

95 Phil. 490

[G.R. No. L-6663. July 30, 1954]

REMIGIO PILLADO AND PEDRO SARNATE, PETITIONERS VS. ESTELA FRANCISCO.DE LASALA AND VIVENCIO LASALA. RESPONDENTS.

D E C I S I O N

LABRADOR, J.:

This is a petition for a writ of certiorari against an order of the Court of First Instance of Occidental Negros in Civil Case No. 2458, entitled Estela Francisco de Lasala and Vivencio Lasala, plaintiffs vs. Pedro Sarnate and Remigio Pillado, defendants. The order complained of is dated October 30, 1952, and denies a motion to dismiss filed in the said case by the defendants. It also grants a writ of preliminary injunction to prevent the defendants in the said case from further committing acts of dispossession against the plaintiffs, after the filing by the latter of a bond.

The land subject of said Civil Case No. 2458 was purchased on April 9, 1952, by the plaintiffs from the Bacolod branch of the Philippine National Bank. As a result Transfer Certificate of Title No. T-9455 was issued by the Register of Deeds in the name of the plaintiffs. The land was mortgaged on March 20, 1940, to the Philippine National Bank by Luis Pillado, father of Remigio Pillado, to secure the payment of a loan of P300. Upon failure of the mortgagor to pay the indebtedness, the land was sold on September 15, 1952, pursuant to the provisions of Act 31335, and the purchaser at the sale was the Philippine National Bank, Bacolod branch. Upon purchase of the said property by Estela Francisco de Lasala and Vivencio Lasala, three different actions were instituted:

First. On May 26, 1952, by Estela Francisco de Lasala against Pedro Sarnate (Tenancy Case No. 47-N) to eject defendant, who is alleged to be a tenant, from the land for his refusal to recognize plaintiff as owner thereof.

Second. On May 8, 1952, by Remigio Pillado, Enrique Pillado, Anacleto Pillado, and Mamerto Pillado, alleged children of the deceased Luis Pillado, against Estela Francisco de Lasala and the Philippine National Bank, to annul the deed of sale executed by the Philippine National Bank in favor of Estela Francisco de Lasala, and to allow plaintiffs to pay the accounts of the previous owner of the land, the father, to the Philippine National Bank.

Third. On August 29, 1952, Civil Case No. 24458 (the case where the present order complained of was issued), for the recovery of possession of land from the defendants, the collection of damages for the illegal occupation of said land, and for the issuance of a writ of preliminary injunction during the pendency of the action.

When the plaintiffs Estela Francisco de Lasala and Vivencio Lasala instituted Civil Case No. 2458, the third suit, the defendants immediately presented a motion to dismiss, alleging that there are other pending actions between the same parties, namely, the tenancy case and the action to annul the deed of sale, both already set forth above. This motion was denied and upon refusal of the court to reconsider the same, the present action for certiorari was instituted in this Court, alleging that the order of the court below is an abuse of discretion. It is contended in support of this claim that all the three cases, the tenancy case, the case for the annulment of the contract of sale, and the action for recovery of possession, involve the same cause of action for the reason that they refer to the same parcel of land, and all of them affect the title.

It is evident that this claim is without any legal foundation. Although all the three actions affect the same subject, the land, the causes in each of the three cases are different. In the first case (of tenancy), the cause of action is the refusal of the tenant to recognize

the owner as his landlord. In the second case, the cause of action is the alleged invalidity of the contract of sale executed by the Philippine National Bank in favor of the vendee. In the third case, it is the recovery of possession of the property based on the right thereto of a registered owner. The trial court was, therefore, fully justified in denying the motion to dismiss the present action.

The alleged invalidity of the issuance of the writ of preliminary injunction has not been insisted upon in the argument, and it is not necessary for us to pass upon the same.

For the foregoing considerations, the petition for certiorari should be as it is hereby, denied, with costs against the appellants.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Concepcion and Reyes, J. B. L., JJ., concur.

PADILLA, J.:

I concur in the result because a denial of a motion to dismiss a complaint is interlocutory.
