

GERONIMO DE LOS REYES, PETITIONER, VS. HON. FROILAN BAYONA, ETC., ET AL., RESPONDENTS.

G.R. No. 13832. March 29, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition for certiorari with preliminary injunction filed by Geronimo de los Reyes against respondent Hon. Bayona, as Presiding Judge, Branch I, Court of First Instance of Manila, Maria B. Castro and Arsenio Tenchavez, to annul the order of respondent Judge, dated April 30, 1958, in Civil Case No. 3910, appointing Tenchavez receiver of the property in question on the filing of a bond in the sum of P50,000.

In our resolution of May 14, 1958, giving due course to the petition, we granted the petition for preliminary injunction upon the filing of a surety bond in the amount of P2,000.

The following may serve as background for a better understanding of this case. On August 31, 1943, Geronimo de los Reyes, later referred to as Reyes, obtained a loan of P120,000 in Japanese military war notes from Maria B. Castro, later referred to as Castro, with interest at the rate of 6% per year, said interest for the first two years to be paid in advance. To guarantee the payment of the loan, Reyes executed in favor of Castro a document purporting to be a deed of sale with right of repurchase, over two parcels of land in Calisunga, Calauan, Laguna, one parcel containing 168.9909 hectares and the other 77.2798 hectares, covered by certificates of title Nos. 8254 and 8255 of the Register of Deeds of Laguna. On the same day, Castro as vendee, allegedly leased the two parcels to Reyes for an annual rental equivalent to the interest on the loan for a year. Claiming that the deed of sale with right to repurchase did not express the true intention of the parties, but that it was merely a mortgage to secure the payment of the loan, Reyes, in October 1947, filed Civil Case No. 3910 with the Court of First Instance of Manila against Castro and her husband Espinosa, alleging in his complaint that since December 1944 up to January 1945, he (Reyes) had repeatedly tendered to Castro the payment of the principal of the loan, but that she refused to accept it, and so he filed Civil Case No. 3134 in the Court of First Instance of Manila, at the same time consigning in court in her favor the sum of P120,000, evidenced by an official receipt issued by the Clerk of Court; that despite the pendency of said Civil Case No. 3134, Castro executed an affidavit of consolidation of ownership of the two parcels of land, all without his knowledge and consent, as a result of which, the Register of Deeds of Laguna cancelled transfer certificates of title Nos. 8254 and 8255 in his name and issued in lieu thereof, transfer certificates of title Nos. 953 and 954 in Castro's name. Upon discovery of the consolidation of ownership made by Castro he (Reyes) took steps toward the reconstitution of the records of Civil Case No. 3134, whose original records presumably were destroyed during the war, particularly the battle for the liberation of Manila, but his efforts were frustrated by the denial by the trial court on the ground that the period for reconstitution had already expired. So, as already said, Reyes filed Civil Case No. 3910 in the Court of First Instance of Manila.

In the meantime, on the theory that the two parcels in question had really been sold to her by Reyes and that she had thereafter leased the same to him and that he failed to pay the annual rentals, Castro on October 24, 1947 filed a complaint for unlawful detainer against Reyes in the Justice of the Peace Court of Calauan, Laguna. Despite the

answer filed by him setting up the defense that the two parcels had not really been sold by him to Castro, but only mortgaged to secure the payment on the loan of 120,000 in Japanese military notes; that during the Japanese occupation, he had repeatedly tendered payment of the loan to her, but that, she refused to accept payment, as a result of which he consigned the amount in court and filed Civil Case No. 3134 of the Court of First Instance of Manila to compel her to accept the payment of the loan, whose sum had been consigned in court; that because he failed to reconstitute the records of Civil Case No. 3134 on time, he had to file Civil Case No. 3910 in the same Court and that said case was then pending, the Justice of the Peace Court on October 12, 1949, rendered judgment in favor of Castro. Pending appeal of the unlawful detainer case in the Court of First Instance of Laguna (Civil Case No. 9858), the said court over his objection issued a writ of execution of the judgment of the Justice of the Peace Court. Failing to secure a reconsideration of the order of execution, Reyes filed a petition for certiorari before this Tribunal to annul said order of execution, G. R. No. L-8960.[*] On January 31, 1957, we promulgated a decision in the said certiorari case, holding that the order of execution was improvidently issued, inasmuch as more than five years had elapsed since the judgment of the Justice of the Peace Court was rendered; that there was reason to believe that the deed conveying the two parcels of land to Castro was one "of mortgage, rather than of sale, and that furthermore, even assuming that it were a sale, Castro not being the original owner and possessor of the parcels but only a vendee a retro, the vendor, Reyes had the right to continue in his possession until the case between them was finally determined. As a result, the order of execution was set aside and the writ of preliminary injunction issued was made permanent.

It would appear, however, that as a result of the writ of execution issued by the Court of First Instance of Laguna in Civil Case No. 9858, which as already stated was brought to this Court on certiorari in G. R. No. L-8960, Castro was placed in possession of the property in question from March 16, 1955 to July 30, 1957, she evidently giving up possession in favor of Reyes, only as a result of our decision in G. R. No. L-8960. This explanation of Castro's possession of the property for over two years, will help us understand the later decision of the trial court, ordering her to return possession of the land to Reyes and to account for the income she received therefrom. The dispositive part of said decision reads:

"WHEREFORE, judgment is hereby rendered dismissing the case for lack of appellate jurisdiction over the subject matter of the action and the plaintiff is ordered to return to the defendant the possession of the two parcels of land now covered by Transfers Certificates of Title Nos. T-953 and T-954 and to account to the latter for the income she received therefrom during the period she was in possession thereof. The plaintiff is further ordered to pay the costs in both instances."

Castro filed a petition for certiorari in the Court of Appeals to set aside the above-mentioned judgment. The Court of Appeals citing and reproducing our decision in G. R. No. L-8960, aforementioned, on November 7, 1957, denied the petition for certiorari, saying:

"The circumstances of the case have not changed from the time of the promulgation of the decision of the Supreme Court referred to and, therefore, the instant petition for certiorari should be, as it is hereby Denied, for lack of merit. With costs against the petitioner."

According, to the present petition for certiorari before us (G. R. No. L-18832), in Civil Case No. 3910 of the Court of First Instance of Manila, on August 29, 1957, petitioner Reyes "was notified of the hearing of the Urgent Petition for Receivership" filed by Castro; that Reyes opposed the petition on October 28, 1957; and that respondent Judge Bayona issued an order denying the petition for appointment of a receiver, thus:

"After going over the arguments of the parties, this Court is of the opinion and so holds that the appointment of a receiver at this time is inappropriate except until after the termination of the trial of this case. The trial of this case has been set for several days in accordance with the calendar, and this Court as well as the parties are bent

in terminating this case as soon as possible.

"In view of the foregoing, this Court is of the opinion and so holds that the appointment of a receiver in this case should be held in abeyance until after the decision of this Court shall have been rendered."

However, on May 7, 1958, Reyes was served a copy of the order of respondent Judge, dated April 30, 1958, appointing respondent Arsenio Tenchavez receiver of the properties in question. This order based on an ex-parte petition reiterating the request for appointment of a receiver, which request had previously been denied.

It should not be difficult to gather from our decision in G. R. No. L-8960 and the decision of the Court of Appeals in CA-G.R. No. 19833-R that the courts, in justice to the parties, particularly, Reyes, considered possession in him instead of Castro as more reasonable and just. It is, therefore, to be expected that we cannot look with favor on any judicial order or arrangement whereby this possession of Reyes should be transferred to a receiver, because by so doing, Castro would be obtaining indirectly what she could not obtain directly, namely, deprive Reyes of the possession of the property until the controversy between them is finally settled.

Petition for certiorari is hereby granted; the order of April 30, 1958 appointing Arsenio Tenchavez receiver, is set aside and the writ of preliminary injunction is made permanent. Respondent Maria B. Castro will pay the costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

[*] 100 Phil., 831.

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