

URBANO FLORIANO, PLAINTIFF AND APPELLEE, M. ESTEBAN DELGADO ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 4410. August 27, 1908*

Ponente: TORRES, J.

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On the 17th of February, 1907, the attorneys for Urbano Floriano filed a complaint against the married couple Esteban Delgado and Regina Bertumen, residents of Ligao, Albay, alleging that the latter were indebted to the plaintiff in the sum of P1,352.80, duly admitted by the debtors, who engaged to pay it together with interest thereon at the rate of 10 per cent per annum, as appears by a promissory note made out on the 20th of January, 1907, and which reads:

"We promise to pay to Sr. Urbano Floriano the sum of one thousand three hundred and fifty-two pesos and eighty centavos (P1,352.80), Conant, for balance standing against us on this date. Until said amount is paid to Sr. Floriano we engage to pay interest thereon at the rate of 10 per cent per annum, as agreed. Ligao, January 20, 1907.—(Signed) Esteban Delgado.—(Signed) Regina Bertumen."

That the aforesaid amount has not been paid either in whole or in part, notwithstanding demand therefor, for which reason the plaintiff asked the court to enter judgment against the defendants, sentencing them to pay the said sum in Philippine currency, with interest thereon at the rate of 10 per cent per annum from the 20th of January, 1907, until the date of payment, with costs, as Well as any further remedy that the court might consider just and equitable.

The defendants appeared within the time prescribed by the law, but they did not answer the complaint, notwithstanding the fact that the time for answering had elapsed, nor did they present any answer, for which reason the court below, on the 22d of March, 1907, held the said defendants, Delgado and Bertumen', to be in default and ordered the plaintiff to proceed with his evidence; this was done, and the court below, on the 30th day of the aforesaid month and year, entered judgment ordering the defendants to pay the amount claimed together with interest thereon from the 20th of January, 1907, until such time as payment was made, with costs.

On April 9, following, the defendant Delgado, in his own name and on behalf of his wife, Bertumen, appealed from said judgment. This appeal was admitted by the court below on the 13th of said month. A bill of exceptions was submitted, and, after hearing the adverse party, it was brought to this court.

The subject of this litigation is the fulfillment of an obligation contracted by the defendant spouses to pay a certain sum stated in a document of indebtedness which is set out in the complaint, with the particularity that no date was fixed therein for the payment of the debt.

Before proceeding further let us set forth the following facts: the defendant appellants did not ask for the annulment of the judgment appealed from, nor for the holding of a new trial, but limited themselves, simply to excepting to said judgment, appealing to this court. Hence, we are not called upon to review the findings of the court below, and this decision will only dwell on the questions of law set up by the appellant's in the bill of errors

which accompanies their brief.

Commencing with the second error in reference to the nature and character of the obligation contained in the document of indebtedness, it is sufficient for the purposes of this decision to say that, in accordance with the old laws in force in, this country prior to the enactment of the present Civil Code, when an obligation is pure, simple, and unconditional, and no particular day has been fixed for its fulfillment, payment of the same may be demanded ten days-after it is contracted.

From the liquidation of accounts that took place between the plaintiff and the defendants, there resulted a balance of P1,352.80 which the debtors bound themselves to pay, without fixing a day therefor, with interest at the rate of 10 per cent per annum until paid, just as if they had received said sum on loan at the time of the liquidation whereby they became indebted. Not having paid it at the time, they executed the document by which they bound themselves to pay the creditor without fixing a date for payment, or any other condition. Although in accordance with the old laws and the doctrine or precept of article 62 of the Code of Commerce, the parties bound should have met their obligation at; the expiration of ten days after the 20th of January, 1907, nevertheless, under the provisions of the Civil Code, the payment of the obligation may be demanded at once, unless from the nature and circumstances thereof it may be inferred that it was the intention of the creditor to grant the debtors some extension of time, in which case the duration thereof should be fixed by the courts. (Art. 1128, Civil Code.)

It can not be inferred from the language of the said document that it was the intention of Urbano Floriano to grant the defendants any extension of time in the payment, the duration of which should be fixed by judicial authority; and inasmuch as a complaint was filed in court twenty-seven days after the obligation was executed, after payment had been demanded from the debtors, the latter have no right at all to claim an extension for the fulfillment of the obligation, the existence and legality of which they have expressly recognized.

Article 1113 of the Civil Code provides:

"Every obligation, the fulfillment of which should not depend upon a future or uncertain event or upon a past event, unknown to the parties in interest, shall be immediately demandable."

The document of indebtedness contains no term or condition whatever upon which depends the fulfillment of the obligation contracted by the debtors; therefore, there exists no motive or reason that would exempt them from compliance therewith.

The judgment entered by the court below, sentencing the defendants to pay the plaintiff the sum that they owe him together with interest thereon, must, of course be understood as having been imposed upon them jointly in accordance with the mutual character of the obligation contracted by the debtors; therefore, the decision of the court below is in accordance with the provisions of articles 1137 and 1138 of the Civil Code, and it can not be contended that each of them has been severally sentenced to pay the whole amount stated in the document of indebtedness, and for said reason the fourth error attributed to the judgment appealed from is not true.

As to the first and second errors imputed by the appellants to the said judgment, it is unquestionable that the plaintiff has made a material error in his writing of the 21st of March, 1907, by charging only the husband, one of the defendants, with default; such error is explicable however, in that the husband is the natural representative of his wife, but it has no importance in view of the fact that the complaint was Hied against both of them, and that they were both summoned. The judge below having discovered the mistake held both defendants to be in default, thus amending, to a certain extent, the erroneous charge of the plaintiff.

The order of default of March 22 was complied with, and upon the necessary evidence being offered by the plaintiff, the judge below, without further formalities, since section 128 of the Code of Civil Procedure does not

require any other than those observed in these proceedings, rendered judgment on the 30th of the same month, after proceedings in due form of law.

For the foregoing reasons, and as the judgment appealed from is in accordance with the law, it is our opinion that it should be affirmed, with the costs against the appellants. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

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