

**AGUSTINA DE GUZMAN VDA. DE CARRILLO, (DECEASED)
SUBSTITUTED BY PRIMA CARRILLO, PLAINTIFF AND APPELLANT,
VS. FRANCISCA SALAK DE PAZ, ET ALS., DEFENDANTS AND
APPELLEES.**

G.R. No. L-4133. May 13, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action filed by the plaintiff against the defendant in the Court of First Instance of Tarlac seeking the reconveyance to the plaintiff of one-half (1/2) portion of lot No. 221 originally belonging to the spouses Severino Salak and Petra Garcia, the cancellation of the lease executed on said lot in favor of the spouses Gabino de Leon and Asuncion Reyes as well as the Mortgage executed thereon by the lessees in favor of the Rehabilitation Finance Corporation, and the payment of damages suffered by the plaintiff.

The facts alleged in the complaint are: lot No. 221 was originally owned by the spouses Severino Salak and Petra Garcia, their title thereto being evidenced by original Certificate of Title No. 41453 of the register's office of Tarlac; on December 20, 1939, said spouses mortgaged said lot for the sum of P1,200 to spouses Pedro Magat and Filomena Silva assigned their mortgage rights to Honoria Salak for the sum of P1,632 with the consent of the surviving debtor Severino Salak, his wife having already died; on August 16, 1943, Severino Salak transferred his 1/2 interest in the property to Honoria Salak for the sum of P612, representing 1/2 of the consideration paid by her to the mortgagees Pedro Magat and Filomena Silva; this transaction, as well as the assignment of the mortgage credit, were never registered in the office of the Register of Deeds, nor annotated on the certificate of title No. 41453; Severino Salak died on December 5, 1944, while Honoria Salak died on January 13, 1845, intestate proceedings were instituted for the settlement and distribution of the estate of the deceased Severino Salak and Petra Garcia, including lot No. 221, and after proper proceedings, said lot was adjudicated to Ernesto Bautista, Aurea Sahagun, Rita Sahagun and Francisca Salak in the proportion of 1/4 interest each; Francisca Salak acquired later the shares of the other heirs in said lot by virtue of which transfer certificate of title No. 970 was issued in her name; Honoria Salak died single leaving as sole heir Agustina de Guzman, plaintiff herein.

Defendants filed a motion to dismiss on the ground that the complaint does not state a cause of action, which motion the court granted in an order which reads as follows:

"Acting on the motions to dismiss dated November 16, 1948, and November 27, 1948, filed by defendant Francisca Salak de Paz and defendant-spouses Gabino de Leon and Asuncion Reyes, respectively, the Court finds the grounds of said motions well-taken.

Besides, judging from the facts alleged in the complaint, the action filed by plaintiff would call necessarily for the undoing of all the proceedings taken in Special Proceedings No. 3, intestado de los finados Severino Salak y Petra Garcia, an expediente now closed more than two years ago. This Court has no jurisdiction to entertain any collateral attack in the present action against the proceedings taken in the said Special Proceeding No. 3.

It is admitted in the complaint that the property sought to be recovered by plaintiff from defendants in this present case had regularly been adjudicated by the Court in favor of the latter as heirs of the deceased Severino Salak and Petra Garcia after compliance with all the steps and proceedings established in the Rules of Court for the settlement of the estates of deceased. This means that the property now sought to be recovered from the defendants was adjudicated in their favor after all claims, indebtedness and obligations chargeable against the intestate estate of the deceased Severino Salak and Petra Garcia had been all paid and accounted for out of the estate of the deceased; so that, in the eyes of the law, the properties now in the hands of the defendants are presumed to be free from all claims whatsoever. The claim of the plaintiff set up in the complaint should have been interposed during the pendency and progress of Special Proceeding No. 3; but plaintiff not having done so, she can not now bring this action against the defendants, for it is clear that there exists no privity of contract between plaintiff and defendants upon which plaintiff can predicate her action against the present defendants.

IN VIEW OF ALL THE FOREGOING, the Court dismisses the complaint with costs against the plaintiff."

The case is now before this Court on appeal taken by the plaintiff imputing five errors to the court a quo.

One of the grounds which was considered by the lower court in dismissing the complaint is the fact that the property in question has already been the subject of adjudication in the intestate proceedings instituted for the settlement and distribution of the estate of the deceased Severino Salak and Petra Garcia, and the court a quo entertains the view that, having said property been duly adjudicated in said intestate proceedings, and having all the claims filed therein, as well as all obligations charged against the estate, being considered, passed upon, and settled, and said proceedings closed and terminated, the property now in question can no longer be reached by the plaintiff upon the theory that it has been adjudicated to the heirs free from all lien or claim whatsoever. The Court further holds that the claim of the plaintiff should have been filed in said proceedings within the period prescribed by the Rules of Court, and having failed to do so, her claim is now barred and cannot be entertained.

We do not subscribe to these findings of the court a quo. While we admit that the sale made by Severino Salak of his 1/2 undivided interest in the property to Honoria Salak, predecessor in interest of the plaintiff, has not been registered in the office of the Register of Deeds, nor annotated on the torrens title covering it, such technical deficiency does not render the transaction ineffective, nor does it convert it into a mere monetary obligation, but it simply renders the transaction not binding against a third person because, being a registered land, the operative act to bind the land is the act of registration (section 50, Act No. 496). Said transaction however is valid and binding between the parties and can serve as basis to compel the register of deeds to make the necessary registration (id.). Such being the case, it is error to say that plaintiff should have filed her claim in the intestate proceedings of the late Severino Salak if she wanted to protect her interest in the land for, the transaction being binding between the parties, the same can still be invoked against them or their privies. This means that plaintiff can still press her claim against the heirs of the deceased Severino Salak who were made parties-defendants in this case. These heirs cannot escape the legal consequence of this transaction because they have inherited the property subject to the liability affecting their common ancestor. The fact that Francisca Salak bought the shares of her co-heirs in said property is of no moment because in so far as the portion of the land acquired by Honoria Salak is concerned, Francisca Salak can recoup what she has parted with from her co-heirs when the time for readjustment comes. This matter can be threshed out when the case is decided on the merits. For the present suffice it to state that the lower court erred in dismissing the complaint for the reasons set forth in its order subject of the present appeal.

Wherefore, the order appealed from is reversed with costs against the appellees. Let this case be remanded to the lower court for further proceedings.

Paras, C.J., Feria, Pablo, Bengzon, Tuason, Montemayor, and Labrador, JJ., concur.

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