

LAURENTIO ARMENTIA, PLAINTIFF-APPELLANT, VS. ERLINDA PATRIARCA, FLORENCIA SOMECIERA, JULIANA ARMENTIA, JOSE SOMECIERA AND SOFRONIO FLORES, IN HIS CAPACITY AS THE REGISTER OF DEE...*G.R. No. L-18210. December 29, 1966*

Ponente: SANCHEZ, J.

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Plaintiff Laurentio Armentia, and Juliana and Marta Armentia, were brother and sisters of the full blood. Jose Someciera is the acknowledged natural son of their deceased mother. Defendant Florencia Someciera is a daughter of Jose Someciera. Defendant Erlinda Patriarca is a grand-daughter of Juliana Armentia. Marta Armentia was married to Gregorio Bueno who died sometime in 1942.

By notarial document, Annex A of the complaint, dated July 22, 1955, Marta Armentia did two things: First, she adjudicated to herself a parcel of land [Lot 5482, Pototan cadastre, (Iloilo)] with the improvements thereon, covered by Transfer Certificate of Title 21323—and which she inherited from her deceased husband—pursuant to Section 1, Rule 74 of the 1940 Rules of Court;^[1] and second, for and in consideration of P99.00, which she acknowledged to have received from Erlinda Patriarca, 13 years of age, single, and Florencia Someciera, 20 years of age, single, she sold to them the property just mentioned. The foregoing document was, on July 22, 1955, recorded in the registry of deeds. Whereupon, Torrens title 21323 was cancelled by Transfer Certificate of Title 18797 in the names of Erlinda Patriarca and Florencia Someciera.

Marta Armentia died intestate and without forced heirs on May 28, 1960.

On September 17, 1960, Laurentio Armentia commenced suit^[2] against Erlinda Patriarca and Florencia Someciera as principal defendants.^[3] The complaint, as amended, and reamended, avers: That the sale made by Marta in favor of Erlinda and Florencia "is null and void because it is simulated and fictitious and if not null and void it is voidable because the said defendants were minors at the time the contract was executed and could not then have given their consent to the sale"; that "the said sale was fraudulently executed, and after the supposed sale, Marta Armentia remained in possession of the house and lot, as owner paying the taxes on the land until she died"; that "even assuming hypothetically that there was consideration in the supposed sale, the consideration was grossly inadequate"; that "plaintiff only came to know of the supposed sale in Annex A one week before the suit was filed"; that "at the time of the alleged sale in Annex A", the "house was already standing on the land", and that "after its execution Marta Armentia repaired the house"; and that "the defendants Erlinda Patriarca, Florencia Someciera, Juliana Armentia and Jose Someciera are personally possessing the land and the house in question". The complaint further avers that Marta Armentia also left a "Singer" sewing machine. Paragraph 8 thereof says that said sewing machine is "now in the possession of Erlinda Patriarca and Florencia Someciera". However, paragraph 20 of the very same complaint speaks of said sewing machine as "now in the possession of the defendants Erlinda Patriarca, Florencia Someciera, Jose Someciera and Juliana Armentia".^[4]

The complaint winds up with the prayer that the deed of sale be "declared inexistent or in the alternative annulled"; that plaintiff Laurentio Armentia and defendant Juliana Armentia, as heirs of Marta Armentia, be declared owners of the land in dispute; that the Register of Deeds be directed to cancel Torrens title 18797 in the names of Erlinda Patriarca and Florencia Someciera, and, in lieu thereof, to issue a new title in the names of Laurentio Armentia and Juliana Armentia; that the house and lot and sewing machine be partitioned and plaintiff's share be delivered to him; and that should partition not be feasible, said properties be sold and plaintiff given his share.

The complaint was met by defendant's motion to dismiss upon two grounds: (1) lack of cause of action and (2) prescription.

On November 21, 1960, over plaintiff's opposition, the lower court dismissed the case for the reason that plaintiff's action to annul the sale had prescribed. A move to reconsider was thwarted by the court in its order of December 17, 1960.

The case is now before us on plaintiff's appeal in forma pauperis.

- Plaintiff's attack is primarily directed at the sale. Plaintiff charges that the contract therefor was fraudulently executed, but in the same breadth characterizes it as simulated and fictitious. These statements are but conclusions of law. Controlling, of course, is the statement of ultimate facts.[5]

Let us then look at the factual-recitals. Particularly striking is the fact that plaintiff does not dispute the self-adjudication made by Marta Armentia in the deed. Plaintiff does not impugn the genuineness of Marta's signature thereon. He solely puts in issue that portion of the document where the sale appears to have been made to Erlinda Patriarca and Florencia Someciera.

To drive home his averment of nullity, plaintiff summons to his aid the following circumstances: At the time of the sale, the vendees were still minors and the consideration was grossly inadequate; after the sale, Marta Armentia repaired the house, continued possession of the premises, paid the taxes thereon until her demise.

Hypothetically admitting the truth of these allegations, the conclusion is irresistible that the sale is merely voidable. Because Marta Armentia executed the document, and this is not controverted by plaintiff. Besides, the fact that the vendees were minors, makes the contract, at worst, annulable by them. Then again, inadequacy of consideration does not imply total want of consideration. Without more, the purported acts of Marta Armentia after the sale do not indicate that said sale was void from the beginning.

The sum total of all of these is that, in essence, plaintiff's case is bottomed on fraud, which renders the contract voidable.

- May plaintiff annul the sale on the theory of fraud? Plaintiff was but a brother of the deceased Marta Armentia. True, he is an intestate heir of Marta; but he is not a forced heir. Upon the other hand, Marta was free to dispose of her properties the way she liked it. She had neither ascendants nor descendants.

By Article 1397 of the Civil Code, "[t]he action for annulment of contracts may be instituted by all who are thereby obliged principally or subsidiarily". This must be construed in conjunction with Article 1311 of the same code providing that "[c]ontracts take effect only between the parties, their assigns and heirs except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law", and that "the heir is not liable beyond the value of the property he received from the decedent". Plaintiff is not a forced heir. He is not obliged principally or subsidiarily under the contract. Marta Armentia did not transmit to him by devise or otherwise any rights to the property, the subject thereof. On the contrary, Marta

voluntarily disposed of it. No creditors are defrauded; there are none. No legitimes are impaired. Therefore, plaintiff has no cause of action to annul or to rescind the sale.

In point is *Concepcion vs. Sta. Ana*, 87 Phil. 787. The facts there may well be analogized with those of the present. In the *Concepcion* case, plaintiff Monico Concepcion was the only surviving legitimate brother of Perpetua Concepcion, who died without issue and without leaving any will. In her lifetime, or more precisely, on June 29, 1945, said Perpetua Concepcion, "in connivance with the defendant and with intent to defraud the plaintiff, sold and conveyed three parcels of land for a false and fictitious consideration to the defendant, who secured transfer certificates of title of said lands issued under her name; and that the defendant has been in possession of the properties sold since the death of Perpetua Concepcion, thereby causing damages to the plaintiff in the amount of not less than two hundred (P200) pesos." [6] On motion to dismiss, the lower court threw the complaint out of court upon the ground that "the plaintiff is not a party to the deed of sale executed by Perpetua Concepcion in favor of the defendant"; that even on the assumption "that the consideration of the contract is fictitious, the plaintiff has no right of action against the defendant"; that under Article 1302 of the old Civil Code, "the action to annul a contract may be brought by any person principally or subsidiarily bound thereby;" that "plaintiff is not bound by the deed of sale executed by the deceased in favor of the defendant"; and that he has "no obligations under the deed."

The following reproduced in haec verba from the *Concepcion* opinion is illuminating:

"(2) As to the appellant's second and last contention, under the law action to annul a contract entered into with all the requisites mentioned in article 1261[7] whenever they are tainted with the vice which invalidate them in accordance with law, may be brought not only by any person principally bound or who made them, but also by his heir to whom the right and obligation arising from the contract are transmitted. Hence if no such rights, actions or obligations have been transmitted to the heir, the latter can not bring an action to annul the contract in representation of the contracting party who made it. In *Wolfson vs. Estate of Martinez*, 20 Phil., 340, this Supreme Court quoted with approval the judgment of the Supreme Court of Spain of April 18, 1901, in which it was held that 'he who is not a party to a contract, or an assignee thereunder, or does not represent those who took part therein, has under articles 1257 and 1302[8] of the Civil Code no legal capacity to challenge the validity of such contract.' And in *Irlanda vs. Pitargue* (22 Phil. 383) we held that 'the testamentary or legal heir continues in law as the juridical personality of his predecessor in interest, who transmit to him from the moment of his death such of his rights, actions and obligations as are not extinguished thereby'.

The question to be resolved is, therefore, whether the deceased Perpetua Concepcion has transmitted to the plaintiff any right arising from the contract under consideration in order that he can bring an action to annul the sale voluntarily made by her to the defendant with a false consideration.

We are of the opinion and so hold, that the late Perpetua Concepcion has not transmitted to the plaintiff any right arising from the contract of conveyance or sale of her lands to the defendant, and therefore the plaintiff cannot file an action to annul such contract as representative of the deceased.

According to the complaint the deceased, in connivance with the defendant and with intent to defraud the plaintiff, (that is, in order not to leave the properties above mentioned upon her death to the plaintiff) sold and conveyed them to the latter, for a false and fictitious consideration. It is, therefore obvious, that the conveyance or sale of said properties to the defendant was voluntarily made by the deceased to said defendant. As the deceased had no forced heir, she was free to dispose of all her properties as absolute owner thereof, without further limitation than those established by law, and the right to dispose of a thing involves the right to give or convey it to another without any consideration. The only limitation established by law on her right to convey said properties to the defendant without any consideration is, that she could not dispose of or transfer her property to another in fraud of her creditors. And this court, in *Solis vs. Chua Pua Hermanos* (50 Phil. 636), through Mr. Justice Street, held that 'a voluntary conveyance, without any consideration whatever, is prima

facie good as between the parties, and such an instrument can not be declared fraudulent as against creditors in the absence of proof, that there was at the time of the execution of the conveyance a creditor who could be defrauded by the conveyance, 27 C.J., 470'.

"The reason why a forced heir has the right to institute an action of rescission is that the right to the legitime is similar to a credit of a creditor. As the same Spanish author [Manresa] correctly states in commenting on article 1291[9] of the Civil Code: 'The rights of a forced heir to the legitime are undoubtedly similar to a credit of a creditor in so far as the rights to the legitime may be defeated by fraudulent contracts, and are superior to the will of those bound to respect them. In its judgment of October 28, 1897, the Supreme Court of Spain held that the forced heirs instituted as such by their father to the latter's testament have the undeniable right to institute an action to annul contracts entered into by the father to their prejudice. As it is seen the action is called action of nullity, but it is rather an action of rescission taking into account the purpose for which it is instituted and the confusion of ideas that has prevailed in this matter. The doctrine we shall expound in commenting on articles 1302 and 1306 [10] will confirm what we have just stated'. (Manresa, *Codigo Civil*, 4th edition. Vol. 8, pp. 667 and 668.)[11]

Our opinion in Concepcion needs no further elaboration. It would suffice to say that plaintiff here has no cause of action.

- But even if a right of action be conceded, plaintiff's case fails just the same. An action to annul a contract based on fraud must be filed within four years from the discovery thereof.[12] In legal contemplation, discovery must be reckoned to have taken place from the time the document was registered in the office of the register of deeds. For, the familiar rule is that registration is notice to the whole world, including plaintiff.[13] As afore stated, the document in question was recorded on July 22, 1955. Action was started only on September 17, 1960, The four-year period has elapsed. And, plaintiff's cause of action, if any, is time-barred.

- All that remains is the small item of plaintiff's share in the "Singer" sewing machine which was not the subject of the sale aforesaid. The Court may well take judicial notice[14] of the fact that such share does not exceed P5,000.[15] Plaintiff's separate action—if any he had—to obtain said share, should have been addressed to the Municipal Court.

PREMISED ON THE FOREGOING CONSIDERATIONS, the appealed order of November 21, 1960 dismissing the second amended complaint is, as it should be, affirmed. No costs.

SO ORDERED.

Concepcion, C.J., Dizon, Regala, Makalintal, Bengzon, J.P., Zaldivar and Ruiz Castro, JJ., concur.
Reyes, J.B.L., J., concurs in the result in a separate opinion.

[1] Now also Section 1, Rule 74 of the 1964 Rules of Court.

[2] Civil Case No. 5555 of the Court of First Instance of Iloilo, entitled "Laurentio Armentia, plaintiff, vs. Erlinda Patriarca, et al., defendants".

[3] Juliana Armentia and Jose Someciera are named defendants because these two were "unwilling to join" plaintiff in the complaint. Sofronio Flores is sued in his capacity as Register of Deeds of Iloilo.

[4] In the original complaint and in the first amended complaint, plaintiff states that the sewing machine was in the possession solely of defendants Erlinda Patriarca and Florencia Someciera.

[5] *Vivar vs. Vivar*, L-18667, August 31, 1963; *Jornales, et al. vs. Central Azucarrera de Bais, et al.*, L-15287,

September 30, 1963; Almendra, et al., vs. Alvero, L-19820, September 20, 1965; Remitere, et al., vs. Yulo, et al., L-19751, February 28, 1966; Dy Poco vs. Commissioner of Immigration, et al., L-22313, March 31, 1966.

[6] p. 789; italics supplied.

[7] Now Article 1318 of the Civil Code.

[8] These two are now Articles 1311 and 1397, respectively, of the Civil Code. [9] Now Article 1381, Civil Code.

[10] Article 1302, supra; Article 1306 now is Article 1412, Civil Code. [11] Concepcion vs. Sta. Ana, supra, pp. 791-793, 793-794; emphasis supplied.

[12] Articles 1146(1) and 1391, Civil Code. Mauricio vs. Villanueva, et al., L-11072, September 24, 1959.

[13] Section 51, Land Registration Act. Mauricio vs. Villanueva, et al., supra; Gerona, et al. vs. de Guzman, et al., L-19060, May 29, 1964, citing: Diaz vs. Gorricho, L-11229, March 29, 1958; Avecilla vs. Yatco, L-11578, May 14, 1958; J.M. Tuason & Co., Inc. vs. Magdangal, L-15539, January 30, 1962; Lopez vs. Gonzaga, L-18788, January 31, 1964.

[14] People vs. de la Cruz, 43 O.G. No. 8, pp. 3202, 3207.

[15] Maximum limit of the civil jurisdiction of the Municipal Court on September 17, 1960, when suit here was started. Judiciary Act of 1948, Section 88, as amended by R. A. 2613, approved August 1, 1959. Said maximum limit was raised to P10,000 by R. A. 3828, approved June 22, 1963.

CONCURRING OPINION

REYES, J.B.L., J.:

I concur with the main decision, but can not bring myself to agree to the proposition that the heirs intestate would have no legal standing to contest the conveyance by the deceased if the same were made without any consideration, or for a false and fictitious consideration. For under the Civil Code of the Philippines, Art. 1409, par. 3, contracts with a cause that did not exist at the time of the transaction are inexistent and void from the beginning. The same is true of contracts stating a false cause (consideration) unless the persons interested in upholding the contract should prove that there is another true and lawful consideration therefor (Ibid., Art. 1353).

If therefore the contract has no causa or consideration, or the causa is false and fictitious (and no true hidden causa is proved) the property allegedly conveyed never really leaves the patrimony of the transferor, and upon the latter's death without a testament, such property would pass to the transferor's heirs intestate and be recoverable by them or by the Administrator of the transferor's estate, should there be any. The cause of action of the plaintiffs would not be then on fraud of creditors at all, but upon the fact that the property in question is still part of the transferor's estate. In this particular regard, I think Concepcion vs. Sta. Ana, 87 Phil. 787 and Soils vs. Chua Pua Hermanos, 50 Phil. 536, do not correctly state the present law, and must be clarified.

It is unquestionable that the owner of property has the right to convey it to another person, either for a consideration (onerous contract) or out of sheer liberality (gratuitous transfer). But it must not be overlooked that while the law does not limit the owner's right to convey away property in exchange of such lawful consideration as the transferor deems adequate (and he is the primary judge of its adequacy), gratuitous transfers are by no means equally untrammelled. The law, justifiably or not, looks with suspicion at gratuitous conveyances (perhaps considering them contrary to man's innate egotism) and subjects their validity to the observance of specific

formalities designed to assure that the nature of the conveyance is well understood, and that it is not done impulsively, without due deliberation. It is well known that our law only recognizes two forms of gratuitous conveyances: inter vivos by way of donation and mortis causa by way of last will and testament. In either case, the validity of the transfer of ownership is subordinated to the observance of the formalities prescribed by law. Where lands or tenements are conveyed, a donation and its acceptance must appear in a public document, with the acceptance duly notified to the donor (Civ. Code, Art. 749); in case of movables, there must be at least a private writing unless the donation is accompanied by simultaneous delivery of the donated chattel (Art. 748). In last wills and testaments, the formalities ordained by law must be necessarily observed (Arts. 804 et seq.) and, in addition, the will must be judicially allowed or probated (Art. 838, Civil Code).

It is a consequence of all the preceding considerations that a purported sale of property would not vest ownership in the transferee if it is established that the transfer was really gratuitous, and that the alleged price is non-existent. Such a "sale" would then either be void for lack of an essential requisite, or else be a disguised donation, that would not be operative unless the formalities prescribed for a valid donation are observed.^[1] If they are not, then no title passes to the transferee, regardless of the voluntary accomplishment of the deed of conveyance by the transferor, because the naked intent to convey, without the required solemnities, does not suffice for gratuitous alienations, even as between the parties inter se.

Of course, in the case at bar, it has not been satisfactorily established that the price is non-existent, and for that reason the transaction, being onerous and not gratuitous, must be upheld.

[1] See decisions of the Spanish Tribunal Supremo, 22 Feb. 1940; 23 June 1953; 29 Oct. 1956; 5 Nov. 1956; and 7 Oct. 1958, 639.

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