

ENRIQUE DELGADO AND CONCEPCION FIGUEROA, PLAINTIFFS AND APPELLEES, VS. AGUSTIN AMENABAR, DEFENDANT AND APPELLANT.

G.R. No. 5693. August 04, 1910

Ponente: TRENT, J.

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TRENT, J.:

This action was instituted in the Court of First Instance of the Province of Occidental Negros to recover from the defendant the sum of P2,261 Philippine currency. Judgment was rendered in favor of the plaintiffs for this amount.

The defendant appealed and now insists:

- That this action was prematurely brought; and,
- That Exhibit A, the document which forms the basis of this action, is null and void for the reason that the internal-revenue stamps are not affixed thereto, as required by section 58 of Act No. 1189.

From the record it appears that for some time prior to the 11th of February, 1908, there had been various transactions carried on between the plaintiffs and the defendant whereby the defendant was indebted to the plaintiffs in various sums for the rent and use of a certain hacienda, the property of the plaintiffs. A settlement was made on the 11th of February, 1908; subsequently, on March 5 of the same year, and growing out of said settlement, the defendant signed an obligation, acknowledging an indebtedness in favor of the plaintiffs in the sum of P2,261. This obligation is as follows:

"I acknowledge to be indebted to Enrique Jesus Delgado and his wife, Concepcion Figueroa, in the sum of P2,261, as the result of the liquidation of accounts had between the undersigned and the said parties, in accordance with paragraph (6), clause 3, of our agreement of compromise executed February eleventh, last, the amount mentioned in the said clause being changed to that which is stated herein.

"Bacolod, March 5, 1908.

(Signed) "AGUSTIN AMENABAR."

The settlement referred to in the foregoing obligation is fully set forth in plaintiffs' Exhibit B, which is a public notarial instrument. In this Exhibit B the defendant expressly agreed to cede to the plaintiffs, in payment of his debt of P12,791.24, all the property, real and personal, described therein. He acknowledged, as appears in this Exhibit B, that he owed the plaintiffs the sum of P2,336.74, being the balance due the said plaintiffs, according to the said settlement, and agreed to execute his note for this amount. Before executing the note, Exhibit A, by agreement of the parties, a certain amount, being the debt of one of the laborers, was deducted from the sum of P2,336.74, leaving a net balance of P2,261.

This obligation, dated March 5, 1908, above set forth, is pure, simple, and unconditional. No date was fixed for its

fulfillment. The defendant has failed to show that it was the intention of the plaintiffs to grant him any extension of time within which to pay this debt. From the language of these two documents, Exhibits A and B, it can not be inferred that such was the intention of the plaintiffs.

The defendant does not deny the execution of this obligation of indebtedness, Exhibit A, neither does he deny the correctness of the amount claimed, nor that he justly owes the plaintiffs the said amount. This obligation was signed on March 5, 1908. Demand having been made after this date upon the defendant for the payment of same, and he having failed to make such payment, the plaintiffs commenced this action on the 23d of November, 1908.

In accordance with the old laws in force in this country prior to the enactment of the present Civil Code, the payment of obligations of this character could have been demanded ten days after they were contracted. Under the provisions of the Civil Code now in force the plaintiffs could have demanded the payment of this obligation at once, inasmuch as it has not been shown, neither can it be inferred from the nature and circumstances of the obligation, that it was the intention of the plaintiffs to grant the defendant an extension of time. (Floriano vs. Delgado, 11 Phil. Rep., 154; art. 1128, Civil Code.)

Section 58 of Act No. 1189 is as follows:

"Any person who willfully fails to affix a stamp or stamps to any document at the time and in the manner required by Article XI of this Act shall be punished by a fine in the sum of two hundred pesos, and the document to which the stamp or stamps should have been affixed shall be void until rendered valid by the affixture of the proper stamp or stamps thereto."

According to paragraphs 1, 2, and 11 of section 116 of said Act No. 1189, it was the duty of the defendant, as maker of this promissory note, Exhibit A, to pay for the stamps and affix the same thereto at the time of the making and signing of the said note. The defendant failed to comply with these provisions of law and he now seeks to take advantage of his own wrong by insisting that this promissory note has no legal value.

It is true that section 58, supra, specifically states that when any person willfully fails to affix the stamps to a document of this character, the same shall be void until rendered valid by the affixture of the proper stamps. The stamps never had been affixed to the note sued upon in this case.

If the note be discarded there is an abundance of testimony in the record to support the judgment. The plaintiff, Enrique Delgado, testified positively during the trial of this cause in the court below, that the defendant is justly indebted to him and his wife in the sum of P2,261. The defendant, as appears from his testimony, admitted having signed both Exhibits A and B, and that the plaintiff, Delgado, never demanded of him the payment of the amount expressed in Exhibit A since the date of the same. By this testimony the defendant himself, in effect, admits that he had not paid this debt.

The judgment is, therefore, affirmed with costs against the appellant. So ordered.

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

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