

**THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. APOLONIA S. ZAPANTA ET AL., DEFENDANTS.
APOLONIA S. ZAPANTA, APPELLANT.**

G.R. No. 42050. August 26, 1935

Ponente: BUTTE, J.

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BUTTE, J.:

The defendant-appellant was indebted to the Pension and Investment Board upon two promissory notes as follows:

"P36,500.00 MANILA, P. I., September-IBS, 19S1

"Five (5) years after date, for value received, I promise to pay to the Pension and Investment Board, or order, at 1 Resolution of August 28, 1935. VOL, 61, AUGUST 26, 1935 845 Government of the Philippine Islands vs. Zapanta its office in the City of Manila, Philippine Islands, the sum of thirty-six thousand five hundred pesos (P36,500), Philippine currency, together with interest at the rate of eight per cent (8%) per annum, payable quarterly on March 31, June 30, September 30, and December 31 of each year, which quarterly interest, if overdue, shall bear interest of ten per cent (10%) per annum, until this note is paid in full.

"In case of non-payment of this note at maturity or/and of any other amounts due on account of this note or/and in case suit is filed in the courts to enforce payment of this note or/and of any other amounts due on account of this note, I agree to pay the further sum of three thousand six hundred fifty pesos (P3,650), Philippine currency, in full without any deduction, as and for costs, expenses, and attorney's fees for collection whether actually incurred or not.

(Sgd.) "APOLONIA S. ZAPANTA

"In the presence of:

(Sgd.) "MARIANO A. GAERLAN

"FORTUNATO JACINTO" 2

"P5,500.00 Manila, P. I., February 8,1982

"Four (4) years, seven (7) months and twenty (20) days after date, for value received, I promise to pay to the Pension and Investment Board, or order, at its office in the City of Manila, Philippine Islands, the sum of five thousand five hundred pesos (P5,500), Philippine currency, together with interest at the rate of eight per cent (8%) per annum, payable quarterly on March 31, June 30, September 30, and December 31 of each year which quarterly interest, if overdue, shall bear interest of ten per cent (10%) per annum, until this note is paid in full.

"In case of non-payment of this note at maturity or/and of any other amounts due on account of this note or/and in case suit is filed in the courts to enforce payment of this note or/and of any other amounts due on account of this note, I agree to pay the further sum of five hundred fifty pesos (P550), Philippine currency, in full without any deduction, as and for costs, expenses, and attorney's fees for collection whether actually incurred or not.

(Sgd.) "APOLONIA S. ZAPANTA:

"In the presence of:

(Sgd.) "MARIANO A. GAERLAN

"LAUREANO QUIJANO"

These notes were secured by real estate mortgages. Having defaulted in the payment of the notes at maturity, the Government of the Philippine Islands, through its Solicitor General, on August 28, 1933, brought this suit praying for judgment on the first note in the sum of P40,231.11 on account of the principal debt and interest and P3,650 additional representing costs, expenses and attorney's fees as stipulated in said note and on the second of said notes judgment for P6,139.34 for principal and interest and P550 representing costs, expenses and attorney's fees as stipulated in said note. The plaintiff also prayed for the foreclosure of the mortgages securing said notes.

The only assignment of error on this appeal is as follows:

"El Juzgado incurririo en error al fijar en ₱2,520 la cantidad total que la demandada apelante debe pagar al demandante en concepto de costas, gastos y honorarios de abogados."

It is to be noted that although the defendant-appellant in said notes bound herself to pay the sums of P3,650 and P550 respectively as costs, expenses and attorney's fees, a total of P4,200, the trial court reduced the amount to P2,520. The promises contained in said notes to pay the said sums of P3,650 and P550 respectively as costs, expenses and attorney's fees are valid and enforceable by the Government of the Philippine Islands. (Government of the Philippine Islands vs. Macanaya, G. R. No. 40333, promulgated October 5, 1934, 60 Phil., 1049.) We sustained identical promises contained in notes made in favor of the Pension and Investment Board in G. R. No. 41917, Government of the Philippine Islands vs. Lim, promulgated August 9, 1935 (p. 737, ante),

Finding no error or abuse of discretion on the part of the trial court, the judgment appealed from is affirmed with costs against the appellant.

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

Judgment affirmed.

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