

THE CHINESE CHAMBER OF COMMERCE, PLAINTIFF AND APPELLEE, VS. PUA TE CHING ET AL., DEFENDANTS.-PUA TE CHING, APPELLANT.

G.R. No. 5194. September 23, 1909

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 14th day of May, 1908, the plaintiff commenced an action against the defendants upon the following promissory note:

"No. 178.

"For P3,500, Philippine currency.

"Due January 22, 1908.

"Two months after date we hereby jointly and severally promise to pay in Manila to the Chinese Chamber of Commerce, or order, the sum of three thousand five hundred pesos, Philippine currency, value received from the same, for mercantile transactions.

"Manila, 22d of November, 1907.

[Here are affixed one 20-centavo,
one 10-centavo, and
three 2-centavo internal-
revenue stamps.]

"FUA TAY CHEANG,

"C. K. BANA,

"FUA TECHING,

"LIMQUIENG BL."

Said promissory note was made a part of the complaint. The defendants filed a general denial, thereby admitting the genuineness and due execution of the same, in accordance with the provisions of section 103 of the Code of Procedure in Civil Actions. By reason of the failure of the defendants to deny, under oath, the genuineness and due execution of the said promissory note, it was unnecessary for the plaintiff to prove these facts; in other words, by reason of the fact that the plaintiff had made the said promissory note a part of his complaint, and by reason of the fact that the defendants failed to deny, under oath, the execution and delivery of said promissory note, specifically, the facts alleged in the complaint constituted a prima facie case in favor of the plaintiff, and he was entitled to a judgment for the amount of the said promissory note, unless the defendants during the trial should prove the payment of the same. (Sec. 103, Code of Procedure in Civil Actions; Noel vs. Lasala, 5 Phil. Rep., 260, 264; Merchant vs. International Banking Corporation, 6 Phil. Rep., 314, 316; Peterson vs. Azada, 8 Phil. Rep., 432, 435; Eliot vs. Montemayor et al., 9 Phil. Rep., 693, 696; Faelnar et al., vs. Escaño, 11 Phil. Rep., 92, 94;

Papa vs. Martinez, 12 Phil. Rep., 613.)

The defendants not having denied the execution of said promissory note, under oath, they admitted it, and no evidence was therefore necessary on the part of the plaintiff to show that the defendants owed the amount claimed. The burden of proving the payment of the said promissory note, or any similar defense, was upon the defendants. (Knight vs. Whitmore, 125 Cal., 198; McCormick Harvester Co. vs. Doucette, 61 Minn., 40.)

During the trial of the cause the defendants attempted to prove that the present promissory note had been paid by the substitution of another promissory note. The plaintiff admits that the defendants attempted to have the time of the payment of the promissory note in question extended by giving another promissory note in its stead. The plaintiff says that this proposal was refused by him. The plaintiff admits that the defendants paid upon the note in question the sum of P216.

The lower court allowed the plaintiff to recover on the said promissory note the difference between the original note of P3,500 and the amount of the payment, P216, or the balance of P3,284, with interest at 12 per cent. The objection is made in this court that the lower court had no authority to allow interest upon the amount due upon said promissory note, for the reason that said note did not contain any provision for interest. During the trial the plaintiff testified that there was an agreement between the parties to said promissory note that the defendants should pay interest at the rate of 12 per cent from the date of said note until the same was paid, and one of the defendants during the trial admitted that he had actually paid interest on said note, and it was agreed that interest upon said note had been paid up to and including the 13th day of May, 1908. The lower court based his right to allow interest upon the note in question upon the provisions of article 1108 of the Civil Code. Said article is as follows;

"Should the obligation consist in the payment of a sum of money, and the debtor should be in default, the indemnity for losses and damages, should there not be a stipulation to the contrary, shall consist in the payment of the interest agreed upon, and should there be no agreement, in that of the legal interest."

In the present case an express agreement was proven on the part of the plaintiff and was admitted by the defendants by their having actually paid interest on the said contract.

The defendants made the further objection that the plaintiff had no authority to loan money upon promissory notes, and therefore had no authority to bring an action upon such notes. The defendants, however, accepting the money represented by said promissory note from the plaintiff, and entering into the said contract, are thereby estopped now from denying the authority of the plaintiff to make such a contract. (Sec. 333 of the Code of Procedure in Civil Actions; Behn, Meyer & Co. vs. Rosatzin, 5 Phil. Rep., 660.) In the present action the plaintiff proved that it was a corporation duly organized under the laws in force in the Philippine Islands.

There are many cases bearing upon this subject, and the distinction should always be borne in mind, if it does not always appear, between a pretended corporation or a corporate entity, one having no existence in fact, and one illegally organized or which may have forfeited its charter. The question whether the entity contracted with is an entity organized by law is one which can not be raised by one who has dealt with it and recognized its existence, for the purpose of defeating a liability growing out of such contractual relation between himself and such entity. When one makes a contract with a plaintiff under a corporate name, he is estopped from denying its corporate existence. (Connecticut Bank vs. Smith, 17 How. Pr., 487; All Saints Church vs. Lovett, 1 Hall, 91; Welland Canal Co. vs. Hathaway, 8 Wendell (N. Y.), 480.)

When a mortgage, note, or other instrument is given to a corporation, as such, the party giving it is thereby estopped from denying the corporate existence of the corporation. The giving or executing of a promissory note or other instrument in favor of a corporation is an admission of the existence of the corporation, and the person so

giving such contract can not be permitted to deny that the corporation receiving it is not a duly organized corporation. (Worcester Medical Institute vs. Harding, 11 Cushing (Mass.), 285; Farmers and Merchants Ins. Co. vs. Needles, 52 Mo., 17; The National Ins. Co. vs. Bowman, 60 Mo., 252; Bliss on Code Pleading, secs. 252, 253, 254, and 255.)

We deem it unnecessary to discuss further in detail the assignments of error made by the appellant.

After an examination of all of the facts brought to this court, we are of the opinion, and so hold, that the judgment of the lower court should be affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, and Moreland, JJ., concur.

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