

VELERIANO PAPER, ET AL., PLAINTIFFS-APPELLEES, VS. SEVERO VALDEPEÑAS, ET AL., DEFENDANTS-APPELLANTS.*G.R. No. L-2786. October 13, 1950*

Ponente: BENGZON, J.

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In the court of first instance of Laguna the spouses Valeriano Papera and Laura Lagradilla sued Severo Valdepeñas to annul a deed of absolute sale of land supposedly executed by the former in favor of the latter on August 28, 1945, and acknowledged before notary public Tirso Caballero on the same date. The plaintiffs alleged they had never executed the said document, which shall hereafter be designated Exhibit B. The Register of Deeds of Laguna was made another defendant to prevent the registration of such deed of sale, the property being registered under Transfer Certificate of Title No. 17900.

The defendant Valdepeñas answered admitting certain paragraphs of the complaint and denying others, specially the paragraph alleging that "the plaintiffs did not execute the deed of "sale". He also asserted two special defenses namely, (1) there was another case pending between the same parties, and (2) there was no cause of action against the register of deeds.

From a judgment for plaintiffs, only the defendant Valdepeñas has appealed.

There is no question that the parcel of land involved in this litigation is registered under Torrens System in the name of the Papera spouses, their title being Transfer Certificate Ho. 17900. Said spouses lost their owner's duplicate certificate in April or May, 1945, when their house in Lumban, Laguna, was destroyed by the bombings of the American Liberation Forces.

In November, 1945, Atty. Pedro V. Espiritu filed in the court of first instance of Laguna, in the corresponding expediente, a motion for reconstitution of the original transfer certificate, asserting its destruction, and requesting that, once reconstituted, it be cancelled and a new certificate issued in the name of Severo Valdepeñas, because he had allegedly purchased the lot from the Papera spouses, as shown by the document attached to the petition (now Exhibit B). The court granted the petition; but when informed thereof, Valeriano Papera lost no time to object, averring he and his wife had never sold the land to Valdepeñas, and that the deed of sale was false. The court, suspending action on the reconstitution, ordered the institution of a suit to test the authenticity of Exhibit B. Hence the present litigation.

After hearing the parties, the Hon. Nicasio Yatco, Judge, declared the document Exhibit B to be false and forged, and made appropriate orders. His Honor expressly found that the Paperas had not signed it and never acknowledged it before Tirso Caballero, the notary public. The evidence and circumstances justifying such conclusion will not be related in detail, in view of appellant's only assignment of error, which is this:

"THE LOWER COURT ERRED IN NOT ALLOWING THE COUNSEL FOR THE DEFENDANTS TO PRESENT EVIDENCE IN SUPPORT OF THE ANSWER TO THE COMPLAINT OR, AT LEAST, TO AMEND SAID ANSWER IN ORDER TO BE ABLE TO PRESENT THE EVIDENCE OFFERED."

It appears that after plaintiffs had presented evidence that they had never executed Exhibit B, the defendant called the witness Francisco Sacop to testify on "a transaction concerning the land" in question between the Paperas as vendors and Severo Valdepeñas as vendee in October, 1944. The objection was interposed that, under the answer, the evidence was inadmissible, and the objection was sustained. Later, Severo Valdepeñas as witness was asked about the same transaction. An objection was again sustained. Thereafter the attorney for Valdepeñas made these remarks:

" x x x Under the circumstances which we want to prove namely, that in October, 1944 Valeriano Papera in company with Francisco Sacop went to the house of the defendant Severo Valdepeñas and offered his property for sale and it was agreed that it will be sold for P35,000.00 in Japanese war notes. The money was paid and the title, now Exhibit 'A' together with the tax declaration were delivered by Valeriano Papera to Valdepeñas but the deed of sale was not executed on time because trouble came, the months immediately previous to actual liberation that was the reason why the document was not executed and we shall prove with the testimony of L. Dagle who was not presented. We ask the indulgence of this Honorable Court to consider. After liberation, L. Dagle was offered the same property in August, 1945. He happened to talk with the wife of Filembn Lagra that this property was sold to Severo Valdepeñas and then Dagle. Valdepeñas and Papera had a conversation in the office of Judge Espiritu and it was there decided that this exhibit be prepared by Judge Espiritu. We have our doubts whether or not we can prove under general denial although we believe that we can prove these facts as circumstances corroborating our main evidence regarding the fact of sale and the genuineness of the document although our rules now require that the defense should be specifically stated. We believe that they were inserted in our new Rules of Court to enable to ask for specification but defenses under general denial have not been modified or done away with by the new rules. Our petition now then is as follows: First, that we be allowed to present this evidence as our explanation or in the alternative that we be allowed to amend our answer in the interest of justice. We can amend this answer now and in five or ten minutes we can proceed with the trial, x x x " . (Stenographic notes, pp. 36, 37).

It is argued in this appeal that the lower court erred in rejecting proof of the transaction in 1944. We believe there was no such error. The issues were joined only on the allegation that the Paperas had not executed the document Exhibit B, and the flat denial thereof by defendant. The transaction "in 1944" was not alleged by way of special defense and was probably immaterial. However, it is strenuously maintained that the defendant Valdepeñas should have been permitted to amend his pleading so as to allege that defense. But as the judge remarked, that would be unfair to the plaintiffs who had gone to trial upon the limited issue of non-execution of Exhibit B. Anyway, from the statement above quoted, it seems that the defendant's theory is that he could prove by evidence that plaintiffs had really sold the land to him. Yet such issue was not debated. The question was whether Exhibit B had been signed by the Paperas and acknowledged by them before notary public Tirso Caballero. The evidence for the plaintiffs was clear and definite, and defendant impliedly admitted his inability to overcome it (p. 44, s. n). Even if there had been a previous sale, judgment for plaintiffs would be in order because all they asked was nullity of the document Exhibit B which they had not executed.

Hence, we must repeat, the trial court did not commit the assigned procedural mistake.

Wherefore, there being no other question raised by the appellant, the decision is affirmed, with costs.

Moran, C.J., Ozaeta, Paras, Feria, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

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