

TOMAS SISON AND LEODEGARIO AZARRAGA, PLAINTIFFS AND APPELLANTS, VS. ALEJANDRO BALGOS, DEFENDANT AND APPELLEE.*G.R. No. 10305. September 05, 1916*

Ponente: ARELLANO, C.J.

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Isidro Azarraga was guardian of certain minors named Maria Felisa and Jesus Bellosillo. During his administration, as the result of a writ of execution issued by the Court of First Instance of Capiz, the sheriff of Capiz sold at public auction, on May 17, 1910, a parcel of land belonging to said minors, containing 11 hectares 32 ares and 64 centares bounded as described in the complaint. This land was knocked down to Alejandro Balgos for P126.

On May 17, 1911, the period for redemption was to expire.

But it happened that Isidro Azarraga died on May 2, 1911, the minors thus being left without any guardian.

Notwithstanding this, on the every last day of the period for redemption, May 17, 1911, Leodegario Azarraga, an uncle of said minors, deposited with the sheriff the sum of P141.12 in refund of the principal paid by the purchaser and the interest thereon. The sheriff notified the latter of the deposit in order that he might receive the money and turn over the land. These facts are admitted.

But the purchaser refused and still refuses to allow the redemption of the land, and hence the present suit in which the new guardian for the persons, Leodegario Azarraga, and Tomas Sison, guardian for the property of the Bellosillo minors, request the court to order the defendant Alejandro Balgos to return the land in question to the plaintiffs by virtue of their having redeemed it within the legal period, to indemnify them in the sum of P800, the amount of the damages caused by defendant's refusal, and to pay the costs of the case. Among the allegations set out in the complaint and denied by defendant in his answer is the 5th, which sets forth that Leodegario Azarraga deposited with the sheriff P141 for the purposes of the redemption. But defendant stated on the witness stand that he had received in Panay, where he resides, a notice from the sheriff that Leodegario Azarraga had deposited with this officer an amount sufficient to redeem the land, and that on the same date in which the deposit was made, May 17, 1911, the sheriff went to Leodegario Azarraga's house.

The defendant set up the following defenses: (1) That on May 17, 1911, the plaintiff Leodegario Azarraga was not yet special administrator of the estate of the decedent Isidro Azarraga, former guardian of the minors Maria Felisa and Jesus Bellosillo, inasmuch as he did not take oath of office in that capacity until the 18th of the said month of May, 1911; (2) that as such special administrator of the estate of Isidro Azarraga the said Leodegario Azarraga had no right to redeem the land in question, that he did not handle funds of the said minors and that he was not their legal representative; (3) that with respect to the allegation that Azarraga was, on May 17, 1911, privately in charge of the said minors, even so, he could not legally represent them without any order of court nor could said minors contract and bind themselves with Azarraga; (4) that the office of guardian of said minors, which in the

complaint Leodegario Azarraga claims he held, was not obtained by him until after the expiration of the legal period for the redemption of the land in question, that is, not until May 24, 1911, the date on which he took oath of office; (5) that the fact of being guardian of the persons of said minors does not authorize Leodegario Azarraga to litigate matters concerning their property; (6) that with respect to the other plaintiff Tomas Sison, although he is guardian for the property of said minors, he was not such on the 17th of May, 1911, inasmuch as he was not appointed to this position until May 24, 1911, and then only on condition that he should give bond if there was property belonging to the minors to be administered and that up to the present time he had not furnished said bond; (7) that the provincial sheriff of Capiz, to whom Leodegario Azarraga delivered the amount mentioned in the complaint, was not authorized by any order of court to receive the redemption price, nor did he represent the defendant for the purpose of receiving it; (8) that defendant's refusal to accept the redemption price was made subsequent to the termination of the period fixed by law for the redemption of said land and was made at the time when he received in Panay the notice from the same sheriff, to which he replied on the very day of its receipt; (9) that no legal representative whatsoever of said minors has complied with the notice required in the last clause of section 465 of the Code of Civil Procedure, nor has a duplicate of said notice been filed with the register of deeds of the province.

The trial court sustained some of the defenses and absolved the defendant from the complaint without findings as to costs. The plaintiffs appealed.

With respect to the defendant's first point, to wit, that Leodegario Azarraga was a special administrator of the estate of Isidro Azarraga, the deceased guardian of the Bellosillo minors, defendant merely objected that the decedent did not become such special administrator until he took the oath of office on May 18, 1911, that is, one day after having exercised the right of redemption. But in regard to this point the court said that the office of special administrator of the estate of Isidro Azarraga does not necessarily include that of guardian of the wards of said decedent.

The first assignment of error is based on that finding. "The court erred," say the appellants, "in holding that Leodegario Azarraga, appointed special administrator of the estate of Isidro Azarraga, the former guardian of said minors, cannot exercise the rights and fulfil the obligations of Isidro Azarraga as such guardian in behalf of said minors."

The original cause of the execution which gave rise to the sale of the land in question was prosecuted by Severino Villaruz, as administrator of the estate of the deceased Gregorio Villaruz, against Isidro Azarraga, guardian of the minors Maria Felisa and Jesus Bellosillo y Azarraga. Had Isidro Azarraga been living on the 17th of May, 1911, it is certain that he would have taken steps to redeem a piece of land containing more than 11 hectares, sold for only P126; and as he died on the 2d of that month, is not the administrator of his estate able to do that which the decedent would have done and which he was unable to do? Section 702 of Act No. 190 expressly authorizes him to prosecute, in the exercise of the rights of the deceased, all actions necessary to recover property or to protect the rights of the deceased. One of these is that for redemption, now before us. One of the actions that does not expire at death is that to recover the title or possession of real estate. (Sec. 703.) In this case, when Leodegario Azarraga acted as special administrator of the estate of Isidro Azarraga, he did not do so as guardian of the Bellosillo minors, but as administrator de bones non to relieve the estate of Isidro Azarraga from the great responsibility it would have incurred with regard to the Bellosillo minors, if that land, sold at such an unwarrantably low price, and which appears to be the only parcel left to said minors, had not been redeemed; wherefore no bond for its administration was required of the present guardians.

All that the Bellosillo minors, the debtors, had to do in order to redeem the property was to pay the purchaser the amount of his purchase with 1 per cent per month interest thereon up to the time of redemption. (Act No. 190, sec.

465.) Any person, whether he has an interest or not in fulfilling the obligation, and whether the debtor knows and approves it or not, can make the payment. The person paying on account of another may recover from the debtor whatever he pays, unless he makes such payment against the express will of the latter. (Civ. Code, art. 1158.) So that although the Bellosillo minors did not know of the circumstance, Leodegario Azarraga could pay the P141 that he deposited with the sheriff.

In the lamentable situation in which these poor children were left from the 2d of May, when their guardian Isidro Azarraga died, until the 17th of the same month, on which date the period for redemption expired, the law was not obliged to abandon them to their fate. Leodegario Azarraga was reduced to the expedient of voluntarily undertaking to carry out a business matter for another and effected the redemption by depositing the price thereof.

"The following are circumstances under which one may undertake to carry out a business matter for another (gestion de negocios ajenos)" says Manresa, "and complete the juridic conception which we have just given of such undertaking: (1) That they relate to determined things or affairs, and that there be no administrator or representative of the owner who is charged with the management thereof; (2) that it be foreign to all idea of express or tacit mandate on the part of the owner, for it very often may happen even without his knowledge; it is authorized by Law 26, title 12, of the 5th Partida and continues to be authorized by the Code, which latter, in fulfilment of base 21, aforecited, of the law of May 18, 1888, maintained the doctrine sanctioned by the old law; and, (3), that the actor be inspired by the beneficent idea of averting losses and damages to the owner or to the interested party through the abandonment of the things that belong to him or of the business in which he may be interested, that is, that the administrator shall not undertake the matter in the hope of obtaining profit, or, as stated in Law 29, of the title and Partida cited, with the avaricious idea of gain. 'Without these circumstances,' says Sanchez Roman, 'the quasi contract with which we are now dealing does not exist; and, on the contrary, reduced to its just and natural limits, it is of unquestionable utility' (12 Manresa, 547 and 548)."

On the following page, 549, he adds:

"And as the law cannot and should not presume that the administrator undertakes the venture for unlawful and immoral purposes, but simply for the good of the owner or of the persons who are interested in the things or affairs affected, it confers upon the administrator the capacity of mandatary, and in such capacity requires of him that he fulfill his trust under conditions similar to those under which the mandatary would fulfill his own * * *."

In effect, article 1888 of the Civil Code provides:

"A person who voluntarily takes charge of the agency or administration of the business of another, without authorization, is obliged to continue to manage the same until the business and its incidents are terminated, or to notify the interested person in order that the latter may come to substitute him in his management, should he be in a condition to do so for himself."

That is what Leodegario Azarraga did. He took steps to do what was most indispensable, namely, to deposit the redemption price in order to prevent the action from prescribing, and as the minors or owners of the land could not themselves provide for its continuance, Azarraga called upon the guardian ad bona, Tomas Sison, to undertake the matter in addition to his own duties as guardian for the persons of the minors, in which capacity Azarraga had also been appointed on the 24th of the same month of May, 1911. And these two are the persons who continued the action for redemption after the prescription of the action had been prevented by means of the deposit of the price of the redemption in conformity with section 465 of the Code of Civil Procedure.

The defendant's third defense is without merit. It consists in the assertion that the minors could not contract nor bind themselves with Azarraga because article 1893 of the Civil Code expressly provides that "The owner of

property or a business who avails himself of the advantages of the administration of another, even when he has not expressly ratified it, shall be liable for the obligations contracted for his benefit, and he shall indemnify the administrator for the necessary and useful expenses which he may have incurred and for the losses he may have suffered in the discharge of his duties. The same obligation shall pertain to said owner when the object of said administration should have been to avoid any imminent or manifest damage, even when no profit results therefrom." Furthermore, the minor, although usually incapable of contracting or binding himself, cannot disavow the efficacy of the contracted obligation when it redounds to his benefit, because of the principle that no one may enrich himself to the prejudice of another.

For the foregoing reasons, the judgment appealed from is reversed. It is hereby held that the property described in the complaint may be redeemed, and the defendant is ordered to deliver the same to the plaintiffs on receipt of the sum of P141 deposited with the sheriff. No special finding is made as to costs. So ordered.

Torres, Johnson, Trent and Araullo, JJ., concur.

Moreland, J., concurs in the result.

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