveyance, and evidence of such verbal contract is admissible under the doctrine above stated. The rule that a preliminary or contemporaneous oral agreement is not admissible to vary a written contract appears to have more particular reference to the obligation expressed in the written agreement, and the rule has never been interpreted as being applicable to matters of consideration or inducement. In the case before us the written contract is complete in itself; the oral agreement is also complete in itself, and it is a collateral to the written contract, notwithstanding the fact that it deals with related matters.

Under the second assignment of error the appellant directs attention to subsection 4 of article 335 of the Code of Civil Procedure wherein it is declared that a contract for the sale of goods, chattels or things in action, at a price of not less than P100, shall be unenforceable unless the contract, or some note or memorandum thereof shall be in writing and subscribed by the party charged, or by his agent; and it is insisted that the court erred in admitting proof of a verbal contract over the objection of the defendant's attorney. But it will be noted that the same subsection contains a qualification, which is stated in these words, "unless the buyer accept and receive part of such goods and chattels." In the case before us the trial court found that the personal property, consisting of

farming implements and other movables placed on the farm by the plaintiff, have been utilized by the defendant in the cultivation of the hacienda, and that the defendant is benefiting by those things. No effort was made in the court below by the defendant to controvert the proof submitted on this point in behalf of the plaintiff, and no error is assigned in this court to the finding of fact with reference thereto made by the trial judge. It is evident therefore that proof of the oral agreement with respect to the movables was properly received by the trial judge, even over the objection of the defendant's attorney.

The appellant's third assignment of error has reference to the alleged suspensive condition annexed to the oral agreement. In this connection it is claimed that the true meaning of the proven verbal agreement is that, in case the parties should fail to agree upon the price, after an appraisal of the property, the agreement would not be binding; in other words, that the stipulation for appraisal and agreement as to the price was a suspensive condition in the contract: and since the parties have never arrived at any agreement on the price (except as to the carabao), it is contended that the obligation of the defendant has never become effective. We are of the opinion that the stipulation with respect to the appraisal of the property did not create a suspensive condition. The true sense of the contract evidently was that the defendant would take over the movables and the improvements at an appraised valuation, and the defendant obligated itself to promote the appraisal in good faith. As the defendant partially frustrated the appraisal, it violated a term of the contract and made itself liable for the true value of the things contracted about, as such value may be established in the usual course of proof. Furthermore, it must occur to any one, as the trial judge pointed out, that an unjust enrichment of the defendant would result from allowing it to appropriate the movables without compensating the plaintiff therefor.

The fourth assignment of error is concerned with the improvements. Attention is here directed to the fact that the improvements placed on the hacienda by the plaintiff became a part of the realty and as such passed to the defendant by virtue of the transfer effected by the three owners in the deed of conveyance (Exhibit B). It is therefore insisted that, the defendant having thus acquired the improvements, the plaintiff should not be permitted to recover their value again from the defendant. This criticism misses the point. There can be no doubt that the defendant acquired the fixed improvements when it acquired the land, but the question is whether the defendant is obligated to indemnify the plaintiff for his outlay in making the improvements. It was upon the consideration of the defendant's promise so to indemnify the plaintiff that the latter agreed to surrender the lease nearly two years before it was destined to terminate. There can be no doubt as to the validity of the promise made under these circumstances to the plaintiff.

The fifth assignment of error is directed towards the action of the trial court in awarding to the plaintiff the sum of P1,142 as compensation for the damage caused by the failure of the defendant to take the existing crop of cane from the hacienda at the proper time. In this connection it appears that it was only in November, 1917, that the defendant finally notified the plaintiff that he would not take the cane off the plaintiff's hands. Having relied upon the promise of the defendant with respect to this matter, the plaintiff had made no prior arrangements to have the cane ground himself, and he had failed to contract ahead for the necessary laborers to harvest the crop. Due to this lack of hands the milling of the cane was delayed, and things that ought to have been done in December, 1917, were only accomplished in February, 1918. It resulted also that the milling of the cane was not completed until July, 1918. The trial court took judicial notice of the fact that protracted delay in the milling of sugar-cane results in loss; and his Honor estimated the damage to the plaintiff's crop upon this account in the amount above stated. As fortifying his position on this point his Honor quoted extensively in his opinion from scientific treatises on the subject of the sugar industry in this and other countries. That there must have been damage attributable to the cause above stated is manifest; and although the estimate made by the court was based upon what may be considered matter of judicial notice without any specific estimate from farmers, we see no reason to conclude that any injustice was done to the plaintiff in said estimate.

Upon the whole we find no reason to modify the conclusions of the trial court upon any point, and the judgment appealed from must be affirmed. It is so ordered, with costs against the appellant.

Avanceña, C. J., Johnson, Malcolm, Villamor, and Villa-Real, JJ., concur.

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