

MARTA MENDOZA AND HILARIO NONATO, PETITIONERS, VS. FELISA DIAZ AND DAVID LIWANAG, RESPONDENTS.

G.R. No. L-23140. September 29, 1966

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

This is an appeal from the decision of the Court of Appeals in CA-G.R. No. 27717-R.

In the settlement of the estate of Felix Enriquez, the decedent's widow, Felisa Diaz, received as pertaining to her in usufruct seventeen (17) parcels of land. Subsequently, on May 29, 1933, she concluded some exchange of properties with Santos Solapco, one of the decedent's heirs. Felisa thereby acquired usufruct over one-half portions of three parcels of land referred to as parcels A, B, and C and over all of a fourth parcel of land known as D. She thereafter entered into an agreement on June 15, 1933 leasing to the aforesaid Santos Solapco all - except two - of the seventeen parcels of land awarded to her in usufruct together with parcels of land A, B, C and D to which she had, as mentioned, likewise acquired the usufruct.

In November of 1933, however, the Roman Catholic Archbishop of Manila, in CFI Civil Case No. 5474, recovered possession from Santos Solapco of a lot Solapco had acquired in the exchange of lots with Felisa Diaz. As a result, Felisa was held liable to Solapco in the amount of P4,000, the value of said lot.

Solapco died in 1934. Felisa Diaz filed a suit on May 15, 1936 against his surviving spouse, Marta Mendoza - who had continued the lease - and Hilario Nonato, whom the widow Marta had later married. Said action, brought in the Justice of the Peace Court of Pasig, Rizal, sought recovery of rentals and cancellation of the lease. The plaintiff therein (Felisa Diaz) won in the inferior court but on appeal to the Court of First Instance the suit was dismissed upon the ground that said action was not within the inferior court's jurisdiction. The dismissal was appealed from but the case was never finally decided because its records were lost during the battle of liberation.

After the war, on August 29, 1946, the spouses Marta Mendoza and Hilario Nonato - hereinafter otherwise referred to as the Nonato-Mendoza spouses - executed an affidavit declaring themselves the true and exclusive owners of nine (9) parcels of land and obtained new tax declarations in their names for said lands. And, subsequently, on June 14, 1948, the Nonato-Mendoza spouses sold one of said lots covered by the affidavit to the spouses Antonia Manalo and Basilio Unsay. Still later, on October 1, 1951, the Nonato-Mendoza spouses sold five parcels of land - three of them covered by the affidavit mentioned earlier - to the sisters Asuncion and Margarita Tuason.

Felisa Diaz, assisted by her second husband David Liwanag, filed on September 9, 1954, in the Court of First Instance of Rizal, the amended complaint in the present action for collection of rentals, return of possession of ten (10) parcels of land, cancellation of tax declarations and annulment of sales.

Said amended complaint alleges three causes of action: (1) That parcels 1 to 10 mentioned therein were among those adjudicated to Felisa Diaz in usufruct; that parcels 1 to 8 were among those leased by her to Santos Solapco;

that after Solapco's death, the Nonato-Mendoza spouses continued leasing said properties; that said Nonato-Mendoza spouses paid rentals up to 1939; that starting 1940 they stopped doing so, claiming that Felisa Diaz owed Solapco P4,000[x] and this should first be applied to the rentals; that parcels 9 and 10 therein mentioned were leased by the Nonato-Mendoza spouses from plaintiffs in 1946; that the Nonato-Mendoza spouses have not paid - despite previous demands - rentals for parcels 1 to 8 since 1940 and parcels 9 and 10 for the years 1947 and 1948; (2) That the Nonato-Mendoza spouses by false statements succeeded in securing the cancellation of Felisa Diaz' tax declarations over the nine parcels of land mentioned in their affidavit and securing new tax declarations in their names; and (3) That the Nonato-Mendoza spouses sold parcels 2, 4 and 5 mentioned in the complaint, to Asuncion Tuason, and Parcel 9 to Antonia Manalo and Basilio Unsay.

The defendants Nonato-Mendoza spouses filed their answer with counterclaim on October 6, 1954. And on October 11, 1954 defendant Asuncion Tuason filed an answer with cross-claim and counterclaim. Plaintiffs, on October 24, 1954, answered the counterclaim of the Nonato-Mendoza spouses.

After trial, on September 23, 1955, decision was rendered by the Court of First Instance dismissing plaintiffs' complaint and ordering them to pay the Nonato-Mendoza spouses P4,000 and, for taxes paid by Solapco, the sum of P900.

Plaintiffs took the first appeal to the Court of Appeals (CA-G.R. No. 16829-R).

In its decision therein on April 22, 1957, the Court of Appeals found that the nine parcels of land mentioned in the affidavit executed by the Nonato-Mendoza spouses in 1946, were exactly the same parcels of land Felisa Diaz leased to Santos Solapco in 1933; rejected as not well taken the defense of prescription interposed by the defendants; ruled that the true value of the lot recovered by the Archbishop from Solapco - allegedly P4,000 - should be determined by further evidence, as well as the precise amount of annual rental from 1940 to 1954. For this reason, it remanded the case to the lower court for new trial and new judgment in accordance with the old and new evidence the parties may present.

After new trial, the Court of First Instance rendered a decision on August 31, 1959, having this dispositive portion:

"IN VIEW OF THE ABOVE CONSIDERATION, this Court hereby declares the properties described as parcels Nos. (1) to (9) of the Amended Complaint subject to the right of usufruct of Felisa Diaz and judgment is accordingly rendered thus:

"(1) Defendants Marta Mendoza and Hilario Nonato are hereby directed (a) to turn over the possession of the properties described as parcels (1), (3), (6), (7), (8) of the Amended Complaint to the herein plaintiffs; (b) to pay the latter jointly and severally the sum of P6,042.00 which is the amount due by way of rentals as of April, 1954 as per liquidation made in the document marked Exhibit 'I' plus the amount of P798.00 as annual rental from 1955 until possession shall have been delivered, all of which amounts shall bear the legal rate of interest from the date of the filing of the Complaint on July 22, 1954;

"(2) Defendants Antonia Manalo and Basilio Unsay are hereby directed to turn over to plaintiffs the possession of parcel (9) of the Amended Complaint which parcel has been sold to them by their co-defendants, Nonato and Mendoza; provided, however, that the naked ownership of said property remains with said vendees-defendants, and provided further, that the right of possession of plaintiffs shall last only during the existence of the usufruct of Felisa Diaz over said property;

"(3) Defendant Asuncion Tuazon is directed to turn over to plaintiffs the possession of the first three parcels described in the Deed of Sale, Exhibit 'H', Nos. (1) to (3);[#] provided, however, that all the naked ownership over said properties shall remain with the above-named defendant; and provided further that the possession of

plaintiffs shall be only for the duration of the right of usufruct of plaintiff, Felisa Diaz;

"(4) Defendant Jose Perez, Provincial Assessor of Rizal, is hereby directed to cancel the tax declarations issued in the names of Marta Mendoza and Hilario Nonato covering the properties described as parcels (a) to (i) inclusive in the affidavit, Exhibit 'F' and to issue in lieu thereof new tax declarations in the name of Felisa Diaz as usufructuary of said properties which tax declarations shall remain valid only for the period of existence of her usufruct;

"(5) All other claims of plaintiffs and defendants are denied for lack of merit.

"With costs against defendants Hilario Nonato and Marta Mendoza."

And on December 15, 1959 said court issued an order amending decision, thus:

"Before this Court is a motion for reconsideration filed by plaintiffs' counsel wherein it is prayed that the Decision be amended so as to include in the relief an additional parcel of land described as No. (10) of the Amended Complaint.

"WHEREFORE, there being no objection to the said motion for reconsideration, copy of which was received by the other interested parties since November 15, 1959; as prayed, the Decision dated August 31, 1959 is hereby amended in so far as parcel No. 10 of the Amended Complaint is concerned, in that said property is declared to be one of the properties of which the plaintiff Felisa Diaz de Liwanag is the usufructuary and for this purpose the first paragraph and sub-paragraph (1), letter (a) of the dispositive portions amended accordingly:

"In view of the Above Considerations, this Court hereby declares the properties described as parcels Nos. (1) to (10) of the Amended Complaint subject to the right of usufruct of Felisa Diaz and judgment is accordingly rendered thus:

"'(1) Defendants Marta Mendoza and Hilario Nonato are hereby directed: (a) to turn over the possession of the properties described as parcels (1), (3), (6), (7), (8) and (10) of the Amended Complaint to the herein plaintiffs;
x x x'

"In all other respects, the Decision stands."

Defendants Nonato-Mendoza spouses alone took therefrom the second appeal to the Court of Appeals (CA-G.R. No. 27717-R).[*] On February 27, 1964, the Court of Appeals in its decision affirmed with costs the trial court's judgment. And now, as afore-stated, defendants Nonato-Mendoza spouses appeal therefrom to Us.

Appellants would contend that the properties mentioned in the complaint - although the same as those described in their affidavit - are not identical to the properties over which Felisa Diaz had acquired usufruct and/or leased to Solapco and the Nonato-Mendoza spouses. The Court of Appeals however rightly pointed out that this is an issue already passed upon and resolved in the first appeal to the Court of Appeals, wherein it was found that the properties leased to Solapco were "exactly the same" as those mentioned in the affidavit executed by the Nonato-Mendoza spouses (Rec. on App., p. 116). This is therefore already the law of the case and cannot anymore be re-litigated in this second appeal.

Furthermore, in paragraph 2 of their answer in the trial court, appellants admitted the allegations of paragraph 4 of the amended complaint, which states:

"4. That all the above described properties formed parts of the original seventeen (17) parcels of land constituting this plaintiff's usufruct, and that the first eight in the list given above were among the parcels of land leased to Santos Solapco, deceased husband of defendant Marta Mendoza, in accordance with a contract of lease executed on June 15, 1933, copy of which is hereto attached and made part hereof as Annex 'A';"

Accordingly, they had thereby admitted the identity of the lots described in the complaint (the same description as that in the Nonato-Mendoza spouses' affidavit) with the lots given in usufruct to Felisa Diaz and subsequently leased to Solapco.

Appellants would further argue that prescription bars the present suit. Said issue of prescription, likewise, had been resolved in the first appeal to the Court of Appeals and may not now be raised anew in this second appeal. It is clear from the Court of Appeals' first decision that it remanded the case for determination of the annual rentals of the land from 1940 to 1954, and the true value of the lot recovered by the Archbishop of Manila, and, thereafter for judgment in accordance with such determination. The Court of Appeals required evidence upon these points precisely to implement its finding on the identity of the lots and that the right to recover the rentals in question had not prescribed.

Appellants finally contend that plaintiffs should pay them P4,900. The same, however, represents the P4,000 Felisa Diaz owed to Solapco for the land recovered by the Archbishop and P900 for taxes paid by Solapco. And said P4,900 was already deducted by the trial court from the rentals due from defendants Nonato-Mendoza spouses for the lease of the properties in Solapco's and their own favor (Record on Appeal, p. 144). Plaintiffs should not pay the same debt twice.

WHEREFORE, the appealed decision of the Court of Appeals is hereby affirmed, with costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

[1] Value of lot recovered by the Roman Catholic Archbishop of Manila as per decision in CFI Case 5474.

[2] The same as parcels 2, 4 and 5 in the Amended Complaint.

[3] An order of execution against defendants Antonia Manalo and Basilio Unsay was thereafter issued; but in Unsay v. Hon. Muñoz-Palma, L-17712, May 31, 1965, We annulled the order of execution insofar as it required defendants Unsay-Manalo spouses to deliver the land without awaiting the final result in the present appeal, since their liability depends upon herein appellants' liability.

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