

MARIA GALASINAO, ANGELINA LAGON, MANUEL LAGON, ARMANDO LAGON, JOSE LAGON, JR., SERGIO LAGON, ROGELIO LAGON, AND JABUN JOSE LAGON III, PLAINTIFFS AND APPELLEES, VS. ROSA M. AUSTR...*G.R. No. L-7918. May 25, 1955*

Ponente: LABRADOR, J.

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This is an appeal from a judgment of the Court of First Instance of Nueva Vizcaya, certified to us by the Court of Appeals on the ground that only questions of law are involved. The facts found by the trial court are as follows: On March 31, 1938 Jose Lagon, married to Maria Galasinao, acquired homestead title (No. 47373) to two parcels of land in Solano, Nueva Vizcaya. On September 22, 1938 his homestead title was registered in the office of the register of deeds of Nueva Vizcaya and Original Certificate of Title No. 2178 issued in his favor. On May 17, 1944 he sold the said parcels of land to Rosa M. Austria for P20,000, Japanese military notes. The deed of sale was not registered until March 19, 1947, when the original title was cancelled and Transfer Certificate of Title No. T-444 issued in the name of Rosa M. Austria. Rosa M. Austria in turn sold the said lands on April 25, 1949 to Teodoro A. Cardenas. The sale was inscribed in the office of the register of deeds on May 3, 1949 and the certificate of title in the name of Rosa M. Austria cancelled, and another transfer certificate of title (No. T-1638) issued in the name of Teodoro A. Cardenas.

Jose Lagon died on February 18, 1945. The plaintiffs are Maria Galasianao, his widow, and Angelina, Manuel, Armando, Jose and Serigio, all surnamed Lagon, children of the deceased and Maria Galasinao. The defendants are Rosa M. Austria and Teodoro A Cardenas. The complaint in this case was filed on September 16, 1949, but this was amended by a letter one dated March 14, 1950. The amended complaint alleges that the sale made by Jose Lagon, husband, was in fraud of his wife, Maria Galasinao, but the court a quo found that said sale was not fraudulent as it was made for the purpose of paying a mortgage on the lands contracted by both spouses with the Agricultural Bank, and furthermore that it was within the scope of the power of the husband to sell and dispose of the conjugal properties defined in Article 1413 of the old Civil Code. The plaintiffs-appellees, did not contest this finding of the trial court or its ruling thereon. The trial court also found that the sale of the homestead by Jose Lagon in favor of Rosa M. Austria was approved by the Minister of Agriculture and Natural Resources on August 11, 1944. Neither is this finding contested.

The trial court held that in accordance with section 50 of Act 496, which provides that registration is the operative act that conveys and affects the land, the period within which the lands in question may be redeemed by the heirs of Jose Lagon under the provisions of Section 119 of the Public Land Law (Commonwealth Act No. 141) should begin from March 19, 1947, the day when the deed of sale executed by Jose Lagon in favor of Rosa M. Austria was registered in the office of the register of deeds. So it held that the redemption could still be enforced by the widow and legal heirs of Jose Lagon, as the 5-year period provided in the law had not yet expired when the action was presented. It is only against this ruling of the court a quo that the appeal has been made, defendant-appellant

Teodoro A. Cardenas contending that the period within which redemption should be made should be counted from the date of the deed of sale, May 17, 1944, because as between the parties thereto the said deed is valid and effective from the date of conveyance.

Section 119 of Commonwealth Act No. 141 provides:

"Every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs, within a period of five years from the date of the conveyance.

Does "conveyance" as used above mean the actual sale or transfer, or does it mean the registration of the deed evidencing it? The trial court held that "conveyance" implies registration, because section 50 of the Land Registration Act provided that the act of registration shall be the operative act to convey and affect the land. And plaintiffs-appellees argue in support of this ruling that an unregistered deed does not convey title or ownership but operates only as an executory contract to convey. Such a construction is belied by the language of the law (section 50, land Registration Act) itself, which is as follows:

"* * * But no deed * * * shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration.

In a long line of decisions we have held, following the language of the law, that as between the parties to a contract of sale registration is not necessary to make it valid and effective, for actual notice is equivalent to registration (*Obras Pias vs. Devera Ignacio*, 17 Phil., 45; *Gustilo vs. Maravilla*, 48 Phil., 442; *Quimson vs. Suarez*, 45 Phil., 901; and *Winkleman vs. Veluz*, 43 Phil., 609). So, Pursuant to the foregoing principle, that the purpose of registration is to give notice to third parties, we have held:

"The peculiar force of a title under Act No. 496 is exhibited only when the purchaser has sold to innocent third parties the land described in the conveyance. Generally speaking, as between vendor and vendee, the same rights and remedies exist with reference to lands registered under the Act as exist in relation to land not so registered." (*Syllabus, Medina v. Imaz and Warner, Barnes & Co.*, 27 Phil, 314).

And in the case of *Carillo vs. Salak*,^[1] G. R. No. L-4133, prom. May 13, 1952, we held that a sale of registered land which sale has not been registered in the office of the register of deeds is valid and binding as between the parties themselves.

The cases cited by plaintiffs-appellees to support their contention refer to the lack of effect of unregistered sales as to subsequent registered purchases and can have no application to the case at bar. The question now before us has already been expressly passed upon by Us in the case of *Galanza vs. Nuesa*,^[2] G. R. No. L-6628, prom. August 31, 1954. In that case, we held under a deed of sale of land acquired as homestead, which grants the vendor the right to repurchase the land within 5 years from the execution of the deed of sale, said period of repurchase starts from the day of the sale and not from the registration thereof in the office of the register of deeds. We said in that case that "the registration is intended to protect the buyer against claims of third persons arising from subsequent alienations by the vendor, and is certainly not necessary to give effect as between the parties to their deed of sale." It can be seen, therefore, that in so far as the owner of the homestead, Jose Lagon, is concerned, the conveyance mentioned in section 119 of the Public Land Law is the actual date thereof, and not the date of the registration of the deed of sale.

One other point remains to be explained and that is whether the parties plaintiffs in this case, the widow and children of the deceased homesteader Jose Lagon, can be considered as bound by the sale made by the husband and whether they can claim to be third parties as to whom registration should be considered as the operative act of conveyance. As to the widow, the sale was executed by Jose Lagon in his capacity as administrator of the conjugal

partnership. Jose Lagon was the agent of the conjugal partnership, of which the widow is a partner, and under general principles the act of the authorized agent is the act of the partners themselves (2 American Jurisprudence, 169,276). It is not, therefore, necessary that the widow had actual notice of the sale, and she can not be considered a third person or party in relation thereto. The sale made by the husband is binding on her (Cruz vs. Buenaventura, 84 Phil., 12, 46 Off. Gaz., 6032.)

As respects the children of Jose Lagon, the other plaintiffs-appellees, they may not be considered third parties because there is a privity of interest between them and their father. They only succeed to whatever rights their father had and what is valid and binding against him is also valid and binding as against them.

For the foregoing considerations, the judgment appealed from is hereby reversed and the defendants absolved from the complaint. With costs against the plaintiffs-appellees.

Pablo, Acting C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion and Reyes, J. B. L., JJ., concur.

[1] 91 Phil., 265.

[2] 95 Phil., 713.

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