

PEDRO MALONG AND LOURDES MALONG, PLAINTIFFS AND APPELLANTS, VS. MACARIO OFILADA AND A. B. MENDOZA, SHERIFF AND CHIEF DEPUTY SHERIFF OF MANILA, AND THE REGISTER OF DEEDS OF MANIL...

G.R. No. L-7532. May 25, 1956

Ponente: PADILLA, J.

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PADILLA, J.:

Asserting that they are the registered owners of two parcels of land and the improvements erected thereon located in the district of Sampaloc, city of Manila, described in transfer certificate of title Nos. 27091 and 27092 issued in their name, the plaintiffs, husband and wife, brought this action against the Sheriff and chief deputy Sheriff of Manila and the Register of Deeds of Manila to secure a declaration that they are the owners in fee simple of the parcels of land described in the third paragraph of their complaint together with the improvements existing thereon and that the attachment levied upon the aforesaid two parcels of land and improvements thereon by the Sheriff and his chief deputy and the memorandum thereof entered upon the certificates by the Register of Deeds are illegal; and an order directing the Register of Deeds of Manila to cancel the attachment memorandum on the certificates of title and the Sheriff and chief deputy Sheriff of Manila to pay jointly and severally to the plaintiffs the sum of P10,000 as liquidated damages together with lawful interest thereon from the date of the filing of the complaint until paid, and all the defendants to pay costs. In support of their prayer they allege that on 5 September 1951 they acquired the two parcels of land and improvements thereon from the spouses Manuel B. Doce and Victoria Golfardo y Rocha without knowledge of any flaw or defect in the latter's title; that on 1 November 1951 pursuant to an order of the Justice of the Peace Court of Puerto Princesa, Palawan, entered in criminal case No. 445, the Sheriff and chief deputy Sheriff attached the two parcels of land and improvements thereon by filing with the office of the Register of Deeds of Manila the aforesaid order of the Justice of the Peace Court of Puerto Princesa; that the Register of Deeds of Manila entered a memorandum of such attachment upon transfer certificates of title Nos. 27091 and 27092; that upon learning of the attachment they promptly filed on 4 February 1952 their third party claim with the Sheriffs and a motion in the Court of First Instance of Palawan, to which criminal case No. 445 of the Justice of the Peace Court of Puerto Princesa had been forwarded, praying for the discharge of the attachment; and that the Sheriffs refused to release the two parcels of land and improvements thereon from the levy upon attachment.

The defendants deny that the plaintiffs are the true and legitimate owners of the two parcels of land and the improvements erected thereon, the true fact being that the conveyance of the two parcels of land and improvements thereon to the plaintiffs by Manuel B. Doce and his wife Victoria Golfardo y Rocha, the previous registered owners, was a simulated sale to defraud his creditors, for prior to the sale Manuel B. Doce, one of the vendors, who was the cashier in the office of the Provincial Treasurer of Palawan, was being investigated for malversation of about P1,000,000 belonging to the Republic of the Philippines committed during the period from 1 June 1950 to August 1951; and allege that the fictitious conveyance was made on 5 September 1951, or a few

days before the filing on 17 September 1951 of a complaint for malversation of public funds against Manuel B. Doce in the Justice of the Peace Court of Puerto Princesa, Palawan; that the Sheriffs did not act in bad faith in attaching the two parcels of land because they merely complied with the writ of attachment issued on 18 October 1951 by the Justice of the Peace Court of Puerto Princesa in criminal case No. 445; and that there was another case pending in the Court of First Instance of Palawan for the same cause as alleged by the plaintiffs in the eighth paragraph of their complaint. Upon these allegations they pray that the complaint be dismissed; and that the purchase and sale between the plaintiffs and Manuel B. Doce and Victoria Golfardo y Rocha being fictitious and simulated and having been made to defraud the creditors of the vendors, particularly the Republic of the Philippines, be declared null and void.

Evidence was presented by the plaintiffs tending to show that they had the means and were in a position to acquire the two parcels of land and their improvements; and by the defendants, that the sale was simulated as the criminal case for malversation of public funds was then about to be brought against one of the vendors and the vendees were not in a position to acquire the parcels of land as shown by their income tax returns prior to the purchase.

After trial the Court rendered judgment dismissing the plaintiffs complaint without any special pronouncement as to costs. The Court did not pass upon the main issue involved in the case because it was of the opinion that it was not within its province to grant the relief prayed for by the plaintiffs. According to the Court there was no need for a declaration of ownership of the two parcels of land and their improvements inasmuch as no one claimed adverse title thereto, the plaintiffs being the registered owners thereof. Furthermore, as the plaintiffs prayed that the attachment of their two parcels of land and improvements thereon be declared illegal because it had been done in bad faith and that the Register of Deeds be directed to cancel the memorandum of the attachment on their transfer certificates of title, the question, according to the Court, involved the legality and propriety of the writ of attachment issued by the Justice of the Peace Court of Puerto Princesa, subsequently upheld by the Court of First Instance of Palawan in criminal case No. 1457, into and upon which it could not inquire and pass because it had been issued by a coordinate court. If the plaintiffs, the Court added, sought the discharge of the attachment, they should seek it in the Court of First Instance of Palawan instead of going to a court of equal jurisdiction. As to the claim for liquidated damages, the Court held that it was unfounded because the defendant Sheriffs attached the two parcels of land and improvements thereon in compliance with and in the performance of their ministerial duty of enforcing the writ of attachment issued on 18 October 1951 by the Justice of the Peace Court of Puerto Princesa in criminal case No. 445. However, the Court found that upon a plea of guilty on 27 June 1952 Manuel B. Doce, the cashier in the office of the Provincial Treasurer of Palawan, was sentenced to suffer an indeterminate penalty from 10 years of prision mayor, as minimum, to 14 years and 8 months of reclusion temporal, as maximum, to pay a fine of ₱546,054.65, to indemnify the Province of Palawan in the sum of ₱1,092,109.30, to suffer perpetual special disqualification and to pay the costs.

The plaintiffs appealed to this Court from the judgment thus rendered.

The main issue as framed by the pleadings and joined by the parties from which the other issues flow or are drawn being whether the plaintiffs are the true and legitimate owners of the two parcels of land and improvements thereon, the defendants alleging and claiming that the sale of the two parcels of land and improvements existing thereon made by the former owner to the plaintiffs was simulated to defraud his creditors, particularly the Republic of the Philippines, the trial court committed an error when it held that, as no one claimed adverse title thereto, the plaintiffs being the registered owners thereof, there was no need for a declaration as to who are the true and real owners of the parcels of land and improvements thereon. There was an adverse claim against the title of the plaintiffs to the parcels of land and improvements thereon which were attached by virtue of a writ issued by the Justice of the Peace Court of Puerto Princesa in criminal case No. 445. The Court did not determine or decide

the controversy between the parties which it had to or was bound to do. Upon the filing of the complaint for malversation of public funds against Manuel B. Doce, one of the former registered owners of the parcels of land, the other being his wife, the Justice of the Peace Court of Puerto Princesa issued the writ of attachment (criminal case No. 445) and after the case was forwarded to the Court of First Instance of Palawan, the said writ of attachment was sustained and upheld by the Court in criminal case No. 1457.

Another reason given by the trial court is to the effect that the legality of the writ of attachment issued by the Justice of the Peace Court of Puerto Princesa, upheld by the Court of First Instance of Palawan, being directly involved in the case, it was improper for it as a coordinate of the Court of First Instance of Palawan to inquire into the propriety of the issuance of that writ and that if the plaintiffs sought the discharge of the attachment they should seek relief in the Court of First Instance of Palawan. If the trial court was competent and it was its duty to decide the main issue already adverted to, the point of legality or propriety of the issuance of the writ of attachment as a corollary thereto was properly before it and had to be passed upon and decided by it. In passing it may not be amiss to state that Rule 122-A, which is Republic Act No. 240 approved on 12 June 1948, authorizes the attachment of the property of a defendant charged with malversation of public funds.

The venue of the action for a declaration of ownership of the two parcels of land and improvements thereon was properly laid in the Court of First Instance of Manila where the two parcels of land are located and where the plaintiffs and the defendants resided.

The pronouncement that the claim for liquidated damages was unfounded is correct, because the defendant Sheriffs attached the two parcels of land and improvements thereon in compliance with the writ of attachment issued on 18 October 1951 by the Justice of the Peace Court of Puerto Princesa in criminal case No. 445.

Upon the evidence presented the trial court should make a finding as to whether or not the sale of the two parcels of land and improvements thereon made on 5 September 1951 by Manuel B. Doce and his wife Victoria Golfardo y Rocha in favor of the plaintiffs was simulated and whether it was done in order to defraud his creditors.

The dismissal of the complaint upon the two grounds stated by the trial court being erroneous, the judgment appealed from dismissing the plaintiffs' complaint is set aside and the case remanded to the Court of First Instance of Manila with instructions to render judgment upon the evidence presented by the parties, without pronouncement as to costs.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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