

JOSE R. CRUZ, PLAINTIFF AND APPELLANT, VS. REYNALDO PAHATI, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-8257. April 13, 1956*

Ponente: BAUTISTA ANGELO, J.

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This is an action of replevin instituted by plaintiff in the Court of First Instance of Manila to recover the possession of an automobile and certain amount as damages and attorney's fees resulting from his illegal deprivation thereof.

The original defendants were Reynaldo Pahati and Felixberto Bulahan but, upon amendment of the complaint, Jesusito Belizo was included as party defendant who was summoned by publication because Ms whereabouts were not known, Belizo failed to appear or answer the complaint and so he was declared default.

Pahati admitted having bought the automobile from Bulahan, for the sum of P4,900 which he paid in check. When the Manila Police Department impounded the automobile, he cancelled the sale and stopped the payment of the check and as a result he returned the automobile to Bulahan who in turn surrendered the check for cancellation. He set up a counterclaim for the sum of P2,000 as attorney's fees.

Bulahan on his part claims that he acquired the automobile from Jesusito Belizo for value and without having any knowledge of any defect in the title of the latter; that plaintiff had previously acquired title to said automobile by purchase from Belizo as evidenced by a deed of sale executed to that effect; that later plaintiff delivered the possession of the automobile to Belizo for resale and to facilitate it he gave the latter a letter of authority to secure a new certificate of registration in his name (plaintiff's) and that by having clothed Belizo with an apparent ownership or authority to sell the automobile, plaintiff, is now estopped to deny such ownership or authority. Bulahan claims that between two innocent parties, he who gave occasion, through his conduct, to the falsification committed by Belizo, should be the one to suffer the loss and this one is the plaintiff. Bulahan also set up a counterclaim for P17,000 as damages and attorney's fees.

After the presentation of the evidence, the court rendered judgment declaring defendant Bulahan entitled to the automobile in question and consequently ordered the plaintiff to return it to said defendant and, upon his failure to do so, to pay him the sum of P4,900, with legal interest from the date of the decision. The claim for damages and attorney's fees of Bulahan was denied. Defendant Belizo was however ordered to indemnify the plaintiff in the amount of P4,900 and pay the sum of P5,000 as moral damages. The counterclaim of defendant Pahati was denied for lack of evidence. The case was taken directly to this Court by the plaintiff.

The lower court found that the automobile in question was originally owned by the Northern Motors, Inc. which later sold it to Chinaman Lu Dag. This Chinaman sold it afterwards to Jesusito Belizo and the latter in turn sold it to plaintiff. Belizo was then a dealer in second hand cars. One year thereafter, Belizo offered the plaintiff to sell the automobile for him claiming to have a buyer for it. Plaintiff agreed. At that time, plaintiff's certificate of registration was missing and, upon the suggestion of Belizo, plaintiff wrote a letter addressed to the Motor Section

of the Bureau of Public Works for the issuance of a new registration certificate alleging as reason the loss of the one previously issued to him and stating that he was intending to sell his car. This letter was delivered to Belizo on March 3, 1952.. He also turned over ,to Belizo the automobile on the latter's pretext that he was going to show it to a prospective buyer. On March 7,1952, the letter was falsified and converted into an authorized deed of sale in favor of Belizo by erasing a portion thereof and adding1 in its place the words "sold the above car to Mr. Josusito Belizo of 25 Valencia, San Francisco del Monte, for Five Thousand Pesos (P5,000)." Armed/With this deed, of sale, Belizo succeeded in obtaining" a certificate of registration in his name on the same date, March 7, 1952, and also on the same date, Belizo sold the car to Felixberto Bulahan who in turn sold it to Reynaldo Pahati, a second hand car dealer. These facts show that the letter was falsified by Belizo to enable him to sell the car to Bulahan for a valuable consideration.

This is a case which involves a conflict of rights of two persons who claim to be the owners of the same property; plaintiff and defendant Bulahan. Both were found by the lower court to be innocent and to have acted in good faith. They were found to be the victims of Belizo who falsified the letter, given him by plaintiff to enable him to sell the car of Bulahan for profit. Who has, therefore, a better right of the two over the car?

The law applicable to the case is Article 559 of the new

Civil Code which provides:

"ART. 550. The possession of movable property acquired in good faith is equivalent to a title. Nevertheless, one who has lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same.

"If the possessor of a movable lost or of which the owner has been unlawfully deprived, has acquired it in good faith at a public sale, the owner cannot obtain its return without reimbursing the price paid therefor."

It appears that "one who has lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same" and the only defense the latter may have is if he "has acquired it in good faith at a public sale" in which case "the owner cannot obtain its return without reimbursing the price paid therefor." And supplementing this provision, Article 1505 of the same Code provides that "where goods are sold by a person who is not the owner thereof, and who does not sell them under authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell."

Applying the above legal provisions to the facts of this case, one is inevitably led to the conclusion that plaintiff has a better right to the car in question than defendant Bulahan for it cannot be disputed that plaintiff had been illegally deprived thereof because of the ingenious scheme utilized by Belizo to enable him to dispose of it as if he were the owner thereof. Plaintiff therefore can still recover the possession of the car even if defendant Bulahan had acted in good faith in purchasing it from Belizo. Nor can it, be pretended that the conduct of plaintiff in giving Belizo a letter to secure the issuance of a new certificate of registration constitutes a sufficient defense that would preclude recovery because of the undisputed fact that that letter was falsified and this fact can be clearly seen by a cursory examination of the document. If Bulahan had been more diligent he could have seen that the pertinent portion of the letter had been erased which would have placed him on guard to make an inquiry as regards the authority of Belizo to sell the car. This he failed to do.

The right of the plaintiff to the car in question can also be justified under the doctrine laid down in *U. S., vs. Sotelo*, 28 Phil., 147. This is a case of estafa wherein one Sotelo misappropriated a ring belonging to Alexandra Dormir. In the course of the decision, the Court said that "Whoever may have been deprived of his property in consequence of a crime is entitled to the recovery thereof, even if such' property is in the possession of a third

party who acquired it by legal means other than those expressly stated in Article 464 of the Civil Code" (p. 147), which refers to property pledged in the "Monte de Piedad", an establishment organized under the authority of the Government. The Court further said: It is a fundamental principle of our law of personal property, that no man can be divested of it without his own consent; consequently, even an honest purchaser, under a defective title, cannot resist the claim of the true owner. The maxim that 'No man can transfer to another a better title than he has himself "obtain in the civil as well as in the common law." (p. 158)

Counsel for appellee places much reliance on the common law principle that "Where one of two innocent parties must suffer by a fraud perpetrated by another, the law imposes the loss upon the party who, by his misplaced confidence, has enabled the fraud to be committed" (Sager vs. W. T. Rawleight Co. 153 Va. 514, 150 S. E. 244, 66 A.L.R. 305), and contends that, as between plaintiff and Bulahan, the former should bear the loss because of the confidence he reposed in Belizo which enabled the latter to commit the falsification. But this principle cannot be applied to this case which is covered by an express provision of our new Civil Code. Between a common law principle and a statutory provision, the latter must undoubtedly prevail in this jurisdiction. Moreover, we entertain serious doubt if, under the circumstances obtaining, Bulahan may be considered more innocent than the plaintiff in dealing with the car in question. We prefer not to elaborate on this matter it being unnecessary considering the conclusion we have reached.

Wherefore, the decision appealed from is reversed. The Court declares plaintiff to be entitled to recover the car in question, and orders defendant Jesusito Belizo to pay him the sum of P5,000 as moral damages, plus P2,000 as attorney's fees. The Court absolves defendants Bulahan and Pahati from the complaint as regards the claim for damages, reserving to Bulahan whatever action he may deem proper to take against Jesusito Belizo. No costs.

Parás, C. J., Bengzon, Padilla,, Montemayor, Jugo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ, concur.

Reyes, A., J., concurs in the result.

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