

AMADO CARUMBA, PETITIONER, VS. THE COURT OF APPEALS, SANTIAGO BALBUENA AND ANGELES BOAQUÍÑA, AS DEPUTY PROVINCIAL SHERIFF, RESPONDENTS.

G.R. No. L-27587. February 18, 1970

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

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

Amado Carumba petitions this Supreme Court for a certiorari to review a decision of the Court of Appeals, rendered in its Case No. 36094-R, that reversed the judgment in his favor rendered by the Court of First Instance of Camarines Sur (Civil Case 4646).

The factual background and history of these proceedings is thus stated by the Court of Appeals (pages 1-2):

"On April 12, 1955, the Spouses Amado Canuto and Nemesia Ibasco, by virtue of a 'Deed of Sale of Unregistered Land with Covenants of "Warranty" (Exh. A), sold a parcel of land, partly residential and partly coconut land with a periphery (area) of 359.09 square meters, more or less, located in the barrio of Santo Domingo, Iriga, Camarines Sur, to the spouses Amado Carumba and Benita Canuto, for the sum of P350.00. The referred deed of sale was never registered in the Office of the Register of Deeds of Camarines Sur, and the Notary, Mr. Vicente Malaya, was not then an authorized notary public in the place, as shown by Exh. 5. Besides, it has been expressly admitted by appellee that he is the brother-in-law of Amado Canuto, the alleged vendor of the property sold to him. Amado Canuto is the older brother of the wife of the herein appellee, Amado Carumba.

On January 21, 1957, a complaint (Exh. B) for a sum of money was filed by Santiago Balbuena against Amado Canuto and Nemesia Ibasco before the Justice of the Peace Court of Iriga, Camarines Sur, known as Civil Case No. 139 and on April 15, 1967, a decision (Exh. C) was rendered in favor of the plaintiff and against the defendants. On October 1, 1958, the ex-officio Sheriff, Justo V. Imperial, of Camarines Sur, issued a "Definite Deed of Sale (Exh. D) of the property now in question in favor of Santiago Balbuena, which instrument of sale was registered before the Office of the register of Deeds of Camarines Sur, on October 3, 1958. The aforesaid property was declared for taxation purposes (Exh. 1) in the name of Santiago Balbuena in 1958."

The Court of First Instance, finding that after execution of the document Carumba had taken possession of the land, planting bananas, coffee and other vegetables thereon, declared him to be the owner of the property under a consummated sale; held void the execution levy made by the sheriff, pursuant to a judgment against Carumba's vendor, Amado Canuto; and nullified the sale in favor of the judgment creditor, Santiago Balbuena. The Court, therefore, declared Carumba the owner of the litigated property and ordered Balbuena to pay P30.00, as damages, plus the costs.

The Court of Appeals, without altering the findings of fact made by the court of origin, declared that there having been a double sale of the land subject of the suit Balbuena's title was superior to that of his adversary under Article 1544 of the Civil Code of the Philippines, since the execution sale had been properly registered in good

faith and the sale to Carumba was not recorded.

We disagree. While under the invoked article 1544 registration in good faith prevails over possession in the event of a double sale by the vendor of the same piece of land to different vendees, said article is of no application to the case at bar, even if Balbuena, the later vendee, was ignorant of the prior sale Made by his judgment debtor in favor of petitioner Carumba. The reason is that the purchaser of unregistered land at a sheriff's execution sale only steps into the shoes of the judgment debtor, and merely acquires the latter's interest in the property sold as of the time the property was levied upon. This is specifically provided by section 35 of Rule 39 of the Revised Rules of Court, the second paragraph of said section specifically providing that:

"Upon the execution and delivery of said (final) deed the purchaser, redemptioner, or his assignee shall be substituted to and acquire all the right, title, interest, and claim of the judgment debtor to the property as of the time of the levy, except as against the judgment debtor in possession, in which case the substitution shall be effective as of the time of the deed." (Emphasis supplied)

While the time of the levy does not clearly appear, it could not have been made prior to 15 April 1957, when the decision against the former owners of the land was rendered in favor of Balbuena. But the deed of sale in favor of Canuto had been executed two years before, on 12 April 1955, and while only embodied in a private document, the same, coupled with the fact that the buyer (petitioner Carumba) had taken possession of the unregistered land sold, sufficed to vest ownership on the said buyer. When the levy was made by the Sheriff, therefore, the judgment debtor no longer had dominical interest nor any real right over the land that could pass to the purchaser at the execution sale.[1] Hence, the latter must yield the land to petitioner Carumba. The rule is different in case of lands covered by Torrens titles, where the prior sale is neither recorded nor known to the execution purchaser prior to the levy[2]; but the land here in question is admittedly not registered under Act No. 496.

WHEREFORE, the decision of the Court of Appeals is reversed and that of the Court of First Instance affirmed. Costs against respondent Santiago Balbuena.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.

[1] Lanci vs. Yangco, 52 Phil. 563; Laxamana vs. Carlos, 57 Phil. 722.

[2] Cf. Hernandez vs. Katigbak, 69 Phil. 744; Phil. Executive Commission vs. Abadilla, 74 Phil. 68, and cases cited.

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