

RAMON MARTINEZ AS GUARDIAN OF THE INCOMPETENT PEDRO MARTINEZ, PLAINTIFF AND APPELLANT, VS. JACINTO NOTOR, DEFENDANT AND APPELLEE.*G.R. No. L-1580. November 29, 1949*

Ponente: TORRES, J.

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In this case the Court of First Instance of Batangas, acting on a motion to dismiss the complaint on the ground that according to defendant there is another action pending between the same parties for the same cause, denied the same. However, the defendant in his amended answer, by way of special defense, among other things, alleged that, at that time (February, 1947), there was another action pending in the Court of Appeals (case No. 181 of the Court of First Instance of Batangas), which was elevated to the Supreme Court and docketed under No. L-971, and upon the recreation of the Court of Appeals was certified to the latter court and docketed there under No. 412-R, and the Court of First Instance, presided by another Judge, dismissed the complaint.

It appears that on March 28, 1943, Pio Martinez, former guardian of the incompetent Pedro Martinez, the with previous approval of the Court of First Instance of Batangas, mortgaged to Jacinto Notor certain parcels of land, the property of said incompetent, and described in the contract entered into, to guarantee the payment of a promissory note dated February 28, 1943, in the sum of P2,000, to be paid within two years thereafter, with interest at the rate of 10 per cent per annum. By authority of the court the mortgage debt was increased to P3,500, and on account of the financial difficulties of the family of the incompetent Pedro Martinez, additional loans were obtained from the mortgagee to meet certain peremptory obligations and to cover family expenses, thus increasing the mortgage debt, including the advances so made, to P9,000, and which, together with the stipulated interest up to the time of the filing of the action in such case (January 29, 1945), aggregated to the sum of P10,111 in Japanese military notes.

Prior to January 29, 1945, Ramon Martinez, who succeeded Pio Martinez, as guardian of the incompetent Pedro Martinez offered and tendered payment of the indebtedness of his ward (P10,111) to the creditor Jacinto Notor, but the latter refused acceptance thereof on the ground that under the terms of his contract with the incompetent, it was discretionary with him to extend the period of the mortgage and that he was willing to renew the contract, so that said guardian, on January 29, 1945, had no other course to follow but to deposit said in fact amount, as he did, with the Court of First Instance of Batangas, and instituted the corresponding action praying the court to render judgment ordering the defendant to accept the payment of said amount in full settlement of the mortgage debt and the advances so made to the plaintiff.

After proper proceedings, the trial court rendered judgment in said case No. 181, the dispositive part of which reads:

"In the light of all the foregoing, the court declares that the plaintiff has already paid his full indebtedness to the defendant from the time he had consigned the full payment by depositing it in the hands of the Clerk, Court

of First Instance of Batangas. All obligations of the plaintiff in favor of the defendant are hereby declared cancelled. No pronouncement with respect to costs."

That case was appealed to the Supreme Court, which, upon the recreation of the Court of Appeals, certified the same to the latter. The Court of Appeals, after full discussion of the facts and issues involved therein, in its decision promulgated on November 25, 1947, affirmed the Judgment of the lower court.

Defendant Jacinto Notor by certiorari brought the case to the Supreme Court for review of the decision of the Court of Appeals, because the latter allegedly erred in holding that (1) there was a valid consignation; (2) the respondent can redeem the mortgage within two years although the parties agreed that "the contract is renewable at the discretion of the mortgagee;" and (3) the courts of the Commonwealth and the courts of the Philippine Republic have jurisdiction over this case.

This Court, in a decision penned by Mr. Justice Paras (G. R. No. L-1892, August 16, 1949), in disposing of the errors assigned by said petitioner, held that (1) while it is true that there was no allegation in the complaint to the effect that there was no previous consignation as required by Article 1177 of the Civil Code, "the absence of such allegation is cured by the positive stipulation that the only question to be raised is whether the creditor has the right to renew the mortgage contract at his discretion;" (2) that since "the promissory note is payable within two years from February 28, 1943, and the clause providing that the contract is renewable at the discretion of the creditor contains the condition that the debtor promises to pay according to the terms of the promissory note, * * * the debtor had the right thereunder to pay within two years from February 28, 1943," and the pact allowing payment within two years will be meaningless, if the theory of the petitioner were correct; and (3) in the light of the doctrine laid in the case of *Ko Kim Chan vs. Valdez Tan Keh*[1] (41 Off. Gaz., 779), the third error was likewise without merit.

Defendant-appellee, among other things, pleaded in his answer that "there is a pending action between the same parties and over the same parcels of land which was pending in the Court of Appeals, wherein the same cause of action and the only issue involved between the parties is whether or not the mortgage is still subsisting."

The question, therefore, before us is whether or not the issue brought herein by plaintiff-appellant has been determined by this Court in the above-quoted decision promulgated in G. R. No. L-1892.[2] The decision of the lower court of March 20, 1947 rendered in the case before us (No. 3957, Court of First Instance of Batangas), says in part—

"The subject matter involved in the two cases refer to the same two parcels of land, known as Lots Nos. 2316 and 2320 of the Cadastral Survey of Balayan; the parties in both cases are, Ramon Martinez as guardian of the incompetent Pedro Martinez, plaintiff, versus Jacinto Notor, defendant: the issue in the present case is whether or not the contract of lease over the lands in question has been terminated, whereas, the issue in the case now pending appeal before the Court of Appeals is whether or not said contract of lease has been terminated, because of the fact that the plaintiff has exercised the right of redemption of the mortgage. In other words, the contention of the parties in the appealed case is whether or not by the exercise of the right of redemption of the mortgaged properties by the plaintiff, the contract of lease was terminated. On one hand, the plaintiff contends that the lease was terminated, and on the other hand, the defendant contends that the contract of lease was not terminated because the mortgage is still subsisting, inasmuch as the condition agreed upon in the contract of lease is that said lease shall be for a period of two years or until the mortgage debt is paid.

"It will, therefore, be seen that the issue, cause of action, the subject matter, and the parties in the two cases are one and the same. If a decision is rendered in the appealed case to the effect that the mortgage is still subsisting, it must necessarily carry with it the conclusion that the contract of lease has not been terminated, and if a contrary decision is rendered, it would carry with it the conclusion that the contract of lease has been

terminated. Obviously, whatever decision the Court of Appeals may render on the issues involved therein, such decision will also decide the issue in the present case.

"In view of the foregoing, the court declares that the cause of action, subject matter, and the parties in the present case are identical and the same with the cause of action, subject matter, and the parties in the case appealed before the Court of Appeals which latter case was filed in the Court of First Instance of this province much ahead of the filing of the present case. Consequently, the court dismisses the complaint with costs against the plaintiff."

It will be noted that when said order was issued by the lower court, case No. 181 was still pending in the Court of Appeals, and Judge Angeles, who was then presiding over the Court of First Instance of Batangas, did not know in what way said case No. 181 would be decided by the Court of Appeals, he could not even have foreseen that said case would be elevated to this Court for review of the decision that the Court of Appeals might then render in the premises. As stated, the decision of this Court, which was promulgated on the 16th of August of this year, affirmed the decision of the Court of Appeals.

The connection between the two cases, No. 181 and 3957, of the Court of First Instance is so intimate and the parties and the subject matter of the controversy being the same in case No. 181 as well as in the present case, we cannot but conclude that the issue raised herein has already been determined by this Court when it promulgated its decision in G. R. No. L-1892. The principle of *res judicata* is, therefore, applicable herein.

The decision of the lower court which dismissed the complaint herein is affirmed, with costs against appellant.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

[1] 75 Phil., 113.

[2] *Notor vs. Martinez*, 47 O. G. 656.

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