

**FRANCISCO BALTAZAR IN HIS CAPACITY AS JUDICIAL RECEIVER
OF MABALACAT SUGAR CENTRAL, ET AL., PETITIONERS, VS.
ANDRES LAYUG BT AL., RESPONDENTS.***G.R. Nos. 47646 and 47657. June 10, 1941*

Ponente: MORAN, J.

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On February 9, 1932, one Francisco Baltazar, in his capacity as receiver of the Mabalacat Sugar Central, then in receivership as a result of the foreclosure proceeding instituted against it by Cu Unjieng and sons, brought an action in the Court of First Instance of Pampanga against Geo. C. Sellner for the foreclosure of a chattel mortgage on the standing sugar-cane crop in the "Hacienda Concepcin", corresponding to the agricultural year 1931-1932. A writ of replevin having been issued, the sugar-cane was seized, milled at the Mabalacat Sugar Central and thereafter sold, and the proceeds thereof applied by the receiver in partial payment of the mortgage indebtedness of Geo. C. Sellner. On July 6, 1932, respondents herein, as tenants of the "Hacienda Concepcion," asked leave to intervene and petitioned for the liquidation of their shares and for an order to the receiver to pay them said shares. The trial court, having authorized the intervention and liquidation prayed for, appointed a commissioner to receive evidence on the respective claims of the parties. On June 8, 1938, the commissioner submitted his report and on the basis thereof, which was approved in toto by the trial court, judgment was rendered ordering the Mabalacat Sugar Central and Geo. C. Sellner to pay the respondents the respective amounts specified in said judgment. At the same date, an order was issued fixing the commissioner's fee at P250 and directed that this amount be paid by the parties in equal parts. To both this judgment and order which were affirmed by the Court of Appeals, the Mabalacat Sugar Co. and Geo. C. Sellner jointly interposed the present appeal.

Appellants here contend that it was error for the Court of Appeals to hold that one-half of the sugar-cane crop in the "Hacienda Concepcion" pertains to the respondents and that the levy thereof in satisfaction of Sellner's mortgage indebtedness to the Central was illegal. The following stipulation of the parties bears out this finding:

"That Geo. C. Sellner was the lessee of the 'Hacienda Concepcion'; that claimants named herein were his tenants entitled to one-half of the proceeds of the crop individually raised and harvested by each of them."

To argue that the proceeds of the crop is different from the crop itself is to quibble about distinction that serves only to confuse the ends of justice.

It is also contended that it was error for the Court of Appeals to find that the receiver, at the time of the execution of the mortgage, had knowledge that one-half of the sugar-cane crop in question pertains to the respondents. This is a question of fact which we cannot review. And besides the supposed error is immaterial. Whether the receiver had or had no such knowledge, the fact remains that one-half of the sugar-cane crop in question belonged to the respondents, and could not be disposed of by Sellner in favor of the receiver.

The receiver also maintained that, as mortgagee, he has a right to the sugar-cane crop superior to that claimed by the respondents. Logically and legally, we cannot indulge in a comparison of rights to determine which is superior

over the other, where one of such rights does not exist. In the instant case, under the circumstances heretofore shown, the receiver has absolutely no right to one-half of the sugar-cane crop which pertains to the respondents. Sellner cannot lawfully mortgage such half and the receiver cannot as lawfully levy on them in satisfaction of Sellner's indebtedness alone.

Appellants lastly contend that it was error for the trial court to have allowed the intervention of the respondents. As to Sellner, his acquiescence, in open court, to respondents' petition places him in estoppel to raise this question. Moreover, the respondents have legal interest in one-half of the sugar-cane crop in litigation and, therefore, they are entitled to intervene under section 121 of Act No. 190.

The other error assigned by appellants refers to findings of facts which we cannot review.

Judgment is affirmed, with costs against petitioners.

Avancena, C. J., Diaz, Laurel, and Horrilleno, JJ., concur.

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