

**THE BACHRACH MOTOR CO., INC., PLAINTIFF AND APPELLEE, VS.
TALISAY-SILAY MILLING CO. ET AL., DEFENDANTS AND APPELLEES.
THE PHILIPPINE NATIONAL BANK, INTERVENOR AND APPELLANT.**

G. R. No. 35223. September 17, 1931

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This proceeding originated in a complaint filed by the Bachrach Motor Co., Inc., against the Talisay-Silay Milling Co., Inc., for the delivery of the amount of P13,850 or promissory notes or other instruments of credit for that sum payable on June 30, 1930, as bonus in favor of Mariano Lacson Ledesma; the complaint further prays that the sugar central be ordered to render an accounting of the amounts it owes Mariano Lacson Ledesma by way of bonus, dividends, or otherwise, and to pay the plaintiff a sum sufficient to satisfy the judgment mentioned in the complaint, and that the sale made by said Mariano Lacson Ledesma be declared null and void.

The Philippine National Bank filed a third party claim alleging a preferential right to receive any amount which Mariano Lacson Ledesma might be entitled to from the Talisay-Silay Milling Co. as bonus, because that would be civil fruits of the land mortgaged to said bank by said debtor for the benefit of the central referred to, and by virtue of a deed of assignment, and praying that said central be ordered to deliver directly to the intervening bank said sum on account of the latter's credit against the aforesaid Mariano Lacson Ledesma.

The corporation Talisay-Silay Milling Co., Inc., answered the complaint stating that of Mariano Lacson Ledesma's credit, P7,500 belonged to Cesar Ledesma because he had purchased it, and praying that it be absolved from the complaint and that the proper party be named so that the remainder might be delivered.

Cesar Ledesma, in turn, claiming to be the owner by purchase in good faith and for a consideration of the P7,500 which is a part of the credit referred to above, answered praying that he be absolved from the complaint.

The plaintiff Bachrach Motor Co., Inc., answered the third party claim alleging that its credit against Mariano Lacson Ledesma was prior and preferential to that of the intervening bank, and praying that the latter's complaint be dismissed.

At the trial all the parties agreed to recognize and respect the sale made in favor of Cesar Ledesma of the P7,500 part of the credit in question, for which reason the trial court dismissed the complaint and cross-complaint against Cesar Ledesma authorizing the defendant central to deliver to him the aforementioned sum of P7,500. And upon conclusion of the hearing, the court held that the Bachrach Motor Co., Inc., had a preferred right to receive the amount of P11,076.02 which was Mariano Lacson Ledesma's bonus, and it ordered the defendant central to deliver said sum to the plaintiff.

The Philippine National Bank appeals, assigning the following alleged errors as committed by the trial court:

- In holding that the bonus which the Talisay-Silay Milling Co., Inc., bound itself to pay the planters who had mortgaged their land to the Philippine National Bank to secure the payment of the debt of said central to said

bank is not civil fruits of said land.

- In not holding that said bonus became subject to the mortgage executed by the defendant Mariano Lacson Ledesma to the Philippine National Bank to secure the payment of his personal debt to said bank when it fell due.
- In holding that the assignment (Exhibit 9, P. N. B.) of said bonus made on March 7, 1930, by Mariano Lacson Ledesma to the Philippine National Bank to be applied to the payment of his debt to said Philippine National Bank is fraudulent.
- In holding that the Bachrach Motor Co., Inc., in civil case No. 31597 of the Court of First Instance of Manila levied a valid attachment upon the bonus in question.
- In admitting and considering the supplementary complaint filed by the Bachrach Motor Co., Inc., alleging as a cause of action the attachment of the bonus in question which said Bachrach Motor Co., Inc., in civil case No. 31821 of the Court of First Instance of Manila levied after the filing of the original complaint in this case, and after Mariano Lacson Ledesma in this case had been declared in default. *
- In holding that the Bachrach Motor Co., Inc., has a preferential right to receive from the Talisay-Silay Milling Co., Inc., the amount of P11,076.02 which is in the possession of said corporation as the bonus to be paid to Mariano Lacson Ledesma, and in ordering the Talisay-Silay Milling Co., Inc., to deliver said amount to the Bachrach Motor Co., Inc.
- In not holding that the Philippine National Bank has a preferential right to receive from the Talisay-Silay Milling Co., Inc., the amount of P11,076.02 held by said corporation as Mariano Lacson Ledesma's bonus, and in not ordering said Talisay-Silay Milling Co., Inc., to deliver said amount to the Philippine National Bank.
- In not holding that the amended complaint and the supplementary complaint of the Bachrach Motor Co., Inc., do not state facts sufficient to constitute a cause of action in favor of the Bachrach Motor Co., Inc., and against the Talisay-Silay Milling Co., Inc., or against the Philippine National Bank.*'

The appellant bank bases its preferential right upon the contention that the bonus in question is civil fruits of the land which the owners had mortgaged for the benefit of the central giving the bonus, and that, as civil fruits of said land, said bonus was assigned by Mariano Lacson Ledesma on March 7, 1930, by virtue of the document Exhibit S of said intervening institution, which admitted in its brief that "if the bonus in question is not civil fruits or rent which became subject to the mortgage in favor of the Philippine National Bank when Mariano Lacson Ledesma's personal obligation fell due, the assignment of March 7, 1930 (Exhibit 9, P. N. B.), is null and void, not because it is fraudulent, for there was no intent of fraud in executing the deed, but that the cause or consideration of the assignment was erroneous, for it was based upon the proposition that the bonus was civil fruits of the land mortgaged to the Philippine National Bank." (P. 31.)

The fundamental question, then, submitted to our consideration is whether or not the bonus in question is civil fruits.

This is how that bonus came to be granted: On December 22, 1923, the Talisay-Silay Milling Co., Inc., was indebted to the Philippine National Bank. To secure the payment of its debt, it succeeded in inducing its planters, among whom was Mariano Lacson Ledesma, to mortgage their land to the creditor bank. And in order to compensate those planters for the risk they were running with their property under that mortgage, the aforesaid central, by a resolution passed on that same date, i. e., December 22, 1923, and amended on March 23, 1928, undertook to credit the owners of the plantation thus mortgaged every year with a sum equal to two per centum of the debt secured according to the yearly balance, the payment of the bonus being made at once, or in part from time to time, as soon as the central became free of its obligations to the aforesaid bank, and of those contracted by

virtue of the contract of supervision, and had funds which might be so used, or as soon as it obtained from said bank authority to make such payment. (Exhibits 5, 6; P. N. B.)

Article 355 of the Civil Code considers three things as civil fruits: First, the rents of buildings; second, the proceeds from leases of lands; and, third, the income from perpetual or life annuities, or other similar sources of revenue. It may be noted that according to the context of the law, the phrase "u otras andlogas" refers only to rents or income, for the adjectives "otras" and "andlogas" agree with the noun "rentes," as do also the other adjectives "perpetuas" and "vitalicias" That is why we say that by "civil fruits" the Civil Code understands one of three and only three things, to wit: the rent of a building, the rent of land, and certain kinds of income.

As the bonus in question is not the rent of a building or of land, the only meaning of "civil fruits" left to be examined is that of "income."

Assuming that in the broad juridical sense of the word "income" it might be said that the bonus in question is "income" under article 355 of the Civil Code, it is obvious to inquire whether it is derived from the land mortgaged by Mariano Lacson Ledesma to the appellant bank for the benefit of the central; for if it is not obtained from that land but from something else, it is not civil fruits of that land, and the bank's contention is untenable.

It is to be noted that the said bonus bears no immediate, but only a remote and accidental relation to the land mentioned, having been granted as compensation for the risk of having subjected one's land to a lien in favor of the bank, for the benefit of the entity granting said bonus. If this bonus be income or civil fruits of anything, it is income arising from said risk, or, if one chooses, from Mariano Lacson Ledesma's generosity in facing the danger for the protection of the central, but certainly it is not civil fruits or income from the mortgaged property, which, as far as this case is concerned, has nothing to do with it. Hence, the amount of the bonus, according to the resolution of the central granting it, is not based upon the value, importance or any other circumstance of the mortgaged property, but upon the total value of the debt thereby secured, according to the annual balance, which is something quite distinct from and independent of the property referred to.

Finding no merit in this appeal, the judgment appealed from is affirmed, without express finding as to costs. So ordered.

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

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