

FELISA PORLAY, SPECIAL ADMINISTRATRIX OF THE ESTATE OF JUSTO PORLAY, PLAINTIFF AND APPELLEE, VS. DIONISIA HOMBRADO ET AL., DEFENDANTS AND APPELLANTS.*G.R No. 10877. September 18, 1916*

Ponente: TORRES, J.

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This appeal by bill of exceptions was taken by counsel for the defendants from the judgment of October 31, 1913, whereby the judge of the Court of First Instance of Laguna held that the plaintiff was the exclusive owner of the land in litigation, marked Nos. 1, 2, 3, 4, 5, 6, and 7, in ink in the rough sketch Exhibit 2-1, and ordered the defendant Simeon Paraiso to return the said parcel of land to the plaintiff, without express finding as to costs.

On May 16, 1912, counsel for Justo Porlay filed a complaint in the Court of First Instance of Laguna, alleging that the plaintiff was the absolute owner of a piece of coconut land situated in the barrio of Calumpang of the pueblo of Nagcarlang, the area, metes and bounds of which are set forth in the complaint and in the rough sketch Exhibit A that is made a part thereof; that the plaintiff acquired the said land by purchase from its previous owner, Isabelo Virador, who in turn had obtained it by absolute purchase from its former owner Dionisia Hombrado, as shown in the documents B and C; that notwithstanding all of the foregoing, defendants about a year before unlawfully took possession of the said land against the plaintiff's will and without his consent and up to the present time had continued in possession of the said coconut land and refused to return it to its lawful owner, thus depriving the latter of the use and enjoyment thereof; and that by reason of the foregoing the defendants had caused the plaintiff losses and damages in the amount of P500. He therefore prayed the court to render judgment in favor of the plaintiff for the ownership and possession of the said coconut land, for the losses and damages and the costs of the proceedings.

On September 27, 1912, counsel for the defendants filed their amended answer to the aforementioned complaint, denying each and all of the facts alleged therein and each and all of its parts, with the exception of paragraph 1 which he admitted. In special defense he alleged that the defendants denied under oath the authenticity of the documents accompanying the complaint, especially that of the deed of sale of the said land executed by Dionisia Hombrado in behalf of Isabelo Virador; that the land claimed by the plaintiff formed a part of another and larger parcel which the defendant Dionisia Hombrado had sold to the other defendant Simeon Paraiso; that originally the land in litigation had belonged to Dionisia Hombrado who, on May 15, 1899, sold it under right of repurchase to Manuel Oalo who, having consolidated his ownership therein, left the said property at his death to his son Pedro Oalo; that on May 21, 1902, the latter sold the said property to Sixto Nograles, who in turn sold it to Martin Robale, on June 3, 1909; that on August 16, 1910, Martin Robale sold the land to Mariano Nograles from whom it was repurchased on October 3, 1910, by Mateo Dardo and his wife Marciana Sobiela, daughter of Dionisia Hombrado, but that as the money with which the repurchase was effected belonged to Dionisia Hombrado, the said Mateo Dardo deeded the land to his mother-in-law, Dionisia Hombrado, who subsequently sold it, together with another parcel of land adjacent thereto, to Simeon Paraiso, one of the herein defendants; that the document

Exhibit B, made a part of the complaint, is a forgery, as it was executed by Eleno Pones, now deceased, without the knowledge and consent of the interested party, Dionisia Hombrado; that neither the plaintiff Justo Porlay nor his predecessor in interest Isabelo Virador had at any time been in possession of the disputed land. He therefore prayed the court to absolve his clients from the complaint filed by Justo Porlay, with the costs of the proceedings against the latter, and to render judgment in behalf of Simeon Paraiso for the ownership of the land described in the complaint.

After a hearing of the case and the introduction of evidence by both parties, the court rendered the judgment aforementioned, to which the defendants excepted and in writing moved for a reopening of the case and a new trial. This motion was denied, exception was taken by the defendants and, after the filing of the proper bill of exceptions, the same was approved and transmitted to the clerk of this court.

During the pendency of the appeal, the appellee Justo Porlay died, and after the appointment of Felisa Porlay as administratrix of the estate of the decedent had been duly certified, the court ordered that she be substituted for the latter as the plaintiff in these proceedings.

The questions submitted to the decision of this court are: (1) Whether the sale of the land referred to in the document Exhibit A (p. 5, record), made by Dionisia Hombrado to Isabelo Virador, is genuine, valid, and effective. (2) Whether the land acquired from Isabelo Virador by Justo Porlay, which is the subject matter of this action for recovery of possession, is the same land that according to the document Exhibit 4 (p. 100, record), was sold by the said Dionisia Hombrado to Simeon Paraiso.

With regard to the first question, although Dionisia Hombrado denied having authorized Lino or Eleno Pones to sign the document Exhibit A (p. 5, translated on p. 7 of the record) in her name and alleged that the said Pones was not her husband, although she lived with him as his wife and had a daughter by him named Dominga, and that she, the said Dionisia Hombrado, was not married to any other man, nevertheless, Honorario Sumaya, one of the attesting witnesses to the said document, identified the signatures therein and stated that he saw the said Pones sign it in the presence and at the request of Pones' aunt, Dionisia Hombrado. The other witness, Cirilo Ramos, a son-in-law of the attesting witness Agustin Guevara, testified that the latter died in 1909, and that, although he, Ramos, did not know how to read manuscript letters, yet he knew his father-in-law's signature and was present when the latter signed the document Exhibit A in the presence of Isabelo Virador, another man and a woman. The purchaser, Isabelo Virador, identified the document Exhibit A, whereby Dionisia Hombrado, on June 23, 1904, sold him the land therein mentioned as having the following metes and bounds: On the north, Eligia Astronomo; on the south, Leogarda Corpus; on the east, Lucina Formentos; and on the west, Eligia Astronomo; that the present boundaries of the said land are: On the north, Emiliano San Gregorio, the husband of Eligia Astronomo; on the south, Perfecta Vinosá; on the east, Lucina Formentos and Dionisia Hombrado; and on the west, Feliciano Villareal; that there were about 200 coconut trees on the land; and that, after he had held continuous and peaceable possession of it for six years, he sold it on September 15, 1910, to Justo Porlay, Lino Pones having signed the said document at the request of the vendor Dionisia Hombrado.

In effect, it appears that on September 16, 1910, Isabelo Virador sold the land acquired from Dionisia Hombrado to Justo or Fausto Porlay for P500, according to the document Exhibit D (p. 11, record), ratified before a notary public on the same date, September 15, 1910. This document was not challenged as being false.

So that it was not proven that the sale of the said land by its owner Dionisia Hombrado to Isabelo Virador was spurious, and that being so, its purchase by Justo Porlay from Isabelo Virador constitutes a good title whereby its actual owner Justo Porlay may recover its possession from the present holder thereof.

The sale of the land by its owner Dionisia Hombrado to Isabelo Virador meets all the conditions required by

article 1261 of the Civil Code, as it was executed with the consent of both the vendor and the purchaser; it was made for a certain and specific piece of land and for the consideration of the sum of 110 pesos and 5 reales, received by the vendor; and although the conveyance was recorded only in a private document, the concrete act of the sale of the land was a perfectly legal act, performed by competent persons and was not contrary to law. Therefore the contracting parties are obligated to perform the contract as though it had been recorded in a public instrument, pursuant to the principle laid down by the supreme court of Spain in applying article 1225 of the Civil Code in its decision of November 19, 1891, on an appeal in cassation.

The validity and efficacy of the contract of purchase and sale executed by and between Dionisia Hombrado and Isabelo Virador on June 23, 1904, are therefore sustained by the provision of article 1278 of the same Code, which reads:

"Contracts shall be binding, whatever may be the form in which they may have been executed, provided the essential conditions required for the validity exist."

It is undeniable that the requisites prescribed in the article just above-cited do exist in the said contract.

When Dionisia Hombrado in her testimony challenged the validity of Exhibit A, she stated that she had never sold the land belonging to her to Isabelo Virador, and that she had not authorized Lino Pones to sign in her place on account of her being unable to write her own signature. No certificate whatever was exhibited of any marriage between Lino Pones and Dionisia Hombrado. The latter however testified that they lived together as husband and wife, and it was recorded in the baptismal certificate of the girl Dominga Pones that she was the legitimate issue of the lawful marriage of Eleno Pones and his wife Dionisia Hombrado. Likewise the burial certificate of Eleno Pones states that he was the husband of Dionisia Hombrado. It is most probable that they were not married to each other, but public opinion considered them as lawful spouses, and therefore the presumption *juris tantum* existed that the man and the woman who have lived or live conjugally have entered into a lawful marriage contract. (Sec. 334, No. 28, Code of Civ. Proc.)

Upon the foregoing premises, in the regular and ordinary course of human affairs it is likely that, at the request and in the name of the vendor, her companion and natural husband, did sign the said deed of sale which she herself was unable to authenticate with her signature as she could not write.

If a perfect and consummated contract of sale is an indisputable singular title conveying ownership, the action brought by Justo Porlay for recovery of possession is of course proper, for the reason that the ownership of the land in question was legally conveyed by Dionisia Hombrado to Isabelo Virador, who in turn conveyed his ownership rights to the plaintiff Porlay.

The latter not only proved his right and title as owner of the land, the recovery of possession of which is claimed against the defendants, but he has also complied with his duty to identify and determine the situation, metes and bounds of the property in litigation, which is an entirely different piece of land from that which, according to the document Exhibit 4, was sold for P1,200 by the same Dionisia Hombrado to the defendant Simeon Paraiso.

On considering the second of the questions aforementioned submitted to the decision of this court, we shall show that the land claimed by the plaintiff Porlay and detained by the defendant Paraiso, and the land which Dionisia Hombrado stated she sold to the latter, are two entirely different properties.

Although the successive sales or conveyances of land, alleged by the defendants, be deemed to be certain and positive, like that made by Dionisia Hombrado on May 15, 1899, in behalf of Manuel Oalo and his wife under covenant of repurchase for the period of one year and for the sum of P43, according to Exhibit C-1, and, after consolidation of the purchasers' ownership, the resale effected by Pedro Oalo, a son of these latter, to Sixto

Nograles, on May 21, 1902, according to the receipt found on page 62 of the record and wherein the price of the redemption is not stated; like the sale effected on June 3, 1909, by Sixto Nograles to Martin Robale, for P250, according to the document Exhibit B-1, ratified before a notary; that made on August 16, 1910, by Martin Robale to Mariano Nograles, for P300, according to the document Exhibit A-1; that executed on October 3, 1910, by Mariano Nograles to Mateo Dardo and Marciana Sobiela, for P300 (p. 99, record) ; the conveyance made on January 10, 1912, after the death of Marciana Sobiela, daughter of Dionisia Hombrado, to this latter by the widower Mateo Dardo, who stated in the document Exhibit 5 that the money with which he redeemed the said land came from his said mother-in-law Dionisia Hombrado, for which reason he returned to her the land acquired from the said Mariano Nograles; and, finally, the sale made on the same date, January 10, 1912, by Dionisia Hombrado to Simeon Paraiso, for P1,200, according to the document Exhibit 4, ratified before a notary on September 25 of the same year, 1912; nevertheless, the record does not show it to have been duly proven that such conveyances and acquisitions related to only one and the same piece of land and the identical property now in dispute.

The land to which the deed of sale Exhibit C-1 refers has the following boundaries: on the east, the Lapid River; on the west, the rice lands of Reducinda Honrado; on the south, land belonging to Nicolas Mulon; and on the north, land owned by Santiago Reolada. It is planted with bamboo.

After the said first sale of the land and the other subsequent sales and when it had been returned to its original owner Dionisia Hombrado, she sold the property for the last time on January 10, 1912, to Simeon Paraiso, according to the document Exhibit 4, in which it appears that the land is bounded on the north by that of Emiliano San Gregorio and his wife Eligia Astronomo and that of Lucina Formentos, on the east by the Rio Grande river which flows toward Santa Cruz, on the south by the lands of Sixto Nograles and Mariano Virador, and on the west by another piece of land which belonged to the vendor and was conveyed to Perfecta Viñosa.

From the great difference regarding the adjacent boundary owners, between the land mentioned in the document Exhibit C-1 and that referred to in the document Exhibit 4, it is inferred that the land sold by Dionisia Hombrado to Manuel Oalo and that sold by her 13 years afterwards to Simeon Paraiso are two different properties, and that neither of them is the one that was conveyed to Isabelo Virador and now belongs to the plaintiff Porlay.

In the document Exhibit D, ratified before a notary on September 15, 1910, it appears that Isabelo Virador sold to Justo Porlay a parcel of land planted with 200 coconut trees and bounded on the north by the land of Emiliano San Gregorio, husband of Eligia Astronomo, on the east by that of Lucina Formentos and Dionisia Hombrado, on the south by rice land belonging to Perfects Vinosa, and on the west by rice land belonging to Feliciano Villareal. The boundaries of this land also differ from those mentioned in the said documents Exhibit C-1 and 4.

If the land sold on May 15, 1899, by Dionisia Hombrado to the husband and wife Pedro Oalo and Leonarda Labid was the land which the children of the vendor, Mateo Dardo and Marciana Sobiela, redeemed from Mariano Nograles; and the same land which Dionisia Hombrado sold, on January 10, 1912, to Simeon Paraiso, according to the document Exhibit 4, it is not understood, nor was it explained during the trial and the taking of evidence in the Court of First Instance, how it was that at the end of 13 years the boundaries of the land changed in such a manner, not only with respect to the names of the adjacent landowners, but also by the disappearance of the Lapid River which formed the eastern boundary of the said land, without any reason whatever being given to explain the said changes nor to account for the disappearance of the river; and how the land claimed by the plaintiff has different boundaries, land of which he was in possession when the property was usurped by the defendant Dionisia Hombrado, as formerly it was held by Isabelo Virador, for, according to the property assessment declaration made by Sixto Nograles in September, 1906 (p. 55, record), the western boundary is therein given as being the land of Isabelo Virador. This declaration proves that Virador bought the land to which the document

Exhibit A refers and was in possession thereof and that he subsequently sold this land to the plaintiff Porlay, who, a few days after he came into its possession, was deprived of it by Dionisia Hombrado.

So that it has been proven by the documents Exhibits C-1 and 4 that the land to which they refer is that usurped by the defendant Dionisia Hombrado from the property now belonging to the plaintiff Justo Porlay. Of the several pieces of land which Dionisia Hombrado held in the barrio of Calumpang, she probably sold one of them to Simeon Paraiso, a very different parcel from that sold 13 years before to Manuel Oalo, but it was none of these lands that was sold by her to Isabelo Virador in June, 1904, and which was afterwards bought from the latter by the plaintiff Porlay in September, 1910.

The facts having been proven that Justo Porlay was in possession of the land bought from its previous owner in September, 1910, and that he was deprived of said possession by Dionisia Hombrado, who usurped the land on one of the first days of October of the same year; and as the defendants have not succeeded in proving by the documents they presented that Justo Porlay held the land in question without just right or title, and that they themselves were the lawful owners of the usurped land, and that they had a better right than the plaintiff, the judgment of the trial court must be affirmed, as it is in accordance with the law and the evidence.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from are deemed to have been refuted, the said judgment should be, as it is hereby, affirmed, with the costs against the appellant. So ordered.

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

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