

MARIA A. GARCIA, PLAINTIFF AND APPELLANT, VS. JESUS OCAMPO, ROSARIO OCAMPO, LAO KING HING, AND THE HEIRS OF RAMON RIVERA, DEFENDANTS AND APPELLEES.

G.R. No. 13029, June 30, 1959

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Maria A. Garcia is appealing the Order of the Court of First Instance of Manila, Judge Francisco E. Jose, presiding, dated October 25, 1956, dismissing her complaint against Jesus Ocampo, et al.

The facts involved in the case are not in dispute. Only questions of law are in issue; hence, the appeal was made direct to this Tribunal.

The appealed Order states that Maria A. Garcia obtained a judgment for P1,630.80 against Jacinta Rivera, alleged owner of one-half of the land in question with an area of about 47.10 square meters, more or less, covered by Transfer Certificate of Title No. 28709. By virtue of the judgment, a writ of execution was issued and the City of Manila Sheriff levied on the rights, title and participation of Jacinta Rivera in the land. Said levy of execution was duly registered in the Office of the Register of Deeds of Manila. Pursuant to the levy, the sheriff advertized the one-half portion of the land for sale, and eventually sold it to Maria A. Garcia in 1932. One year thereafter, the sheriff issued to her a final deed of sale; and since then, Maria A. Garcia had been in possession of and administrating the property sold to her and receiving the rents from the occupants thereof, so that by the year 1956, she had received in the way of rentals, more than P5,000.00.

On March 20, 1956, Maria A. Garcia commenced the present action against defendants Jesus Ocampo, Rosario Ocampo, Lao Kong Hing, and the heirs of Ramon Rivera, alleging that the defendants, particularly Jesus Ocampo, shortly before she filed her complaint, illegally entered the land in question and without her (Maria's) permission, executed a contract of lease over the same property in favor of Lao Kong Hing, representing to the latter that they were the owners of the land, and that Lao Kong Hing was about to construct a building thereon, and she asked the court that the sale to her by the sheriff in 1932 and in 1933 of the rights of Jacinta Rivera over the land be ordered duly noted on the certificate of title; that the Register of Deeds be ordered to cancel Transfer Certificate of Title No. 28709, and to issue a new one in her favor on the one-half portion of the property, the other half corresponding to the heirs of Ramon Rivera; that the lease contract over one-half of the property, executed by the defendants in favor of Lao Kong Hing be declared null and void; and that the defendants be ordered to pay to her P10,000.00 as moral damages and P3,000.00 as attorney's fees.

Defendants filed a motion for dismissal on the ground that the plaintiff's cause of action had already prescribed; that the complaint states no cause of action; and that there was another case pending between the same parties and for the same cause. Pending resolution of the petition to dismiss, the parties filed pleadings and memoranda, after which, the trial court, as already stated, dismissed the complaint.

Incidentally, it may be stated, that the third ground, as stated in the petition to dismiss, namely, that there was

another case pending between the same parties, referred to a suit filed by Concepcion Ocampo et al, defendants herein, against Maria A. Garcia, plaintiff in the present case. On appeal to the Supreme Court, the said case was decided in favor of the plaintiffs therein in a decision penned by Mr. Justice Padilla, supra, p. 553.

The order of dismissal in the present case correctly states all the legal issues involved, the pertinent facts, and the reasons of the trial court in dismissing the complaint. We are reproducing said Order, as follows:

"ORDER

This is a motion to dismiss filed by defendants, based on the following grounds:

- That the plaintiff's cause of action has already prescribed and is barred now by the statute of limitations;
- That the complaint states no cause of action;
- That there is another case pending by the same parties for the same cause.

It is alleged in the complaint that the plaintiff obtained a judgment against Jacinta Rivera, who was the owner of one-half of the land in question, in Civil Case No. 39466 of the Court of First Instance of Manila in the amount of P1,630.80, plus interest and costs; and, when said Judgment became final, a writ of execution was issued, and the City Sheriff levied on all the rights, title and participation of said Jacinta Rivera to the state of Manuel Rivera, particularly to the property described in Transfer Certificate of Title No. 28709, which covers the land in question. The levy on execution was duly registered in the Office of the Register of Deeds of Manila, and then the one-half of the land in question belonging to Jacinta Rivera was sold to the plaintiff in 1932, and one year thereafter a final deed of sale was executed by said sheriff in favor of the herein plaintiff, and from that date plaintiff has been in possession of the said one-half of the land in question, collecting the rents corresponding to her until the time the herein defendants have distributed her possession and right over said land, said defendants, without the knowledge and permission of the plaintiff, having executed a contract of lease over the same property in favor of a certain Chinese named Lao Kong Hing.

The defendants contend that the plaintiff can no longer enforce the decision in Civil Case No. 39466, supra, which became final in the year 1932, because the ten-year period for the enforcement of any judgment, in accordance with article 1144, of the new Civil Code, had already expired when this case was originally filed on March 20, 1956.

On the other hand, the plaintiff contends that her action does not consist in the enforcement of any judgment but for the enforcement of the sale in her favor executed by the sheriff. But the Court finds that even in the latter cause of action of the plaintiff has prescribed, because the deed of sale executed by the sheriff in 1933, and, from that date to March 20, 1956, when the present case was filed, 23 years have elapsed, Article 1144 of the new Civil Code, as well as section 43 of Public Act No. 190, provides that action upon a written contract must be filed within ten years. By virtue of said deed of sale in favor of the plaintiff, she had her right of action since 1933 to ask for the cancellation of the certificate of title for the purpose of the issuance of another, wherein she should appear as owner of one-half of the land in question. So that from said year, 1933, up to 1956, the ten-year prescriptive period has elapsed in excess. Adverse possession, as alleged by the plaintiff, having possessed the land in question for such a long time is not a means of acquisition, because a registered land can not be lost or acquired by adverse possession.

In connection with the second ground of the motion to dismiss, the Court finds that there is no allegation in the complaint that the auction sale, as well as the final one, executed by the sheriff in favor of the herein plaintiff over the land in question has been registered in the Office of the Register of Deeds of Manila. The registration in said Office of the auction sale upon levy on execution is an essential element for the validity of the sale. Article 463 of Public Act No. 190 provides that, a sale of real property upon a levy on execution, the officer (the sheriff) must give to the purchaser a certificate of sale wherein, among other things, the date of the

expiration period of redemption should be stated and a duplicate thereof must be filed in the Office of the Registrar of Land Titles, which is now the Office of the Register of Deeds. It will be seen that the registration of said certificate of title in the Office of the Register of Deeds is one of the conditions for its validity, for the reason that the judgment debtor or a redemptioner has 12 months to redeem said property. It is true that Section 465, same law, provides that the 12 months for the redemption is counted 'after the sale, but it does not state that said 12 months should be counted from the date of the sale. It only says 'after the sale,' because the registration of said sale in the Office of the Register of Deeds is an essential requirement. It can not be said that its registration is only required to affect third persons, because it is not only the judgment debtor who can redeem the property sold at the auction sale but also 'a creditor having a lien by attachment, judgment, or mortgage on the property sold, or in some part thereof, subsequent to that on which the property was sold' (Sec. 464, same Public Act No. 190; underlining supplied).

These redemptioners are third parties and, therefore, the auction sale should be recorded in the Office of the Register of Deeds, as also provided for in Article 77 of Act No. 456 (Tolentino vs. Agcaoili, G. R. No. L-4349-51, promulgated May 28, 1952). And it should be noted that the law, Article 463, same Public Act No. 190, requires the filing of said auction sale with the Office of the Register of Deeds, but the law does not require such annotation in the final sale. The reason is because the final sale is executed after the expiration of the 12-month redemption period, when redemption is no longer allowable. Beside, in the same ruling cited by plaintiff, which is Philippine Executive Commissions vs. Abadilla et al. (74 Phil. 68), the annotation of the auction sale was allowed 'for' purposes of redemption one year from such date as the auction sale may be registered.'

Therefore, the auction sale, not having been then registered in the Office of the Register of Deeds of Manila, it is too late to do it now after 23 years, and, even if it is now annotated, the 12-month redemption period, which should be counted from the date of its registration, has not yet expired, and, such being the case, plaintiff is not yet the absolute owner of the land in question. And ;until after the expiration of the 12-month redemption period, plaintiff has no right to the possession, and, if rents were collected by her, those rents 'shall be a credit upon redemption money to be paid,' in accordance with Sec. 30, Rules of Court; which is now applicable to the case. And if defendants' allegation is true that plaintiff has already collected as rentals more than P5,000.00, it appears that the judgment in Civil Case No. 39466 for P1,630.80 was fully satisfied, and, therefore, the land in question may be considered as redeemed.

As to the third ground of the motion to dismiss, the Court finds that the alleged other pending action, whether or not is similar to the present action, was filed later than the present action. That ground of the motion to dismiss, as provided for in our Rules of Court, must be construed that the pending action was already filed when the action sought to be dismissed was filed.

In conclusion, the Court finds that the complaint does not allege sufficient cause of action, and, therefore, the plaintiff is not entitled to the relief sought in her complaint. And, in view of this conclusion of the Court, the petition for injunction filed by said plaintiff to enjoin the defendants or their attorneys or representatives from applying for a permit to construct a building on the land in question, is hereby denied.

Wherefore, the plaintiff may amend her complaint within five (5) days from the receipt of a copy of this order; otherwise, the case is hereby ordered dismissed, without pronouncement as to costs.

SO ORDERED.

Manila, Philippines, October 25, 1956.

Francisco E. Jose
Judge."

We agree with the trial court in its reasoning, particularly on that portion of the Order, to the effect that inasmuch

as the sale of the property made to Maria A. Garcia by the sheriff in 1932 as well as the final deed of sale issued in 1933 were never recorded in the Office of the Register of Deeds of Manila, it was all contrary to the provisions of law about judicial sales,. Furthermore, in auction sales, the law provides a period of 12 months within which to redeem the property sold, and that this period begins to run not from the date of sale but from the time of registration of the sale in the Office of the Register of Deeds. In the present case, the period of redemption has not yet commenced to run not only in favor of other redemptioners contemplated by law, so that Maria A. Garcia has not yet become the absolute owner of the property she had bought. And one may take the view that the rentals Maria A. Garcia had received since she took possession of the property after the sale, and for which she was under obligation to render account, may be considered as money received by her on account of the redemption price.

In the aforementioned case of Concepcion Ocampo, et al. vs. Maria A. Garcia, G. R. No. L-11260,[*] we affirmed the decision of the trial court, which, acting as a land registration court, directed the Register of Deeds for the City of Manila to issue another owner's duplicate Transfer Certificate of Title No. 28709, the same transfer certificate of title covering the land in the present case; and to cancel the two encumbrances or notations appearing on the back thereof, one of those encumbrances or notations being the notice of the levy on execution made by the sheriff to satisfy the judgment obtained by Maria A. Garcia against Jacinta Rivera in Civil Case No. 39466 for the sum of P1,630.80, with interest, plus P50.24 for costs. The reason for the cancellation of the said encumbrance was the fact that rentals, amounting to P5,200.00, received by Maria A. Garcia from the land in question was more than enough to satisfy the judgment.

With the cancellation of said encumbrance, there remains nothing in the way of cause of action to support the complaint of Maria A. Garcia in the present case. In other words, as far as it concerns her, there no longer is any notation of the levy of execution on the transfer certificate of title, covering the land in the present case; the sale to her was never registered in the Office of the Register of Deeds, naturally, said sale was never annotated in. the transfer certificate of title. And even assuming that the sale had force, though made without complying with the provisions of law applicable, there is the fact that the amount of judgment obtained by her against Jacinta Rivera for P1,630.80 was more than satisfied and the land sold to her may be considered as redeemed with the rentals she had been receiving since 1933 amounting to P5,200.00.

In view of the foregoing, the Order of dismissal appealed from is hereby affirmed. With costs.

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

[*] Supra, p, 553.

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