

ANACLETA CORTEZ VIUDA DE CASTRO, PETITIONER AND APPELLEE, VS. PEDRO BIBAÑO AND CRISPULO BERAMO, OBJECTORS AND APPELLANTS.

G. R. No. 15487. December 16, 1920

Ponente: AVANCEÑA, J.

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AVANCEÑA, J.:

About the year 1892 Regino Ramirez, married to Caridad Funcion, and Jose Rodriguez, were partners in the exploitation of the hacienda, known as San Jose, in the municipality of Pilar, Capiz, and described in the application. In 1909, the petitioner Anacleta Cortez, widow of Castro, acquired this hacienda. She now applies for the registration of this hacienda in her name. Several oppositors appeared, among them being Pedro Bibano and Juan Beramo, the latter having been subsequently substituted by Crispulo Beramo with respect to the portion marked 12-1 in the plan, Exhibit A, which is attached to the application. The court rendered judgment decreeing the registration of the hacienda in the name of the petitioner and overruled the opposition of Pedro Bibaño and of Crispulo Beramo as to the portion 12-1.

In the beginning this hacienda of San Jose did not have the area the registration of which is now asked, but, it grew in extent due to the acquisition, by its original owners, of the adjacent parcels, among which are those claimed by the oppositors Pedro Bibano and the portion 12-1 claimed by Crispulo Beramo.

With respect to the parcel claimed by Pedro Bibano, it appears from the evidence that Rodriguez and Ramirez purchased this parcel from Pedro Bibaño for P500 on September 15, 1894, a document of sale having been executed for the purpose [Exhibit SSS]. Although in this document it is stated that Pedro Bibaño received the price, nevertheless, the next day, September 16, 1894, Regino Ramirez signed another document, in which he stated that by agreement of the parties the price was not delivered to Pedro Bibaño, but was to be paid to him when he needed it (Exhibit 6). Pedro Bibaño denied such agreement and declared that what happened was that the day after the sale of his lands, he demanded the payment of the price from the purchasers, but instead of paying him the money they gave him the document Exhibit 6. But whatever the case may have been, the truth is that the purchase price has not yet been paid to the vendor. Although the contract was perfect and produced the effect of transmitting to the purchaser the ownership of the land sold, this ownership, however, was still dependent upon the payment of the price. As the obligation in a contract of purchase and sale is reciprocal, any of the contracting parties may, upon non-fulfillment by the other party of his part of the obligation, resolve the contract (art. 1124, Civil Code). The agreed price not having as yet been paid to the vendor, the effect of the sale was still subject, by express provision of law, to this resolutory condition. Hence, the ownership acquired by the purchasers is still limited by the right of Pedro Bibaño to ask for the resolution of the sale. And this limitation upon the right of the petitioner is a charge susceptible of registration. We are of the opinion that the registration of this parcel in the name of the applicant is proper, but subject to this charge.

With respect to the opposition of Crispulo Beramo as to the portion 12-1, it appears from the evidence of the

applicant that it was purchased from Juan Beramo on February 9, 1893, by Caridad Funcion, wife of Regino Ramirez, for the sum of P1,000. More than this, according to the evidence of the oppositors, two years afterwards, that is, on February 10, 1895, Caridad Funcion subscribed the document Exhibit 28 in which she declares that the price of the sale was not paid within that year, as agreed upon, and that for this reason she returned the land sold just as if she had not purchased it. This Exhibit 28 was presented as evidence for the oppositor, and the court rejected it, to which action exception was presented. We are of the opinion that this document is material and decisive evidence with respect to the right of the petitioner to register this parcel in his name and it was an error for the court to reject it.

The judgment appealed from is modified and it is declared that the applicant has the right to register, in his name, the portion claimed by the oppositor Pedro Bibaño, subject, however, to the right of the latter to institute whatever action he may have according to law, arising from the failure to pay the price of the sale. The judgment appealed from is reversed so far as it concerns parcel 12-1, which is covered by the opposition of Crispulo Beramo, and with respect to this oppositor, the case is remanded to the court of origin for the "purpose of granting a new trial, in which Exhibit 28 should be admitted, after its identification, and the court should render the proper decision with respect to it. No special pronouncement is made as to costs. So ordered.

Mapa, C. J., Araullo, Street, Malcolm and Villamor, JJ., concur.

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