

BENITO MANALANSAN, PLAINTIFF AND APPELLANT, VS. LUIS MANALANG, JULIO CUBA AND JOSE SY, DEFENDANTS AND APPELLEES.

G.R. No. L-13646. July 26, 1960

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

This is an appeal taken directly to this Court on questions of law.

The undisputed facts as found by the trial court may be summarized as follows:

The spouses Augusto Manalang and Victoria Dabu were the original owners of the two-story building located at 2268-2270 España Street. On August 14, 1951, they executed a deed of chattel mortgage over this property in favor of Benito Manalansan to secure the payment of a loan. Because of their failure to pay the loan on the date of maturity, the mortgage was foreclosed and on May 14, 1956, the sheriff of Manila sold the building at public auction to the mortgagee Manalansan as the highest bidder.

Thereafter, Manalansan went to the premises in question to take possession thereof. There he found Jose Sy and Julio Cuba occupying the building as tenants of Luis Manalang. Manalansan consequently asked his lawyer to formally notify Luis Manalang and his tenants to vacate the premises, and eventually filed this case against them for the recovery of possession thereof.

At the trial, defendant Luis Manalang established that the building in question was sold to him on September 24, 1949, by the spouses Augusto Manalang and Victoria Dabu with the right to repurchase within one year; that the vendors failed to redeem the property within the period stipulated; that the property had been assessed for taxation purposes in his name for the years 1950-57, and he had paid the corresponding taxes thereon for that period; that on January 25, 1955, he obtained a judgment from the Municipal Court of Manila in Civil Case No. 34346 against Augusto Manalang, et al., ordering the latter to vacate the building in question; and that since the finality of the aforesaid judgment, he has been in the possession of said building, which he leased to his co-defendants Jose Sy and Julio Cuba.

Convinced that defendant Luis Manalang had acquired full ownership of the building in question before the execution of the deed of chattel mortgage relied upon by plaintiff for his cause of action, the lower court rendered judgment dismissing the complaint with costs. Unable to obtain reconsideration of this judgment, plaintiff Manalansan appealed directly to this Court.

It is urged by appellant that a building, although standing on land belonging to another, is an immovable property, as held by us in *Evangelista vs. Alto Surety & Insurance Co.*, 108 Phil. 401; 55 Off. Gaz. (20)3672; *Lopez vs. Luzon Surety Co., Inc.*, 103 Phil. 98; 56 Off. Gaz. (13)2820; and other cases; and that as the expiration of the period of redemption under appellee's contract of sale over the building in question with the former owners Manalang and Dabu occurred after the New Civil Code had already come into effect, the consolidation of his title

over said building should be governed by, and follow the procedure laid down in Art. 1607 thereof, a new provision not found in the Old Code, to wit:

"Art. 1607. In case of real property, the consolidation of ownership in the vendee by virtue of the failure of the vendor to comply with the provisions of article 1676 shall not be recorded in the Registry of Property without a judicial order, after the vendor has been duly heard."

We see no merit in the contention.

Assuming that the building here in question is such kind of real property as is included within the scope of Art. 1607, a question that we need not decide here, said Article can not apply to the contract of sale *con pacto de retro* between appellee and the spouses Manalang and Dabu for the reason that said contract was executed before the New Civil Code came into effect. The nature of a sale with the right of redemption is such that ownership over the thing sold is transferred to the vendee upon execution of the contract, subject only to the resolutory condition that the vendor exercise his right of repurchase within the period agreed upon (*Aquino vs. Deala*, 63 Phil., 582; *Lichauco vs. Berenguer*, 20 Phil., 12; *Aldereto vs. Amandoron*, 46 Phil., 488). Consequently, this contract is covered by Art. 2255 of the transitional provisions of the New Code, providing:

"Art. 2255. The former laws shall regulate acts and contracts with a condition or period, which were executed or entered into before the effectivity of this Code, even though the condition or period may still be pending at the time this body of laws goes into effect."

Furthermore, Art. 2252 of the New Code likewise provides that:

"Changes and new provisions and rules laid down by this Code which may prejudice or impair vested or acquired rights in accordance with the old legislation shall have no retroactive effect."

Under Article 1509 of the Old Code, the vendee irrevocably acquires ownership over the thing sold upon failure of the vendor to redeem—i.e., ownership is consolidated in the vendee by operation of law (*Dorado vs. Viriña*, 34 Phil., 264; *Rafols vs. Rafols*, 22 Phil., 236; *Gonzales vs. Salas*, 49 Phil., 1; *Krapfenbauer vs. Orbeta*, 52 Phil., 201). From the time appellee and his vendors executed their sale with the right to repurchase, therefore, the former had already acquired the right to consolidate full title over the building in question merely upon his vendors' failure to redeem, as well as the right to sell or convey this acquired right for value, subject to no other condition than that the vendors could repurchase within the period stipulated. To impose upon appellee the additional conditions found in Article 1607 for the consolidation of his ownership would thus impair and diminish the rights that had already vested in him under the Old Code.

Lastly, appellant contends that the sale with the right to repurchase between appellee and his vendors should have been registered as a notice to third persons, and so with appellee's consolidation of ownership; and that as appellant took the building in question without notice of its former sale to or consolidation of ownership in appellee because they had not been registered, he is not bound thereby. Unfortunately for appellant, there is no registry of buildings in this jurisdiction apart from the lands on which they stand, so that there is no legal compulsion to register, as notice to third persons, transactions over or dealings on buildings that do not belong to the owners of the lands on which they stand. Appellant should have known this when he accepted a chattel mortgage on the building in question and accordingly, he had a duty to conduct an investigation as to his mortgagors' title. Had he made such an investigation, he would have discovered that as of 1950, said building has already been assessed for taxation purposes in the name of appellee, and taxes thereon paid by the latter. This fact alone would have placed appellant on his guard as to the supposed title of his mortgagors over said building. Likewise, on January 25, 1955, before appellant bought the same building at the public auction sale in foreclosure of his mortgage thereon (on May 14, 1956), appellee Manalang had obtained a final judgment in the Municipal

Court of Manila against appellant's mortgagors ejecting the latter from the premises, and in the records of said case may be found an affidavit by Augusto Manalang recognizing appellee's ownership of said building and stating that he was occupying the same only as mere tenant. Thus, whether on the basis of prior possession or of earlier title, as required by Article 1544 of the Civil Code of the Philippines (Art. 1473 of the old Code) in case of double sale of unregistered property, appellee Luis Manalang is entitled to priority.

Wherefore, the decision appealed from is affirmed, with costs against appellant Benito Manalansan.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

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