

YU BUNUAN ET AL., PLAINTIFFS AND APPELLEES, VS. ORESTES MARCAIDA, DEFENDANT AND APPELLANT.

G.R. No. 3457. March 02, 1908

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3457/>

CARSON, J.:

This action was brought to recover of the defendant the sum of 3,830, being a balance alleged to be due on account of work done and materials furnished. Two causes of action were set out in the complaint, one for work done and materials furnished in the construction of two cottages in accordance with the terms of a contract between the defendant and one Vicente Co-chico; another for work done and materials furnished by the plaintiffs independent of the contract set out in the first cause of action. Judgment was rendered in favor of the plaintiff for the sum of P1,551.20, with interest at the rate of 6 per cent per annum and the costs, to which judgment defendant excepted, and brings the case here upon his bill of exceptions.

The appellant's assignments of errors are as follows:

- (1) The court erred in its findings of facts.
- (2) The court erred in overruling the demurrer to the complaint interposed by the defendant on the ground that plaintiffs had no legal capacity to sue, and because the facts set out in the complaint do not constitute a cause of action.
- (3) The court erred in refusing to allow the defendant's claim for damages because of the excess of time occupied in the work beyond the time stipulated therefor.
- (4) The court erred in giving judgment against the defendant for P1,551.20 with interest at the rate of six per cent from February 4, 1905, and the costs of the trial.

The first assignment of error will be considered together with the fourth.

In support of the second assignment of error, appellant contends that the complaint was filed by a partnership, which does not appear to have been duly registered in accordance with the provisions of the Code of Commerce, and had therefore no legal capacity to institute the action. Upon examination, however, it appears that the complaint was filed in the name of the individual members of the partnership, the names of the parties being set out in the first paragraph of the amended complaint as Yu Bunuan, Ohu Beco, and Co Narciso, partners trading under the firm name of Vicente Co-chico & Co., and we have frequently held that the individual members of an unregistered partnership may maintain a joint action on a contract, although an action could not be brought in the name of the partnership as such, or in the name of one or more of the members on behalf of their associates. (Prauch & Scholes vs. Jones, 8 Phil. Rep., 1.)

Defendant further insists in support of his second assignment of error that the plaintiffs claim by virtue of a contract between the defendant and one Vicente Co-chico, deceased, but that it does not appear that they are the

legal representatives of Vicente Co-chico, with authority to commence or to prosecute the action in the right of the deceased; and that, so far as plaintiffs pretend to rely on a transfer or cession, of the rights of the deceased under said contract, such allegations can have no effect, because it does not appear that such transfer or cession was made with the knowledge or consent of the defendant.

It would be sufficient answer to this contention to say that the demurrer was interposed to the entire complaint; that these objections are directed only to the first alleged cause of action, and in no event could they be considered in connection with the second cause of action, wherein the plaintiffs allege that they themselves furnished the supplies and did the work therein specified; and that granting that the objection was well taken to the first cause of action, a second cause of action having been sufficiently stated in the complaint, it was the duty of the defendant to file his answer thereto, and the demurrer to the complaint was therefore properly overruled.

But since judgment was rendered against the defendant on both causes of action, it may not be improper for us to examine the facts alleged and proven (other than those on which the second cause of action was based) to determine whether they did in fact constitute a cause of action which would support the judgment.

It appears that one Co-chico entered into a contract with the defendant to furnish certain supplies and to erect two cottages for a stipulated amount; that thereafter Co-hico formed a partnership of which he was a member, and ceded to the partnership his interest in this contract; that the partnership executed the contract substantially in accordance with its terms; that under the terms of the articles of partnership it was agreed that the partnership should not be dissolved by the death of Co-chico, and that in the event of his death his heirs should be substituted in his place as members thereof. That Co-chico died prior to the filing of the complaint in this action, leaving two heirs, who, in accordance with the articles of the partnership, became members thereof upon his death, and as such are parties plaintiff in this action; and that the defendant accepted the cottages which were erected by the plaintiffs in accordance with the terms of the contract.

Co-chico having conveyed to the partnership all his right, title, and interest in and to the contract, it is evident that the partnership or the members thereof, and not (as contended by the defendant) the legal representatives of Co-chico, are the real parties in interest in an action to recover from the defendant such amount as may be found to be due by him, under the terms of that contract. The defendant contends that it does not appear from the record that he was notified of, or assented to, this conveyance, and that since the contract was for the construction of certain buildings, and therefore strictly personal in its nature, Co-chico had no authority to delegate to another the fulfillment of obligations which were ex-pressly imposed upon him by the terms of the contract.

It is not necessary for us to consider what would have been the respective rights and obligations of the various parties had the defendant actually withheld his assent under the terms of the conveyance and refused to recognize Co-chico's right to execute it, because it was conclusively proven that he accepted the work done when it was completed, and has continued in possession of the cottages and enjoyed the rents and profits accruing therefrom, with a full knowledge of the fact that all Co-chico's right, title, and interest in and to the contract was conveyed to the plaintiffs. Having accepted the work done under the contract, the obligation rests upon the defendant to pay the price agreed upon, and it can make no difference to him whether he pays Co-chico or some other person at the order and request of Co-chico, provided always that he does not lose thereby any set-off or counter-claim which he may hold against the original creditor.

The third assignment of error is based upon the refusal of the trial court to allow the defendant damages for the excess of time occupied by the plaintiffs in completing the cottages beyond that stipulated in the contract. It appears that under the terms of the contract Co-chico agreed to pay the sum of 30 per day for each day which would elapse after the 15th of September, 1904, until the delivery of the completed cottages to the defendant, and

that the cottages were not ready for delivery until some months after that date. It was proven, however, that, at the instance of the defendant, a number of changes were made in the plans and specifications after the contract had been signed, and that no agreement was made as to the time within which the work thus modified was to be completed. The changes having been made at the request of the defendant, we think the trial court properly refused to apply the penal provisions of the original contract to the contract thus modified at his request.

The first and fourth assignments of error are founded upon alleged errors of the trial court in its findings of fact. The evidence submitted is contradictory, but on a review of all the record, we do not think that we would be justified in holding that the facts upon which the judgment is based, as found by the trial court, are not sustained by the weight of the evidence.

The judgment of the trial court should be, and is here-by, affirmed, with the costs of this instance against the appellant.

So ordered.

Arellano, C. J., Torres, Mapa, Johnson, Willard, and Tracey, JJ.,

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.