

VOLUNTARY INSOLVENCY OF THE CENTRAL CAPIZ; TIMOTEO UNSON ET AL., CLAIMANTS AND APPELLEES, VS. URQUIJO, ZULOAGA & ESCUBI, CLAIMANTS AND APPELLANTS.

G.R. No. 28205. December 24, 1927

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

In G. R. No. 262931 between these same parties, a decision was rendered, the amended dispositive part of which, pertinent to the case in hand, is as follows:

"For the foregoing, it is adjudged:

(a) That the right of preference of the appellants Urquijo, Zuloaga and Escubi is only on the value (art. 1922, par. No. 1, of the Civil Code), which must first be proven, of the machinery sold by them to the Capiz Central which has not been paid for and which was included among other property of the Capiz Central in the sale of the same; and that in no case must the preference exceed the sum of thirty thousand pesos (P30,000), the only amount on which they claim a preference.

* * * * *

"In virtue whereof, the judgment appealed from is hereby affirmed in so far as it is in harmony herewith and reversed in so far as it is not, and it is ordered that the record be remanded to the court of origin for further proceedings in accordance herewith."

The case was remanded to the court of origin and after the proper supplementary evidence had been introduced, the said court rendered its amended decision, the dispositive part of which is as follows:

"Therefore, reconsidering the pertinent part of the decision of the third instant, the court finds that the sum of P19,285.71 $\frac{5}{7}$ is the unpaid portion of the price of the machinery sold to the Capiz Central by Urquijo, Zuloaga and Escubi, and that these creditors have a preferential right to claim the said sum of P19,285.71 $\frac{5}{7}$ from the proceeds of the sale of the property of the insolvent Capiz Central.

"Therefore, it is ordered that when this judgment becomes final, the assignee in insolvency pay out of the deposited funds of the same, the following sums as follows:

"1st. To Urquijo, Zuloaga and Escubi.....P19,285.71 $\frac{5}{7}$

"2d. To Timoteo Unson and Clara Lacson..... 30,000.00

"3d. To Jose Altavas..... 8,000.00

"4th. To Antonio Belo..... 11,000.00 and

"5th. The remainder, if any, is to be proportionately divided among the other creditors of this insolvent company whose claims have been admitted and approved."

Claimants Urquijo, Zuloaga and Escubi appealed from said judgment, assigning the following alleged error as committed by the trial court in its decision, to wit: The trial court erred in not finding that the appellants'

preferential right for the purpose of collecting the unpaid price of their machinery sold to the Capiz Central is upon the sum of P30,000, obtained by the latter from the sale of said machinery; and in not ordering said sum to be paid to them, but on the contrary, limiting said preference and payment to the sum of P19,285.71 5/7

The only question, then, to determine in the present appeal is whether, as the lower court held, the appellants' preferential right on account of the unpaid balance of the price of the machinery is limited only to the proportional part of the machinery still unpaid, or, as the appellants contend, their preferential right for the unpaid balance of the purchase price of the said machinery extends to all of the machinery.

Paragraph No. 1 of article 1922 of the Civil Code, in regard to this question, reads as follows:

"Art. 1922. With respect to determinate personal property of the debtor, the following are preferred:

"1. Credits for the * * * purchase price of personal property in the possession of the debtor, to the extent of the value of the same."

The basic principle of the preference established by the above legal provision is one of equity and justice.

"While the price was unpaid, the purchaser's patrimony increased at the expense of the vendor; the latter becomes in the end a gratuitous surety for the purchaser's creditors, for the personal property sold is a pledge from which the creditors might collect their credit without any reason whatever unless the preference is established; that is to say, that the vendor has a preference because he has placed the thing among the purchaser's patrimony." (25 Enciclopedia Juridica Española, p. 362.) "Without the sale,— the tribune Grenier used to say, in the tribuneship,—the thing sold could not have become a pledge to the other creditors. The latter should, therefore, first of all, fulfill the obligation devolving on the debtor." (5 Colin y Capitant, Curso Elemental de Derecho Civil, p. 182.)

If this is so, the other debtors (creditors) cannot collect from the proceeds of the resale of the personal property until the original vendor of the same has been paid the full price of the original sale, to the extent of the price of said personal property in the resale. This preference stands whether the purchase price has been partially paid or not at all; because the law makes no distinction, and we cannot make it without impairing said preference, which would be the case if, when partial payment has been made, the preference were limited only to a part of the personal property sold proportionate to the unpaid portion of the purchase price; or, what amounts to the same thing, if said preference were limited to what remains of the personal property sold after deducting a part proportionate to the price already paid.

Equity and justice demand then that Urquijo, Zuloaga and Escubi be allowed to collect their credit out of the total proceeds of the machinery sold on account of the insolvency, in preference to the other creditors. Such is the spirit of the judgment of this court in case G. R. No. 26293, between these same parties.

This same rule was followed in the case of the claim of H. E. Heacock Company against Luis Perez Samanillo in the voluntary insolvency of Rafael Rebullida, R, G. No. 27706, decided by this court on December 12, 1927.[1] In that case, H. E. Heacock Company claimed a preferential right to the goods sold by it to Rebullida, which were in the latter's possession, for the unpaid balance of the purchase price.

In conclusion, then, we are of the opinion and so hold, that the vendor's preferential right to the purchase price of the personal property sold extends to all of said property, whether such purchase price has been partially paid or not, while said personal property remains in his possession, and to the extent of its value.

By virtue whereof, the judgment appealed from is reversed, and it is held that the appellants Urquijo, Zuloaga and Escubi have the right to collect their credit of P30,000 from the total proceeds of the sale of the machinery made by the assignee who is hereby ordered to make said payment, without special pronouncement as to costs. So

ordered.

Avancena, C.J., Johnson, Malcolm, Villamor, Ostrand, and Johns, JJ., concur.

[1] H.E. Heacock Co. vs. Galan, not reported.

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