

CALTEX (PHILIPPINES) INC., PETITIONER, VS. FELISA FELIAS, RESPONDENT.*G.R. No. 14309. June 30, 1960*

Ponente: MONTEMAYOR, J.

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This is a petition for certiorari to review the decision of the Court of Appeals in CA-G. R. No. 14967-R, modifying that of the trial court by declaring plaintiff Felias exclusive owner of Lot No. 107, Cadastral Survey of the City of Agusan, instead of Vicente Dysekco; by affirming said decision in so far as it declared Caltex (Philippines) Inc., absolute owner of the coconut land described in paragraph 10 (b) of the amended complaint.

The facts of the case as found by the Court of Appeals and which we adopt for purposes of this review, are as follows: Lot No. 107 aforementioned was originally owned by the spouses Julianio Felias and Eulalia Felion. On March 31, 1928, said spouses donated said Lot No. 107 to their daughter, Felisa Felias, herein respondent, as a result of which Original Certificate of Title No. 645 was cancelled and Transfer Certificate of Title No. 97 was issued in lieu thereof, in favor of Felisa Felias, making said lot her paraphernal property.

On March 26, 1941, the trial court (Court of First Instance of Cebu) rendered judgment in Civil Case No. 1527, entitled Texas Company (Phil.,) Inc., plaintiff, vs. Simeon Sawamoto, defendant, (husband of respondent Felias) ordering the latter to pay plaintiff the sum of P661.94, with legal interest from the date complaint, was filed, plus attorney's fees equivalent to 10% of the award, and the costs. A writ of execution was issued to the provincial sheriff who levied upon Lot No. 107, together with the improvements thereon described in paragraph II of the amended complaint and a small parcel of coconut land located in Look, Nasipit, Agusan, and on August 20, 1941, sold them at public auction to the Texas Company, now petitioner herein Caltex (Philippines) Inc. The corresponding certificate of sale was annotated on the back of Transfer Certificate of Title No. 97 on August 21, 1941. Upon the expiration of the one year period without judgment debtor Sawamoto making the redemption, on January 25, 1947, the provincial sheriff executed in favor of Caltex (Philippines) Inc., a final deed of sale which was duly recorded on the reconstituted Transfer Certificate of Title No. RTV65 (97) on November 26, 1947.

On February 3, 1950, Felisa Felias (herein respondent) filed the present action to declare herself exclusive owner of the two parcels in question; on January 4, 1955, after hearing, the trial court rendered judgment as follows:

"Considering all the foregoing, the Court renders judgment and declares:

"(1) The contract of sale with the right to repurchase (Exhibit C) the true intention of the parties, and Lot No. 107, now covered by transfer certificate of title No. RT-65 (97) of the Register of Deeds of the province of Agusan, the exclusive property of defendant Vicente Dysekco;

"(2) The sale at auction by the provincial sheriff of Agusan in favor of the CALTEX of lot No. 107 null and void;

"(3) The CALTEX as exclusive owner of the small parcel of coconut land located at sitio Look, municipality

of Nasipit, Agusan covered by tax declaration No. 3602 (Exhibit 14, CALTEX); and

"(4) The complaint dismissed with costs against the plaintiff. "The register of deeds of Agusan is ordered to cancel transfer certificate of title No. RT-63(97) in the name of Felisa Felias married to Simeon Sawamoto and to issue in lieu thereof another transfer certificate of title in the name of Vicente Dysekco upon payment of the required fees."

Plaintiff Felisa Felias as well as defendant Caltex (Philippines) Inc. appealed the foregoing judgment to the Court of Appeals which court rendered the decision sought to be reviewed, the dispositive portion of which reads:

"In view of all the foregoing, the judgment appealed from is hereby modified; and judgment is hereby rendered—

"1. Declaring that plaintiff is the owner of Lot No. 107 of the Cadastral Survey of Nasipit; and ordering the Register of Deeds to cancel: entry No. 234 referring to the sale with pacto de retro; entry No. 1951, notice of levy under attachment; entry No. 2050, notice of levy under execution; entry No. 2147, sheriff's certificate of sale; entry No. 114, sheriff's deed of sale in favor of Caltex (Phil.) Inc., dated January 28, 1947; entry No. 121, affidavit of consolidation of ownership, all appearing on the memorandum of encumbrances at the back of Transfer Certificate of Title No. RT-65(97) of the land records of Agusan; and

"2. Declaring that Caltex (Phil.) Inc. is the exclusive owner of the small parcel of coconut land located in sitio Look, municipality of Nasipit, Agusan, described in paragraph X(b) of the amended complaint."

Petitioner Caltex (Philippines) Inc. makes the following assignment of errors:

"ASSIGNMENT OF ERRORS

"I. The Court of Appeals erred in failing to declare that even if lot No. 107 was paraphernal, it became conjugal ipso facto upon construction of the conjugal house thereon.

"II. The Court of Appeals erred in failing to declare that even if lot No. 107 is paraphernal, it is nevertheless subject to levy of execution in enforcing just obligation of plaintiff's husband, Simeon Sawamoto.

"III. The Court of Appeals erred by failing to declare that estoppel thru negligence and actuations bar the plaintiff from claiming ownership of lot No. 107 as against defendant CALTEX."

The only issues involved in this appeal is the status and ownership of Lot 107 of the cadastral survey of the City of Agusan at the time it was levied upon and later sold by the Sheriff. As already stated, the Court of Appeals found that it had been donated to Felisa Felias on March 31, 1928 by her parents, so that it became her paraphernal property. It was levied upon and sold by the Sheriff as conjugal property of the spouses Felisa and Simeon on the theory that under Article 1404, paragraph 2, of the Old Civil Code, which reads as follows:

"ART. 1404. * * *

"Buildings constructed during the marriage on land belonging to one of the spouse shall also belong to the partnership, but the value of the land shall be paid to the spouse owning the same.",

which legal provision was embodied in Article 158, paragraph 2, of the New Civil Code, which reads thus:

"ART. 158. * * *

"Buildings constructed at the expense of the partnership during the marriage on land belonging to one of the spouses, also pertain to the partnership, but the value of the land shall be reimbursed to the spouse who owns the same.",

it automatically became conjugal property when during the marriage, and with conjugal partnership funds, a

building was constructed on it. However, the Court of Appeals found as a fact that at the time the building was constructed, the lot still belonged to the parents of Felisa because the donation to her was not made until March 31, 1928, whereas the building was constructed earlier, which building was assessed as early as September, 1927, at P12,000. Consequently, Article 1404 of the Old Civil Code is not applicable. The Court of Appeals itself said so, but nevertheless, it proceeded to assume that article 1404 was applicable, and proceeded to discuss the question thus:

"While it is true that the building was constructed by the spouses Felisa and Simeon Sawamoto on Lot No. 107 at a time when they were already married, nevertheless, it is equally true that then Lot No. 107 did not yet belong to Felisa Felias, one of the spouses—that land was still the property of the parents of Felisa Felias. It would seem therefore, that Article 1404 of the Spanish Civil Code would not apply. That legal precept refers to a building constructed 'on land belonging to one of the spouses.' Rather, we would say that the familiar rule of accessory following the principal should apply.

"But conceding, for present purposes, that after the acquisition of the land by plaintiff, the matter of ownership of the land (on which the said building was erected) comes within the coverage of Article 1404 still the question arises: As of what time should the land be considered the property of the spouses? On this point, we have but to restate the jurisprudence established by the Supreme Tribunal of this country."

We believe the assumption and the discussion to be profitless and unnecessary. For purposes of this appeal, we shall decide the issue on the basis of the fact that the building was constructed when the lot belonged not to Felisa but her parents, in which case, as the Court of Appeals itself observed, what was applicable was "the familiar rule of accessory following the principal". In other words, when the lot was donated to Felisa by her parents, as owners of the land on which the building was constructed, the lot became her paraphernal property. The donation transmitted to her the rights of a landowner over a building constructed on it. Therefore, at the time of the levy and sale of the sheriff, Lot No. 107 did not belong to the conjugal partnership, but it was paraphernal property of Felisa. As such, it was not answerable for the obligations of her husband^[1] which resulted in the judgment against him in favor of Caltex. It may be stated in this connection that as further found by the Court of Appeals, the building constructed on Lot No. 107 was destroyed during the last war, so that "at the time the Sheriff executed the final deed of sale in favor of Caltex "(Phil.) Inc. on the 27th day of January, 1947, that house which was included in both deeds was no longer in existence."

In view of the foregoing, the appealed decision of the Court of Appeals is hereby affirmed, though on another ground, with costs against petitioner.

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

Padilla, J., took no part.

[1] Laperal et al., vs. Katigbak, 104 Phil, 999; 66 Off. Gaz., (18) 3894.

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