

JOSE DE LA VIÑA Y CRUZ, PLAINTIFF AND APPELLEE, VS. SING JUCO, DEFENDANT AND APPELLANT.

G.R. No. 27436. December 24, 1927

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-27436/>

OSTRAND, J.:

On August 6, 1919, the plaintiff Jose de la Viña y Cruz, one Yu Sinlay, and the herein defendant Sing Juco entered into a written contract of which the material parts read as follows in translation from Spanish:

"Know all men by these presents:

"That we, Yu Sinlay, * * *, on the one hand, as purchaser and mortgagee; and on the other hand, as vendor and mortgagor, Jose de la Viña y de la Cruz, * * * represented in this act by Roque L. Justiniani, * * * who is authorized to execute the present document, according to a power of attorney which, when copied, is as follows:

"SPECIAL POWER OF ATTORNEY

"I, Jose de la Viña, * * * by virtue of these presents, hereby confer such ample and sufficient special power as may in law be necessary to my son-in-law Mr. Roque L. Justiniani, * * * in order that in my name and representation (a) he may sign * * * contract based upon the option executed by me on July 19, 1919, in favor of Mr. Yu Sinlay, which is of the following tenor:

"OPTION

"I, Jose de la Viña, * * * declare by these presents that I grant to Mr. Yu Sinlay * * * the option to buy all the sugar which may be produced by the hacienda 'Nueva Apolonia' situated in Vallehermoso, Oriental Negros, corresponding to the harvest of 1919 to 1920, at the price of twenty pesos (P20) per picul of centrifugal sugar * * *.

"That I estimate said harvest to be eight thousand piculs more or less, it being understood, however, that said option to purchase refers to the total of the harvest of 1919-1920.

"That said sugar shall be delivered, in the course of the milling to commence from the month of February, 1920, until the month of May or June of the same year.

"That Mr. Yu Sinlay binds himself to open a credit of one hundred twenty thousand pesos, Philippine currency, which sum shall be destined to the payment of the debt contracted in favor of Mr. Julio Javellana, resident of Iloilo, to the extent of said debt, the remainder to be a current account at the disposal of the undersigned, said loan to draw interest at 12 per cent per annum.

"In case that the harvest mentioned should suffer any reduction by force majeure, and should not be sufficient to pay said credit, the remainder of the amount owed shall draw interest at 12 per cent, which is to be capitalized annually as principal, until the definite liquidation on or before the lapse of three years.

"I further promise that in case that the two years more during which I have the option to pay definitely the

above mentioned credit of one hundred twenty thousand pesos should continue, I shall pay to Mr. Yu Sinlay a commission of two per cent on the sugar corresponding to the harvest of 1919-1920, it being understood that said Mr. Yu Sinlay shall act according to instruction in regard to the sale of said sugar.

"As a guaranty of said credit, I bind myself to mortgage * * * a parcel of land of 2,000 hectares situated in the sitio of Pinucauan, Vallehermoso, Oriental Negros, P. I., together with 15,000 coconut trees partly fruit bearing, * * * a parcel described in Torrens title No. 67 issued by the Court of Land Registration on January 29, 1915.

"This option shall be valid for 20 days counted from this day, that is, from July 19, to August 8, 1919.

"In witness whereof, I sign in Vallehermoso, Oriental Negros, this 19th of July, 1919.

"(Sgd.) JOSE DE LA VIÑA

"And whatever conditions not described in said option which in his opinion are indispensable and necessary to the due execution of said contract; (b) to receive the amount of said loan of one hundred twenty thousand pesos Philippine currency, mentioned in said option * * *; (c) to pay the obligations or loans contracted in favor of Mr. Julio Javellana, and the sum of twenty five thousand pesos, with interest, to the Madre Superiora del Hospital San Pablo and also my obligations in favor of all other persons, with their corresponding interest; (d) to receive cancellations of my obligations or debts, to enter into or sign any contract, for the purposes indicated, with Mr. Yu Sinlay or with any other firm or entity, which said Mr. Yu Sinlay may designate by virtue of this option.

* * * * *

"In witness whereof, I sign these presents at Vallehermoso, Oriental Negros, on August 1, 1919.

"(Sgd.) JOSE DE LA VIÑA

"In the presence of:

"(Sgd.) JUAN ABALLA

"EUGENIO OBRERO

"That both parties being of the necessary age to execute this document, hereby freely and voluntarily agree and make known:

"I. That said Jose de la Viña y de la Cruz actually has a sugar-cane plantation, consisting of about two hundred forty lacsas (240) which will be milled during the coming harvest and will produced about eight thousand piculs (8,000) of centrifugal sugar, and which are planted in the hacienda 'Nueva Apolonia' of said Jose de la Viña y de la Cruz, * * *.

"II. That the price of twenty pesos (P20) per picul which is mentioned in the power of attorney above copied, has been modified and reduced to nineteen pesos (P19), as appears in the following telegram:

* * * * *

"III. That said Yu Sinlay accepts said option and * * * therefore, said Yu Sinlay buys from this date from Jose de la Viña y de la Cruz all the centrifugal sugar of 96 degrees which said Jose de la Viña y de la Cruz will produce in said hacienda for the coming harvest at the price mentioned of nineteen pesos (P19) per picul, * * *.

"IV. That Jose de la Viña y de la Cruz hereby binds himself by these presents to sell his said sugar to said Yu Sinlay, under the terms above specified, and to that effect sells it under said conditions and at said price, further binding himself to make full and complete delivery thereof from the month of December, 1919, until

June 30, 1920.

"V. That in consideration of the foregoing agreement and of the conditions hereinafter to be specified, said Yu Sinlay advances to Roque L. Justiniani, in his capacity as attorney in fact for Jose de la Viña y de la Cruz, the sum of one hundred twenty thousand pesos (P120,000) which is placed at his disposal, in order that he may draw from it as he may need it, said sum to earn interest at twelve per cent per annum, from the date it should be drawn, if it is drawn at one time, or from the dates in which he may draw different sums from said amount, * * * until the full payment thereof by means of the value of said sugar on the day it should be delivered and should cover totally said sum and the interest; but if the value of said sugar at the price mentioned should not be sufficient to cover the whole amount advanced, the balance remaining against said Jose de la Viña y de la Cruz, after delivery of all said sugar, shall draw interest at twelve per cent (12 per cent) per annum, which shall be capitalized annually as new principal, and he may make payment thereof within the next two years following the date when the liquidation of said sugar is effected, that is, from June 30, 1920; and in this case, Jose de la Viña y de la Cruz shall be bound to consign to said Yu Sinlay, his successor, representative or transferee in this City of Iloilo, all the sugar which said hacienda 'Nueva Apolonia,' may produce, in the following harvests, entrusting its sale to the agent or transferee which said Yu Sinlay may have in the City of Iloilo, * * * and of the gross value obtained by said sugar produced in the crops subsequent to those of the period from nineteen hundred and nineteen to nineteen hundred and twenty (1919-1920), said Yu Sinlay, his successor, representative, or transferee in this City of Iloilo shall receive the commission of two per cent (2%), said Yu Sinlay or his transferee being empowered to retain the necessary amount from the proceeds of said sale in order to repay himself for all the expenses incurred by him in the sale of the sugar and for his commission, and from the net value or remainder he shall also retain, to repay himself for what may be owing to him, the necessary amount or that which he may think proper for the amortization or payment of what is due him. It is understood that during the two years following the coming harvest, said Jose de la Viña y de la Cruz may get further sums from said Yu Sinlay or his transferee as loans to be added to the debit balance remaining after the delivery of all of his said sugar of the coming harvest, and these loans are to be at the same rate of interest and under the same rate of interest and under the same conditions as the said debit balance, and, when added to said debit balance and interests, shall never exceed the sum of one hundred twenty thousand pesos (P120,000).

"VI. That if said Jose de la Viña y de la Cruz, with the exception of what he may retain for the expenses or consumption of his household and family, delivers any amount of said sugar to be produced in the coming harvest to any other person than Yu Sinlay, his successor or transferee, he shall pay to said Yu Sinlay, his successor or transferee, by way of fine or penalty for this violation, a sum equal to twenty per cent (20%) of the value which the said sugar thus abstracted may have in the market; and he shall further more pay to the said Yu Sinlay, his successor or transferee, in the same concept, or as damages, a sum equal to the difference which there may be between the above mentioned of nineteen pesos (P19) per picul and the price, which said sugar may have in the market on said date.

"VII. That in case Jose de la Viña y de la Cruz should violate any of the conditions agreed upon in this document, and Yu Sinlay, his successors or transferees, should have to resort to the courts for their enforcement, said Jose de la Viña y de la Cruz, his successors or transferees shall pay to said Yu Sinlay, his successors or transferees, all expenses, judicial as well as extra judicial, which the latter may incur in order to enforce the fulfillment of the present document, up to the amount of ten thousand pesos (P10,000).

"VIII. That as a guaranty for all the rights and actions of said Yu Sinlay, his successors or transferees, in this document, said Jose de la Viña y de la Cruz conveys and transfers specially and specifically by way of first mortgage to said Yu Sinlay, his successors or transferees, the real property hereinafter described, together with all its present improvements, all of which belongs absolutely to said Jose de la Viña y de la Cruz. Said property is registered according to the new Land Registration Act and according to the certificate of title No. 67 of the office of the register of deeds of the Province of Oriental Negros to wit:

* * * * *

"IX. By these presents Yu Sinlay also makes known that in consideration of the sum of one peso which he received from Sing Juco, * * * he hereby cedes and transfers to him all his rights and obligations under and by virtue of the present document, and said Sing Juco, represented in this act by his general attorney in fact, M. Arroyo Sing Bengco, * * * who has been authorized for the purposes of this act or transaction, by a power of attorney which said Sing Juco had heretofore executed in his favor and which is still in full force, accepts this assignment and assumes all of the obligations of the said Yu Sinlay.

"It is understood that if said Jose de la Viña y de la Cruz, his heirs or legal representatives, fully comply with all the conditions agreed upon in this document, that is, if they fully pay to said Sing Juco the said sum of one hundred twenty thousand pesos (P120,000) with interest, * * * this document shall be cancelled and shall become void and of no legal effect as a mortgage, otherwise it shall remain in force and in full effect and shall be subject to foreclosure according to law.

"In witness whereof, the parties to this document sign it in the municipality of Iloilo, Province of Iloilo, Philippine Islands, this sixth day of August, nineteen hundred and nineteen.

"(Sgd.) JOSE DE LA VIÑA

"R. JUSTINIANI

"(Sgd.) YU SINLAY

"M. ARROYO SING BENGCO

"Signed in the presence of:

"(Sgd.) RICARDO FERNANDEZ

"There is a signature which is not legible."

Contending that the defendant had breached the contract, Jose de la Viña on December 5, 1924, brought the present action to recover damages therefor. In his complaint he alleges in substance that the defendant, Sing Juco, was obliged by the terms of the contract to grant him a credit of P120,000 for the harvest of the agricultural year 1921-1922, against which credit he, the plaintiff, might draw from time to time as needed; that said defendant, after advancing him the amount of P103,572.11 refused to pay over to him the remainder of his credit, said remainder amounting to P16,427.89; and that as a result of said breach of contract, he was unable to harvest his sugar cane on the hacienda "Nueva Apolonia," during said agricultural year, thus suffering a loss of P100,000.

The subsequent pleadings are rather diffuse, but are not unintelligible and are in substance as follows: The defendant in his answer alleges as a special defense that the terms of the contract in question were violated by the plaintiff in that he failed to deliver the amount of sugar which he had bound himself to sell to the defendant but had sold it to others and that on a Saturday afternoon in January, 1922, the plaintiff's attorney-in-fact asked the defendant for a loan of P5,000 which the latter promised to give him on the following Monday, but that on the intervening Sunday, said attorney-in-fact informed the defendant that he had obtained the money from another source and thereafter he did not come back and did not ask for further loans. As a counterclaim, the defendant alleges that on January 31, 1925, the plaintiff was indebted to him in the sum of P161,510.59, with interest at 12 percent per annum besides the commission of 2 per cent provided for in the contract, and the defendant therefore asks judgment for the corresponding amount.

By way of cross-complaint, the defendant alleges in substance that the plaintiff induced him to enter into the contract by falsely representing that the hacienda "Nueva Apolonia" would produce 8,000 piculs of sugar annually and that there were 15,000 coconut palms on the land mortgaged as security for the loans, whereas in truth and in fact, there were less than 10,000 coconut palms on the land and the annual sugar crop did not reach 4,000 piculs;

that on January 31, 1925, the plaintiff was indebted to him in the sum of P161,510.59, with interest at 12 per cent per annum, said interest to be capitalized and added to the principal every year thereafter, the new capital to draw interest at the same rate, plus the defendant's commission of 2 per cent; that said debt is due and unpaid; that the plaintiff has violated the contract by selling his sugar to other merchants and not paying his debt to the defendant, thereby making himself liable to the defendant in the penal sum of P10,000 as provided in the contract. The defendant therefore asks that judgment be rendered, ordering the plaintiff to pay the amount of his debt to the defendant and that if he fails to pay said debt, the mortgage given as security for the debt be foreclosed.

In his answer to the cross-complaint, the plaintiff sets up as a special defense that the defendant has transferred to the Bank of the Philippine Islands all his right and interest in the mortgage referred to and consequently has no right to ask for its foreclosure. In the same answer the plaintiff also presents a counterclaim for damages alleged to have been occasioned by a preliminary attachment secured by the defendant, denying generally and specifically all of the plaintiff's allegations.

Upon trial the court below rendered judgment (1) ordering the defendant Sing Juco to pay the plaintiff damages in the sum of P60,000, with the costs; (2) ordering the plaintiff Jose de la Viña y Cruz to pay to the defendant the sum of P103,572.11, with interest at the rate of 12 per cent per annum, from October 4, 1921, said interest to be added to the principal every 30th day of June; (3) ordering that the sums for which the plaintiff obtained judgment be offset against an equal portion of the sum awarded the defendant, said offset to take effect from August 30, 1922; (4) dismissing the other claims of the parties; and (5) ordering the plaintiff Jose de la Viña y Cruz to deposit within three months the total amount which might be found to be owing to the defendant Sing Juco, after the offset referred to, and that in the event he failed to do so, the mortgaged real estate would be sold and the proceeds applied to the payment of the amount due to the defendant and that, if said proceeds should be insufficient to pay the whole debt, a writ of execution for the remainder would issue against the plaintiff.

From this judgment only the defendant appeals and makes the following assignments of error:

The trial court erred (1) in ordering the defendant Sing Juco to pay to the plaintiff de la Viña the sum of sixty thousand pesos (P60,000), as damages; (2) in ordering that the sums, which the plaintiff and the defendant were sentenced to pay, should compensate each other; (3) in not ordering the plaintiff to pay to the defendant the penal sum of P10,000 or, at least, the costs; (4) in not allowing the defendant to recover a commission of 2 per cent of the value of the sugar consigned by the plaintiff to the defendant and sold by the latter and another 2 per cent of the sum of P103,572.11, as damages; and (5) in denying the defendant's motions for a new trial.

Under the first assignment of error, counsel for the defendant argues that under paragraph 5 of the contract hereinbefore quoted, the defendant was not bound to lend the plaintiff the sum of P120,000 for each and every year but that the fact he had furnished the plaintiff P120,000 during the first year of the term of the contract was a sufficient fulfillment of his obligation. The language of said paragraph 5 may, perhaps, lend some color to the appellant's contention, but it clearly appears from the record that both of the parties understood the contract as imposing the obligation upon the defendant to extend credit in the amount mentioned during each year of the term of the contract and we are bound to give it the same interpretation.

Counsel further argues that assuming that the contract should be so interpreted, the plaintiff had nevertheless failed to establish his claim for damages and that the finding of the trial court that the defendant had refused to lend the plaintiff the sum of P16,427.89, the remaining balance of the credit, is not supported by the evidence. In our opinion, this point is well taken. The evidence for the plaintiff is to the effect that he made repeated demands upon the defendant for the payment of the sum mentioned by means of telegrams and letters during the period from August 1921 until January 1922. This testimony is denied by the witness Sing Bengco, the defendant's

representative in the transactions with the plaintiff, and this denial is corroborated by the undisputed fact that on November 24, 1921, the defendant advised the plaintiff that his credit had not been closed. Another circumstance tending to discredit the plaintiff's testimony is that no copies of the letters and telegrams, alleged to have been sent to the defendant, have been presented in evidence. The plaintiff is a man with large business interests and it seems rather improbable that no record was kept of such correspondence as he may have had with the defendant.

Sing Bengco further testified that when in October 1921 a stated account, Exhibit B, was signed by the parties, it was agreed between them that the balance of the plaintiff's credit, P16,427.89, would be used to cover the expenses of the milling of the cane for the agricultural year 1921-1922. This is denied by the plaintiff, but Sing Bengco's testimony is strongly corroborated by the surrounding circumstances and is undoubtedly true. If so, the plaintiff has no cause of action whatever against the defendant. Indeed upon a careful examination of the record, we cannot escape the conclusion that in various respects the contract was violated by the plaintiff himself and not by the defendant. He not only misrepresented the productivity of the hacienda and the value of the land mortgaged as security for the credit, but in 1922 he failed to deliver his sugar to the defendant and sold it to other merchants. Having failed to perform his part of the contract, the plaintiff may not insist upon the performance by the defendant or to recover damages by reason of the breach (*Mateos vs. Lopez*, 6 Phil., 206; *Gutierrez Hermanos vs. Oria Hermanos & Co.*, 30 Phil., 491). We may say further that if the defendant had breached the contract and the plaintiff in consequence thereof had suffered the large losses testified to by him, he would hardly have allowed nearly four years to pass before filing his complaint.

The first assignment of error being sustained, a discussion of the second assignment is, of course, superfluous. In respect to the third assignment of error, it is sufficient to say that there is no evidence in the record showing the defendant's expenses of litigation and that therefore the defendant can only recover the ordinary costs under clause 7 of the contract.

The fourth assignment of error is not well taken. Under the contract between the parties, the defendant was entitled to a commission of 2 per cent on the sum of P43,547.36, the sales price of the 4,319.13 piculs of sugar delivered to him by the plaintiff in 1920, but as the sugar was sold before the stated account of October 4, 1921, was made, it must be presumed that the commission was included in that account or the right to it relinquished by the defendant. The defendant's claim to a "commission" of 2 per cent on the amount of the plaintiff's indebtedness in October 1921 is likewise without merit. The defendant's contention is that by way of compensation for the plaintiff's delay in paying his debt, the plaintiff promised to pay him 2 per cent in addition to the 12 per cent agreed upon in the contract. This is denied by the plaintiff, but assuming that the defendant's testimony is true, he would nevertheless not be entitled to a recovery. Properly speaking, the so-called "commission" is not damages as argued by counsel for the defendant; it is compensation for forbearance and in view of the fact that the original interest agreed upon was 12 per cent, the maximum allowed by law, the additional 2 per cent would be usurious under the Usury Act and the agreement therefore void.

For the reasons stated, the judgment in favor of the plaintiff Jose de la Viña y Cruz and against the defendant Sing Juco for damages in the sum of P60,000 is hereby reversed and the plaintiff will take nothing by his complaint.

The judgment in favor of said defendant and against said plaintiff is modified and it is ordered that the defendant have and recover judgment against the plaintiff for the sum of P103,572.11 with interest at the rate of 12 per cent per annum from October 4, 1921, until paid, said interest to be compounded annually on the 30th day of June of each year. The plaintiff shall pay the costs of both instances.

It is further ordered that the plaintiff shall pay the amount of the foregoing judgment into the court within a period of six months from the date of the return of the record of this case to the Court of First Instance and in default of

such payment, the land described in paragraph 8 of the contract between the parties, and mortgaged as security for the plaintiff's debt to the defendant, shall be sold to realize the debt and costs in conformity with sections 257-261 of the Code of Civil Procedure. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Johns, 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.