

PHILIPPINE TRUST COMPANY, PLAINTIFF AND APPELLEE, VS. F. M. YAP TICO & CO., LTD., ET AL., DEFENDANTS. F. M. YAP TICO & CO., LTD., APPELLANT.

G.R. Nos. 29048-29049. October 25, 1928

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

With respect to the defendant F. M. Yap Tico & Co., Ltd., which is the only appellant, these two cases were heard together.

In November and December 1923, the following promissory notes were executed:

"Int. Rev. Stamps affixed P5.00

"P50,000.00

"Three months after date, for value received, we promise to pay to the order of Mr. Enrique Echaus, Manila, P. I., the sum of fifty thousand pesos, Philippine currency.

"Iloilo, Iloilo, November 13, 1923.

"THE VISAYAN GENERAL SUPPLY CO., INC.

"By: (Sgd.) ENRIQUE ECHAUS

"President

"F. M. YAP TICO & CO., LTD.

"By: (Sgd.) YAP SENG

"Pres. & Gen. Manager"

"P25,000.00/100

"Three months after date, by virtue of these presents, we shall pay jointly and severally in Manila to the order of The Visayan General Supply Co., Inc., the sum of twenty-five thousand (P25,000.00/100) pesos only, Philippine currency, value received from same in cash. This note shall bear interest at 9 per cent per annum, and if not satisfied upon maturity, ... per cent on the principal, in addition, to cover judicial costs and expenses, in case of litigation.

"Manila, Dec. 5, 1923.

"F. M. YAP TICO & CO., LTD.

"By: (Sgd.) YAP SENG

"Pres. & Gen. Manager"

"P2.50 worth of doc. stamp affixed.

This note matures on

"No. P25,000.00/100

"Three months after date, by virtue of these presents, we shall pay jointly and severally in Manila to the order of The Visayan General Supply Co., Inc., the sum of twentyfive thousand (P25,000.00/100) pesos only, Philippine currency, value received from same in cash. This note shall bear interest at 9 per cent per annum, and if not satisfied upon maturity, per cent on the principal, in addition, to cover judicial costs and expenses, in case of litigation.

"Manila, Dec. 6, 1923.

"F. M. YAP TICO & CO., LTD.

"By: (Sgd.) YAP SENG

"Pres. & Gen. Manager"

"P2.50 worth of doc. stamp affixed.

This note matures on

Enrique Echaus delivered the first of these three promissory notes to the plaintiff by means of the following endorsement:

"Pay to the order of the Philippine Trust Company. Manila, Jan. 4th, 1924.

"ENRIQUE ECHAUS"

The second note was also delivered by the following endorsement:

"THE VISAYAN GENERAL SUPPLY CO., INC.

"ENRIQUE ECHAUS

"President"

Enrique Echaus, in turn, endorsed it in blank to the plaintiff, with his signature, "ENRIQUE ECHAUS."

The third note was also delivered to the plaintiff with this endorsement:

"THE VISAYAN GENERAL SUPPLY CO., INC.

"ENRIQUE ECHAUS

"President"

Of these three promissory notes, the first two are the subject matter of the two proceedings leading up to the present decision (civil case No. 6721 of the lower court), and the last note is the subject matter of the other proceeding (civil case No. 6720 of the same court).

The plaintiff prays for judgment in its favor in both cases for the amount of these obligations, plus interest thereon.

The defendants the Visayan General Supply Co., Inc., and Enrique Echaus were declared in default and judgments were rendered against them.

The defendant F. M. Yap Tico & Co., Ltd., filed an answer and set up special defenses in both causes.

After joint trial of both proceedings the court rendered judgment against the last named defendant in civil case No. 6720 as follows:

"In consideration of the premises, judgment is hereby rendered in said case No. 6720, in favor of the Philippine Trust Co., and against the defendant F. M. Yap Tico & Co. Ltd., for the sum of P25,000, with interest thereon at 9 per cent per annum from March 6, 1924 until fully paid, and legal interest at 6 per cent per annum on the interest accumulated from the date of the filing of the complaint until the date of the judgment, plus the costs of the action."

And in civil case No. 6721, as follows:

"In view of these facts, judgment is hereby rendered against F. M. Yap Tico & Co., Ltd., jointly with the Visayan General Supply Inc., for the sum of P50,000 with interest thereon at 9 per cent per annum from February 11, 1924 until fully paid, and with legal interest at 6 per cent per annum on the interest accumulated from the date of the filing of the complaint until the date of the judgment. And judgment is hereby rendered against the defendant F. M. Yap Tico & Co., Ltd., for the sum of P25,000, with interest thereon at 9 per cent per annum from March 5, 1924, plus legal interest at 6 per cent per annum on the interest accumulated from the date of the filing of the complaint until the date of the judgment, plus the costs of this action."

F. M. Yap Tico & Co., Ltd., appeals from these judgments, alleging that its president and general manager Yap Seng, signed the promissory notes as an accommodation party without having received any valuable consideration whatsoever, and that neither he nor his corporation is empowered to sign promissory notes as accommodation parties. These points were not proven. Yap Seng's deposition wherewith efforts were made to prove them, was rightly rejected from the evidence by the trial court. Yap Seng is now estopped from denying the validity of the corporate transaction which he executed in the name of the corporation, thereby leading a third person to believe that both he and his corporation had authority to execute it. (14 [A] C. J., 333-334, 372; see *Coleman vs. Hotel de France Co.*, 29 Phil., 323.)

The appellant also alleges that at the time of the endorsements the plaintiff knew that Yap Seng had signed the promissory notes only as an accommodation party. Neither has this point been sufficiently established. All the circumstance of the case, even to the sum total of the promissory notes executed in favor of Echaus, are strongly against the appellant's contention. In the face of the evidence of record, such a contention cannot be considered proven, even taking into account Enrique Echaus's testimony. We find no merit in the first assignment of error.

It appears from the record that the plaintiff received these three promissory notes in the ordinary course of business, paid their value after discounting the 9 per cent interest per annum for three months, demanded payment of the defendants, and that nothing was paid on account, despite the fact that the periods fixed had expired. These are established facts. The inconsistencies attributed to O'Malley's testimony detract no force or efficacy therefrom. The second assignment of error is not proven.

As the appellant has not proven that the promissory notes were signed as a mere accommodation paper, it was incumbent upon said appellant, in order to exhaust its defense, to show that it was not empowered to execute such promissory notes, and this has not been established. The third assignment of error is untenable.

The judgment appealed from is hereby affirmed, with costs against the appellant. So ordered.

Johnson, Street, Malcolm, Ostrand, and Villa-Real, JJ., concur.

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