

ASOCIACION COOPERATIVA DE CREDITO AGRICOLA DE MLAGAO, PLAINTIFF AND APPELLANT, VS. SLNFOROSA MONTECLARO ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 48279. July 30, 1943

Ponente: OZAETA, J.

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OZAETA, J.:

This action was commenced on November 30, 1939, to recover from the defendants the sum of P1,127.50 representing the principal of P500 and accrued interest on a promissory note executed by the defendant Sinforosa Monteclaro on May 12, 1925, payable one year thereafter. It is stipulated that said defendant has not paid any part of said amount. The trial court, sustaining the defense of prescription, absolved the defendants from the complaint, without any finding as to costs"

The plaintiff is a corporation organized under Act No. 2508 with a paid-up capital of P2,408. In 1919 the Philippine Legislature, by Act No. 2818, appropriated P1,000,000 to be invested exclusively in loans to agricultural credit cooperative associations organized under Act No. 2508. Out of said appropriation, which constituted a Special fund known as the "Rice and Corn Fund," the plaintiff secured a loan of P16,000, part of which was in turn loaned by it to the defendant Sinforosa Monteclaro.

The loan in question was secured by a real estate mortgage which, however, was not registered. The defendants Clasico Tajanlangit, Apolinario Mulate, and Geronimo Nuñal were the members of the board of directors of the plaintiff corporation who approved the loan in question to their codefendant Monteclaro; and they were included in this action as parties defendant on the ground that they had been negligent in not registering the real estate mortgage and in not taking the necessary action to collect the said loan.

From the time the loan in question was granted on May 12, 1925, up to November 30, 1939, when this action was commenced, or for a period of more than fourteen years, no payment was made by the debtor on account thereof.

Appellant, however, makes a strenuous effort to avoid prescription, contending (1) that it is an agency of the Government to which the latter has delegated part of its sovereign functions; (2) that the loan is a continuing and subsisting trust; and (3) that the share of stock of the borrowing member has been in the continued possession of the plaintiff.

- There is, of course, no merit in the first contention. The mere fact that agricultural credit cooperative associations are supervised by the Government and enjoy certain exemption and privileges as well as financial aid from the latter to promote the welfare of the farmers, cannot by any stretch of the imagination invest them with a sovereign function. Even the Agricultural and Industrial Bank which is a government-owned and controlled corporation and which has been created to promote agriculture and industry on a larger scale than agricultural credit cooperative associations cannot be said to exercise a sovereign function. It is, like all other corporations capitalized by the Government a business corporation. So is the plaintiff herein.

- After 1936, the Director of Commerce passed Commerce Circular No. 143 declaring that loans to members from agricultural credit cooperative associations are in the nature of a continuing and subsisting trust and hence included in the exemptions mentioned in section 38 of Act No. 190. That circular was passed "for the guidance of all concerned, in view of the fact that prescription has been commonly put up as a defense by borrowers from the different agricultural credit cooperative associations." The circular ends by saying that "this opinion shall be binding upon all associations and debtor to such associations and enforceable under the law, until the same is reversed by a competent court."

We find ourselves completely unable to sustain that opinion. In support of it, counsel, for the appellant say that "all members are co-owners and co-administrators of the funds of the association with the same rights and privileges, although the duty of each member has been delegated to the members of the board of directors elected by them." So are the stockholders of any other business corporation. They also say that "the money of the association can only be given to a member for a specific productive purpose or agricultural activities," that is to say, that "the money can be entrusted to the members only, to be invested exclusively in agricultural purposes." The same thing may be said of mutual budding and loan associations.

The circular, cites the case of *Government of the Philippine Islands vs. Monte de Piedad* (35 Pmj 728). But there is no analogy between that and the instant case. That was an action brought on May 3, 1912 by the Philippine Government to recover P80,000 which was turned over in 1883 by its predecessor, the Spanish Government in the Philippines, to the Monte de Piedad to be held at the disposal of a board constituted by the Government for the relief of those who had suffered from the earthquake of 1863, said sum being a part of funds contributed for such relief by the inhabitants of the Spanish dominions. Although the proofs showed that said sum was loaned to the defendant without interest, the defense of prescription was not sustained because this Court held that the Philippine Government was the proper party to maintain the action, and the statute of limitations does not run against the Government. If the present action had been brought by or for the exclusive benefit of the Philippine Government to recover from the defendants part of the Rice and Corn Fund, prescription might be avoided on the ground that it does not run against the Government. But that is not the case.

The sum here in question was loaned to the defendant Monteclaro to be spent by her in developing her own farm or in raising crops of her own; it was not turned over to her for safe-keeping or to be administered by her for the exclusive benefit of the plaintiff. This undisputed fact overthrows the theory that the loan is a continuing and subsisting trust.

- Appellant's last contention is that under the laws and regulations governing agricultural credit cooperative associations a member has no right to withdraw his share of stock, nor the dividends declared yearly thereon in his favor, so long as he is indebted to the association; that since under section 40 of Act No. 2508, as amended, it is the duty of the board of directors at least once each year to prepare a balance sheet of the association, determine the profits and losses on all business transacted, and declare in accordance with such balance sheet the dividends to be paid to the stockholders, the yearly dividends corresponding to the borrowing member in this case must be considered as having been applied to her indebtedness, which application tolled the statute of limitations. The trouble with appellant is that its counsel completely failed to make out a case upon that theory. First, it was not shown that appellee Monteclaro's certificate of stock was pledged and delivered to the plaintiff as a collateral security for the payment of the loan; second, it was not shown that the plaintiff realized profits and declared dividends every year, or at any time prior to the filing of this action. Not only is there no such showing, but the stipulation of facts states: "Que la demandada Sinforosa Monteclaro no ha pagado ni un centavo a cuenta de esta cantidad de P1,127.50 a pesar de repetidos requerimientos a ella hechos por la demandante." We find, therefore, no basis in fact to support appellant's third and last contention.

It is not without reluctance that in this case we are constrained to sustain the defense of prescription, for we think it is disgraceful—indeed dishonest—for any citizen who has obtained a loan from a cooperative association fostered and aided by the Government to fail to pay his or her debt and then invoke prescription as a defense. Some members of such associations seem to mistake speculation for cooperation. But we cannot apply ethical principles in lieu of express statutory provisions. It is by law provided that:

"Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

"1. Within ten years: An action upon an agreement, contract, or promise in writing, or upon the judgment or decree of a court . . ." (Section 43, Act No. 190.)

If eternal vigilance is the price of safety one cannot sleep on one's right for more than a tenth of a century and expect it to be preserved in its pristine purity.

The judgment is affirmed, without any finding as to costs. So ordered.

Yulo, C. J., Moron, Paras, and Bocobo, JJ., concur.

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