

LEE LIONG, PLAINTIFF AND APPELLANT, VS. ISIDORO HIZOLA, DEFENDANT AND APPELLEE.*G.R. No. 5358. March 16, 1911*

Ponente: MAPA, J.

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The action in this case relates to a mortgage credit and is based on a public instrument executed by the defendant on the 27th of September, 1905, whereby, for the consideration of the sum of P4,858.50, which he acknowledges having received from the plaintiff, he executed in favor of the latter, as security for the payment of the said sum, a mortgage on the two agricultural properties that are described in detail in the said instrument.

The defendant does not deny the legitimacy of that instrument, but alleges that it is not the plaintiff whom he owes, but the now deceased Yong Alam, and that he owes only the sum of P3,910, as the unpaid balance of the price of a piece of hemp land that he had bought of the said Yong Alam.

Supporting the defendant's claim, the administrator of the estate of Yong Alam intervened and alleged that on August 29, 1904, he sold to the herein defendant, Ysidoro Hizola, a piece of hemp land for P5,400, on account of which the latter had paid him only P1,400; and that what the plaintiff endeavors to collect in the present suit is the unpaid balance of the said sale, acting in the capacity of attorney in fact for the Chinaman Yong Ajiong, who calls himself the son of the deceased Yong Alam, though he is not such in reality; and on the basis of these facts the said intervener asked of the court that the sum claimed by the plaintiff be awarded and delivered to him, the former, as administrator of the estate of the aforementioned Yong Alam.

In view of the evidence adduced at the trial the court in its judgment concluded that the alleged fact that the defendant Hizola had received from the plaintiff, Lee Liong, the sum of P4,848.50, claimed in the complaint was not true, "We hold," then says the court, "that the facts proved in this case are:

"That the defendant Hizola, while Yong Alam was still living, purchased from the latter a piece of hemp land for the price of P5,400; that, a few days after this contract was made, Yong Alam died; that, after the death of Yong Alam the defendant still owed, on account of the price of the property, the sum of P3,910; that Yong Ajiong, considering himself the son of Yong Alam, demanded from Hizola the payment of the balance of P3,910; that Hizola, believing that the Chinaman Yong Ajiong was entitled to the said sum, took steps for the payment of the same; that Lee Liong furnished the sum of P1,000 and obtained a mortgage in his favor from Hizola for P1,150; that Lee Liong, a power of attorney having previously been executed in his favor by Yong Ajiong, obtained another mortgage from Hizola as security for the payment of the P2,760 which still remained unpaid; and that while Yong Ajiong was in China he transferred his credit of P2,760 to Lee Liong, as shown by Exhibit X, which is a receipt by Yong Ajiong of the sum of P2,760, in payment of Hizola's debt."

In summing up the trial judge says:

"We find that in the contract, evidenced by Exhibit A, a false consideration therefor was, in part, expressed, for, as previously stated, the only, loan made by the Chinaman Lee Liong was that of the sum of P1,000, it

therefore being false that he gave or delivered to Hizola the remainder mentioned in the contract.

"Inasmuch as the expression of a false consideration in contracts renders them void, according to article 1276 of the Civil Code, unless it be proven that they are based on another real and legal consideration, we declare that this contract of mortgage is void in so far as it exceeds the sum of P1,150, or in other words, it can only be considered as valid and effective with respect to the amount of P1,150 alone, and is void as to the rest."

With regard to the claim of the administrator of the estate of the deceased Yong Alam, the trial court found that it had been proved that the defendant Hizola had not yet paid the sum of P3,910, the remainder of the price of the property which he had purchased from the said Yong Alam.

In consonance with the foregoing conclusions, he made the following orders which constitute the dispositive part of the judgment:

"1. That judgment be entered for the plaintiff, to whom the defendant shall pay the sum of P1,150, which is the true amount due and unpaid on the said mortgage, together with legal interest thereon from the date of the filing of the complaint ; and

"2. That judgment be also entered for the administrator of the estate of the deceased Yong Alam, and against the defendant Hizola, for the sum of P3,910, with the interest due thereon, and this shall not prevent the plaintiff, Lee Liong, from realizing upon the said mortgage credit for the sum of P1,150, with its corresponding interest."

From this judgment only the plaintiff Lee Liong appealed, jso in the present decision we have nothing to do with the part thereof whereby the defendant Hizola is sentenced to pay the sum of P3,910 to the administrator of the estate of Yong Alam. This part of the judgment being consented to by Hizola, it can not be reviewed in the present instance, as the only appeal pending is the one raised by the plaintiff Lee Liong.

The findings of fact of the judgment appealed from are, in general, in agreement with the evidence produced at trial. So the following facts, as proved, are true, to wit; that Hizola, in August, 1904, purchased from the Chinaman Yong Alam a piece of hemp land for P5,400; that at the time of the latter's death, in September following, the said Hizola still owed him more than P3,000, the unpaid balance; that after Yong Alam's death, Hizola believing, by mistake «or not, a fact in either event immaterial to the case, though undoubtedly in good faith, that one Yong Ajiong was the legitimate son and therefore the legal heir of Yong Alam, entered into negotiations with him, concerning the payment of that debt, and, as a result of the agreement, thereupon paid him, on account, the sum of P1,000 which the within plaintiff, Lee Liong, furnished Hizola as a loan for the purpose; the latter executed in favor of the former a mortgage instrument as security for the said sum with its interest, that is, for the sum total of P1,150, and another mortgage instrument in favor of Yong Ajiong for the sum of P2,160, which he supposed was the yet unpaid remainder of the price of the land purchased by him, Hizola, from Yong Alam. It is also true that both mortgages were canceled by Lee Liong on September 26, 1905, the latter, in canceling that drawn in favor of Yong Ajiong, acting in the capacity of attorney in fact for the said Ajiong; and on the following day, the 27th of the month aforesaid, Hizola executed in favor of Lee Liong the instrument of mortgage for the value of P4,358.50, which serves as a foundation for the action brought in the present suit. But it is not true that the only amount furnished by Lee Liong to Hizola on account of the P4,358.50 just mentioned was merely that of P1,000, and that for this reason the mortgage debt contracted by Hizola in the said instrument is founded on a false consideration in so far as it exceeds the said P1,000, and is therefore void on the supposition that he really and actually did not receive from Lee Liong the remaining P3,358.50. The contrary finding of the trial judge with respect to this particular is in no manner justified by the evidence^ which, in our opinion, sufficiently shows that Lee Liong did in fact pay to Hizola the whole sum of P4,358.50 mentioned in the instrument referred to.

The P1,150 recognized in the judgment appealed from as owing to Lee Liong, and with respect to which there is no question at issue, must of course be discounted. The evidence clearly shows that, besides that amount, Lee Liong paid to Hizola P2,760, to be turned over to the Chinaman Yong Ajiong. Lee Liong made the payment directly to the latter by direction and upon the request of Hizola. As already stated, Hizola, acting under the belief that Yong Ajiong was the son and legitimate heir of Yong Alam, agreed to pay to Ajiong what he, Hizola, was still owing on the price of the land sold to him by Yong Alam during his life-time, and forthwith delivered to him on -account the sum of P1,000 and executed an instrument of mortgage in his favor for the remainder, P2,760. Subsequently, Yong Ajiong went to China, leaving Lee Liong in these Islands as his attorney in fact and to whom, on the lapse of the period designated in the said instrument, he gave instructions from China to collect from the herein defendant, Hizola, the credit recorded in that document. A demand for payment having been made upon the latter by Lee Liong, by virtue of the said instructions, he borrowed from Lee Liong the money necessary to pay the amount specified in the aforementioned instrument to Yong Ajiong and requested him at the same time to remit such money directly, in the borrower's name, to the said Ajiong, which the plaintiff Lee Liong in fact did. With regard to this point, both the plaintiff and the Chinaman Yong Ajiong gave positive testimony. The latter stated that, while in China, he received the sum of P2,760 which "was remitted to him by his attorney In fact, Lee Liong, as a payment by Hizola of the obligation contained in the instrument referred to. The testimony of them both appears to be corroborated by the receipt for the said payment, on file among the records, transmitted from China by Yong Ajiong to Lee Liong, which reads:

"Received from Mr. Lee Liong the sum of P12,760, the said sum having been paid by Ysidoro Hizola in settlement of his account.

"I issue this receipt and deliver it to Lee Liong, as proof.

(Signed) "YONG AJIONG.

"Real writing,

"City of Ping Nam, 81st year of Cong Soy (Kwang Sui) 12th moon, 11th day."

P1,150 on the one hand, and P2,760 on the other, make the sum of P3,910, and the difference between that amount and the total sum of P4,358.50, specified in the instrument which serves as a basis for the complaint, is, according to the plaintiff, the value of the effects taken from his store by Hizola. This assertion of the plaintiff is confirmed by Hizola, himself who, on testifying with regard to the sum mentioned in the said instrument, stated that "there was also included here the value of the effects which I took from the Chinaman Lee Liong."

Thus Hizola could, with entire truthfulness, make the statement which appears recorded in the instrument in question : that the plaintiff Lee Liong furnished him the sum of P4,358.50 claimed in the complaint, the payment of which was secured by mortgage in the said instrument. This document, in so far as it contains the acknowledgment of the said debt made by Hizola in favor of Lee Liong, in conjunction with the other evidence already herein before mentioned, fully shows that the latter actually paid to the former, that is, to Hizola, all of the aforesaid sum. The proofs of this fact are so complete and so convincing that they can not be overcome in any manner by the mere unsupported denial of Hizola, which is the only defense employed by him to offset the force of the statements freely and voluntarily made by him in the instrument referred to. It is to be noted that Hizola did not deny the legality of this instrument nor the fact of its execution; he merely stated that he did not actually receive from Lee Liong the sum which he therein acknowledges to have received.

It is stated in the judgment that the credit claimed by the plaintiff is derived in part from the transfer made in his favor by Yong Ajiong of the credit of P2,760 which he held against Hizola, and that this transfer was effected by means of the receipt aforementioned, accrediting the payment of the said sum made by Hizola to Yong Ajiong,

through Lee Liong. We are convinced that the obligation contracted by Hizola to pay the said sum to Yong Ajiong lacked consideration, or was founded on a false consideration, due to the erroneous belief entertained by Hizola, on contracting that obligation, that Yong Ajiong was the legitimate heir of Yong Alam, to whom he owed that sum, while such was not the case. And, consequently, if Lee Liong had acquired the credit from Yong Ajiong by transfer, a gratuitous transfer, as is apparently supposed in the judgment, Hizola could perhaps oppose against him the same exception to which he would be entitled against Yong Ajiong himself, founded on the falsity of the consideration of the obligation, because, as the letter's transferee, he would be subrogated in his place for all purposes of law. But, in our opinion, there was no such transfer. What took place was an actual, effective and true payment by Hizola to Yong Ajiong, through Lee Liong or by his mediation. In the receipt for the said payment, issued by Yong Ajiong and herein before cited, it is useless to look for a single word, a single idea, or anything at all which may mean a transfer of Yong Ajiong's credit to Lee Liong. This document is a real receipt, and nothing more than a receipt, of the payment made by Hizola to Yong Ajiong. For this reason, it was presented at the trial merely to prove the payment, and not to prove any transfer whatever of credit from Yong Ajiong to Lee Liong. The latter brought suit, not as the transferee of the former, but by exercising an individual right arising from the loan recorded in the instrument of September 27, 1905, executed in his favor by the defendant Hizola.

It having been proved that the plaintiff actually paid to Hizola the sum of P2,760 for payment to Yong Ajiong, the circumstance of the consideration which had induced Hizola to acknowledge himself a debtor of the latter for the said amount being found to be false, can not in any manner operate to the prejudice of the herein plaintiff, whose right to recover the sum mentioned is founded on the loan made by him to Hizola, and not on the obligation contracted by the latter, without consideration or for a false consideration, in favor of Yong Ajiong. The falsity of the consideration for this last obligation can only affect this obligation itself; it can not affect in any manner, either directly or indirectly, the other obligation contracted by Hizola in favor of the plaintiff; this was based on such a true and lawful consideration as is the positive, real and actual delivery by the plaintiff of the money furnished to Hizola as a loan. Whether the payment made by the latter to Yong Ajiong with this money was improper or not, Ajiong not really being a creditor of Hizola, is a question which should be determined between the two and could, at the most, be a legal ground upon which to demand from Yong Ajiong the restitution of the amount unduly paid. But this does not, nor can it release Hizola from the obligation to pay to the plaintiff the sum which he borrowed from the latter for the purpose of making the said payment to Yong Ajiong. Whatever may be the legal nature of the juridical relation which existed between Ajiong and Hizola, it had nothing to do with that established between Hizola himself and the plaintiff, by virtue of the said loan. This latter relation is entirely distinct and separate from the former and can not, therefore, be affected by the vices, whatever they may be, to which that first relation may be subject.

We reverse the judgment appealed from, in so far as it sentences the defendant Ysidoro Hizola to pay to the plaintiff, Lee Liong, the sum of P1,150 only, and we sentence the said Hizola to pay to the latter the sum of P4,358.50, together with the legal interest due thereon, at the rate of six per cent per annum from the date of the filing of the complaint until actual. an

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

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