

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FELIPE MAPOY AND R. M. MAIPID, DEFENDANTS AND APPELLANTS.

G.R. No. 48336. September 21, 1942

Ponente: BOCOBO, J.

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BOCOBO, J.:

- CRIMINAL, LAW AND PROCEDURE; VIOLATION OF BULK SALES LAW (Act No. 3952); WHEN PAYMENT OF INDEMNITY TO OFFENDED PARTY DOES NOT LIE,—Defendants were charged with violation of the Bulk Sales Law in that they mortgaged all of their stock of goods, etc., without any notice to Daido Boeki Kaisha, Ltd., one of the offended parties, to which they were indebted in the sum of P2,568.85. They pleaded guilty and each sentenced by the Court of First Instance of Manila to pay a fine of P100, and the costs, and to indemnify Daido Boeki Kaisha, Ltd., jointly and severally in the sum of P2,568.85, with subsidiary imprisonment in case of insolvency. Held: That it was error for the trial court to consider said indebtedness as a liability arising from the crime charged, and to order defendants to indemnify Daido Boeki Kaisha, Ltd., in the sum of P2,568.85, with subsidiary imprisonment in case of insolvency.

- ID.; ID.; ID.—Inasmuch as under section 4 of the Bulk Sales Law, the mortgage in question was fraudulent and void, and there being no proof that the mortgaged goods have disappeared, the same are still subject to attachment for the satisfaction of creditors' lawful claims against the defendants. Daido Boeki Kaisha, Ltd., may still bring a separate civil action against defendants herein for the collection of any indebtedness that may be due from defendants, and if the latter will not pay the judgment in such civil case, the goods involved in the instant case may be seized and sold. Therefore, the obligation of defendants to pay Daido Boeki Kaisha, Ltd., the sum of P2,568.85, which was already existing when the mortgage was signed, was not the result of the violation of the Bulk Sales Law, nor was it affected by said violation.

APPEAL from a judgment of the Court of First Instance of Manila. Barrera, J.

Decision penned by Associate Justice Jorge C. Bocobo.

Romualdo Constantino for appellants.

Ross, Selph, Carrascoso & Janda as private prosecutors.

Assistant Solicitor-General Enriquez and Solicitor Alikpala for appellee.

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