

FELICIANA BANTUG, PLAINTIFF AND APPELLEE, VS. AMBROSIO DEL ROSARIO, DEFENDANT AND APPELLANT.*G.R. No. 4525. October 27, 1908*

Ponente: TORRES, J.

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On the 11th of January, 1906, Feliciana Bantug filed a written complaint with the Court of First Instance of Nueva Ecija against Ambrosio, del Bosario, claiming payment of P1,440 with legal interest thereon from the 17th of August, 1894, and costs. She alleged that on the 17th of August, 1893, the defendant subscribed, in favor of the late Santiago de Guzman, for whose estate the plaintiff is the duly appointed administratrix, a document of indebtedness made out in Tagalog and inserted with its translation in the complaint; that in the said document Ambrosio del Rosario declares that he received the said amount as a loan from Santiago de Guzman, and that he had pledged with him the title deeds of his rice fields situated in Calibangbangan, a barrio of Samon, under promise to pay said amount on the 17th of August, 1894, the document bearing the date of August 17, 1893; that the defendant has not paid the said amount, nor any part thereof at maturity, or at any other time, notwithstanding the fact that payment has repeatedly been demanded of him; that after the month of August, 1896, the defendant acknowledged his indebtedness and delivered to the creditor (the administratrix) certain mercantile documents on which no collection has yet been made.

In his answer, the defendant denied the contents of the third and fourth paragraphs of the complaint, and alleged as a special defense, in his written plea of the 16th of April, 1906, that in 1893 or 1894, Santiago de Guzman, the plaintiff's husband, obtained from the defendant many pieces of lumber to the value of 300 pesos; that in the same years he also received from the defendant several sheets of galvanized iron, valued at 80 pesos; that in the same years, 1893, or 1894, the defendant indorsed to the creditor, Guzman, a credit for 200 cavanes of paddy, equivalent to 200 pesos; that in 1894, Guzman obtained from the defendant in Manila 150 pesos, to pay the physician who attended his son Salvador Guzman; that in 1895, Guzman collected from the Administracion de Hacienda Publica (Internal Revenue Office) of the province the sum of 700 pesos, deposited by the defendant as bail for his temporary release from confinement ordered by a court of justice, which sum was released by the latter; that in 1897, the defendant delivered to the plaintiff 318 cavanes of paddy, and in the same year he again delivered to her 275 cavanes the quantities together being equivalent to 593 pesos; and that all of said amounts were delivered in payment of the defendant's debt, for which reason he asked that the complaint be dismissed with the costs against the plaintiff.

Evidence was adduced by both parties, their exhibits being made of record, and on the 21st of November, 1907, the court below rendered judgment sentencing the defendant, Ambrosio del Rosario, to pay to the plaintiff, as administratrix of the estate of Santiago de Guzman, the balance remaining in favor of the said administration, amounting to P1,123, with interest thereon at the rate of 6 per cent per annum from the 11th of January, 1906, the date of the complaint, with costs against the defendant.

The latter excepted to the above judgment and moved for a new trial; the motion was overruled and excepted to

by the defendant, and in perfecting the appeal, the corresponding bill of exceptions was presented and approved.

The matter at issue refers to a debt that the defendant has acknowledged in his answer to the complaint, although he excepted to the claim made for payment, on the ground that the debt had already been overpaid.

The only material question arising in this litigation is whether or not the sum of 1,440 pesos, set out in the document marked Exhibit A, written in Tagalog and translated into Spanish, was really paid.

Of the several payments in cash and in goods alleged by the debtor, the trial judge only considered as proven the delivery on account, under receipt, of 317 cavanese of paddy valued at one peso each, equivalent to 317 pesos; this sum was deducted from the amount of the debt as set forth in the judgment appealed from, and in view of the fact that the administratrix did not except to the judgment in so far as it referred to the said deduction, the ruling of the court in this respect must be considered as final.

As to the rest of the amount loaned, it should be noted that the creditor, who still has in his hands the document proving the debt, has in his favor the legal presumption that his credit is as yet uncollected, unless the debtor proves satisfactorily, by one of the means recognized in law, that he has already fully satisfied the claim.

Obligations are extinguished, among other ways, by their payment or fulfillment; and a debt is not considered as paid until the full amount has been delivered, or the service of which the obligation consists has been rendered. (Arts. 1156 and 1157, Civil Code.)

So long as it is not duly proven that Ambrosio del Rosario has paid in full his debt of 1,440 pesos, which he engaged to pay Santiago de Guzman on the 17th of August, 1894, the obligation still subsists, and the action brought to enforce payment is in accordance with the law.

We consider that the court below acted in accordance with the law and the merits of the case, in holding that it has not been proven that the defendant delivered to his creditor, in value and in kind, 557 cavanese of paddy, equivalent to a similar amount in money, in settlement of his debt, and that the said creditor, Guzman, received a quantity of lumber valued at 300 pesos, and sheets of galvanized iron to the value of 80 pesos, as, analyzing the testimony of the witnesses who affirm the second statement, it is not possible to find that the alleged facts are fully proven, and such was the conclusion of the court below in the judgment appealed from.

With respect to the first allegation, the record does not contain satisfactory proof that, as a matter of fact, the defendant delivered to his creditor documents equivalent in value to 200 cavanese of paddy, besides 275 cavanese of said grain, which aggregated 557 cavanese because, the receipt of the said documents and of the 275 cavanese of the said article having been denied, it devolved upon the defendant to prove it, according to section 297 of the Code of Civil Procedure, and this he has-certainly not done.

If the 700 pesos which the late Guzman paid into the Court of First Instance of Nueva Ecija as bail in certain criminal proceedings brought against the defendant Rosario in 1896, according to the statement, of the latter's witness, Catalino Ortiz, belonged to Guzman, it is natural that at the close of the proceedings, the said defendant having been acquitted, the amount should be recovered by its owner, and it could not have been considered that Guzman took charge of it as money belonging to the debtor Rosario in payment of his debt. It should further be noted that Guzman recovered the money nearly three years after the debtor had executed the obligation, for which reason it could not have been included in the larger amount therein stated.

Neither can it be said that the 150 pesos paid by Ambrosio del Rosario to the physician, Laureano Viado, as fees for account of Santiago de Guzman, should be considered as delivered to the physician in part payment of the credit sued upon, for the reason that the date of the payment is not stated; and, as the judgment appealed from

says, it may have been prior to the date of the document whereby the debtor contracted the obligation to pay on the 17th of August, 1894, the amount that he had received on loan, inasmuch as, according to the statement of young Salvador de Guzman to whom the said physician rendered assistance, his illness occurred in 1892 and not afterwards; therefore it must have either been an independent payment made by Ambrosio del Bosario for account of Santiago de Guzman without any connection with the subsequent loan which the latter made in August, 1893, or said sum was duly refunded by Guzman to Rosario, who made the payment to said doctor, and, at all events, supposing it to be true, Bosario is entitled to claim the money.

The creditor, Santiago de Guzman, must have died in the latter part of the year 1904 or beginning of 1905, or some time during this last mentioned year, and if it is true that the credit in question had been already settled and that the debtor's obligation had been extinguished, it seems strange that the latter did not request the return of the document of indebtedness, or at least that he did not ask his creditor for another document showing that the payment had been made, if it be true that, when the latter was requested to do so by the witness Hilario Jacinto on behalf of the debtor, Rosario, the creditor Guzman was unable to return it because he did not have it and did not know where it was.

Against this statement that the return of the document of indebtedness had been requested, exists the plaintiff's testimony, confirmed by her possession of the same and corroborated by the witness Marcelo Villarosa, who asserts that he was present at the Taboating ford when the creditor's wife, Feliciano Bantug, now the plaintiff herein, and the debtor Rosario, happened to be there, at which time she demanded from the latter the reimbursement of the amount sued for; on that occasion the debtor Rosario offered to settle his debt and stated that he would see the plaintiff's husband, Santiago de Guzman, who was then living; this testimony has not been contradicted by the defendant, and if it is true that in 1904 the latter had some trouble with the plaintiff, it is hard to understand how it was that the debtor did not insist upon claiming the document evidencing indebtedness. From all the foregoing, it is concluded that the larger portion of the debt is still unpaid, as held by the trial judge.

Therefore, in view of the foregoing, and accepting the conclusions stated in the judgment appealed from, it is our opinion that the same should be affirmed, as we do hereby affirm it, with the costs of this instance against the appellant. So ordered.

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

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