

SOCONY-VACUUM CORPORATION (FORMERLY THE STANDARD OIL COMPANY OF NEW YORK), PETITIONER, VS. LEON C. MIRAFLORES, RESPONDENT.*G.R. No. 45821. April 12, 1939*

Ponente: LAUREL, J.

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In an action brought before the Court of First Instance of Rizal (civil case No. 5704), the Socony-Vacuum Corporation (formerly the Standard Oil Company of New York) obtained a judgment for the recovery of a sum of money from Chan To and Leon C. Miraflores. It appears that since January 20, 1929, by virtue of an agency contract entered into with the plaintiff company, Chan To had been selling the products of the Socony-Vacuum Corporation, but became behind in his remittances. On January 16, 1933, Chan To was in default to the company in the sum of P2,565.93. On this date, January 16, 1933, Leon C. Miraflores executed a mortgage in favor of the petitioner to answer for "all acts and defaults of the agent, Chan To, from January 16, 1933." From the aforementioned date, Chan To incurred obligations with the Socony-Vacuum Corporation in the total sum of P11,756.23, but his total remittances from the same date and for the same period amounted to P12,965.12. There is thus a surplus, but the Socony-Vacuum Corporation applied a portion of the remittances to the prior obligation amounting to P2,565.93. This left only P10,399.19, to be applied to the obligation representing the proceeds of sales made on and after January 16, 1933. Plaintiff Socony-Vacuum Corporation filed a suit against Chan To and Leon C. Miraflores for the recovery of the balance P1,357.04. After trial, a decision was rendered for the plaintiff, the dispositive part of which is as follows:

"Wherefore, judgment is entered upon the first cause of action, sentencing Chan To to pay the plaintiff the sum of P1,357.04, with interest thereon at the rate of 6% per annum from the date of the filing of this action, and the sum of P200 for and as attorney's fees and expenses of collection in accordance within the terms of the contract of agency, and absolving Leon C. Miraflores; sentencing Chan To and Leon C. Miraflores upon the second cause of action jointly and severally to pay the plaintiff, within 90 days from the date of notice hereof, the sum of P26, plus interest, thereon at the rate of 6 per cent per annum from the date of the filing of this action; and finally sentencing the said Chan To and Leon C. Miraflores upon the third cause of action, jointly and severally, to pay the plaintiff, within 90 days from the date of notice hereof, the sum of P49, plus interest thereon at the rate of 6 per cent per annum from the date of the filing of this action. Upon failure of the defendants or of either of them to pay the amounts adjudged in the second and third cause of action or any part of said amounts within the period above specified, it is ordered that the mortgaged property above mentioned be sold in the manner provided by law and the proceeds of sale applied to the payment of the amount or amounts due, Chan To is further sentenced to pay the costs of this suit, no special pronouncement as to such costs regarding Leon C. Miraflores being made."

Plaintiff appealed to the Court of Appeals and assigned as error the failure of the trial court to find the defendant Miraflores liable for P1,357.04 claimed under the first cause of action. The Court of Appeals, with two members dissenting, affirmed the decision of the lower court and said;

"* * * in the instant case, the rule is good as between the company and the agent but not as between the company and Leon C. Miraflores. To permit the application thus made will be to render the mortgagor also liable for the agent's indebtedness prior to January 16, 1933, which clearly is in violation of the express agreement contained in the mortgage contract."

The plaintiff-appellant has come to this court on certiorari to review the decision of the Court of Appeals.

The principal error assigned by the petitioner is that "La mayoria de la Segunda Division de la Corte de Apelaciones erro al no condenar al recurrido Leon C. Miraflores a pagar a la recurrente la cantidad de P1,357.07 reclamada por aquella en el primer motivo de action de su demanda." Petitioner alleges that in the absence of an express direction from the remitter, the payment in question could not be applied solely to obligations incurred after January 16, 1933, and that in cases of running accounts the rule of priority of time is applicable. The provisions of the mortgage contract executed by and between the plaintiff Socony-Vacuum Corporation and Leon C. Miraflores, is clear with respect to the latter's liability as mortgagor. The applicability of the rule of priority of time with regards to the application of payments in cases of running accounts, cannot be sustained as between the mortgagor Miraflores and the mortgagee Socony-Vacuum Corporation without violating the express agreement of the mortgage contract. As observed by the appellate court, the rule regarding application of payments contained in articles 1171-1174 of the Civil Code applies to "a person owing several debts of the same kind to a single creditor" and therefore, in this case, to the selling agent alone and not to Leon C. Miraflores. Upon the other hand, a contract of suretyship cannot be extended beyond its specified limits (art. 1827, Civil Code) and will not be given a retrospective effect so as to attach liability to the surety for the defaults of the principal debtor before the contract was entered into, unless the intent to assume such liability is clearly shown (*El Vencedor vs. Canlas*, 44 Phil., 699; *Asiatic Petroleum Co. vs. De Pio*, 46 Phil., 167).

The petition is hereby dismissed, with costs against the petitioner. So ordered,

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

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