

LIM TIU, LIM SUNTIAN AND LIM KAENG JO, OPERATING UNDER THE NAME OF “LIM JUCO Y COMPANIA,” PLAINTIFFS AND APPELLANTS, VS. RUIZ Y REMENTERIA, A CONCERN OPERATING UNDER THE NAME OF...

G.R. No. 5676. March 02, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 16th day of July, 1908, the plaintiffs commenced an action against the defendants in the Court of First Instance of the city of Manila, alleging that upon the 26th day of May, 1908, the 5th day of June, 1908, and the 12th day of June, 1908, they sold to the defendant certain merchandise, amounting to the sum of P1,043.57; that said amount was due and unpaid, and prayed judgment for said sum (P1,043.57) with interest and costs.

To this petition the defendants filed a general denial.

After hearing the evidence, the lower court found as a fact that "the defendants purchased the merchandise in question from Domingo Tim Bun Liu and paid the said Domingo Tim Bun Liu for the merchandise."

The lower court further said: "The conclusions are that the defendants have paid for the merchandise described in the complaint, and that they are not liable for payment for the value thereof," and rendered judgment in favor of the defendants and against the plaintiffs and dismissed said complaint, with costs against the plaintiffs.

From this decision of the lower court the plaintiffs appealed and made the following assignments of error:

First. The lower court erred in holding as follows: "It also clearly appears that the defendants purchased the merchandise in question from Domingo Tim Bun Liu and paid Domingo Tim Bun Liu for the merchandise."

Second. The lower court erred in holding that the plaintiffs never notified the defendants, in any way, that their employee, Domingo Tim Bun Liu, could sell their merchandise, but could not receive payment for it, and that the defendants never had notice that their business transactions with Domingo Tim Bun Liu were by him as agent or employee of the plaintiffs.

Third. The court erred in holding that the plaintiffs accepted payment through Domingo Tim Bun Liu.

Fourth. The court erred in holding that "the defendants having in good faith purchased the goods upon an agreement to pay for them in merchandise of their own, under an agreement with the person from whom they received the goods, to so pay for them, could not be held responsible for the failure of the plaintiffs' employee to deliver to his employers, that which was received in payment."

Fifth. The court erred in admitting as evidence Exhibit D (1), Exhibit D (2), and Exhibit D (3).

Sixth. The court erred in dismissing the plaintiffs' complaint and in deciding in favor of the defendants.

Upon these assignments of error the plaintiffs and appellants present three questions:

First. Did the defendants purchase directly from the plaintiffs?

Second. If not, did the defendants have sufficient notice of Domingo Tim Bun Liu's relations with the plaintiffs to place them on their guard ?

Third. If the last is answered affirmatively, then was the payment by the defendants to Domingo Tim Bun Liu, in something other than cash, binding on the plaintiffs?

With reference to the first question, "Did the defendants purchase directly from the plaintiffs?" there is much conflict in the testimony. The lower court answered this question in the negative. It appears that the defendants had been buying merchandise from Domingo Tim Bun Liu for a period covering several months, and paying for said merchandise by selling to Domingo Tim Bun Liu certain merchandise in exchange, and from time to time settling their accounts by the defendants paying to the said Domingo Tim Bun Liu the difference, if any, in his favor, and by Domingo paying to the defendants the difference of the accounts, if there was found to be due them any balance on such settlements. The defendants claim that they had no knowledge or information that the merchandise which they were receiving from Domingo Tim Bun Liu was the merchandise of the plaintiffs. This contention of the defendants is supported by the fact that during all of the period during which they were doing business with Domingo, their books of account were kept with Domingo Tim Bun Liu, and not with the plaintiffs. The plaintiffs contend that for certain of the merchandise sold by Domingo Tim Bun Liu to the defendants Domingo presented a bill in their favor. In this proof the plaintiffs attempt to establish the fact that the defendants knew that they were dealing with them and not with Domingo Tim Bun Liu.

In answer to this contention, the. defendants contend that the only bill Domingo presented to them for merchandise belonging to the plaintiffs was for the purpose of showing that he, Domingo, was charging the defendants for the merchandise in question the same price which he had been obliged to pay to the plaintiffs.

The fact is not disputed that Domingo Tim Bun Liu purchased all or nearly all of the goods which he sold to the defendants, from the plaintiffs. We think a fair preponderance of the evidence shows that the defendants, in their dealings with Domingo Tim Bun Liu, believed that they were dealing with him and not with the plaintiffs. There is no proof that Domingo ever notified the defendants that he was acting as the agent of the plaintiffs. Neither does the proof show that the plaintiffs ever notified the defendants that Domingo Tim Bun Liu was acting as their agent in selling the merchandise in question. It is not disputed that the defendants have paid to Domingo Tim Bun Liu, in full, for all the merchandise which they purchased of him.

It being established by a preponderance of the evidence that Domingo Tim Bun Liu acted in his own name in selling the merchandise to the defendants, and that the defendants fully believed that they were dealing with the said Domingo Tim Bun Liu, without any knowledge of the fact that he was the agent of the plaintiffs, and having paid him in full for the merchandise purchased, they are not liable to the plaintiffs, for said merchandise, even though it be admitted that Domingo Tim Bun Liu was in fact the agent of the plaintiffs in selling the merchandise in question. This is true whether the transaction is covered by the provisions of the Civil Code (art. 1717) or by the provisions of the Commercial Code (art. 246). Said article 1717 provides:

"When an agent acts in his own name, the principal shall have no action against the persons with whom the agent has contracted, nor the said persons against the principal."

Said article 246 provides that: "When an agent transacts business in his own name, it shall not be necessary for him to state who is the principal, and he shall be directly liable, as if the business were for his own account, to the persons with whom he transacts the same, said persons not having any right of action against the principal, nor the

latter against the former, the liabilities of the principal and the agent to each other always reserved."

(Castle Brothers, Wolf & Sons vs. Go Juno, 7 Phil. Rep., 144; Pastells & Regordosa vs. Hollman & Co., 2 Phil. Rep., 235; 11 Manresa, 470; Munroe vs. Kearney, 17 Ohio, 572.)

Having reached the above conclusions, we deem it unnecessary to further discuss the assignments of error and the questions presented by the appellant.

In view of the foregoing reasons, the judgment of the lower court should be and is hereby affirmed. So ordered.

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

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