

HEREDEROS DEL FINADO BENITO LOPEZ ET AL., PLAINTIFFS AND APPELLANTS, VS. ISABELA SUGAR CO., INC., DEFENDANT AND APPELLEE.*G. R. No. 32624. February 07, 1931*

Ponente: OSTRAND, J.

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The defendant corporation operates a sugar central in the municipality of Isabela, Occidental Negros, and the plaintiffs are the owners of the Hacienda Antolanga, situated in the same locality. In the year 1920 the parties entered into a thirty-year milling contract in which the defendant bound itself to provide the necessary railroad facilities and among other things also guaranteed to extract not less than 42 per cent of high grade centrifugal sugar, generally known as sugar A and B, with an average polarization of 96 per cent in sugar A and 93 per cent in sugar B. The contract further provides for a committee of planters who, in connection with the manager of the central, look after the production of the various plantations and determine the number of cars required for the transportation of the cane.

The relations between the parties were satisfactory until the agricultural year 1927-1928 when conflicts arose. It appears from the record that at the beginning of that year the management of the central, in order to expedite the milling of the cane, induced nearly all of the planters affiliated with the central to agree to an extraction of 91 per cent of the sugar, which arrangement seems to have been of benefit both to the central and to the planters, but Vicente Lopez, then in charge of the Hacienda Antolanga, did not accept the proposition made by the management and insisted that the 92 per cent extraction of the sugar should be maintained.

The central appears to have had a sufficient number of cars for the transportation of the cane and also maintained extra or reserve cars for emergencies. The plaintiffs contend that they were discriminated against by the management of the central and that the extra cars were distributed among the planters who had accepted the 91 per cent extraction; that as a result the plaintiffs did not receive sufficient cars and that as a consequence the harvest on their plantation was greatly delayed. They therefore demand damages for losses of sugar and for inability to cultivate ratoon crops in the total sum of P22,394.

In its answer to the plaintiffs' complaint the defendant in substance denied that it, in any manner, obstructed the plaintiffs' cultivation and harvest of their cane; that the distribution of the cars was in the hands of the committee of planters in accordance with the practice provided for in the contract between the plaintiffs and the central and that the distribution of said cars was made fairly; that the committee valued the harvest accurately and that it asked for and obtained from the central 300 cars for the Hacienda Antolanga, a sufficient allotment for that hacienda; that probably due to lack of laborers the harvest of the hacienda was delayed; that on March 20, 1928, the planters whose harvests were delayed were offered additional cars, but that Vicente Lopez, then in charge of the Hacienda Antolanga, did not avail himself of the offer.

The defendant also presented a counterclaim alleging that by reason of unnecessary delays on the part of the

plaintiffs, during the period from April 23 to May 6, 1928, when practically all of the milling was terminated, the defendant was obliged to mill the plaintiffs' cane, the daily amount of which was less than one-fourth of the normal capacity of the mill and that, considering the overhead and other expenses, the defendant estimated its loss thereby to amount to P39,948.94, for which it demanded judgment against the plaintiffs.

Upon trial of the case the court below absolved the defendant from the plaintiffs' complaint and ordered said plaintiffs to pay the defendant the sum of P6,000 upon its counterclaim. From this judgment the plaintiffs appealed.

With the exception of the third assignment of error the case involves only questions of fact, none of which are of sufficient importance to reverse the findings of the court below. The distribution of the cars was under control of the committee of planters and though the manager of the central may to some extent have favored the planters who had accepted the proposition for a 91 per cent extraction offered by the management of the central, we cannot hold that the losses alleged to have been suffered by the plaintiffs were due to obstructions brought about by the officials of the central. On the contrary the record indicates that the number of cars furnished the plaintiffs was adequate and with prompt loading would have fully met the plaintiffs' requirements.

The third assignment of error relates to the defendant's counterclaim and in our opinion is well taken. Towards the end of the milling season the harvest of the cane produced on the plantations "Antolanga," "Pucatud" and "Maria Cecilia" was seriously delayed, but notwithstanding the fact that in the last weeks the plantations mentioned could not deliver even the minimum tonnage of cane provided for in the milling contract, the central continued to mill the cane brought in from said plantations. No notice was given the planters to the effect that the central would demand damages or increase the cost of the milling and we can find nothing in the contract upon which damages, such as those granted by the court below, can be based. On the contrary the extension of the milling period must be regarded as a mutual agreement by which the central became entitled to 45 per cent of the sugar as provided for in the contract and no more. Articles 10 and 14 of the Obligations of the Planters, as stated in the contract, are not in point.

The appealed judgment is therefore modified by absolving the plaintiffs from the counterclaim of the defendant. In all other respects the judgment is affirmed without costs. So ordered.

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

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