

**THE BACHRACH MOTOR CO., INC., PLAINTIFF AND APPELLEE, VS.
JOSE ESTEVA AND TEAL MOTOR CO., INC., DEFENDANTS AND
APPELLANTS.***G.R. No. 44510, December 24, 1938*

Ponente: IMPERIAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44510/>**IMPERIAL, J.:**

This is an appeal taken by the defendants Jose Esteva and Teal Motor Co., Inc., from the decision rendered by the Court of First Instance of Manila ordering said defendants, jointly and severally, to pay the plaintiff the sum of P46,500, with interest thereon at 12 per cent per annum from May 10, 1930, until fully paid, plus the sum of P2,000 by way of attorney's fees and costs; and the co-defendant Teal Motor Co., Inc., to pay the defendant Jose Esteva the sum of P46,500, with interest thereon at 12 per cent per annum from May 10, 1930 until fully paid, the sum of P2,000, plus an additional sum of P6,293.16 by way of damages, with legal interest thereon from February 12, 1932, until fully paid.

The plaintiff brought this action to recover from the defendants the sum of 954,749.41, the amount of twenty-two promissory notes executed by the defendant Esteva in favor of Teal Motor Co., Inc., and endorsed by the latter in favor of the plaintiff, together with the stipulated interest of 12 per cent per annum, plus the amount of P13,687.35 as attorney's fees, equivalent to 25 per cent of the amount due. Teal Motor Co., Inc., answered the complaint, practically acquiescing in the allegations thereof. Jose Esteva filed his re-amended answer and by way of counterclaim and cross-complaint against the plaintiff and the co-defendant Teal Motor Co., Inc., alleged that in March 1930 a liquidation of his account with the latter company showed that he was then indebted to it in the sum of P64,500; that to secure the payment of said obligation he executed in favor of the Teal Motor Co., Inc., a mortgage on fourteen autotrucks, eleven trailers and 1 Buick automobile; that to facilitate the payment of his indebtedness he agreed with the manager of Teal Motor Co., Inc., that he would organize a corporation to be called "Insular Express Company", which upon organization and after payment of P10,000, would assume all the obligation, the balance to be paid at the rate of P1,000 a month, without interest; that to this end he solicited the cooperation of Guillermo Dy Buncio who gave him all the necessary help in the organization of the corporation; that while the incorporation papers were under preparation, Teal Motor Co., Inc., in connivance with the plaintiff and its then manager, E. M. Bachrach, foreclosed the mortgage executed by him, thereby illegally depriving him of the possession of the autotrucks, trailers and automobile which he had mortgaged; that the value of said motor vehicles at the time they were illegally seized was P105,730, and that the business in which he was engaged yielded an annual profit of not less than P20,000; and that the motor vehicles seized and sold could still be used for eight consecutive years from which he could have obtained profits in the amount of P160,000 which, added to the sum of P72,957.06 paid by him on account of the price of said vehicles, makes a total of P232,957.06, representing all the damages suffered by him as a result of the foreclosure of the mortgage and the sale of all the motor vehicles. The plaintiff and Teal Motor Co., Inc., objected to the admission of the reamended answer, and on March 3, 1932, the trial court denied the admission of the same. Jose Esteva excepted to the order and filed

another motion praying that the accompanying cross-complaint against the plaintiff, Teal Motor Co., Inc., and E. M. Bachrach, be admitted. In said cross-complaint the defendant made the same allegations contained in his re-amended answer by way of counterclaim and cross-complaint. Teal Motor Co., Inc., objected to said petition and the trial court in its order of June 20, 1932, admitted the pleading, not as a cross-complaint but as part of the special defense of the defendant Esteva. The latter proposed other amendments to the answer. On May 20, 1933, the trial court rendered its decision in the case ordering Jose Esteva and Teal Motor Co., Inc., jointly and severally, to pay the sum of P34,749.41, plus the interest thereon at 12 per cent annually from December 10, 1931, until fully paid and an additional sum of P3,483.72 as penalty. Teal Motor Co., Inc., was likewise ordered to pay the plaintiff the sum of P20,000, plus the interest thereon at 12 per cent annually from December 10, 1931, until fully paid, and the further sum of P2,000, as penalty. Jose Esteva appealed from said decision and this court in case G. R. No. 40233[1] reversed the appealed decision and remanded said case to the trial court for new trial. In accordance with the decision of this court Jose Esteva then filed an amended answer wherein he alleged the counterclaim and cross-complaint disallowed by the trial court in his re-amended answer. The plaintiff and Teal Motor Co., Inc., having answered the cross-complaint of the defendant Jose Esteva, the latter interposed a demurrer to the answer of the first entity, which demurrer was overruled by the trial court, to which said defendant Esteva exempted. Finally on July 20, 1935, the trial court rendered the decision above-mentioned. Jose Esteva and Teal Motor Co., Inc., appealed from said decision.

Between September 1, 1927 and January 1, 1930, Jose Esteva bought from Teal Motor Co., Inc., fourteen autotrucks, eleven trailers and one Buick automobile for the sum of P105,730. On April 8, 1930, a liquidation was made which showed that Esteva was owing P54,500, the balance of the purchase price of said motor vehicles. Esteva then executed in favor of the Teal Motor Co., Inc., twenty-two promissory notes, the first of which for the amount of P1,000, matured on May 10, 1930 and the last for the amount of P7,500 became due on February 10, 1932. To secure said promissory notes, Esteva, on the same date, mortgaged all the motor vehicles in favor of Teal Motor Co., Inc. Once in possession of the promissory notes, Teal Motor Co., Inc., endorsed the same to the plaintiff, reserving, however, the mortgage. Thereafter Esteva paid the eight promissory notes when they fell due, namely, those corresponding to May up to December, 1930, amounting to P8,000, but he failed to pay each of the promissory notes for P6,000 corresponding to January, February and March, 1931. Esteva having defaulted in the payment of the last three promissory notes, Teal Motor Co., Inc., foreclosed the mortgage of the motor vehicles on March 31, 1931. After said motor vehicles had been attached, the sheriff sold the same at the public auction to Teal Motor Co., Inc., for P20,000. After the mortgage executed in favor of Teal Motor Co., Inc., was thus foreclosed, the plaintiff, in turn, brought an action against Jose Esteva and Teal Motor Co., Inc., to recover from both the amount of the promissory notes executed by Esteva. The amount of the unpaid promissory notes was P46,500, plus the interest thereon of 12 per cent per annum, and 25 per cent of the amount owing by way of attorney's fees.

APPEAL OF JOSE ESTEVA

- In its answer to the cross-complaint filed by Jose Esteva, the plaintiff alleged as a special defense that the foreclosure proceedings of the mortgage executed by Esteva were valid because he consented thereto and voluntarily delivered all the mortgaged motor vehicles, and it likewise alleged that the decision rendered by this court declaring illegal and void said proceedings neither bound the plaintiff, nor resolved definitely the controversy because the same was not raised or squarely submitted in the appeal. Jose Esteva demurred to said special defense. The trial court overruled said demurrer and this resolution is the subject matter of the first assignment of error of the appellant Esteva.

In the decision rendered in the first appeal, G. R. No. 40233 (59 Phil., 490, 493-495), this court made the

following rulings:

"With reference to the assigned errors, we may say generally that we either find unsustainable or unnecessary to discuss errors 1, 2, 3, 4, 7, and 8, and that we find sustainable error 5 in toto and errors 6 and 9 in part.

"Our Chattel Mortgage Law, Act No. 1508, in its section B, defines a chattel mortgage as 'a conditional sale of personal property as security for the payment of a debt, or the performance of some other obligation specified therein.' Section 5 of the law sets forth the form of a chattel mortgage, which form was substantially followed in the present instance. Otherwise, the law is silent with reference to the facts before us. However, there are certain basic principles which it is only needful to write down in order to see clearly the correct result.

"In the law of chattel mortgages the debt is the principal thing. The mortgage is but an incident to the debt. Separated from the debt, the mortgage has no determinate value. Customarily the foreclosure of the mortgage accompanied as it is by the debt follows in due course without mishap. Ordinarily also, the transfer of the debt carries with it the mortgage. So a sale and delivery of notes secured by a chattel mortgage, although unaccompanied by an assignment of the mortgage itself, authorizes the purchaser to act as the mortgagee's agent and to do whatever he could have done to enforce the mortgage. So likewise, whatever discharges the debt discharges the mortgage. All this unless there be an agreement to the contrary.

"Possibly as good a presentation of the applicable law as any is that to be found in the old case of *Langdon vs. Buel* ([1832], 9 Wend., N. Y., 80). This was a case of a chattel mortgage being executed on a steam engine and with the debt shown by two notes. The notes which this mortgage was given to secure were assigned to a third party. The question was, did not the mortgage pass with the notes as incidents to them and should the action not have been brought in the name of the third party? The court answered: 'A mortgage of either real or personal estate is but an accessory or incident to the debt, or the security which is given as the evidence of the debt. The assignment of the security passes the interest in the mortgage. The mortgage cannot exist as an independent debt. If by special agreement it does not accompany the security assigned, it is ipso facto extinguished, and ceases to be a subsisting demand.'

"In the instant case, the mortgage cannot be impliedly found to have passed as an incident of the debt because there was an agreement to the contrary. The Teal Motor Co., Inc., retained the mortgage and foreclosed it, while the Bachrach Motor Co., Inc., received the promissory notes and sued upon them. What was the legal effect of this unique arrangement knowingly entered into? As to the mortgage, it ceased to exist because there was no debt to which it could attach. The foreclosure proceedings were as a consequence a nullity. As to the debt, the promissory notes unpaid, they were obligations of Esteva to the Teal Motor Co., Inc., which assigned its rights to the Bachrach Motor Co., Inc. The latter, as a holder of the notes, could sue upon them. But what cannot be countenanced is the separation of the notes from the mortgage and both the foreclosure of the mortgage and a suit on the notes.

"The rights of Bachrach Motor Co., Inc., are as above indicated and include the privilege of securing payment from Esteva of all that is due on the promissory notes. The rights of Esteva, who has been injured by an illegal foreclosure of the mortgage, consist in securing damages from the entities who caused him these damages. In this connection it may be said that the evidence is sufficient to establish the interlocking relationship between the Teal Motor Co., Inc., and the Bachrach Motor Co., Inc. The action of Esteva would, therefore, lie against both corporations. This conclusion is the more evident when we realize that to hold otherwise might simply result in permitting Esteva to prove damages against the Teal Motor Co., Inc., a corporation with possibly no visible assets. The corresponding obligations of the Bachrach Motor Co., Inc., the Teal Motor Co., Inc., and Jose Esteva will necessarily have to be determined at a new trial, at which the Bachrach Motor Co., Inc., can establish the debt due

from Esteva and the latter can set off against the debt whatever damages he can prove at the trial."

And thereafter it entered the judgment in the following dispositive part:

"Agreeable to the foregoing pronouncements, the appealed judgment will be set aside, and the record remanded for a new trial, with permission to the parties to file their corresponding pleadings, and present their evidence. So ordered, the costs of this instance to be paid by the plaintiff and appellee."

A reading of the aforequoted part of said decision will show that the validity of all the proceedings followed in the foreclosure of the mortgage of the motor vehicles was raised directly in said appeal, and that this court, after considering the contentions of the parties, held that said judicial proceedings were null and void for the reason that the mortgage invoked by Teal Motor Co., Inc., had ceased to exist. By virtue of said decision the defense interposed by the plaintiff in its answer to the cross-complaint of Jose Esteva was already *res judicata* and the trial court should not have consented to its inclusion in said pleading. Obviously, after the said decision, the plaintiff could not again discuss the validity of the mortgage inasmuch as this court has declared the same inexistent and the judicial proceedings for the foreclosure thereof null and void. The first assignment of error should, therefore, be sustained.

- In the new trial of the case the plaintiff attempted to prove and adduced evidence which was admitted by the trial court, tending to establish that the foreclosure proceedings were valid and legal because Jose Esteva voluntarily gave his consent thereto and also voluntarily delivered the motor vehicles to Teal Motor Co., Inc. Counsel for Esteva objected to said kind of evidence invoking the decision of this court. The trial court overruled the objection and received the evidence. In his second assignment of error Esteva contends that the trial court erred in said ruling. We believe that this second assignment of error should be sustained because the trial court should not have received such evidence.

- In the appealed decision the trial court found that only Teal Motor Co., Inc., was liable for damages suffered by Jose Esteva, absolving therein the plaintiff. This part of the decision is the subject of the third assignment of error. We believe that the contention of the appellant Esteva is well-founded. In the decision of this court it is said :

"* * * The rights of Esteva, who has been injured by an illegal foreclosure of the mortgage, consist in securing damages from the entities who caused him these damages. In this connection it may be said that the evidence is sufficient to establish the interlocking relationship between the Teal Motor Co., Inc., and the Bachrach Motor Co., Inc. The action of Esteva would, therefore, lie against both corporations. This conclusion is the more evident when we realize that to hold otherwise might simply result in permitting Esteva to prove damages against the Teal Motor Co., Inc., a corporation with possibly no visible assets. The corresponding obligations of the Bachrach Motor Co., Inc., the Teal Motor Co., Inc., and Jose Esteva will necessarily have to be determined at a new trial, at which the Bachrach Motor Co., Inc., can establish the debt due from Esteva and the latter can set off against the debt whatever damages he can prove at the trial." This conclusion arrived at by the court clearly means that for the damages occasioned to Esteva, the plaintiff and Teal Motor Co., Inc., should be held jointly and severally liable, and that Esteva may set off the amount of said damages against the judgment which the plaintiff may obtain against him for the amount of the unpaid promissory notes. The trial court, therefore, erred in not ordering both the plaintiff and Teal Motor Co., Inc., to pay said damages, and in limiting the liability to the codefendant Teal Motor Co., Inc.

- In the fourth assignment of error the appellant Esteva contends that the trial court erred in declaring that the average life of the attached motor vehicles is only five years. It is contended that according to the evidence adduced by him said motor vehicles could have been used for not less than eight years longer. We have reviewed the evidence presented on this point and we are convinced that the preponderance thereof justifies the conclusion

of the trial court. We may add, further, that in a transportation business like the one in which the motor vehicles were to be used, said vehicles could not have stood such rigorous and continuous service for a longer period than that fixed by the trial court.

- Neither do we find any merit in the fifth assignment of error, wherein the appellant Esteva claims that the trial court erred in declaring that the motor vehicles should have an annual 20 per cent depreciation. The preponderance of the evidence adduced sustains the conclusion of the trial court. Naturally the expert witness for the appellant Esteva testified that the depreciation should have been less than that fixed by the trial court, but the fact is that the conclusion reached by said court is sufficiently supported by a preponderance of all the evidence.

- In the sixth assignment of error Esteva contends that the trial court erred in holding that the value of the motor vehicles was only P54,500 on the date when they were attached, or on March 31, 1931. We believe that this assignment of error should be sustained. Accepting the very findings of the trial court, it seems obvious that the value of said motor vehicles should have been more. The trial court found in its decision that the original value of the motor vehicles was P105,730 and that their depreciation up to the date of attachment was P41,580.60. Deducting the latter amount from the former the difference is P64,149.40 which should doubtless be the value of the motor vehicles on the date of attachment or of foreclosure of the mortgage. We do not agree with the claim of the appellant that the value of said motor vehicles, on said date should be P73,280 because the evidence does not justify the same.

- Esteva paid the licenses for all the motor vehicles attached for the whole year 1931. In the account which he presented in order to show the damages suffered by him he included an item for P1,746.34 representing a fraction of the licenses paid by him corresponding to the period from March 31, 1931, when said vehicles were attached, to December 31 of the same year. The trial court disapproved said item, holding that it cannot be considered a part of the damages recoverable by Esteva because the latter, at any rate, was under a duty to pay the licenses for the whole year. In his seventh assignment of error Esteva contends that said ruling of the trial court is erroneous. We agree with the appellant that the court thus erred. Had the appellant foreseen that he could continue operating his motor vehicles only up to the date of their attachment, he doubtless would have paid only for the license for three months. But we believe that the obligation of the appellant to pay the license for one year should not determine his right to be reimbursed. The truth is that the amount claimed by Esteva is a direct result of the damages suffered by him by reason of the illegal act done by Teal Motor Co., Inc., in confabulation with the plaintiff, and under article 1107 of the Civil Code he should be indemnified therefor.

- After analyzing the evidence the trial court concluded that Esteva realized a profit of P20,453.08 from the time he acquired the motor vehicles until they were attached, or an average monthly profit of P524.43. But in fixing the number of years to which Esteva would be entitled by way of profits, the trial court granted him only for one year, upon the ground that damages for a longer period would be speculative. In his eighth assignment of error the appellant contends that the trial court should have awarded him more damages under this claim. We rule that the conclusion reached by the trial court should be sustained because, taking into account the nature of the business in which the appellant Esteva was engaged, it would really be problematical and speculative to hold that he could have realized more profit for this supposes a longer operation of the business. And even if the average life of the motor vehicles had been calculated at five years, it would not be incorrect to affirm that the same could be reduced to one year, or two, depending upon how the appellant would fare in the operation of the business.

- The appellant claims in his ninth assignment of error that the indemnification for profit which he was unable to realize should have been fixed by the trial court at more than P6,293.16. This amount represents the profit for one year based upon the average monthly profit allowed the appellant by the trial court. In view of our ruling on the eighth assignment of error, we believe that this assignment of error should likewise be overruled.

- The appellant Esteva also claims indemnification for the goodwill of his business. The value of the goodwill of his business has been calculated at P63,085.49. The trial court did not award him anything under this claim. In his tenth assignment of error the appellant contends that the lower court erred in not awarding him said indemnification. A proper resolution of this assignment of error requires that we clarify the meaning of "good-will" in order to determine if the business of the appellant really had a good-will and, consequently, if he is entitled to be indemnified therefor.

Lord Eldon defined "good-will" as the "probability that the old customers will resort to the old place" (12 R. C. L., p. 977; *Smock vs. Pierson*, 68 Ind., 405; 34 Am. Rep., 269; *Zeigler vs. Sentzner*, 8 Gill & J. [Md.], 150; 29 Am. Dec., 534; *Brown vs. Benzinger*, 118 Md., 29; 84 Atl., 79; Ann. Cas., 1914B, 582; *Morgan vs. Schuyler*, 79 N. Y., 490; 35 Am. Rep., 543; *People vs. Roberts*, 159 N. Y., 70; 53 N. E., 685; 45 L. R. A., 126; *Von Bremen vs. MacMonnies*, 200 N. Y., 41; 93 N. E., 186; 21 Ann. Cas., 423; 32 L. R. A. [N. S.], 293; *Slack vs. Soddoth*, 102 Tenn., 375; 52 S. W., 180; 73 A. S. R., 881; 45 L. R. A., 589; *Trego vs. Hunt* [1896], A. C., 7; 73 L. T. N. S., 514; 44 W. R., 225; 65 L. J., Ch. 1; 12 Eng. Rul. Cas., 442). Judge Story gave another comprehensive definition of "good-will" saying that it is the advantage or benefit which is acquired by an establishment beyond the mere value of the capital stock, funds or property employed therein, in consequence of the general public patronage and encouragement which it receives from constant or habitual customers on account of its local position, or common celebrity, or reputation for skill, or affluence, or punctuality, or from other accidental circumstances or necessities, or even from ancient partialities or prejudices. This definition has been accepted by the courts in numerous cases, among which are (*Metropolitan Bank vs. St. Louis Dispatch Co.*, 149 U. S., 436; *Howard vs. Taylor*, 90 Ala., 241; *Bell vs. Ellis*, 33 Cal., 620; *Donleavy vs. Johnston*, 24 Cal., A., 319; *Armstrong vs. Atlantic Ice, etc., Corp.*, 141 Ga., 464; *Douthart vs. Logan*, 86 111. A., 294; *Millspaugh Laundry vs. Sioux City First Nat. Bank*, 120 Iowa, 1; *Carey vs. Gunnison*, 17 N. W., 881; *Smith vs. Smith*, 51 La Ann., 72; *Bergamini vs. Bastian*, 35 La. Ann., 60; *Brown vs. Benzinger*, 118 Md., 29; *Sessinghaus Milling Co. vs. Hanebrink*, 247 Mo., 212; *Haverly vs. Elliott*, 39 Nebr., 201; *Smith vs. Gibbs*, 44 N. H., 335; *Boon vs. Moss*, 70 N. Y., 465; *Matter of Ball*, 161 App. Div., 79; 146 N. Y. S., 499; *Freeman vs. Freeman*, 86 App. Div., 110; 83 N. Y. S., 478; *Howe vs. Searing*, 19 N. Y. Super., 354; *Lane vs. Barnard*, 103 Misc., 707; 170 N. Y. S., 946).

According to the evidence the transportation business of Esteva had been functioning with success for a period of about four years and during that time it built a reputation for satisfactory service rendered, and acquired good and steady customers and passengers who constantly used its autotrucks and trailers. The evidence has likewise established that had the business of the appellant continued he could have counted on the same patronage and protection of his old and steady customers in addition to new ones whom he could have succeeded in attracting. Considering these circumstances it cannot be denied that the business of the appellant Esteva had a good-will.

What is now left to be determined is the value to be given to the good-will of the business of the appellant, taking into account all the circumstances above-mentioned. It has been held by various courts of the Union that to find the reasonable value of a good-will the average net profits for a period of years is multiplied by a number of years, such number being suitable and proper, having reference to the nature and character of the particular business under consideration (*Matter of Ball*, 161 App. Div., 79; 146 N. Y. S., 499; *In re Silkman*, 121 App. Div., 202; 105 N. Y. S., 872; *Von Au vs. Magenheimer*, 115 App. Div., 84; 100 N. Y. S., 659; *Matter of Bd. of Water Supply*, 81 Misc., 19; 142 N. Y. S., 373; *Matter of Keahon*, 60 Misc., 508; 113 N. Y. S., 926; *In re Demarest*, 157 N. Y. S., 653, 655). Applying this rule and taking into account the uncertain nature of the transportation business of the appellant up to a certain point, we believe that an indemnification of the good-will equivalent to the profits obtained by the appellant for one year would in this case be sufficient and reasonable. In other words, the appellant should be indemnified for the good-will of his business in the sum of P6,293.16.

- In the eleventh assignment of error the appellant contends that the trial court erred in declaring that a mechanic with several years of experience in automobile shops is not an expert who may testify as to the average life of motor vehicles; and in the twelfth and last assignment of error it is contended that the trial court likewise erred in considering the false testimony of the witness E. M. Bachrach. We believe that these two assignments of error are without merit. Even if we admit that the trial court so erred, the errors thus committed do not justify a reversal or modification of the appealed decision, in view of the other evidence adduced which the trial court considered in reaching the conclusions to which these assigned errors are addressed.

APPEAL OF TEAL MOTOR COMPANY, INC.

- In disposing of the appeal of Jose Esteva we referred to the decision of this court promulgated in the first appeal (G. R. No. 40233, supra), declaring that the mortgage executed in favor of Teal Motor Co., Inc., had already ceased to exist when said entity seized the motor vehicles, and that all the proceedings followed in the foreclosure of said mortgage were null and void. In its first assignment of error the appellant Teal Motor Co., Inc., contends that such declaration is a mere dictum and that it cannot be considered a decision in the strict and legal sense. Said appellant contends that it could not be a final determination of the points involved in said declaration or decision because neither in the pleadings nor at any time did Jose Esteva question directly the existence of the mortgage and the validity of the foreclosure proceedings. What is more, the appellant contends that Esteva could not discuss said points because he had voluntarily delivered possession of the motor vehicles and with full knowledge had consented to the public sale of said vehicles as a consequence of the foreclosure proceedings. After consulting the record we do not hesitate to conclude that appellant's contentions are not well-taken. An examination of the record shows that from the very beginning Jose Esteva maintained the theory that the Teal Motor Co., Inc., had illegally appropriated all the motor vehicles, and that contrary to law and in violation of the last agreement entered into between them, and in connivance with the plaintiff, it foreclosed the mortgage which, having been cancelled by the last agreement, had already ceased to exist, as a result of which it had succeeded in acquiring said vehicles at a public auction which was likewise illegal, for the sum of P20,000, which sum was very much less than the actual value given by said appellant thereto on the date when they entered into the last contract. In paragraphs 17 and 18 of his first answer, dated January 6, 1932, Jose Esteva had already alleged these facts by way of special defense; in paragraphs 16, 17 and 13 of his re-amended answer, dated February 12, 1932, Jose Esteva reiterated the same allegations; in paragraphs 7, 8 and 9 of his cross-complaint, dated June 15, 1932, Jose Esteva again made the same allegations and, finally, in his brief tiled in case G. R. No. 40233, supra, Jose Esteva assigned as errors 5, 6 and 9 the fact that the trial court did not declare said allegations or special defenses sufficiently established. It is true that the cross-complaint was not admitted by the trial court, which was one of the reasons why Esteva appealed, but this court in its decision held that said cross-complaint was proper and should have been admitted. As to whether said allegations or special defenses or cross-complaint were substantiated and proven, an examination of the record shows that they were satisfactorily established by the evidence adduced by the plaintiff. In fact, the evidence of the plaintiff and of Jose Esteva has shown that the mortgage had ceased to exist on the date when the motor vehicles were seized, and that said mortgage, upon petition of Teal Motor Co., Inc., was foreclosed because the said company had endorsed the promissory notes which were secured by the mortgage. Bearing in mind all these details, there is no basis for the allegation that this court decided questions which have neither been raised by the pleadings nor submitted by the parties in their respective briefs. It is needless to state that at the first trial of this case, the parties were the same, and the plaintiff as well as the appellant Teal Motor Co., Inc., had all the opportunity they wanted to be heard by the trial court and by this court. Obviously, under these circumstances, it cannot be successfully contended that the decision of this court on the points above-mentioned is a mere dictum. What has been decided is the law of the case and binds all the parties (article 1252, Civil Code, and sections 306, par. 2, and 307, Code of Civil Procedure; *Limjap vs. Vera Moguer*, 11 Phil.,

439; Peñlosa vs. Tuason, 22 Phil., 303; Donato vs. Mendoza, 25 Phil., 57; Juan vs. Go Cotay, 26 Phil., 328; Agregado vs. Munoz, 26 Phil, 456; Pascual vs. Del Saz Orozco, 28 Phil., 521; Bayot vs. Zurbito, 39 Phil., 659).

- In its second assignment of error the appellant Teal Motor Co., Inc., contends that the trial court erred in not finding that it continued to be the creditor of Jose Esteva by virtue of the mortgage and that its indorsement of the promissory notes to the plaintiff was solely for the purpose of guaranteeing its obligation to the latter. What is herein claimed openly runs counter to what has been decided in case G. R. No. 40233, supra. It would seem needless to recall that this court already decided that the herein appellant had no interest in the mortgage inasmuch as the latter had ceased to exist. If this is so, it cannot be claimed that said appellant still continued to be the creditor of Jose Esteva. At any rate what has been decided and converted into res judicata cannot be discussed anew in this appeal. Article 1843 of the Civil Code and the decision of this court in the case of Banco Español Filipino vs. Donaldson Sim & Co. (5 Phil., 418), invoked by the appellant, are not applicable.

- In its third assignment of error the appellant alleges that the trial court erred in finding it liable to Jose Esteva for damages. The contention is also contrary to the finding in the decision rendered in case G. R. No. 40233, supra. In the decision rendered in said case it has been held that Teal Motor Co., Inc., is liable, jointly with the plaintiff, to Jose Esteva for all damages caused to the latter by their illegal acts.

- The appellant claims in its fourth assignment of error that the trial court erred: (a) In not granting a reasonable salary to the manager of the business of Jose Esteva, although the management was in the hands of the owner of the motor vehicles, and in not deducting said salary from the income of the business of Esteva; (b) in computing the interest on the indebtedness in the manner made by the trial court; and (c) in appraising the value of the motor vehicles. We do not believe that the trial court committed any of these alleged errors. Esteva had the right to run his business as he pleased, without paying the manager any salary, provided his operations do not violate any law. He was not bound by any legal provision to pay a salary to the manager, who was he himself, and evidently he could serve as such without pay. With respect to the interest, the trial court disapproved the method employed by the accountant of the plaintiff as well as the system followed by the accountant of Esteva in finding the interest stipulated and due upon the promissory notes. The trial court took as a basis the agreement as to interest appearing in each of the promissory notes and computed the same as shown in the following table:

Notes

Maturity

Amount

Interest

1930

No. 1

.....

May 10

.....

P1,000.00

P10.00

No. 2

.....

June 10

.....

1,000.00

20.00

No. 3

.....

July 10

.....

1,000.00

30.00

No. 4

.....

Aug. 10

.....

1,000.00

40.00

No. 5

.....

Sept. 10

.....

1,000.00

50.00

No. 6

.....

Oct. 10

.....

1,000.00

60.00

No. 7

.....

Nov. 10

.....

1,000.00

70.00

No. 8

.....

Dec. 10

.....

1,000.00

80.00

1931

No. 9

..... Jan. 10

6,000.00

540.00

No. 10

..... Feb. 10

6,000.00

600.00

No. 11

..... Mar. 10

6,000.00

660.00

No. 12

..... Apr. 10

6,000.00

720.00

No. 13

..... May 10

1,000.00

130.00

No. 14

..... June 10

1,000.00

140.00

No. 15

..... July 10

1,000.00

150.00

No. 16

..... Aug. 10

1,000.00

160.00

No. 17

..... Sept. 10

1,000.00

170.00

No. 18

..... Oct. 10

1,000.00

180.00

No. 19

..... Nov. 10

1,000.00

190.00

No. 20

..... Dec. 10

1,000.00

200.00

1932

No. 21 Jan. 10

7,000.00

1,470.00

No. 22 Feb. 10

7,500.00

1,650.00

And it concluded that the interest due on the promissory notes amounted to P2,160 only; the accountant for the plaintiff thereby making Esteva further indebted in the sum of P2,935 by way of interest. Considering the terms of the promissory notes, in connection with the interest which Esteva bound himself to pay, we are convinced that the computation made by the trial court is correct and does not violate any principle or rule of accounting. As to the value given to the motor vehicles, we have already said, in deciding the sixth assignment of error of the appellant Jose Esteva, that it should be P64,149.40. It is needless for us to indulge in further discussion than that already made. Suffice it to say that our conclusion is supported by a preponderance of all the evidence.

- In the fifth assignment of error the appellant Teal Motor Co., Inc., contends that the trial court erred in not declaring that the motor vehicles were in a bad condition when they were voluntarily delivered by Esteva. We find no merit in this assignment of error. The evidence has shown, and it was so declared by the trial court, that

the motor vehicles, on the date mentioned, were in such good condition that they could continue operating and rendering the services for which they were acquired for another period of five years.

- In its sixth assignment of error said appellant contends that the trial court erred in ordering it to pay Esteva the amounts above-mentioned, with the interest thereon and for the purposes specified. And in the seventh and last assignment of error it contends that the trial court should have granted its motion for new trial.

With respect to the sums of money and the interest thereon which should be paid by this appellant, the same should be modified to conform with the result of the appeal and in the manner stated in this decision. With respect to the motion for new trial, we believe that the trial court should have granted the same in order to correct the errors herein mentioned; but, at any rate, said errors have been corrected in this decision.

In view of the foregoing considerations and upon modification of the appealed decision, we hold (a) that the plaintiff and Teal Motor Co., Inc., by virtue of the decision rendered by this court in case G. R. No. 40233, *supra*, are jointly and severally liable to Jose Esteva for damages suffered by the latter as a result of the attachment or seizure of the motor vehicles and the foreclosure of the mortgage; (b) that the value of the said motor vehicles on the date when they were seized by Teal Motor Co., Inc., was P64,149.40; (c) that Jose Esteva is entitled to be indemnified for the good-will of his transportation business, which indemnity shall be in the sum of P6,293.16; and (d) that Jose Esteva may set off the indemnity awarded him against the amount which he is bound to pay the plaintiff for the amount of the promissory notes, with interest thereon, and the penalties; and as thus modified, the decision appealed from is affirmed in all other respects, without special pronouncement as to the costs in this instance. After the record has been remanded to the court of origin, it shall issue a writ of execution of this judgment as herein provided. So ordered.

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

[1]59 Phil., 490.

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.