

EUGENIA ROSOTA, PLAINTIFF AND APPELLEE, VS. NICOLAS GALLARDO, DEFENDANT AND APPELLANT.*G. R. Ho. 34160. December 15, 1931*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of Nueva Ecija by Eugenia Rosina, widow, against Nicolas Gallardo, for the purpose of annulling an alleged forged deed of sale of certain land claimed by herself and the subsequent transfer certificates of title consequent thereupon, and other incidental relief. Upon hearing the cause the trial court found the plaintiff to be the owner of the land involved and decreed the nullity of the transfer certificates of title issued pursuant thereto, as well as a transfer by which the defendant had disposed of the property under contract of sale with pacto de retro, but after consolidation of the property in the purchaser, had repurchased the same, with consequent issuance of another transfer certificate of title in favor of himself, with appropriate orders for the restoration of the prior state, and with costs against the defendant.

The sequence of the documentary transactions involved in this case are clearly stated in the appealed decision, and there can be no doubt that the deed which purports to be the deed of the plaintiff conveying the property in question from the plaintiff to the defendant was forged and that another woman than the plaintiff personated her in that transaction. We concur in the finding of the trial court that the appellant Nicolas Gallardo was not a purchaser in good faith, for value and without notice; and the situation as to him was not made any better by the subsequent transfer of the property under deed of sale with pacto de retro to Claudia Mailo, the consolidation of the property in her, and the subsequent re-transfer of the property to the defendant. It is a rule that where title becomes inequitably vested in one who is not an innocent purchaser for value and such person transfers and property away to an innocent purchaser but subsequently buys it back, all the pre-existing equities will re-attach to the property in his hands.

Proof was submitted by the appellant tending to show that the plaintiff Eugenia Rosina was never the true beneficial owner of the property, but that title thereto had been voluntarily placed in her by Miguel Laureta, and that the plaintiff consented to the acts of intervention by which Laureta contrived first to secure a loan from the appellant on the faith of this certificate and afterwards to cause the forged deed to be made to the defendant. But the circumstance that the plaintiff Eugenia Rosina may have paid nothing for the property and that the title may have been voluntarily put in her name by Laureta did not justify the attempt to transfer the property from her by means of a forged deed. The trial court committed no error in pronouncing said instrument void as well as the subsequent transfers and certificates of title issued thereupon.

The judgment will be affirmed, and it is so ordered, with costs against the appellant.

Ten days after the publication of this decision final judgment will be entered, and five days thereafter the record be remanded to the court below.

JUDGMENT AFFIRMED.

Avanceña C. J., Malcolm, Romualdez, and Imperial, JJ., concur.

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