

ASUNCION PEREZ VDA. DE DE LA VIÑA, MANUEL, ALEJANDRINO, PILAR, CESAR, EDUARDO AND JAYME, ALL SURNAMED DE LA VINA, PLAINTIFFS AND APPELLANTS, VS. SIMON BUENAVENTURA, DEFENDANT AN...

G. R. No. 47456. April 08, 1941

Ponente: MORAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-47456/>

MORAN, J.:

On September 27, 1938, defendant Simon Buenaventura obtained from the late Delfin de la Vina, immediate legal predecessor of the plaintiffs herein, a loan of P4,500 payable on or before March 31, 1939. In security for this obligation, defendant constituted, with the consent of the mortgagees, a second mortgage on his three lots Nos. 591, 592 and 838 of the cadastral survey of Pilar, Capiz. As an additional guaranty, "_____ el deudor hipotecario _____ asigna al acreedor hipotecario novecientos (900) picos de azucar de exportación que se convierten de las cañas sembradas y cortadas en los tres lotes de terreno_____ correspondientes a la cosecha 1939-40." Defendant having failed to pay the obligation at its maturity, a complaint for the foreclosure of the mortgage was filed on April 3, 1939, and, in relief, plaintiffs prayed that the three lots and the 900 piculs of export centrifugal sugar be sold at public auction. Defendant interposed a demurrer to this complaint on the ground of prematurity. It is contended that the mortgage on the three lots and on 900 piculs of export centrifugal sugar is indivisible, and since the sale of said piculs of sugar cannot be ordered because they were not yet in existence when the action of foreclosure was instituted, the milling season not having then commenced, the action in its entirety is premature. The trial court sustained the demurrer and plaintiffs appealed from the order of dismissal of the complaint.

We hold that the demurrer should have been overruled. The foreclosure of the mortgage on the three lots and on the 900 piculs of export centrifugal sugar may be decreed at the same time although, after the rendition of the judgment of foreclosure, the mortgaged properties should be ordered sold at different times because a simultaneous sale is impossible. Besides, there exists no legal obstacle in the sale of the 900 piculs of export centrifugal sugar although they were not actually in existence at the time of the order of sale. A valid sale may be made of a thing which though not yet actually in existence is reasonably certain to come into existence as the natural increment or usual incident of something already in existence. (*Sibal vs. Valdez*, 50 Phil., 512, 522, citing *Mechem on Sales*, secs. 200 and 763; 55 C. J., 63.) In the present case, the 900 piculs of export sugar are reasonably certain to come into existence at a determinate time as the natural by-product of the sugar cane then actually in existence on the three lots in question.

Order is reversed and let this case be remanded to the court of origin for further proceedings.

Imperial, Diaz, Laurel, and Horrilleno, JJ., concur.

Avancena, C. J., did not take part.

Order reversed.

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.