

43 Phil. 149

[ G. R. No. 15950. March 09, 1922 ]

**CARLOS PALANCA, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS ET AL., OPPONENTS. IRENE MOJICA, CONSUELO MOJICA, AND ROMAN SANTOS, APPELLANTS.**

## **D E C I S I O N**

### **AVANCEÑA, J.:**

Carlos Palanca is the applicant for the registration of the parcel of land marked lot No. 2 described in the plan accompanying his application. Roman Santos opposes the registration of the eastern portion of this lot which is more fully described in his written opposition. The trial court dismissed the opposition and ordered the registration of the entire lot No. 2 in favor of the applicant.

Lot No. 2 together with lot No. 1, which is the subject of another proceeding, form one piece of land, lot No. 1 being located within the Province of Pampanga and lot No. 2 in the Province of Bulacan.

On October 31, 1917, the sisters Irene Mojica and Consuelo Mojica sold the *hacienda* composed of these two lots to Felipe Buencamino Suntay and in December of the same year said Suntay sold the same lands to Carlos Palanca. In the description of this *hacienda* in the document of sale to Suntay the portion claimed by Roman Santos appears to have been excluded. In January, 1918, Irene and Consuelo Mojica sold to the opponent Roman Santos the said portion that had been excluded. The deeds of sale of Felipe Buencamino Suntay (Exhibit C) and of the applicant Carlos Palanca (Exhibit B) were recorded in the registry on January 26, 1918, and the document of sale to Santos was also recorded on August 6, 1918 (Exhibit 3).

Although the description in the document of sale executed by the sisters Irene and Consuelo to Felipe Buencamino Suntay does not contain that of the portion now objected to, we are of the opinion that the contracting parties intended to include this portion of the land in the

sale.

This *hacienda*, composed of lots Nos. 1 and 2, formerly belonged to Benito Mojica. Although it is composed of several parcels of land with different titles, Benito Mojica considered it as a single property calling it "Hacienda of Sapang Cawayan," which includes the part sold to Santos. Indeed, it is so stated in the document filed by him for the purpose of the partition of the conjugal property of himself and his two deceased wives.

On May 15, 1906, Benito Mojica leased a small part within this *hacienda* to Song Fo & Company in order to erect thereon a structure for the manufacture of alcohol. This contract provided that Song Fo should have the right to purchase the *tuba* (a beverage from which alcohol is extracted) that was produced on the whole land. The contract did not describe the boundaries of the land nor did it state the area thereof. From the terms of this contract it is undeniable that it referred to the whole land including the part which is now the subject of opposition.

After the death of Benito Mojica, the judicial administratrix of his estate, her daughter and heir, Irene Mojica, cancelled the former contract with Song Fo & Company and on December 21, 1911, entered into a new agreement with him for the lease of the entire property. Song Fo & Company later assigned to Carlos Palanca all their rights to this land under the lease. Among those rights there was one to the effect that should the property be sold the lessee should have the right to subrogate himself to the right of the purchaser within thirty days if he so desired.

In the second contract of lease the property was described and the part now objected to was excluded from the description. Notwithstanding this fact we are persuaded that, in selling the land, it was not the intention of the parties to exclude any portion thereof. This second contract of lease recites that this property is known as the "Hacienda of Sapang Cawayan" and that it formerly belonged to Benito Mojica; that a piece of land within this property was leased to Song Fo & Company with the right on the part of the lessee to buy and ferment and distill the *tuba* produced and harvested from the said property, by virtue of the contract of May 15, 1906, which was declared cancelled; and that they had covenanted and agreed to lease the "*Hacienda of Sapang Cawayan*" in its entirety. It is undeniable that the object of the lease in the minds of the parties was the whole "Hacienda of Sapang Cawayan," the same that was the subject-matter of the contract of May 15, 1906. It is evident that the understanding between the parties was that this lease should include that part which was later sold to Santos, because this portion of land was within what was called the "Hacienda

of Sapang Cawayan” and included in the lease of May 15, 1906. This conclusion is furthermore strengthened by the subsequent acts of the parties. Under this contract Song Fo & Company took possession of the whole property including that portion now claimed by Santos. Neither Irene nor Consuelo Mojica, nor any person in their stead, protested against the occupation by Song Fo of the land excluded from the description. Furthermore there appears to be no reason why the sisters Irene and Consuelo Mojica should exclude this portion of land from the lease as they neither attempted to cultivate it nor dispose of it in any way.

There is another point which is not devoid of importance. A short time before the term of the lease expired, the administrator of the estate of Benito Mojica, Mr. Grey, who succeeded Irene Mojica as such, asked the court for authority to extend the time of the lease and in the description of the property leased he included that part now in question. It must be presumed that Mr. Grey, as the successor of Irene Mojica in the administration of the estate, had knowledge of the property under his care and his act in considering the portion in question as forming part of the property leased, means, at least, that such was the understanding between the parties.

At this juncture, Irene and Consuelo Mojica, as already stated, sold this property to Felipe Buencamino Suntay on October 31, 1917, and in the transfer the property was described in the same manner as in the contract of lease, that is to say, excluding the portion now under discussion. This deed of sale, after describing the property sold, recites that: *“The said two parcels form but a single property, which during the lifetime of the deceased father of the vendors was known as the ‘Hacienda of Sapang Cawayan’ and is now mortgaged to the Philippine National Bank in the amount of eleven thousand pesos (P11,000) and leased to Messrs. Song Fo & Company \*\*\* on December 21, 1911”* From the foregoing the inference is that what was sold, according to the intention of the parties, was the farm known as “Sapang Cawayan,” the same property that was leased to Song Fo & Company and, as before stated, included that part of the land which is now in question. This conclusion is supported by the very mention of the mortgage in favor of the bank for in this mortgage a part of the portion of land now in controversy was included.

This being so, and if the true intention of the parties was to sell the portion now in question, the mere fact of having been excluded from the description contained in the document of sale of the said property is a mistake which cannot annul the intention of the contracting parties. The document is nothing more than a mere formality of the contract, and cannot prevail as against the contract itself which may be proved by extraneous facts.

Our conclusion is that the contract of sale of this hacienda to Simtay included that portion of land in question which was later sold to Santos.

It results, therefore, that the land under discussion was twice sold to two different purchasers. In accordance with article 1473 of the Civil Code the sale that was first recorded must be given preference. Although the sale to Suntay and the sale by the latter to Palanca were recorded, it must be deemed that no record was made as to the portion of land in question. For the purposes of article 1473, the record in the registry is tantamount to a notice of the fact of the existence of the contract. But, as in the deeds containing these contracts the portion of land under discussion does not appear, the registration of the documents cannot be considered as a notice of the sale of the said portion. On the other hand, although the sale to Roman Santos was also recorded, it was only effected in August, 1918, after the herein applicant had already filed his application for this land claiming to have bought it from the sisters Irene and Consuelo Mojica and after the said Palanca had filed an opposition to the application of Roman Santos for the registration of the said parcel of land, it being noted that Palanca, before that time, had brought an action for injunction against Santos on account of the same portion of land. Wherefore, when Santos recorded his sale he knew that Palanca was claiming the land in question by virtue of a former purchase. Consequently the record made by Santos was not in good faith and he cannot base his preference of title thereon. The record to which article 1473 of the Civil Code refers is that made in good faith, for the law will not protect anything done in bad faith.

The preference, therefore, as between these two sales must be adjudged to Palanca in accordance with said article 1473 of the Civil Code, on account of priority of possession. Palanca had possession of the land as a lessee before the land was sold and after the consummation of the sale he continued in such possession uninterruptedly, not as lessee, but, as owner of the property.

The judgment appealed from is affirmed with costs against the appellant. So ordered.

*Araullo, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.*

