

CHIU YUCO AND CHIU JUANCO, PLAINTIFFS AND APPELLEES, VS. VICTORIANO PORE, DEFENDANT AND APPELLANT.

G.R. No. 6505. October 24, 1911

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

The purpose of the complaint in this case is to collect from Victoriano Pore P717.72, upon an instrument quoted therein, to which the original is also attached.

According to said instrument, he should have paid the debt within a year from November 16, 1907, the date thereof; but the plaintiff avers that on June 17, 1910, the date of the complaint, he had not done so.

The instrument was executed on November 16, 1907, and ratified before a notary on February 8 [15], 1909, in the following terms:

"In the municipality of Jaro, of the aforesaid province, this fifteenth day of February, one thousand nine hundred and nine, personally appeared before me Victoriano Pore, whom I know to be the person who executed the foregoing instrument, and he ratified it as an act of his own free will. He exhibited to me his cedula No. F705348, issued at Jaro, February 8, of this year. Calixto D. Llames."

The defendant denied each and every one of the allegations of the complaint, and specifically under oath, the authenticity, execution and existence of the instrument.

Evidence was introduced to show that the ratification was not an act performed by the defendant, and that while it is averred that he exhibited his personal cedula with the number and date of issue thereof, and these details appear in the certificate, this was because one of the plaintiffs had secured from the office of the municipal treasurer the number and date of issue of said cedula of the defendant, and could thus enter such data in the certificate, just as if the notary had taken these figures from the cedula itself.

"But, says the trial court, the notary before whom such ratification was made avers that the defendant exhibited his personal cedula.

"In my opinion, - the court continues, - the evidence does not destroy the force of the instrument, Exhibit A, presented by the plaintiffs."

To offset this attestation by the notary, the appellant offers the testimony of his witness, Rodrigo Darantinao, a clerk in the municipal treasury, who says that the Chinaman Yao came to his office to copy the number and date of issue of Victoriano Pore's cedula, without telling him for what purpose, and without being accompanied by Victoriano Pore.

It is not to be inferred from this testimony that Victoriano Pore did not appear in person before the notary for the act of ratification, or that the number and date of issue of the cedula were not obtained from Victoriano himself.

The appellant also objects to the admissions of the plaintiffs and of the notary and to the cedula of Victoriano

Pore for four years, 1906 to 1910. On this point, it merely appears that the plaintiff, Chiu Yuco, said that Victoriano Pore could not write but could sign his name, which, carefully considered, is not an admission nor does it involve a paradox or contradiction.

The notary testifies that, after having informed himself of the contents of the instrument, he translated it into Visaya, then asked Victoriano Pore if he ratified the contents of said instrument and if he had really signed the same, and Pore replied that he ratified and acknowledged having signed the instrument. Appellant alleges that the notary admitted in his testimony that he was not sure whether the defendant was the same Victoriano Pore. That he was not very sure, is what the notary replied, but said that it must be he.

The certificate of recognition which, under existing law, a notary affixes to an instrument, is not the same as was required by Spanish notarial legislation for legalizing a document. Under the latter he had to have personal knowledge beforehand, or prior to the execution, and in the absence thereof, that of two witnesses, which fact was recorded in the instrument, while under existing law he certifies to the knowledge he acquires at the time: "that it is the person who executed the foregoing instrument."

And if in his four cedula, from 1906 to 1910, Victoriano Pore appears to have signed with a mark, it may be so, just as it happened that in the 1906 cedula he appears to be 32 years old and in the 1907 cedula he is then 41 years old; and it might have happened that in these two cedula he stated that he was a merchant and in the later ones a laborer; and so he might have replied to the question, whether he had had any business with the plaintiffs, by saying: "No, sir, I am only a laborer."

The conclusion reached from the evidence by the trial court is therefore correct and free from error.

The judgment is affirmed, with the costs of this instance against the appellant.

Torres, Mapa, Johnson, Carson, Moreland, and Trent, JJ., concur.

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