

**VOLUNTARY INSOLVENCY OF MONICO A. DIA. GENEROSA A. DIA,
PETITIONER AND APPELLANT, VS. FINANCE & MINING
INVESTMENT CORPORATION ET AL., OPPOSITORS AND APPELLEES ;
NAZARIO G. CRUZ,...**

CA-No. 213. May 24, 1949

Ponente: PARAS, J.

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PARAS, J.:

In the voluntary insolvency proceedings of Monico A. Dia, the Court of First Instance of Laguna, upon motion of the assignee, Narciso G. Cruz, issued an order on October 3, 1938, authorizing the latter to sell privately several lots of the insolvent Monico A. Dia at the highest

price obtainable and to execute the corresponding deeds of sale, subject to the approval of the court. The assignee found a purchaser in the person of Generosa A. Dia (sister of the insolvent) who offered to pay the price of P500 per hectare. The deed of sale in favor of Generosa A. Dia was executed by the assignee on October 17, 1938, the purchaser paying to the assignee the necessary purchase price. The proceeds were deposited with the court by the assignee. After the latter had filed a motion for the approval of the sale, the Finance and Mining Investment Corporation, a creditor of the insolvent, filed a motion offering to buy three lots at the price of P600 per hectare. In view whereof, the sale to Generosa A. Dia was disapproved, and the court authorized the assignee to sell the three lots to the Finance and Mining Investment Corporation. However, the corporation did not pay to the assignee the purchase price, on the ground that it was a creditor of the insolvent in the amount of some P22,000, and that the price should merely be deducted from said credit. The other lots were again offered for sale by the assignee, and Generosa A. Dia became the purchaser for the price of P439.77, which sale was approved by the court.

In view of the disapproval of the first sale in favor of Generosa A. Dia, the latter filed a motion for the return of P2,853.45, the difference between the amount originally paid by Generosa and the price of the remaining lots finally sold to her. As the amount originally paid by Generosa which was deposited by the assignee with the court, was subsequently withdrawn by said assignee, the court, acting on the aforesaid motion of Generosa, ordered the assignee to return to her the amount of P2,853.45 immediately, which order the assignee was not able, and still has failed, to comply with.

Upon the other hand, it appears that the Finance and Mining Investment Corporation meanwhile obtained new Torrens titles for the lots purchased by it, and that said lots were thereafter sold by the corporation to Dr. Vicente Valencia who in turn obtained corresponding transfer certificates of title, in his name. Dr. Valencia subsequently sold the lots to Valentin Manguerra, Ramon Bartolazo and Constanca Coronel.

A conflict arose when the last three purchasers sought to assert their ownership and right of possession over the three lots, for Generosa A. Dia, invoking article 1308 of the Civil Code, insisted in keeping her possession until the sum of P2,853.45 shall have been returned to her. The Court of First Instance of Laguna, acting on various

motions of the parties, ruled that possession of the lots should remain with the registered owners, namely, Valentin Manguerra, Ramon Bartolazo and Constanica Coronel. It, however, ordered the filing of a bond in the sum of P3,000 to answer for any damages which Generosa A. Dia may suffer. The latter has appealed.

There can be no question that if the controversy were between Generosa and the Finance and Mining Investment Corporation, the contention of the former would be tenable: first, because the assignee was excused from filing a bond at the instance of the corporation; secondly, because said corporation did not actually pay in cash the purchase price of the three lots; and, thirdly, because said corporation made the purchase with full knowledge of the situation of Generosa A. Dia.

But as innocent purchasers for value (Dr. Valencia, Valentin Manguerra, Ramon Bartolazo and Constanica Coronel) have come in, the contention of Generosa loses its point. Said purchasers are entitled to the benefit and protection afforded by the Torrens System. Article 1308 of the Civil Code providing for the mutual return by the contracting parties of what they respectively received under the contract, has reference to the immediate participants in the contract, but certainly not to an innocent third party. It is true that a notice of *Us pendens* was presented by Soledad Gonzales Vda. de Carteciano, but this took place after the sale to Dr. Valencia and it was not one presented by Generosa A. Dia.

Another circumstance unfavorable to Generosa A. a is that there is an indication in the record that her alleged possession was not derived from the original sale to her by the assignee but from the fact that, even prior to the insolvency proceedings of her brother Monico A. Dia, the lots in question were in her possession merely as manager. On equitable considerations, it may be stated that Generosa A. Dia has her legal remedies against the assignee, Narciso G. Cruz.

In view of the result thus arrived at, it becomes unnecessary for us to discuss the propriety of the denial by the Court of First Instance of Laguna of the petition of Generosa A. Dia for the issuance of a writ of preliminary injunction. At any rate, a bond for P3,000 was filed to ward off any damages that might be suffered by Generosa.

Wherefore, the appealed orders are hereby affirmed, with costs against the appellant Generosa A. Dia. So ordered.

Moran, C. J., Feria, Pablo, Perfecto, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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