

**ANITA TOMACRUZ, PLAINTIFF AND APPELLEE, VS. BEATRIZ B. VALERO, JOSE M. VALERO, AMPARO B. JULIAN, BENIGNAL. PANGANIBAN, CONSUELO S. SANTOS, SOFIA T. SANTOS, AND EMILIANA T. SANTO...**

*G. R. No. L-2586. May 30, 1951*

Ponente: PARAS, C.J.

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**PARAS, C.J.:**

This case involves four fishponds located in the municipality of Hagonoy, province of Bulacan. The original owners were Paula Sunga and Tranquilina Sunga, sisters. On March 26, 1941, Paula Sunga and Tranquilina Sunga mortgaged the fishponds to Ramon Meneses and Jacinto Molina as a security for an indebtedness of P29,000. On July 28, 1942, Paula Sunga and Tranquilina Sunga sold the fishponds to Jacinto Tomacruz, son of Tranquilina Sunga, for P10 plus the encumbrances burdening the property. On December 7, 1942, Jacinto Tomacruz sold the fishponds to Ramon Meneses, who gave Paula Sunga a right to repurchase within the period of five years expiring in 1947. On December 12, 1942, Jacinto Molina conveyed his rights in the mortgage to Ramon Meneses. On December 13, 1943, Ramon Meneses sold the fishponds to Beatriz Bautista de Valero for P55,000, subject to a lease in favor of Maria Pascual. Paula Sunga approved the sale, and Anita Tomacruz, herein plaintiff-appellee, acted as one of the witnesses thereto. On December 15, 1943, Beatriz Bautista de Valero executed two instruments (not acknowledged before a notary public), granting the appellee an option to buy the fishponds within ten years. On July 13, 1944, Beatriz Bautista de Valero executed a deed of conditional sale with mortgage of the fishponds in favor of the appellee. On July 13, 1944, Beatriz Bautista de Valero executed a lease in favor of her sister, Amparo Bautista de Julian, but the latter did not sign said agreement. On September 10, 1946, Paula Sunga conveyed to Beatriz Bautista de Valero all her rights in the fishponds for P26,000. This consideration was paid by Beatriz Bautista de Valero and her sister, Amparo Bautista de Julian, in addition to the sum of P3,000 paid by them to Aniceto B. Oisostomo as commission due from Paula Sunga. On September 24, 1946, the Court of First Instance of Bulacan rendered a decision in case No. 50, entitled Paula Sunga vs. Jose M. Valero and Beatriz Bautista de Valero, in accordance with the following agreement of the parties therein: "(1) That Ramon Meneses sold to the defendants herein the parcels of land in question on December 13, 1943. (2) That as stated in paragraph 3 of the complaint, by virtue of a private agreement executed by Ramon Meneses on December 13, 1942, the plaintiff herein was given an option to buy the said parcels of land within a period of (5) five years. (3) That the defendants respect and recognize said rights of plaintiff mentioned in preceding paragraph. (4) That for and in consideration of the sum of TWENTY-SIX THOUSAND PESOS (P26,000), Philippine Currency, paid by the defendants to the plaintiff, the latter has transferred, sold and conveyed all her rights mentioned above and any and all further rights arising directly or indirectly from the said property in litigation, to and in favor of the herein defendants. (5) That henceforth, the plaintiff recognizes the defendants as the sole and absolute owners of the said parcels of land."

On December 31, 1946, the appellee filed a motion in the Court of First Instance of Bulacan in registration cases

Nos. 150 and 211, to order the register of deeds of said province to note on the back of the certificates of title covering the fishponds the deed of conditional sale with mortgage in favor of the appellee, which motion was denied. Appellee's appeal to the Court of Appeals was likewise dismissed.

On January 16, 1947, Beatriz Bautista de Valero and Amparo Bautista de Julian sold the fishponds to Benigna Panganiban, and the latter on January 21, 1947, in turn sold them to Consuelo S. Santos, Sofia T. Santos and Emiliana T. Santos. In virtue of the sale executed on December 13, 1943, by Ramon Meneses in favor of Beatriz Bautista de Valero, transfer certificates of title Nos. 25734 and 25735 were cancelled, and transfer certificates of title Nos. 26808 and 26809 were issued in the name of Beatriz Bautista de Valero, and in virtue of the sale executed on January 21, 1947, by Benigna L. Panganiban, transfer certificates of title Nos. 26808 and 26809 were cancelled, and transfer certificates of title Nos. T-2053 and T-2054 were issued in the name of Consuelo S. Santos, Sofia T. Santos and Emiliana T. Santos.

The present action was instituted by the plaintiff-appellee, Anita Tomacruz, on October 24, 1947, for the purpose of (1) compelling the defendants-appellants, Beatriz Bautista de Valero, Jose M. Valero and Amparo Bautista de Julian, to execute in due form in favor of appellee a new deed of conditional sale with mortgage of the four fishponds containing the same terms and conditions as those specified in the deed executed on July 13, 1944, which was not acknowledged before a notary public; (2) annulling the deeds of sale in favor of appellants Benigna L. Panganiban, Consuelo S. Santos, Sofia T. Santos and Emiliana T. Santos; and (3) ordering the register of deeds of Bulacan to register the new deed of conditional sale with mortgage to be executed by appellants Beatriz Bautista de Valero, Jose M. Valero and Amparo Bautista de Julian.

The appellants set up the defense that the deed of conditional sale with mortgage of July 13, 1944, is fictitious and that assuming that the same is valid, the appellee had not complied with the terms thereof. After trial, the Court of First Instance of Bulacan rendered a decision in favor of the plaintiff, ordering defendants Jose M. Valero and Beatriz Bautista de Valero to acknowledge before a notary public, within five days from the date the decision shall have become final, the document Exhibit "N", which is the deed of conditional sale with mortgage of July 13, 1944; declaring that the rights of the plaintiff over the fishponds covered by and described in transfer certificates of title Nos. 26808 and 26809 are superior to those acquired by defendants, Benigna L. Panganiban, Consuelo S. Santos, Emiliana T. Santos and Sofia T. Santos; and sentencing the defendants to pay the costs. From this decision the defendants have appealed.

The theory of the appellants is that the deed of conditional sale with mortgage of July 13, 1944, in favor of the appellee was a scheme conceived by the latter to protect the rights of her aunt, Paula Sunga, in the fishponds against possible claims of Angel S. Tantoco from whom Paula Suiiga obtained P50,000 in consideration of a ten-year lease executed by Paula Suiiga in favor of Angel S. Tantoco who was not able to obtain possession of the fishponds because they were then in the possession of Ramon Meneses. This theory, in our opinion, is supported by the preponderance of evidence. The fact that Paula Sufiga obtained P50,000 from Angel S. Tantoco and that she failed to deliver possession of the fishponds to him is beyond question. In civil case No. 154 instituted on October 4, 1943, in the Court of First Instance of Bulacan by Paula Sunga against Ramon Meneses, to compel the latter to resell the fishponds, Angel S. Tantoco filed a third-party claim. It was to avoid the contingency that Angel S. Tantoco might be able to reach whatever rights Paula Sufiga had in the fishponds, that the deed of conditional sale with mortgage in favor of the appellee was executed, at the latter's instance by appellants Beatriz Bautista de Valero and Jose M. Valero.

That this deed was a fictitious arrangement is borne out by several circumstances. In the first place, the instrument was not acknowledged before a notary public, the intention being thus clear not to make the document regis-trable. In the second place, the terms of payment are so conspicuously disadvantageous to the Valeros that

the latter could hardly be believed to have in fact accepted them. The deed called for the consideration of P80,000, P5,000 to be paid by the appellee upon its execution and the balance of P75,000 on annual instalments of P5,000. Under the theory of the appellee, the sum of P5,000 was paid by her on July 13, 1944, and the remaining P75,000 were to be paid out of the yearly rentals of P5,000 to be paid by Amparo Bautista de Julian under the 15-year lease contract executed by the appellee and appellants Beatriz Bautista de Valero and Jose M. Valero. The lease in favor of Amparo Bautista de Julian could not have been real, because the fishponds were then in the possession of Maria Pascual as lessee, who paid an annual rental of P7,500, and because Amparo Bautista de Julian did not sign the lease. It is unbelievable that the Valeros would have consented to sell the fishponds to the appellee at a yearly instalment of P5,000, because Maria Pascual was already paying P7,500 as annual rental.

In the third place, if the deed of conditional sale with mortgage of July 13, 1944, was simulated, it is hard to explain why Paula Sufiga on September 10, 1946, found it necessary to assign her rights in the fishponds, not to the appellant, but to Beatriz Bautista de Valero and the latter, together with her sister Amparo Bautista de Julian, to pay to Paula Sufiga the sum of P26,000. It is quite clear that as late as September 10, 1946, the Valeros owned the fishponds, although Paula Sunga still had some claims thereto; and those claims were sought to be protected by the deed executed by the Valeros in favor of the appellee.

It is contended for the appellee that the deed in question was not acknowledged before a notary public at the behest of appellant Jose M. Valero, in order to avoid its discovery by Angel S. Tantoco who might suspect that the sale between Ramon Meneses and Beatriz Battista de Valero was fictitious. This contention is untenable, since there is no pretense that the purchase by Beatriz Bautista de Valero from Ramon Meneses was not in good faith and, therefore, the Valeros had nothing to fear in so far as Angel S. Tan-toco's claim against Paula Sunga was concerned, especially in view of the fact that in the decision of the Court of First Instance of Bulacan of March 21, 1944, in civil case No. 144, (Exhibit 14), the third-party claim of Angel S. Tantoco was dismissed. Upon the other hand, if the deed was not fictitious, the appellee should have insisted in having it executed in due form so as to be registrable and thus to protect her rights thereunder. The fishponds in question are extensive in area and were having a rental of P7,500 a year, and it is inconceivable that the appellee would have readily agreed not to have the deed in her favor under notarial acknowledgment.

In the fourth place, the fact that the deed invoked by the appellee was a convenient arrangement planned by the appellee merely to protect the rights of Paula Sunga in the fishponds against the claim of Angel S. Tantoco for P50,000, is confirmed in a way by the testimony of Judge Ambrosio Santos who testified that he was consulted about the plan of appellee to place the fishponds in her name so as to make it appear that Paula Sunga no longer had any interest therein, the idea being to protect Paula's rights against the claim of Angel S. Tantoco. It is very significant that Judge Santos is even related to Paula Sunga and the appellee, with the result that if he were to favor anybody, it would be, in the ordinary course of things, his relatives. That the scheme was to protect Paula's rights is also supported by the testimony of Aniceto B. Crisostomo. The trial court correctly held that the Valeros and the appellee mutually consented to the deed in dispute, but this circumstance is not inconsistent with the finding that it is nonetheless fictitious.

What has been stated makes it unnecessary for us to discuss appellants' contention that, assuming the deed in appellee's favor to be valid, it had become ipso facto null and void because of the failure of appellee to pay the stipulated instalments.

Wherefore, the appealed judgment is reversed and the defendants-appellants are absolved from plaintiff's second amended complaint, with costs of this instance against the appellee. So ordered.

Feria, Pablo, Bengzon, Montemayor and Jugo, JJ., concur.

**PARAS, C. J.:**

Mr. Justice Padilla voted for the majority.

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