

JOSE SORIANO ET AL., PLAINTIFFS AND APPELLANTS, VS. DALMACIO LATOÑO ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-3408. December 23, 1950

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from a decision of the Court of First Instance of Pangasinan, rendered in a case for annulment of a sale of land upon an agreed statement of facts. The stipulation, however, has neither been submitted to this Court nor copied in either brief. We assume that the facts as stated in the decision are correct. Evidence was introduced as to the market value of the land and an offer of the plaintiffs to return the purchase money, matters which we do not think are material.

It appears from the lower court's findings that the title to the parcel of land in question was registered under the Land Registration Act in the name of Jose, Paciencia, Felicidad, Milagrisima and Teófilo, all surnamed Soriano, when they were minors. Upon motion of the children's mother, who had been duly appointed guardian of their estate, the court, on October 15, 1932, made an order couched in these words:

"It appearing to be well founded the motion of the petitioner dated October 12, 1932, as prayed for, the said petitioner in her capacity as guardian of her minor children is hereby authorized to execute and deliver to Silvino Latoño and Dalmacio Latoño the deed of conveyance, for the consideration of P1,000, for the first parcel of land described in certificate of title No. 36909 and in the inventory dated April 23, 1930, and also to execute and deliver to the aforesaid parties a deed of mortgage for the second parcel of land described in the aforesaid certificate of title and inventory in the amount of P500 to be redeemed within a period of not to exceed five years, in order to provide fund for the liquidation of the entire indebtedness of the said minors."

The proceeds of sale were to be used, and it is not denied that they were used, to pay off an outstanding obligation for attorneys' fees incurred in the registration of the minors' properties including the one now in litigation. In pursuance of the above order, the guardian executed a deed of sale on June 16, 1933, in favor of the vendees, who immediately thereafter entered upon the possession of the land and continued in such possession to the exclusion of all others up to this date. On January 11, 1944, the guardianship proceedings were ordered closed and the wards' property turned over to them, all the wards having attained the age of majority.

On March 17, 1944, nearly 12 years after the sale, the former wards brought this suit against the purchasers to recover the above-mentioned parcel and to secure an accounting of the produce they had obtained from the land. It was alleged, as grounds of action, that the sale was null and void (a) because it had not been approved by the probate court and (b) because the deed of conveyance had been acknowledged before a notary public of Calasiao who was not authorized to act in the municipality of Bayambang where the document was ratified.

The court below dismissed the action with costs. It held that subsequent confirmation of the sale by the court was unnecessary, and that the document was not assailable on the ground of lack of authority of the notary public who ratified it. The decision told the defendants to present their deed to the register of deeds and to have a new

certificate of title issued in their favor.

There are no merits' to the appeal. The court's order expressly authorized the guardian "to execute and deliver" to purchasers definitely named a deed of conveyance to a parcel of land specifically described at a price already fixed. Judged by its language, the order was intended as the approval itself of the sale. From the tenor of the order, we can make the inference that the movant and the court had in mind a sale already perfected or agreed upon by the seller and the buyers, needing only a judicial go-ahead signal to reduce the agreement to the statutory form. No departure from the terms of the order having been made, it would have been a useless formality to submit the deed to the court for action in the absence of any clear requirement or direction to that effect. A sale by the guardian may be approved before the deed is executed, depending on the intention of the court and providing that faithful compliance with the conditions proposed or imposed has been made. Under the circumstances of this case, it is doubted if the court could properly have set aside or disapproved the sale in the absence of fraud, mistake or inadvertence.

The formal objection to the deed of sale is of no moment. We agree with the trial Judge that had not this instrument been notarized at all, the same would have been fully effective as between the parties under article 1261 of the old Civil Code in force at the time of the conveyance. All the elements of a valid contract were present: subject matter, capacity and consent of the parties, and lawful consideration.

A new ground has been brought out on appeal to reverse the lower court's decision. It is said that the sale was indirectly disapproved by the court and that such disapproval constitutes *res judicata*.

There is not much to this contention. The court in its order of January 11, 1944, so far from passing on the validity of the disputed sale, "declines to decide the question * * * since the wards may bring a separate action for the determination of such issue, if they so desire." Furthermore, as above stated, there was no necessity for the court's confirmation or a new approval of the conveyance to validate it, and the fact that the purchasers sought such confirmation more than ten years afterward did not alter the case.

The appealed decision is affirmed with costs against the plaintiffs and appellants.

Moran, C J., Feria, Pablo, Padilla, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

MORAN, C. J.:

Mr. Justice Paras voted for the affirmance.

Judgment affirmed.

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