

PACIFIC FARMS, INC., PLAINTIFF-APPELLEE, VS. SIMPLICIO G. ESGUERRA, ET AL., DEFENDANTS, CARRIED LUMBER COMPANY, DEFENDANT-APPELLANT.

G.R. No. L-21783. November 29, 1969

Ponente: CASTRO, J.

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CASTRO, J.:

Before us for review, on appeal by the defendant Carried Lumber Company (hereinafter referred to as the Company), is the decision, dated May 30, 1962, of the Court of First Instance of Pangasinan in civil case D-1317, annulling the levy and certificate of sale covering six buildings owned by the plaintiff Pacific Farms, Inc., executed by the defendant deputy provincial sheriff Simplicio C. Esguerra in favor of the Company to satisfy a money judgment against the Insular Farms, Inc., the plaintiff's predecessor-in-interest over the said buildings.

The environmental setting is uncontroverted.

On several occasions from October 1, 1956 to March 2, 1957 the Company sold and delivered lumber and construction materials to the Insular Farms, Inc. which the latter used in the construction of the aforementioned six buildings at its compound in Bolinao, Pangasinan. Of the total procurement price of P15,000, the sum of P4,710.18 has not been paid by the Insular Farms, Inc. Consequently, on October 17, 1958 the Company instituted civil case D-775 with the Court of First Instance of Pangasinan to recover the said unpaid balance from the Insular Farms, Inc. On August 23, 1961 the trial court rendered judgment sustaining the Company's claim. The judgment-debtor did not appeal; so on December 19, 1961 the cor-responding writ of execution was issued. On January 16, 1962 the defendant sheriff levied upon the six buildings. On January 30, 1962 the Pacific Farms, Inc. filed a third-party claim, subscribed by its corporate president, asserting ownership over the levied buildings which it had acquired from the Insular Farms, Inc. by virtue of a deed of absolute sale executed on March 21, 1958, about seven months before the Company filed the abovementioned action (civil case D-775). Shielded by an indemnity bond of P7,120 put up by the Company and the Cosmopolitan Insurance Company, Inc., the sheriff proceeded with the announced public auction on February 12, 1962 and sold the levied buildings to the Company for P6,110.78.

Asserting absolute and exclusive ownership of the buildings in question, the Pacific Farms, Inc. filed a complaint on May 14, 1962 against the Company and the sheriff with the court a quo, pray-ing that judgment be rendered, (a) declaring null and void the levy and judicial sale of the six buildings, and (b) adjudging the defendants jointly and severally liable to the plaintiff in the sum of P2,000 by way of actual damages and for such amount as the court may deem proper and just to impose by way of exemplary damages and for the costs of the suit.

After due trial, the court a quo on May 30, 1963 rendered judgment annulling the levy of January 16, 1962 and the certificate of sale of February 12, 1962. The court, however, denied the plaintiff's claim for actual and exemplary damages on the ground that it was not "prepared to find that there was gross negligence or bad faith on the part of any of the defendants."

Hence this appeal, imputing errors which, according to the appellant's formulation, are the following:

"1. The lower court erred in holding that the credit of the defendant-appellant, Carried Lumber Company, against the Insular Farms, Inc., consisting of the value of lumber and construction materials used in the buildings which were later acquired by the Pacific Farms, Inc., the appellee, was not a statutory lien on those buildings;

"2. The lower court, likewise, erred in holding that the doctrine laid down in *De Barretto, et al. vs. Villanueva, et al.* (G. R. No. L-14938, December 29, 1962) is applicable to the facts of this case as found by said court; and

"3. The lower court erred, finally, in declaring that the sale at public auction conducted by the defendant deputy provincial sheriff of Pangasinan, covering the six buildings described in the certificate of sale dated February 12, 1962, was null and void."

1. In ruling against the appellant below, the trial court re-lied mainly on the resolution (on The motion for reconsideration) promulgated on December 29, 1962 by this Court in *De Barretto, et al. vs. Villanueva et al.*, L-14938 (6 SCRA 928). The said case, however, is inapplicable because it concerned not one but two or more preferred creditors who, pursuant to articles 2242 and 2249 of the Civil Code, must necessarily be convened and the nature and extent of their respective claims ascertained. Thus, we held that before there can be a pro rata payment of credits entitled to preference as to the same specific real property, there must first be some proceeding where the claims of all the preferred creditors may be bindingly adjudicated, such as insolvency, the settlement of a decedent's estate under Rule 87 of the Rules of Court, or liquidation proceedings of similar import.

But the case before us does not involve a question of preference of credits, and is not one where two or more creditors have separate and distinct claims against the same debtor who has insufficient property. Indeed, it is a matter of necessity and logic that the question of preference should arise only where the debtor cannot pay his debts in full. For, if debtor A is able in full to pay all his three creditors, B, C, and D, how can the need arise for determining which of the three creditors shall be paid first or whether they shall be paid out of the proceeds of a specific property?

2. It is undenied and undeniable that the appellant furnished lumber and construction materials to the Insular Farms, Inc. (the appellee's predecessor-in-interest) which the latter used in the construction of the six buildings. Likewise unchallenged is the lower court's factual finding that out of the total procurement price of P15,000, the amount of P4,710.18 remains outstanding and unpaid by the Insular Farms, Inc. The appellant is therefore an unpaid furnisher of materials.

Whether there exists a materialman's lien over the six buildings in favor of the appellant, is a question we do not here decide. To our mind the application by analogy of the rules of accession would suffice for a just adjudication.

Article 447 of the Civil Code^[1] provides:

"The owner of the land who makes thereon personally or through another, plantings, constructions or works with the materials of another, shall pay their value; and, if he acted in bad faith, he shall also be obliged to the reparation of damages. The owner of the materials shall have the right to remove them only in case he can do so without injury to the work constructed, or without the plantings, constructions or works being destroyed. However, if the landowner acted in bad faith, the owner of the materials may remove them in any event with a right to be indemnified for damages."

The abovequoted legal provision contemplates a principal and an accessory, the land being considered the principal, and the plantings, constructions or works, the accessory. The owner of the land who in good faith - whether personally or through another - makes constructions or works thereon, using materials belonging to somebody else, becomes the owner of the said materials with the obligation however of paying for their value.^[2]

The owner of the materials, on the other hand, is entitled to remove them, provided no substantial injury is caused to the landowner. Otherwise, he has the right only to reimbursement for the value of his materials.

Although it does not appear from the records of this case that the land upon which the six buildings were built is owned by the appellee, nevertheless, that the appellee claims that it owns the six buildings constructed out of the lumber and construction materials furnished by the appellant, is indubitable. Therefore, applying article 447 by analogy, we perforce consider the build-ings as the principal and the lumber and construction materials that went into their construction as the accessory. Thus the appellee, if it does own the six buildings, must bear the obligation to pay for the value of the said materials; the appellant - which apparently has no desire to remove the materials, and, even if it were minded to do so, cannot remove them without necessarily damaging the buildings - has the corresponding right to recover the value of the unpaid lumber and construction materials.

Well-established in jurisprudence is the rule that compensation should be borne by the person who has been benefited by the accession.[3] No doubt, the appellee benefited from the accession, i.e., from the lumber and materials that went into the construction of the six buildings. It should therefore shoulder the compensation due to the appellant as unpaid furnisher of materials.

Of course, the character of a buyer in good faith and for value, if really possessed by the appellee, could possibly exonerate it from making compensation.

But the appellee's stance that it is an innocent purchaser for value and in good faith is open to grave doubt because of certain facts of substantial import (evident from the records) that cannot escape notice.

In the deed of absolute sale, exhibit 1, the Insular Farms, Inc. (vendor) was represented in the contract by its president, J. Antonio Araneta. The latter was a director of the appellee (Pacific Farms, Inc.) and was the counsel who signed the complaint filed by the appellee in the court below. J. Antonio Araneta was, therefore, not only the president of the Insular Farms, Inc. but also a director and counsel of the appellee.

During the trial of civil case D-775 the Insular Farms, Inc. was represented by Attorney Amado Santiago, Jr. of the law firm of J. Antonio Araneta. The latter was one of the counsels of the Pacific Farms, Inc. The appellee cannot claim ignorance of the pendency of civil case D-775 because the Insular Farms, Inc. was defended by the same lawyer from the same law firm that commenced the present action, J. Antonio Araneta, as counsel for the Pacific Farms, Inc., cannot close his eyes to facts of which he as president of the Insular Farms, Inc. had actual knowledge. Significantly, exhibit 1 (supra) itself shows that the Insular Farms, Inc. and the Pacific Farms, Inc. were housed in adjacent rooms (nos. 304 and 303, respectively), of the same building, the Insular Life Building, as early as March 21, 1958.

It is reasonable therefore to conclude that the appellee, through its director and counsel, J. Antonio Araneta, knew about the unpaid balance of the purchase price of the lumber and construction materials supplied or furnished by the appellant to the Insular Farms, Inc.

Parenthetically, it is likewise worth our attention that despite the appellee's knowledge of the suit instituted by the appellant against the Insular Farms, Inc. (the appellee's predecessor-in-interest) for the recovery of the unpaid balance of the purchase price of the lumber and materials used in the construction of its six buildings, it merely folded its arms in disinterest and waited, so to speak. Not until a decision was rendered therein in favor of the appellant, a writ of execution issued, and the six buildings levied upon by the sheriff, did it file a third-party claim over the levied buildings. In the face of the knowledge that its predecessor-in-interest had not fully paid for the lumber and construction materials used in the six buildings it had purchased, its natural and expected reaction should have been to intervene in the suit filed by the appellant against the Insular Farms, Inc. and hold the

latter to account for breach of the warranties deemed included in the deed of absolute sale conveying said buildings to it.

Curiously enough, although the six buildings in question were supposedly sold by the Insular Farms to the appellee on March 21, 1958, as evidenced by the deed of absolute sale (exhibit 1), about seven months before the appellant filed civil case D-775, the Insular Farms, Inc. never moved to implead the appellee therein as a necessary party-defendant, and remained completely and strangely silent about the sale. It is not amiss to surmise that it is entirely possible that the Insular Farms, Inc. and the appellee chose to remain silent in the hope that the appellant's claim against the Insular Farms, Inc. in civil case D-775 would be dismissed or non-suited.

Moreover, the appellee was in a better position to protect its interest. It knew that the Insular Farms, Inc., its predecessor-in-interest, was a mere lessee of the premises on which the buildings were located. This should have placed it on guard and compelled it to ascertain the circumstances surrounding the construction of the said buildings on the premises.

On the other hand, the appellant was not as advantageously situated as the appellee. There being no separate registry of property for buildings and no procedure provided by law for registering or annotating the claim of an unpaid furnisher of materials, it was helpless to prevent the sale of the property built from lumber and construction materials it furnished. But certainly, because it has a right, pursuant to article 447, *supra*, to reimbursement for the value of its unpaid materials, the appellant could pursue any remedy available to it under the law in order to enforce the said right. Thus, the appellant acted correctly in bringing an action (D-775) against the Insular Farms, Inc. and enforcing its right of reimbursement through the execution of the final judgment it obtained in the said case against the six buildings in the possession of the appellee who now stands to benefit therefrom. It follows, as a necessary corollary, that the sale at public auction conducted by the defendant sheriff of the six buildings described in the certificate of sale dated February 12, 1962, exhibit 7, was valid, and effective.

ACCORDINGLY, the judgment *a quo* is reversed, and the complaint is hereby dismissed.

In view, however, of the equities clearly attendant in this case, it is the sense of this Court that the plaintiff-appellee Pacific Farms, Inc. should be, as it is hereby, granted a period of thirty (30) days from the date this judgment becomes final, within which it may exercise the option of redeeming the six buildings, by paying to the defendant-appellant Carried Lumber Company the sum of P4,710.18, with legal interest from September 23, 1961 (the date the judgment in civil case D-775 became final), until the said amount shall have been fully paid.

No pronouncement as to costs.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Teehankee, and Barredo, JJ., concur.
Concepcion, C.J., in the result.

[1] This article is found in Book II, Title II, Chapter 2, Section 2 of the Civil Code relating to right of accession with respect to immovable property.

[2] To the same effect is article 466 of the Civil Code (found in Book II, Title II, Chapter 2, Section 3, which refers to right of accession with respect to movable property) which provides that: "Whenever two movable things belonging to different owners are, without bad faith, united in such a way that they form a single object, the owner of the principal thing acquires the accessory, indemnifying the former owner thereof for its value." Article 467 points to the principal thing, as between two things incorporated, as "that to which the other has been united as an ornament, or for its use or perfection."

[3] 3 Manresa 212 (cited in *Gongon v. Tiangco*, 36 O.G. no. 35, p. 824).

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