

34 Phil. 371

[G.R. No. 9919. March 24, 1916]

**ELISA TORRES DE VILLANUEVA, APPLICANT AND APPELLANT, VS. THE
STANDARD OIL COMPANY OF NEW YORK ET AL., OBJECTORS AND APPELLEES.**

D E C I S I O N

ARELLANO, C.J.:

Elisa Torres de Villanueva applied to the Court of Land Registration for the registration of two parcels of land; one situated in the barrio of Santa Rita of the municipality of Batangas, Batangas, contiguous on the north with the land of Damiana Baliuag and Ramon Genato; on the east, with that of the said Genato, a creek without name and the land of Juliana Macatangay; on the south, with the provincial road leading to Bauan; and on the west, with the lands of Leoncio Hernandez, Catalino Bizcocho, Vicente Faraon, and Ramon Genato; the other parcel, situated in the same town of Batangas, contiguous on the north with Callejon M. Salvador; on the east, with Calle P. Prieto; on the south, with Callejon M. Natividad and the land of Lino Endaya; and on the west, with the land of the said Endaya and that of Leocadio Arceo. The first parcel contains 141,932 square meters, and the second, 1,174 square meters. This application for registration was opposed by John T. Macleod, as guardian of the property of the incompetent Vicente S. Villanueva, applicant's husband, and by The Standard Oil Company, as Villanueva's creditor, possessing an executory judgment in its favor. These objectors aver that the property described in the application belongs to Villanueva.

The Court of Land Registration decreed the registration on October 11, 1913; but as a new trial was requested it was granted and, after the rehearing, by a judgment of January 17, 1914, the application was denied. The applicant thereupon appealed and is entitled to have the evidence reviewed.

The facts are the following: On July 6, 1875, Vicente S. Villanueva executed in behalf of his future wife, Elisa Torres, a public instrument in which he promised—"to said Elisa

Torres, his future wife, *en arras* and as a gift *propter nuptias* 2,000 pesos, which sum he acknowledges is comprised within the tenth part of the unencumbered property he now holds and, if it is not therein contained, he assigns that amount out of the property belonging to his mother Dona Josefa del Rosario who has consented to this assignment and in witness thereof has signed this instrument or, at her (Elisa Torres') option, out of such property as he may in future acquire in order that she (Torres) may enjoy the privilege conferred by this kind of gift or of whichever one may be more favorable and useful to her, should the marriage to which she has agreed take place, she being faithful to him during the same, but on no other condition, etc."

Villanueva's mother, Josefa del Rosario, did in fact sign this instrument together with him (Exhibit E).

On July 17, 1875, Villanueva and Torres were married to each other, and on October 3, 1877, the former received his share of his father's estate. Said share was worth 6,370 pesos 7 *reales* and 8 *cuartos*, and included the Santa Rita land in the municipality of Batangas, the first parcel mentioned in the application in the present case (Exhibit C). On March 24, 1884, Villanueva obtained title by composition with the state for this land in the barrio of Santa Rita (Exhibit D).

On October 15, 1894, Villanueva executed an instrument on stamped paper of the period from 1894 to 1896 of the following tenor:

"That, by virtue of the gift *propter nuptias* by me executed on March 6, 1875, in behalf of my wife, D.a Elisa Torres, a Peninsular Spaniard, a native of Madrid and a resident of this provincial capital, and I being in lawful possession of certain lands inherited from my deceased parents, D. Gregorio Villanueva and D.a Josefa Rosario; and having no money at present wherewith to pay said debt of two thousand pesos in cash, which is the amount of said gift, I have determined to grant and convey to my said wife, D.a Elisa Torres, the ownership and full control of a parcel of agricultural land situated in the barrio of Santa Rita within the limits of this provincial capital (here follows a description of the land). I also cede to my said wife, on account of my said debt, a building lot situated in this town, the area and boundaries of which are shown in its title deeds and on which our dwelling house stands, etc." (Exhibit F.)

Together with these documents the application for registration was filed. The trial court, weighing the probatory value of the last document (Exhibit F), said that it had been proven beyond doubt, at the hearing, that said instrument was authentic and bore the signature of Vicente S. Villanueva, written therein on the same date the instrument was executed; that the private instrument (Exhibit F) was not one of a gift between husband and wife, but was a conveyance of land in behalf of the applicant, Elisa Torres, by her husband in satisfaction and fulfillment of a contract, *propter nuptias*, and, in the opinion of the court, was valid. The court proceeded to cite articles 1327 to 1333 of the Civil Code in support of his opinion. The oppositions were therefore overruled.

Said court reiterates these same considerations in his last judgment, now on appeal; but he took into account article 1458 of the Civil Code and the fact that said two parcels of land, the subject matter of the application, had been attached by the objector, The Standard Oil Company; hence the oppositions were finally sustained, the court saying, however, that "although she was for many years in possession of the lands in question, the court cannot rule that with respect to her husband she held them adversely, in a public and notorious manner and in face of all the world."

But there is no proof whatever that the two parcels of land, the subject matter of the application, were attached by The Standard Oil Company, nor by any person whomsoever. The only evidence on this point to be found in the record is a writ of execution in behalf of The Standard Oil Company for the sum of P1,521.25, issued on February 15, 1910, but there is no evidence to show that this writ was carried into effect by the levy upon any real or personal property belonging to Vicente S. Villanueva by the sheriff. Exactly the contrary appears in the record of case No. 8642 recently decided by us (Standard Oil Co. of New York vs. Babasa, ante, p. 354), to wit, that the two parcels of land in the present proceedings were not attached because the judgment creditor was unwilling to give bond. Though it is not shown that this writ was executed, it is enough to consider that there is no proof that the lands were attached, for a writ of execution issued for the purpose of attaching property is not proof that any given property was in fact attached.

Other evidence presented as proof is the right claimed by John T. Macleod (as "special guardian of the incompetent Vicente S. Villanueva for the special purpose of selling any property which he might be able to find belonging to said Villanueva in order to pay the latter's debts and obligations") to sell the two parcels of land now in question and announce their sale, a claim which was opposed by the applicant; but it does not follow from this fact that these lands have been attached, or that in any manner they have become so liable

for any obligation on the part of Vicente S. Villanueva that they may be sold. J. T. Macleod's claim was filed in the proceedings for the appointment of a guardian for Vicente S. Villanueva, not in any action to oppose the ownership of the two parcels of land, a matter which is only now brought into question.

So that the idea of said two parcels of land being attached is erroneous.

Neither can the judgment appealed from find support in the provisions of article 1458 of the Civil Code, which prohibit the husband and the wife reciprocally from selling property to each other, except in cases where a separation of their property has been agreed upon, or where a judicial separation of the said property has been decreed. Pursuant to the first of the transient provisions of the Civil Code, "Rights arising under the legislation preceding this code shall be governed by said preceding legislation, even when this code regulates them in another manner or does not recognize the same."

The pledge (*arras*) or nuptial gift offered, and subsequently fulfilled or made by Vicente S. Villanueva to his future wife, does not come within the scope of the Civil Code which was not then (in 1875) in force, but is governed by the laws in force at that time. Escriche defines the word *arras* as: "That which is given as a sign of betrothal and in pledge of the future marriage," or, as said in Law I, Title 11, of the Fourth Partida: "Pledge that is given between parties that the promised marriage will take place." "Among ourselves," he continues, "the husband may give a pledge (*arras*) to the wife and also the wife to the husband or it may be given by their parents in guaranty of the projected marriage, as may be seen by Law 84, Title 18, of the Third Partida, and Law 1, Title 11, of the Fourth Partida. The pledge (*arras*) may consist of money, or of real or personal property. (Law 84, Title 18, Third Partida, supra). The *arras* must be really and actually delivered because it is a sort of contract of pledge, as 'a pledge given' etc., according to Law 1, Title 11, of the Fourth Partida. This gift or promise may be made before or after the celebration of the marriage, for it is not a simple gift, but a gift *propter nuptias*, as declared by Antonio Gomez (in Law 50 of Toro, No. 12) and Covarrubias (part 2, On Marriage, Chapter 3, par. 7, No. 14), and this distinction is observed in practice. The amount of the pledge (*arras*) cannot exceed one-tenth of the present or future unencumbered property of the husband who gives or promises the pledge (Laws 1 and 2, Title 2, Book 3, of the Fuero Real, and Law 50 of Toro, which is Law 1, Title 3, Book 10, of the *Novlsima Recopilacion*). The excess may be claimed by the donor or his heirs according to said Law 1, Title 2, Book 3, of the Fuero Real."

Gutierrez y Fernandez, the renowned author of the work on Codes or Fundamental Studies on Spanish Civil Law which were taught for so many years in the Santo Tomas University, says:

“As the preceding law speaks of delivered pledges (*arras*) Law 2 (of Title 11 of the Fourth *Partida*, above-mentioned) deals with promised pledges. ‘If anyone should be so poor at the time of his marriage as not to have anything wherewith to give an *arras*, and should promise to give it from what he might afterwards earn, we order that whenever she (the wife) shall demand of her husband that he deliver the pledge that he promised he shall deliver it to her, provided that he shall not give her more than one-tenth of what he may have at the time the pledge is demanded of him.’ If the husband (he continues) proffers a certain amount as a pledge, with the statement that it is contained in his present property or, when not so contained, if he assigns such amount out of the property he may acquire in the future, the offer is valid, provided that the sum pledged does not exceed one-tenth of his property * * * if the law is strictly complied with, no difficulties will arise: * * * what is given or offered, whether taken from the owner’s present property or whether from that which may be acquired up to the day of the delivery, must not exceed one-tenth of such property.”

What was effected in 1894 by means of the document executed on stamped paper, in accordance with Law 84, Title 18, of the Third *Partida*, is not therefore, a simple gift, but a gift *propter nuptias*; it was not a sale made by the husband to the wife, but was the fulfillment of the pledge promised in 1875, all in conformity with the laws in force, but the provisions of the Civil Code in no wise apply thereto. Therefore, neither in 1875, nor in 1894, could the husband and wife have intended to defraud any creditor, for the record does not show that they then had any creditor. The judgment appealed from is reversed, without special finding as to coats. The registration applied for shall be made. So ordered.

Torres, Moreland, and Araullo, JJ. concur.

Trent, J., reserved his vote.

Date created: October 08, 2014