

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLEE, VS. GO CHONG BING ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 29197. October 20, 1928*

Ponente: ROMUALDEZ, J.

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On February 4, 1921, the herein defendant Go Chong Bing executed a promissory note (Exhibit A) for P20,500 in favor of his codefendant, the widow of Tan Toco. The latter endorsed the document to the herein plaintiff Philippine National Bank, through her attorney-in-fact Mariano de la Rama Tan Bungco. The note matured on May 19, 1921. On January 31, 1922 the sum of P7,000 was paid on account.

On February 5, 1921, the said Go Chong Bing executed another promissory note (Exhibit C) for P21,500 also in favor of said widow of Tan Toco, which, as in the case of the former note, was endorsed by the said attorney-in-fact Mariano de la Rama Tan Bungco to the plaintiff Bank. This second note matured on June 5, 1921. On January 31, 1922 the sum of P7,000 was paid on account.

In view of the fact that these notes were not satisfied, notwithstanding the due demands, the plaintiff Bank filed this suit on May 26, 1926 to recover from the defendants the unpaid balance of said notes and 9 per cent per annum interest thereon. After the hearing, the lower court rendered judgment in favor of the plaintiff Bank adjudicating no more than the legal interest, because no mention of interest was made in the notes. Therefore, said judgment adjudicates to the Philippine National Bank P13,500 for the first note, and P14,500 for the second, plus legal interest on both amounts computed from May 27, 1926, until paid, with the costs. The plaintiff Bank acquiesced in this, but not the defendants, who contend in this appeal that it has not been proven that the widow of Tan Toco endorsed the notes to the plaintiff Bank or that she made any payment on account. The fact, however, according to the uncontradicted testimony of Ramon Mendoza, Mariano de la Rama Tan Bungco was the attorney-in-fact of said widow. This evidence, not weakened by any to the contrary, is in itself enough to show the sufficiency of the endorsement as made by said principal through her attorney-in-fact. It is evidence which, although objected to at the trial as immaterial, that is, futile, was nevertheless well admitted because it relates to an essential point of the case.

As the responsibility of the widow of Tan Toco to the plaintiff Bank with respect to the two promissory notes in question has been proven, it results that it is to the benefit of the widow herself to acknowledge that it was she who made the payments on account of such obligations. Moreover, the evidence establishes that such payments were made, and in view of the premises, they cannot be credited to any but the debtor.

We find no reversible error in the judgment appealed from, which is hereby affirmed in toto, with costs against the appellants. So ordered.

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

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