

AMERICAN TRUST & SAV. BANK V. MARTINEZ, 1920-NMSC-067, 26 N.M. 370, 194 P. 605 (S. Ct. 1920)

**AMERICAN TRUST & SAVINGS BANK
vs.
MARTINEZ**

No. 2396

SUPREME COURT OF NEW MEXICO

1920-NMSC-067, 26 N.M. 370, 194 P. 605

September 02, 1920

Appeal from District Court, Bernalillo County; Hickey, Judge.

Action by the American Trust & Savings Bank against Salome Martinez. Judgment for plaintiff, and defendant appeals.

SYLLABUS

SYLLABUS BY THE COURT

Sections 939 and 940, Code 1915, interpreted, and **held** not to prohibit a corporation from taking a promissory note upon a subscription contract for its capital stock, and that such note is valid and binding upon the maker.

COUNSEL

Rodey & Rodey, of Albuquerque, for appellant.

Marron & Wood, of Albuquerque, for appellee.

JUDGES

Parker, C. J. Roberts and Reynolds, J.J., concur.

AUTHOR: PARKER

OPINION

{1} OPINION OF THE COURT. This is an action upon a promissory note given for the purchase of shares of the capital stock in a corporation. It does not appear clearly from the findings of the court below whether this note was given upon a subscription contract

for the shares of the corporation, or whether the stock was purchased from a private individual, unconnected with the corporation. It does appear, however, from the answer of the appellant that the note was claimed to have been given upon a subscription contract for shares in the corporation, and it will be assumed that such was the case. The objection to the judgment upon the note is founded upon the same proposition as that discussed in *Stockmen's Guaranty Loan Co. v. Severo Sanchez*, 26 N.M. 499, 194 P. 603, in which an opinion has just been handed down.

{2} For the reasons given in that opinion, the judgment of the lower court was correct, and should be affirmed; and it is so ordered.