

FILOMENA SALAS, PLAINTIFF AND APPELLEE, VS. FLORA QUINGA, DEFENDANT AND APPELLANT.*G.R. No. L-20294. January 30, 1965*

Ponente: REYES, J.B.L., J.

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This direct appeal was interposed by Flora Quinga against an order of the Court of First Instance of Iloilo (in its Civil Case No. 1138), dated June 26, 1962, requiring her to restore to Filomena Salas the products of a parcel of land that had been delivered to her pending appeal against a judgment of the same court in favor of Quinga but which was later reversed by final judgment of the Court of Appeals in C.A.-G.R. No. 10288-R. The reversal was subsequently affirmed by the Supreme Court in case G. R. No. L-14961.

Originally, the appellee, Filomena. Salas, had filed in the Court of First Instance of Iloilo an action against Flora Quinga, in the latter's capacity as Administratrix of the estate of Ceferino Datoon. The complaint averred plaintiff's ownership of a parcel of land (Lot 7711 of the Pototan Cadastre), covered by T.C.T. No. 11841, allegedly mortgaged by Salas to the late Datoon (in the form of a sale a retro) in order to secure a debt to the latter, and sought reconveyance thereof upon payment of the P100.00 balance of the indebtedness, which plaintiff consigned in court. Defendant pleaded in answer that Salas had conveyed title to Datoon; that the latter had been in possession of the land since 1934, as owner, thereof; and that plaintiff's possession was that of a mere tenant of defendant administratrix. The latter also counterclaimed for the landlord's share of the produce of the lot, at the rate of 20 bultos worth P500.00 per annum. At defendant's instance a receiver was appointed by the court.

After trial, the Court of First Instance dismissed the complaint, and ordered the plaintiff and/or the receiver to deliver possession to the defendant Quinga. It also sentenced Filomena Salas to pay damages at the rate of P400.00 per agricultural year until that of 1948-1949; P300.00 for the ensuing, year 1949-1950; and P240.00 for the year after that. Salas appealed the judgment, but upon motion the defendant Quinga, in 1951, obtained execution pending appeal (Rec. App., p. 45), and the land was turned over to her.

In 1958, the Court of Appeals, as noted at the start of this opinion, reversed the judgment of the Court of First Instance of Iloilo, and ordered Flora Quinga to execute a deed of reconveyance of the disputed lot to plaintiff Filomena Salas, upon withdrawal of the P100 previously consigned in court by the latter; and declared that—

"immediately after the execution of said deed, it is the duty of the appellee and/or receiver to turn over the material possession of the lot in question to the plaintiff appellant, to whom shall also be delivered all the funds which the receiver may have in his hands less his compensation."

Quinga resorted to the Supreme Court, but in 1961 the latter affirmed the judgment of the Court of Appeals. The decision became final, and the records were remanded to the court of origin. The corresponding writ of execution having been issued at the behest of Salas, the Sheriff delivered possession of the lot to the prevailing Party; and after various incidents and pleadings Flora Quinga finally executed the deed of reconveyance, as ordered, in favor of Salas on March 24, 1962. However, Quinga resisted the order to turn over the products of the land, claiming

that the decision of the Court of Appals had made no mention thereof. The Court of First Instance, on June 26, 1962, overruled her objections, and on July 17, 1962 denied her motion to reconsider. Thereupon, Flora Quinga appealed once more to the Supreme Court, reiterating her arguments in the court below.

We find no merit in the appeal.

The appellant Quinga having obtained in 1951 a writ of execution pending appeal, and thus taken possession of the land in dispute, she thereby replaced the receiver for all legal purposes in the collection of its produce. In equity and justice, therefore, the decree of the Court of Appeals to deliver to the winning party (appellee Filomena Salas) the material possession of the land as well as "all the funds which the receiver may have in his hands" applies to her (Quinga) as well, as if she were the receiver proper.

The Court of Appeals had no need of specifying in the judgment of reversal that there should be restitution of the land and of its products. Such restoration is expressly provided for in Rule 39, section 5, of the Rules of Court:

"Sec. 5. Effect of reversal of executed judgment.—Where the judgment executed is reversed totally or partially on appeal, the trial court, on motion, after the case is remanded to it, may issue such orders of restitution as equity and justice may warrant under the circumstances."

and the rule should apply in the absence of any contrary disposition in the final judgment of the appellate courts.

Under the aforesaid judgment, appellant Quinga should have reconveyed the land to appellee Salas as soon as the latter tendered the balance of the indebtedness. Had Quinga done so, Salas would have remained in possession; she would not have been turned out in 1951, is she was, by the premature execution; and she would have received the crops of the land thereafter. It is but just, therefore, that Quinga should be required to account for the products that she was able to receive in the place of appellee Salas.

It is no defense that, prior to the finality of the judgment of the appellate court, the land and its products had been already distributed among the heirs of the late Ceferino Datoon. His administratrix, appellant herein, personally knew of the claim of appellee Salas; she also knew, and was bound to know, that the judgment of the Court of First Instance dismissing the complaint had been appealed, and could be reversed. It was, therefore, incumbent upon her to reserve the land and its products from distribution among the heirs of Datoon until final judgment was rendered, and she is personally answerable for her failure to do so, apart from the obligation of the heirs themselves not to profit from what is not theirs.

WHEREFORE, the orders appealed from are affirmed, and the records ordered remanded to the court of origin for further proceedings consonant with this decision. Costs against appellant Flora Quinga.

Bengzon, C. J., Concepcion, Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, JJ., concur.

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