

REYNALDO LABAYEN AND TEODORO LABAYEN, PLAINTIFFS AND APPELLANTS, VS. TALISAY-SILAY MILLING CO., DEFENDANT AND APPELLEE.

G.R. No. 45843. June 30, 1939

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The plaintiffs take this appeal from the order of the Court of First Instance of Occidental Negros, dated June 12, 1937, sustaining the demurrer to the amended complaint, filed on May 4, 1937, and granting ten days to the plaintiffs to amend the said pleading, with notice that should they fail to do so within the said period, the same will be dismissed, with costs.

The amended complaint alleges as first cause of action the following: that the plaintiffs on or before August 27, 1919 until the year 1928, were the undivided owners of the hacienda known as Dos Hermanos, situated in the municipality of Talisay, Occidental Negros, consisting of lots Nos. 1229 and 1327 of the cadastre of the said municipality, described in original certificates of title Nos. 9982 and 9286; that on August 27, 1929, the plaintiffs and the defendant entered into a milling contract the pertinent pacts and conditions of which read:

* * * * *

"PACTS TO WHICH THE CENTRAL BIND ITSELF

"THIRD: That it shall construct and shall thereafter make or cause to be made everything needed for the conservation in good condition, and shall operate during the period of this agreement, without any expense on the part of the planter or planters, a fixed railway, of steam or motor, or both, for the use of the plantation or plantations in the transportation of sugar cane, sugar, fertilizer and goods which the planter may need for his land, for his use, for that of his family and that of his employees, and shall make the principal line or a branch thereof, as the case may be, to reach a point of the plantation to be hereafter described which shall be not more than one mile from the boundaries of the said plantation, as the configuration of the land, its curves and grades will permit; it shall provide the said railway with locomotives or motors and wagons in sufficient number to expedite the transportation of sugar cane, sugar, fertilizer and goods aforementioned, and it shall likewise construct a branch of the railway connecting the principal line, factory and warehouses and the aforementioned pier, and it shall also conveniently equip with switches or otherwise the yard of the factory near the sugar mill. All the steam locomotives shall be provided with spark arresters. The railway shall consist of a line or way conveniently and properly designated so that, as far as possible, all the planters may derive equal benefits therefrom; the right of way for the principal line of the railway shall be three and one-half (3½) meters wide on each side measuring from the center of the line, and the branches, deviations, and curves shall be more if necessary.

* * * * *

"EIGHTH. It shall receive all the sugar cane planted by the planter or planters, well cut off, completely clear of

leaves, conveniently loaded on the wagons of the Central at those points along the line of its railway or branches thereof, as the case may be, on such days and time as the Committee of Planters may agree upon, taking into account the crops of the planters and the kind of sugar cane to be milled, and shall transport the said sugar cane to the factory free of charge.

"The Central shall have the right to refuse the sugar cane which is unclean, sour or burned. In case of delivery of sugar cane not sufficiently clean or cut off, but which otherwise complies with the other required conditions, the Central shall make a certain per cent reduction from its weight subject to the determination of the Central and the Committee of Planters; and in case of disagreement on this matter, the Central shall clean or take off the leaves of the sugar cane in two wagons to determine the exact amount to be deducted from the weight of all the sugar cane in question, and the expenses occasioned by said cleaning shall be charged against the delinquent planter.

"The burned sugar cane, after twenty-four (24) hours from the time of burning, shall be accepted by the Central only upon special agreement between the Central and the Committee of Planters, who shall fix the conditions whereby the same should be milled and the sugar divided.

* * * * *

"TENTH. It shall grind, crush, and mill the said sugar cane and, through the proper procedure of fabrication, shall convert the sugar—which it guarantees to extract in its mills on an average of not less than ninety-two per cent (92%) for each sugar crop—in centrifugal sugar of high grades, generally known as sugar A and B, and it shall guarantee an average of ninety-six (96) grades in said sugar class A; and it shall guarantee an average polarization of ninety-three (93) grades in said sugar class B.

"The Committee of Planters and the Central, upon agreement, shall determine the class or classes of sugar to be made by the factory.

"OBLIGATIONS OF THE PLANTER

"FIRST. That during a period of thirty (30) years, from the time he is notified by the Central that it is ready to receive him, he shall deliver to said Central, properly cut and clear of leaves, all the sugar cane planted, cultivated and produced upon his said lands and haciendas.

"That the planter who signs this contract, states and guarantees to the Central that he is the absolute owner of the following parcel of land, situated in the Municipality of Talisay, Province of Negros Occidental, described in this contract as "the plantation" or "the plantations" known as lots Nos. (1229) one thousand two hundred twenty-nine and (1327) one thousand three hundred twenty-seven of the Talisay Cadastre, Province of Negros Occidental, P. I.

"The delivery of the sugar cane shall be made on the wagons of the railway of the Central at the places and time agreed upon by the Manager of the Central and the Committee of Planters." that pursuant to the said contract the plaintiffs planted on the hacienda Dos Hermanos during the agricultural year 1920-1921 thirty-five lacsas of sugar cane to be milled by the defendant; that in the following agricultural year, 1921-1922, the plaintiffs also planted 3,000 lacsas of sugar cane on the same hacienda, also to be milled and converted into centrifugal sugar by the defendant; that the defendant, in violation of the milling contract, did not construct the railway until a convenient place on the hacienda Dos Hermanos, as a result of which the sugar cane produced during the said agricultural years were not brought to and milled by the defendant's central; that for this reason the plaintiffs suffered a loss amounting to P28,620 for the recovery of which they brought civil case No. 3789 of the Court of First Instance of Occidental Negros; that in said case judgment was rendered absolving the defendant and sentencing the plaintiffs, upon the defendant's counterclaim, to pay the latter the sum of P12,114; that the said judgment was appealed to this court (G. R. No. 29298) and here affirmed (Labayen vs. Talisay-Silay Milling Co., 52 Phil., 440); that on the execution of the judgment in favor of the defendant in

said case and on foreclosure of the mortgage of the hacienda Dos Hermanos, the sheriff sold the same at public auction and adjudicated it in favor of the defendant; that immediately after it became the owner of the hacienda, the defendant constructed the railway which, at the trial of the case, it had maintained was impossible to construct due to the curves and grades found on the hacienda, thereby showing that the defense which it put up to this effect was false and fraudulent; that the judgments of the Court of First Instance of Occidental Negros and of the Supreme Court rendered in the said case were obtained by the defendant through fraud" consisting in the false testimony given by the witnesses who testified in the case; that said witnesses falsely testified that the railway could not be constructed on the hacienda Dos Hermanos because the curves and grades existing thereon made it materially impossible, knowing that said statements were untrue and false; that as a result of the judgments fraudulently obtained by the defendant, the plaintiffs have suffered damages in the sum of P70,000. As second cause of action of the amended complaint the following facts were alleged: that in the milling contract, through the false representations of the officers of the defendant, the latter induced the plaintiffs to empower it to obtain a loan from any institution and to secure it by the mortgage of the hacienda Dos Hermanos, promising to give the plaintiffs a bonus after the loan had been paid and the mortgage released; that the plaintiffs have been informed, and so allege in their amended complaint, that the defendant, armed with said power, obtained a loan from a bank which it guaranteed by the hacienda Dos Hermanos and that, notwithstanding the payment and release of the mortgage, the defendant has refused and still refuses to pay them the offered bonus to be later determined at the trial. On the strength of the facts alleged in the two causes of action, the plaintiffs asked that judgment be entered in their favor: declaring null and void the judgment rendered by the Court of First Instance of Occidental Negros as well as that rendered by this court affirming the former; that the defendant be sentenced to pay the sum of P70,000; that the hacienda Dos Hermanos be ordered returned to the plaintiffs, without prejudice to the payment by the latter to the defendant of the indebtedness in its favor; that the defendant be, ordered to pay to the plaintiffs the bonus to which they are entitled, plus the costs.

The defendant interposed a demurrer to the amended complaint and alleged, with respect to the first cause of action, that the allegations thereof do not constitute a cause of action in favor of the plaintiffs and against the defendant, and that according to the facts alleged, the question raised was already *res judicata* as it has been decided in a former case; and with respect to the second cause of action, it alleged likewise that the allegations thereof do not constitute a cause of action in favor of the plaintiffs.

In their sole assignment of error, the plaintiffs-appellants contend that the court erred in sustaining the demurrer interposed to the amended complaint, and in support of the assigned error, they argue that there is no *res judicata*; that the nullity of judgments should not be resolved by the general rule regarding fraud in procedure, but by the rule of equity; that the perjury of the witnesses who testified in the first case and the other findings made by the court are not a bar to the declaration of nullity of the decision rendered in the former case; and that the allegations contained in the second cause of action constitute a cause of action.

As to the first cause of action of the amended complaint, the only question to decide is whether or not the fraud invoked by the appellants was raised, controverted and decided by the court in the first case. If it was, it is *res judicata* and cannot serve as a ground to annul both the decision of the trial court and that of this court affirming it. According to the allegations of the amended complaint the fraud consisted in the perjury committed by the witnesses for the defendant who stated that the railway was not constructed on the hacienda Dos Hermanos because on the land were found curves and grades which made its construction materially impossible. This was the special defense put up by the defendant in that case and was the question submitted to the court and the latter resolved it in favor of the defendant. It, therefore, appears that the facts upon which the plaintiffs base the fraud now invoked by them have been already submitted and resolved in the first case, and the court, after hearing the parties, held that they were true, hence, it rendered judgment in favor of the defendant. An action to annul a judgment, upon the ground of fraud, will not lie unless the fraud be extrinsic or collateral and the facts upon

which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered (Anuran vs. Aquino and Ortiz, 38 Phil., 29; Javier vs. Paredes and Gregorio, 52 Phil., 910). That the testimony upon which a judgment has been based was false or perjured is no ground to assail said judgment, unless the fraud refers to the jurisdiction. (Scotten vs. Rosenblum, 281 Fed., 357; U. S. vs. Chung Shee, 71 Fed., 277; Giffen vs. Christ's Church, 48 Cal. A., 151; 191 P., 718; Pratt vs. Griffin, 223 111., 349; 79 N. E., 102.) The testimony which is stigmatized as false and perjured was considered by the court before rendering its decision, and it came to the conclusion that it was true and believable, for which reason it made the same the basis for its holding that the defendant did not construct the railway because the land of the hacienda was very rugged and the curves and grades made the construction thereof impossible. After that holding by the court it is not now proper to question the veracity of said testimony in a collateral proceeding, otherwise there would be no end to controversies submitted and decided by the court. Unless the fraud goes directly to the jurisdiction of the court, the facts in which it consists must be extrinsic or collateral in order that fraud may be a ground to annul a judgment which has already become final. For these reasons, we conclude that the contention of the plaintiffs-appellants, upon these questions, is unsound.

The second cause of action of the amended complaint is made to consist in that the appellants received the information that the defendant, making use of the power which they conferred upon it, mortgaged the hacienda Dos Hermanos to a bank, and after discharging said mortgage by paying the loan, it refused to pay them the bonus which it had promised. It has not been alleged that the appellants personally knew the execution of the mortgage; all that is affirmed is that they had received an information and they made the allegation upon such information; neither has it been alleged that the mortgage has been formally executed and registered according to law, wherefore, it appears that the mortgage, as thus alleged, is not valid from the legal standpoint. Taking these allegations into account, we are of the opinion that the court did not err in sustaining the demurrer interposed to the second cause of action because it is evident that the allegations thereof are, at least, vague and uncertain and the defendant is entitled to have the appellants amend their amended complaint so as to make the allegations thereof more categorical, intelligible and specific, to the end that it set out a real cause of action to which the defendant, in turn, may interpose an answer with such special defenses as it may have in its favor.

In view of the foregoing, the appealed order is affirmed, with the costs of this instance to the plaintiffs-appellants. So ordered.

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

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