

PHILIPPINE REFINING CO., INC., PLAINTIFF AND APPELLANT, VS. FRANCISCO JARQUE, JOSE COROMINAS, AND ABOITIZ & CO., DEFENDANTS. JOSE COROMINAS, IN HIS CAPACITY AS ASSIGNEE OF THE E...

G.R. No. 41506. March 25, 1935

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-41506/>

MALCOLM, J.:

First of all the reason why this case has been decided by the court in bane needs explanation. A motion was presented by counsel for the appellant in which it was asked that the case be heard and determined by the court sitting,, in bane because the admiralty jurisdiction of the court was involved, and this motion was granted in regular course. On further investigation it appears that this was error. The mere mortgage of a ship is a contract entered into by the parties to it without reference to navigation or perils of the sea, and does not, therefore, confer admiralty jurisdiction. (Bogart vs. Steamboat John Jay [1854], 17 How., 399.)

Coming now to the merits, it appears that on varying dates the Philippine Refining Co., Inc., and Francisco Jarque executed three mortgages on the motor vessels Pandan and Zaragoza. These documents were recorded in the record of transfers and incumbrances of vessels for the port of Cebu and each was therein denominated a "chattel mortgage". Neither of the first two mortgages had appended an affidavit of good faith. The third mortgage contained such an affidavit, but this mortgage was not registered in the customs house until May 17, 1932, or within the period of thirty days prior to the commencement of insolvency proceedings against Francisco Jarque; also, while the last mentioned mortgage was subscribed by Francisco Jarque and M. N. Brink, there was nothing to disclose in what capacity the said M. N. Brink signed. A fourth mortgage was executed by Francisco Jarque and Ramon Aboitiz on the motorship Zaragoza and was entered in the chattel mortgage registry of the register of deeds on May 12, 1932, or again within the thirty-day period before the institution of insolvency proceedings. These proceedings were begun on June 2, 1932, when a petition was filed with the Court of First Instance of Cebu in which it was prayed that Francisco Jarque be declared an insolvent debtor, which soon thereafter was granted, with the result that an assignment of all the properties of the insolvent was executed in favor of Jose Corominas.

On these facts, Judge Jose M. Hontiveros declined to order the foreclosure of the mortgages, but on the contrary sustained the special defenses of fatal defectiveness of the mortgages. In so doing we believe that the trial judge acted advisedly.

Vessels are considered personal property under the civil law. (Code of Commerce, article 585.) Similarly under the common law, vessels are personal property although occasionally referred to as a peculiar kind of personal property. (Reynolds vs. Nielson [1903], 96 Am. Rep., 1000; Atlantic Maritime Co. vs. City of Gloucester [1917], 117 N. E., 924.) Since the term "personal property" includes vessels, they are subject to mortgage agreeably to the provisions of the Chattel Mortgage Law. (Act No. 1508, section 2.) Indeed, it has heretofore been accepted without discussion that a mortgage on a vessel is in nature a chattel mortgage. (McMicking vs. Banco

Espanol-Filipino [1909], 13 Phil., 429; Arroyo vs. Yu de Sane [1930], 54 Phil., 511.) The only difference between a chattel mortgage of a vessel and a chattel mortgage of other personalty is that it is not now necessary for a chattel mortgage of a vessel to be noted in the registry of the register of deeds, but it is essential that a record of documents affecting the title to a vessel be entered in the record of the Collector of Customs at the port of entry. (Rubiso and Gelito vs. Rivera [1917], 37 Phil., 72; Arroyo vs. Yu de Sane, *supra*.) Otherwise a mortgage on a vessel is generally like other chattel mortgages as to its requisites and validity. (58 C. J., 92.)

The Chattel Mortgage Law in its section 5, in describing what shall be deemed sufficient to constitute a good chattel mortgage, includes the requirement of an affidavit of good faith appended to the mortgage and recorded therewith. The absence of the affidavit vitiates a mortgage as against creditors and subsequent encumbrancers. (Giberson vs. A. N. Jureidini Bros. [1922], 44 Phil., 216; Benedicto de Tarrosa vs. F. M. Yap Tico & Co. and Provincial Sheriff of Occidental Negros [1923], 46 Phil., 753.) As a consequence a chattel mortgage of a vessel wherein the affidavit of good faith required by the Chattel Mortgage Law is lacking, is unenforceable against third persons.

In effect appellant asks us to find that the documents appearing in the record do not constitute chattel mortgages or at least to gloss over the failure to include the affidavit of good faith made a requisite for a good chattel mortgage by the Chattel Mortgage Law. Counsel would further have us disregard article 585 of the, Code of Commerce, but no reason is shown for holding this article not in force. Counsel would further have us revise doctrines heretofore announced in a series of cases, which it is not desirable to do since those principles were confirmed after due deliberation and constitute a part of the commercial law of the Philippines. And finally counsel would have us make rulings on points entirely foreign to the issues of the case. As neither the facts nor the law remains in doubt, the seven assigned errors will be overruled.

Judgment affirmed, the costs of this instance to be paid by the appellant.

Avanceña, C.J., Street, Villa-Real, Abad Santos, Hull Vickers, Imperial, Butte, and Goddard, JJ., concur.

Judgment affirmed.

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.