

44 Phil. 369

[G.R. No. 19439. January 17, 1923]

PERFECTA POBLETE, PLAINTIFF AND APPELLEE, VS. LO SINGCO, RUPERTO CARREON AND FABIANO BENIPAYO, DEFENDANTS AND APPELLANTS.

D E C I S I O N

STREET, J.:

By the amended complaint in this action, the plaintiff, Doña Perfecta Poblete, widow and resident of Tabaco, Albay, seeks to recover a sum of money of the defendant Lo Singco, as principal, and of his two codefendants, Ruperto Carreon and Fabiano Benipayo, as joint and solidary sureties. At the hearing in the Court of First Instance of the Province of Albay judgment was rendered in favor of the plaintiff to recover jointly and severally of all three defendants the sum of P15,000, with lawful interest on P5,000 from March 14, 1919, and on the remainder from November 13, 1920. Upon this the defendants took steps to bring the case by appeal to this court, but only the two sureties have assigned error to the judgment.

It appears that in September of the year 1918, the plaintiff was the owner of certain lands in the municipalities of Malinao and Tabaco, of the Province of Albay, which contained valuable plantings of hemp then about ready to be cut. In the latter part of said month the defendant Lo Singco, a resident of Polangui, Albay, presented himself to the plaintiff and indicated a desire to cut and remove such of the hemp as was then in a fit state for stripping, under a form of agreement commonly known in that region as the *pujanza*, which involves a letting of the land by the owner to a lessee-purchaser for the purpose of a single stripping.

In response to this suggestion, the plaintiff informed Lo Singco that the price would be P20,000, payable in part upon the making of the contract and the

balance on time, with adequate security for the deferred payments. Lo Singco indicated his conformity with these terms and went away to find the necessary sureties. Individuals suited to this purpose were found in the defendants Ruperto Carreon and Fabiano Benipayo; and with a view to effecting the object desired, a document was on September 30, 1918, executed before a notary public in Polangui, Albay, by these three.

This document (Exhibit B) starts out with a recital of the fact that Lo Singco had made a contract, commonly known as the *pujanza*, with Doña Poblete, of Tabaco, for the taking of the hemp on certain lands owned by her in the province, at the price of P20,000 for the stripping. The document then continues as follows:

“Therefore, we, the Chinaman Lo Singco as principal, Ruperto Carreon and Fabiano Benipayo as sureties of the Chinaman Lo Singco bind ourselves in the amount of fifteen thousand pesos, Philippine currency, the same to be paid in conformity with the terms of the contract, to wit: the Chinaman Lo Singco will pay Mrs. Pitang Poblete as follows: P5,000 at the delivery of this document; P5,000 three months after this first payment and P10,000, Philippine currency, six months after this second installment is completely paid to the said owner, Mrs. Pitang Poblete, her executors and assigns. The conditions of this obligation are such that if the said Chinaman, Lo Singco fails to comply with his obligation under his contract of lease (*pujanza*), we, the undersigned sureties, without excluding the principal, Lo Singco, from this contract of suretyship, faithfully bind ourselves, our heirs and successors, jointly and severally to pay the amount guaranteed by this contract of suretyship. And if the contracting party, Lo Singco, fulfills the obligation contracted by him, then and in that event this obligation shall be null and void, otherwise it shall remain in full force and effect.” (Exhibit B.)

Armed with this paper, Lo Singco presented himself again to the plaintiff; and on October 4, 1918, the contract for the letting of the hemp lands to Lo Singco was reduced to form and duly signed by both parties (Exhibit A). At the same time the contract of suretyship, or guaranty, was delivered to the plaintiff, and Lo Singco made the first payment of P5,000, as stipulated. Lo

Singco then proceeded to strip the lands of the plantings of hemp, but he has made no further payment upon account of his obligations to the plaintiff, and this action against him and his sureties has resulted.

The defense interposed in behalf of the two sureties—the present appellants—is based on two grounds. The first is that the plaintiff is not a party to the document of suretyship (Exhibit B), and it is therefore supposed that she cannot maintain an action thereon. The second is that the supposed contract of suretyship is a nullity because of certain discrepancies between the terms stated in the document of suretyship (Exhibit B) and the contract of lease (*pujanza*), to which it is appurtenant. These objections to the maintenance of the action will be considered in turn.

The answer to the contention that the plaintiff cannot maintain an action against the sureties on the Exhibit B is to be found, we think, in the consideration that this document was undoubtedly intended to create a legal obligation upon delivery to the plaintiff; and there is nobody else who could possibly maintain an action to enforce the engagements expressed therein except the plaintiff. It is undoubtedly a general rule that a contract is binding only upon the parties who execute them and their heirs (art. 1257, Civil Code); but the same article which announces this doctrine creates an exception in the case of stipulations in favor of a third person who gives notice of acceptance before revocation of the stipulation. In the case before us the plaintiff accepted this contract of suretyship, and upon the faith of it allowed another person to strip her lands of valuable plantings of hemp. There was no revocation of the offer before it was accepted, nor, so far as appears, at any time before demand was made upon the sureties for the fulfillment thereof. Under these circumstances notification of acceptance, other than such as is involved in the making of demand, was unnecessary. We are accordingly of the opinion that the contract of suretyship is obligatory upon the appellants, and that the plaintiff, having accepted and acted upon the faith of the same, can maintain an action thereon against them.

With respect to the discrepancies between the contract of suretyship (Exhibit B) and the contract for the letting of the land (Exhibit A), we note that the first is expressed in more general terms than the latter. For instance, Exhibit A contains a provision not found in Exhibit B to the effect that the cutting of

the hemp shall be so conducted that no plant shall be cut unless it is more than 1 meter high, and it is further stipulated that the purchaser shall pay 50 centavos for each immature plant that is taken or destroyed.

In the document Exhibit B the land supposed to be the subject of the contract of *pujanza* is described as three parcels of hemp land; while in Exhibit A the lands which are the subject of the contract are described as consisting of four parcels. The largest of the parcels described in the two contracts is identified by the circumstance that it has a circumference of about three thousand *brazas*. The other two parcels spoken of in Exhibit B are not particularly described but are said to be all within the municipality of Tabaco. In the Exhibit A, where the three additional parcels are specially described, they are all placed in the adjoining municipality of Malinao. It appears, however, from the testimony that all of the parcels referred to in Exhibit B were delivered to Lo Singco, and the only possible difference between the two contracts with reference to the land referred to therein is that somewhat more land passes to Lo Singco under the contract Exhibit A than is called for in the Exhibit B; and it is evident that there is a mere mistake of description in Exhibit B in the part where two of the parcels in question are supposed to be in Tabaco.

Again, another discrepancy between the two documents is that, if regard is had to Exhibit A, the last installment of the purchase price, consisting of P10,000, should be paid on the last day of March, 1919; while according to the contract Exhibit B, said installment of the purchase price is said to be payable at the end of June of the same year.

We are of the opinion that none, or all of these discrepancies, affect the validity of the contract of suretyship. So far as they are material, the terms of the contract of suretyship fall short of the requirements of the principal contract. In other words, the contract of suretyship is more favorable to the sureties than the principal contract is to the principal debtor.

Now, it is well recognized that sureties may bind themselves to obligations distinct from those to which their principal is liable; and it is expressly declared in article 1140 of the Civil Code that solidarity may exist even though the creditors and debtors are not bound in the same manner or upon the same

terms and conditions. The only restriction upon this proposition is found in the rule that the obligation of the surety cannot be greater than that of the principal, either as to the amount or as to the burdensome character of the conditions. Such is the express provision of article 1826; and even to that proposition the authors of the Code hasten to add that if the surety binds himself for more than the principal is bound, his liability shall be reduced to the limits of that of the principal debtor. The thing to be noted here is that lack of coincidence between the obligations assumed by the principal and the sureties does not render the obligations of the latter invalid.

For the reasons stated, we are of the opinion that no error was committed by the trial judge in giving judgment against the appellants in conformity with the obligations assumed by them as sureties for the defendant Lo Singco. The judgment will therefore be affirmed, with costs. So ordered.

Araullo,
C.J., Malcolm, Avanceña, Villamor, Ostrand, Johns, and Romualdez,
JJ., concur.
