

GOTIAOCO HERMANOS, INC., PLAINTIFF AND APPELLANT, VS. FELICIANA ENRIQUEZ ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 40372. August 04, 1934

Ponente: AVANCEÑA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-40372/>

AVANCEÑA, C.J.:

. August 4, 1934]

AVANCEÑA, C. J.:

On May 26, 1926, the defendants, with the exception of Concepcion Carratala, married to Luis Fernandez Sidebotorn, signed a public document (Exhibit D) in favor of Gotiaoco y Hermanos wherein they stated as follows: "That we have received to our full satisfaction the sum of P6,000 from Messrs. Gotiaoco y Hermanos; that we bind ourselves to pay interest thereon at the rate of 12 per cent per annum from the date of the deed until the debt is fully paid, and that we mortgage to said Gotiaoco y Hermanos a parcel of land covered by original certificate of title No. 8696, binding ourselves, furthermore, to the mortgagees for the eviction and warranty of this property which has been given as security for our debt." This document was not registered.

The plaintiff is the successor of Gotiaoco y Hermanos and, as such, filed the complaint in this case, seeking to recover from the defendants the sum of P6,000 with interest at 12 per cent per annum from May 26, 1926.

In their answer the defendants allege that the indebtedness of P6,000 referred to in the complaint was contracted personally by Gabino Veloso; that they did not receive any part of said sum, and that, in signing Exhibit D, they merely tried to secure the loan granted to Gabino Veloso with the mortgage on their property.

The appealed judgment dismissed the complaint as to Concepcion Carratala, married to Luis Fernandez Sidebotom, for not having signed the document Exhibit D. It absolved the other defendants from paying the sum of P6,000, declaring that said sum was a personal debt of Gabino Veloso, but ordered them to pay to the plaintiff the interest thereon at 12 per cent per annum from May 27, 1926, until fully paid.

Both the plaintiff and the defendants appealed.

The plaintiff appealed from that part of the judgment holding the defendants not liable to pay to it the sum of P6,000. The defendants appealed from so much of the judgment as ordered them to pay to the plaintiff interest on the sum of P6,000 at 12 per cent per annum from May 27, 1926, and particularly with respect to the defendant Consuelo Carratala, on the ground that she, being married, signed the document Exhibit D without the consent of her husband Gabino Veloso.

As to the plaintiff's appeal we are of the opinion that the defendants who signed Exhibit D are liable to pay to said plaintiff the sum of P6,000. The terms of said document, the material parts of which had been quoted hereinbefore, are explicit in the sense that the defendants considered themselves indebted in said sum upon affirming that they had received the same to their full satisfaction, binding themselves to pay the interest thereon

and, calling it, to be more explicit, our debt.

However, the defendants allege that the said sum of P6,000 was Gabino Veloso's personal debt and that they signed the document Exhibit D merely for the purpose of securing with the mortgaged property the payment thereof by Gabino Veloso, and that it was not their intention to assume the obligation to pay the sum in question. The only witness presented in connection with said defense was Gabino Veloso. However, although Veloso testified that the sum of P6,000 is his personal debt, he did not state that the defendants signed the document Exhibit D merely for the purpose of securing with the mortgage the payment thereof and that they did not assume the obligation to pay the same. It results from the foregoing that there is no evidence that the defendants' intention, which is clearly deducible from the terms of the document, is not that which they had upon signing said document.

The fact that the debt in question was originally contracted by Gabino Veloso alone, does not alter the defendants' liability. The most that can be inferred therefrom is that the original contract of loan between Veloso and the plaintiff's predecessor in interest was novated under Exhibit D by the substitution of the persons who signed it as debtors.

This conclusion likewise adversely decides the defendants' appeal with respect to the payment of interest. If they must pay the debt, they should pay the stipulated interest, especially because they expressly bound themselves to do so. Furthermore, this conclusion relieves us from discussing the erroneous contention made in the defendants' brief, to the effect that in this case the mortgage is the principal obligation, and the payment of interest an accessory.

As to Consuelo Carratala, we concur in the trial court's opinion that she cannot evade the effect of the document signed by her by alleging that it is null and void for lack of her husband's consent, inasmuch as only the husband or his heirs can raise such question of nullity.

In view of the foregoing considerations, the judgment appealed from is modified, and the defendants, with the exception of Concepcion Carratala and her husband, are ordered to pay to the plaintiff the sum of P6,000. Said judgment is affirmed in all other respects, without special pronouncement as to costs. So ordered.

Street, Malcolm, Vickers, Butte, Goddard, and Diaz, JJ., concur.

IMPERIAL, J., with whom concur VILLA-REAL, ABAD SANTOS, and HULL, JJ., dissenting:

On May 26, 1926, the defendants signed the document which reads as follows:

"Know all men by these presents; That we Feliciano Enriquez, widow, Carmen Carratala, married to Mariano G. Veloso, Concepcion Carratala, married to Luis Fernandez Sidebotom, Manuel Carratala, married to Quintillana Samson, all of age, do hereby declare that, in consideration of the sum of six thousand pesos (P6,000), which we have received to our full satisfaction from Messrs. Gotiaoco y Hermanos, do hereby mortgage to said Messrs. Gotiaoco y Hermanos, their heirs and successors in interest, a parcel of land known as lot number one thousand seven hundred fifty-six (lot No. 1756) of the cadastre of Cebu, Cebu, and described in original certificate of title number eight thousand six hundred and ninety-six (o. c. of title No. 8696) of the registry of deeds of Cebu.

"We likewise declare that the stipulated term of this mortgage is two (2) years from the date of this deed, and we bind ourselves to pay interest thereon at twelve per cent (12%) per annum until the debt is fully paid.

"We further declare that during the term of the mortgage the assessments in favor of the municipality, by way of land taxes, as well as the assessments in favor of the provincial or insular government, will be paid by the mortgagors, binding ourselves, furthermore, to the mortgagees for the eviction and warranty of the above

described property which has been given as security for our indebtedness.

"In witness whereof, we hereunto affix our signatures at Cebu, Cebu, P. I., this 26th day of May, 1926.

"(Sgd.) FELICIANA ENRIQUEZ, CONSUELO CARRA-

TALA, CARMEN CARRATALA, M. CARRA-

TALA E.

"With my marital consent:

"(Sgd.) V. GANDIONGO"

Inasmuch as the defendants refused to pay the sum of P6,000 and the interest thereon and because, on the other hand, said mortgage deed was not duly registered, the plaintiff entity brought a personal action for the recovery of both.

The plaintiff appealed from that part of the judgment absolving the defendants from the payment of the sum of P6,000. The defendants, in turn, appealed in so far as the judgment ordered them to pay interest thereon at 12 per cent per annum from May 27, 1926, with costs.

In their answer, the defendants alleged, among other defenses, that the above quoted document, transcribed in the complaint, does not express the true intention of the parties, and that the sum claimed was an indebtedness of one Gabino Veloso, which they, without assuming it, secured by the real property described in the document.

It has been established by means of preponderant and convincing evidence that the sum of P6,000 was an obligation contracted by Gabino M. Veloso from the plaintiff's predecessor in interest, which the defendants secured with the mortgage on their real property.

Such facts are shown by said Veloso's testimony to the effect that he owed said sum; that he issued a promissory note for the accrued interest thereon; and that said promissory note was presented in his insolvency proceedings as evidence of the claim filed by the plaintiff, and that the defendants merely secured his personal obligation with the mortgage in question. Exhibit 1 corroborates Veloso's statement that he issued a promissory note for the accrued interest on his indebtedness of P6,000 and that, in order to collect the same, the plaintiff presented it as a claim in his insolvency proceedings.

It having been proven that the case involves an obligation or indebtedness contracted by a third person and that the defendants by means of the above quoted document merely secured it with the mortgage executed by them, it is evident that the action brought for the recovery of the principal obligation does not lie against the defendants, and the same should have been instituted against Veloso.

The plaintiff's claim that the defendants, by means of said document, assumed Veloso's obligation, is

incompatible with the weight of the evidence and is not supported by the terms of the document which, it has also been proven, does not reflect the true intention of the parties or the true facts of the case.

As to the defendants' appeal, the same is unfounded. It is not error to have ordered them to pay interest. Such obligation is clearly disclosed by the terms of the document. The obligation which they voluntarily bound themselves to perform is lawful and effective, for the reason that a person may bind himself to pay the interest on the debt of a third person, and that is precisely what the defendants did in this case.

The judgment appealed from should be affirmed, with the costs of this instance against the plaintiff-appellant.

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.