

LA COMPAÑIA GENERAL DE TABACOS DE FILIPINAS, PLAINTIFF AND APPELLANT, VS. DIABA, DEFENDANT AND APPELLEE.

G.R. No. 6530. October 06, 1911

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 19th of July, 1909, the plaintiff commenced an action against the defendant in the Court of First Instance of the Province of Leyte, for the purpose of recovering the sum of P442, for goods sold and delivered by the plaintiff, through its agent (Gutierrez) to the defendant, between the 11th of January, 1909, and the 1st of April, 1909.

To this complaint the defendant filed a general and special answer. The defendant, in his special answer, admitted that he had purchased from the agent of the plaintiff (Gutierrez) goods, wares, and merchandise, between the 12th of January, 1909, and the 15th of March, 1909, amounting to the sum of P692, and that he had sold to the agent of the plaintiff (Gutierrez) abaca and other effects, between the 25th of January, 1909, and the 6th of February, 1909, amounting to P1,308.80, leaving a balance due him (the defendant) of P616.80.

After hearing the evidence, the Hon. Charles A. Low, judge, found that the plaintiff was indebted to the defendant in the sum of P616.80, and rendered a judgment against the plaintiff for said sum. From that judgment the plaintiff appealed and made several assignments of error in this court.

An examination of the record brought to this court shows by a large preponderance of the evidence that the agent of the plaintiff (Gutierrez) had been selling goods, wares, and merchandise to the defendant, and buying abaca and other agricultural products of the defendant for a period covering more than eight years; that the particular transactions to which the present action related took place between the 11th of January, 1909, and the 1st of April, 1909. The plaintiff attempted to show that it had suspended its agent (Gutierrez), as its agent, and that he (Gutierrez) had no further authority to represent it (the plaintiff). There is no convincing proof in the record that the orders given by the plaintiff to its agent (Gutierrez) had ever been communicated to the defendant. The defendant had a perfect right to believe, until otherwise informed, that the agent of the plaintiff, in his purchase of abaca and other effects, was still representing the plaintiff in said transactions. The plaintiff, during the trial of the cause, placed Gutierrez, its agent, upon the stand as a witness. He testified that the abaca which was purchased of the defendant was purchased by him as agent of the plaintiff and that said abaca was actually delivered to the plaintiff. The plaintiff, it appears, was perfectly willing to ratify the acts of its agent in selling goods to the defendant, but seemed to be unwilling to ratify said agent's acts in purchasing goods from the defendant.

Under all of the facts of record, we see no reason for modifying the judgment of the lower court; the same is, therefore, hereby affirmed with costs.

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

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