

AMBROSIO RAMOS ET AL., PLAINTIFFS AND APPELLEES, VS. H. A. GIBBON ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 45418. April 18, 1939*

Ponente: LAUREL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45418/>**LAUREL, J.:**

In this case plaintiffs seek to recover from the defendants (1) the sum of P52,600, which is the balance of the purchase price of a group of 80 mineral lode claims known as Cabayo Group which they sold to the latter as evidenced by a document attached to the complaint and marked as Exhibit A; (2) the sum of P10,000 for damages by reason of the failure of the defendants to pay the balance above mentioned; and (3) the costs of the proceedings. In their answer defendants set up the following defenses: (1) That plaintiffs-appellees were not the real owners and actual possessors and occupants of the mining claims forming the Cabayo Group at the time of the execution of the deed of sale Exhibit A and therefore had no right to make a valid conveyance thereof; (2) that Ambrosio Ramos, had no authority to execute the deed of sale Exhibit A, and such sale is void because no proper valuation of the mining claims alienated was made by the Bureau of Science; (3) that plaintiffs' original complaint having been filed on November 4, 1935, the action with reference to the last installment of P30,000 which fell due on March 22, 1936, was premature; (5) that plaintiffs having failed to make the proper survey of the mining claims they are estopped from demanding the fulfillment of the appellants' part of the agreement; (6) that the said mining claims not having been registered in the Province of Nueva Vizcaya where they are located, the sale should be considered rescinded; and (7) that the obligation contracted by the defendants was automatically extinguished upon the execution of Exhibit 1. As counterclaim, defendants prayed (1) for the return to them of the sum of P7,400 which they had advanced to plaintiffs in virtue of contract of sale, Exhibit A; (2) for the costs of the survey and other expenses amounting to P15,000; and (3) for their attorney's fees in the sum of P7,000.

After trial the Court of First Instance of the Mountain Province found for the plaintiffs and adjudged the defendants H. A. Gibbon, J. C. Cowper, Hardley McVay, George Caldwell and L. F. Rothenhoefer liable and holden jointly and severally to the plaintiffs in the sum of P52,600 and legal interests thereon and costs.

Defendants have appealed to this court by bill of exceptions and assign no less than eleven errors alleged to have been committed by the lower court.

From the evidence presented, the following facts have been duly established: That some time in 1934 plaintiffs validly located the eighty mineral lode claims known as the Cabayo Group in the subprovince of Benguet, Mountain Province. In December 1934, by virtue of an option agreement, Exhibit C, entered into by and between Ambrosio Ramos in representation of his co-plaintiffs on the one hand and J. C. Cowper and H. A. Gibbon on the other, the latter were given ninety days within which to make an examination and investigation of the lode mineral claims constituting the Cabayo Group to determine their mineral possibilities and commercial value with the aim in view of forming later a mining corporation in which the herein appellees would receive certain participation. It was further stipulated in said option agreement that if after said investigation, the appellants E. A. Gibbon and J. Cowper chose not to exercise their right of option, they were to return the property and all

corresponding papers to plaintiffs. By virtue of this option agreement, the defendants H. A. Gibbon and J. C. Cowper proceeded to examine the properties, and finding them satisfactory, instead of taking in the plaintiffs in the venture as stipulated in the option agreement, Exhibit C, they, together with the other appellants, L. F. Rothenhoefer, George Caldwell and Harley McVay, decided to buy the claims outright from the plaintiffs for P60,000 payable, according to Exhibit A, within the period of one year from the execution of said document as follows: P10,000 on or before June 1, 1935; P20,000 on or before September 15, 1935; and the balance of P30,000 on or before March 22, 1936. It was stipulated that payment was to be made to Ambrosio Ramos who was the attorney-in-fact of the claimowners. Of the first installment of P10,000, payable on or before June 1, 1935, the appellants paid P2,000 on April 2, 1935, and P5,400 on June 6, 1935, or a total of P7,400, thus leaving a balance of P2,600 on that installment. Since then, no further payment was made by the defendants, leaving a balance of P52,600 payable and due the plaintiffs.

The appellants complain in this instance against the admission by the court below of the second amended complaint filed on April 29, 1936. The original complaint in this case was filed on November 4, 1935. In that complaint it was prayed, *inter alia* that the appellants be made to comply with the terms of the sale agreement, Exhibit A. In view of the fact that at the time of the filing of the original complaint the last installment of P30,000 stipulated in Exhibit A was not yet due, it was also prayed that the appellants be ordered to pay the appellees that last installment on or before March 22, 1936, the date when, according to Exhibit A, payment therefor would be due. Due to discussion on incidental matters regarding amendment of the pleadings, the case remained pending in the court's calendar until after March 22, 1936. It was with a view to making the complaint conform to actual facts that the second amended complaint dated April 29, 1936, was filed by the appellees wherein they included the sum of P30,000 as already due and demandable. It would seem superfluous for us to state that amendments to pleadings are allowable and that procedural laws so amply provide in the interest of justice and as a matter of public policy. Section 110 of the Code of Civil Procedure authorizes the courts to allow a party to amend any pleading or proceeding at any stage of the action, in furtherance of justice and upon such terms, if any, as may be proper (*Alonso vs. Villamor*, 16 Phil., 315). Upon the other hand, the granting of leave to file amended pleadings is a matter within the sound discretion of the trial court. This discretion will not be disturbed on appeal, except in case of an evident abuse thereof. (*Torres Vda. de Nery vs. Tomacruz*, 49 Phil., 913.) In the present case, the trial judge exercised his discretion wisely to avoid unnecessary multiplicity of suits.

Appellants next argue that there is a defect of party defendant in this case; that is, that the present action should have been instituted against the Monte Cristo Gold Mining Association and all its members and not against the appellants in their individual capacity. Appellants contend that at the time of the execution of the contract of sale Exhibit A, they were acting merely as trustees and representatives of the Monte Cristo Mining Association. Appellants argue that the words "trustees, *cestui que trust*, successors and assigns" appearing in Exhibit A should be held to mean the Monte Cristo Mining Association. This is, to say the least, misleading. The deed of sale Exhibit A executed by the appellants and the appellee Ambrosio Ramos, the latter in representation of the claimowners, does not mention any association or entity and much less the Monte Cristo Gold Mining Association. If as the appellants contend, they were merely acting as trustees or representatives of the said association, there could not have been any difficulty in stating that fact in Exhibit A as was done in the case of the appellee Ambrosio Ramos who signed that document as attorney-in-fact of the claim owners. Appellants, however, claim that the failure to mention the name of the Monte Cristo Gold Mining Association in Exhibit A was the result of an oversight when said document was prepared by the appellant J. C. Cowper. This is a trivial excuse.

It is next contended by appellants that plaintiffs-appellees had no right to sell the 80 lode mineral claims constituting the Cabayo Group because the same had not been patented and properly registered. The claims here

having been validly located in 1934, before the approval of our Constitution, and it appearing in the contract Exhibit A that the plaintiffs are the "locators, possessors and owners of said claims, it is sufficient to direct attention to the rule that even without patent, the possessory right of a qualified locator of the discovery of minerals upon the claim is a property right; unaffected by the fact that the paramount title to the land is in the government (Gold Creek Mining Corporation vs. Rodriguez and Abadilla, 37 Off. Gaz., 1662; Salacot Mining Co. vs. Rodriguez, G. R. No. 45860, March 20, 1939; Salacot Mining Co. vs. Abadilla, G. R. No. 45861, March 20, 1939; McDaniel vs. Apacible and Cuisia, 42 Phil., 753). As a property right, it is susceptible of transfer by conveyance, inheritance or device.

Appellants, however, contend that inasmuch as said mining claims have not been registered in the province where they are situated, the appellees had absolutely no right to sell or dispose of them. It is not denied that the mining claims in question were registered in the appellees' names in the office of the mining recorder of the subprovince of Benguet. While there exists conflict in the evidence for both parties as to the correct location of said mining claims, we are of the opinion that this conflict is of no material consequence. The claims were registered in the office of the mining recorder of the subprovince of Benguet, and whether registration was made in a wrong province, that registration was made in the honest belief that the claims were within the jurisdiction of the subprovince of Benguet and the mistake should not affect the rights of the appellees who concededly were the ones who had validly located them. This is especially true in the present case where there is no conflict of rights between adverse claimants either relating to location, territory or registration.

With reference to the contention that appellant Ambrosio Ramos was without authority to sign Exhibit A on March 22, 1935; before the power of attorney in his favor (Exhibit E) was ratified before a notary public, the following acts and omissions of the appellants, preclude them from questioning the legality of the acts of Ambrosio Ramos: (1) The failure of the appellants to deny the genuineness and due execution of the deed of sale Exhibit A attached to the complaint; (2) the fact that it was the appellants themselves who prepared or caused to be prepared Exhibit A and the power of attorney (Exhibit E) ; (3) the subsequent registration of these two documents in the office of the mining recorder at the instance of appellant H. A. Gibbon himself; (4) the appellants' taking possession of and working on the mining claims in question after the said registration; (5) the payments made by the appellants to the appellee Ambrosio Ramos in behalf of the claimowners of part of the first installment as stipulated in the deed of sale Exhibit A, which payments were effected in the following manner: P2,000 on April 2, 1935, and P5,400 on June 6, 1935; and finally (6) the execution of Exhibit 1 wherein appellants recognized Ambrosio Ramos' right to act as attorney-in-fact of the claimowners. All these constitute acts of recognition by the appellants of the authority of appellee Ambrosio Ramos to sign Exhibit A and represent the claimowners in all these transactions.

Appellants also contend that upon the execution of Exhibit 1 on June 6, 1935, all the obligations contracted by them in Exhibit A were automatically extinguished by novation. Exhibit 1 reads as follows:

"Exhibit 1

"This agreement entered into by and between Ambrosio Ramos, of legal age, Filipino citizen and a resident of Baguio, P. I., duly authorized attorney-in-fact of the Cabayo Lode Mineral Claim, situated in the barrio of Carao, Municipal District of Bokod, Benguet, Mt. Province, P. I., and H. A. Gibbon, of legal age and a resident of Manila, P. I., and American citizen, and L. F. Rothennoefer, of legal age and a resident of Baguio, P. I., an American citizen, trustees of the Monte Cristo Gold Mining Association, and duly authorized to act for the Association.

"WITNESSETH:

"That whereas, the parties executed a contract on March 22, 1935, whereby the claimowners of the. group

through their attorney-in-fact Ambrosio Ramos have conveyed, transferred the lode mineral claims enumerated in it for the consideration of P60,000 payable in installments of P10,000 on June 1, 1935, P20,000 on September 15, 1935, and P30,000 on March 22, 1936, by the buyers, H. A. Gibbon, L. F. Rothenhoefer;

"And whereas, the said claims have to be surveyed so as to determine if they are included in the Forest Reservation of the Philippine Government through proclamation made by the Governor-General in the year 1929;

"Now, therefore, the parties hereto have agreed and stipulated on the following terms and conditions:

"1. That the claimowners through Ambrosio Ramos their attorney-in-fact agree that the amount of P2,600 be retained by the buyers to be reimbursed by them to the owners after a survey of the claims has been made and their title perfected.

"2. That in case the title to said claims shall not be perfected, then the said amount of P2,600 shall not be reimbursed to the owners.

"3. That the buyers shall pay the sum of P5,400 to the owners as per contract upon the execution of this instrument and the owners do hereby acknowledge receipt of said amount of P5,400.

"4. That the sum of P2,000 of the amount of P10,000 which the buyers are to pay on June 1, 1935, in accordance with the deed of sale referred to above was paid to the owners before who now acknowledge the receipt of same.

"In witness whereof, the parties have hereunto set their hands this 6th day of June, 1935, in the City of Baguio, P. I.

"THE CLAIMOWNERS OF THE CABAYO

LODE MINERAL GROUP

"By; (Sgd.) AMBROSIO RAMOS

"Attorney-in-fact

"H. A. GIBBON

"Trustee of the Monte Cristo

Gold Mining Association

"L. F. ROTHENHOEFER

"Trustee of the Monte Cristo

Gold Mining Association

"CIRIACO LOPEZ

"Attorney for Ambrosio Ramos

and the claimowners

"TOMAS N. BLANCO

"Deputy Governor of Benguet

"Signed in the presence of:

"UNITED STATES OF AMERICA

PHILIPPINE ISLANDS [SS.

CITY OF BAGUIO

"Before me the undersigned Notary Public in and for the City of Baguio, P. I., this 6th day of June 1935,

personally appeared Ambrosio Ramos in his capacity as the Attorney-in-fact for the claim-owners of the Cabayo Group as well as for himself, with his cedula No. A-37959, issued in Baguio, P. I., on April 25, 1935; H. A. Gibbon, with cedula No. F-6142, issued at Manila, P. L., on Jan 8, 1935 and L. F. Rothenhoefer, with cedula No. F-32190, issued at Manila, P. I., on Feb. 28, 1935, both Trustees of the Monte Cristo Gold Mining Association who are known to me to be the same persons who executed the foregoing instrument and they acknowledged the same to be an act of their own free and voluntary will and act.

"This instrument consists of three sheets including this sheet upon which the acknowledgment is written, and each page is signed by the parties concerned on the left hand margin.

"In witness whereof, I have hereunto set my hand and affixed my notarial seal this 6th day of June, 1935.

(Sgd.) "AURELIO SARMIENTO

"Notary Public

"My commission expires December 31, 1935

:Doc. No. 490.

"Book No. 5.

"Page No. 45.

"Series of 1935"

Novation is never presumed, and in order that an obligation may be extinguished by another which substitutes it, it shall be necessary that it is so declared expressly, or that the old and the new obligations be incompatible in every respect (art. 1204, Civil Code). There is absolutely no provision in Exhibit 1 above transcribed which expressly or even impliedly repeals that of Exhibit A, and much less do we find any incompatibility between the two documents, in the absence of which novation does not take place. As the learned trial judge says, Exhibit 1 is a mere supplementary agreement in virtue of which the parties herein confirm and ratify the contents of Exhibit A. The mere fact that Exhibit 1 contains an additional stipulation to the effect that of the purchase price of the claims, the appellants have the right to retain the sum of P2,600 until the completion of the survey of those claims by the appellants, does not in any manner constitute novation of contract as this stipulation serves only to supplement and amplify that of Exhibit A, there being no change or alteration of the object and condition of that contract. That this is the intention of the parties is furthermore shown by the fact that Exhibit 1 confirms and ratifies the payments made by the appellants to the appellee Ambrosio Ramos. The evidence shows that payments of P2000 and P5,400 referred to in Exhibit 1 were ejected on April 2, 1935, and June 6, 1935, respectively, and that payment on this last date was made on the very same day of the execution of Exhibit 1.

We notice, however, that the lower court sentenced the defendants-appellants to pay the plaintiffs-appellees the sum of P52,600 jointly and severally. There is nothing in the contract of sale, Exhibit A, which justifies the conclusion that the appellants are solidarily liable to the payment of that obligation. The pertinent portion of Exhibit A reads:

"The consideration for the said sale is the sum of sixty thousand pesos (P60,000), Philippine currency, to be paid by the said H. A. Gibbon, J. C. Cowper, L. F. Rothenhoefer, George Caldwell and Harley McVay within one (1) year from and after the execution of these presents, to Ambrosio Ramos, our duly constituted attorney in fact. * * *"

The concurrence of two or more creditors or of two or more debtors with respect to the same obligation does not imply that each of the former is entitled to demand the performance of the obligation in its entirety or that each of the latter is bound to perform it. This shall be the case only when expressly so provided by the terms of the obligation, and the parties are bound in solido. (Art. 1137, Civil Code.) The presumption, in the absence of

stipulation as to how certain debtors are bound, is that they are bound jointly (*Compania Gral. de Tabacos vs. Obed*, 13 Phil., 391; *Pimentel vs. Gutierrez*, 14 Phil., 49; *Isaac vs. Bray and Pardo*, 30 Phil., 533; *Lino Luna vs. Arcenas*, 34 Phil., 80; *Agoncillo and Marino vs. Javier*, 38 Phil., 424). Unless otherwise provided by the terms of the obligations to which article 1137 relates, the credit or the debt shall be deemed to have been divided into as many equal parts as there are debtors or creditors, and shall be regarded as separate and distinct credits or debts (art. 1138, *ibid.*). The assignment of error on this point is well taken, and we hold that the lower court committed an error in sentencing the appellants to pay the appellees the sum of P52,600 jointly and severally. Appellants' liability under the contract of sale Exhibit A is joint (*mancomunada*) and not several (*solidaria*). (*Sharruf vs. Tayabas Land Co. and Ginainati*, 37 Phil., 655; *Jaucian vs. Querol*, 38 Phil., 707.)

The other errors assigned need not be considered.

With the modification above indicated, the decision appealed from is confirmed, with costs against the appellants in both instances. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Moran, JJ., concur.

Concepcion, J., see concurring and dissenting opinion

CONCURRING AND DISSENTING OPINION

CONCEPCION, J.:

The present action seeks to compel the defendants to pay the entire purchase price of eighty (80) mining claims known as the Cabayo Group which they had purchased from the plaintiffs-appellees.

The defendants-appellants put up various defenses, among them, that the plaintiffs-appellees are not the owners and actual possessors and occupants of said mining claims at the time the deed of sale was executed, wherefore, they had no right to make a valid sale thereof; that the sale is void because no proper appraisal of the aforesaid mining claims had been made by the Bureau of Science; that the plaintiffs having failed to make the proper survey of said mining claims, they are precluded from demanding compliance by the defendants-appellants of the contract; and that the said mining claims not having been registered in the Province of Nueva Vizcaya, where they are situated, the sale should be deemed rescinded.

Resolving these questions, the majority states:

"The claims here having been validly located in 1934, before the approval of our Constitution, and it appearing in the contract Exhibit A that the plaintiffs are the 'locators, possessors and owners' of said claims, it is sufficient to direct attention to the rule that even without patent, the possessory right of a qualified locator of the discovery of minerals upon the claim is a property right, unaffected by the fact that the paramount title to the land is in the government (*Gold Creek Mining Corporation vs. Rodriguez and Abadilla*, 37 Off. Gaz., 1662; *Salacot Mining Co. vs. Rodriguez*, G. R. No. 45860, March 20, 1939; *Salacot Mining Co. vs. Abadilla*, G. R. No. 45861, March 20, 1939; *McDaniel vs. Apacible and Cuisia*, 42 Phil., 753). As a property right, it is susceptible of transfer by conveyance, inheritance or device."

I dissent from the foregoing holdings of the majority. For the same reasons stated in my dissent in the first three aforesaid cases, I cannot agree that, a locator of mining claims, by the mere location of a mining claim, acquires the right of ownership over said claim, despite the fact that the paramount title to the land still remains in the government, in my humble opinion, while the amount of the alienation of the mining claims has not been paid and the patent has not been issued by the Government, it cannot be said that the locator has acquired the right of

ownership thereof. The location of mining claims only gives the right of possession, a right which may be alienated together with all the works or improvements made on the said claims. Hence, in the present case, the plaintiffs-appellees have been able to sell or convey, to the defendants-appellants only all the rights inherent in the location of the mining claims, such as the possession and enjoyment thereof and compliance with all the necessary requisites to obtain the patent, before the date of the inauguration of the Commonwealth, because from said date, mining claims can no longer be the subject of alienation under the Constitution.

But inasmuch as the defendants-appellants, when they decided to purchase the mining claims in question, knew, or could not have ignored, as a legal question, what rights the vendors had or did not have, they can be compelled to comply with the contract of purchase and sale, Exhibit A.

With my dissent as to the extent and nature of the rights which could be, and in fact have been, the subject of sale and alienation, I concur in all other respects with the majority decision.

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.