

**LAND SETTLEMENT AND DEVELOPMENT CORPORATION, PLAINTIFF  
AND APPELLANT, VS. AGUSTIN CARLOS, DEFENDANT AND  
APPELLEE. TARLAC DEVELOPMENT CORPORATION, THIRD-PARTY  
CLAIMANT.**

*G.R. No. L-19752. January 29, 1968*

Ponente: CASTRO, J.

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**CASTRO, J.:**

On October 11, 1952 the defendant Agustin Carlos purchased a caterpillar tractor from the plaintiff Land Settlement and Development Corporation (hereinafter referred to as the LASEDECO[11]) for the sum of P9,000 under a contract of sale with chattel mortgage and surety bond (exh. A). He made an initial payment of P2,250; the balance of P6,750 was to be paid on or before November 10, 1952. He thereafter made a second payment of P1,000, but failed to pay the rest (P5,750). So on June 18, 1957 the LASEDECO filed a complaint for specific performance (civil case 32878) with the Court of First Instance of Manila, praying that Carlos be ordered to pay the balance of P5,750, with legal interest thereon until fully paid, and, in accordance with the promissory note exh. B, the amount of P1,000 as liquidated damages, plus 30% of principal amount unpaid as attorney's fees and costs of suit.

Carlos moved to dismiss the complaint on the ground that the plaintiff has no capacity to sue. When this motion was denied, Carlos filed an answer with counterclaim, as well as a third-party complaint against Nicanor Carag and Pio C. Calica. The third-party complaint alleges, among other things, that Carlos, in an assignment dated November 3, 1952 (exh. D) and for the consideration of P2,218.70, assigned and relinquished all the rights appertaining to him by virtue of the contract of sale in favor of the said third-party defendants, who undertook to pay the balance of P5,750 to the LASEDECO; and that the said third-party defendants, without Carlos' knowledge and consent and without priorly paying the sum of P5,750 to the LASEDECO, sold the tractor to the Central Azucarera de Tarlac. The third-party defendants failed to answer the third-party complaint, and were consequently declared in default.

At the hearing of the case, the plaintiff and the defendant submitted a stipulation of facts wherein the latter admitted having purchased the tractor from the former, acknowledged the unpaid balance of P5,750 on the purchase price thereof, and reserved his right to present evidence against the third-party defendants.

On February 16, 1959 the lower court rendered judgment (1) ordering the defendant to pay the plaintiff the sums of P5,750, P1,000 as liquidated damages, and 30% of P5,750 for and as attorney's fees, expenses and costs of suit; and (2) required the third-party defendants to reimburse the defendant whatever amount the latter may be required to pay, or has paid, to the plaintiff, aside from PI 00 as attorney's fees.

The plaintiff and the defendant, after the judgment became final and executory, moved for its execution. The court a quo, in twin orders of April 4, 1959, issued writs "for the satisfaction of the judgment." On the following July 28, the deputy sheriff of Tarlac, Tarlac, levied on the tractor which he found in the possession of Agaton Arciaga

in Barrio Balaoang, Paniqui, Tarlac.

On July 30, 1959, the Tarlac Development Corporation, as third-party claimant (hereinafter referred to as the TDC), filed an ex parte motion to lift the attachment on the tractor in the same civil case 32878, averring that it is the owner thereof, having purchased it in good faith from the Compania General de Tabacos de Filipinas, the owner of the Central Azucarera de Tarlac; that it had been in possession of the property since April, 1958; that the tractor was being used in one of its agricultural projects; that delay in the lifting of the attachment would unduly prejudice the progress of the said project; and that the complaint in the said civil case for specific performance was an action in personam and, consequently, the decision rendered therein is not binding upon it. It posted a P10,000 bond to answer for damages the plaintiff might suffer by reason of the issuance of an order lifting the attachment.

On July 30, 1959 the lower court issued an order granting the motion to lift attachment and ordering the deputy sheriff to return the tractor to the TDC. The LASEDECO filed a motion for reconsideration of the said order, signifying its willingness to file a bond in an amount equal to the value of the tractor. This motion, after due hearing thereon, was denied on February 12, 1962.

Hence this appeal by the LASEDECO.

Did the lower court err (1) in recognizing as valid the sale of the tractor by Carlos to the third-party defendants? (2) in not holding that the judgment in civil case 32878 can be enforced against the tractor? (3) in granting the motion to lift the attachment and ordering the return of the tractor to the TDC?

The LASEDECO maintains that Carlos remained the owner of the tractor even after he assigned it to the third-party defendants, because that transaction did not transfer ownership to the latter, as it was effected without its (appellant's) consent; consequently, the latter could not have legally transferred ownership of the tractor to the Hacienda Luisita, which, in turn, could not also have validly transferred it to the TDC. This argument is predicated primarily on that portion of article 1505 of the new Civil Code which states that "where goods are sold by a person who is not the owner thereof, and who does not sell them under authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell."

This argument is obviously unacceptable. The contract of sale, although with chattel mortgage and surety bond (exh. A), was a straight sale of the tractor,[2] and operated to transfer ownership thereof from the appellant to the defendant. Although the purchase price of P9,000 was to be paid in two separate sums, the sale cannot be regarded as one on installments, because the balance after payment of the initial sum was to be paid in totality on or before November 10, 1952.[3] Proof of the transfer of ownership is the chattel mortgage on the tractor, as the defendant could not have mortgaged it to the appellant without being its owner.[4] The defendant Carlos being the owner of the tractor when he ceded all his rights thereto to the third-party defendants, subject of course to the lien thereon created by the chattel mortgage executed in favor of the appellant, we see no reason why the assignment of November 3, 1952, which is supported by a valid consideration, could not vest title in the third-party defendants without the consent of the appellant. Indeed, although the assignment did not extinguish or discharge the appellant's lien on the tractor,[5] this lien was nonetheless in effect abandoned by the institution by the LASEDECO of its complaint for specific performance which ultimately terminated in a favorable judgment against the defendant mortgagor.[6]

The following observations of the court a quo are unassailable:

"The contract between the plaintiff and the defendant Agustin Carlos on October 11, 1952, was one of sale. A down payment of P2,250.00 on the purchase price of P9,000 was made, leaving a balance of P6,750.00 which,

according to the contract, should be paid on or before November 10, 1952. Carlos then assigned his rights to third party defendants Nicanor Carag, and Pio C. Calica without the approval of the LASEDECO.

"... Even if the assignment to the third-party defendants was not approved by the LASEDECO, the court in said decision recognized the third-party defendants' liability to Carlos. The same decision required Carlos to pay his obligation to the LASEDECO, but not to return or levy on a specific property. The sale of the tractor to defendant Carlos by the LASEDECO is recognized by the decision which also recognized its sale to the third-party defendants. Therefore, nobody should complain about its sale by the third-party defendants to the Hacienda Luisita owned by the Compania General de Tabacos de Filipinas and the sale by the latter of the same tractor to, the present claimant Tarlac Development Corporation. The Tarlac Development Corporation was a purchaser in good faith and the transaction was a legal transaction."

It thus follows that the tractor, which is held by the TDC, and which no longer- belongs to the judgment debtor Carlos against whom the action for specific performance was brought and the writ of execution directed, cannot be levied upon.[7]

It is finally contended that the lower court erred in granting the ex parte motion to lift the attachment. It is argued that the motion was improper and irregular, as section 12 of Rule 59 of the old Rules of Court,[8] upon which, it is claimed, the motion is predicated, can be availed of only "by a party or defendant to a case," and the TDC was not a party to civil case 32878; that the proper remedy under the circumstances is a third-party claim under section 15 of Rule 39[9]; and that granting arguendo that the TDC might avail of an ex parte motion, the one filed is ineffective to lift the attachment because of non-compliance with the essential requisites prescribed by said section 15, namely, (1) that the claim must be by a person other than the defendant or his agent; (2) that the action must be under oath or supported by affidavit stating the claimant's title to, or right to possession of, the property, and the grounds therefor; and (3) that it must be served upon the officer making the levy and a copy thereof upon the judgment creditor.[10]

The appellant is in error. It is not true, as claimed by the LASEDECO, that in filing the ex parte motion, the TDC relied upon section 12 of Rule 59 of the old Rules of Court, as it is clear from the record that the latter expressly invoked section 14 of Rule 59 and section 15 of Rule 39.[11] These sections in essence provide that if the property taken or levied upon be claimed by any person other than the party against whom attachment had been issued, that other person may file a third-party claim with the sheriff or intervene in the action and ask that the writ of attachment on the property be quashed.

"Separate action was indeed said to be the correct and only procedure contemplated by Act 190, intervention being a new remedy introduced by the Rules of Court as addition to, but not in substitution of, the old process. The new Rules adopted section 121 of Act No. 190 and added thereto Rule 24 (a) of the Federal Rules of Procedure. Combined, the two modes of redress are now section 1 of Rule 13, the last clause of which is the newly adopted provision. The result is that, whereas, 'under the old procedure, the third person could not intervene, he having no interest in the debt (or damages) sued upon by a plaintiff,' under the present Rules, 'a third person claiming to be the owner of such property may, not only file a third-party claim with the sheriff, but also intervene in the action to ask that the writ of attachment be quashed.' (I Moran's Comments on the Rules of Court, 3rd Ed., 238, 239.)."[12]

Thus, it has been held that a third person may object to the levy by filing a third-party claim in accordance with section 14 of Rule 59 and section 15 of Rule 39.[13]

The remedy provided in the aforecited sections was precisely and exactly what the TDC availed of. As a third-party claimant, it averred in its verified motion that it is the absolute owner of the tractor; that it purchased the property in good faith from the Compafiia General de Tabacos de Filipinas, the owner of Central Azucarera de

Tarlac; that it had been in possession thereof since April of 1958; and that it was in use in its agricultural project in barrio Balaoang, Paniqui, Tarlac, and in the care and custody of one Agaton Arciaga when attached. True that the verified motion is not supported by an affidavit stating the TDC's title to the tractor. This defect was, however, cured by the subsequent tender in evidence by the TDC of a bill of sale of the tractor from the Compañia General de Tabacos de Filipinas in its favor (exh. 1, also exh. 1-A),<sup>[14]</sup> which tender was accepted by the lower court on August 31, 1961 without objection from the counsel for the appellant.<sup>[15]</sup>

Accordingly, the orders a quo of July 30, 1959 and February 12, 1962 are affirmed. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Angeles and Fernando, JJ., concur.

Orders affirmed.

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[1] The LASEDECO, a government corporation created under Ex. Order 355, is under liquidation by the Board of Liquidators pursuant to Ex. Order 60, series 1954.

[2] A chattel mortgage is contract which purports to be and in form is "a sale of personal property." (Bachrach Motor Co. vs Summers, 42 Phil. 3, 8.)

[3] Levy Hermanos, Inc. vs Lazaro Blas Gervacio, 69 Phil 52, 53-54.

[4] Art, 2085-(2), N.C.C.

[5] Ong Liak Tiak vs. Luneta Motor Co., et al., 66 Phil. 459, 462-463.

[6] Moviclo vs. Rehabilitation Finance Corporation, et al., L-11990, May 29, 1959, and the cases therein cited.

[7] Santos vs. Robledo, 28 Phil. 245.

[8] Now Sec 12 of Rule 57 of the Revised Rules of Court.

[9] Now Sec 17 of Rule 39 of the Revised Rules of Court.

[10] 1 Moran, Comments on the Rules of Court, 1957 ed., p. 572.

[11] See appellee's "OPPOSITION TO PLAINTIFF'S 'MOTION FOR RECONSIDERATION OF THE COURT ORDER DATED JULY 30, 1959' ", pp. 66, 67, R.A.

[12] Manila Herald Publishing Co., Inc., etc., et al. vs. Ramos, etc., et al., 88 Phil 94, 100-101; see also Mangaoang' vs. Provincial Sheriff of La Union, 91 Phil. 368, 370-371.

[13] Standard Oil Co. of New York vs. Babasa, 34 Phil. 354.

[14] The appellee's claim of ownership of the tractor could be proved by affidavits or depositions, or by other forms of evidence, (see Villongco, et al. vs. Panililio, etc., et al., 94 Phil. 15, 21.)

[15] t.s.n., pp, 98-99.

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