

MONICA CASON, PLAINTIFF AND APPELLEE, VS. F. W. RICKARDS AND SMITH, BELL & CO., DEFENDANTS AND APPELLANTS.*G.R. No. 4350. January 11, 1909*

Ponente: TRACEY, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4350/>**TRACEY, J.:**

In 1906 this action was before this court on an appeal from a judgment of the Court of First Instance of Manila holding the defendants Smith, Bell & Co. liable to the plaintiff in the sum of P2,000, with interest, but exonerating them from a second claim of P4,200, with interest. (5 Phil. Rep., 011). The P2,000 had been received from the plaintiff by the defendant Rickards as a deposit while he was acting as agent for Smith, Bell & Co. in Dagupan, and the P4,200 was the amount of certain Spanish Government warrants delivered to him by the plaintiff and collected by him through the Hongkong Bank at Manila. It appeared that the P2,000 had been turned over to Smith, Bell & Co. with notice of its ownership and on this ground their liability was placed, without respect to the terms of the agency of Rickards. It was fairly to be inferred from his testimony on the first trial that the firm had also had the benefit of the collection of the government warrants. The court in its decision said:

"The question in this case is this: Can the positive testimony of Rickards, which has been set forth above, be overcome by the testimony of the agent of the bank in view of the fact that Smith, Bell & Co. had it in their power to demonstrate the falsity of the testimony of Rickards by producing their books? No reason appears in the case why the books were not produced. The trial was had in Manila, where is located the main office of Smith, Bell & Co. Rickards gave his testimony at the opening of the trial. If it were false its falsity could have been easily proved by the introduction of these books, and their production was more imperatively demanded considering the statement of Rickards that he had seen them, and that they did contain the entries in regard to this amount of 4,200 pesos.

* * * * *

"In the present case we think that the ends of justice require that there should be a new trial as to the 4,200 pesos.

* * * * *

"The judgment is reversed, and the case is remanded to the court below for a new trial only of the issue relating to the 4,200 pesos. After the new trial judgment will, as a matter of course, be entered for the plaintiff against Smith, Bell & Co. in reference to the 2,000 pesos, and for or against them in respect to the 4,200 pesos, as the results of the new trial may require. * * *"

On the second trial it appeared that the only book kept at Dagupan relating to these transactions was a small account book in the handwriting of Rickard's clerk, transcribed by him from pencil memoranda made by Rickards himself, which does not bear the name of Smith, Bell & Co., which appears to be a memorandum book and includes other transactions of his with which that firm had nothing to do, and which is evidently his personal account and not that of his principals. The books of the firm showing his transactions in Dagupan were kept by D.

M. Clark, the manager of the mills at Bayambang, to whom Rickard's reported and with whom he monthly exchanged accounts.

In none of these accounts did these government warrants appear nor any entry of the monies received therefrom.

Upon the first trial it was proved by H. D. C. Jones, of the Hongkong Bank, that from the proceeds of these notes a personal debt of Rickards to that bank, amounting to P1,854, growing out of an old transaction, of his as agent for Warner, Barnes & Co., had been satisfied. It also was shown that he had turned over to one Rafael Sison P1,192 and he also swore that he had paid the firm either P6000 or P900 on a private debt. His cash book produced at the second trial confirms Mr. Jones' testimony and also shows the payment of Sison, as well as some other items, so that it is established that, with the exception of a few hundred pesos, no part of the proceeds of the P4,200 can have been received by Smith, Bell & Co. as the immediate proceeds of these warrants.

Clive Kingcome, one of the managers of the firm, who at the time of the first trial was not a witness on account of absence from the country, testified on the second trial in detail as to the books of the firm, the manner of conducting its business in Dagupan and Bayambang, and the transactions with Rickards. He said that, had the dealings been such as Rickards narrated, the entries thereof would have appeared in the Bayambang books and that, moreover, he had no recollection whatever of receiving either P600 or P900 in settlement of any account of Rickards, and that no trace thereof or of any such payment could be found in the books.

The agency of Rickards was supposedly if or the purpose of buying rice and sacks. It existed for the period of one year only and he admitted that, prior thereto and since the year 1882, he had been conducting a similar business at Dagupan, but not for Smith, Bell & Co. He showed by his book and by his declaration that during this year he received from persons at Dagupan large sums in cash for remittance to Manila, which he effected by notifying Smith, Bell & Co. of the amounts and using the actual cash received in the local purchase of rice and bags on their account, thus effecting a saving to both parties of a considerable railway charge for carrying the money to and fro, and that these operations were known to his principals and approved by them. However this course of business might affect the 2,000-peso claim or any other deposit of money received by him, it has no bearing upon the transaction in these certificates which were not cash deposited with him but on the contrary, were handed to him by the plaintiff in order to be converted into cash, which he was to collect and repay her. It appears that he wrote to the firm at Manila asking their advice in respect to the warrants and was by them referred to the Hongkong Bank, which undertook to effect their collection, a thing at that precise period, at the outbreak of the revolution, of some difficulty on account of reluctance of the Spanish Government to send into the provinces money which might serve to supply funds to the revolutionary forces. It is not shown that Smith, Bell & Co. had ever adopted any similar course of business in regard to the collection of similar warrants or of any drafts, or that they had intervened in this instance otherwise than as a matter of favor to their correspondent, or that they had received the proceeds of the collection, or had made any entries thereof in their own books, or in any manner recognized it.

The receipt given for the warrants read:

"I have received from Da. Monica Cason three Treasury warrants of the value of 4,200 pesos, with the interest thereon, to collect in Manila; said amount of \$4,200, when collected from the treasury, I promise to deliver to said Da. Monica Cason, in cash, to her order. Calasiao, October 8, 1896. F. W. Rickards."

The firm did not sign this receipt and is not referred to therein.

Articles 286 and 287 of the Code of Commerce, cited by the defendant to establish the liability of the firm, apply to contracts made by factors, but in this case the relation of factor has not been established. This rather appears to be an instance of an agent, if he was one, dealing in his own name and on his own responsibility and not that of his principal. (Code of Commerce, arts. 245, 246, and 247; *Castle Bros., Wolf & Sons vs. Go-Juno*, 7 Phil. Rep.,

144.) The mere custom of a local agent receiving monies on deposit for which his principal, the firm, might, perhaps, on general principles of the law of agency, have made itself liable whether the money had been actually received by it or not, does not suffice to charge them with liability for the essentially different operation of the isolated collection of a draft for his clients, such collection not creating any appearance of a general banking business upon which third persons had a right to rely. Neither in fact nor in appearance was any agency for this purpose authorized or permitted by Smith, Bell & Co., and the transaction as to these warrants was one for which Rickards alone is responsible to the plaintiff.

On the second trial the court directed judgment against Smith, Bell & Co. for the equivalent of 4,200 Mexican dollars at the rate stipulated by the parties, less 5 per cent collected by the firm as commissions, amounting to P4,269 together with interest thereon from March 30, 1897, amounting to P2,689, making a total of P6,958. The allowance of interest from the date of the first demand by the plaintiff was correct, but the computation should have been upon the 4,200 Mexican dollars, without the deduction of the percentage, resulting in P4,494, for which judgment in favor of the plaintiff should be entered against the defendant Rickards, with interest from March 30, 1897. The trial court committed no error in following the statute and computing the value of the 2,000 Mexican pesos as of the date of the entry of the second judgment, rather than as of the date of the first judgment, and such is the correct interpretation of the former decision in this case. Judgment is accordingly directed affirming the judgment of the Court of First Instance on the second trial in respect to the P2,000 and interest against Smith, Bell & Co., and reversing it as to the judgment of P4,200 in respect of which, with interest thereon from March 30, 1897, judgment is directed to be entered in favor of the plaintiff and against the defendant, F. W. Rickards, but without costs to any of the parties in this instance. So ordered.

Torres, Mapa, Johnson, and Willard, JJ., concur.

DISSENTING

CARSON, J.,

I dissent.

I think there is sufficient evidence in the record to charge Smith, Bell & Co. with responsibility for the total amount claimed, under the provisions of articles 286 and 287 of the Code of Commerce, which are as follows:

"Art. 286. Contracts made by the factor of a manufacturing or commercial establishment or enterprise, when it is common knowledge that he belongs to a well-known enterprise or association, shall be understood as made for the account of the owner of said enterprise or association, even though the factor did not mention this fact at the time of making the contract; or that breach of trust, transgression of powers, or appropriation of the goods, which are the subject of the contract is alleged, provided these contracts involve objects included in the transactions or business of the establishment, or if, not being of this kind, it should be proven that the factor acted according to orders from his principal, or that the latter approved his action in express terms or by positive acts.

"Art. 287. A contract made by a factor in his own name shall bind him directly with the person with whom it was made; but if the transaction was made for the account of the principal, the other contracting party may bring his action against the factor or against the principal."

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.