

**MARGARITA QUINTOS DE ANSALDO AND ANGEL A. ANSALDO,
PLAINTIFFS AND APPELLEES, VS. THE SHERIFF OF THE CITY OF
MANILA, FIDELITY & SURETY COMPANY OF THE PHILIPPINE
ISLANDS AND LUZON...**

G. R. No. 43257. February 19, 1937

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Upon the express guaranty of the appellant Fidelity & Surety Company of the Philippine Islands, the Philippine Trust Company granted Romarico Agcaoili a credit in current account not to exceed at any one time P20,000. Appellee Angel A. Ansaldo, in turn, agreed to indemnify the Fidelity & Surety Company of the Philippine Islands for any and all losses and damages that it might sustain by reason of having guaranteed Agcaoili's obligations to the said Philippine Trust Company. Agcaoili defaulted, and the surety company, as his guarantor, paid the Philippine Trust Company the sum of P19,065.17. Thereafter, the surety company brought an action against the appellee Angel A. Ansaldo for the recovery of the said sum of P19,065.17, and after obtaining a judgment in its favor, caused the sheriff of the City of Manila to levy on the following properties:

"The joint savings account in the name of Angel A. Ansaldo and Margarita Quintos de Ansaldo in the Bank of the Philippine Islands amounting to P470.96, and

"The joint current account of the said spouses Angel A. Ansaldo and Margarita Quintos de Ansaldo in the said Bank of the Philippine Islands amounting to P165.84."

Upon learning of the action taken by the sheriff, appellees filed with him a third party claim alleging that the money on which he levied execution was the property of the conjugal partnership existing between the said appellees and not liable for the payment of personal obligations of the appellee Angel A. Ansaldo; but upon execution of an indemnity bond by the appellant Luzon Surety Company, the sheriff retained the money in his possession.

Subsequently, appellees instituted an action against the appellants in the Court of First Instance of Manila to have the execution levied by the sheriff declared null and void. The court below granted the relief prayed for and sentenced the appellants, jointly and severally, to pay the appellees the sum of P636.80 with interest thereon at the rate of ten per centum per annum from June 6, 1934 until paid, and the costs of suit.

As stated by counsel for the appellants, the question involved in this appeal is whether a joint savings account and a joint current account, in a bank, of a husband and his wife are liable for the payment of the obligation of the husband.

It is undisputed that the sum of P636.80 which is now in controversy was derived from the paraphernal property of the appellee, Margarita Quintos de Ansaldo, the wife of the other appellee Angel A. Ansaldo. It therefore belongs to the conjugal partnership of the said spouses. (Civil Code, art. 1401.)

The provision of article 1408 of the Civil Code to the effect that the conjugal partnership shall be liable for all the debts and obligations contracted during the marriage by the husband must be understood as subject to the qualifications established by article 1386 of the same Code, which provides that:

"The fruits of the paraphernal property cannot be subject to the payment of personal obligations of the husband, unless it be proved that such obligations were productive of some benefit to the family."

The meaning of this article is clarified by reference to the first paragraph of the preceding article 1385 which reads as follows:

"The fruits of the paraphernal property form part of the assets of the conjugal partnership, and are subject to the payment of the debts and expenses of the spouses."

Construing the two articles together, it seems clear that the fruits of the paraphernal property which become part of the assets of the conjugal partnership are not liable for the payment of personal obligations of the husband, unless it be proved that such obligations were productive of some benefit to the family.

In the case now before us, no attempt has been made to prove that the obligations contracted by the appellee, Angel A. Ansaldo, were productive of some benefit to his family. It is, however, claimed that, as the sum of P636.80 has become the property of the conjugal partnership, at least one-half thereof was properly levied on execution, as the share of the appellee Angel A. Ansaldo. This contention is without merit. The right of the husband to one-half of the property of the conjugal partnership does not vest until the dissolution of the marriage, when the conjugal partnership is also dissolved. (Civil Code, arts. 1392 and 1426.)

Counsel for the appellants call attention to the fact that in the third party claim filed with the sheriff of the City of Manila by the appellees, the latter did not allege that the money on which the sheriff levied execution was property belonging exclusively to the appellee Margarita Quintos de Ansaldo. Counsel contend that, as it was then claimed that the said amount of P636.80 was conjugal property, appellees are now in estoppel to claim that the same sum was not conjugal property but paraphernal property of the appellee Margarita Quintps de Ansaldo, and, therefore, not subject to execution. Counsel for the appellants are arguing from a wrong premise. Appellees do not contend that said sum of P636.80 is not conjugal property. They contend that while it forms part of the assets of the conjugal partnership under article 1385 of the Civil Code, it could not be levied upon, because it was not subject to the payment of personal obligations of the husband under article 1386 of the same Code. It seems clear, therefore, that the doctrine of estoppel is not applicable to this case.

The judgment appealed from is affirmed with costs against the appellants. So ordered.

Avancena, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur

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