

TEOTIMO S. SAAVEDRA, ET AL., PETITIONERS, VS. SIARI VALLEY ESTATES, INC., ET AL., RESPONDENTS.*G. R. No. 12875. October 30, 1959*

Ponente: MONTEMAYOR, J.

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This is a petition for certiorari and prohibition with preliminary injunction by Teotimo S. Saavedra, Carolina Layague and Filemon Lucasan, to annul amended order of the Court of First Instance of Zamboanga, dated August 23, 1957, and to enjoin said court from placing respondent Siari Valley Estates, Inc., in possession of Lot No. 8 of Parcel No. 11 and of Parcel No. 9, mentioned in said order. In Civil Case No. 134 of the Court of First Instance of Zamboanga del Norte, entitled Siari Valley Estates, Inc., vs. Filemon Lucasan, a decision was rendered on June 30, 1952, the dispositive part of which reads as follows:

"... adjudicating to the Siari Valley Estates all the cattle that may be found in the cattle ranch of Filemon Lucasan, specially the 321 heads that had been entrusted to his care ... ordering the defendant to deliver to the plaintiff (respondent herein) all said cattle or their value amounting to P40,000.00, to pay damages to the Siari Valley Estates for the 400 heads of cattle. ... at the rate of P100.00 per head or P40,000, plus interest at the rate of 6% from the date of the trial of this case in January, 1951, and to pay the costs of the proceeding."

To satisfy the judgment, levy was made on twelve parcels of land, among them Lot 8 of Parcel 11 and Parcel 9, involved in the parcel petition, which twelve parcels were later sold at public auction on January 14, 1956, to Siari Estates, being the highest bidder. Two days before the sale, petitioners Saavedra and Layague filed with the Sheriff their third party claims to Lot No. 8, Parcel 11 and Parcel 9, respectively. Other third party claimants filed their claims to the other parcels levied upon, and subsequently, they filed the corresponding suits for annulment of the execution sale, against the Siari Estates and the Sheriff, which cases are now pending in the Court of First Instance of Zamboanga del Norte.

After the expiration of one year from the date of the sale, a final deed of sale covering the twelve parcels was executed by the Sheriff, in favor of the Siari Estates. Thereafter, the Siari Estates tried to obtain possession of the properties bought by it, but it was opposed by defendant Lucasan, claiming that the parcels sold at the execution sale were owned and possessed by third party claimants, the same persons who had filed their third party claims with the Sheriff and had brought the corresponding actions in court against the Siari Estates to annul the execution sale. Despite said opposition, however, the trial court, through Judge Ortega, issued an order dated February 13, 1957, supplemented by a writ of possession, directing the Provincial Sheriff to deliver to the Siari Estates all the properties covered by the final deed of sale. Said order, however, was refused compliance by defendant Lucasan; and the failure of the Sheriff to execute the order and the writ of possession prompted the Siari Estates to ask that said writ be implemented and to pray that the Sheriff be directed to deliver all properties covered by the deed of sale, to it. Defendant Lucasan, as well as the third party claimants, opposed the motion, alleging that since they (third party claimants) were in actual possession of the properties, they could not be deprived thereof, pending determination of their claims of ownership, nor could they be summarily ousted therefrom without due process.

The trial court heard the motion and the oppositions thereto, and after receiving evidence, it found that parcels 3; 4, 5, 6, 7 and 8 were covered either by homestead or free patents in favor of third party claimants, and it issued an order dated April 30, 1957, directing the Sheriff to—

***"place the plaintiff in possession of parcels Nos. 1, 9, Lot 8 in parcel No. 11 and parcel 12 and of all other parcels mentioned in the Certificate of Sale issued by the Provincial Sheriff in favor of the plaintiff."

On motion of the defendant and the third party claimants, the trial court on August 7, 1957, amended its order of April 30, 1957, by striking therefrom parcel 12, and the phrase "and of all other parcels, etc.", so as to read:

"Wherefore, premises considered the Provincial Sheriff is hereby ordered to place the plaintiff in possession of Parcel Nos. 1, 9 and Lot No. 8 in Parcel No. 11 as mentioned and described in the Sheriff sale issued by the provincial sheriff in favor of the plaintiff." (Annex J, Petition, p. 47, Record)

Dissatisfied with the last order, defendant and the third party claimants moved to reconsider the same, attacking the validity of the execution sale. Acting on said motion, the trial court sustained defendant's claim as to Parcel No. 1, holding that the sale of said parcel was invalid, for the reason that it turned out later that it was registered property, covered by a certificate of title, the Provincial Fiscal having failed to make reference to the number of said certificate and the volume and page of the registration book where said certificate was entered. But as to parcel 3 and lot 8 of parcel 11, the court observed that defendant . Lucasan did not act in good faith in transferring them to third parties, said transfers having been made in fraud of creditors. The trial court found that Parcel 9 originally belonged to Filemon Lucasan, but was later sold to his own son, Lorenzo Lucasan, on June 4, 1955, who in turn sold it on January 10, 1956, to third party claimant Carolina Layague, second cousin of Natividad Castellano, wife of Filemon Lucasan himself; while Lot 8 of Parcel 11, originally belonging to Filemon Lucasan, was sold by him to his own daughter Bruna on September 24, 1954, who in turn sold it on November 19, 1955, to third party claimant Teotimo Saavedra. The trial court also said that Parcel 9 and Lot 8 of Parcel 11, were not specifically described in the notice of sale made by the Sheriff. Without prejudice to determining the question of ownership and possession raised by the petitioner in their complaint to annul execution sale, the lower court ordered the Sheriff to give to the Siari Estates possession of Lot No. 8 of Parcel 11 and Parcel 9. The dispositive part of said order, dated August 23, 1957, (now subject of this petition) reads:

"Wherefore, premises considered, the Provincial Sheriff is ordered to give to the plaintiff the possession of Lot No. 8 parcel 11 and parcel 9, as mentioned and described in the Sheriff's sale issued by the Provincial Sheriff in favor of the plaintiff."

Not satisfied with the above order, third party claimants filed the present petition. Petitioners Saavedra and Layague contend that the lower court acted without or in excess of its jurisdiction for the reason that they were not parties in the original case and, therefore, may not be bound by the judgment; that inasmuch as they were in actual possession of the property, adverse to the debtor, they may not be ordered ejected; that there was no valid levy and in the notice of sale, the parcels involved were not specifically described; and lastly, that they were not given their day in court.

Where a parcel levied upon on execution is occupied by a party other than a judgment debtor, the procedure is for the court to order a hearing to determine the nature of said adverse possession. In the case of *Omaña vs. Gatulayao* (73 Phil., 66, 68), this Tribunal said:

"* * * Judgment rendered in actions in personam, as the instant case, are enforceable only between the parties and their successors in interests, but not against strangers thereto. (Sec. 306, par. 2, of Act No. 190, now Rule 39, sec. 44 (b), Rules of Court.) There may be cases when the actual possessor may be claimed to be a privy to any of the parties to the action, or his bona-fide possession may be disputed, or where it is alleged, as in the

instant case, that such possession has been taken in connivance with the defeated litigant with a view to frustrating the judgment. In any of these events, the proper procedure would be to order a hearing on the matter of such possession and to deny or accede to the enforcement of a writ of possession as the finding shall warrant. * * *

The reason for this hearing wherein the adverse possessors are given an opportunity to present their evidence and justify their possession, is given by the Court in the case of *Gozon vs. De la Rosa* (77 Phil., 919, 922), thus:

"es necesario este procedimiento sumario para evitar que algunas personas, para frustrar los verdaderos fines de la ley, invoquen sin razon alguna la teoria de sentencia in personam: que no han sido demandadas; que la orden de ejecucion no va contra ellas. Entonces habria que demandar a todas las personas que dependen del demandado o que ocupan la casa por consentimiento solo del demandado. Una persona cualquiera podria ponerse en combinacion con el ejecutado y, entrando en la casa, invocar la defensa de que no ha sido parte de la causa contra la orden de ejecucion."

And in the case of *Santiago vs. Sheriff of Manila* (77 Phil., 740, 743-44), this Court said:

"La sentencia dictada en el presente asuiito es in personam, y como tal solo es obligatoria para las partes y no para extranos. (Art. 44. par. (b), Regla 39.) Si el recurrente Anacleto Santiago, que no fue parte en la causa por desahucio, era poseedor de buena fe de la finca en cuestion, la sentencia dictada en dicha causa no podia ejecutarse vaidamente contra el. Se puede insistir, sin embargo, en la ejecucion de la sentencia si se prueba que el poseedor es simplemente un causahabierite, o un huesped, o un agente del ejecutado en el proposito fraudulento de frustrar la sentencia; en tal caso, debe haber un procedimiento en el Juzgado de Primera Instancia que expidio la orden de ejecucion para la dilucidacion del caracter de la posesion del ocupante extraiio."

* * * * *

". . . Si en tal procedimiento el juzgado encuentra que el extraño no es mas que un mero causahabiente o agente a huesped del ejecutado, entonces se seguira la orden de ejecucion contra el. Esto no es obice, sin embargo, para que el ocupante pueda valerse de cualquier otro remedio legal para la determinaci6n definitiva del titulo o la posesion sobre la propiedad."

It will be observed that after the hearing, the trial court made the finding that petitioners were presumably party to the scheme to defraud the judgment creditor, being the assigness or transferees of the parcels in question after judgment had been rendered against defendant Filemon Lucasan, their/predecessor in interest. Consequently, the court did not err in ordering the Sheriff to deliver possession to the creditor, Siari Valley Estates. Besides, petitioners herein still have their remedy in court by prosecuting the actions filed by them to vindicate their claims to the properties in question. In the case of *Madrigal, vs. Planas*, 94 Phil., 754, 759), we said:

"Anent the order of respondent Judge dated Feb.,2, 1953, which directs that Jose Isla, Carlos Neri, Jose T. Jose, Juan Planas and the San Miguel Brewery, Inc. vacate the land of plaintiff pursuant to the judgment of the court in the ejectment case, which order, is now attacked as illegal because they were not parties to that case; the record shows that before issuing said order, the court conducted summary hearing to determine the nature of the possession of the property claimed by Juan Planas and other occupants, and that at that hearing respondent judge summoned all of them to appear to show cause why they should not be ejected from the premises. And after the hearing was over, respondent Judge found that Juan Planas and the other occupants were mere transferees or possessors pendente lite of the property in question. Respondent judge found that if they had any right at all to occupy the property that right is merely subsidiary to that of defendant Concepcion L. Planas.

As such, they are bound by the judgment rendered against the latter in consonance with the doctrine laid down in the cases of *Brodett vs. De la Rosa*, 77 Phil., 752; 44 Off. Gaz., No, 3, pp. 874-875, and *Gozon vs. De la*

Rosa, 77 Phil., 919; 44 Off. Gaz., pp. 1227-1228. Of course, there are questions of fact as to which there may be controversy, but the proper place where this should be threshed out is not in this proceedings, but in an ordinary action. For the present, we are satisfied that the respondent Judge has acted on the matter in the exercise of his sound discretion."

As regards the contention that there was no valid levy and notice of sale because the parcels were not specifically described, after examining the record, we are satisfied that the parcels in question could have been easily identified from the description contained in the levy; and as to the notice of sale, it was duly published in the newspaper Vanguard, published in Dumaguete City and of general circulation in Zamboanga del Norte, this, aside from the fact that petitioners had actual notice of said levy, otherwise, they would not have filed their third party claims before the execution sale.

In view of the foregoing, the petition for writ of certiorari and prohibition is hereby denied, with costs against petitioners. The writ of preliminary injunction heretofore issued is ordered dissolved.

Paras, C. J., Bengzon, Padilla, Bautista Angela, Labrador, Reyes, J. B. L., Endencia, Barrera, and Gutierrez David, JJ., concur.

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