

ROBERTO LAPERAL, PLAINTIFF AND APPELLEE, VS. HON. WILLIAM P. ROGERS, IN HIS CAPACITY AS ATTORNEY GENERAL OF THE UNITED STATES, DEFENDANT AND APPELLANT; REPUBLIC OF THE PHILIPPIN...*G.R. No. L-16590. January 30, 1965*

Ponente: DIZON, J.

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Roberto Laperal—hereinafter referred to as appellee— was the registered owner of a residential lot and building situated at No. 1570 Arlegui St., San Miguel, Manila, covered by Transfer Certificate of Title No. 41622 of the Register of Deeds of Manila. On April 12, 1944, for the sum of P500,000.00 in Japanese Military War notes, he executed a deed of sale conveying said property to the occupation Republic of the Philippines. As a result, T.C.T. No. 41622 was cancelled and T.C.T. No. "73102 was issued in the name of the vendee.

On April 22, 1946, the Alien Property Custodian of the United States, acting under authority of the Trading With the Enemy Act, as amended, and Executive Order No. 9095 of the President of the United States, after finding that the occupation Republic was an instrumentality of the Japanese Army of occupation during the war, issued Vesting Order No. P-28 divesting the occupation Republic of its title to the aforementioned property. However, on January 9, 1947, pursuant to Executive Order No. 9818 of the President of the United States, the property was transferred to the Philippine Alien Property Administrator, to be held, used, administered, liquidated, sold or otherwise dealt with by the latter in accordance with the provisions of the Trading With the Enemy Act, as amended, and the Philippine Property Act of 1946.

On April 2, 1947, appellee filed a claim for the return of the property aforesaid with the Vested Property Claims Committee of the Philippine Alien Property Administrator. Because the latter failed to decide his claim, one way or the other, appellee, on July 14, 1947, commenced the present action in the Court of First Instance of Manila against James Mel. Henderson, in his capacity as Philippine Alien Administrator of the United States, and the Register of Deeds of Manila, for the annulment of the abovementioned deed of sale and the issuance by the latter of the corresponding certificate of title in his name.

The main allegations of the complaint were that appellee executed a deed of sale of April 12, 1944 in favor of the occupation Republic of the Philippines under duress and due to the threats employed by the representatives of the Japanese Military Administration, and that the consideration of P500,000.00 in Japanese Military notes was grossly inadequate.

In his answer to the complaint, the Philippine Alien Property Administrator denied, for lack of knowledge and information, plaintiff's allegations concerning the circumstances under which the sale of the property was allegedly made. The Register of Deeds of Manila was declared in default due to his failure to answer the complaint within the reglementary period.

On December 29, 1947, the Republic of the Philippines filed a motion to intervene as a party defendant on the ground that the President of the United States had authorized the transfer to it of the property in litigation, albeit the transfer could not be effected pending the final outcome of the present case under Section 9 (a) of the Trading with the Enemy Act (40' Stat. 411). Said motion was granted on January 31, 1948, and subsequently, the intervenor answered the complaint, alleging that the sale of the property to the occupation Republic was voluntary; that the conditions thereof were favorable to the vendor because the property was bought to be used as the official residence of the Speaker of the National Assembly; that the sum of P500,000.00 paid for the property was adequate consideration ; and that, in the event that the court should order the return of the property to the plaintiff, the expenses it had incurred for the rehabilitation and repair of the building in question in the amount of P24,030.75 be reimbursed.

On August 23, 1949, the Philippine Alien Property Administrator, with previous leave of court, filed an amended answer wherein it alleged that the claim filed by Laperal with its Vested Property Claims Committee was disallowed by the latter on June 4, 1948, said decision having been affirmed by the Philippine Alien Property Administrator on November 26, 1948; that the plaintiff had profited from the use of the purchase price and is estopped from questioning the validity of the sale. As an alternative, it asked that, in the event that the deed of sale is declared null and void, plaintiff be ordered to return the purchase price of 500,000.00 with interest thereon at the rate of 6% per annum from April 12, 1944, and to pay the sum of P24,415.95 spent for the maintenance and preservation of the property in question.

On June 29, 1951, the Philippine Alien Property Administration of the United States was terminated by Executive Order No. 10254 of the President of the United States, its functions with respect to vested property located in the Philippines having been transferred to the Attorney General of the United States. Consequently, upon motion of the latter, the Court, on August 7, 1951, ordered that the Attorney General of the United States be considered as defendant in substitution of James Mel. Henderson, Philippine Alien Property Administrator.

After due trial upon the issues thus joined, the Court rendered judgment, the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered in favor of the plaintiff and against defendant and intervenor;

1. Ordering the cancellation of the Deed of Sale dated April 12, 1944;
2. Directing intervenor and defendant to jointly reconvey to Plaintiff the property subject of the aforesaid Deed of Sale, upon refund by plaintiff to defendant the amount of P35,714.28, which as the equivalent of the P500,000.00 Japanese Military notes paid by defendant to plaintiff, in present currency of the Philippines;
3. Ordering the intervenor Republic of the Philippines to pay plaintiff a monthly rental of P1,500.00 from the filing of the complaint in July, 1947, until the property is finally reconveyed to plaintiff; and
4. Ordering defendant and intervenor to pay attorney's fees in the sum of 10,000.00 and the costs."

The main oral evidence presented by appellee to prove the duress relied upon was his testimony; that of his son Oliverio Laperal, and the deposition of Gen. Takagi Wachi, former chief of the Japanese Military Administration in the Philippines during the Japanese occupation. Summarized, it shows the following:

Sometime during the first half of the month of April, 1944, a group of Japanese soldiers, headed by an officer, tried twice, unsuccessfully, to see appellee at his store located on Rizal Avenue, Manila. Their third attempts however, was successful, because when Oliverio, appellee's son, whom they found at the store, sensed that they were determined to go upstairs to search for his father, he had the latter called, and he had to go down to the store. Upon meeting him, the officer angrily asked why on their two previous visits they were unable to see him, to

which appellee replied that on said occasions he was really not in the house. The officer then ordered him to go immediately to the Japanese Military Administration at Isaac Peral to see General Wachi in connection with his Arlegui property. The following day appellee went to said office where he was met by two high-ranking Japanese officers who told him that his property at Arlegui street was needed to house some distinguished guests. As he told them that he could not sell the place because he had already promised to give it to his daughter, the officers were angered and warned him that his refusal to sell was bad because it was a sign of hostility to the Japanese. He was then told to go to Malacanang. In the afternoon of that day, appellee was taken by car to his Arlegui property where General Wachi was waiting for him. Again asked why he did not want to sell the property, appellee reiterated that he had already given it to his daughter. After Wachi had warned him that his non-cooperative attitude was dangerous, he was taken to a building located at the corner of Dewey Boulevard and Padre Faura where again Wachi asked him if he was still reluctant to sell. Replying that there was no need to buy the same as it was already being used by the Japanese, Wachi shouted at him, saying: "Don't you know that what you are doing is bad? Don't you know that we have an understanding with your government, and you are not cooperating?" Thereupon he was told to go to Malacanang the following day to receive the purchase price of his property:

Early the following morning, appellee went to Malacanang to seek President Laurel's help, but the latter told him that he was in no position to be of any help considering the conditions prevailing at the time, but assured him that he would be paid P500,000.00 for his property, tax-free. Later in the day appellee received a check in that amount after signing the deed of sale presented to him already prepared. The check was later deposited with the Philippine National Bank.

Appellee also presented Ex-Secretary Pio Pedrosa as witness, and the latter testified that he had held several positions in the occupational government; that he was one of the witnesses to the deed of sale in question; that all purchases of lands by the Japanese Military Administration were coursed through the Philippine Government; that in the acquisition of lands, the latter had to accede to all impositions of the Japanese authorities; that it was the understanding that all vendors of real estate would be accorded the right to repurchase their property upon the termination of the so-called Greater East Asia War; and that the money paid for appellee's property came from the Japanese Military forces.

Appellee's last witness was General Wachi who testified by deposition to the effect that sometime in March 1944, he began looking for a house for Gen. Teraochi who was scheduled to arrive in the Philippines about the end of April; that he found the Laperal property on Arlegui street to be suitable, and ordered a certain Captain Uga to see Laperal in connection with the purchase of the same; that Uga informed him that Laperal had stubbornly refused to set the property, so he instructed Uga to tell Laperal to go to the office of the Japanese Military Administration ; that Laperal, in fact, went to see him thereat.

Aside from the above oral evidence, appellee introduced the documents marked as Exhibits A to Z-35, of which the following are, in our opinion, the important ones: Exhibit G is a letter of January 21, 1944 signed by Col. Utonomiya, military attache to the Japanese embassy, addressed to Pedro Sabido, Executive Secretary, regarding the imperative need of acquiring certain lands for the prosecution of the East Asia War; Exhibit G-1 contains the terms and conditions for the acquisition of private lands—acquisition to be made through the government of the Republic, although the payment was made by the Imperial Japanese Army or Navy; Exhibit H dated February 8, 1944 is a letter of Executive Secretary Sabido to the military and naval attache, indicating the readiness and cooperation of the Philippine government in the acquisition of such lands as may be desired by the Japanese forces; Exhibit T is a letter of Executive Secretary Abello to the Minister of Home Affairs requiring immediate compliance by the different offices of the government with the request of the Japanese Army for housing

accommodation; Exhibit V is a communication of the Executive Secretary reiterating a prior directive on immediate action by offices and bureaus on request of the Japanese Army for housing accommodation; Exhibit Z-3 is a memorandum of Vice-Minister Abello to Minister Recto dated December 16, 1943 on the coercion employed by Japanese homes to be occupied by members of the Japanese navy.

Upon the other hand, appellants (defendant and intervenor) presented the documents marked as Exhibits 1, 2, 3, 3-O to 3-L, 4, 4-B to 4-J, 5, 6, 6-A, 7, 8 and 9.

Exhibit 1 is the alleged record of the current account of appellee with the Philippine National Bank, while Exhibits 2, 3, 3-A to 3-L refer to the cost of the repairs made on the property in question amounting to a total of P24,030.74. The other exhibits are not of moment in connection with the decisive issues involved.

Appellants did not present any oral evidence other than the testimony of the witness who testified in connection with Exhibit 1.

The issues to be resolved now are the following:

- (1) whether or not appellee executed the Deed of Sale of April 12, 1944 under duress and due to the threats of the Japanese army; and, in the affirmative,
- (2) whether or not he had ratified the sale by making use of the proceeds thereof.

With respect to the first issue, the lower court found, on the basis of the evidence before it, that the sale was executed under duress.

After a careful perusal of the record, we are constrained to affirm such finding, not only (a) because of the well settled rule and judicial appellate practice that, in the absence of evident error or abuse of discretion in the evaluation of the evidence, or the failure or refusal of the trial court to take into consideration some important and material fact, its findings of fact must be accepted *Valdez vs. Pine*, 76 Phil. 285; not only (b) because appellants presented no evidence to disprove the facts testified to by appellee and his witnesses—thus making such facts virtually undisputed, but also (c) because of the following circumstances:

- (1) It is of common knowledge that, during the second world war, the Japanese army of occupation in the Philippines did occupy and take private properties in the City of Manila and elsewhere in the country without the consent of their respective owners, for their use in the prosecution of the war, resorting in some cases to the expedient of making the owners execute deeds of sale or contracts of lease;
- (2) It is not denied that appellee, before the war and at the time of the execution of the questioned sale, was a very rich man with extensive real estate holdings principally in Manila. The record discloses in this connection, that from 1914 up to the date of the sale, he had not disposed of a single property by sale. The record further shows that at the time of the sale, he was in possession of a considerable amount of money, both in genuine Philippine currency and in Japanese military notes. Highly solvent as he was at the time, it was improbable—to say the least—that he would dispose of such a valuable property as the one in question. If he had been in need of money at all he would probably have sold some other much less desirable property. One may believe that the sale in question was voluntary only by assuming that Laperal sold the property involved to collaborate in the attainment of the ends pursued by the Japanese army of occupation—an assumption completely unjustified in this case in view of the absolute absence of evidence, direct or indirect, that Laperal collaborated or had ever intended to collaborate with the enemy.
- (3) The consideration paid for the property, namely, the sum of P500,000.00; in Japanese military notes, was grossly inadequate. It has been agreed, for the purpose of this case, that at the time of the sale (April 1944), a

pre-war Philippine peso was worth fourteen Japanese military pesos. On the other hand, the evidence of record shows that the pre-war assessed value of the property in question was P92,995.00 which, if reduced to its equivalent value in terms of Japanese military notes as of April 1944, would have amounted to around P1,300,000.00 (Japanese military notes). We must also consider the fact that the pre-war assessed value of the property did not represent its real or actual value which could easily be around P200,000.00. Reduced to its equivalent in Japanese military notes, this would have meant around P2,800,000.00. Instead, he was merely paid P500,000.00 in Japanese military notes, or the equivalent of something around 135,000.00, Philippine currency, at the time.

The transaction involved in this case is not covered by the theory of "collective" or "general" duress, according to which, the general feeling of fear which Filipinos felt for the Japanese during the years of occupation, unaccompanied by any particular coercive act on the part of the latter, does not invalidate a contract which would otherwise be valid if entered into freely during peace time. Regarding the threats faced by appellee, the trial court said the following:

"The evidence for the plaintiff unmistakably shown that Roberto Laperal was inspired by a reasonable and well-grounded fear of suffering an imminent and serious injury to his person or property, including that of his family. The incidents which took place between the plaintiff, on one hand, and the Japanese soldiers, officers and General Watchi, on the others, prior to plaintiff's going to Malacanang to affix his signature on the Deed of Sale, instilled genuine fear in a man in Laperal's condition. It is of common knowledge that during those war days, an order from a mere Japanese soldier would inspire a well-grounded fear, for we know that a refusal to obey it would certainly result in the invader's committing inhuman and barbaric acts too well known and horrible to be ignored by all Filipinos during the occupation. In the case of plaintiff, he was dealing not with an ordinary Japanese soldier but, first, with a group of Japanese soldiers headed by a Japanese officer noted for their arrogance and ruthlessness, and who cowed him to go to the Office of the Japanese Military Administration, and once in that Office, he was in contact with two high-ranking Japanese officers, who were equally overbearing and who warned Laperal that his refusal to sell his property constituted a hostile act; and, lastly, with General Watchi, who reminded Laperal that non-cooperation was bad. Watchi shouted at Laperal when the latter reasoned out that he could not sell his property because he had already given it to his daughter. The Court could just imagine how Laperal must have been terrified when he was shouted at. While plaintiff was not actually threatened with being sent to the dreaded Fort Santiago or to some places in Manila which were then death or torture chambers known by all Filipinos during the occupation, yet the warnings of the Japanese officers and of General Watchi that his refusal to sell his property was bad and constituted a hostile act, were sufficient to give plaintiff an inkling of what would happen to him and his family should he show non-cooperation. How many were tortured and killed by the Japanese invaders on flimsy reasons or on signs of lack of cooperation? The Court has not forgotten incidents during the Japanese occupation which indicate in no uncertain terms the brutality which characterized the dealing of the Japanese with Filipinos. A mere failure to bow to a Japanese gentry was the cause of many occasions of Filipinos being subjected to inhuman treatment. The members of the Japanese Army and Navy were sensitive of such things as non-cooperation with them in getting food for their own use, failure to attend meetings organized by them, non-support of government programs by them, refusal to accept the occupation currency, etc. In the case of Laperal, the Japanese officers and General Watchi did not have to tell him that his unwillingness to sell his property which they urgently needed for the theater commander, General Teraochi, might subject him to severe penalties, for no one at that time could ignore the fact that the Japanese would not accept 'no' for an answer and that the moment they were displeased, they would commit all sorts of highly inhuman acts, with or without reason."

Coming to the issue of "ratification", appellants contend that appellee ratified the sale by utilizing the proceeds thereof. To support this contention, they represented the document marked as Exhibit 1 purporting to show the status of appellee's current account with the Philippine National Bank during the Japanese occupation. Aside from

several deposits, amongst them being the sum of P500,048.66 deposited on April 28, 1944, it shows several withdrawals, and a remaining balance of P4,189.27. They also presented two deeds of sale executed in favor of appellee, one for a consideration of P75,000.00 on May 29, 1944 covering a parcel of land in Licab, Nueva Ecija (Exhibit 5), and another for a consideration of P250,000 executed on April 28, 1944 covering two lots situated in Iloilo (Exhibit 6).

According to the evidence, the Philippine National Bank had been appellee's depository continuously since 1914.

Because the document Exhibit 1 is incomplete and not entirely reliable, the trial judge questioned the witness presented by appellants to identify said exhibit, the result being what now appears on page 12 of the transcript for the session of July 18, 1957:

"THE HONORABLE COURT:

Q. Who is in charge of the records?

A. Another person.

Q. Could you say anything about this record?

A. No sir, in case of this nature, when the bank is asked to bring records to the Court the records clerk will have to retrieve that particular record and send me here.

Q. Who is taking care of that record?

A. The record clerk.

Q. So you have nothing to do in this case except to bring this record to the Court?

A. Yes.

Q. What you have testified here is the only knowledge you have in this record?

A. Yes, sir."

As a consequence, ruling on the probative value of the document Exhibit 1, the trial court held:

"This Exhibit 1 has no probative value at all. It was not properly identified by any witness of the defendant. The entries in said Exhibit were supposedly made way back in 1944, while the employee of the Philippine National Bank who testified on said exhibit was not the one who made the entries on Exhibit 1 or kept the books. He was a new employee, without sufficient personal knowledge of the matters he was made to testify."

The above-quoted ruling of the trial court is bolstered by the fact that appellants failed to produce evidence sufficiently linking the different sums of money appearing on Exhibit 1 as having been withdrawn on different dates by appellee from his account, with the amounts allegedly paid by him for the purchase of the properties subject matter of the deeds of sale Exhibits 5, 6, 7 and 8. Not only the dates of the withdrawals but the amounts withdrawn do not tally with the dates of the sales and the different amounts paid as consideration therefor—a circumstance that demanded more imperatively the presentation of evidence on the point adverted to. In the absence thereof, we can not simply presume that the amounts withdrawn were used by appellee for the purpose of buying other properties.

We need not, however, go further discussing this point, for this reason. Among the assignment of errors submitted in the brief of appellant, the Honorable William P. Rogers, in this capacity as Attorney General of the United States (intervenor-appellant, Republic of the Philippines, filed no brief of its own but merely adopted "as its own all the errors assigned in the brief of its co-appellant"), we find no one assailing and putting in issue this particular

ruling of the trial court. The same, therefore, may not now be reviewed (Rule 51, sec. 7; Rule 56, sec. 1, Rules of Court).

Upon the other hand, we find merit in the third and fourth assignment of errors made in the brief of appellants. In the former, it is contended that the lower court erred in ordering the Republic of the Philippines to pay rent for the use of the property from the date of the filing of the complaint until its reconveyance to appellee, and in the latter, that it also erred in awarding appellee the sum of P10,000.00 as attorney's fees.

While it is true that during all these years the property in question has been in the possession of the Republic of the Philippines, it is nonetheless true that appellee has also been in possession of the money paid to him for the sale of said property. In the absence of concrete evidence showing considerable disparity in the benefits thus respectively derived by the two parties concerned, equity will presume that they are more or less the same.

In connection with the sum of P10,000.00 awarded to appellee as attorney's fees, it does not appear that the two appellants here acted in bad faith or recklessly in sustaining the validity of the sale under question. It is not denied that neither had any part in forcing appellee to execute the sale. Besides after the pendente lite transfer of the property to it by the government of the United States, intervenor-appellant had no other reasonable recourse but to prosecute the pending case. On the other hand, the government of the United States was justified in confiscating the property upon the surrender of Japan because, although it was in the name of the occupation Republic of the Philippines, it appeared to have been really purchased by the Japanese army and paid for with funds of the latter. Therefore, in defending this suit, said party can not be charged with notorious bad faith.

Appellee, therefore, is not entitled to the rents and attorney's fees awarded to him in the decision appealed from.

However, appellants' contention that the Republic of the Philippines should be reimbursed the sum of P24,030.75 representing expenses incurred for repairs made on the property in question is without merit as said repairs were made not to preserve the property or to save it from being lost, but to enable intervenor-appellant to use it for its own purposes. In fact, as stated heretofore, it has enjoyed full possession and use of it since 1944.

In view of what has been said heretofore, we do not deem it necessary to make a ruling on the fifth assigned error.

WHEREFORE, modified as above indicated, the decision appealed from is affirmed, without costs.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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