

CARLOS YOUNG, PLAINTIFF AND APPELLEE, VS. ANASTASIO OLIVARES, DEFENDANT AND APPELLANT.

G .R.No. 14983. February 10, 1921

Ponente: STREET, J.

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STREET, J.:

The appellant, Anastasio Olivares, is the occupant of a house of light materials, valued at less than P150, built on a lot on Calle Luna, in the municipality of San Pedro, Province of Laguna. While the house itself is owned by the appellant, the lot upon which the house stands belongs to the owners of the Hacienda de San Pedro Tunasan, being occupied by the appellant under a rental contract, with rent prepaid. The appellee, Carlos Young, has an unsatisfied judgment against the appellant for the sum of P59; and it is admitted that the appellant has no other property out of which said judgment could be satisfied except the house occupied by him as stated.

On July 7, 1916, the sheriff, having in his hands an execution issued upon the judgment aforesaid, levied the same upon the house, and was about to sell the same, when the appellant claimed the property as exempt from execution under subsection 1 of section 452 of the Code of Civil Procedure. In the Court of First Instance of the Province of Laguna it was held, reversing the judgment of the court of the justice of the peace wherein the controversy had originated, that the appellant, Anastasio Olivares, was not entitled to the exemption. From said judgment an appeal was thereupon taken by him.

The question presented for consideration is purely one of law, namely, whether the exemption allowed in subsection 1 of section 452 of the Code of Civil Procedure can be claimed with respect to a house located upon land of which the execution debtor has lawful possession but of which he is not owner. The provision referred to mentions, among other species of property exempt from execution, "the debtor's homestead, in which he resides, and land necessarily used in connection therewith, both not exceeding in value one hundred and fifty pesos." (Subs. 1, sec. 452, Code of Civ. Proc.)

For the appellee it is contended that there can be no exemption of a residential house under this provision except in relation with the land necessarily used in connection with it, and that to be entitled to this exemption the debtor must be owner of both. This contention appears to be based chiefly upon the fact that the two expressions "debtor's homestead" and "land necessarily used in connection therewith" are united by the conjunction "and;" and the argument for this view is supposed to be strengthened by the circumstance that the exemption is coupled with the qualification that the value of "both" the homestead and the land shall not exceed the sum of P150.

It must be admitted that the peculiar phraseology of the provision under consideration lends some countenance to the interpretation advanced in favor of the appellee; but upon a careful examination of the language used and a review of the decisions of the American courts in similar cases, it becomes quite apparent that the idea upon which the Judge of the Court of First Instance acted is incorrect.

The word "homestead," as used in English, usually imports not only the residential house occupied as a home but also the adjacent land necessarily used in connection therewith: and yet the word is sometimes used for either

house or land separately. (See New Standard Dictionary, s. v. homestead.) Now, in drafting the provision under consideration, the authors of the Code of Civil Procedure, out of abundant precaution and in order to avoid a narrow interpretation of the word "homestead," added the expression "and land necessarily used in connection therewith." By giving independent expression to this element in the signification of the word, the codifiers thereby narrowed the necessary import of the word "homestead," with the result that, as it stands here, it means nothing more than house.

At this point one should not be misled by the use of the term "homestead" as the designation of the tract of public land which can be acquired from the Government upon compliance with certain conditions specified in the Public Laws. This is a specialized meaning of the word which had its origin from the original Homestead Law, passed by Congress of the United States in 1862 (U. S. Rev. Stat., sec. 2289 et. seq.) The similar Philippine statute is found in sections 1-9 of Act No. 926 (Public Land Act). In those laws the term "homestead" is applied to the tract of land acquired by the occupant without particular reference to the residential house maintained upon it.

When advertence is had to the nature of the right of exemption created by section 452 of the Code of Civil Procedure, it is at once apparent that said right is nothing more than a privilege, personal to the execution debtor, whereby the exempt property is withheld from liability to execution. The right of exemption is not a real right in property; it constitutes rather a positive inhibition restraining the officer from laying hands thereon. Such being the nature of the exemption, it results that the extent of the interest which the debtor possesses in the property which he claims as a homestead is wholly immaterial. The statute does not specify the kind of title a party shall have in order to enable him to secure a homestead. It says nothing about title. The right is impressed on the property to the extent of the interest claimed in it by the party entitled to the exemption, if not in excess of the value fixed by law as exempt; and this right in no wise depends upon the character of the title held by the claimant. The protection extends to whatever title he may have. This doctrine has been enunciated in the American decisions too often to justify extended comment. (13 R. C. L., subject, Homestead, sees. 3, 30-33.) Indeed, it is declared by the courts in a number of States that mere occupancy is sufficient to support the exemption; and it has been held in numerous cases that a leasehold interest may be claimed as exempt. As has been sententiously said by more than one court, if the debtor's possessory right is of sufficient value to be coveted by his creditors, it is of sufficient value to the debtor himself to entitle him to have it protected as exempt.

In this connection it will be sufficient to quote the following passage from a decision of the Supreme Court of the State of Alabama:

"The great controlling purpose and policy of the constitution, is the protection, the preservation of the homestead,—the dwelling-place. A houseless, homeless population, is a burden upon the energy and industry, and corrupting to the morals of the community, of which they may be members. No greater calamity, not tainted with crime, can befall a family, than to be expelled from the roof under which it has been gathered and sheltered. Protection of an estate or interest in lands, whatever may be its dignity or inferiority, merely because it is an estate or interest in lands, is not the purpose of the constitution, or of the statutes. * * * It is the house, the dwelling place,—not of necessity, an estate or interest in lands,— which must be protected and preserved. Usually, it is accompanied by such estate or interest; but, if it is not, it is the misfortune of the occupant, and of those who are dependent upon him, and can not subject it to a liability, to which it would not be exposed if such an estate or interest attended it. * * * Whether these houses, attended by a legal right to the use and occupation of the land on which they stand, are a homestead within the purview of the constitution, and protected by it, depends, not on the quantity or quality of the estate of the lessee, but on the nature and character of the act with which they were put in place, and the intention of the lessee, as shown by the uses to which they are appropriated." (Watts vs. Gordon, 65 Ala., 546-549.)

In the case before us it is agreed that the house upon which the sheriff has levied an execution is worth less than

P150. The agreed statement of facts contains no stipulation as to the value of the leasehold interest which the appellant has in the lot upon which the house stands. In the absence of proof upon this point, we must assume that the tenant is paying full value therefor by way of rent and that the leasehold interest of the appellant is of only nominal value. We accordingly find that the value of both the house and the interest of the owner in the leasehold is not in excess of P150.

It results that both the house and the appellant's interest in the leasehold are exempt. Levy of execution was therefore improperly made upon the house, and said levy must be quashed.

Judgment will be reversed, without special pronouncement as to costs of either instance. So ordered.

Araullo, Malcolm, Avancena, and Villamor, JJ., concur.

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