

FELIX MOLINA, PETITIONER, VS. COURT OF APPEALS AND BASILISA MANJON, RESPONDENTS.*G.R. No. 14524. October 24, 1960*

Ponente: REYES, J.B.L., J.

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In Civil Case No. 2796 of the Court of First Instance of Camarines Sur, plaintiff Basilisa Manjon, claiming ownership over a parcel of land described in the complaint, sought to recover the possession thereof from defendant Felix Molina. Defendant Felix Molina filed his answer denying the material averments of the complaint, and by way of affirmative defense and "cross-complaint" (counterclaim) alleged that the land in question was sold to him by plaintiff around the year 1938 (which was formalized before a Notary in 1943), and that he has been in continued possession thereof since 1938. Defendant, therefore, prayed that the complaint be dismissed; that plaintiff's supposed title be declared void; and that defendant be given such other relief as might be found to be just and equitable under the premises. Plaintiff, answering the counterclaim, denied the due execution of the alleged sale to defendant and urged the dismissal of the counterclaim.

At the trial, the parties submitted evidence that the trial judge summarized as follows (Decision, Rec. on Appeal, pp. 7-8):

"The plaintiff admitted having executed the said deed of sale, but she claimed that it was fictitious. Recounting the circumstances leading to its execution, she testified that on November 2, 1943, the defendant, then her overseer, informed her that some guerilla soldiers would arrest her for investigation, because one Conchita Cuba complained to them against her for having illegally encroached on her property. Afraid to be taken to the guerilla camp since previously her nephew was killed there, the plaintiff asked the defendant what was best for her to do. He suggested that she execute a fictitious deed of sale in his favor for the portion in question which was the one claimed by Conchita Cuba, in order that he could defend her rights in his name against the claim of Conchita Cuba. Plaintiff accepted the suggestion and asked the defendant to have the corresponding deed of sale prepared. Later in the day Exh. 1 was prepared and plaintiff signed it when it was brought to her. For her protection, however, because she did not fully trust him, she made the defendant sign a statement in which he expressly admitted that the transaction was only a simulated sale (Exh. D).

The defendant denied the whole story and affirmed in turn that Exh. D was a forgery. He denied having made and signed the said statement, offering samples of his genuine signature (Exhs-6, 7, 8, 9,10,11, 12, 13, 14 and 15) for comparison with the questioned signature in Exh. D".

But after hearing, the court, without passing upon the question of whether or not the sale to the defendant was merely simulated, as claimed by the plaintiff, declared the latter as the lawful owner of the property on the ground that she could not have validly disposed of the said land in 1938, or in 1943 when the deed of sale was allegedly executed in a public document, since it still then formed part of the public domain, a sales patent having been issued to plaintiff by the government only on June 4, 1948.

On appeal, Molina expressly assigned, as one of the errors committed by the trial court, its failure to pass upon the

question whether the sale, as evidenced by Exhibit 1, was simulated or not. Nevertheless, the Court of Appeals affirmed the decision and accepted substantially the reasoning of the trial court. Like the latter, it neither made any definite finding as to whether or not the alleged sale to defendant was fictitious, believing it was unnecessary, because in its opinion, Manjon could not validly sell to Molina, in 1938 or 1943, the land that she acquired in ownership only in 1948. Against the judgment of the Court of Appeals, Felix Molina filed the instant petition for review.

We find the appeal meritorious. It is the settled rule in this jurisdiction, derived from the common law doctrine of estoppel by deed, that "when a person who is not the owner of a thing sells or alienates and delivers it and later the seller or grantor acquires title thereto, such title passes by operation of law to the buyer or grantee" (Art. 1435, Civil Code of the Philippines). This particular rule of estoppel was applied in this jurisdiction as early as 1908, in the case of *Llacer vs. Muioz de Bustillo, et. al.*, 12 Phil., 328, wherein this Court said:

"The plaintiff in his brief undertakes to show that the defendant had not obtained title to the land in question, by virtue of Exhibits 7 and 8, by the fact that his father had not obtained title to a portion of the said land until 1881, or some years after the alleged deed of Antonio Munoz. Exhibit F and the note to Exhibit B seem to support this contention. Granting, however, that he did: not obtain a portion of the land until some years after he had sold such land to Antonio Munoz, this subsequent acquisition of the land would have the effect of making his conveyance of the same to Munoz valid."

The rule was reaffirmed in *Pang Lim and Galvez vs. Lo Seng*, 42 Phil., 282, 289.

Hence, the decisive issue in this litigation appears to be whether or not the alleged sale in 1938 (or in 1943 when the parties supposedly executed a formal deed of sale) was in fact fictitious as petitioner insists. If genuine, the sale is undoubtedly operative in law, pursuant to the doctrines heretofore discussed. Unfortunately, we are not in a position to decide this question of fact (that was neither resolved by the trial court nor by the Court of Appeals), for the reason that the parties have not discussed it in this Court nor is the evidence now before us. We are thus constrained to remand the record to the Court of Appeals for consideration and decision of the issue whether or not (1) the deed of sale (Exh. 1) was simulated and (2) the statement, Exhibit D, is a forgery.

Wherefore, the decisions under appeal are reversed and set aside, and the case is ordered remanded to said Court of Appeals for further proceedings in conformity with this opinion.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Barrera, Gutierrez David, and Paredes, JJ., concur.

Decisions reversed, case remanded for further proceedings.

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