

**AFIFE ABDO CHEYBAN GORAYEB, PLAINTIFF AND APPELLANT, VS.
NAD JIB TANNUS HASHIM ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 21345. December 29, 1924*

Ponente: OSTRAND, J.

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This action is brought to set aside a number of conveyances of real and personal property alleged to have been made for the purpose of defrauding the plaintiff of her rights.

It appears from the evidence that on the 8th day of February, 1906, the plaintiff and the defendant Nadjib Tannus Hashim were legally married in Syria. About three months after the marriage they came to the Philippine Islands and established their residence in Manila. In the year 1910 the plaintiff went on a visit to Syria returning to this country about eight months later. She again went to Syria in 1914. She contends that the journey was necessary for her health but it appears that she had considerable trouble in obtaining her husband's consent thereto. He maintains that when she left the understanding between them was that she would not return, and in corroboration of this statement has shown that he, on April 18, 1914, published a notice in the Syrian newspaper Lisan-Ul-Hall to the effect that his wife had separated from him and warning the public that he would not be responsible for her debts.

The plaintiff asserts that she always-intended to return; that while she was in Syria the Turkish Possessions became involved in the World War and that she therefore was unable to get back to Manila until in the month of May, 1920. On her return the defendant N. T. Hashim refused to receive her in his house and she appears to have been living in the house of one of her cousins ever since.

In the month of June, 1920, shortly after the plaintiffs return to the Philippines, the defendant N. T. Hashim executed conveyances of practically all of his property to several of his relatives, the other defendants herein, and the plaintiff now seeks to have these conveyances set aside. The property conveyed is alleged to be worth over a half a million pesos, but need not here be described in detail. The court below found that the conveyances were fraudulent only as to the following described pieces of real estate and held the transfers of the rest of the property valid:

"(a) Two building lots on Rizal Avenue opposite the Grand Opera House and designated as lots Nos. 1 and 2 of block No. 8 of the San Lazaro Estate and measuring 730 square meters each. One of the lots was bought by N. T. Hashim from the Government in 1914 for P6,720 and the other was bought in 1915 for P4,240. On June 12, 1920, N. T. Hashim transferred the lots to A. T. Hashim for the alleged consideration of P15,000 each.

"(b) Lot No. 2, block No. 2212 of the same estate, bought by N. T. Hashim from the Government in 1915, for the sum of P2,560. There is a house on the lot which is designated as house No. 1001 Calle Oroquieta. The lot and house were transferred to A. T. Hashim on October 14, 1920, the consideration named being W,000 for the whole property."

In an exhaustive and well prepared decision the court below annulled the transfers of these properties and ordered

that certified copies of the dispositive part of the decision be filed by the clerk of the Court of First Instance with the register of deeds of Manila and with the Director of Lands. No special provision was made for the administration of the property. From this decision all of the parties appeal.

There can be no question that upon the evidence presented the trial court was warranted in annulling the transfers of the real estate above described and its findings upon this point must therefore be affirmed.

The judgment of the court below has the effect of turning the property fraudulently conveyed back to the conjugal partnership, leaving the administration thereof in the hands of the husband. It appears, however, from the record that before instituting the present action the plaintiff on November 12, 1920, brought an action against the defendant N. T. Hashim for a separate maintenance allowance. The trial court granted her an allowance pendente lite of P1,000 per month, and afterwards a permanent allowance of P500 per month. The defendant husband failed to make payment and a writ of execution was issued. The writ was returned unsatisfied and supplementary proceedings were had under Chapter 20 of the Code of Civil Procedure. Thereafter an alias writ of execution was issued and levied upon all the rights and interest of the husband in the house and lot above described under (b) and such rights and interest were sold to the plaintiff on June 13, 1921, and a sheriff's deed was executed therefore on the 30th day of November, 1923. Subsequently a writ of execution was issued for other due and unpaid installments of the maintenance allowance, which execution was levied Upon all of the defendant husband's rights and interest in the two lots above described under (a), and the property was sold to the plaintiff on December 12, 1923. The period of redemption from these sales having now expired, the legal title to the property sold has become vested in the plaintiff, subject to such preexisting debts as may be properly charge able against the conjugal partnership. (30 C. J., 1095 and authorities there cited; 30 Cyc, 477.)

In view of the fact that the defendant husband has, by his acts, virtually abdicated as administrator of the wife's property, she must be given the administration thereof.

The judgment appealed from is affirmed, with the modification that the plaintiff be declared the sole owner of the property, the conveyance of which to the defendant A. T. Hashim was declared fraudulent, and that she be given the administration of said property. No costs will be allowed in this instance. So ordered.

Street, Malcolm, Villamor, Johns, and Romualdez, JJ., concur.

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