

**AMALIA PLATA, PETITIONER, VS. HON. NICASIO YATCO, JUDGE,
COURT OF FIRST INSTANCE OF RIZAL, BRANCH V; BENITO
MACROHON, SHERIFF OF QUEZON CITY AND THE SPOUSES
CESAREA E. VILLANUEV...**

G.R. No. 20825. December 28, 1964

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

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

Amalia Plata resorts to this Supreme Court for a writ of certiorari against the Court of First Instance of Rizal, Branch V, Quezon City, to annul and set aside its order of 4 January 1963, issued in its Civil Case No. Q-6250 (Cesarea Villanueva, et al. vs. Gaudencio Begosa) finding petitioner Plata in contempt of court for refusing to vacate certain property, and sentencing her to pay a fine of P100, with subsidiary imprisonment in case of insolvency, with a warning of more drastic action should she persist in disobeying the writ issued by said court.

At petitioner's instance, a writ of preliminary injunction was issued to stay enforcement of the order complained of, and respondents required to answer.

The pleadings and other papers on record disclose that Amalia Plata, in 1954, had purchased a parcel of land (Lot 23, Block 4-M, of Subdivision plan PSD-59) in Caloocan, Rizal, for which the Provincial Register of Deeds issued Torrens Certificate of Title (Transfer) No. 25855 in the name of Amalia Plata, single, Filipino citizen. On 13 February 1958, she sold the property to one Celso Saldaña, who obtained TCT No. 40459 therefor; but seven months afterwards, on 24 September 1958, Saldaña resold the same property to "Amalia Plata, married to Gaudencio Begosa." (Ans. Exh. 3) and a new certificate of Title No. 43520 was issued to the vendee, Amalia Plata (Exh. 3-a).

On the same date, 24 September 1958, "Amalia Plata of legal age, Filipino, married to Gaudencio Begosa", in consideration of a loan of P3,000, mortgaged to Cesarea Villanueva married to Gregorio Leaño, the identical property and its improvements "of which the mortgagor declares to be her(s) as the absolute owner thereof". The mortgage was also signed by Gaudencio Begosa, as co- mortgagor (Exh. 4).

For failure to pay the mortgage, the same was extra-judicially foreclosed under Act 3135, and sold on 12 April 1960 to the mortgagee as the highest bidder; on 13 May 1961, the Sheriff issued a final deed of sale on the strength of which the Register of Deeds issued the buyer TCT No. 55949 (Exhs. 5, 6, 7). Subsequently, the respondent, Villanueva, sued Gaudencio Begosa alone for illegal detainer (Annex C, Petition) in Case No. Q-6250, and obtained judgment against him in the court of first instance, that became final (Annex D, Petition). A writ of execution was duly issued, but Amalia Plata resisted all efforts to eject her from the property, and she filed a third party claim, averring ownership of the property (Annex E). Upon motion of the judgment creditors, the court below cited both Begosa and Plata for contempt (Annex H), and, finding her explanation (Annex I) unsatisfactory, found her guilty and sentenced her, as stated at the beginning of this decision.

The issue here is whether the petitioner, Amalia Plata, is bound by the detainer judgment against Gaudencio Begosa in Civil Case No. Q-6250. Petitioner denies it, claiming that she was never lawfully married to Begosa, and that she had acquired the property while still single, and was in possession there when the Sheriff of Rizal attempted to enforce the writ of ejectment. Respondent Villanueva and her husband maintain, on the other hand, that Plata had repeatedly acknowledged being married to Begosa; that she had lived with him openly as his wife, and their marriage is presumed; that, therefore, she is to be deemed as holding under Begosa, and is bound by the judgment against the latter.

We are constrained to uphold as meritorious the petitioner's stand. Granting that the evidence before us against the marriage of petitioner Amalia Plata to Gaudencio Begosa is weak, considering her admissions of married status in public documents (Answer, Exhs. 3 and 4); the well-known presumption that persons openly living together as husband and wife are legally married to each other, and that the prior marriage of Begosa to someone else does not necessarily exclude the possibility of a valid subsequent marriage to herein petitioner; still the respondents Villanueva could not ignore the paraphernal character of the property in question, which had been unquestionably acquired by Plata while still single, as shown by Transfer Certificate of Title No. 25855 of Rizal (Art. 148 of the New Civil Code). The subsequent conveyance thereof to Celso Saldaña, and the reconveyance back to her several months afterward of the same property, did not transform it from paraphernal to conjugal property, there being no proof that the money paid to Saldaña came from common or conjugal funds (Civ. Code, Art. 153). The deed of mortgage in favor of respondents Villanueva actually recites that the petitioner was the owner of the tenement in question and so does the conveyance of it by Saldaña to her (Ans., Exhs. 3 and 4).

It is true that Gaudencio Begosa signed the mortgage (Exh. 4) as a co-mortgagor; but by itself alone that circumstance would not suffice to convert the land into conjugal property, considering that it was paraphernal in origin. This is particularly the case where the addition of Begosa as co-mortgagor was clearly an after-thought, the text of the deed showing that Plata was the sole mortgagor.

Since the property was paraphernal, and the creditors and purchasers were aware of it, the fact being clearly spread on the land records, it is plain that Plata's possession thereof was not derived from Gaudencio Begosa. The illegal detainer judgment against the husband alone can not bind nor affect the wife's possession of her parapherna, which by law she holds and administers independently, and which she may even encumber or alienate without his knowledge or consent (Civ. Code, Arts. 136, 137, 140). Hence, as she was not made partly defendant in the eviction suite, the petitioner-wife could validly ignore the judgment of eviction against her husband, and it was no contempt of court for her to do so, because the writ of execution was not lawful against her (*Chanco vs. Madrilejos*, 9 Phil., 356; *A. Jose Realty vs. Galao, et al.*, 76 Phil., 201; *Segarro vs. Maronilla*, 108 Phil., 1086; *Weigall vs. Shuster*, 11 Phil., 340).

We need not decide here whether the property was validly conveyed to respondents Villanueva, since that issue is the subject of an independent proceeding in the Court of First Instance of Quezon City, Civ. Case No. Q-6510 (Petition, Annex F).

The writ of certiorari prayed for is granted, and the order of the lower court dated 4 January 1963, is annulled and set aside. The preliminary injunction is made permanent, with costs against private respondents Villanueva.

Bengzon, C. J., Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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