

FLORENTINO RALLOS ET AL., PLAINTIFFS AND APPELLEES, VS. TEODORO R. YANGCO, DEFENDANT AND APPELLANT.

G.R. No. 6906. September 27, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Cebu, the Hon. Adolph Wislizenus presiding, in favor of the plaintiffs, in the sum of P1,537.08, with interest at 6 per cent per annum from the month of July, 1909, with costs.

The defendant in this case on the 27th day of November, 1907, sent to the plaintiff Florentino Rallos, among others, the following letter:

"CIRCULAR NO. 1.

"MANILA, November 27, 1907.

"MR. FLORENTINO RALLOS, Cebu.

"Dear Sir: I have the honor to inform you that I have on this date opened in my steamship office at No. 163 Muelle de la Reina, Binondo, Manila, P. I., a shipping and commission department for buying and selling leaf tobacco and other native products, under the following conditions:

"1. When the consignment has been received, the consignor thereof will be credited with a sum not to exceed two-thirds of the value of the goods shipped, which may be made available by acceptance of a draft or written order of the consignor on five to ten days' sight, or by his ordering at his option a bill of goods. In the latter case he must pay a commission of 2 per cent.

"2. No draft or written order will be accepted without previous notice forwarding the consignment of goods to guarantee the same.

"3. Expenses of freight, hauling and everything necessary for duly executing the commission will be charged in the commission.

"4. All advances made under sections (1) and (3) shall bear interest at 10 per cent a year, counting from a month after the making thereof, until liquidated by the sale of the goods shipped or by remittance of the amount thereof.

"5. A commission of 21 per cent will be collected on the amount realized from the sale of the goods shipped.

"6. Payment will be made immediately after collection of the price of the goods shipped.

"7. Orders will be taken for the purchase of general merchandise, ship-stores, cloths, etc., upon remittance of the amount with the commission of 2 per cent on the total value of the goods bought. Expenses of freight, hauling, and everything necessary for properly executing the commission will be charged to the consignor.

"8. The consignor of the goods may not fix upon the consignee a longer period than four months, counting from the date of receipt, for selling the same; with the understanding that after such period the consignee is authorized to make the sale, so as to prevent the advance and cost of storage from amounting to more than the actual value of said goods, as has often happened.

"9. The shipment to the consignors of the goods ordered on account of the amount realized from the sale of the goods consigned and of the goods bought on remittance of the value thereof, under sections (1) and (3), will not be insured against risk by sea and land except on written order of the interested parties.

"10. On all consignments of goods not insured according to the next preceding section, the consignors will bear the risk.

"11. All the foregoing conditions will take effect only after this office has acknowledged the consignor's previous notice.

"12. All other conditions and details will be furnished at the office of the undersigned.

"If you care to favor me with your patronage, my office is at No. 163 Muelle de la Reina, Binondo, Manila, P. L., under the name of "Teodoro R. Yangco. In this connection it gives me great pleasure to introduce to you Mr. Florentino Collantes, upon whom I have conferred public power of attorney before the notary, Mr. Perfecto Salas Rodriguez, dated November 16, 1907, to perform in my name and on my behalf all acts necessary for carrying out my plans, in the belief that through his knowledge and long experience in the business, along with my commercial connections with the merchants of this city and of the provinces, I may hope to secure the most advantageous prices for my patrons. Mr. Collantes will sign by power of attorney, so I beg that you make due note of his signature hereto affixed.

"Very respectfully,

(Sgd.) "T. R, YANGCO.

(Sgd.) "F. COLLANTES."

Accepting this invitation, the plaintiffs proceeded to do a considerable business with the defendant through the said Collantes, as his factor, sending to him as agent for the defendant a good deal of produce to be sold on commission. Later, and in the month of February, 1909, the plaintiffs sent to the said Collantes, as agent for the defendant, 218 bundles of tobacco in the leaf to be sold on commission, as had been other produce previously. The said Collantes received said tobacco and sold it for the sum of P1,744. The charges for such sale were P206.96, leaving in the hands of said Collantes the sum of P1,537.08 belonging to the plaintiffs. This sum was, apparently, converted to his own use by said agent.

It appears, however, that prior to the sending of said tobacco the defendant had severed his relations with Collantes and that the latter was no longer acting as his factor. This fact was not known to the plaintiffs; and it is conceded in the case that no notice of any kind was given by the defendant to the plaintiffs of the termination of the relations between the defendant and his agent. The defendant refused to pay the said sum upon demand of the plaintiffs, placing such refusal upon the ground that at the time the said tobacco was received and sold by Collantes he was acting personally and not as agent of the defendant. This action was brought to recover said sum.

As is seen, the only question for our decision is whether or not the plaintiffs, acting in good faith and without knowledge, having sent produce to sell on commission to the former agent of the defendant, can recover of the defendant under the circumstances above set forth. We are of the opinion that the defendant is liable. Having advertised the fact that Collantes was his agent and having given special notice to the plaintiffs of that fact, and having given them a special invitation to deal with such agent, it was the duty of the defendant on the termination

of the relationship of principal and agent to give due and timely notice thereof to the plaintiffs. Failing to do so, he is responsible to them for whatever goods may have been in good faith and without negligence sent to the agent without knowledge, actual or constructive, of the termination of such relationship.

For these reasons the judgment appealed from is affirmed, without special finding as to costs.

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

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