

TERESA ALBERTO, IGNACIO RAMOS, MARIANO RAMOS, GREGORIO RAMOS, CECILIO RAMOS, EUSTAQUIO RAMOS AND FAUSTA RAMOS, PLAINTIFFS AND APPELLEES VS. CASIMIRO MANANGHALA, ISABEL FELICIANO...*G .R. No. L-2715. May 30, 1951*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a decision of the Court of First Instance of Tarlac declaring the plaintiffs owners of lot No. 1238 and ordering Casimiro Mananghala to return to them the possession of said lot provided that the plaintiffs pay him the value of the building he had constructed thereon or he pay the plaintiffs the price of the land, at the choice of the latter.

On May 10, 1928, Arcadio Ramos executed a private document in favor of Vicente Feliciano in which he sold lot No. 1238 with option to repurchase within a period of two years. On the date of the sale the possession of the land was given to Vicente Feliciano. Arcadio Ramos died on March 9, 1929, and one month thereafter his widow Teresa Alberto took from Vicente Feliciano an additional amount of P60 to be included in the purchase price of the land. On June 4, 1930, Vicente Feliciano died and the lot was adjudicated pro indiviso to his heirs Catalino, Gregorio, Romana and Teofila, all surnamed Feliciano, and Mamerta Dancel and Lucio Dancel who possessed the land up to 1937, when they sold it to Casimiro Mananghala by virtue of a document ratified on June 15, 1943. Mananghala demanded from the plaintiffs the execution of a direct sale in his favor of the lot, which still continues registered in the name of Arcadio Ramos, but they refused to do so and instead filed the present action.

The action was originally filed against Casimiro Mananghala and his wife. After the defendants had filed their answer in which they set up as a special defense that they acquired the land from the heirs of Vicente Feliciano, plaintiffs amended the complaint by including the latter as parties-defendants. Of these defendants, however, only Gregorio Feliciano, Romana Feliciano and Isabel Feliciano were served with summons, leaving out Teofila Feliciano, Catalino Feliciano, Mamerta Dancel and Lucio Dancel. This matter was brought to the attention of the Court, but the latter proceeded with the trial and rendered judgment as pointed out in the early part of this decision.

The defendants appealed and assigned as one of the errors that "the lower court erred in proceeding with the trial of this case, it appearing from the records that some of the defendants who are either indispensable or necessary parties had not been served with the summons."

The purpose of this action is to recover the ownership and possession of lot No. 1238 which was sold by Arcadio Ramos to Vicente Feliciano with option to repurchase within a period of two years. After the death of Vicente Feliciano, his heirs instituted the necessary intestate proceedings and adjudicated to themselves pro indiviso the credit guaranteed by the land in question. Thereafter, these heirs sold the property also pro indiviso to Casimiro Mananghala from whom the plaintiffs now seek to recover the ownership and possession thereof. One of the

issues raised by the parties is whether the transaction carried out by and between Arcadio Ramos and Vicente Feliciano is a sale with pacto de retro or simply an equitable mortgage. If it be held that it is the former, then the right of the heirs of Vicente Feliciano to sell the land to Casimiro Mananghala is safeguarded.

If it be held that it is an equitable mortgage, then their right would be defeated and they would be held responsible for warranty and eviction under the law to Casimiro Mananghala. This being so, it would seem clear that the presence of all the heirs of Vicente Feliciano in this case is indispensable in order that they may protect their interest. They are entitled to be heard. They may have a valid defense which may have the effect of defeating the claim of the plaintiffs. This, however, was not done for some of the heirs of Vicente Feliciano, namely Teofila, Feliciano, Catalino Feliciano, Mamerta Dancel and Lucio Dancel were not served with summons and consequently have not entered their appearance. This is in violation of section 7, rule 3, of the Rules of Court.

In an action for rescission of sale because of nonpayment of price, the vendee is an indispensable party. (*Ocejo, Perez & Co. vs. International Banking Corporation*, 37 Phil., 631.) In an action for recovery of property against a person who purchased it from another who in turn acquired it from others by the same means or by donation or otherwise, the predecessors of defendants are indispensable parties if the transfers, if not voided, may bind plaintiff. (*Garcia vs. Reyes*, 17 Phil, 127.) In the latter case, this Court held:

"In order to bring this suit duly to a close, it is imperative to determine the only question raised in connection with the pending appeal, to wit, whether all the persons who intervened in the matter of the transfers and donation herein referred to, are or are not necessary parties to this suit, since it is asked in the complaint that the said transfers and donation be declared null and void—an indispensable declaration for the purpose, in a proper case, of concluding the plaintiff to be the sole owner of the house in dispute.

If such a declaration of annulment can directly affect the persons who made and who were concerned in the said transfers, nothing could be more proper and just than to hear them in the litigation, as parties interested in maintaining the validity of those transactions, and therefore, whatever be the nature of the judgment rendered, Francisco Reyes, Dolores Carvajal, Alfredo Chicote, Vicente Miranda, and Rafael Sierra, besides the said minors, must be included in the case as defendants." (*Garcia vs. Reyes*, 17 Phil., 130-131.)

Wherefore, the judgment appealed from is set aside. Let this case be remanded to the court of origin in order that all the defendants who were made parties in the a mea

Bengzon, Padilla, Tuason, Montemayor, Reyes, and Jugo, JJ., concur.

DISSENTING

PARAS C. J.,

I dissent.

For the reasons stated and under the findings of fact contained in the appealed decision, I am of the opinion that the contract between Arcadio Ramos (predecessor in interest of plaintiffs-appellees) and Vicente Feliciano (predecessor in interest of the Feliciano heirs who are grantors of defendant-appellant Casimiro Mananghala) is an equitable mortgage to secure a loan of P550, and not a pacto de retro sale. In the first place, if the contract is a sale, it needlessly purported to grant possession of the lot in question (No. 1238) to the alleged vendee, because transfer of possession is inherent to or an essential part of a sale. In the second place, after the death of Arcadio Ramos and one year after the execution of the contract, appellee Teresa Alberto (wife of Arcadio) was able to secure an additional amount from Vicente Feliciano so as to increase the alleged purchase price from P490 to

P550. In the third place, in the project of partition presented and approved in the intestate proceeding of Vicente Feliciano, the item of P550 was treated as a debt of the spouses Arcadio Ramos and Teresa Alberto and was adjudicated as such to the Feliciano heirs. Indeed, in those cases in which Vicente Feliciano had absolute ownership over specific parcels of land included in the inventory, the said project of partition adjudicated said lots to the Feliciano heirs.

In my opinion, the Feliciano heirs who had not been summoned are not indispensable parties. The appellant Casimiro Mananghala himself had not taken any step to have them summoned for his protection against eviction. Moreover, said appellant would be paid a bigger amount if reconveyance is allowed, certainly bigger than what he paid his vendors, the Feliciano heirs.

Under the circumstances, appellant Mananghala could not have purchased the lot in question in good faith, because his vendors or their predecessors in interest did not have any certificate of title in their names, and because, in the project of partition approved in the intestate proceeding of Vicente Feliciano on February 3, 1932, very long before the alleged purchase of said appellant, the Feliciano heirs had only been adjudicated the sum of P550 owing by Arcadio Ramos and secured by the lot in question.

PABLO, M.:

Concurro con esta opinion. Solamente Mananghala tiene derecho a obligar a los herederos de Feliciano a comparecer, si desea indemnizacion, en caso de eviccion; pero ese derecho es renunciabile.

DISSENTING

FERIA, J.,

This case was appealed directly to this Court because it was submitted to the lower court for decision based on an agreed statement of facts. And the appellant submits in his brief the following assignment of errors:

I

"The lower court erred in proceeding with the trial of this case, it appearing from the records that some of the defendants who are either indispensable or necessary parties had not been served with the summons.

II

"The lower court erred in construing and declaring that the transaction had between Arcadio Ramos and Vicente Peliciano, in exhibit I, was one of loan with security.

III

"The lower court erred in declaring plaintiffs as owners of lot No. 1238, in ordering defendant Casimiro Mananghala to restore to said plaintiffs the possession of said lot, and in disregarding his cross-complaint filed under article 1279 of the Civil Code.

IV

"The lower court erred in not declaring that plaintiffs' action as to lot No. 1238 has prescribed."

We have to consider and pass upon the first and second assignments, because the third and fourth are mere corrolaries of the first two.

As to the second assignment of error, we are of the opinion, and so hold, that the so-called contract of sale with pacto de retro between Arcadio Ramos and Vicente Feliciano, the predecessors in interest of the plaintiffs and defendants, respectively, does not express the true intent of the parties as alleged by the plaintiffs in paragraph 16 of the agreed statement of facts, because it is an equitable mortgage according to the intentions of the parties for the following reasons:

First, because according to the agreed statement of facts, the defendants have been in possession of the land in question by virtue of the project of partition (Exhibit A) of the estate of the deceased Vicente Feliciano, signed by all his heirs and approved by the Court on February 3, 1932, in Civil case No. 3333, in which the debt of P550 of Arcadio Ramos and Teresa Alberto guaranteed by the lot in question was adjudicated to the heirs of Feliciano, among them, Isabel Feliciano, wife of the defendant Mananghala (paragraph 5). Second, the lot No. 1238 in question is covered by the original certificate of title No. 3382 in the name of the plaintiffs' predecessors in interest, Arcadio Ramos and Teresa Alberto, and is still in their name (pars. 3 and 15 of the agreed statement of facts). It is true that paragraph 12 of the same agreed statement of facts also states that "upon the death of Vicente Feliciano, said lot No. 1238 was adjudicated to his heirs as their share in the estate of the deceased," but this paragraph must be construed in connection with paragraph 5 of the same agreement above quoted. Third, that the so-called contract of sale with pacto de retro was made in a simple private instrument. This not being registrable, cannot have the effect of transferring to Vicente Feliciano the ownership of the lot No. 1238, which is registered under torrens system, and at most it is an evidence of debt due to said Feliciano from Arcadio Ramos, as recognized by the heirs of said Feliciano in the above mentioned project of partition; and lastly because, according to paragraph 10 of the agreed statement of facts, on March 19, 1929, one month after the death of Arcadio Ramos, his widow Teresa Alberto, being in need of money, obtained a certain amount of money in addition to P490 received from Vicente Feliciano, executing a document to the effect that the total amount of money received from said Feliciano is P550 (Exhibit 2).

Inasmuch as Vicente Feliciano and his heirs were placed in possession, as mortgagee of the lot in question and enjoyed its fruits since May 10, 1928, there being no express stipulation as to the interest of the loan, the lower court held correctly that the contract between Arcadio Ramos and Vicente Feliciano was an antichresis in accordance with the decision of this Court in *Macapin-lac vs. Repide* (43 Phil. 770).

With respect to the first assignment of error, the determination of the question raised therein depends upon whether the heirs of Feliciano, who were included as defendants and not served with summons, were indispensable or necessary parties. If they are indispensable, the lower Court cannot finally decide an action without their being made parties and summoned; but if they are only necessary parties, the Court did not abuse its discretion in proceeding with the trial and decision of this case though they had not been summoned and even if they had not been included as party defendants under section 8, Rule 3, of the Rules of Court. Indispensable parties must always be joined as plaintiffs or defendants, for the Court cannot proceed without them. Necessary parties must be joined in order to avoid multiplicity of suits; but the court may in its discretion proceed without them and the judgment rendered therein shall be without prejudice to the rights of such persons."

The distinction between indispensable and necessary parties and the power of the Court to proceed with the trial and decision of the case without them, is clearly stated in sections 7 and 8, Rule 3, of the Rules of Court which provide:

"SEC. 7. Compulsory joinder of indispensable parties.—Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

"Sec. 8. Joinder of necessary parties.—When persons who are not indispensable but who ought to be parties if complete relief is to be accorded as between those already parties, have not been made parties and are subject

to the jurisdiction of the court as to both service of process and venue, the court shall order them Btimmoned to appear in the action. But the court may, in its discretion, proceed in the action without making such persons parties, and the judgment rendered therein shall be without prejudice to the rights of such persons."

According to the above definition, indispensable parties are those without which the action cannot be finally determined, or those with such an interest in the controversy that a final decree would necessarily affect their rights, so that the court cannot proceed without their presence. And necessary parties are those without whom the case may be finally determined between the parties in court, but who should be included in order that a final determination may be had of all the questions which may arise out of the same transaction, or complete relief be accorded as between those already parties.

The opinion of the majority is correct in quoting as example of an indispensable party the case of *Ocejo, Perez and Co. vs. International Banking Corporation*, 37 Phil., 631, in which the Court held that in an action for rescission of sale because of nonpayment of price, the vendee is an indispensable party; because if any other persons instead of the vendee were made defendant, the court could render an effective or final judgment, that is, the Court cannot compel other persons to return to the plaintiff the property sold.

But the majority is wrong in holding that "in an action for recovery of property against a person who purchased it from another who in turn acquired it from others by the same means or by donation or otherwise; the predecessors of defendants are indispensable parties" citing *Garcia vs. Reyes* (17 Phil., 127, 131) in support. We say that the majority is wrong because the question involved in the case, as expressly stated in the same decision, was whether "all the persons who intervened in the matter of the transfers and donations herein referred to, are or are not necessary parties." There is nothing in the decision of said case to the effect that those persons were indispensable parties. It is expressly held therein that— "it is to be presumed that the parties hereinbefore mentioned, and the representative of the said minors, are directly interested in sustaining the validity of the deed, transfers, and donation above mentioned; wherefore, now that it is asked that the same be annulled, in order that they may defend themselves, they must be considered as necessary parties." The order appealed from in *Garcia vs. Reyes* was reversed and the case returned to the Court of First Instance in order to have the necessary parties included, because under section 122 of the old Code of Civil Procedure, then in force, indispensable as well as necessary parties must be included in a suit; while now, under the above quoted provisions of section 8, Rule 3, "the Court may in its discretion proceed in the action without making such persons (necessary parties) parties," and section 9 of the same Rule 3 requires that the pleader shall set forth in his pleading the names of the necessary parties in order that the Court may know whether to excuse the nonjoinder or compel the joinder of said parties.

In the present case, the defendant Casimiro Mananghala and his wife Isabel Feliciano are the indispensable party defendants, because they are the vendees and in possession of the lot in controversy, and without them the Court cannot render an effective judgment by which the plaintiff a shall recover the ownership and possession of said lot. But the heirs of Feliciano who sold the lot in question to Mananghala, although interested in sustaining the validity of the sale against the plaintiffs, are only necessary parties, like the representative of the minors who transferred the property claimed by the plaintiffs to the defendant in said case of *Garcia vs. Reyes*; because, even without them, the court can render a final and effective judgment and the plaintiffs may recover the property in question from the indispensable parties, although the judgment will not finally determine all the questions arising out of the transaction, or "will not finally accord complete relief between those already parties," such as the right of the vendee Mananghala to recover damages for eviction from the heirs of Feliciano.

Therefore, the court below did not abuse its discretion in proceeding with the action and rendering judgment without ordering the summons of the Feliciano heirs who have been made party defendants by the plaintiff but had not been served with sui-imons, because, according to the judge, the defendant Mananghala did not file any

cross claim against them for damages in case of eviction.

In view of the foregoing, I am of the opinion that the judgment appealed must be affirmed, and I dissent from the majority.

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