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Negotiable Instruments

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a hiring hall system all of the longshoremen were entitled to a proportionate share of the work done on the waterfront. Thus the longshoremen were directly involved in any labor dispute which involved the various employers of the Seattle waterfront. The waterfront was, in fact, one "establishment" within the meaning of the act. This view of the court was buttressed by evidence which indicated that the longshoremen respected the foremen's picket lines. Thus the loss of work was not caused by indirect effects of a labor dispute—as where a strike would close an important supplier or consumer—but from the direct effects of the dispute at the very places where the longshoremen were employed.

NEGOTIABLE INSTRUMENTS

Negotiable Instruments—Promissory Note Secured By Chattel Mortgage. In *Robertson v. Club Ephrata*, 48 Wn.2d 285, 293 P.2d 752 (1956), the Washington Court has taken the position that in an action on a promissory note between the original parties to the note, or parties to the original transaction, the addition of a word denoting that the signer of a negotiable instrument signed as an agent of an undisclosed principal is sufficient to create an ambiguity. This ambiguity may then be explained by parol evidence. Once parol evidence has been received a prima facie case is established against the principal and a prima facie case is not established against the agent signer of the note. The court also confirmed previous holdings that when a promissory note is executed, and at the same time a chattel mortgage is given to secure the note, both the note and the mortgage are parts of a single transaction. *Wilson v. Kirchan*, 143 Wash. 342, 255 Pac. 368 (1927); *United States Savings & Loan Co. v. Cade*, 15 Wash. 38, 45 Pac. 656 (1896); *Bell v. Engvoldsen*, 64 Wash. 33, 116 Pac. 456 (1911); *Lovell v. Musselman*, 81 Wash. 477, 142 Pac. 1143 (1914); *Rockwell v. Thompson*, 124 Wash. 176, 213 Pac. 922 (1923).

The plaintiff, as executrix of the estate of H. H. Robertson, instituted this action for judgment on a promissory note and foreclosure of a chattel mortgage given to secure the note. The complaint names as defendants: Club Ephrata; J. G. Dungan, president; F. R. Ahlquist, secretary-treasurer; and F. R. Dungan.

The promissory note in question was made payable to F. R. Dungan or order and was signed as follows:

J. G. Dungan, President
F. R. Ahlquist, Secretary-Treasurer

The note did not indentify a corporate maker. The endorsement of the note, which was made about two years after the execution of the note, made reference to the Club Ephrata. In the chattel mortgage it was stated that the mortgage was given to secure the note, and Club Ephrata, Inc. was designated as the mortgagor and Frank R. Dungan as the mortgagee. The mortgage is signed as follows:

Club Ephrata, Inc.
J. G. Dungan, President
F. R. Ahlquist, Secretary

By a separate instrument this mortgage was assigned to H. H. Robertson. It was agreed between the parties that H. H. Robertson was the owner of the obligation and that F. R. Dungan, the named payee, held in trust for H. H. Robertson.

In rendering the decision the court stated that since the plaintiff had knowledge of all the facts and had participated in the entire transaction, this action would be considered as if between the original parties.

To overcome the statutory restriction imposed by RCW 62.01.020, the last part of which states

. . . the mere addition of words describing him (the signer) as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability. . .

the court reasoned that the note and the mortgage were parts of "a single contract" and that addition of the words president and secretary-treasurer to the signatures of Dungan and Ahlquist were sufficient to create an ambiguity. The existence of this ambiguity permitted the introduction of parol evidence to explain the true intention of the parties. The court found that the true intention of the parties was to hold the corporation liable on the note and not the individual signers.

The court's discussion resulted in a decision that a prima facie case had not been established against J. G. Dungan and F. R. Ahlquist since they had signed as agents of the corporation. Since F. R. Dungan held the note for the benefit of H. H. Robertson no prima facie case was established against him. A prima facie case was established against Club Ephrata.

Negotiable Instruments—Conditional Delivery. In *Meyer v. Armstrong*, 149 Wash. Dec. 571, 304 P.2d 710 (1956), Fred P. Meyers, the deceased husband of the plaintiff, had conducted a mining business as a joint enterprise with the defendant. The mine was held in the defendant's name although Meyer supplied most of the financial backing for the enterprise. Because of his capital contributions Meyer desired to obtain a written record to substantiate his interest in the mine in the event of the death of one of the parties to the enterprise. For the purpose of supplying this record, the defendant executed a promissory note upon a printed form obtained from the Seattle First National Bank. The note was a standard promissory note, payable on demand, negotiable in form and recited "for value received." The defendant delivered the note to Meyer subject to the oral agreement that a demand would not be made nor would the note be payable unless and until the mine produced an income or was sold, thus providing the funds necessary to pay the note. Meyer died after receipt of the note and his surviving spouse brought this suit to collect on it.

The court held that the oral agreement qualified the absolute obligation of the instrument by making it payable only out of proceeds derived from the mine, thus making it inconsistent with and contradictory to the form of the note. Rather than constituting a conditional delivery, the court held that this was a "pre-agreed modification of a subsequently executed instrument." This oral modification agreement, in the opinion of the court, fell under the ban of the parol evidence rule and was not admissible. The court therefore gave judgment for the plaintiff.

Although the parties to this action stand in the same light as the parties to the original transaction, the court would not allow an oral agreement between the parties to be admitted into evidence. It is apparent that the intention of the parties was to make a conditional delivery of the instrument and their verbal agreement to obtain this result does not seem ambiguous. The decision of the court raises the question as to whether it is possible to make a conditional delivery without actually embodying the conditions in the writing of the note.

The reasons for the court's determination that this agreement was a "pre-agreed modification of a subsequently executed agreement" were not clearly stated. (emphasis supplied) The facts presented in the opinion indicate that the agreement and the instrument were executed simultaneously as one single transaction.