

RAFAEL MORETA, ADMINISTRATOR OF INTESTATE ESTATE OF THE DECEASED M. SINGH, PLAINTIFF AND APPELLEE, VS. TAN CHAY, DEFENDANT AND APPELLANT.*G. R. No. 35368. October 29, 1932*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-35368/>**STREET, J.:**

This action was originally instituted in the Court of First Instance of Manila by M. Singh, who, being now dead, has been substituted by Rafael Moreta as administrator of his estate. The purpose of the action as originally framed was to recover from the defendant, Tan Chay, the sum of P25,000 as damages for breach of contract, upon a first cause of action, and the further sum of P50,000 for breach of contract, upon a second cause of action. Upon trial in the Court of First Instance the plaintiff was awarded both the sums mentioned, but the defendant appealed, and in this court the judgment was reversed and the defendant absolved from the complaint upon the first cause of action, and as to the second cause of action the judgment was set aside and the cause remanded for a new trial. (Singh vs. Tan Chay, 51 Phil., 259.) Upon the return of the record to the lower court, the plaintiff amended his complaint and, instead of asking for P50,000 as in the original complaint, claimed the sum of P65,000 as damages upon said cause of action. The defendant answered with a general denial, various special defenses, and cross-complaint. Upon the issues thus joined the case was tried, and judgment was entered in favor of the plaintiff to recover of the defendant the sum of P54,142, with costs. From this judgment the defendant appealed.

The purpose of the action, as will appear from the statement of facts relative to the second cause of action in Singh vs. Tan Chay (51 Phil., 259), is to recover a commission upon the sale of three parcels of land described in the contract Exhibit B, dated November 16, 1925. It appears that the original plaintiff, M. Singh, was acting as a broker for the purpose of bringing about the purchase of certain coconut lands by the defendant, Tan Chay, from one Bernardo Marquez; and Tan Chay obligated himself to pay for said properties at the rate of P4.50 for each coconut tree thereon. Singh thereupon procured a contract with Marquez to pay the latter a price estimated at P3.50 for each coconut tree. It results that, if the transaction had been effected through the mediation of Singh, he would have had a net profit of one peso for each coconut tree on the lands. But Tan Chay, as we observed in our opinion in the case already referred to, found that he could buy the properties from Marquez himself, and he yielded to the temptation to buy from Marquez without the intervention of Singh. This transaction with Marquez was accomplished by the contract Exhibit I. Undoubtedly that purchase by Tan Chay was made from Marquez for the purpose of saving the commission; and the present action was brought for the purpose of recovering Singh's commission, estimated at one peso for each coconut tree on the lands.

But it turned out that Marquez, though he had at one time been the owner of the properties referred to, had some five years before the transaction with which we are here concerned ceased to be owner, as a consequence of mortgage foreclosure proceedings and the levy of an execution against him upon said properties, the same having been sold under execution without redemption. It was found by the trial court that Singh, as broker, had acted in good faith, being unaware of the fact that Marquez had no title, though the deed from Marquez to Tan Chay stated

that the property was encumbered and that the money to be paid by Tan Chay could be used to settle any outstanding claims against Marquez. Furthermore, it appears that some time after Tan Chay had purchased from Marquez, and after this claim had been made upon him for Singh's commission, Tan Chay obtained from Marquez a cancellation of the deed by which the latter had conveyed the property to Tan Chay. It resulted also that in order to perfect his title Tan Chay had to pay out the amount of P151,466.42 to acquire the rights of the encumbrancers and owners other than Marquez, in addition to what he may have paid Marquez for his supposed interest in the property, which latter amount is stated in appellant's motion for a new trial to have been the sum of P16,800. In this way Tan Chay apparently paid about P170,000 to obtain a good title to properties for which he had originally agreed to pay some P225,000, assuming that there were, as was then supposed, 50,000 coconut trees on the lands. Upon the facts above briefly stated, two defenses are planted, namely, first, that Singh is entitled to no commission because of lack of title in Marquez, the would-be seller; and, secondly, that the properties did not contain anything like the number of trees represented to be thereon.

Upon the first point, we are of the opinion that lack of title in the vendor is no good defense to the claim of the broker for his commission upon the sale, he having acted in good faith, and the purchaser having accepted the seller and entered into an independent contract with him. When Tan Chay purchased from the presumed owner of land, the latter was bound to warrant the title, and the remedy of the purchaser, if title failed, was against the seller. (*Roche vs. Smith*, 176 Mass., 595; 79 Am. St. Rep., 345; *Carrington vs. Smithers*, 26 Cal. A., 460; 147 Pac, 225.) Nor is the application of the rule in this case affected by the circumstance that the deed from Marquez to Tan Chay was canceled; for if Tan Chay saw fit to surrender his rights against Marquez by the cancellation of the purchase, this step did not operate to the prejudice of the rights of the broker.

Upon the other branch of the case, namely, as to the amount of the commission to which Singh was entitled, estimated at one peso per coconut tree on the properties, the proof shows that at the time of the sale there were 33,085 coconut trees on part of the lands. Proof to this effect is based upon oral testimony, and the record does not supply any demonstration that the conclusion of the trial court with respect to the number of those trees was erroneous.

With respect to the number of trees on another lot, referred to in the proof as lot 4, we are of the opinion that error is shown. It appears that the trees on this lot were planted by Castro Felismeno and others assisting him under a contract with a prior owner of the property, and litigation resulted between Felismeno and the prior owner in an action to which Tan Chay ultimately became a party. In that action the court ordered the provincial sheriff of Tayabas to count the trees on lot 4, and this count was made in October, 1926, or shortly after Tan Chay obtained actual possession from the former owner, or owners. It was found by the sheriff, and report made to the court, that there were then 8,079 trees on the place. For the planting of this number of trees Felismeno was accordingly in that case paid the sum of P8,079 by Tan Chay. In the present case Felismeno testified, as he had testified in the other case, that he planted some 21,000 trees on this property. We are of the opinion that his testimony and that of his assistants to this effect is unworthy of credit and the court should, in our opinion, have estimated the trees on this lot at 8,079. By adding¹ this number to the 33,085 allowed by the trial court for trees on the other portion, we have a total of 41,164 trees, and the commission should have been limited to the amount of one peso each for this number of trees.

At the trial of this case the defendant offered to prove by one Sixto Domingo that he and certain assistants of his counted the trees on the lot last above referred to in September or October, 1926. Domingo was then the encargado whom Tan Chay had put in charge upon obtaining the possession of the property from his vendors. The witness was then asked how many trees were then upon the lot. The trial court, however, upon objection by the plaintiff's attorney, refused to permit the witness to tell. The testimony thus offered was undeniably relevant and

competent, and the trial judge erred in refusing to permit the witness to state the number of the trees then on the property. But although exception was taken by the defendant's attorney to adverse ruling of the court, no specific error has been assigned in this appeal to the action taken, nor was any showing made as to the answer that the witness would have given to the question relative to the number of the trees. It results that advantage cannot here be taken of the error referred to, and, moreover, the error was apparently without injury, as the number of trees is satisfactorily shown in the record in Felismeno's action to recover for the planting of the trees.

In view of what has been said it results that the judgment must be modified, and the plaintiff will recover of the defendant the sum of P41,164, with costs. So ordered.

Malcolm, Villamor, Ostrand, Villa-Real, Hull, Vickers, Imperial, and Butte, JJ., concur.

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.