44 Phil. 343

[G.R. No. 18058. January 16, 1923]

FABIOLA SEVERINO, PLAINTIFF AND APPELLEE, VS. GUILLERMO SEVERINO, DEFENDANT AND APPELLANT. FELICITAS VILLANUEVA, INTERVENOR AND APPELLEE.

D E C I S I O N

OSTRAND, J.:

This is an action brought by the plaintiff as the alleged natural daughter and sole heir of one Melecio Severino, deceased, to compel the defendant Guillermo Severino to convey to her four parcels of land described in the complaint, or in default thereof to pay her the sum of P800,000 in damages for wrongfully causing said land to be registered in his own name. Felicitas Villanueva, in her capacity as administratrix of the estate of Melecio Severino, has filed a complaint in intervention claiming the same relief as the original plaintiff, except in so far as she prays that the conveyance be made, or damages paid, to the estate instead of to the plaintiff Fabiola Severino. The defendant answered both complaints with a general denial.

The lower court rendered a judgment recognizing the plaintiff Fabiola Severino as the acknowledged natural child of the said Melecio Severino and ordering the defendant to convey 428 hectares of the land in question to the intervenor as administratrix of the estate of the said Melecio Severino, to deliver to her the proceeds in his possession of a certain mortgage placed thereon by him and to pay the costs. From this judgment only the defendant appeals.

The land described in the complaint forms one continuous tract and consists of lots Nos. 827, 828, 834, and 874 of the cadaster of Silay, Province of Occidental Negros, which measure, respectively, 61 hectares, 74 ares, and 79 centiares; 76 hectares, 34 ares, and 79 centiares; 52 hectares, 86 ares, and 60

centiares and 608 hectares, 77 ares and 28 centiares, or a total of 799 hectares, 75 ares, and 46 centiares.

The evidence shows that Melecio Severino died on the 25th day of May, 1915; that some 428 hectares of the land were recorded in the Mortgage Law Register in his name in the year 1901 by virtue of possessory information proceedings instituted on the 9th day of May of that year by his brother Agapito Severino in his behalf; that during the lifetime of Melecio Severino the land was worked by the defendant, Guillermo Severino, his brother, as administrator for and on behalf of the said Melecio Severino; that after Melecio's death, the defendant Guillermo Severino continued to occupy the land; that in 1916 a parcel survey was made of the lands in the municipality of Silay, including the land here in question, and cadastral proceedings were instituted for the registration of the land titles within the surveyed area; that in the cadastral proceedings the land here in question was described as four separate lots numbered as above stated; that Roque Hofileña, as lawyer for Guillermo Severino, filed answers in behalf of the latter in said proceedings claiming the lots mentioned as the property of his client; that no opposition was presented in the proceedings to the claims of Guillermo Severino and the court therefore decreed the title in his favor, in pursuance of which decree certificates of title were issued to him in the month of March, 1917.

It may be further observed that at the time of the cadastral proceedings the plaintiff Fabiola Severino was a minor; that Guillermo Severino did not appear personally in the proceedings and did not there testify; that the only testimony in support of his claim was that of his attorney Hofileña, who swore that he knew the land and that he also knew that Guillermo Severino inherited the land from his father and that he, by himself, and through his predecessors in interest, had possessed the land for thirty years.

The appellant presents the following nine assignments of error:

> "1. The trial court erred in admitting the evidence that was offered by plaintiff in order to establish the fact that said plaintiff was the legally acknowledged natural child of the deceased Melecio Severino.
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> "2. The trial court erred in finding that, under the evidence presented,

plaintiff was the legally acknowledged natural child of Melecio Severino.

"3. The trial court erred in rejecting the evidence offered by defendant to establish the absence of fraud on his part in securing title to the lands in Nacayao.

"4. The trial court erred in concluding that the evidence adduced by plaintiff and intervenor established that defendant was guilty of fraud in procuring title to the lands in question in his name.

"5. The trial court erred in declaring that the land that was formerly placed in the name of Melecio Severino had an extent of either 434 or 428 hectares at the time of his death.

"6. The trial court erred in declaring that the value of the land in litigation is P500 per hectare.

"7. The trial court erred in granting the petition of the plaintiff for an attachment without first giving the defendant an opportunity to be heard.

"8. The trial court erred in ordering the conveyance of 428 hectares of land by defendant to the administratrix.

"9. The trial court erred in failing or refusing to make any finding as to the defendant's contention that the petition for attachment was utterly devoid of any reasonable ground."

In regard to the first two assignments of error, we agree with the appellant that the trial court erred in making a declaration in the present case as to the recognition of Fabiola Severino as the natural child of Melecio Severino. We have held in the case of Briz *vs*. Briz and Remigio (43 Phil., 763), that "The legitimate heirs or kin of a deceased person who would be prejudiced by a declaration that another person is entitled to recognition as the natural child of such decedent, are necessary and indispensable parties to any action in which a judgment declaring the right to recognition is sought." In the present action only the widow, the alleged natural child, and one of the brothers of the deceased are parties; the other potential heirs have not been included. But, inasmuch as the judgment appealed from is in favor of the intervenor and not of

the plaintiff, except to the extent of holding that the latter is a recognized natural child of the deceased, this question is, from the view we take of the case, of no importance in its final disposition. We may say, however, in this connection, that the point urged in appellant's brief that it does not appear affirmatively from the evidence that, at the time of the conception of Fabiola, her mother was a single woman, may be sufficiently disposed of by a reference to article 130 of the Civil Code and subsection 1 of section 334 of the Code of Civil Procedure which create the presumption that a child born out of wedlock is natural rather than illegitimate. The question of the status of the plaintiff Fabiola Severino and her right to share in the inheritance may, upon notice to all the interested parties, be determined in the probate proceedings for the settlement of the estate of the deceased.

The fifth assignment of error relates to the finding of the trial court that the land belonging to Melecio Severino had an area of 428 hectares. The appellant contends that the court should have found that there were only 324 hectares inasmuch as one hundred hectares of the original area were given to Melecio's brother Donato during the lifetime of the father Ramon Severino. As it appears that Ramon Severino died in 1896 and that the possessory information proceedings, upon which the finding of the trial court as to the area of the land is principally based, were not instituted until the year 1901, we are not disposed to disturb the conclusions of the trial court on this point. Moreover, in the year 1913, the defendant Guillermo Severino testified under oath, in the case of Montelibano vs. Severino, that the area of the land owned by Melecio Severino and of which he (Guillermo) was the administrator, embraced an area of 424 hectares. The fact that Melecio Severino, in declaring the land for taxation in 1906, stated that the area was only 324 hectares and 60 ares while entitled to some weight is not conclusive and is not sufficient to overcome the positive statement of the defendant and the recitals in the record of the possessory information proceedings.

The sixth assignment of error is also of minor importance in view of the fact that in the dispositive part of the decision of the trial court, the only relief given is an order requiring the appellant to convey to the administratrix the land in question, together with such parts of the proceeds of the mortgage thereon as remain in his hands. We may say furher that the court's estimate of the value of the land does not appear unreasonable and that, upon the evidence

before us, it will not be disturbed.

The seventh and ninth assignments of error relate to the *ex parte* granting by the trial court of a preliminary attachment in the case and the refusal of the court to dissolve the same. We find no merit whatever in these assignments and a detailed discussion of them is unnecessary.

The third, fourth, and eighth assignments of error involve the vital points in the case, are inter-related and may be conveniently considered together.

The defendant argues that the gist of the instant action is the alleged fraud on his part in causing the land in question to be registered in his name; that the trial court therefore erred in rejecting his offer of evidence to the effect that the land was owned in common by all the heirs of Ramon Severino and did not belong to Melecio Severino exclusively; that such evidence, if admitted, would have shown that he did not act with fraudulent intent in taking title to the land; that the trial court erred in holding him estopped from denying Melecio's title; that more than a year having elapsed since the entry of the final decree adjudicating the land to the defendant, said decree cannot now be reopened; that the ordering of the defendant to convey the decreed land to ,the administratrix is, for all practical purposes, equivalent to the reopening of the decree of registration; that under section 38 of the Land Registration Act the defendant has an indefeasible title to the land; and that the question of ownership of the land being thus judicially settled, the question as to the previous relations between the parties cannot now be inquired into.

Upon no point can the defendant's contentions be sustained. It may first be observed that this is not an action under section 38 of the Land Registration Act to reopen or set aside a decree; it is an action *in personam* against an agent to compel him to return, or retransfer, to the heirs or the estate of its principal, the property committed to his custody as such agent, to execute the necessary documents of conveyance to effect such retransfer or, in default thereof, to pay damages.

That the defendant came into the possession of the property here in question as the agent of the deceased Melecio Severino in the administration of the property, cannot be successfully disputed. His testimony in the case of

Montelibano *vs*. Severino (civil case No. 902 of the Court of First Instance of Occidental Negros and which forms a part of the evidence in the present case) is, in fact, conclusive in this respect. He there stated under oath that from the year 1902 up to the time the testimony was given, in the year 1913, he had been continuously in charge and occupation of the land as the *encargado* or administrator of Melecio Severino; that he had always known the land as the property of Melecio Severino; and that the possession of the latter had been peaceful, continuous, and exclusive. In his answer filed in the same case, the same defendant, through his attorney, disclaimed all personal interest in the land and averred that it was wholly the property of his brother Melecio.

Neither is it disputed that the possession enjoyed by the defendant at the time of obtaining his decree was of the same character as that held during the lifetime of his brother, except in so far as shortly before the trial of the cadastral case the defendant had secured from his brothers and sisters a relinquishment in his favor of such rights as they might have in the land.

The relations of an agent to his principal are fiduciary and it is an elementary and very old rule that in regard to property forming the subject-matter of the agency, he is estopped from acquiring or asserting a title adverse to that of the principal. His position is analogous to that of a trustee and he cannot consistently, with the principles of good faith, be allowed to create in himself an interest in opposition to that of his principal or *cestui que trust*. Upon this ground, and substantially in harmony with the principles of the Civil Law (*see* sentence of the supreme court of Spain of May 1, 1900), the English Chancellors held that in general whatever a trustee does for the advantage of the trust estate inures to the benefit of the *cestui que trust*. (Greenlaw *vs*. King, 5 Jur., 18; *Ex parte* Burnell, 7 Jur., 116; *Ex parte* Hughes, 6 Ves., 617; *Ex parte* James, 8 Ves., 337; Oliver *vs*. Court, 8 Price, 127.) The same principle has been consistently adhered to in so many American cases and is so well established that exhaustive citations of authorities are superfluous and we shall therefore limit ourselves to quoting a few of the numerous judicial expressions upon the subject. The principle is well stated in the case of Gilbert *vs*. Hewetson (79 Minn., 326):

> "A receiver, trustee, attorney, agent, or any other person occupying fiduciary relations respecting property or persons, is utterly disabled from acquiring for his own benefit the property committed to his custody for management. This rule is entirely independent of the fact whether any fraud has intervened. No fraud in fact need be shown, and no excuse will be heard from the trustee. It is to avoid the necessity of any such inquiry that the rule takes so general a form. The rule stands on the moral obligation to refrain from placing one's self in positions which ordinarily excite conflicts between self-interest and integrity. It seeks to remove the temptation that might arise out of such a relation to serve one's self-interest at the expense of one's integrity and duty to another, by making it impossible to profit by yielding to temptation. It applies universally to all who come within its principle."

In the case of Massie *vs*. Watts (6 Cranch, 148), the United States Supreme Court, speaking through Chief Justice Marshall, said:

> "But Massie, the agent of Oneale, has entered and surveyed a portion of that land for himself and obtained a patent for it in his own name. According to the clearest and best established principles of equity, the agent who so acts becomes a trustee for his principal. He cannot hold the land under an entry for himself otherwise than as trustee for his principal."

In the case of Felix *vs*. Patrick (145 U. S., 317), the United States Supreme Court, after examining the authorities, said:

> "The substance of these authorities is that, wherever a person obtains the legal title to land by any artifice or concealment, or by making use of facilities intended for the benefit of another, a court of equity will impress upon the land so held by him a trust in favor of the party who is justly entitled to them, and will order the trust executed by decreeing their conveyance to the party in whose favor the trust was created." (*Citing* Bank of Metropolis *vs*. Guttschlick, 14 Pet., 19, 31; Moses *vs*. Murgatroyd, 1 Johns. Ch., 119; Cumberland *vs*. Codrington, 3 Johns. Ch., 229, 261; Neilson *vs*. Blight, 1 Johns. Cas., 205; Weston *vs*.

Barker, 12 Johns., 276.)

The same doctrine has also been adopted, in the Philippines. In the case of Uy Aloc *vs*. Cho Jan Ling (19 Phil., 202), the facts are stated by the court as follows:

> "From the facts proven at the trial it appears that a number of Chinese merchants raised a fund by voluntary subscription with which they purchased a valuable tract of land and erected a large building to be used as a sort of club house for the mutual benefit of the subscribers to the fund. The subscribers organized themselves into an irregular association, which had no regular articles of association, and was not incorporated or registered in the commercial registry or elsewhere. The association not having any existence as a legal entity, it was agreed to have the title to the property placed in the name of one of the members, the defendant, Cho Jan Ling, who on his part accepted the trust, and agreed to hold the property as the agent of the members of the association. After the club building was completed with the funds of the members of the association, Cho Jan Ling collected some P25,000 in rents for which he failed and refused to account, and upon proceedings being instituted to compel him to do so, he set up title in himself to the club property as well as to the rents accruing therefrom, falsely alleging that he had bought the real estate and constructed the building with his own funds, and denying the claims of the members of the association that it was their funds which had been used for that purpose."

The decree of the court provided, among other things, for the conveyance of the club house and the land on which it stood from the defendant, Cho Jan Ling, in whose name it was registered, to the members of the association. In affirming the decree, this court said:

> "In the case at bar the legal title of the holder of the registered title is not questioned; it is admitted that the members of the association voluntarily obtained the inscription in the name of Cho Jan Ling, and that they had no right to have that inscription cancelled; they do not seek such cancellation, and on

> the contrary they allege and prove that the duly registered legal title to the property is in Cho Jan Ling, but they maintain, and we think that they rightly maintain, that he holds it under an obligation, both express and implied, to deal with it exclusively for the benefit of the members of the association, and subject to their will."

In the case of Camacho *vs*. Municipality of Baliuag (28 Phil., 466), the plaintiff, Camacho, took title to the land in his own name, while acting as agent for the municipality. The court said:

> "There have been a number of cases before this court in which a title to real property was acquired by a person in his own name, while acting under a fiduciary capacity, and who afterwards sought to take advantage of the confidence reposed in him by claiming the ownership of the property for himself. This court has invariably held such evidence competent as between the fiduciary and the *cestui que trust*.
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> "What judgment ought to be entered in this case? The court below simply absolved the defendant from the complaint. The defendant municipality does not ask for a cancellation of the deed. On the contrary, the deed is relied upon to supplement the oral evidence showing that the title to the land is in the defendant. As we have indicated in Consunji *vs*. Tison, 15 Phil., 81, and Uy Aloc *vs*. Cho Jan Ling, 19 Phil., 202, the proper procedure in such a case, so long as the rights of innocent third persons have not intervened, is to compel a conveyance to the rightful owner. This ought and can be done under the issues raised and the proof presented in the case at bar."

The case of Sy-Juco and Viardo *vs*. Sy-Juco (40 Phil., 634) is also in point.

As will be seen from the authorities quoted, an agent is not only estopped from denying his principal's title to the property, but he is also disabled from acquiring interests therein adverse to those of his principal during the term of

the agency. But the defendant argues that his title has become *res adjudicata* through the decree of registration and cannot now be disturbed.

This contention may, at first sight, appear to possess some force, but on closer examination it proves untenable. The decree of registration determined the legal title to the land as of the date of the decree; as to that there is no question. That, under section 38 of the Land Registration Act, this decree became conclusive after one year from the date of the entry is not disputed and no one attempts to disturb the decree or the proceedings upon which it is based; the plaintiff in intervention merely contends that in equity the *legal* title so acquired inured to the benefit of the estate of Melecio Severino, the defendant's principal and *cestui que trust* and asks that this superior equitable right be made effective by compelling the defendant, as the holder of the legal title, to transfer it to the estate.

We have already shown that before the issuance of the decree of registration it was the undoubted duty of the defendant to restore the property committed to his custody to his principal, or to the latter's estate, and that the principal had a right of action *in personam* to enforce the performance of this duty and to compel the defendant to execute the necessary conveyance to that effect. The only question remaining for consideration is, therefore, whether the decree of registration extinguished this personal right of action.

In Australia and New Zealand, under statutes in this respect similar to ours, courts of equity exercise general jurisdiction in matters of fraud and error with reference to Torrens registered lands, and giving attention to the special provisions of the Torrens acts, will issue such orders and directions to all the parties to the proceedings as may seem just and proper under the circumstances. They may order parties to make deeds of conveyance and if the order is disobeyed, they may cause proper conveyances to be made by a Master in Chancery or Commissioner in accordance with the practice in equity (Hogg, Australian Torrens System, p. 847).

In the United States courts have even gone so far in the exercise of their equity jurisdiction as to set aside final decrees after the expiration of the statutory period of limitation for the reopening of such decrees (Baart

vs. Martin, 99 Minn., 197). But, considering that equity follows the law and that our statutes expressly prohibit the reopening of a decree after one year from the date of its entry, this practice would probably be out of question here, especially so as the ends of justice may be attained by other equally effective, and less objectionable means.

Turning to our own Land Registration Act, we find no indication there of an intention to cut off, through the issuance of a decree of registration, equitable rights or remedies such as those here in question. On the contrary, section 70 of the Act provides:

> "Registered lands and ownership therein, shall in all respects be subject to the same burdens and incidents attached by law to unregistered land. Nothing contained in this Act shall in any way be construed to relieve registered land or the owners thereof from any rights incident to the relation of husband and wife, or from liability to attachment on mesne process or levy on execution, or from liability to any lien of any description established by law on land and the buildings thereon, or the interest of the owner in such land or buildings, or to change the laws of descent, or the rights of partition between coparceners, joint tenants and other cotenants, or the right to take the same by eminent domain, or to relieve such land from liability to be appropriated in any lawful manner for the payment of debts, or to change or affect in any other way any other rights or liabilities created by Jaw and applicable to unregistered land, except as otherwise expressly provided in this Act or in the amendments hereof."

Section 102 of the Act, after providing for actions for damages in which the Insular Treasurer, as the Custodian of the Assurance Fund is a party, contains the following proviso:

> "*Provided, however,* That nothing in this Act shall be construed to deprive the plaintiff of *any* action which he may have against any person for such loss or damage or deprivation of land or of any estate or interest therein without joining the Treasurer of the Philippine Archipelago as a

> defendant therein."

That an action such as the present one is covered by this proviso can hardly admit of doubt. Such was also the view taken by this court in the case of Medina Ong-Quingco *vs*. Imaz and Warner, Barnes & Co. (27 Phil., 314), in which the plaintiff was seeking to take advantage of his possession of a certificate of title to deprive the defendant of land included in that certificate and sold to him by the former owner *before the land was registered*. The court decided adversely to plaintiff and in so doing said:

> "As between them no question as to the indefeasibility of a Torrens title could arise. Such an action could have been maintained at any time while the property remained in the hands of the purchaser. The peculiar force of a Torrens title would have been brought into play only when the purchaser had sold to an innocent third person for value the lands described in his conveyance. * * * Generally speaking, as between the vendor and the purchaser the same rights and
> remedies exist with reference to land registered under Act No. 496, as exist in relation to land not so registered."

In Cabanos *vs*. Register of Deeds of Laguna and Obiñana (40 Phil., 620), it was held that, while a purchaser of land under a *pacto de retro* cannot institute a real action for the recovery thereof where the vendor under said sale has caused such lands to be registered in his name without said vendee's consent, yet he may have his personal action based on.the contract of sale to compel the execution of an unconditional deed for the said lands when the period for repurchase has passed.

Torrens titles being based on judicial decrees there is, of course, a strong presumption in favor of their regularity or validity, and in order to maintain an action such as the present the proof as to the fiduciary relation of the parties and of the breach of trust must be clear and convincing. Such proof isf as we have seen, not lacking in this case.

But once the relation and the breach of trust on the part of the fiduciary is thus established, there is no reason, neither practical nor legal, why he should not be compelled to make such reparation as may lie within his power for the injury caused by his wrong, and as long as the land stands registered in the name of the party who is guilty of the breach of trust and no rights of innocent third parties are adversely, affected, there can be no reason why such reparation should not, in the proper case, take the form of a conveyance or transfer of the title to the *cestui que trust*. No reasons of public policy demand that a person guilty of fraud or breach of trust be permitted to use his certificate of title as a shield against the consequences of his own wrong.

The judgment of the trial court is in accordance with the facts and the law. In order to prevent unnecessary delay and further litigation it may, however, be well to attach some additional directions to its dispositive clauses. It will be observed that lots Nos. 827, 828, and 834 of a total area of approximately 191 hectares, lie wholly within the area to be conveyed to the plaintiff in intervention and these lots may, therefore, be so conveyed without subdivision. The remaining 237 hectares to be conveyed lie within the western part of lot No. 874 and before a conveyance of this portion can be effected a subdivision of that lot must be made and a technical description of the portion to be conveyed, as well as of the remaining portion of the lot, must be prepared. The subdivision shall be made by an authorized surveyor and in accordance with the provisions of Circular No. 31 of the General Land Registration Office, and the subdivision and technical descriptions shall be submitted to the Chief of that office for his approval. Within thirty days after being notified of the approval of said subdivision and technical descriptions, the defendant Guillermo Severino shall execute good and sufficient deed or deeds of conveyance in favor of the administratrix of the estate of the deceased Melecio Severino for said lots Nos. 827, 828, 834, and the 237 hectares segregated from the western part of lot No. 874 and shall deliver to the register of deeds his duplicate certificates of title for all of the four lots in order that said certificates may be cancelled and new certificates issued. The cost of the subdivision and the fees of the register of deeds will be paid by the plaintiff in intervention. It is so ordered.

With these additional directions the judgment appealed from is affirmed, with

the costs against the appellant. The right of the plaintiff Fabiola Severino to establish in the probate proceedings of the estate of Melecio Severino her status as his recognized natural child is reserved.

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

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