

ILUMINADO HANOPOL, PLAINTIFF AND APPELLANT, VS. PERFECTO PILAPIL, DEFENDANT AND APPELLEE.*G.R. No. L-19248. February 28, 1963*

Ponente: BARRERA, J.

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This is a case of double sale of the same parcel of unregistered land decided by the Court of First Instance of Leyte (Civil Case No. 21) in favor of defendant-appellee Perfecto Pilapil, originally appealed by plaintiff-appellant Huminado Hanopol to the Court of Appeals, but later certified to this Court for proper adjudication, the issued involved being exclusively of law.

Appellant Hanopol claims ownership of the land by virtue of a series of purchases effected in 1938 by means of private instruments, executed by the former owners Teodora, Lucia, Generosa, Sinforosa and Isabelo, all surnamed Siapo. Additionally, he invokes in his favor a decision rendered by the Court of First Instance of Leyte (in Civil Case No. 412) on a complaint he filed on June 16, 1948, against the same vendors who, according to his own averments, took possession of the said property in December, 1945 through fraud, threat and intimidation, pretending falsely to be the owners thereof and ejecting the tenants of Hanopol thereon, and since then had continued to possess the land. Decision declaring him the exclusive owner of the land in question and ordering therein defendants to deliver possession thereof was rendered on September 21, 1948.

On the other hand, appellee Pilapil asserts title to the property on the strength of a duly notarized deed of sale executed in his favor by the same owners on December 3, 1945, which, deed of sale was registered in the Registry of Deeds of Leyte on August 20, 1948 under the provisions of Act No. 3344,

The case was submitted for decision without any testimonial evidence, both parties relying exclusively on their documentary evidence consisting, on the part of Hanopol, of the private instruments alluded to and a copy of the decision in the revindicatory case, and on the part of Pilapil, the notarized deed of sale in his favor hearing annotation of its registration under Act No. 3344. As thus submitted, the trial court rendered the decision adverted to at the beginning of this opinion, mainly upon the authority of the second paragraph of Article 1544 [1] of the New Civil Code, which is a reproduction of Article 1478 of the old Civil Code, the law in force at the time the transactions in this case took place.

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Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

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Appellant Hanopol in his appeal from the decision of the trial court presents two questions of law: firstly, whether or not the judgment in the former case No. 412 against the vendors Siapos is binding upon the defendant-appellee as their successor-in-interest; and secondly, whether or not the registration of the second deed of sale in favor of

appellee Pilapil affects his right as the first vendee.

Under the first assignment of error the appellant contends that inasmuch as appellee claims to be the successor-in-interest of the vendors, he is bound by the judgment rendered against the latter. This contention is without merit, because it appears from the documentary evidence that appellee Pilapil derived his right to the land from the sale to him of the said property on December 3, 1945, long before the filing of the complaint against the vendors in 1945. He was not made a party in the case against the Siapos, and there was not even a claim that he had knowledge of said litigation. He cannot, therefore, be bound by such judgment in view of the provision of paragraph (b), Section 44 of Rule 39 of the Rules of Court which speaks of the effect of judgment as follows:

"* * * the judgment so ordered is, in respect to the matter directly adjudged, conclusive between the parties and their successors in interest by title subsequent to commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity." (Italics supplied) Since Pilapil was not a party to the action and is not a successor-in-interest by title subsequent to the commencement of the action, having acquired his title in 1945 and the action filed in 1948, the decision in said case cannot be binding on him.

Appellant argues under the second issue raised by him that the registration of Pilapil's notarized deed of sale in 1948 under Act No. 3344 "shall be understood to be without prejudice to a third party with a better right". He contends that since at the time the Siapos sold the land in question in 1945 to Pilapil, the former were no longer the owners as they had already sold the same to appellant since 1938, the first sale to him is a better right which cannot be prejudiced by the registration of the second sale.

We do not think the quoted proviso in Act No. 3344 justifies appellant's contention. If his theory is correct, then the second paragraph of Article 1544 of the New Civil Code (formerly Article 1473 of the old Civil Code) would have no application at all except to lands or real estate registered under the Spanish Mortgage Law or the Land Registration Act. Such a theory would thus limit the scope of that codal provision. But even if we adopt this latter view, that is, that Article 1544 (formerly Article 1473) only applies to registered land, still we cannot agree with the appellant that by the mere fact of his having a previous title or deed of sale, he has acquired thereby what is referred to in Act No. 3344 as the "better right" that would be unaffected by the registration of a second deed of sale under the same law. Under such theory, there would never be a case of double sale of the same unregistered property.

An example of what could be a better right that is protected against the inscription of a subsequent sale is given in the case of *Lichauco vs. Berenguer* (39 Phil. 643). The facts in that case are succinctly stated in the syllabus thereof as follows:

"* * *—In 1882 B sold to S a piece of land. After the sale B continued in the possession of the land in the capacity of lessee of S through payment of rent, and continued as such until his death when he was substituted by the administrator of his property. In 1889 B sold again the same piece of land to L who leased it to B himself under certain conditions. Both sales were executed in a public instrument, the one executed in favor of L being registered only in 1907. Thus, S and L acquired possession of the land through the same vendor upon the latter's ceasing to be the owner and becoming the lessee of said S and L, respectively, Held: (1) That, with reference to the time prior to 1907, the preference should be in favor of the purchaser who first took possession of the land, because this possession, according to the law in force prior to the promulgation of the Civil Code, constituted the consummation of the contract, and also because afterwards the Civil Code expressly establishes that possession in such cases transfers the ownership of the thing sold. (2) That, when a person buys a piece of land and, instead of taking possession of it, leases it to the vendor, possession by the latter after the sale is possession by the vendee, and such possession in case of a double sale, determines the preference in favor of the one who first took possession of it, in the absence of inscription, in accordance with the provision of article

1473 of the Civil Code, notwithstanding the material and personal possession by the second vendee. (Bautista vs. Sioson, 39 Phil. Kep., 615.)

"* * * Because L had to receive his possession from B who was a mere lessee of S and as such had no possession to give inasmuch as his possession was not for himself but in representation of S it follows that L never possessed the land.

"* * *The effect which the law gives to the inscription of a sale against the efficacy of the sale which was not registered is not extended to other titles which the other vendee was able to acquire independently as, in this case, the title by prescription."

It thus appears that the "better right" referred to in Act No. 3344 is much more than the mere prior deed of sale in favor of the first vendee. In the Lichauco case just mentioned, it was the prescriptive right that had supervened. Or, as also suggested in that case, other facts and circumstances exist which, in addition to his deed of sale, the first vendee can be said to have better right than the second purchaser.

In the case at bar, there appears to be no clear evidence of Hanopol's possession of the land in controversy. In fact, in his complaint against the vendors, Hanopol alleged that the Siapos took possession of the same land under claim of ownership in 1945 and continued and were in such possession at the time of the filing of the complaint against them in 1948. Consequently, since the Siapos were in actual occupancy of the property under claim of ownership, when they sold the said land to appellee Pilapil on December 3, 1945, such possession was transmitted to the latter, at least constructively, with the execution of the notarial deed of sale, if not actually and physically as claimed by Pilapil in his answer filed in the present case. Thus, even on this score, Hanopol cannot have a better right than appellee Pilapil who, according to the trial court, "was not shown to be a purchaser in bad faith".

Wherefore, finding no error in the decision appealed from, the same is hereby affirmed, with costs against the appellant. So ordered.

Bengzon, C. J., Padilla, Bautista, Angelo, Labrador, Concepcion, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

Reyes, J.B.L., J. I concur but reserve my vote to the effect of registration under Act 3344.

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