

ESTEBAN CABUHAT, IN HIS OWN BEHALF AND AS GUARDIAN OF THE MINORS ROSARIO AND MELENCIO CABUHAT, PLAINTIFF AND APPELLANT, VS. CASIANO ANSAY AND PEDRO REODICA, AS DEPUTY SHERIFF OF...*G. R. No. 16257. September 19, 1921*

Ponente: STREET, J.

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In the year 1917, Casiano Ansay, one of the defendants herein, obtained a judgment for a sum of money in the court of the justice of the peace of the municipality of Cavinti, Province of Laguna, against Esteban Cabuhat, the plaintiff. The judgment mentioned remained unsatisfied, and Casiano Ansay accordingly caused an execution to be levied upon a house and lot in the poblacion of Cavinti, occupied by Esteban Cabuhat as a residence. In due time a sale was effected, notwithstanding the claim of Esteban Cabuhat that the property in question was exempt as a homestead under subsection 1 of section 452 of the Code of Civil Procedure. The purchaser at this sale was the execution creditor himself, Casiano Ansay, who, upon the expiration of the period allowed by law for the redemption of the property by the debtor, manifested his intention to oust the latter and take possession as owner. Esteban Cabuhat thereupon instituted the present action, on behalf of himself and as guardian of his two minor children, Rosario and Melencio Cabuhat, to enjoin the purchaser, Casiano Ansay, and Pedro Reodica, as deputy sheriff of Laguna, from disturbing the plaintiff, alleging that the property in question is exempt as aforesaid. After hearing the cause, the trial judge held that the plaintiff's claim of exemption could not be sustained. He accordingly absolved the defendants, dissolved the preliminary injunction, and ordered the plaintiff to surrender possession to the defendant, Casiano Ansay. From this judgment the plaintiff appealed.

At the trial the plaintiff testified that the house and lot now claimed by him as exempt were acquired by him by purchase during the life of his wife, Lorenza Ansay, now deceased, and that she left surviving her the two children, Rosario and Melencio Cabuhat, named as plaintiffs by representation in the complaint. There is no proof directly conflicting with this statement, and it must in our opinion be accepted as true. It follows that the house and lot in question is ganancial property, acquired during the married life of the two spouses, Esteban Cabuhat and Lorenza Ansay. The two minor children have, therefore, an undivided one-half interest in said property by inheritance from their deceased mother. The trial judge held that Esteban Cabuhat is the exclusive owner, basing this conclusion on the admitted fact that, in the proceedings where Esteban Cabuhat had applied for appointment to the guardianship over his two children, he had stated under oath that said children had no property other than a piece of rural land, whereas the property in question is urban. The fact that such statement was thus made by Esteban Cabuhat is not in our opinion sufficient to refute his more exact and specific statement as a witness in court to the effect that the property in question had been acquired by purchase while his deceased wife was yet alive.

In section 463 of the Code of Civil Procedure it is declared that at a sale of property under execution, the purchaser acquires all the right, title, and interest of the execution debtor in such property, subject of course to the

right of redemption provided by law. This means that the interest acquired by the purchaser is limited to that which was possessed by the debtor; and it is self-evident that such purchaser acquires no interest whatever that is vested in any other person than the debtor. For instance, if there are more than one person owning property in common and an execution against one only is levied thereon, the sale effected by the sheriff under such execution operates exclusively upon the interest of the execution debtor, without being in any wise prejudicial to the interest of the other owners. The result in such case merely is that one new owner in common is substituted for the owner whose interest is alienated by process of law.

In the case before us it does not appear that the debt which Casiano Ansay had recovered in the court of the justice of the peace of Cavinti against Esteban Cabuhat had been contracted by the latter under conditions that would make it a binding obligation upon the conjugal property. The inference must rather be, and the presumption is, that said debt had been contracted by Esteban Cabuhat after the death of his wife and that therefore it was his own individual obligation.

From what has been said it is clear that the execution sued out by Casiano Ansay on the judgment recovered against Esteban Cabuhat, as aforesaid, could not reach any other interest in the property levied upon than the proper personal interest of the debtor; and it could in no wise prejudice the interest of the two minor children, Rosario and Melencio Cabuhat, therein. Upon this the question arises whether the individual interest of Esteban Cabuhat in the property mentioned is of sufficient value to be taken upon execution or is exempt, as being of less value than P150.

By subsection 1 of section 452 of the Code of Civil Procedure the debtor's homestead, in which he resides, and land necessarily used in connection therewith, both not exceeding in value P150, are declared to be exempt. The house and lot now in question appear to have always been assessed for the purposes of taxation at the value of P100; but it is admitted in the agreed statement of facts that the market value of said property at the time it was exposed to sale was in excess of P150. In the opinion of the trial judge, it is said that the valuation of P600 placed upon the property by the deputy sheriff named as defendant in the case is not excessive; and this may be a fair estimate of its market value under ordinary conditions. In this connection we note that the proof does not show the amount for which the property was actually bid in by the execution creditor at the sheriff's sale, though that fact is of the utmost importance for the solution of this controversy. It is suggested in the brief of the appellant that the word value, as used in subsection 1 of section 452 of the Code of Civil Procedure, must be taken to refer to the assessed value; and it is insisted that the property in question must of necessity be considered exempt because it is assessed upon the tax list at less than P150. This contention, however, is not well founded. When reference is had to "value," in the statute cited, it must be understood that the law-making body meant the amount which the property might reasonably be expected to bring if sold under the conditions prevailing at the time; and in a case where the property has actually been exposed to public sale, the price which it then brought is of necessity conclusive between the parties to the execution as to its value.

The conclusion to which we are thus led is that, supposing the individual interest of Esteban Cabuhat in the property in question to be of a value in excess of P150, said interest is liable to be taken in execution, so far as it is in excess of said value. (13 R. C. L., 617; 21 Cyc, 491; Vanstory vs. Thornton, 34 Am. St. Rep., 483, 505; White vs. Spencer, 129 Am. St. Rep., 547, 560; Lean vs. Givens, 106 Am. St. Rep., 79.) This means in the concrete case that, if the property in question brought at the execution sale more than P150, the purchaser at that sale acquired the interest of Esteban Cabuhat therein, subject to the obligation to pay to said Cabuhat the sum of P150, this being the amount exempt to him by law. But it does not follow that the purchaser at the execution sale would be entitled, by virtue merely of such purchase, to dispossess the other coowners, to wit, two minor children who are plaintiffs in this case; and partition proceedings would in any event be necessary in order to enable the purchaser

to realize his share of the property.

In conclusion, our views on the various questions raised by this appeal may be summarized in the following propositions :

- An execution sale affects exclusively the right of the judgment debtor in the property which is the subject of sale; and the purchaser at the sale acquires no other interest whatever than that of the judgment debtor. It results that where the debtor is one of several coowners, the execution sale transfers his interest only, leaving the interest of the other coowners intact.
- The homestead exemption recognized in subsection 1 of section 452 of the Code of Civil Procedure can be invoked by a debtor although he is only one of the several coowners, provided he actually resides in the house in which the homestead right is asserted. A fortiori, a widower, who is the head of a family consisting of himself and two children by a deceased wife, is entitled to the homestead exemption in the house and lot where he maintains their home, although the children themselves are part owners of the same property by inheritance from their deceased mother.
- If the particular interest of the debtor in property so owned is of a value not in excess of P150, the same is exempt to him; but if his interest is worth more than that amount said interest is subject to sale upon execution.
- If in such case the interest of the debtor, upon being exposed to sale, realizes an amount in excess of P150, the purchaser acquires said interest, upon actual payment into the hands of the debtor of said exempt amount, namely, P150, of which the debtor cannot be deprived.
- If, however, the interest of the debtor, upon being exposed to sale as aforesaid, fetches less than the amount of P160, the property is exempt and the sale fails of effect, supposing that a claim of exemption is duly interposed.
- In no event is the purchaser of the interest of one of several coowners entitled, by reason of such purchase merely to object the other coowners from the property; and in the absence of agreement among the parties in interest, partition proceedings would be necessary to enable the purchaser to realize his interest.
- Injunction is a proper remedy to prevent a purchaser at an execution sale from molesting those coowners whose rights have not been affected by the sale, as it is also a proper remedy to prevent the purchaser from molesting the debtor, provided that the interest of the latter is in fact exempt and the claim of exemption was duly interposed.

From the foregoing it is evident that the judgment appealed from is erroneous; and inasmuch as it is impossible for us to solve the case in ignorance of the amount which the property brought at the sheriff's sale, the case must be remanded for further proceedings in conformity with this opinion. The preliminary injunction previously in force, but which was dissolved but the trial judge at the hearing, is hereby reinstated, and the same will remain in force until the final disposition of the case. No special pronouncement as to costs will be made. So ordered.

Johnson, Araullo, Avancena, and Villamor, JJ., concur.

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