

CRESENCIA BLANCA ROSARIO, ET AL., PLAINTIFFS AND APPELLANTS, VS. AMADOR ROSARIO, ET AL., DEFENDANTS AND APPELLEES.

G. R. No. L-9701. July 31, 1957

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal certified by the Court of Appeals for the reason that it involves only questions of law.

Alleging and claiming that the parcel of land described in the complaint belonged to Hipolito Rosario, their deceased father, who entrusted to Partenio Rosario, the deceased father of the defendants, the care (management) of the parcel of land and that the latter, taking advantage of the confidence and trust reposed in him by the former, registered the parcel of land in his name, the plaintiffs seek the reconveyance of the parcel of land, accounting of the fruits of the land since 1915, and the payment of costs. This case is docketed in the court below as civil case No. 12238.

The defendants moved for the dismissal of the complaint on the ground that the action is barred by the statute of limitations.

The Court dismissed the complaint and the reasons for its action are set out in the order which reads, as follows:

In these two cases which are related with one another, a motion to dismiss under date of September 5, 1952, has been filed by Attys. Abenojar & Sevidal in Civil Case No. 12238 which is for reconveyance of property on the ground that the cause of action is barred by the statute of limitations, to which an opposition has been interposed by plaintiffs' attorney under date of September 9, 1952.

The complaint in this case recites that one Hipolito Rosario, deceased father of the plaintiffs, was the owner of that parcel of land, Lot 101 of the Urdaneta Cadastre together with the improvements thereon, during his lifetime; that in 1915 he appointed one Partenio Rosario, defendants' father, trustee and encargado of said land but said trustee registered the same land in his own name without the knowledge and consent of his principal, Hipolito Rosario; that said lot is now in the name of the defendants, the sons of the late Partenio Rosario, under Transfer Certificate of Title No. 6306 of the Register of Deeds of Pangasinan, and that finally that said land has not passed to third persons as buyers in good faith.

The motion to dismiss states, among others, that even granting *arguendo* that there really was a trust created between Hipolito Rosario and Partenio Rosario, reconveyance of the property covered by the said title could no longer be had this time considering the time that has elapsed since then. The plaintiffs contend otherwise.

A careful perusal of the records of these cases shows that the land has been originally registered in the name of Partenio Rosario, deceased father of defendants, on August 28, 1917 (Exhibit 1); that on November 11, 1919 said land has been mortgaged with the Philippine National Bank; on February 26, 1923, it has been sold under *pacto de retro* to Librada Villarin who consolidated her dominion thereon May 3, 1923, and to whom transfer certificate of title No. 1742 (Exhibit 2) was issued; on September 2, 1925 said Librada Villarin sold the same

land to Geminiano Villarin (Exhibit 3) who on May 18, 1926 secured transfer certificate of title No. 2906 (Exhibit 4); that said Geminiano Villarin sold the same lot on January 14, 1919 to Florentino J. Rosario and Amador Eosario (Exhibit 5), the defendants herein, who secured Transfer Certificate of Title No. 6306 in their names on June 11, 1949 (Exhibit 6). All these exhibits, are found in the record of Civil Case. No. 11091.

It is very evident that since the land was registered in 1917 in the name of Partenio Rosario several transactions had already been made regarding the land in question, the first being a mortgage, then a pacto de retro sale, followed by a definite sale to Geminiano Villarin and finally to the defendants herein. Under this setup, even granting that there was a breach of trust, reconveyance of the land in question could no longer be made because the land has already passed to innocent purchasers for value, the last vendees being the defendants herein who happened to be the children of the original registered owner. The law on the matter is clear. Once[^]a registered land has been alienated to an innocent purchaser for value, the same may no longer be reconveyed even if the land has been registered fraudulently.

In this case, the defendants derived their title from one Geminiano Villarin who is not even a remote relative of the original registered owner much less the defendants. They, therefore, could be no other than purchasers in good faith. To allow reconveyance under these circumstances would be to undo all the various transactions that affected the land in question. This would necessarily lead to chaos and confusion.

Another point to consider is the date when the various trans- actions were had. The mortgage with the bank was in 1919 the Kale to Librada Villarin in 1923; the sale to Geminiano Villarin in 1926 and the sale to the defendants in 1949—the date of one transaction to that .of another precludes the possibility that the conveyance was simulated or fictitious. It would be a strain to the imagination to consider it otherwise.

In view of the foregoing, the court hereby sustains defendants' motion to dismiss, and consequently Civil Case No. 12238 is hereby dismissed without pronouncement as to costs. Three motions for reconsideration were denied.

Under a liberal construction, the facts alleged in the complaint of the appellants, except paragraph 7 which is a conclusion, might be deemed sufficient to support the prayer for reconveyance, but the allegation in paragraph 4 of the complaint where the appellants state that in 1915 their deceased father in his lifetime entrusted the management of the parcel of land to the late father of the appellees who registered it in his name without the consent of his principal, and the prayer for accounting of the produce of the parcel of land since 1915, justify the motion to dismiss on the ground of prescription. .

The appellees state in their brief that—

It should likewise be borne in mind that these two cases, Civil Cases Nos. 11091 and 12238 for recovery of possession and for reconveyance, respectively, are related with one another, so that the lower court, upon the suggestion of both parties, has deemed it expedient and necessary to determine them jointly.

When our motion to dismiss was argued orally, the parties had reiterated their agreement that in considering said motion, the court should also take judicial notice of the record of another case (Civil Case No. 11091). * *

* . (Pp. 6-7.)

The appellants' answer to this statement is—

The appellees reiterated that, the documents attached to Civil Case No. 11091 (page 7 of Appellees' Brief), by agreement of the parties, are to be considered by the Court, and the Court took judicial notice of the same. This is not true by the records of the case, as appellants have denied the due execution and authenticity of .each and every document. attached or appended to defendants' (appellees herein) answer, namely, Exhibit T, Exhibit '2' Exhibit '3', Exhibit '4', Exhibit '5' and Exhibit '61, (Page 3, REPLY TO AMENDED ANSWER dated August 30, 1951, Civil Case No. 11091; pages 11 and 12, APPELLANTS' brief). Pp. 1-2 Memorandum for the

Appellants.

Denying the genuineness and due execution of documents attached to the appellees' answer in the action for recovery of possession of the parcel of land does not bring the appellants' case under section 8, Rule 15, because it refers to documents upon which the action is based and not to documents attached to the answer of the appellees in support of the allegation that in 1917 the parcel of land was registered under Act No. 496, that it was conveyed successively to several persons, and that for that reason the action for recovery of possession of the parcel of land is barred by the statute of limitations. The fact that the appellees are the children of the alleged trustee who, after several conveyances of the parcel of land to other parties, became the owners of or acquired the parcel of land, does not render them liable for the acts of their father nor did they assume upon acquiring the parcel of land the alleged obligation of their father as trustee. The action for reconveyance is an equitable remedy available only when the parcel of land wrongly registered under the Torrens system in the name of one who is not the owner has not passed into the hands of an innocent purchaser for value.

The order appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Endencia and Felix, JJ., concur.

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