

SATURNINO MOLDERO, PLAINTIFF AND APPELLANT, VS. RENEE J. YANDOC FOR HERSELF AND AS GUARDIAN OF THE PROPERTIES OF THE MINORS, KARINA, CORAIZON, MERCEDES, FRANCISCO AND BEATRICE, ...

G.R. No. L-14321. October 20, 1961

Ponente: DE LEON, J.

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DE LEON, J.:

This is an appeal from an order of the Court of First Instance of Kalinga, Bontoc and Ifugao in Civil Case No. 200 disrilissiiig plaintiff's complaint for lack of cause of action.

Sometime in 1953, Saturnino Moldero obtained a judgment for a sum of money from the Court of First Instance of Cagayan against Arsenio Yandoc. After the judgment became final and executory, a writ of execution was issued by the court and, on April 16, 1953, a parcel of unregistered land containing about one hundred hectares, belonging to Arsenio Yandoc and situated in barrio Liwan, Tabuk, Mt. Province was levied upon by the Deputy Sheriff of Mt. Province. On June 27, 1953, the property was sold at public auction. At the sale, Saturnino Moldero was the highest bidder and a provisional certificate of sale was issued to him by the Deputy Sheriff of Mt. Province.

More than one year after the execution sale or on August 24, 1954, Saturnino Moldero received the final deed of sale from the Deputy Sheriff of Mt. Province, because Arsenio Yandoc, the judgment debtor, failed to redeem the property. However, sometime in June 1954, he entered into an agreement with Arsenio Yandoc extending the period of redemption to December 31, 1954.

In the meantime, there was a pending application by Arsenio Yandoc, et al., for the original registration of the land in question under Act No. 496 in the Court of First Instance of Kalinga, Bontoc and Ifugao. During the proceeding, Saturnino Moldero did not file any claim whatsoever with the land registration court. As a consequence, a decree was rendered awarding the land to the applicants, and on December 2, 1954, Original Certificate of Title No. 0-3 was issued in the name of Arsenio Yandoc, et al., "free from all liens and encumbrances." On July 10, 1955, the property covered by OCT No. 0-3 was transferred to Renee Yandoc and her minor children by virtue of a deed of exchange. In accordance therewith, the Register of Deeds of Mt. Province cancelled OCT No. 0-3 and, in lieu thereof, Transfer Certificate of Title No. T-41 was issued in the name of Renee Yandoc for herself and as guardian of the properties of the minors Karina, Corazon, Mercedes, Francisco and Beatriz, all surnamed Yandoc y Jurado.

On February 18, 1956, Saturnino Moldero addressed a letter to the Deputy Sheriff of Mt. Province requesting the latter to enter his provisional and final deeds of sale in the memorandum of encumbrances of OCT No. 0-3. The letter was indorsed by the Deputy Sheriff to the Register of Deeds of Mt. Province, directing the latter to recall OCT. No. 0-3 in order that the annotation of the encumbrance in favor of Saturnino Moldero may be accomplished. The Register of Deeds of Mt. Province, however, refused to comply with the same on the ground

that OCT No. 0-3 was issued free from all liens and encumbrances and that TCT No. T-41 was issued in accordance with law. In view of the stand taken by the Register of Deeds of Mt. Province, the Deputy Sheriff brought the matter en consulta before the Land Registration Commission. On May 29, 1956, the Land Registration Commission, through Commissioner Antonio H. Noblejas, rendered its resolution sustaining the stand taken by the Register of Deeds of Mt. Province, holding as follows:

"Wherefore, this Commission hereby makes the following pronouncements :

"1. Original Certificate of Title No. 0-3 in the name of Arsenio Yandoc, et al., cannot be recalled as it is already non-existent, the same having been cancelled and replaced by a new transfer certificate of title in the name of Renee Yandoc, et al.

"2. Even if Original Certificate of Title No. 0-3 were still existing, the annotation desired by Saturnino Moldero could not legally be made under the principle that all pre-existing claim not noted on the title are barred, and the exception to this is where such annotation is expressly directed by a competent court.

"3. Since Transfer Certificate of Title No. T-41 in the name of Renee Yandoc, et al., is merely a derivative of Original Certificate of Title No. 0-3, a clean title without any annotation thereon of the certificate of sale and the officer's deed issued in favor of Saturnino Moldero, said annotation cannot likewise be made thereon without an express order of a competent court.

"4. Even if Arsenio Yandoc have committed a fraud in the original registration of the land covered by Original Certificate of Title No. 0-3, it seems nevertheless that the remedy of reopening of the decree of registration as provided for in Section 38 of Act No. 496 is not available anymore, it appearing that one year period within which it may be so reopened had already elapsed and, worst still, there are new owners for value, presumed innocent, who have already intervened.

"5. Even assuming that the levy on execution was properly registered under Act No. 496 on the corresponding certificate of title, and the period of one year after the sale of the property at public auction has already expired, it would nevertheless need an express order of the Court in the same registration proceeding before any new certificate of title may be issued to the purchaser, in accordance with Section 78 of Act No. 496.

So ordered.

Saturnino Moldero did not take an appeal from the aforementioned resolution to this Court. However, on July 3, 1957, he filed an action before the Court of First Instance of Kalinga, Bontoc and Ifugao against Renee Yandoc for herself and as guardian of the properties of the minors Karina, Corazon, Mercedes, Francisco and Beatriz, all surnamed Yandoc y Jurado. The complaint prays for the cancellation of TCT No. T-41 and the issuance of a new transfer certificate of title in favor of plaintiff and defendants wherein Arsenio Yandoc's participations in the land as mentioned in OCT No. 0-3 are placed in plaintiff's name.

On August 10, 1957, defendants, after having been previously granted an extension of time within which to answer, did not answer the complaint, but moved for its dismissal on the following grounds, 1) the court has no jurisdiction; 2) the complaint states no cause of action; and 3) the cause of action, if any, is barred by prior judgment.

On March 11, 1958, the trial court, sustaining defendants' second ground for dismissal, granted the motion to dismiss and ordered the dismissal of the complaint. Hence, plaintiff interposed this appeal.

The appeal is without merit.

In the present case, there can be no dispute that Saturnino Moldero, appellant herein, was the highest bidder at the execution sale of the land in question and that Arsenio Yandoc, the judgment debtor, failed to redeem the same

within the reglementary period. Appellant, however, did not file his claim against the land in the proceeding for its original registration which was then pending at the Court of First Instance of Kalinga, Bontoc and Ifugao. He has nobody but himself to blame, therefore, when OCT No. 0-3 covering the land in question was issued in the name of the applicants thereof "free from all liens and encumbrances." Under the Torrens system of registration, claims and liens of whatever character, except those mentioned by law, existing against the land prior to the issuance of the certificate of title, are cut off by such certificate if not noted thereon, and the certificate so issued binds the whole world, including the government. (*AI-decoa vs. Warner, Barnes & Co.*, 30 Phil- 153, 209; *Snyder vs. Provincial Fiscal of Cebu and Avila*, 42 Phil. 761 Thus, Section 38 of Act No. 496, otherwise known as the Land Registration law, provides:

"SEC. 38. * * * Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation or included in the general description "To all whom it may concern." Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible....."

Under these circumstances, it is apparent that appellant's complaint states no cause of action, for one of the essential elements of a cause of action, which is the existence of a legal right is missing.

It is true as appellant contends, that his complaint is an action for reconveyance seeking to compel the person in whose name the land was wrongfully registered to return the same to its rightful owner. Nevertheless, an action for reconveyance must be maintained only against the person in whose name the land was originally registered and not against subsequent transferees who are innocent third parties. In the case of *Director of Lands, et. al. vs. Municipality of Malabon, et al*, 92 Phil., 826; 49 Off. Gaz. (3) 935, this Court, speaking through the late Justice Tuason, said:

"The sole remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, as was done in the instant case, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purveyor for value, for damages" (*Italics Supplied*)

In the case at bar, the action is maintained not against Arsenio Yandoc, the person in whose name the land was originally registered, but against Renee Yandoc and her minor children, the subsequent transferees of the land, who, in the absence of evidence to the contrary, must be presumed to be innocent third parties.

Appellant cannot insist on his allegations in the complaint that TCT No. T-41 which was issued in lieu of OCT No. 0-3 entirely eliminated and suppressed the name of Arsenio Yandoc without any transaction having been entered into to justify the same. The documentary evidence submitted in support of the motion to dismiss show that OCT No. 0-3 was cancelled and TCT No. T-41 was issued in lieu thereof by virtue of a deed of exchange presented to the office of the Register of Deeds of Mt. Province. It was for this very reason that the said official refused to enter appellant's deeds of sale in the transfer certificate of title. And his refusal was fully sustained by the Land Registration Commissioner when the matter was brought to him en consulta.

Wherefore, the order appealed from is hereby affirmed, with costs against plaintiff-appellant.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., and Paredes, JJ., concur.

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