

ENRIQUE MONSERRAT, PLAINTIFF AND APPELLEE, VS. CARLOS G. CERON ET AL., DEFENDANTS. ERMA, INC., AND THE SHERIFF OF MANILA, APPELLANTS.

G.R. No. 37078. September 27, 1933

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the defendant-entity, Erma, Inc., and by the sheriff of the City of Manila, from the judgment rendered by the Court of First Instance of Manila, the dispositive part of which reads as follows:

"In view of the foregoing considerations, judgment is rendered in favor of the plaintiff declaring the preliminary injunction issued herein final and permanent; declaring the plaintiff herein the owner of the 600 shares of stock, Exhibit 1; declaring the mortgage constituted on the ownership of the shares of stock in question null and void and without force and effect, although the mortgage on the usufruct enjoyed by the mortgage debtor Carlos G. Ceron in the said 600 shares of stock is hereby declared valid, with costs against the defendants. It is so ordered."

In support of their appeal, the appellants assign nine alleged errors in the decision of the trial court, which we shall discuss in the course of this decision.

Some of the following facts are undisputed and others proven by a preponderance of the evidence:

The plaintiff herein, Enrique Monserrat, was the president and manager of the Manila Yellow Taxicab' Co., Inc., and the owner of 1,200 common shares of stock thereof.

On March 25, 1930, in consideration of the interest shown and the financial aid extended him in the organization of the corporation by Carlos G. Ceron, one of the defendants herein, Enrique Monserrat assigned to the former the usufruct of half of the aforesaid common shares of stock, the corresponding certificate of stock No. 7, having been issued in the name of said Carlos G. Ceron to that effect on March 24, 1930. (Exhibit 1.) Said assignment or transfer only gave the transferee the right to enjoy, during his lifetime, the profits which might be derived from the shares assigned him, prohibiting him from selling, mortgaging, encumbering, alienating or otherwise exercising any act implying absolute ownership of all or any of the shares in question, the transferor having reserved for himself and his heirs the right to vote derived from said shares of stock and to recover the ownership thereof at the termination of the usufruct (Exhibit A). Stock certificate No. 7 was recorded in the name of Carlos G. Ceron and the aforesaid deed of transfer Exhibit A, was noted by himself as secretary, on page 22 of the Stock and Transfer Book of the Manila Yellow Taxicab Co., Inc.

By way of defense, the defendants herein alleged that on February 20, 1931, Eduardo R. Matute, president of the defendant corporation, Erma, Inc., and the defendant Carlos G. Ceron, appeared at the plaintiff's office on Mabini Street, Manila, and there Ceron, at a distance of about three meters from the plaintiff, showed Matute the stock book of the Manila Yellow Taxicab Co., Inc. Matute did not see the annotation on page 22 thereof regarding

Exhibit A which, according to Ceron, was executed two months after March 25, 1930, the date on which it appears to have been executed. Ceron alleges that, upon instructions of the plaintiff, he did not make any notation of said document in the stock book until May 5, 1931, the date on which the shares of stock in question were to be sold at public auction to satisfy his debt to Matute.

On February 26, 1931, Carlos G. Ceron mortgaged to Eduardo R. Matute some shares of stock of the Manila Yellow Taxicab Co., Inc., among which were the 600 common shares of stock in question, for the sum of P30,000. Ceron endorsed to Matute the certificate of stock Exhibit 1, of which Matute has been in possession ever since. When Ceron mortgaged the shares in question to Matute, he did not inform Matute of the existence of the document, Exhibit A, and the latter never had any knowledge thereof. When he was asked by the plaintiff whether he succeeded in carrying out his transaction with Matute, Carlos G. Ceron informed him of the aforesaid mortgage at the beginning of March 1931. Ceron continued as secretary of the Manila Yellow Taxicab Co., Inc., until May 5, 1931.

The first question to decide in the present appeal is whether or not it is necessary to enter upon the books of the corporation a mortgage constituted on common shares of stock in order that such mortgage may be valid and may have force and effect as against third persons.

Section 35 of the Corporation Law provides the following:

"Sec. 35. The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or the vice-president, countersigned by the secretary or clerk and sealed with the seal of the corporation, shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate indorsed by the owner or his attorney in fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is entered and noted upon the books of the corporation so as to show the names of the parties to the transaction, the date of the transfer, the number of the certificate, and the number of shares transferred.

"No share of stock against which the corporation holds any unpaid claim shall be transferable on the books of the corporation."

The legal provision just quoted does not require any entry except of transfers of shares of stock in order that such transfers may be valid as against third persons. Now, what did the Legislature mean in using the word "transfer"?

It is a rule of statutory construction that the words of a statute are to be taken in their natural, plain and ordinary signification in accordance with the common and approved usage of the language, giving to words of common use their popularly accepted meaning and to technical terms or words of art, their accepted special signification, unless there is reason to believe from the context of the statute that such words have been used in another sense. (Black, Construction and Interpretation of Laws, section 57.) Inasmuch as it does not appear from the text of the Corporation Law that an attempt was made to give a special signification to the word transfer", we shall construe it according to its accepted meaning in ordinary parlance.

The word 'transferencia' (transfer) is defined by the "Diccionario de la Academia de la Lengua Castellana" as "accion y efecto de transferir" (the act and effect of transferring); and the verb "transferir", as "ceder o renunciar en otro el derecho o dominio que se tiene sobre una cosa, haciendole dueño de ella" (to assign or waive the right in, or absolute ownership of, a thing in favor of another, making him the owner thereof).

In the Law Dictionary of "Words and Phrases", third series, volume 7, p. 586, the word "transfer" is denned as follows:

" 'Transfer' means any act by which property of one person is vested in another, and 'transfer of shares', as used

in Uniform Stock Transfer Act (Comp. St. Supp., 690), implies any means whereby one may be divested of and another acquire ownership of stock. (Wallach vs. Stein [N. J.], 136 A., 209, 210.)"

In view of the definitions cited above, the question arises as to whether or not a mortgage constituted on certain shares of stock in accordance with Act No. 1508, as amended by Act No. 2496, is a transfer of such shares in the abovementioned sense.

Section 3 of the aforesaid Act No. 1508, as amended by Act No. 2496, defines the phrase "hipoteca mobiliaria" (chattel mortgage) as follows:

"Sec. 3. A chattel mortgage is a conditional sale of personal property as security for the payment of a debt, or the performance of some other obligation specified therein, the condition being that the sale shall be void upon the seller paying to the purchaser a sum of money or doing some other act named. If the condition is performed according to its terms the mortgage and sale immediately become void, and the mortgagee is thereby divested of his title."

According to the legal provision just quoted, although a chattel mortgage, accompanied by delivery of the mortgaged thing, transfers the title and ownership thereof to the mortgage creditor, such transfer is not absolute but constitutes a mere security for the payment of the mortgage debt, the transfer in question becoming null and void from the time the mortgage debtor complies with his obligation to pay his debt.

In the case of Noble vs. Ft. Smith Wholesale Grocery Co. (127 Pac, 14, 17; 34 Okl., 662; 46 L. R. A. [N. S.], 455), cited in Words and Phrases, second series, vol. 4, p. 978, the following appears:

"A 'transfer' is the act by which the owner of a thing delivers it to another with the intent of passing the rights which he has in it to the latter, and a chattel mortgage is not within the meaning of such term."

Therefore, the chattel mortgage is not the transfer referred to in section 35 of Act No. 1459 commonly known as the Corporation Law, which transfer should be entered and noted upon the books of a corporation in order to be valid, and which, as has already been said, means the absolute and unconditional conveyance of the title and ownership of a share of stock.

If, in accordance with said section 35 of the Corporation Law, only the transfer or absolute conveyance of the ownership of the title to a share need be entered and noted upon the books of the corporation in order that such transfer may be valid, therefore, inasmuch as a chattel mortgage of the aforesaid title is not a complete and absolute alienation of the dominion and ownership thereof, its entry and notation upon the books of the corporation is not a necessary requisite to its validity.

The second question to decide is whether or not the defendant entity, Erma, Inc., had knowledge of the execution of the deed Exhibit A, dated March 25, 1930, wherein the defendant Carlos G. Ceron states that the transfer to him by Enrique Monserrat of 600 shares of common stock of the Manila Yellow Taxicab Co., Inc., covered by certificate No. 7, was only for the usufruct thereof, reserving to the assignor the right to vote said shares and binding himself not to alienate nor encumber them.

The evidence shows that when Matute as president of Erma, Inc., went to the office of the Manila Yellow Taxicab Co., Inc., at Mabini Street, Manila, on February 20, 1931, to examine the Stock and Transfer Book of the said corporation, for the purpose of ascertaining the actual status of Carlos G. Ceron's shares of stock, Ceron as secretary of said corporation and in charge of said stock book, showed it to him, and Matute found nothing but that the shares in question were recorded therein in the name of said Carlos G. Ceron, free from all liens and encumbrances and no reference made to the deed Exhibit A. The defendant, Carlos G. Ceron himself, testified that when he mortgaged his shares, he said nothing to Erma, Inc., about the existence of the deed, Exhibit A, for

fear he might not succeed in obtaining the loan he applied for, with the said shares as security, and that the notation of Exhibit A in question appearing in the books of the corporation was placed there only on May 5, 1931, the same date on which the 600 common shares were to have been sold at public auction, together with the preferred shares, which were delivered to the sheriff for that purpose by Erma, Inc., in view of Carlos G. Ceron's default in the payment of the loan secured by them. From the time said shares of stock in question were mortgaged by Carlos G. Ceron on February 26, 1931, the corresponding certificate has been in possession of the defendant entity, Erma, Inc., without any notation thereon relative to the deed Exhibit A. It is obvious, therefore, that the defendant entity Erma, Inc., as a conditional purchaser of the shares of stock in question given as security for the payment of his credit, acquired in good faith Carlos G. Ceron's right and title to the 600 common shares of stock evidenced by certificate No. 7 of the Manila Yellow Taxicab Co., Inc., and as such conditional purchaser in good faith, it is entitled to the protection of the law.

In view of the foregoing considerations, we are of the opinion and so hold that, inasmuch as section 35 of the Corporation Law does not require the notation upon the books of a corporation of transactions relating to its shares, except the transfer of possession and ownership thereof, as a necessary requisite to the validity of such transfer, the notation upon the aforesaid books of the corporation, of a chattel mortgage constituted on the shares of stock in question is not necessary to its validity.

Wherefore, the judgment appealed from is hereby reversed and the defendants are absolved from the complaint herein which is dismissed with costs against the appellee. So ordered.

Malcolm, Abad Santos, Hull, and Imperial, JJ., concur.

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