

HIJOS 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. December 27, 1929

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

On July 13, 1920, Salvador Betia mortgaged to plaintiff Hijos de Isidro de la Rama several parcels of land described in the document drawn up for that purpose (Exhibit A) in order to secure the payment of a P30,000 loan. The conditions of the mortgage, among others, are that the money loaned shall be used exclusively for agricultural purposes; that Betia shall produce at least 3,000 piculs of sugar at each crop; that all of Betia's plantations and all the sugar which he might produce from 1921 to 1922 are likewise put under first mortgage to the plaintiff, that all the sugar that might be produced by Betia during the seasons from 1920 to 1922 shall be deposited in the De la Rama Warehouse Co., the plaintiff being authorized to sell or purchase said sugar, and to apply the proceeds to the P30,000 loaned until fully paid.

In 1921, as Betia, contrary to the agreement, only delivered 462.84 piculs of sugar, the plaintiff brought suit against him on November 29th for the recovery of the loan and the foreclosure of the mortgage.

While this action was pending Salvador Betia, desiring to remedy his condition, made some propositions to the Asturias Sugar Central, and the latter, in turn, discussed the matter with the plaintiff. The three parties having reached an agreement, the Asturias Sugar Central set forth said agreement in a letter addressed to the plaintiff, and requested his signature, thus indicating his acquiescence. The plaintiff acting through its representative, Esteban de la Rama, signed the letter, which thereby became the contract between the central and the plaintiff. This contract provided that the plaintiff suspend the action for the recovery of the mortgage credit then pending against Salvador Betia; that in order that Salvador Betia might continue cultivating the plantation mortgaged to the plaintiff, the central would furnish him the necessary funds, at the rate of P4 per picul, as expense, including the taxes to be paid the Government by the plantation, to be based on the production as calculated by the central; the central should have preference in the collection of any amount thus supplied to Salvador Betia.

In pursuance of this contract, the central from time to time gave Salvador Betia certain different sums of money for the cultivation of the plantation, payment being made by the production as fast as it was delivered. For some reason, however, Salvador Betia finally became indebted to the central for the amount of P17,317.76.

On April 8, 1928, the plaintiff filed the complaint in the present case against Salvador Betia, Asturias Sugar Central, Inc., and the Philippine National Bank. The action against Salvador Betia seeks to recover the P30,000 credit, with interest in the amount of ₱26,242.41,, in default whereof, it is prayed that the mortgage be foreclosed. The action against the Asturias Sugar Central, Inc., is for a rendition of accounts of the production of the plantation for the period during which it had been furnishing Salvador Betia with money, and for the delivery to the plaintiff, on account of their loan to Salvador Betia, the difference between said products, after deducting

expenses, and the amounts supplied by the central., The Philippine National Bank has been included in this action as defendant due to the fact that it holds second mortgage on the land mortgaged to the plaintiff.

Defendant Salvador Betia has merely denied the allegations of the complaint.

The defendant Asturias Sugar Central, Inc., besides entering a general and specific denial of the allegations of the complaint, filed a cross-complaint alleging that it has the preference for the recovery of its credit against Salvador Betia not only with respect to the sugar produced on the plantation, but also with regard to the plantation itself, which is mortgaged to the plaintiff, and it prays that should the land be sold, the proceeds be applied by preference to the payment of its credit against Salvador Betia.

The Philippine National Bank entered no appearance, and filed no answer to the complaint.

The court below rendered judgment for the plaintiff against the defendant Salvador Betia, ordering him to pay the former the sum of P56,242.41, plus 12 per cent on P30,000 from March 31, 1928 until fully paid, plus another sum equivalent to 12 per cent of P80,000 by way of penalty and as attorney's fees; and, should Salvador Betia fail to make this payment within ninety days, it is ordered that the mortgaged lands be sold. The judgment contains other rulings which are of no importance in the decision of this case.

With respect to the cross-complaint filed by the Asturias Sugar Central, Inc., the trial court rendered judgment in its favor and against the plaintiff for the sum of P17,317, the amount advanced to Salvador Betia by the central, together with legal interest from May 14, 1928 until fully paid, ordering that such payment be made from the proceeds of the sale of the animals and the agricultural implements, railways, machinery and other articles purchased by Salvador Betia with money furnished by the Asturias Sugar Central, Inc., and that if the proceeds of such sale be not sufficient to pay off this debt, the balance be paid out of the proceeds of the sale of the plantation, preference being given to the plaintiff's credit.

Exhibit F, the contract between the plaintiff and the central, reads as follows:

"December 19, 1923.—Messrs. HUOS DE I. DE LA RAMA, Iloilo.—GENTLEMEN: I wish to have your consent to the agreement with respect to Salvador Betia, which we made orally yesterday.—That this Central shall finance Mr. Salvador Betia during four harvests, beginning with the 1924- 1925 sugar crop, and ending with the 1927-1928 sugar crop.—That during said period this Central will furnish him the necessary funds to prepare, plant, care for, and cultivate the sugar cane that said Mr. Betia may plant, as well as for cutting and carting it, and any other expense directly related to the care and cultivation of the said sugar cane, but the amount shall not exceed 14 per picul of the crop calculated by this Central.—That while this Central is financing said Mr. Betia, the firm Hijos de I. de la Rama, or D. Esteban de la Rama, shall not levy execution on the property of Mr. Betia for non-fulfillment of any of the terms or conditions of the contract, on his part, not even after the mortgage deed of Mr. Betia in favor of said Hijos de I. de la Rama, or D. Esteban de la Rama, has become due.—That this Central shall have preference for the collection of any amount advanced to Mr. Betia for the aforementioned purposes, including any amount paid as land tax on the lands mortgaged to you, always provided the amount expended does not exceed four pesos per picul of the total crop that this Central may calculate Mr. Betia will have, but that this sum does not include any payment for the land tax, and should we have paid therefor, we shall have preference in its collection.—That whatever balance Mr. Betia might have upon having sold his sugar, after deducting the amount due us, shall be delivered to you to apply on the payment of Mr. Betia's account with you.— Hoping that this is what we agreed upon, I remain, Yours truly,—ASTURIAS SUGAR CENTRAL, INC. By (Sgd.) THOMAS J. FORD, Manager, * * * Agreed.—HIJOS DE I. DE LA RAMA. By (Sgd.) E. DE LA RAMA, Manager."

The evidence supports the conclusion of the court below to the effect that the central's credit against Salvador Betia amounts to P17,317.

But, the trial court rendered judgment for this amount in favor of the central, against the plaintiff. There is nothing in the terms of Exhibit F to justify this ruling. The credit was given by the central to Salvador Betia, and it was the latter who received this amount from the central. The terms of Exhibit F do not show that the plaintiff assumed the responsibility for the amount which the central might furnish to Betia. In reality, not even the central itself has sought to recover from the plaintiff what the court below has awarded it. The only thing the central seeks in its cross-complaint is that its credit against Salvador Betia be collected, in case of necessity, with the proceeds of the sale of the land mortgaged to the plaintiff with preference of the latter's credit.

Furthermore, there is nothing in Exhibit F to justify the decision of the court below to the effect that the credit in favor of the central be collected from the proceeds of the sale of the land mortgaged to the plaintiff, with preference of the latter's credit. As may be seen from Exhibit F, the agreement was to the effect that the collection of central's credit against Betia should have preference over the plaintiff's credit, from the sugar produced on the plantation. It is not stated that this preference should be extended to the plantation itself. On the contrary, the document shows that such preference was limited to the sugar to be produced. In order to determine how this preference was to be made, Exhibit F concludes with the following clause: "That whatever balance Mr. Betia might have upon, the sale of his sugar, and the deduction of the amount owed to us (central), shall be delivered to you (plaintiff) in order to apply it on the payment of Mr. Betia's account with you (plaintiff)." In thus referring expressly to the sale of the sugar, for the effects of the preference, the document gives us to understand that the parties only intended such preference with respect to the sugar produced on the plantation. If the parties had intended to extend this preference to the land itself, they would also have expressed it as they expressed that relating to the sugar.

Moreover, according to Manuel Garcia, assistant manager of the central, who began these negotiations with the plaintiff in the conversations had with it, preceding the execution of Exhibit F, he discussed with Esteban de la Rama, who represented the plaintiff, the matter as to the preference which the central expected to have in the payment of its credit against Betia upon the said land mortgaged to the plaintiff. This being! so, the fact that this preference with respect to the mortgaged land was not included in Exhibit P, is proof that they did not agree to extend the preference to this point. It is true that Garcia stated that Esteban de la Rama agreed to the proposal, but the latter not only denies that he agreed, but also states that what they did agree on is that the central's credit should be collected only from the crops. In view of this conflict in their testimony, it is more reasonable to accept Esteban de la Rama's, which is supported by the terms of the contract, which makes special reference to the sugar crops in determining how the preference is to be effectuated, rather than Garcia's, which is not corroborated by the contract, in so far as it makes no mention of how this preference over the proceeds of the sale of the land is to be realized.

At all events, the most that can be said in favor of the central is that the contract is obscure with respect to this point. In such a case, this obscurity cannot be made to favor the party that caused it (art. 1288 of the Civil Code), which is the central, as the party that, through its assistant manager Manuel Garcia, attorney, drew up the contract.

The central maintains that the fact that they agreed to the suspension of the action brought by the plaintiff for the foreclosure of the mortgage against Salvador Betia, indicates that the plaintiff waived its mortgage. We fail to see the logic of such a deduction. The suspension was necessary to make the agreement between the plaintiff, the central and Salvador Betia, inasmuch as, if the mortgage had been foreclosed in that action, the plantation would have been sold, and it could not have been cultivated by Salvador Betia.

It is also contended that if this preference had not been extended to the land, but confined to the production, it would not have been necessary to agree upon it, inasmuch as the central would, in any event, even without this agreement, have a preferred Hen for its credit on the crops, in accordance with article 1922 of the Civil Code. But

it should be noted that in the mortgage executed by Salvador Betia in favor of the plaintiff, the crops were included, which made it necessary expressly to mention in Exhibit F the preference in favor of the central for the collection of its credit from the crops, because otherwise, the mortgage thereof in favor of the plaintiff would have been a bar to it.

It is held that the preference agreed upon by and between the central and the plaintiff for the collection of the central's credit, does not, according to the contract, extend to the land mortgaged to the plaintiff. From this is excepted the central's credit for the disbursement made to pay the land tax, inasmuch as it was made for the benefit of the land.

The judgment appealed from is modified, it being decreed that with the proceeds of the sale of the land the central's credit for the land tax be paid by preference, after which the plaintiff's credit, and with the balance, if any, the credit of the central, the remainder if any, to be delivered to Salvador Betia, and, eliminating the judgment against the plaintiff for the amount of P17,317.76, the appealed judgment in all other respects is affirmed, without special pronouncement as to costs. So ordered.

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

[1] Upon resolution of petition for reconsideration, see p. 991 post.

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