

EUSEBIO A. GODOY, PLAINTIFF AND APPELLEE, VS. GUILLERMO ORELLANO ET AL., DEFENDANTS. FELISA PANGILINAN, PAZ ORELLANO ASSISTED BY HER HUSBAND FRANCISCO MARTINEZ, JOSE ORELLANO, A...

G. R. No. 16584. November 17, 1921

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

On January 13, 1919, in consideration of the amount of P1,000 received by the appellant, Felisa Pangilinan, a document was executed by her giving the appellee, Eusebio A. Godoy, an option to buy a dredge for the sum of P10,000. It appears from that document that the dredge is the common property of the vendor and of the brothers Demetrio, Jose, Guillermo, Alfredo, and Paz, all surnamed Orellano; that the condition was that Godoy was to pay the whole price of the dredge within twenty days; and that said option was granted in accordance with the power of attorney executed by her coowners who reserved the right to ratify whatever sale might be made, or option granted by Paiigilinan, their attorney-in-fact. The latter's coowners did not ratify the option contract. Before the expiration of twenty days, the appellee was ready to make complete payment of the price, but the appellant failed to deliver the dredge. Then the appellee brought suit in the Court of First Instance against Felisa Pangilinan, Paz Orellano, Jose Orellano, Demetrio Orellano, Guillermo Orellano, and Alfredo Orellano, praying that they be ordered to deliver the dredge, upon payment by him of the sum of P9,000; to pay him the sum of P10,000 as damages, and to return to the plaintiff the sum of P1,000 should the carrying out of the sale become impossible.

The defendants Orellano set up in their answer a general denial of the facts alleged in the complaint and, as a special defense, alleged that the dredge in question was the property of the intestate estate of Julio Orellano, pending in the Court of First Instance of Manila, and under the administration of Felisa Pangilinan; that the plaintiff perfectly knows that said dredge is under judicial control and could not be disposed of without judicial authority, and that the court has never authorized the sale mentioned in the complaint filed herein; and that the defendants Jose, Guillermo, and Alfredo surnamed Orellano are at present under age, and the defendant Paz Orellano is a married woman who had not obtained the consent of her husband before executing the power of attorney in favor of the administratrix.

The defendant Felisa Pangilinan filed a separate answer, and as defense alleges: (a) That the dredge which was the subject-matter of the option is property of the intestate estate of Julio Orellano, of which she is the administratrix; (b) that the plaintiff, as well as the defendants, and the notary who prepared the aforesaid option sale, were all aware of these facts, and they led her to believe that she had the authority to dispose of the dredge in her name and by themselves; (c) that believing herself to be under obligation to comply with the aforesaid option deed, she applied to the court of probate for permission to sell the dredge in the sum of P10,000; (d) that on the day of the hearing of the motion, her codefendants who had themselves authorized her by means of a power of attorney, opposed the motion through their attorneys, Francisco and Lualhati, on the ground that there were higher bidders and the best thing to do was to sell it at public auction; (e) that in view of this opposition, the administratrix asked

the court that it be sold at public auction, and the court authorized said defendant to sell it at public auction, advertising the sale in newspapers of general circulation, and the aforesaid dredge was sold for P10,000, accordingly; (f) that the defendant did not at any time refuse to make delivery of the dredge to the plaintiff, but that it was the court that would not give her the authority to do so; and (g) that she is at all times ready to return the P1,000 received from the plaintiff and that she has tendered it several times, but that the plaintiff refused to accept it.

The judge a quo rendered judgment, ordering the defendants to pay Eusebio A. Godoy the sum of P2,000 with legal interest thereon from February 13, 1919, and the costs, and dismissing the complaint as against the defendants Guillermo Orellano and Alfredo Orellano.

From this judgment the defendants have appealed to this court by bill of exceptions.

By a resolution of this court of September 14, 1920, the appeal of the defendants Paz Orellano, Jose Orellano, and Demetrio Orellano was declared abandoned for failure to file their brief within the period prescribed by the rules of the court. Wherefore, this decision concerns only the appeal taken by Felisa Pangilinan.

It appears from the evidence that the dredge in question belongs to the intestate estate of Julio Orellano, father of the defendants, which was pending in the Court of First Instance of Manila, of which the judicial administratrix is the defendant herein, Felisa Pangilinan; that when this defendant contracted with the plaintiff Godoy the sale of the aforesaid dredge, she had no authority of the court; and that the plaintiff knew that the dredge, which was the subject-matter of that contract, belonged to the intestate estate of Julio Orellano, under the control of the court.

In the sale of the property of an intestate estate for the benefit of the heirs, it is necessary to comply with the provisions of sections 717, 718, and 722 of the Code of Civil Procedure. The said sections prescribed the proceedings to be had before an administrator of an intestate or testate estate may sell personal or real property and also the conditions under which the personal or real property pertaining to an estate may be sold or disposed of by the administrator. Unless compliance is had with the provisions of these sections, the sale of the aforesaid dredge by the administratrix, or her promise to sell it, is null and void.

"A sale and conveyance by executors without an order of the probate court, under a will devising property to them in trust, but not authorizing any sale of the realty, otherwise than by a direction to pay the debts of the testator, is void, and passes no title to the purchasers." (Huse vs. Den, 85 Cal., 390.)

"A sale by an administrator of the personal property of the estate, without the authority of an order of court, or of a will, or under an order of court which is void for want of jurisdiction, does not confer on the purchaser a title which is available against a succeeding administrator." (Wyatt's Adm'r vs. Rambo, 29 Ala., 510.)

Under the law, the court has exclusive jurisdiction to authorize the sale of properties like the one under consideration and the power of attorney executed by the heirs of Orellano in favor of the administratrix, without authority of court, has no legal effect, and this is the more so, since two of the said heirs are under age, and the others did not ratify the option contract, as provided in the aforesaid power of attorney.

It is not necessary to dwell longer upon this point, as the appellee himself admits in his brief "that the dredge in question being a part of the intestate estate of Julio Orellano, it cannot be disposed of by any person without the proper authority of the court, in accordance with the existing laws."

In view of the foregoing, we are of the opinion, and so hold, that the appellant was not, in her capacity as judicial administratrix of the intestate estate of Julio Orellano, legally authorized to sell, or contract to sell, any property belonging to said estate without the authority of the court, and the contract entered into by her with the plaintiff, without this authority, is null and void.

The judgment appealed from is reversed and the complaint against the appellant Felisa Paiigilinan is hereby dismissed, without special finding as to costs. So ordered.

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

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