94 Phil. 597

**[ G.R. No. L-5973. March 20, 1954 ]**

**MARCELO VEA, PETITIONER, VS. CLAUDIO ACOBA AND AGAPITA AGUSTIN, RESPONDENTS.**

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

**BAUTISTA ANGELO, J.:**

This is a petition for review of the decision of the Court of Appeals holding (1) that the judgment rendered in Civil Case No. 240 of the Court of, First Instance of Ilocos Norte is binding on the appellee; (2) that appellee should return the property in litigation to appellants; and (3) that appellee should pay to appellants the sum of P50, value of the palay harvested in December, 1949, and to deliver all subsequent harvests from the land, or pay their equivalent value, after deducting the necessary expenses, and to pay the costs.

This appeal stems from an action filed in the Court of First Instance of Ilocos Norte by spouses Claudio Acoba and Agapita Agustin against Marcelo Vea wherein they seek to restrain the defendant from encroaching on the possession by them of the parcel of land described in the complaint and, incidentally, to be declared the owners of said parcel of land and to be awarded certain damages which they claim to have incurred as a result of the illegal action of the defendant.

Defendant in his answer set up as special defense that he is the true owner of the land in litigation having acquired it from Esteban Ramoran on August 28, 1936 and that since that year to the present he has always been in continuous possession thereof peacefully, openly, and in concept of owner except when the sheriff tried to dispossess him upon the request of the plaintiffs in 1948 which act did not

materialize due to his vigorous and timely objection.

After the reception of the evidence, the lower court found for defendant and dismissed the complaint. It held that the preponderance of evidence militates in favor of the defendant. This is the finding which was reversed by the Court of Appeals in the manner stated in the early part of this decision.

The facts as found by the Court of Appeals are: On December 5, 1943, Esteban Ramoran, Felipa Ramos, Petra Colcol and Tomasa Colcol, executed a deed of partition of a parcel of land containing an area of 23,520 square meters whereby the 1/3 eastern portion was given to Felipa llamos, the 1/3 middle portion to Esteban Ramoran, and the 1/3 western portion to the Colcols, which deed of partition was duly recorded in the Office of the Register of Deeds of Ilocos Norte.

On July 29, 1944, Agapita Agustin, as guardian *ad litem* of Felipa Ramos, filed a complaint in the Court of First Instance of Ilocos Norte, known as Civil Case No. 240, against Esteban Ramoran, to recover the eastern 1/3 portion of land which was given in the partition to Felipa Ramos. On July 29, 1948, a decision was handed down in that case holding the spouses Claudio Acoba and Agapita Agustin to be the owners of the land and ordering Ramoran to deliver the land to said spouses and to pay the sum of P50 as annual rent from the filing of the complaint and to pay the costs.

On December 9, 1948, a writ of execution was issued in said case by virtue of which the land was delivered by the sheriff to the spouses notwithstanding the third party claim presented by Marcelo Vea claiming to have acquired it from Esteban Ramoran on August 28, 1936. And on August 10, 1949, the spouses Acoba brought the present action (Civil Case No. 1089) in the same court against Marcelo Vea for the recovery of the same parcel of land on the ground that said Marcelo Vea entered upon the land over the opposition of said spouses alleging to be the owner thereof.

On the other hand, Marcelo Vea tried to establish that he bought the

land on August 28, 1936 from Esteban Ramoran, as shown by Exhibit 2; that Esteban Ramoran acquired it from Felipa Ramos through absolute sale on November 11, 1935, as shown by Exhibit 3; that notwithstanding the sale made in his favor, Esteban Ramoran continued in possession of the land as tenant of Marcelo Vea; that it was Ramoran who paid the annual taxes on the land since he acquired it until 1948 with the money furnished by him (Marcelo Vea); that he had no knowledge of the deed of partition executed in December, 1943 by the Colcols, Esteban Ramoran and Felipa Ramos; neither was he aware of the filing of Civil Case No. 240 against Esteban Ramoran, nor of the alleged delivery of the land by the sheriff to the spouses Acoba as in fact he had continued in possession of said land from 1936 through his tenant Esteban Ramoran until after the end of the harvest season of 1948 when Ramoran could no longer work because of old age; that in 1949 he himself plowed the land and harvested the palay planted thereon; that for having done so Agapita Agustin filed a criminal complaint against him which was dismissed; and that the spouses Acoba tried to enter the land but he did not allow them to do so.

The core of this case lies in the determination of the ownership of the parcel of land described in the complaint. The spouses Acoba claim to be the owner for having inherited it from Felipa Ramos whose title they seem to predicate on the deed of partition executed on December 5, 1943 by Esteban Ramoran, Felipa Ramos and the sisters Petra Colcol and Tomasa Colcol, while Marcelo Vea claims title thereto by virtue of the deed of sale executed in his favor by Esteban Ramoran on August 28,1936 (Exhibit 2). There is therefore here a conflict of title the priority of which can only be determined by looking into its source and the circumstance under which it had been acquired. It should be noted that the source of the title of the conflicting parties is one and the same person: Felipa Ramos. Esteban Ramoran, predecessor-in-interest of Marcelo Vea, claims to have acquired it from Felipa Ramos, while the spouses Acoba claim to have inherited it from the same person. From this it must follow that if upon the death of Felipa Ramos she was not the owner of the land, said spouses did not inherit anything from her. There was nothing that she could transfer upon her death. On the other

hand, if Esteban Ramoran was not the owner of the land when he executed the deed of sale Exhibit 2 in favor of Marcelo Vea, then the latter did not acquire anything from Ramoran. This would bring us to the necessity of determining the title on which Esteban Ramoran relied in executing said deed of sale. This title is Exhibit 3.

It appears from this exhibit that Felipa Ramos, because of her dire need of money, asked Esteban Ramoran and his wife to do her the favor of buying the land in question which they did for the sum of P100. It is stated therein that Felipa Ramos ceded and conveyed to said spouses the said parcel of land for them to manage, plant, and enjoy and that she shall never molest them in their enjoyment of its ownership intimating that she shall have no more right to redeem for the reason that the sale was absolute. This shows that the deed is not an equitable mortgage as claimed, but an absolute sale. This sale took place on November 11, 1935.

Then came the sale made by Ramoran of the same property to Marcelo Vea on August 28, 1936 which was ratified before a notary public. Since this transfer, Marcelo Vea had been in possession of the land without interruption until the filing of the present action, notwithstanding the attempt made by the sheriff to place the spouses Acoba in possession thereof on December 12, 1948, because of Vea’s opposition and the failure of said spouses apparently to put up a bond to enforce the execution. With this antecedent it would appear clear that when on December 5, 1943 Esteban Ramoran, Felipa Ramos and the sisters Colcol executed the deed of partition (Exhibit A) whereby the same parcel of land was adjudicated to Felipa Ramos, neither Ramoran nor Felipa Ramos had any right to do so because they had already ceased to have any title to the property. The fact that the sale made to Marcelo Vea on August 28, 1936 has not been registered is immaterial considering that the property is not registered in accordance with the Land Registration Act. Such lack of registration cannot have the effect of giving to Felipa Ramos a better right over Marcelo Vea especially if we consider that the latter has been in possession thereof since 1936.

Much stress is laid on the fact that the question as to who is the

owner of the land has already been passed upon by the court in Civil Case No. 240 which was brought by the spouses Acoba against Esteban Ramoran who has refused to yield the possession of the land notwithstanding the execution of the deed of partition Exhibit A. In that decision the spouses Acoba were declared to be the owners as successors-in-interest of Felipa Ramos and it is now claimed that such a decision is *res adjudicata* and is binding upon Marcelo Vea being a privy or grantee of the losing party.

This claim is untenable for the simple reason that Marcelo Vea was not a party to the case nor was he a successor-in-interest "by title subsequent to commencement of the action" (Section 44, b, Rule 39). Marcelo Vea became the owner of the property much prior to the commencement of the action, or since 1936, and as such he could not have been bound by a decision wherein he was not a party even if he had acquired it from the defendant Esteban Ramoran. It is very likely that the result of the case would have been different had he been given an opportunity to protect his interest.

Considering the facts of this case as found by the Court of Appeals we are persuaded to conclude that Marcelo Vea has a better right to the property not only because he acquired it much earlier, but because he has been in possession thereof for more than ten years peacefully and without interruption so much so that the spouses Acoba tried to eject him therefrom through a criminal action which failed because of lack of merit.

Wherefore, the decision appealed from is reversed. The case is dismissed without pronouncement as to costs.

*Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Labrador, Concepcion,* and *Diokno, JJ.,* concur.

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