

**PETRONA TACALINAR ET AL., PLAINTIFFS AND APPELLANTS, VS.
LORENZO CORRO Y MANALILI ET AL., DEFENDANTS AND
APPELLEES.***G.R. No. 11044. September 07, 1916*

Ponente: TORRES, J.

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This appeal by bill of exceptions was raised by counsel for the plaintiffs from the judgment of November 21, 1914, in which the Court of First Instance of Occidental Negros absolved the defendants from the complaint and held that the defendant spouses, Lorenzo Corro and Genoveva Samorro, had legally acquired the estate known as "Santo Nino Hacienda," the object of these proceedings and described in the complaint, and that consequently the defendant Juan Perez, who had purchased the said estate from the afore-mentioned husband and wife, is the lawful owner thereof. No special finding was made as to costs.

On July 9, 1913, counsel for the widow and children of Leoncio Alfon y Visitacion filed a written complaint in the Court of First Instance of Occidental Negros alleging as a cause of action that Leoncio Alfon, during his lifetime, was the owner in fee simple of an estate known as the "Santo Nino Hacienda," situated in Guadalupe, Calatrava, now pueblo of San Carlos, Occidental Negros, (together with a steam engine, grist mill and certain dwelling houses for laborers) the metes and bounds of which estate are set forth in paragraph 3 of the complaint; that in the year 1897 Leoncio Alfon, through his daughter Asuncion Alfon, leased the said Santo Nino Hacienda to Lorenzo Corro y Manalili for the sum of P1,500, the lessee Corro taking possession of the said leased property in that year and holding the same until 1909 when he unlawfully sold it to his codefendant Juan Perez who was in possession thereof at the time of the filing of the complaint; that the lessee Lorenzo Corro had paid only the sum of P1,500 as the rent for the first year, and had not paid the rent for the subsequent years, notwithstanding the demands made upon him by the plaintiffs; that the latter had suffered damages in the amount of P10,000, as rents unpaid by the said lessee during the last seven years of the lease; and that the present possessor of the said hacienda, Juan Perez, refused to deliver to the plaintiffs the possession thereof and to pay them the amount of damages, P6,000, which by his conduct he had caused to the plaintiffs. The latter's counsel therefore prayed the court to render a judgment restoring the ownership and possession of the Santo Nino Hacienda to the plaintiffs and ordering Juan Perez y Gonzalez to deliver and to return the possession of the said hacienda, in addition to the payment of the damages demanded; and ordering Lorenzo Corro to pay to the plaintiffs the sum of P10,000 as damages.

In his written answer of August 23, 1913, subsequently amended by another of November 12 of the same year, the defendant, Juan Perez y Gonzalez, denied each and all of the allegations of the foregoing complaint and in special defense set forth that the Santo Niño Hacienda, measuring 40 hectares, as a part of other conjugal partnership property, belonged to Lorenzo Alfon and his wife, Petrona Tacalinar, the first of whom about the year 1898 had broken jail and was a fugitive from justice; that in the said year 1898 his wife, Petrona Tacalinar, through her daughter Asuncion whom she duly authorized for the purpose, sold the said hacienda to Lorenzo Corro for the

sum of P3,500; that the said Corro paid P2,000 in cash and gave the vendor his promissory note for the balance of P1,500; that subsequently, on April 27, 1899, the fugitive husband Leoncio A If on approved and ratified the sale, collected from the wife of the purchaser the sum of P800 on account of the promissory note for P1,500 and later on obtained the balance of P700 in a draft drawn on the Compania General de Tabacos de Filipinas, which sums were received by the said Leoncio Alfon, as attested by the receipts issued by him, Exhibits 1 and 2, which were made a part of the answer; that Alfon, on collecting the said amounts, returned to the debtor Corro the promissory note for P1,500, Exhibit 3, which was attached by the drawer thereof to the answer; that by reason of the said purchase, Lorenzo Corro became the owner in fee simple of the said hacienda and publicly entered into possession of the same as such owner and proprietor; that in 1910 Corro sold and conveyed the estate to the other defendant, Juan Perez, who since that time up to the present had been in the possession thereof as the owner, had increased its area to 62 hectares, had constructed several buildings and had installed additional machinery thereon; that both he and his predecessor in interest, Corro, had respectively declared themselves to be the owner and had paid the respective land tax on the said hacienda; and that said tax was not paid by the plaintiffs. The documents marked Exhibits 1 to 5, inclusive, were made a part of his answer.

As another special defense he alleged that Lorenzo Corro had been in the quiet, peaceable and public possession of the said hacienda from 1898 to 1910 in which latter year he sold it to Juan Perez who has been in possession thereof until the present date, both parties therefore having been in the continuous and adverse possession of the property against all the world for a period of 14 years, wherefore any action which the plaintiffs might have had to recover the said estate had already prescribed. The defendant Juan Perez therefore prayed that the complaint be dismissed, that he be decreed the lawful and absolute owner of the Santo Nino Hacienda; and that the plaintiffs be ordered to forever hold their peace with respect to the ownership thereof and to pay the costs of the proceedings.

The defendant Lorenzo Corro, in answer to the afore-mentioned complaint, denied each and all of the allegations therein contained and, besides, set up the same special defenses as those put forward by his codefendant, Juan Perez. He prayed the court to dismiss the complaint, to declare that whatever action the plaintiffs might have had had already prescribed, and to decree the defendant, Juan Perez, to be the lawful owner of the hacienda in question, with the costs of the case against the plaintiffs.

The plaintiffs, in replication, denied generally and specifically all the allegations contained in each and all of the paragraphs of the preceding answers that were incompatible with the allegations of the complaint

After the trial and the introduction of evidence by both parties, it was found that the proceedings had not been brought in the name of all the interested parties-plaintiff, whereupon the judge by an order of September 14, 1914, (bill of ex., p. 19) directed that the complaint be amended by joining therein as parties-plaintiff all the persons interested in the outcome of the suit who might be necessary for the proper determination of the same; and as the defect of nonjoinder of parties-plaintiff was only discovered subsequent to the hearing, the same court, by an order of September 18, 1914, appointed Enrique C. Locsin curator ad litem of the minor plaintiff, Josefa Alfon, and ordered a new trial. This, however, was not held because on October 3, 1914, the parties agreed to submit the case to the court on the evidence presented at the first hearing, together with the objections and exceptions interposed at the trial, thereby avoiding the necessity of submitting it anew. In compliance with the order, counsel for the plaintiffs amended the original complaint to include as plaintiffs in this suit Petrona Tacalinar, Asuncion Alfon, Rufo Alfon, Martina Alfon, Emiliana Alfon, and her husband Pablo Cinco, and the minor, Josefa Alfon, represented by her curator ad litem Enrique C. Locsin. The defendants are Lorenzo Corro y Manalili and Juan Perez y Gonzalez.

The case thereupon being submitted to the court, the aforementioned judgment was entered to which the plaintiffs excepted and in writing asked for a reopening of the case and a new trial. This motion was overruled, exception

was taken by the plaintiffs, and the proper bill of exceptions having been filed, the same was approved and transmitted to the clerk of this court.

The question before us, then, is whether the contract executed in 1898 between Asuncion Alfon, daughter of the former owners of the hacienda in question, and Lorenzo Corro, by virtue of which contract Corro took possession of the estate, was, as the plaintiffs contend, a contract of lease, or whether on the contrary, as the defendants allege, it was a contract of absolute sale of the said hacienda to Corro.

The record shows it to have been duly proven by the possessory information obtained by Leoncio Alfon y Visitacion in the year 1896, and by the preventative, precautionary entry of said possessory information made on April 16, 1895, that the said Alfon was the exclusive owner of the Santo Niño Hacienda; that the said hacienda measured 41 hectares in extent, was situated in the sitio of Guadalupe of the old pueblo of Calatrava, now San Carlos, Occidental Negros, and was bounded on the north by lands that formerly belonged to Leon Vega, now owned by Teodoro Vega, on the south by the Mainit River, on the east by the shore, and on the west by the lands formerly belonging to Crisanto Daolong, and now to his son, Vicente Daolong. This hacienda finally fell into the hands of Lorenzo Corro or Del Corro, about the year 1898, by virtue of what according to the plaintiffs was a contract of lease, or what according to the document found on pages 37 and 38 of the part of the record containing the documentary evidence was a deed of sale executed in favor of the said Corro on February 18, 1898, in the pueblo of San Carlos. But be the contract what it may, (what it really is will be determined hereinafter) it is certain that Lorenzo Corro held peaceable possession of the property and, by his agent Jose M.a Cervantes, paid the required land tax thereon up to May 14, 1912, on which date he sold the property to his codefendant Juan Perez y Gonzalez for the sum of P3,500, as attested by the certified copy of the notarial instrument issued by the clerk of the Court of Land Registration (pp. 47-48, record). It is to be noted that before Juan Perez purchased the hacienda from Lorenzo Corro on May 14, 1912, the widow, and children of Leoncio Alfon y Visitacion, now plaintiffs, had conferred general powers of attorney upon Francisco Ferrer to encumber, lease or convey the hacienda in question, and that, as a result of the negotiations undertaken by Ferrer to convey the said estate, he arranged for its sale, on May 27, 1911, to Juan Perez Gonzalez for the sum of P5,000, payable in the installments agreed upon in the deed of sale Exhibit B.

The purchaser Juan Perez Gonzalez had paid to the plaintiff-vendors P500 on account, saying that he had contracted for the purchase of the Santo Nino Hacienda with the plaintiffs' attorney in fact as the latter had assured him that Lorenzo Corro had absolutely no rights in the said hacienda, but that, having subsequently discovered that the true owner of the estate was Lorenzo Corro, Perez discontinued making the partial payments agreed upon and renounced the payments he had already made in favor of the plaintiffs and even made them a present of P1,000 in addition because he was their relative. When Juan Perez Gonzalez filed an application in the Court of Land Registration for the registration of the hacienda he had purchased, his application was opposed by the widow and children of Leoncio Alfon y Visitacion and the said court, by a decree of June 18, 1913, dismissed the proceedings for registration brought by Perez Gonzalez, until a final determination of the suit that the objecting heirs of Alfon might file against the applicant Perez in the Court of First Instance. It was for that reason these proceedings were commenced.

The plaintiffs claim that the said Santo Nino Hacienda was merely leased to Lorenzo Corro for P1,500 per annum for the period of five years, and that it was in no manner sold to the lessee. This claim is corroborated under oath by the witness Asuncion Alfon, who furthermore testified that the said contract of lease was executed in the month of May, 1897, but that the document containing the contract was no longer in existence because, with other important family papers, it was destroyed in the fire that occurred in the town of Cebu in the year 1909; that the Santo Nino Hacienda was possessed by Corro as lessee only, and this fact was also set forth by the plaintiffs in the

power of attorney executed in behalf of Francisco Ferrer on April 24, 1911, copied verbatim in the plaintiffs' Exhibit B; and that the lessee had ceased to pay the rentals agreed upon.

However, the defendant Lorenzo Corro and his wife Genoveva Samorro in their depositions made before a notary in Iloilo state that they acquired the said hacienda by purchase from the plaintiffs, Asuncion and Rufo Alfon, children of Leoncio Alfon, who assured the purchasers, the deponents, that their father Leoncio had already died, and even showed them the death certificate Exhibit E, duly attested by the parish priest of the pueblo of Talamban; that the deponents would not have decided to make the purchase, were it not that the said Asuncion and Rufo had also showed them a letter, written in the Visayan dialect (pp. 39-40, record), dated January 9, 1898, and signed by the mother of the said Asuncion and Rufo, ordering them to sell the said Santo Nino Hacienda and instructing them to give the preference to "Manoy Ensoy," meaning Lorenzo Corro; and that by reason of the statements of these plaintiffs to the effect that their father had died on December 28, 1896, and that they were authorized by their mother Petrona Tacalinar, widow of Leoncio, to sell the hacienda in question, the deponents executed the contract to purchase it on February 18, 1918, in the barrio of San Carlos, on the land of the Santo Nino Hacienda itself, for the sum of P3,500, of which amount they had on different occasions paid the sums of P530 and P1,470; that it was stipulated that the purchasers should give a promissory note for the balance of P1,500, as shown in the original contract in the Visayan dialect and in its translation found on pages 37 and 38 of the record.

This contract is subscribed by Asuncion Alfon and by Rufo Alfon, and witnessed by Valentin Penalosa and Eduardo Bugton. These latter testified at the trial that the signatures of Asuncion and Rufo Alfon appearing in the said deed of sale are the genuine signatures of the persons who subscribed it, which fact these witnesses knew because they were present when the said Asuncion and Rufo Alfon affixed their signatures thereto. In compliance with one of the conditions of the sale, the purchaser Lorenzo Corro, on February 22, 1898, executed a promissory note for the sum of P1,500 in favor of "Petrona Tacalinar, widow of the deceased Leoncio Alfon," "in consideration of the purchase made on the eighteenth of the present month and year, of the hacienda known as Santo Nino, in the sum of P3,500."

It afterwards turned out that the said Leoncio Alfon y Visitacion, the owner of the hacienda in question, did not die on December 28, 1896, as set forth in the death certificate Exhibit E, but that on the contrary he was still living on the date of the sale of the property. According to the statement made by his widow, Leoncio Alfon did not die until November, 1912, although it was made to appear in the said certificate that he died in 1896 in order to mislead the authorities and prevent his capture, it appearing that he had escaped from the Cebu jail where he was serving a sentence for the crime of homicide, and, as he used to visit his family now and then, his relatives were interested in his not being retaken into the custody of the law.

The promissory note for P1,500 was collected in two installments by Leoncio Alfon, who was supposed to be dead; on April 27, 1899, he obtained the sum of P800 from the wife of Lorenzo Corro, in the pueblo of Dumanjug, Cebu, according to the receipt signed by the interested party (p. 50, record), and on May 10, 1899, he collected the sum of P700 from the manager of the Compania General de Tabacos, in Cebu, by means of an order sent to him by the branch office of the said firm in Dumanjug, which amount he collected in the pueblo of Cebu and for which he signed a receipt. It was subsequently learned that the said promissory note had been given in partial payment of the purchase price of the Santo Nino Hacienda.

So that, although Leoncio Alfon had not known of or consented to the sale of the Santo Nino Hacienda at the time it was effected on February 18, 1898, yet the subsequent knowledge that he had of that sale and the two collections that he made on account of the promissory note of P1,500, a part of the price, are acts which show that he had afterwards confirmed and approved the said conveyance of his property, the more so because he had in his

possession, had information and knowledge of, the consideration which gave rise to the execution of the said promissory note for P1,500 and he only parted with the note by returning it to Lorenzo Corro after he had received the total sum it called for.

Petrona Tacalar, however, swore that she did not know how to write and that she had never written to her daughter Asuncion the letter of March 9, 1898, ordering her to sell the Santo Nino Hacienda; but this denial appears to be offset by the acts of her husband, Leoncio Alfon, who must have been informed of the sale of the said hacienda, for he approved it and collected the amount of the promissory note of P1,500, a part of the price of the property.

The record discloses other circumstantial evidence to show that the plaintiffs did not consider themselves entitled to the ownership of the said hacienda after the year 1898. As a result of Leoncio Alfon's conviction for the crime of homicide perpetrated upon the person of Eduvigis Montesclaros, the heirs of the deceased were awarded an indemnity of P1,000 which was to be collected out of the property of the convict Alfon, and therefore the Santo. Niño Hacienda, which was supposed to belong to Alfon, was levied upon and sold to Juan Moniategui for P1,050, which the latter paid at the time of the sale. Upon the attachment of this property, a receiver therefor was appointed in the person of Jose M.a Cervantes, who was precisely the agent and industrial partner of Lorenzo Corro in the said hacienda, whereupon in October, 1902, Corro came forward with a third-party claim, praying for the annulment of the proceedings and the return of the property to the third-party claimant. His petition was granted by the judge of the Court of Cebu, the Honorable J. L. Carlock, by an order of February 2, 1903, in which it was directed that the P1,050 which Juan Moniategui had paid for the purchase of the hacienda, be returned to him, and the property itself to the claimant Corro. This return was made on the 21st of April of the same year and the latter was placed in possession of the hacienda.

The third-party claim filed by Lorenzo Corro was founded on the alleged fact that he had been the owner of the Santo Nino Hacienda since the year 1898, and that therefore its subsequent attachment and sale were null and void, and this also was the finding of the trial judge. The silence maintained by the plaintiffs which in 1902 and 1903 permitted the defendant Lorenzo Corro to claim the hacienda, estops the plaintiffs from now alleging the contrary, because, if Corro was merely the lessee of the estate, he could not oppose the levy and sale thereof, as he was not its owner. We are therefore forced to conclude that if the plaintiffs did not then avail themselves of their rights as owners of the property in question, it was because they were convinced that they had no rights of ownership therein.

Article 1310 of the Civil Code prescribes:

"Only contracts having all the requisites mentioned in article 1261 can be confirmed."

Article 1311 of the same Code provides:

"The confirmation can be made either expressly or in an implied manner. It shall be understood that there is an implied confirmation when, being aware of the cause of the nullity and such cause having ceased to exist, the person who may have a right to invoke it should execute an act which necessarily implies his wish to renounce such a right."

Although Leoncio Alfon, the owner of the hacienda in question, may not have authorized any one, not even his wife and children, to sell his property, yet after he was informed of the said conveyance, if instead of demanding its annulment he proceeded to collect in installments the amount of the promissory note for P1,500, Exhibit B, thus ratifying and approving the said sale, his action necessarily implies that he waived his right of action to avoid the contract, and, consequently, it also implies the tacit, if not express, confirmation of the said sale effected by two of his children by his wife's order.

The supreme court of Spain, in applying the provisions of article 1259 of the Civil Code in a decision rendered on appeal on May 7, 1897, announced the following legal doctrine:

"The ratification or confirmation of a contract by the person in whose name the contract was made by a third party who had no authority therefor, validates the act from the moment of its celebration, not merely from the time of its confirmation, for the confirmation operates upon or applies to the act already performed."

Furthermore, article 1313 of the Civil Code says:

"Confirmation purges the contract of all defects which it may have contained from the moment of its execution."

Therefore, although there may have been some defect in the contract of sale, by virtue of which the defendants Corro and Samorro acquired the Santo Niño Hacienda, the subsequent approval made by its owner Leoncio Alfon purged the contract of such defect.

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

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

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