

TAN SENGUAN & CO., INC., PLAINTIFF AND APPELLANT, VS. PHILIPPINE TRUST COMPANY, DEFENDANT AND APPELLEE.

G.R. No. 38810. November 06, 1933

Ponente: HULL, J.

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HULL, J.:

Plaintiff brought suit in the Court of First Instance of Manila for the sum of P10,000 based on the following agreement:

"Know all men by these presents:

"That on this 27th day of June, 1924, and in this City of Manila, Tan Sen Guan & Co., a mercantile partnership registered in accordance with the laws of the Philippine Islands and the Philippine Trust Company, a corporation properly organized and with its principal place of business in this City of Manila, have entered into the following:

"AGREEMENT

"Whereas Tan Sen Guan & Co. on September 21, 1923, secured a judgment for the sum of twenty-one thousand four hundred twenty-six (P21,426) pesos against the Mindoro Sugar Co., of which the Philippine Trust is the Trustee;

"Whereas the Tan Sen Guan & Co., desires to convey to said Philippine Trust Company as such trustee the amount of said judgment, and the Philippine Trust Company, Trustee, offers satisfactory consideration therefor;

"Wherefore, Tan Sen Guan & Co., hereby assigns, conveys, transfers and sells to said Philippine Trust Company, Trustee, the full amount of said judgment against the Mindoro Sugar Co., together with all its rights thereto, said Philippine Trust Company, Trustee, hereafter to have the full use and benefit of said judgment to the same extent and in the same manner as if originally entered in favor of said Company; and in consideration for the covenants and stipulations following:

"1. Upon the signing of this Agreement, the Philippine Trust Company, Trustee, shall pay to Tan Sen Guan & Co., the sum of five thousand (P5,000) pesos.

"2. The Philippine Trust Company, Trustee, agrees that should the Mindoro Sugar Co. be sold, assigned or its ownership transferred in any manner whatsoever to any person or entity including the Philippine Trust Company, Trustee, itself, it shall pay to Tan Sen Guan & Co., an additional sum of ten thousand (P10,000) pesos, said amount to be paid immediately upon the perfection of said sale or transfer and irrespective to the amount which might be paid for it.

"3. In case any other creditor of the Mindoro Sugar Company obtains in the payment of his credit, a greater proportion than the price hereby paid to Tan Sen Guan & Co. which is fifteen thousand (P15,000) pesos for a debt of P21,426, or seventy per cent (70%) thereof, the Philippine Trust Company, Trustee, shall pay to Tan Sen Guan & Co., whatever sum may be necessary in order that the amount received by said Tan Sen Guan &

Co. be equal, in proportion to its claim, to that received by said other creditor, in proportion to his claim.

"4. In case, however, that the Mindoro Sugar Company is sold to any person or entity which pays nothing to the creditors or pay to them in satisfaction of their credits an amount equal or less than 70 per cent of their respective claims; or, should said creditors from whatever source obtain in payment of their credits an amount equal or less than 70 per cent of their respective claims, then the Philippine Trust Company, Trustee, will only pay to Tan Sen Guan & Co. the above-mentioned additional sum of P10,000 upon the sale or transfer of the Mindoro Sugar Co., as above stated.

"In witness whereof, the Philippine Trust Company, Trustee thru its Vice-President and the Tan Sen Guan & Co. thru its Manager, have hereunto set their hand in the date and year above noted.

"PHILIPPINE TRUST COMPANY

"Trustee for Mindoro Sugar Co.

" By (Sgd.) W.D. CLIFFORD

"Vice-President

"TAN SEN GUAN & COMPANY

" By (Sgd.) CHUA CHO CHING

"Manager

After trial on an agreed statement of facts which had been entered into by the respective attorneys, the court absolved the defendant on two grounds, first, that in the contract it was bound only as a trustee and not as an individual and second, that it had not been proved that all the properties of the Mindoro Sugar Company had been sold.

The stipulation of facts relative to the second point reads:

"(9) That, pursuant to the attached copy of notice of sale, marked Exhibit C, which is made a part hereof, on November 4, 1929, Modesto Manahan, justice of the peace of the municipality of San Jose, Province of Mindoro, sold at public auction to the Roman Catholic Archbishop of Manila, a corporation sole, all the properties belonging to the Mindoro Sugar Company which appear described in the certificate of sale executed by the said justice of the peace Modesto Manahan in favor of the said the Roman Catholic Archbishop of Manila, a copy of which certificate is herein attached, marked Exhibit D, and made a part hereof."

Defendant claims that the omission of a comma between the words "Mindoro Sugar Company" and the words "which appear described" shows that only a portion of the Mindoro Sugar Company's properties were sold.

From this decision plaintiff appeals. The first two errors assigned read:

"1. The lower court erred in holding that the defendant is not personally responsible for the claim of the plaintiff based on the deed of assignment Exhibit B because of having executed the same in its capacity as trustee of the properties of the Mindoro Sugar Company.

"2. The lower court erred in holding that it has not been stipulated that all the properties of the Mindoro Sugar Company were sold at public auction to the Roman Catholic Archbishop of Manila."

It appears from Exhibit A, being a deed of trust from the Mindoro Sugar Company to the Philippine Trust Company as trustee, that to protect certain bonds to be issued by the Mindoro Sugar Company and to be purchased by the Philippine Trust Company as trustee, the real estate, franchises, and personal property of the Mindoro Sugar Company were made over and assigned to the Philippine Trust Company as trustee. That

indenture was dated the 21st of December, 1917.

While the legal title of the properties of the Mindoro Sugar Company were in the Philippine Trust Company as trustee, appellant secured a judgment against the Mindoro Sugar Company and sold, transferred, and assigned that judgment to appellee by the contract which is known in this record as Exhibit B above quoted. Whether all the proper- ties of the Mindoro Sugar Company were sold by the justice of the peace as recited in paragraph 9 of the stipulation of facts, is not controlled by the insertion or omission of a comma in the stipulation of facts. An examination of any of the standard dictionaries will show that the relative pronoun "which" is descriptive and not restrictive. If a restrictive relative pronoun were desired, the word "that" should have been used. But a real interpretation of the stipulation of facts need not rely upon either the rules of punctuation or the rules of grammar, because if we go to Exhibit D, we will find that all the properties transferred to the appellee as trustee were included in the sale. The sale apparently included all the real and personal properties which the sugar company held, as even the accounts receivable by the sugar company were included. The only thing reserved from the sale was the standing crops, and it is reasonable to presume that they had also been sold between the date of the sale by the justice of the peace and the institution of this action. Where the real estate, the personal property including animals, and all the bills receivable are sold, it would be a forced construction of the contract Exhibit B to hold that the assets of the Mindoro Sugar Company had not been sold.

The trial court was therefore in error in holding that the condition contemplated in paragraph 2 of the contract between the parties, Exhibit B, had not taken place.

While in the contract in question the Philippine Trust Company was usually referred to as trustee, it must be noted that nowhere in Exhibit A, the deed of trust from the Mindoro Sugar Company to the Philippine Trust Company, was any authority given to enter into a contract such as is here presented. The Philippine Trust Company held the legal title to the properties of the Mindoro Sugar Company to protect the bond holders. So far as the Philippine Trust Company was concerned, it was not authorized to manage the affairs of the Mindoro Sugar Company or to enter into contracts in its behalf. But even if the contract had been authorized by the trust indenture, the Philippine Trust Company in its individual capacity would still be responsible for the contract as there was no express stipulation that the trust estate and not the trustee should be held liable on the contract in question. (26 R. C. L., 1316-1318; 39 Cyc., 338; 47 Am. Dig., sec. 300, and cases therein cited.)

Not only is there no express stipulation that the trustee should not be held responsible but in the "Wherefore" clause of the contract, the judgment was expressly assigned in favor of the Philippine Trust Company, not the Philippine Trust Company, trustee.

It therefore follows that appellant had a right to proceed directly against the Philippine Trust Company on its contract and has no claim against either the Mindoro Sugar Company or the trust estate.

The judgment of the Court of First Instance is therefore reversed, and a judgment will be entered in favor of plaintiff-appellant and against defendant-appellee in the sum of P10,000, with legal interest from the 8th of October, 1931, until paid, and with costs in both instances against defendant-appellee. So ordered.

Malcolm, Villa-Real, Imperial, and Butte, JJ., concur.

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