

**TORIBIO JOVELLANOS, ET AL., PETITIONERS-APPELLEES, VS.
MARIA G. DIMALANTA, OPPOSITOR-APPELLANT.***G.R. Nos. L-11736-37. January 30, 1959*

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

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Submitted for our resolution in this appeal is a case of double sale of a parcel of land designated as Lot No. 1, Plan PCS-931, Cadastral Case No. 33, G. R. L. O. Rec. No. 914, in the City of Dagupan, Province of Pangasinan. The land is an unsegregated portion of a bigger parcel covered by Certificate of Title No. 25515 of the land records of Pangasinan.

Shorn of irrelevant detail, the case is as follows: On April 28, 1941, the land in question was sold by Rosario Costes Dimalanta to the appellant Maria G. Dimalanta, pursuant to the terms of public document, Exh. "A".

More than two years later, on June 12, 1943, the same vendor, Rosario Costes Dimalanta, again sold the same property to the appellees, by a public document, Exh. "C", this time to the spouses Toribio Jovellanos and Barbara L. Manuel.

The parcel sold not being fully segregated, neither deed of sale was registered under sections 50 and 51 of Act 496. However, on July 21, 1943, the later vendees, Jovellanos-Manuel, filed with the Registrar of Deeds the requisite statement of adverse claim accompanied by a copy of the deed of sale and then a petition in the cadastral case, under Sec. 110 of Act 496, praying the court below for an order directing the Registrar of Deeds of Pangasinan to accept their deed of sale (Exh. "C") for registration and issue the corresponding Certificate of Title in the name of the petitioners. On August 4, 1943, the first vendee, Maria Dimalanta, filed her opposition, and prayed in turn that her deed of sale (Exh. 9) be accepted for registration and that a Certificate of Title be issued to her.

Pending resolution of the petition in the cadastral case, Maria Dimalanta (the first buyer) instituted Civil Case No. 122 in the Court of First Instance of Pangasinan, against the second purchasers, praying that she (Maria Dimalanta) be declared the lawful owner of the property in question, and that defendants be enjoined from entering the same.

The two cases were jointly tried, and on July 24, 1956, the Court of First Instance rendered a decision wherein it held that, assuming that both conveyances had been genuinely made, for valuable consideration and in good faith on the part of the buyers, the second acquirers were the lawful owners of the disputed land, by reason of priority in recording their adverse claim and because they were the first to take actual possession.

From this decision, Maria G. Dimalanta duly appealed to this Court, claiming that the decision of the court below violates the rulings of this Court in *Quimson vs. Rosete*, 47 O. G., (Supp. to No. 12) p. 346, and *Sanchez vs. Ramos*, 40 Phil. 614.

As correctly pointed out by the Court of First Instance the case calls for an application of Art. 1473 of the Civil

Code of 1889 (now Art. 1544 of the Civil Code of the Philippines). The article is couched in the following terms:

"ART. 1473. If the same thing should have been sold to different purchasers, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be personal property.

Should it be real property, it shall belong to the purchaser who first recorded it in the Registry.

Should it not be recorded, the property shall belong to the person who first took possession of it in good faith; or, in default of possession, to the person who presents the oldest title, provided there is good faith."

The second paragraph of the article quoted clearly confers priority to the purchaser who first records his sale. Now, under section 110 of the Land Registration Act, the record of an adverse claim is valid and effective to bind registered land until the claim is declared invalid by a competent court and its cancellation is ordered. As long as it stands, it is operative, and we are satisfied that the filing of an adverse claim is sufficient recording for the purposes of Art. 1473 of the Civil Code, above mentioned.

Not only are the equities in favor of appellees who have diligently taken steps to protect their rights, but under the terms of Act 496 it is only the sale in their favor that, by reason of its registration, operates to convey and bind the land. The deed of sale in favor of appellant not being recorded to date, is only effective between the parties, and can not adversely affect the appellees who are strangers thereto.

An extensive portion of the lower court's decision is devoted to voicing an irrelevant dissent to the doctrine of this Court in *Sanchez vs. Ramos* (40 Phil. 614) and *Quimson vs. Rosete* (47 Off. Gaz. 346) and to no purpose, because those doctrines are not applicable to the case at bar. Since the second purchasers have recorded the conveyance in their favor, through the process of recording an adverse claim, and as no record has been made of the first sale in favor of appellant, the case is plainly controlled by the second paragraph of Art. 1473 of the Civil Code of 1889, reproduced verbatim in Art. 1544 of the new Civil Code of the Philippines. In consequence thereof, the second purchasers should be deemed owners of the disputed land, by reason of prior registration. The question of prior possession (whether actual or symbolic) to which the trial court has devoted so much attention, does not at all enter the case, for the reason that, in law, priority of possession is subordinate to priority of recording.

In view of the foregoing, the judgment appealed from is affirmed, with costs against appellants.

So Ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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