

HENRY. W. ELIOT, PLAINTIFF AND APPELLEE, VS. CATALINA MONTEMAYOR AND MATEO CUNANAN, DEFENDANTS AND APPELLANTS,

G.R.No. 3888. January 23, 1908

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-3888/>

JOHNSON, J.:

On the 17th day of September, 1906, the plaintiff commenced an action against the defendants for the purpose of recovering the sum of P1,300 with interest at 12 per cent per annum from the 27th day of March, 1906, upon the following promissory note:

"SAN FERNANDO, PAMPANGA, March 27, 1906.

"On or before the first day of May, 1906, I hereby promise to pay and I will pay to the order of Frederick Garfield Waite, at his office, No. 13 Calle Cortada, Ermita, city of Manila, P.I., the sum of thirteen hundred pesos, Philippine currency (1,300), for value received, with interest at the rate of twelve per cent (12%) per annum from the date of maturity up to the date of payment.

"CATALINA (her X mark) MONTEMAYOR.

"Signed on behalf and at the request of Oatalina Montemayor by Juan Manansala, in her presence and in the presence of Juan Manansala, Apolonio Montemayor, and Alfredo Petel, witnesses."

The plaintiff alleged that on the 3d day of April, 1906, the original payee of said promissory note indorsed the same to him in the following indorsement:

"MANILA, April 3, 1906.

"Pay to Henry W. Eliot or order.

"FREDERICK GARFIELD WAITE."

The plaintiff prayed for a judgment against the defendant, Catalina Montemayor, for the sum of 1,300, with interest at the rate of 12 per cent per annum from the 1st day of May, 1906, and costs.

On the 24th day of October, 1906, said defendant Catalina Montemayor appeared by her attorneys and demurred to the complaint upon the ground that the same did not contain facts sufficient to constitute a cause of action. On the 3d day of November, 1906, this demurrer was overruled.

On the 6th day of November, 1906, the defendant Mateo Cunanan appeared by his attorney and demurred to the said complaint, basing the same upon the ground that the facts stated therein were not sufficient to constitute a cause of action. On the 7th day of November the lower court overruled said demurrer and stated that the defendant Mateo Cunanan was only made a defendant because he was the husband of the defendant Catalina Montemayor.

On the 8th day of November, 1906, the defendant Catalina Montemayor by her attorneys presented a general and

special denial to the said complaint under oath.

The cause was duly tried and on the 29th day of December, 1906, the lowtir court rendered, a judgment in which it made the following finding of facts:

First, that the preponderance of evidence showed that the defendant Catalina Montemayor did execute and deliver, the said promissory note;

Second, that the said promissory note was executed by the said Catalina Montemayor in relation to her "paraphernal" property;

Third, that the question of consideration of said promissory note could not be raised because the same had been indorsed to an innocent party.

And upon these general findings of fact the lower court rendered a judgment in favor of the plaintiff and against the defendant for the sum of P1,300 with interest thereon at the rate of 12 per cent per annum from the 1st day of May, 1906, and costs.

From this decision the defendant duly appealed to the Supreme Court, and made the following assignments of error:

First, that the lower court erred in holding that the answer of the defendant under oath did not conform with the provisions of section 103 in the Code of Procedure in Civil Actions;

Second, the lower court erred in holding that the defendant Catalina Montemayor had capacity to sign the promissory note in question at the time the same was signed, and thereby creating the obligation of her "paraphernal" property;

Third, the lower court erred in deciding that articles 1274 and 1275 of the Civil Code were not applicable to the facts in the present case;

Fourth, the lower court erred in holding that said promissory note was valid and also that the indorsement thereon was valid.

With reference to the first above-noted assignment of error, section 103 of the Code of Procedure in Civil Actions provides that—

"When an action is brought upon a written instrument and the complaint contains or has annexed a copy of such instrument, the genuineness and due execution of the instrument shall be deemed admitted, unless specifically denied under oath in the answer;* * *"

It will be noted that this section provides that the genuineness and due execution of the instrument shall be deemed to be admitted unless the defendant under the conditions mentioned therein specifically denies the genuineness and due execution of the same under oath in his answer. This provision simply means that the plaintiff is relieved from the necessity of proving the genuineness and due execution of the instrument upon which his action is based when the defendant does not deny its genuineness and due execution, under oath, when said instrument is made a part of the complaint. The question whether or not the defendant did under oath in a proper form deny the genuineness and due execution of the promissory note in question we deem of no importance in the present case for the reason that the lower court found as a fact that the defendant, Catalina Montemayor, did execute and deliver in the presence of witnesses the said promissory note.

With reference to the second assignment of error above noted—to wit, that the lower court erred in applying article 1384 of the Civil Code—we are of the opinion, and so hold, from the facts found in the judgment of the lower court

that no error was committed. The lower court found that the contract in question related to the "paraphernal property of the defendant, Catalina Montemayor. No motion was presented for a new trial in the lower court; therefore, these findings of fact of the lower court can not be questioned by us. Article 1384 of the Civil Code provides that—

"The wife shall have the management of the paraphernal property unless she has delivered the same to her husband before a notary in order that he may administer said property."

And, moreover, under paragraph 1 of section 115 of the Code of Procedure in Civil Actions, under the facts found by the judge below in his judgment, the defendant, Catalina Montemayor, was a proper party defendant and had authority to execute the contract in question without the intervention or authority of her husband. The contract here is analogous to the contract in the case of *Casalla vs. Enage et al.* (6 Phil. Rep., 475), where this court said (p. 470):

"* * * She made the contract in question with the plaintiff without the permission or authority of her husband. The contract related to services to be performed by the plaintiff in connection with litigation against her husband. This litigation related to the property of the wife which she had acquired from her first husband. It is claimed by the appellant that the contract thus made between the wife and the plaintiff was void, because made without the permission of the husband.

"* * * The property in this case being bienes parafernales, the wife, by virtue of article 1384 of the Civil Code, had the right to administer them, and that right of administration includes the right to make such a contract as that in question without the permission of her husband. (Judgment of the supreme court of Spain, November 8, 1898.)"

With reference to the third above-noted assignment of error—to wit, that articles 1274 and 1275 of the Civil Code should have been applied to this action—we are of the opinion, and so hold, that, in the absence of proof to the contrary, the findings of fact by the court below—to wit that there was a consideration for said, promissory note, and that the original payee did perform some services—were sufficient to show that said articles were not applicable to the present case. Under paragraphs 19 and 36 of section 334 of the Code of Procedure in Civil Actions, a consideration is presumed in contracts of the class sued upon in the present case. No attempt was made on the part of the defendant, so far as the record discloses, to rebut this presumption.

With reference to the fourth assignment of error above noted—to wit, that the indorsement by the said Frederick Garfield Waite to the plaintiff was not valid—we are of the opinion, and so hold, that said indorsement complied with the provisions of the law, in the absence of proof to the contrary. It was indorsed before maturity, and, according to the findings of fact in the lower court, no effort was made to show that the indorsee did not pay face value therefor.

From the foregoing considerations we are of the opinion and so hold, that the judgment of the lower court should be affirmed with costs. Let judgment, therefore, be rendered against the defendant, Catalina Montemayor, and in favor of the plaintiff, Henry W. Eliot, for the sum of 1,300 with interest from the 1st day of May 1906. So ordered.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, 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.