

FIRST DIVISION

[G.R. No. 74729, May 31, 2000]

**RELIANCE COMMODITIES, INC. AND THE PROVINCIAL SHERIFF
OF NUEVA ECIJA, PETITIONERS, VS. INTERMEDIATE APPELLATE
COURT, MARVIN PAEZ AND ROSA VALINO, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The case before the Court is an appeal from a decision of the Intermediate Appellate Court, the dispositive portion of which reads:

"WHEREFORE, the decision appealed from is hereby set aside and another one entered, declaring both the "Deed of First Real Estate Mortgage" (Exhibit F) and the "Addendum to Operating Agreement" (Exhibit A) null and void, and ordering defendant Reliance Commodities, Inc. to pay the plaintiffs the amount of P20,000.00 for unrealized profits in the amount of P3,500.00 as attorney's fees. The restraining order issued in this case is hereby made permanent.

"Cost against the defendant Reliance Commodities, Inc.

"SO ORDERED."^[1]

The facts, as found by the Intermediate Appellate Court, are as follows:

"x x x on April 19, 1972, plaintiff Marvin Paez entered into contract with Samuel Chuason, president and general manager of defendant Reliance Commodities, Inc. whereby the latter agreed to provide the former with funds and equipment for the operation of the manganese mining claims of Daniel Garde located in Malinas, Gabaldon, Nueva Ecija. (Exhibit I, RTC Record, p. 199). On June 1, 1972, Samuel Chuason and Marvin Paez entered into another agreement called "Addendum to Operating Agreement" (Exhibit A, Folder of Exhibits, p. 1), the pertinent provisions of which are as follows:

"(1) PAEZ shall segregate the Manganese Ores into two (2) classes:

"Pursuant to this agreement and upon the suggestion of plaintiff Marvin Paez, defendant Reliance Commodities, Inc. gave a cash advance of P8,300.00 (Exhibit B, Ibid., p. 5). With this amount, plaintiff Marvin Paez hired laborers and purchased the necessary tools, supplies and foodstuff. With the bulldozer, dump truck and cobra drill supplied by defendant Reliance Commodities, Inc. the mining operation in the mountains of Gabaldon, Nueva Ecija started on July 1, 1972 (t.s.n. August 27, 1976, pp. 9-10).

"On July 28, 1972, plaintiffs Marvin Paez and his wife Rosa Valino executed a deed of first real estate mortgage on their property (Exhibit F, Folder of Exhibits, p. 9) in

favor of defendant Reliance Commodities, Inc. as security for more cash advances needed to sustain the mining operation.

"On the basis of this mortgage agreement, defendant Reliance Commodities, Inc. made several cash advances to plaintiff Marvin Paez (Exhibits 6, 7, 8 and 9, RTC Record, pp. 203, 204, 206, 208) amounting to P25,030.00. Subsequently, a difference arose between plaintiff Marvin Paez and defendant company concerning cash advances. Defendant Reliance Commodities, Inc. demanded the return of the bulldozer, the dump truck and the cobra drill. Marvin Paez' laborers refused to release the equipment, for the reason that they had not been paid their wages. Defendant Reliance Commodities, Inc. thereupon gave plaintiff Marvin Paez the amount of P800.00 on November 24, 1972 for the laborers' salaries (Exhibit C, Folder of Exhibits, p. 6). Later, defendant Reliance Commodities, Inc. foreclosed extrajudicially the mortgage executed by plaintiffs in its favor. Consequently, the provincial sheriff of Nueva Ecija served notice on plaintiff Marvin Paez that the mortgaged property would be sold at public auction on June 4, 1974.

"Plaintiff Marvin Paez with his wife as co-plaintiff filed the present action in the court below (Court of First Instance of Nueva Ecija) on May 29, 1974, praying for: 1) a writ of preliminary injunction to enjoin the provincial sheriff from proceeding with the auction sale, 2) an order annulling the Deed of First Real Estate Mortgage (Exhibit F, Ibid., p. 9) and the Addendum (Exhibit A, Ibid., p. 1), and 3) a directive requiring the defendant Reliance Commodities to make further cash advances to plaintiffs in the amount of P75,000.00 plus moral damages, attorney's fees and costs."^[2]

In the answer filed on July 8, 1974, defendants claimed that the violation of the contracts came from the plaintiffs because they failed to deliver at all the manganese ores stipulated in the contract according to the schedule outlined. Hence, plaintiffs were not entitled to rescind the contracts or recover damages and by reason of which defendant was entitled to foreclose on the security constituted.^[3]

After due trial, on May 30, 1974, the trial court rendered a decision in favor of defendants, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of defendant Reliance Commodities, Inc. and against the plaintiffs-spouses Marvin Paez and Rosa Valino, as follows:

"(1) Ordering the dismissal of the complaint filed by said plaintiffs in this case, for lack of merit; and

"(2) On the counterclaims of said defendant Reliance:

"(a) Ordering the said plaintiffs jointly and severally, to pay unto the defendant Reliance Commodities, Inc. the sum of P41,130.00, representing the cash advances they received from the said company, with interest thereon at the rate of 12% per annum from the dates of receipt of said advances until the same are fully paid;

"(b) Ordering the said plaintiffs, jointly and severally, to pay unto the defendant Reliance Commodities, Inc. the sum of P5,000.00 as and for attorney's fees;