

**PROVINCIA DEL SANTISIMO NOMBRE DE JESUS DE FILIPINAS DE LA
ORDEN DE ERMITAÑOS DE NUESTRO PADRE SAN AGUSTIN,
COMUNMENTE CONOCIDA CON EL NOMBRE DE
“CORPORACION DE PP. AGUSTINOS,” ...**

G.R. No. 34350. February 12, 1932

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This is a case involving a mortgage credit. The plaintiff corporation prays that judgment be rendered against the defendants to pay jointly and severally the sum of P41,670.87 with interest at 9 per cent per annum computed from June 15, 1928, until it is paid, plus the legal rate of interest from the filing of the complaint, and P4,807.90 with the legal interest thereon-from the date on which this action was instituted, with costs.

The plaintiff further prays that if the defendants fail to make such payments within three months from the date of judgment, the P75,000 mortgage credit of defendant Jose Marin against his co-defendant Felipa P. Alberto, secured by the property described in the complaint, be sold at public auction, and the proceeds applied to the judgment.

The defendants Leon del Rey and Jose Marin contend that the document sought to be enforced is null and void, and that the plaintiff owes them P6,997.89; wherefore they pray that said document be declared null and void, the corresponding entry in the proper certificate of title be ordered cancelled, and the plaintiff be sentenced to pay them the amount last mentioned and the costs. After the defendants had filed a specification of the amounts mentioned in their answer, to which the plaintiff replied in writing, and after the trial, the Court of First Instance having cognizance of the case rendered the following judgment:

"Held, that the defendants Del Rey and Marin are jointly and severally liable for the payment of the following sums to the plaintiff: P41,670.87 with interest at 9 per cent per annum from June 15, 1928, until the sum is fully paid; P4,807.90, with interest at 6 per cent per annum from January 12, 1929, until it is fully paid. They are ordered to deposit these sums, together with the interest, in the office of the clerk of the Court of First Instance of Manila within three months of the date of this judgment, under penalty of having the mortgage credit of P75,000 sold at public auction. They shall each pay half of the costs of the trial. The plaintiff is hereby absolved from the defendants' counterclaim." (Pp. 35 and 36, Bill of Exceptions.)

The defendants impugn this judgment and assign the following alleged errors as committed by the trial court:

"(1) In not holding that the document executed on June 15, 1928 (Exhibit C), is null and void for having been obtained through coercion, threat, and intimidation practised on one of the subscribers, to wit, Leon del Rey.

"(2) In not holding that accountant Francisco Santiago's report (Exhibit 4) has been found to contain some errors in accounting inasmuch as Leon del Rey is charged with certain sums which he is not bound to pay the plaintiff, included in the specification filed by the defendants with their amended answer.

"(3) In rejecting the defendants' claim for Leon del Rey's expenses for repairing and painting the facade of the Church of St. Augustine at the request and approval of the plaintiff.

"(4) In denying the defendants' motion for a new trial on the ground that the evidence does not sustain the judgment, which, is contrary to the law.

"(5) In rendering judgment for the plaintiff corporation and against the defendants, with one-half of the costs against each of the latter, instead of absolving them with costs against the plaintiff."

The defendants, Leon del Rey and Jose Marin, executed Exhibit C on June 15, 1928, undertaking to pay the Compania Agricola de Ultramar jointly and severally the sum of P41,670.87 with interest at 9 per cent per annum, and the interest earned during the year 1927 on the company's funds deposited by Leon del Rey in his own name in certain banks. The payment of these sums was secured by a mortgage of the P75,000 mortgage credit held by Jose Marin against the property covered by transfer certificate No. 26823 of Manila, belonging to the defendant Felipa P. Alberto; and it was stipulated that in default of payment of the interest due upon the principal of P41,670.87 for six months, the credit would become due and the mortgage liable to foreclosure.

The debtors having failed to pay the stipulated interest for more than six months, the mortgagee instituted this action in the Court of First Instance of Manila, with the result indicated above.

Before the case was decided the present plaintiff acquired the rights of the Compania Agricola de Ultramar, and was substituted in this case.

There is in the record no evidence of coercion, threat, or intimidation practised upon Leon del Rey to compel him to sign the mortgage deed mentioned above. Neither the estafa charge against him, nor Father Mariano Rodrigo's alleged remarks addressed to Jose Marin, nor Father Castrillo's alleged recommendation to Juan Larrazabal to have Leon del Rey, sign the mortgage constitutes, either by itself or together, coercion, threat, or intimidation, vitiating the consent manifested in the execution of that contract. Even assuming that the defendants entered into this contract reluctantly, it cannot be annulled upon this ground. This court has so ruled in *Martinez vs. Hongkong & Shanghai Banking Corporation* (15 Phil., 252) in holding that:

"It is necessary to distinguish between real duress and the motive which is present when one gives his consent reluctantly. A contract is valid even though one of the parties entered into it against his wishes and desires or even against his better judgment."

Furthermore, the evidence shows that the defendants had been leading up to the contract by a series of offers, and that upon its execution they regarded it as existing and acted accordingly, thereby confirming it beyond all doubt. In regard to the defendants' alleged error at the time or just prior to the execution of the contract, this has not been proven. They had discussed and gone over Exhibit 4, containing accountant Santiago's report.

The defendants are not entitled to a review of their accounts with the plaintiff's predecessor, which were liquidated with their consent as shown by the contract itself; for they cannot now be heard to deny their own acts. *Barnes & Co.*, 16 Phil., 423; *Gutierrez Hermanos vs. Oria Hermanos & Co.*, 30 Phil., 491.)

With reference to the expenses incurred in repairing and painting the facade of the Church of St. Augustine, these have neither been alleged nor claimed in due time in the first instance, and it does not appear that the plaintiff is under obligation to pay for them.

The two last assignments of error are mere consequences of the preceding ones.

There being no merit in this appeal, the judgment appealed from is hereby affirmed, with costs against the appellants. So ordered.

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

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