

ANTONIO D. MAURI, PLAINTIFF AND APPELLANT, VS. SAN AGUSTIN PLANTATION CO., INC., ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 34696. March 08, 1932*

Ponente: OSTRAND, J.

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This action was brought in the Court of First Instance of Manila to set aside a judgment obtained by the herein defendants Philippine Trust Co. and Mindoro Sugar Co. against San Agustin Plantation Co., Inc., and to declare null and void an execution sale of some property alleged to belong to the defendant San Agustin Plantation Co., Inc., the sale being held on November 4, 1929, presumably at the instance of the Philippine Trust Company.

On May 2, 1925, Antonio D. Mauri, the plaintiff herein, obtained a judgment against San Agustin Plantation Co., Inc., for the amount of P22,981.09 plus interest from January 10, 1925, to date of payment, and the judgment became final. While the execution of the judgment was about to be levied on the alleged property of San Agustin Plantation Co., Inc., the Court of First Instance of Mindoro ordered the suspension of the execution by telegraph, at the instance of the judgment debtor for the reason that a petition for involuntary insolvency had been brought against the San Agustin Plantation Co., Inc., in the Court of First Instance of Mindoro.

It further appears that on August 18, 1924, the defendant Philippine Trust Co. brought an action against San Agustin Plantation Co., Inc., and Mindoro Sugar Co. for a sum of money, amounting to about one million pesos, in the Court of First Instance of Manila, which action was decided on July 27, 1928, the court rendering judgment in favor of the Philippine Trust Co. in the amount of P298,456.79 and to Mindoro Sugar Co. in the amount of P298,228.08, both against the San Agustin Plantation Co., with their corresponding interests.

It also appears that on February 27, 1929, the petition for involuntary insolvency brought against the San Agustin Plantation Co. was dismissed at the instance of the petitioners ; and on April 2, 1929, Mauri again obtained a writ of execution against the San Agustin Plantation Co., but the trustees for the bondholders of the Mindoro Sugar Co. had no knowledge of any property of San Agustin Plantation Co., which could be held for execution. The judgment creditors of San Agustin Plantation Co. have not levied execution judgment against the San Agustin Plantation Co., until this date.

In the present action, the plaintiff, Mauri, claims to have priority of right to the property of the defendant San Agustin Plantation Co., his judgment having been rendered by the judge of the Court of First Instance three years before that of the defendants Philippine Trust Co. and Mindoro Sugar Co., and he now asks that the judgment in the case of Philippine Trust Co. vs. San Agustin Plantation Co. and Mindoro Sugar Co. be revoked in so far as his interests are affected. The plaintiff also demands that the execution sale of the property of the Mindoro Sugar Co., effected on November 4, 1929, in favor of the Archbishop of Manila should be declared null and void.

The defendants Philippine Trust Co. and trustees for the bondholders of the Mindoro Sugar Co. deny each and every allegation of the complaint, and as separate defenses, allege that the complaint does not state facts sufficient to constitute a cause of action against them; that the plaintiff never acquired a lien against any specific property of

the defendant San Agustin Plantation Co.; and that the plaintiff had full knowledge of the institution, trial, and decision of the case entitled "Philippine Trust Co. vs. San Agustin Plantation Co. and Mindoro Sugar Co." mentioned by the plaintiff in his complaint.

The defendant Roman Catholic Archbishop of Manila denies generally and specifically each and every allegation of the complaint and, as special defense, alleges that the San Agustin Plantation Co. did not have any property or right or interest in the possession and under the control of the Mindoro Sugar Co. or its trustees or bondholders, at least at the time when all the property, right, and interest of the said Mindoro Sugar Company was sold to and acquired by the Roman Catholic Archbishop of Manila at the execution sale held on November 4, 1929; that at the time of said execution sale the defendant San Agustin Plantation Co., Inc., was a debtor of the Mindoro Sugar Co., the indebtedness of which was then unpaid because said defendant, San Agustin Plantation Co., Inc., did not have money or property with which to pay said indebtedness; and that the said execution sale held on November 4, 1929, was valid and lawful as all the requirements of the Jaw had been complied with, and in such a sale the Roman Catholic Archbishop of Manila did not acquire any property or right belonging to the defendant San Agustin Plantation Co., Inc., as all the property, right, and interest it bought and acquired in said execution sale belonged exclusively to the Mindoro Sugar Co.

The pertinent findings of the trial court and the dispositive part of its decision are as follows:

(Translated into English)

"The debt of the San Agustin Plantation Company to the Mindoro Sugar Company on September 30, 1925, is put at P1,098,522.27 without allowing for the interest upon the proceeds of the crops from the date of receipt until they were credited to the San Agustin Plantation Company, and without the adjustment of interest by a subtraction of eight per cent simple interest. These two sums, P27,445.92 and P238,514.72, respectively, cut down the debt until that date to P833,561.63.

"The debt of the San Agustin Plantation Company to the Philippine Trust Company, as trustee, at the same date amounts to P281,345.29.

"From the balance of P833,561.63 which the San Agustin Plantation Company owes to the Mindoro Sugar Company, there must be deducted, as a liberal allowance for expenses in clearing and improving the Funda lands, the sum of P79,778.19 and for the inventory of the buildings and personalty delivered to the Philippine Trust Company according to the inventory Exhibit ZZ, the sum of P68,054.69, leaving a net balance of P685,728.75, which is the amount the San Agustin Plantation Company owes to the Mindoro Sugar Company, bearing interest at the rate of eight per cent per annum from the 30th of September, 1925.

"From the balance of P 281,345.29, which the San Agustin Plantation Company owes to the Philippine Trust Company, there must be deducted a credit for the cane seeds taken for the years 1925-1926 of the crops of 1924-1925 planted by the San Agustin Plantation Company in the amount of P17,848.50, leaving a net balance of P263,456.79, which is the net amount the San Agustin Plantation Company owes to the aforesaid Philippine Trust Company, and which is to bear interest at eight per cent per annum from the 30th of September, 1925.

* * * * *

"Upon the foregoing considerations, let judgment be entered :

"(a) Requiring the San Agustin Plantation Company to pay the Mindoro Sugar Company the amount of P298,228.08, with interest at eight per cent per annum from the 6th of June, 1924;

"(b) Requiring the San Agustin Plantation Company to pay the Philippine Trust Company, the plaintiff, the sum of P263,456.79 with interest at eight per cent per annum from the 30th of September, 1925; and

"(c) Declaring all written and oral contracts between the parties or their officers rescinded, cancelled, and annulled, and relieving the Philippine Trust Company of any further responsibility towards the defendant San Agustin Plantation Company.

"The counterclaims and cross-complaints of the San Agustin Plantation Company are dismissed.

"The San Agustin Plantation Company shall pay the costs of the case."

It will be noted that against the indebtedness of the San Agustin Plantation Company to the Mindoro Sugar Company which, the trial court found, amounted to P1,098,522.27 on September 30, 1925, the court allowed certain deductions or credits in favor of the debtor, among which was the sum of P68,054.69 which was the inventory value of certain properties turned in by said debtor to the Philippine Trust Company as trustee for the bondholders of the Mindoro Sugar Company.

The property so turned in by the San Agustin Plantation Company to the Philippine Trust Company had been purchased by funds advanced to that plantation by the Mindoro Sugar Company; in reality it belonged to the Mindoro Sugar Company.

The plaintiff-appellant had no special lien in the property sold by the sheriff in the execution sale above mentioned, and his attempt to levy execution against the San Agustin Plantation Company did not create any lien or right of preference in his favor with respect to any property of the judgment-debtor. We may further say that the plaintiff had full knowledge of the fact that the Philippine Trust Company had instituted case No. 26766 in Manila against the San Agustin Plantation Company and the Mindoro Sugar Company; that the appellant also had knowledge of the insolvency proceedings in the Court of First Instance of Mindoro, in which the San Agustin Plantation Company was never declared insolvent by the court. We may also say that as far as the record shows, the plaintiff does not seem to have made any serious effort to intervene in the aforesaid execution sale or there to claim preference with respect to any specific property for sale.

The plaintiff-appellant has come too late to recover on what may be termed the theory of restitution; in fact, it is doubtful that that action will lie under any of the circumstances in this case, (*Molina Salvador vs. Somes*, 31 Phil., 76.)

The judgment appealed from is affirmed, with costs against the appellant. So ordered.

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

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