

JOSE L. TALENS, PETITIONER, VS. FELIPE GARCIA AND THE COURT OF FIRST INSTANCE OF NUEVA ECIJA, RESPONDENTS.

G.R. No. L-3734. August 14, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

In October, 1943, Felipe (1) to annul the deed of sale executed by Laureano Estefanio in favor of his co-defendant Jose L. Talens involving a parcel of land (a homestead) in Laur, Nueva Ecija, {2} to compel Laureano Estefanio to convey the to him, and (3) to recover damages. It appears that after selling the lot to Felipe Garcia in 1938, Estefanio sold it again to Jose L. Talens in 1943. Talens contended in his answer that the first sale to Garcia was void because it violated a prohibition in the Public Land Act. After hearing the parties, the Court of First Instance of Nueva Ecija rendered judgment as follows:

"Bajo las consideraciones arriba expuestas, el juzgado halla ajustado a derecho la contencion del demandante y decide (1) declarar que el contrato de venta Exh. 1 asi corao el contrato de "quitclaim" Exh. 2 sobre el terreno en cuestion y sus mejoras a favor de Jose Talens, nulos y de ningun valor, reservando cualquier derecho que tuviera dicha parte contra su co-demandado Estefanio; (2) ordenar la cancelacion del Certificado de Titulo No. 19485 y (3) ordenar a Laureano Estefanio a expedir el correspondiente documento a favor del demandante Felipe Garcia, con las costas a los demandados."

On appeal, the Court of Appeals (G. R. No. 3221-R) found for the defendant Jose L. Talens, and said:

"Wherefore, the decision appealed from is hereby reversed and defendant-appellant Jose Talens absolved from the complaint, with costs against the plaintiff-appellee, Felipe Garcia."

This decision having become final, counsel for Talens filed on November 23, 1949, in the court of first instance, a motion for an order to the Provincial Sheriff "for the possession of the controverted land by Jose L. Talens by evicting the plaintiff therefrom" and also for the collection of the- costs awarded by the Court of Appeals. The Court—Judge Nable—granted the petition as to costs; but denied the petition as to possession, explaining that after having gone "over the decision of the Court of Appeals we have found no disposition regarding the return of the possession to defendant Jose L. Talens" most probably because the defendant therein (Talens) had not asked for that particular relief.

Denial of his motion for reconsideration prompted Garcia's counsel to institute this mandamus proceeding, the purpose of which is to compel the respondent judge to order delivery of possession to petitioner Jose L. Talens.

We have examined the record on appeal submitted to the Court of Appeals in said case G..R. No. 3221-R because petitioner has made it a part of his pleading. We find therein that defendant Jose L. Talens never requested for restitution of possession. Therefore, it was natural that the two courts did not deliberate upon such point. Anyway, the undeniable fact is, none of them awarded such relief.

According to the Rules, "That only is deemed to have been adjudged in a former judgment (of the Court of

Appeals) which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto." (Rule 39, sec. 45)

It may be admitted that the judgment absolving defendant Talens was in effect a declaration that the sale to him was valid. It may also be admitted, though with some reluctance or reservation, that it was a declaration of ownership of the lot. But it is doubtful whether it also included a direction to surrender it to him. Al- though it is true that the owner is generally entitled to possession, it is equally true that there may be cases where the actual possessor has some rights which must be respected or defined. A lessee is not the owner; yet a declaration of ownership in another person does not necessarily mean his ouster.

Touching the case at bar, if the possessor Garcia had made necessary improvements for which he is entitled to compensation, an order of possession would deprive him of such payment without having had an opportunity to claim for them and prove their value. His Honor, the trial judge, obviously foresaw this possibility among others, and refused to decree the restitution, taking "into consideration that said decision (of the Court of Appeals) seems not to close all the doors for the parties to protect their respective interests, if they still have any."

Consequently, we hold that the judgment of the Court of Appeals in G. R. No. 3221-R absolving Talens from the complaint did not include an order for delivery of possession of the land.

The petition is denied, with costs.

Moran, C.J., Ozaeta, Pablo, Tuason, Montemayor, and Reyes, JJ., concur.

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