

JUAN PARREÑO, PLAINTIFF-APPELLANT VS. IRENEO GANANCIAL, DEFENDANT-APPELLEE.*G.R. No. L-22245. October 30, 1969*

Ponente: MAKALINTAL, J.

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The property in dispute is lot No. 1097 of the Sagay cadastre, situated in barrio Lopez-Jaena, municipality of Sagay, Negros Occidental, and with an area of 18.5180 hectares. It was declared for tax purposes in the name of Sebastian Parreño under tax declaration No. 4483 issued on December 29, 1950. In 1956 the property was advertised for sale at public auction by the Provincial Treasurer to satisfy the unpaid real estate taxes thereon. The winning bidder was Juan Parreño, plaintiff and now appellant in this case, in whose favor the corresponding certificate of sale was issued on October 30, 1956, followed by a final bill of sale two years later, or on October 31, 1958. In both instruments it was clearly stated that the delinquent taxpayer was Sebastian Parreño. The final bill of sale was registered in the Office of the Register of Deeds on November 13, 1958.

It turned out, however, that a greater portion of lot No. 1097 was and had been in the possession of Ireneo Ganancial, for which reason the present action was filed against him by Juan Parreño for the recovery of such possession and of the value of the products received by said defendant from the date of the execution of the final bill of sale.

In his answer the defendant, now appellee, denied the plaintiff's right and asserted ownership in himself of the portion possessed by him, allegedly covering some 15 hectares.

The trial court, in its decision of August 27, 1963, found in favor of the defendant and dismissed the complaint, without costs. Hence this appeal by the plaintiff.

The material antecedent facts are undisputed, being a matter of official record. Lot No. 1097 was formerly public land which was the subject of several homestead applications by different parties, among them Sebastian Parreño, Juan Parreño and Ireneo Ganancial. In the decision of the Director of Lands dated July 27, 1950 the application of Sebastian Parreño was rejected; that of Ireneo Ganancial was "amended so as to cover only portion 'A' of the lot in dispute (see sketch)[1] and thereafter, continued to be given due course;" and Juan Parreño was given "a period of sixty (60) days from his receipt of a copy of this decision within which he may file an appropriate application for portion 'B' of the lot in question; otherwise, his preferential rights thereto may be declared forfeited." [2]

Juan Parreño filed a petition in the Bureau of Lands on August 27, 1951, "seeking relief" from the decision aforementioned, but was turned down by order dated September 21, 1951 on the ground that it was filed out of time.

It thus appears that when the public sale was advertised and carried out by reason of tax delinquency on the part of Sebastian Parreño he was not the owner of the property and had no rights whatsoever thereto. Consequently the purchaser acquired nothing by derivative title from the supposed tax delinquent, in whose name the property was

assessed and declared for tax purposes.

Appellant contends, however, that appellee was guilty of gross negligence in not obtaining a tax declaration in his own name and in not paying the corresponding taxes. The record reveals indeed that it was only in 1959 that appellee obtained such declaration and paid the taxes. A more or less similar situation was considered by this Court in the case of *Pantaleon, et al. vs. Santos et al.*, 101 Phil. 1001, where it was held that the sale of real estate for delinquent taxes not paid by the "declared owner" of the whole parcel was ineffective against the "undeclared owner" of one-half thereof. Citing *Government vs. Adriano*, 41 Phil. 112, the Court further stated that the provisions of the Assessment Law for the sale of the land for non-payment of taxes establish a proceeding in personam, not in rem, as the tax is not a charge on the land alone; and what is sold is only the particular interest of the person in whose name the land is assessed.[3]

Appellant cites the decision of this Court in *Paguio - vs. Ruiz*, 93 Phil. 306, where it was stated:

"x x x (T)he law is positive and leaves us no choice. It is harsh and drastic, but it is a necessary means of insuring the prompt collection of taxes so essential to the life of the Government.

"Yet it was her gross negligence which brought about the appellee's predicament. Knowing her property to be subject to tax, she neglected to pay her obligation. Vigorous in her protest that she was not given opportunity to protect her rights, she at least neglected to put the Government in a position to allow her that opportunity. And this, notwithstanding the categorical mandate of section 2484 of the Revised Administrative Code, Which she was presumed to know, and which makes it 'the duty of each person' acquiring real estate in the city to make a new declaration thereof, with the advertence that failure to do so shall make the assessment in the name of the previous owner 'valid and binding on all persons interested, and for all purposes, as though the same had been assessed in the name of its actual owner."

Paguio vs. Ruiz was decided upon a different set of facts. There the declared owner was herself the real owner of the property sold. Here Sebastian Parreño, in whose name the land was assessed, did not have any right whatsoever thereto. Besides, the statement of the rule applicable under the facts of the cited case, salutary as it may be in order to penalize negligent tax payers and insure prompt collection of taxes, is obviously for the benefit of the government and only incidentally, if at all, for the benefit of third persons dealing with it as purchasers at tax sales. To be sure, these persons may be entitled to a certain measure of protection when acting in good faith, as against taxpayers whose negligence has caused the government to take the steps provided by law for the collection of what is due to it; but in the present case it cannot be said that appellant was acting in good faith when he purchased lot no. 1097 in the sense of being unaware of the fact that Sebastian Parreño, in whose name the said lot was assessed at the time and for whose delinquency the sale was made, had no right at all to the property. This is so because while the tax declaration (No. 4483) specifically mentioned in the certificate of sale was issued on December 29, 1950 the decision of the Director of Lands disapproving the homestead application of Sebastian Parreño was rendered on July 27, 1950 and in effect reaffirmed on September 21, 1951, when appellant's petition for relief was denied. In other words, appellant knew, or at least was charged with notice as a party in that homestead case, that Sebastian Parreño could not possibly have been a delinquent taxpayer because his tax declaration had become *functus officio*, and knew likewise that appellee Ireneo Ganancial was the owner, or the one entitled to and in actual possession of portion "A" of lot No. 1097, as declared by the Director of Lands in his decision. Appellant had no right therefore to rely on the tax declaration in the name of Sebastian Parreño as evidence of ownership and claim that it could be the basis of a good title in himself as against the real owner by reason of the latter's failure to declare the property in his own name. Even the Torrens system of land registration, which proclaims the indefeasibility of a registered title, protects only innocent third parties.

Wherefore, the judgment appealed from is affirmed, without prejudice to appellant's right of action against

appellee for the recovery of whatever amount was paid by appellant in the tax sale, to the extent that appellee has been benefited thereby. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Fernando, Teehankee, and Barredo, JJ., concur.

[1] The sketch referred to and attached to the homestead application of Ireneo Ganancial shows that portion "A" has an area of 12.3934 hectares.

[2] The case in which the decision was rendered was captioned:

"SEBASTIAN PARREÑO Now JUAN PARREÑO Claimant & Contestant, H.A. No. 140539 (E-118332), Pablo Carnaje, Applicant & Contestant vs. H.A. No. 201624 (E-108462), Ireneo Ganancial, Applicant and respondent, B.L. Conflict No. 40(N); Sebastian Parreño, Applicant & Contestant vs. Juan Lopez, Ireneo Ganancial, Applicant & Respondent, Tito Lantaya now Marcela Ministerio, claimant & respondent, B.L. Conflict No. 45(N)."

[3] Although the Adriano case was decided at a time with the old Provincial Assessment Law was still in force, the ruling there retains its validity in view of the fact that the pertinent provisions of the old law are now incorporated as sections 28 to 41 of C.A. No. 470, otherwise known as the Assessment Law.

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