

EUGEN MARSCHALL, AS JUDICIAL ADMINISTRATOR OF THE ESTATE OF WALTER TOEHL, DECEASED, PLAINTIFF AND APPELLANT, VS. CARL ANTHOLTZ ET AL.. DEFENDANTS. CARL ANTHOLTZ, APPELLANT.

G. R. No. 31672. February 14, 1930

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-31672/>

STREET, J.:

This action was instituted in the Court of First Instance of the City of Manila by Eugen Marschall, as administrator of Walter Toehl, deceased, against Carl Antholtz and A. Murray & Co., Ltd., for the purpose of recovering a parcel of land in the District of Santa Ana, of the City of Manila, with the buildings, improvements, and machinery thereon, consisting of an oil mill with its appurtenances, and to obtain a decree annulling the Torrens title No. 27482, covering said land and improvements, with pronouncement to the effect that said property pertains to the estate of Walter Toehl, deceased, subject to a certain mortgage thereon, and to recover the value of the reasonable use and occupation of said property from October 2, 1926, as well as to obtain an accounting from the defendant Carl Antholtz for the use of said property and the proceeds of oil mill products sold by him, with further appropriate general relief. The defendants answered with a general denial and cross-complaint wherein Antholtz sought to recover damages for the wrongful issuance of an attachment of property belonging personally to himself, which attachment the plaintiff had obtained at or about the time of the institution of the action.

Upon hearing the cause the trial court annulled title No. 27482 and ordered that the properties which were the subject of the litigation should be delivered to the plaintiff, subject to the payment of a claim of P1,637.60 presented by Carl Antholtz against the oil mill business. At the same time the court dismissed the cross-complaint of Antholtz. From this judgment both parties appealed, the plaintiff assigning error to the parts of the decision unfavorable to his contention, and Antholtz assigning error to the failure of the court to allow damages for the attachment levied on his own property.

Walter Toehl, for several years prior to his death on November 3, 1926, was the Manila manager of Behn, Meyer & Co., H. Mij., a foreign corporation engaged in business in the Philippine Islands. At the same time Carl Antholtz was a chemist and oil technologist, also living in Manila. Toehl appears to have been the owner of a parcel of land, with a building thereon, located in the barrio of Punta, in the District of Santa Ana, Manila. Being desirous of using this property in a profitable way, Toehl, in January, 1926, contracted for the services of Antholtz as manager of an oil mill to be operated on said property. The agreement between them was that Toehl would furnish the capital necessary for the business, which was estimated at P25,000, and Antholtz would act as Toehl's agent and manager at a salary of P500 per month. In view of the fact that Toehl was then the manager of the firm of Behn, Meyer & Co., H. Mij., and owed his services primarily to that entity, he was desirous for his own name not to be used in the oil mill to be established in Santa Ana. It was therefore agreed that Antholtz would conduct the business in his own name. In accordance with this agreement, Antholtz installed for Toehl a factory for the

manufacture of coconut oil on the property mentioned, and he proceeded thereafter to operate the concern in his own name. On different dates in the early months of 1926 Antholtz received from Toehl the sum of P13,000. which was invested in the concern.

The business was apparently undercapitalized, and it became necessary to borrow money. To facilitate transactions of this character Toehl decided to establish the business in corporate form with a capital, consisting of the land and building, already registered in the name of Toehl, and the machinery, then being used in the business by Antholtz. At this time Antholtz happened to be the owner and holder of all the certificates of stock of a corporation known as A. Murray & Co., Ltd., a concern without capital, which had totally ceased to function. Its shares, therefore, were no longer of any value. With the consent of Antholtz, Toehl assumed possession of the documents relating to this corporation with a view to reviving it as corporate owner of the oil plant above-mentioned. Having obtained possession of the certificates of stock issued in the name of Antholtz, Toehl marked said shares as cancelled and prepared a new certificate of stock for 496 shares in the name of his wife, Josefa Toehl. Four other several shares were either issued, or intended to be issued, in blank, to four directors of the intended corporation, but they were indorsed and delivered to Mrs. Toehl. In order to start this old corporation on its way as a solvent concern, Toehl transferred to it the parcel of land above-mentioned, with the factory and machinery established thereon. For the purposes of this step the factory was valued at P30,000, and the machinery at P20,000, While the land itself was put in at P40,000. That Toehl was the prime mover and actor in these steps is clearly apparent from the uncontradicted testimony of Antholtz and documents introduced in evidence as exhibits. Toehl died before the rehabilitation of A. Murray & Co., Ltd., was completed, but a conveyance was executed by Toehl placing the land, with improvements, in the name of A. Murray & Co., Ltd., and the Torrens title to the property now stands in the name of said company. Meanwhile Antholtz was operating the oil mill under his contract with Toehl.

After Toehl's death, or shortly prior thereto, it was found that he was short in his accounts with Behn, Meyer & Co., H. Mij., to the extent of about P150,000; and a claim for approximately this amount has been allowed by the committee on claims in the estate of Toehl in administration. There appears to have been only one other creditor of his estate, whose claim is small in amount. After Toehl's death the then manager of Behn, Meyer & Co., H. Mij., procured Eugen Marschall to be appointed administrator of the estate, and the present action was instituted by him to recover possession of the oil mill property above-mentioned and to hold Antholtz personally liable for certain personal property pertaining to the oil mill and products of the same which have been sold by Antholtz in the continuation of his duties as manager.

The plaintiff's case supposes that Toehl and Antholtz 'were in collusion and that the latter was cognizant of the fact that the money which Toehl had put into the oil business in Santa Ana had been feloniously embezzled by Toehl from his employer. As a consequence of this supposed collusion, it is insisted for the plaintiff that Antholtz is liable for everything which Toehl had taken from Behn, Meyer & Co., H. Mij., and placed in jthe oil mill business, as well as for the proceeds of the things sold by Antholtz after the death of Toehl. The trial court found, and we concur in this conclusion, that there is no sufficient proof of collusion between Antholtz and Toehl in the matter of the misappropriation of any of the funds of Behn, Meyer & Co., H. Mij. It certainly would have been an astonishing manifestation of lack of prudence on the part of Toehl to communicate to his own employee the fact that the capital advanced for the use in the oil mill business had been abstracted by Toehl from the coffers of Behn, Meyer & Co., H. Mij. It seems to us that the slightest knowledge of human nature is sufficient to suggest that Toehl would be particularly careful not to put himself at the mercy of his manager by revealing to him the fact that the capital invested was being wrongfully obtained by Toehl; and a review of the evidence leads us to believe, as the trial judge found, that Antholtz was wholly innocent of any guilty participation in the embezzlements committed by Toehl.

The most debatable feature of the case is that which is concerned with the liability of Antholtz for the proceeds of certain effects sold by him after the death of Toehl, as well as the proceeds of the output of the mill while Antholtz continued in the management. In section 711 of the Code of Civil Procedure it is declared that if any person, before the granting of letters testamentary or of administration on the estate of a deceased person, embezzles, or alienates, any of the effects of such deceased person, such person shall be liable to an action in favor of the executor or administrator of such estate for double the value of the property sold, embezzled, or alienated, to be recovered for the benefit of the estate. But this provision has reference primarily to funds that are lost by embezzlement or alienation, and it cannot be understood as making the manager of a going concern liable for proceeds of sales applied by him to the proper uses of the business, as occurred in this case. The proof shows that the personal property other than the products of the mill, sold by Antholtz in the manner mentioned, was sold with the consent of the manager of Behn, Meyer & Co., H. Mij., and with the consent of the administrator of Walter Toehl, and the proceeds of these sales, as well as the proceeds of the products of the mill, were applied by Antholtz to the obligations incurred by him in running the business, without the improper diversion of a single cent. In article 280 of the Code of Commerce, it is provided that a contract of agency shall not be rescinded by the death or incapacity of the principal, although it may be revoked by his representatives. As the oil mill in Santa Ana was a going concern, it was apparently to the interest of all persons concerned that its operation should continue, at least until the authority of Antholtz should be revoked by the representative of Toehl, which does not appear to have been done prior to the accomplishment of the acts complained of. Nor was there error in the action of the trial court in requiring the estate, as a condition of the taking over of this property, that it should compensate or reimburse Antholtz to the extent stated in the dispositive part of the appealed decision.

With respect to the appeal of Antholtz against the action of the court in absolving the estate from the defendant's counterclaim, we note that the attachment, for the wrongful issuance of which damages are sought, was sued out after Antholtz had announced his intention of leaving the Philippine Islands, and it is untenable to say that the attachment was malicious. In addition to this the damages sought are, in the opinion of the court, either not clearly proved or are of a character not to be recoverable in this action.

The judgment appealed from will be affirmed, and it is so ordered, without costs.

Malcolm, Villamor, Ostrand, Johns, Romualdez 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.