

**HUIJOS DE I. DE LA RAMA, PLAINTIFF AND APPELLANT, VS.
SALVADOR BETIA, ASTURIAS SUGAR CENTRAL, INC., AND THE
PHILIPPINE NATIONAL BANK, DEFENDANTS AND APPELLEES.**

G. R. No. 31155. February 10, 1930

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

We find no merit in this petition.

Doubtless, in entering into the contract, the plaintiff as well as Betia and the central, believed that the plantation would yield some profit every year, over and above the expenses of production. Consequently, the plaintiff expected to collect a portion of its credit out of this profit; the central to enable it to mill the cane, which is its only activity, obtaining 45 per cent of the sugar produced; and Betia pay off his debt to the plaintiff.

The result, however, could be otherwise. It could happen that the produce would be barely sufficient to cover the expense of cultivation, in which case the plaintiff would not only gain nothing, but would suffer a delay in the collection of its credit without being able to obtain the interest it was entitled to collect, which would only be nominal, for the value of the mortgaged property did not suffice even to cover the principal. On the other hand, the central would profit by milling the cane, obtaining 45 per cent of the sugar produced, and would not suffer any loss, for the expenses advanced would be reimbursed out of the net proceeds.

Another result of the contract could be, that the net proceeds of the plantation would not even cover the expenses advanced by the central. In such an event, and this is precisely the case, according to the central's interpretation of the contract, the plaintiff would gain nothing; but, on the contrary, would suffer from delay in collecting its credit and loss of the mortgage, as a whole or in part, while the central would in any case gain a little or a great deal out of its share in the sugar obtained from milling the sugar cane, and would suffer no loss, because the expenses advanced would be reimbursed out of the net proceeds, and if there is any balance, out of the selling price of the property mortgaged to the plaintiff. In other words, according to the central's interpretation of the contract, while the plaintiff would have two chances of losing and one of gaining, the central would have every chance of gaining and none of losing. Even disregarding the terms of the contract, which, as stated in our decision, do not admit of this interpretation, its mere statement is sufficient to show that the plaintiff could not have entered into a contract of this kind. Even under the interpretation we have given the contract, the plaintiff would necessarily have to suffer from the delay in the collection of its credit, and the advantage of collecting it from the profits of the plantation was contingent, for it depends upon the condition that there would be profits. But the central would always gain, something or much, out of its share in the sugar, for there would always be cane to mill, and its risk of losing, in case the produce should be insufficient to cover the expenses advanced, depends, to some extent, upon itself, for its obligation to pay back these advances was limited to the amount of P4 a picul, upon the basis of its own calculation of the harvest. On the contrary, the plaintiff, besides having to suffer from the delay in collecting its credit, could only look forward to an advantage which may or may not arise, but which, in any

event, is independent of its will.

It is claimed that the crops of the plantation after 1922 have been erroneously held to be included in the mortgage to the plaintiff, since the terms of the contract refer only to the crops for 1920-1922. But the holding in our decision was based not on the terms of the contract, but upon the law, which provides that even where there is no contractual stipulation, the following are deemed included in a mortgage of real property: (a) New plantings; (b) fruits, except those collected before the obligation falls due, and those removed and stored when it falls due; and (c) accrued and unpaid rents, as well as those which should have to be paid while the credit remains wholly-unsatisfied. (Art 1877 of the Civil Code, and arts. 110 and 111 of the Mortgage Law.) We did not decide, for it was not in issue, whether the plaintiff's right should take precedence of the central's right, if there had been no agreement on the point, but since this was at least a debatable question, it may have been the reason why, in order to remove any doubts, the parties expressly stipulated that the central should have a preferred lien on the crops. At any rate, even without this argument, the decision is sufficiently justified in our written opinion.

We deem the amendment of the dispositive part to be unnecessary, since the decision appealed from has been affirmed, except so far as it has been modified. Petition denied. So ordered.

Johnson, Street, Villamor, Johns and Villa-Real, JJ., concur.

Romualdez, J.; concurs in the result.

[1] The main decision is on page 149, ante.

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