

**EDUARDO DE RODA, PLAINTIFF AND APPELLANT, VS. W. A. LALK AND E. MICHAEL & CO., INC., DEFENDANTS AND APPELLEES.***G.R. No. 23498. October 07, 1925*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-23498/>**STATEMENT**

After the formal pleas, plaintiff alleges that on March 6, 1920, he commenced an action in the Court of First Instance of Cebu, known as civil case No. 2460, in which he prayed that a certain document executed by him and his wife, as well as a document executed by his wife, and which refers to the sales of four parcels of land, known as lots Nos. 46, 47, 48 and 584 of the Banilad Friar Land Estate, be annulled and set aside, the transfer certificates of title of which are Nos. 471, 472, 481 and 654. That the final decision in that case declared the deed executed by his wife on September 20, 1916, to Mariano M. Gallegos to be null and void, and in the same decision the court also declared void the subsequent and successive transfers made by Mariano M. Gallegos, Joaquin Felix Roca and other persons deriving title to said lots as void "for a defect in the source." That the defendant W. A. Lalk is in possession and claims to be the owner of lots Nos. 46 and 48, transfer certificates of title of which are Nos. 471 and 472. That the court having declared null and void the transfer certificates of title Nos. 591 and 592 in favor of Mariano M. Gallegos, and the transfer certificates of title Nos. 593 and 594 in the name of Joaquin Felix Roca "for a defect in the source," the transfer certificates of title above-mentioned from which the defendants deraign title, must also be void. That the defendants E. Michael & Co., Inc., and W. A. Lalk obtained their respective titles through transactions and purchases from persons whose titles have been declared null and void by the court, and by reason of the final judgment in that case recognizing plaintiff as the owner of said lots Nos. 46 and 48, it follows that the respective titles of the defendants are null and void. Plaintiff prays that he be recognized as the absolute owner of lots Nos. 46 and 48, and that the register of deeds be ordered to issue a new title in his name, and that pending his action, the register of deeds be enjoined from making any new transfer of title of said lots.

For answer the defendants admit the allegations of paragraphs 1 and 4 of the second amended complaint, and make general denial of all other allegations, and as a special defense allege that "they were purchasers in good faith."

Upon such issues the case was tried and submitted on the following agreed statement of facts:

"It is agreed by the attorneys of both parties that the transfer certificate of title No. 472, corresponding to lot No. 46, is issued in the name of Benita Antioquia, married to Eduardo de Roda, and the date of said transfer certificate of title is April 12, 1916; that said transfer certificate of title No. 472 has been cancelled and, in substitution thereof, another new transfer certificate of title No. 591 has been issued on October 9, 1916, in the name of Mariano M. Gallegos; that said transfer certificate of title No. 591 has been cancelled and, in lieu thereof, another new transfer certificate of title has been issued, which is No. 593, in the name of Joaquin Felix Roca, on October 20, 1916; that this transfer certificate of title No. 593 has been cancelled and, in lieu thereof, another new one was issued on September 16, 1920, in favor of E. Michael & Co., Inc., and the number of the new transfer certificate of title is No. 1589; that this transfer certificate of title No. 1589 has been cancelled and, in lieu thereof, another new one has been issued on November 26, 1920, in favor of W. A. Lalk, the number of the new transfer certificate of title being 1692.

"It is also agreed by the attorneys of both parties that the original transfer certificate of title No. 471, issued on April 12, 1916, in the name of Benita Antioquia, married to Eduardo de Roda, and which refers to lot No. 48, has been cancelled and, in lieu thereof, another new certificate of title was issued, which is No. 592, issued on October 20, 1916, in the name of Mariano M. Gallegos; that this certificate of title No. 592 has also been cancelled and, in lieu thereof, another new one was issued, which is transfer certificate of title No. 594, issued on October 20, 1916, in the name of Joaquin Felix Roca; that this transfer certificate of title No. 594 has been cancelled and, in lieu thereof, another new one, which is transfer certificate of title No. 590, was issued on September 16, 1920, in the name of E. Michael & Co., Inc.; that this transfer certificate of title No. 590 has been cancelled and, in lieu thereof, another new transfer certificate of title No. 1693 was issued on November 26, 1920, in the name of W. A. Lalk; that no notice whatever of lis pendens has ever been inscribed in the said titles up to April 9, 1924.

"Both parties also agree that in the transfer certificates of title Nos. 1692 and 1693 appears an entry made by the register of deeds regarding lis pendens dated April 9, 1924, referring to the present case No. 4385."

The lower court rendered judgment for the defendants, from which the plaintiff appeals, claiming that "the trial court erred in declaring that the defendants-appellees as purchasers in good faith have a better right than the plaintiff, the proved owner, as demonstrated by civil case No. 2460."

**JOHNS, J.:**

It is admitted that civil case No. 2460 was filed in the Court of First Instance of Cebu on March 6, 1920, and that no lis pendens was filed prior to April 9, 1924. It is also admitted that the conveyances to the defendants were made on November 26, 1920, and that all of the conveyances from which the defendants deraign title duly noted on and appear in the registry of deeds. The defendants were not made parties to civil case No. 2460, and there is no allegation or proof of any fraud on their part in the making of their purchases, or that they had any knowledge of any defect in the title. In so far as the record shows, they purchased and acquired their title in good faith, and for a valuable consideration.

The rule is elementary that fraud is not presumed. Ruling Case Law, volume 12, page 426, says:

"173. Presumptions and Inferences from Circumstances Distinguished.—The statement that fraud cannot be presumed does not mean that the presumption of fraud may not arise, and be legitimately deduced, from circumstantial evidence, but only that it is not to be assumed of a transaction that it is fraudulent, in the absence of proof afforded by intrinsic evidence of unfairness in the transaction itself, or extrinsic facts and circumstances leading to that conclusion. The general rule, therefore, must be understood only as affirming that a contract or conduct apparently honest and lawful must be treated as such until it is shown to be otherwise by either positive or circumstantial evidence. Fraud may be, and often is, proved by or inferred from circumstances, and the circumstances proved may in some cases raise a presumption of its existence. On the other hand it has been held that while fraud may be proved by circumstances or presumed from them, it cannot be demonstrated by construction, and hence must be proved in all cases."

For aught that appears in the record, the defendants acquired their title in an honest and lawful manner, and without any knowledge of the decision which was rendered in civil case No. 2460, and under such a state of facts and in the absence of a lis pendens, that decision was not binding upon them.

The judgment of the lower court is affirmed, with costs. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

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