

ANATOLIO HENSON, PLAINTIFF AND APPELLANT, VS. J. K. PICKERING & CO., LTD. PARTNERSHIP, DEFENDANT AND APPELLEE.*G. R.No. L-3440. March 06, 1951*

Ponente: BAUTISTA ANGELO, J.

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On July 29, 1949, Anatolio Henson filed an action in the Court of First Instance of Rizal to compel J. K. Pickering & Co., Ltd. Partnership, to execute a final deed of sale over a parcel of land in his favor and to surrender to him its Transfer Certificate of Title so that he may secure a new title in his name, to pay to the plaintiff the sum of P7,000 as damages, and to pay the costs of suit. Defendant filed a motion to dismiss on the ground that the complaint fails to state a cause of action. Plaintiff objected to the motion contending that the complaint alleges facts that entitle him to the relief prayed for, but the Court sustained the motion "on the ground that the defendant has nothing more to do with the land in question for the reason that "defendant's administrator, the Japanese Enemy Property Custodian, * * * had already executed and perfected the sale in favor of Jaime de los Angeles who completed the payment of the price of said land and from whom the plaintiff bought the property." From the order sustaining the motion the plaintiff appealed, and the case is now before us purely on questions of law.

The facts of this case can be gleaned from the complaint and the annexes attached thereto. It appears that on April 11, 1932, the defendant, through its attorney-in-fact, the San Juan Heights Co., Inc., executed a contract whereby it sold to Alberto C. Donor on installment basis a parcel of land situated in San Juan, Rizal, with the improvements thereon, containing an area of 570 square meters (Annex "A"). When war broke out, there was still some outstanding balance on the purchase price due the defendant from Donor. On December 27, 1943, Donor, with the written consent of the then administrator of the property, the Japanese Enemy Property Custodian, sold his rights and interests in the property to Jaime de los Angeles, and the document executed to that effect (Annex "B"), was presented to the Office of the Register of Deeds of Manila for registration. Sometime in April 1944, De los Angeles paid the outstanding balance of the purchase price to the Japanese Enemy Property Custodian, who executed in his favor a final deed of sale and a deed of release of the mortgage (then pending) on the property and the corresponding documents were also presented for registration to the office of the Register of Deeds. On June 19, 1944, De los Angeles sold the property to the herein plaintiff, and the corresponding deed of sale was likewise presented for registration to the Office of Register of Deeds. Then came the liberation of the City of Manila, and in the ensuing military operations, all the records and instruments pertaining to the property that were kept in the office of the Register of Deeds were burned or lost. Sometime in September 1947, plaintiff repeatedly informed the defendant of the foregoing facts in an effort to secure the execution of a final deed of sale in his favor and the surrender of defendant's transfer certificate of title in order that he may secure from the Register of Deeds the issuance of a new title, but all his efforts were futile in view of the refusal of the defendant to accede to his request. Hence plaintiff brought the present action.

The question at issue is whether the plaintiff has the right to compel the defendant to execute a final deed of sale

in his favor and to surrender its duplicate certificate of title to enable him to secure a new title in his name as claimed in the complaint, or whether the proper step plaintiff should take is to reconstitute the different documents of transfer executed by his predecessors in interest which were burned or lost in the office of the Register of Deeds of Manila, as well as the owner's duplicate certificate of title, in accordance with the provisions of Act No. 3110, as amended by Republic Act No. 26 as claimed by the defendant.

While it is true that the different documents of transfer that were executed by the predecessors in interest of the plaintiff were submitted to the Register of Deeds of Manila for purposes of registration, and said documents were either burned or lost as alleged in the complaint, and that the proper step to be taken by the plaintiff is to have them reconstituted under Act No. 3110, as amended by Republic Act No. 26, such a step would not be sufficient to enable the plaintiff to have a new certificate of title issued in his name for the simple reason that when the documents of transfer were submitted to the Register of Deeds for registration, they were not accompanied by the owner's duplicate certificate of title as required by the Land Registration Act (Sec. 57, Act 496). Mere reconstitution of the different documents of transfer would not suffice to entitle the plaintiff to the issuance of a new certificate of title for the law requires that they be accompanied by the duplicate certificate of the owner. Without this duplicate certificate the Register of Deeds would not be justified to issue a new title in the name of the plaintiff. (*Fidelity and Surety Co. vs. Conejero*, 41 Phil. 396). On the other hand, there was no need to reconstitute the duplicate certificate of title of the owner in this case because the same has never been submitted to the Register of Deeds of Manila, nor is there any claim that it has been lost or destroyed. Said duplicate certificate was and is still in the possession of the defendant. The claim, therefore, of counsel for the defendant that plaintiff should take steps to reconstitute the duplicate certificate of title of the defendant under Republic Act No. 26 instead of resorting to court to obtain the necessary relief, as was done in this case, cannot be entertained.

If the proper step to be taken by the plaintiff under the circumstances is not to reconstitute the duplicate certificate of title of the owner under Republic Act No. 26, as above pointed out, what is then the remedy of the plaintiff? Can he go against the defendant to obtain the issuance of a new certificate of title in his name? A careful analysis of the facts alleged in the complaint as well as the different stipulations appearing in the "contract to sell" (Annex "A") executed by the defendant, constrains us to hold that the question propounded should be answered in the affirmative.

From an examination of the stipulations appearing in the contract, Annex "A", we find the following: (1) "10. On completion of the payments stipulated in paragraphs 2, 3, 4, 6 and 9 hereof, this company agrees to deliver free to the purchaser the torrens title to said property."; (2) "18 The purchaser agrees not to sell, cede, encumber, transfer or in any manner affects his rights under this contract without the express consent of the company in writing until all the stipulations of this contract shall have been fulfilled; and (3) "19. This agreement shall be binding upon the heirs, executors, administrators and assignees of the respective parties hereto." (*Italics supplied.*)

There is no doubt that the first stipulation has been complied with, for the complaint alleges that Jaime de los Angeles has paid all the balance of the purchase price of the property to the Japanese Enemy Property Custodian, who was then the administrator of the property, and that as a result of such payment the latter executed in his favor a final deed of sale and a deed of cancellation of the mortgage existing on the property. There is also no dispute that the second stipulation has been complied with, because it appears in the complaint that the original purchaser "Alberto C. Donor with the written consent of the then administrator of defendant's properties, the Japanese Enemy Property Custodian, sold all his rights and interest in and to the property above described to Jaime de los Angeles." And as regards the third stipulation, there can also be no dispute, it appearing that the transfer made by Jaime de los Angeles to the plaintiff as the ultimate assignee is valid and binding upon the defendant by virtue of the very force and effect of the agreement of the parties. There can therefore be no doubt

that the defendant has become in duty bound to deliver to the plaintiff, free of charge, the necessary torrens title over the property as expressly agreed upon in the contract, and that the only way the former may comply with this duty, considering the circumstances of this case, is to execute a final deed of sale in favor of the latter and to surrender its certificate of title to the Register of Deeds as required by law. This is precisely the purpose of the action before us.

It may be contended that the payment of the balance of the purchase price was not made to the defendant but to the Japanese Enemy Property Custodian, and, therefore, such payment cannot have any binding effect or validity on the defendant. But this Court has already held in a number of cases that such payment is valid under the principles of International Law. Thus, in the case of *Haw Pia vs. China Banking Corporation* (80 Phil., 604; supplement to the Official Gazette, Vol. 45, No. 9, 229, 255), we made the following pronouncement:

"The second question is, we may say, corollary of the first, it having been shown above that the Japanese Military Forces had power to sequester and impound the assets or funds of the China Banking Corporation, and for that purpose to liquidate it by collecting the debts due to said bank from its debtors, and paying its creditors, and therefore to appoint the Bank of Taiwan as liquidator with the consequent authority to make the collection, it follows evidently that the payments by the debtors to the Bank of Taiwan of their debts to the China Banking Corporation have extinguished their obligation to the latter. Said payments were made to a person, the Bank of Taiwan, authorized to receive them in the name of the bank creditor under article 1162, of the Civil Code. Because it is evident the words 'a person authorized to receive it,' as used therein, means not only a person authorized by the same creditor, but also a person authorized by law to do so, such as guardian, executor or administrator of estate of a deceased, and assignee or liquidator of a partnership or corporation, as well as1 any other who may be authorized to do so by law (Manresa, Civil Code, 4th ed. p. 254.)"

We also made a similar pronouncement in the recent case of *C. N. Hodges vs. Maria Gay et al.*, (87 Phil., 401) decided on September 29, 1950, the facts of which are similar to the present case. In that case, one Maria Gay had an indebtedness secured by a mortgage to C. N. Hodges in the total sum of P 41,663.50. Maria Gay, without the knowledge or consent of Hodges, paid the mortgage indebtedness to the Japanese Enemy Property Custodian, who thereupon issued a certificate of cancellation of the mortgage in favor of Maria Gay. Maria Gay sold the properties to Southern Investment Co. Inc., and the latter to Roberto Laperal and Victorina G. de Laperal. After liberation, Hodges instituted an action to annul the deeds of sale upon the ground that the payment made by Maria Gay to the Japanese Enemy Property Custodian was null and void. This Court held that the payment was valid under the doctrine laid down in the *Haw Pia* case.

In view of the foregoing, we are of the opinion and so hold that the complaint herein states facts sufficient to constitute a cause of action.

Wherefore, the order appealed from is hereby set aside. Let this case be remanded to the court of origin for further proceedings, with costs against the appellee.

Moran, C. J., Paras, Feria, Pablo, Bengzon, Montemayor and Jugo, JJ., concur.

CONCURRING AND DISSENTING

PADILLA, J.,

I concur in the result. The question to determine in this appeal is whether the court below erred in sustaining the motion to dismiss the complaint. I am of the opinion that the facts pleaded in the complaint constitute a cause of action. After finding that the complaint states facts sufficient to constitute a cause of action, the decision of this

Court should end there. I fail to see the necessity of taking up and passing judgment upon the validity of the payment of the balance of the purchase price for the lot made to the Japanese Enemy Property Custodian. The defendant may or may not set up the defense. But if the opinion of the majority rests only and entirely upon the validity of such payment, then I dissent from it for the same reasons set forth in my opinions rendered in *Del Rosario vs. Sandico*, (85 Phil., 170) and *La Orden de Padres Benedictinos de Filipinas vs. The Philippine Trust Co.*, (85 Phil., 217), the decisions of which were promulgated von 29 December 1949.)

CONCURRING AND DISSENTING

TUASON, J.,

I concur, but my concurrence is premised on the fact that the defendant and appellee does not question the validity of the payment of the last installment on the land to the Japanese Enemy Property Custodian; consistent with my dissent in the *Haw Pia* case and in others that followed the *Haw Pia* doctrine, I hold that such payments would not be binding on the party for whom they were received by the Japanese if the vendor repudiated them.

All the stipulated installments having been satisfied by express admission or acquiescence of the seller, the latter is under obligation to issue the corresponding certificate of title to the purchaser or to whoever succeeded to the purchaser's rights, upon satisfactory proof of the succession or conveyance. The purchaser's grantee stands upon exactly the same footing as his lawful heirs, executor or administrator if the purchaser died.

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