

TEOFILA RAMOS AND LEONILA ESTANISLAO, PETITIONERS, VS. FELICISIMO RAYMUNDO AND COURT OF APPEALS, RESPONDENTS.

G.R. No. L-23069. October 31, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on review by certiorari of the decision of the Court of Appeals dated March 25, 1964 in CA-G. R. No. 29097-R, affirming the order of the Court of First Instance of Pasig dismissing the complaint in its Civil Case No. 4869, Teofila Ramos et al., vs. Felicisimo Raymundo.

The complaint was for recovery of ownership and possession of two (2) parcels of unregistered rice land with a combined area of 3,422 square meters, situated in Morong, Rizal. The plaintiffs' claim was based on a deed of sale executed in their favor by the previous owner, Dionisia Balajadia, on July 15, 1957 and registered under Act No. 3344 two days later, or on July 19, 1957. These buyers could not take possession, for when they tried to do so they found the defendant on the land, and the defendant was also claiming ownership thereof by virtue of another alleged deed of sale in his favor.

The defendant averred in his answer that he purchased the Land in 1948 from the same Dionisia Balajadia; that since then his possession had been continuous; and that the plaintiffs knew such facts before the sale was made to them in 1957.

The plaintiffs in turn filed a reply specifically denying the defendant's averments in his answer, among them that which imputed bad faith on their part; and alleging that they had no knowledge of any encumbrance on the land and that they believed all along that their vendor, Dionisia Balajadia, was the owner since the tax declarations were in her name.

Subsequently the plaintiffs filed an amended complaint to implead Dionisia Balajadia and her husband as additional defendants. These spouses, however, did not file their answer and hence were declared in default, after which the case was set for trial, originally on April 24, 1959 and then, on the plaintiffs' motion for postponement, on May 15, 1959. On this latter date neither the defendant nor his counsel appeared, whereupon the plaintiffs were allowed to present their evidence before the Clerk of Court as commissioner.

On May 23, 1959 the trial Court, Judge Felix R. Domingo presiding, rendered judgment for the plaintiffs, declaring them owners of the land in dispute and ordering the defendant to deliver its possession to them, plus damages, attorney's fees and costs.

On June 27, 1959 the defendant moved for reconsideration and new trial on the ground that the decision was null and void and that his failure to appear was due to accident, mistake and excusable negligence. The plaintiffs opposed the motion, but the court, this time with Judge Cecilia Muñoz Palma, presiding, set aside the decision and thereafter set the case anew for hearing on various dates, to wit: December 17, 1959, January 28, February 25 and March 3, 1960. The first two scheduled hearings were not held because the presiding Judge was absent. On

February 25 the plaintiffs failed to appear, and the court thereupon ordered the dismissal of the complaint. A verified motion for reconsideration was filed, alleging that counsel's failure to appear at the hearing was due to the fact that he had to go to Cotabato City in connection with another case and was not able to return to Manila on time. The motion was denied, and the plaintiffs appealed to the Court of Appeals, which rendered the judgment of affirmance which is now the subject of review.

The pivotal question is whether the Appellate Court committed a grave abuse of discretion in refusing relief to the plaintiffs. Under ordinary circumstances the answer to that question would be obvious: counsel's absence from the trial for the reason alleged by him would not be excusable. But justice and fair play call for equal treatment of the parties before the law. The defendant had been guilty of similar negligence when he and his counsel did not show up at the hearing of May 15, 1959. The excuse then given - that the notice thereof to counsel had been mislaid - was no more valid than that which caused the plaintiffs' counsel to miss the hearing on February 25, 1960. The court gave the defendant one chance to reopen the case - this after a decision on the merits had been rendered on the basis of evidence adduced by the plaintiffs. The same treatment should be accorded them, especially since the dismissal of their complaint is for a purely procedural, not to say technical, reason.

The Court of Appeals, to be sure, did go superficially into the merits of the case by considering the plaintiffs' affidavit of merits and the defendant's counter-affidavit, restating the issue to be one of preference of ownership between two vendees of the same property, and holding that although the sale to the plaintiffs was registered whereas the sale to the defendant was not, such registration did not necessarily entitle the former to preference because it was done under Act No. 3344.

Two salient points, however, must be considered in this case: (1) the alleged sale to the defendant in 1948 has yet to be proven. It is to be noted that although he alleges in his answer (paragraph 1 of the affirmative defenses) that there was such a sale in 1948, he likewise alleges in the very next paragraph that "the documents evidencing said sales (sic) were executed by Dionisia Bala-jadia and acknowledged by her in 1957." Strangely enough, the precise dates of execution are not given, and copies of the corresponding documents are not attached to the answer. This point is quite significant, considering that the sale in favor of the plaintiffs was also executed in 1957, specifically on July 15, and that a copy thereof was attached to the complaint. (2) In view of the undisputed registration of this latter transaction the question of good or bad faith is of vital importance, and good faith on the part of the plaintiffs is not only presumed under the law but specifically averred in their reply to the defendant's answer. The finding of the Court of Appeals in its decision, that "it is ...probable that plaintiffs did not buy the rice lands and register their purchase in good faith" is at best conjectural, and in any event premature, since there has been no trial and no evidence on the point has yet been taken.

In the interest of justice, overlooking the procedural neglect, of which both counsel for the plaintiffs and counsel for the defendant had been equally at fault in the court below we are of the opinion that this case is one which should be heard and decided on the merits.

Wherefore, the decision of the Court of Appeals is reversed, the order of the trial Court dismissing the complaint is set aside, and the case is remanded for further proceedings. No costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Fernando, Teehankee, and Barredo, JJ., concur.
Zaldivar and Castro, JJ., did not take part.

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