

TAN TUA SIA ET AL., PLAINTIFFS AND APPELLEES, VS. YU BIAO SONTUA ET AL., DEFENDANTS. FEDERICO GOTUA, APPELLANT.*G.R. No. 34533. March 31, 1932*

Ponente: VILLAMOR, J.

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In their amended complaint the plaintiffs pray that judgment be rendered in their favor and against the defendants ordering them to pay jointly and severally the sum of P28,243.40, plus interest thereon at 14 per cent per annum from July 31, 1927 until fully paid, in addition to 20 percent of said sum and interest thereon, as attorney's fees, and the costs of this action; and any further remedy that may to the court seems just and equitable.

Yu Chong Tian, assignee of the insolvency of Yu Biao Sontua Hnos. y Cia. and of Yu Biao Sontua, practically reproduced herein the answer filed in this case by Yu Biao Sontua Hnos. y Cia. and Yu Biao Sontua, dated and filed on October 14, 1927.

The defendant Federico Gotua also filed an answer to the complaint, wherein, after entering a general and specific denial of the allegations of the complaint, he sets up certain special defenses and a cross-complaint, terminating with a petition for the dismissal of the complaint and the payment of P20,000 to him by the plaintiffs and the costs.

After the hearing, the court rendered a carefully prepared decision ordering the assignee of the insolvency of the defendants Yu Biao Sontua Hnos. y Cia. and Yu Biao Sontua, and the defendant Federico Gotua to pay the plaintiffs jointly and severally the sum of P28,243.40 plus the stipulated interest at the rate of 14 per cent per annum from September 31, 1927 until fully paid; to pay, as penalty by way of attorney's fees and costs of collection an amount equivalent to 9 per cent of P28,243.40, the court considering the penalty (20%) mentioned in the promissory note Exhibit A as excessive, and finally to pay the costs.

From this judgment the defendant Federico Gotua appealed.

The present action is based upon the promissory note Exhibit A, attached to the record, which reads as follows:

P28,243.40 Manila, Sept. 21, 1925

"For value received and by virtue of the stipulations and agreements, assignments and waivers, made in a public instrument executed by and between Yu Biao Sontua Hermanos y Compania, and Tan Tua Sia, as Administratrix of the Intestate Estate of the deceased Sebastian Sontian, wherein the latter states that she has withdrawn all the rights or shares that said Sebastian Sontian had in said partnership Yu Biao Sontua Hermanos y Compania, the undersigned jointly and severally promise to pay the administratrix of said intestate estate of the late Sebastian Sontian, or his heirs or assigns, the amount of Twenty-Eight Thousand, Two Hundred Forty-Three Pesos and Forty Centavos on or before the 31st of December, 1929, with interest from September 1, 1925, at the rate of fourteen per cent (14%) per annum, payable the 30th day of each month. Failure to pay the principal of this note or any monthly installment of the interest in due time shall bring about the maturity of said note, and both principal and interest shall be immediately due and payable. In case of

litigation we also undertake to pay jointly and severally the holder of this note an additional sum equal to twenty per cent of the principal and interest then due, by way of attorney's fees and costs of collection.—YU BIAO SONTUA HERMANOS & Co. Per (Sgd.) YU BIAO SONTUA, Manager.— (Sgd.) YU BIAO SONTUA—(Sgd.) FEDERICO GOTUA.—Witnesses: (Sgd.) YU LIU PUANG.— (Sgd.) LUIS EGAY."

So far as the record shows,, Tan Tua Sia and the other plaintiffs are the widow and children of Sebastian Sontian. The latter was formerly a partner of Yu Biao Sontua Hermanos y Cia. Upon his death differences arose between his heirs and the partnership Yu Biao Sontua Hnos. y Cia, as to the amount the heirs should receive for Sebastian Sontian's share in the said company. Finally they agreed to liquidate the accounts of Sebastian Sontian and it was discovered that his share amounted in September, 1925 to P45,260.78; but deducting from this the sums he had on different occasions received, which in all amounted to P17,017.38, his share was reduced to P28,243.40. This sum was left in the hands of Yu Biao Sontua Hnos. y Cia as a loan payable within five years, bearing interest at 14 per cent per annum. It was to secure the payment of this amount that the above-quoted promissory note was executed, the makers binding themselves to pay the plain tiffs jointly and severally the sum of P28,243.40 according to the terms of said note.

There is no question regarding the genuineness of the signature on the note. The appellant testified in court that the signature appearing thereon was his own; that Yu Biao Sontua asked him to sign the note in favor of the widow of Sebastian Yu Sittian, in connection with the interest of Tan Tua Sia in Yu Biao Sontua Hermanos y Cia.; and that the period of the note was for five years. And referring to the conversation he had with Yu Biao Sontua, he said:

"I asked him why I was to sign this document (What is this? I said) and he answered: 'This is her share in the company of Yu Biao Sontua Hermanos y Cia.' I asked him within what time he would pay or promise to pay this debt, and he replied, in five years, because that would be easier."

We agree with the trial court that the appellant's testimony is not competent to show that he was deceived by Yu Biao Sontua at the time he signed the promissory note. He had the note in his possession, and he knew, because Yu Biao Sontua had told him so, that the note he was about to sign concerned Tan Tua Sia's interest in the partnership Yu Biao Sontua Hermanos y Cia., and this was stated in the document Exhibit B, mentioned in said note; and he cannot now validly allege that he did not read the first page or did not know the contents of the document he signed. Inasmuch as he is of age and a business man at that, he is presumed to have acted with due care, and to have signed the document in question with full knowledge of its contents. And this presumption of law is not overcome by the evidence adduced by the appellant, which consists of his own testimony, as held by the trial court.

The principles laid down in R. C. L., vol. 6, pp. 624-625, are here in point:

"A contract signed by mistake, that is, under the supposition that it is an instrument of another or different character, is void. But the courts appear to be unanimous in holding that a person who, having the capacity and an opportunity to read a contract, is not misled as to its contents, and who sustains no confidential relation to the other party, cannot avoid the contract on the ground of mistake if he signs it without reading it, at least in the absence of special circumstances excusing his failure to read it. If the contract is plain and unequivocal in its terms he is ordinarily bound thereby. It is the duty of every contracting party to learn and know its contents before he signs and delivers it. He owes this duty, to the other party to the contract, because the latter may, and probably will, pay his money and shape his action in reliance upon the agreement. To permit a party, when sued on a written contract, to admit that he signed it but to deny that it expresses the agreement he made, or to allow him to admit that he signed it but did not read it or know its stipulations, would absolutely destroy the value of all contracts. The purpose of the rule is to give stability to written agreements, and to remove the temptation and possibility of perjury, which would be afforded if parol evidence was admissible. This rule has

been carried to the extent of holding that, in the absence of fraud, or circumstances savoring of fraud, one entering into, a contract which refers for some of its terms to an extraneous document, outside of the contract proper, is bound also thereby, notwithstanding the fact that he omits to inform himself as to the contents of that document or the nature of those terms and conditions, when it was possible for him to have done so. The rule that one who signs a contract is presumed to know its contents has been applied even to contracts of illiterate persons on the ground that if such persons are unable to read, they are negligent if they fail to have the contract read to them. If a person cannot read the instrument, it is as much his duty to procure some reliable person to read and explain it to him, before he signs it, as it would be to read it before he signed it if he were able to do so, and his failure to obtain a reading and explanation of it is such gross negligence as will estop him from avoiding it on the ground that he was ignorant of its contents."

There being no evidence of the alleged fraud, and the appellant having recognized the genuineness of his signature on the promissory note in question, the same must have the desired legal effect. (Hill vs. Veloso, 31 Phil., 160.)

The appellant stated under cross-examination that he himself made no payment on account of the note in question by way of interest or otherwise, although he added that Yu Biao Sontua had paid the interest. The court found that the defendants did not make payment of the interest within the period stipulated in the contract, and this finding has not been assailed by the appellant in his assignments of error. Therefore, the appellant cannot avoid the performance of the obligation he contracted by signing the note in question.

The judgment appealed from being in conformity with law, it is hereby affirmed with costs against the appellant. So ordered.

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

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