

DOMINGO ALMIROL AND MARIA CARIÑO, APPLICANTS AND APPELLANTS, VS. RAFAEL MONSERRAT, GUARDIAN OF THE MINORS EMILIO RIVERA Y RICANOR AND DOMINGA RIVERA Y RICANOR, OPPONENT AND APPE...

G.R. No. 23717. September 28, 1925

Ponente: ROMUALDEZ, J.

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ROMUALDEZ, J.:

This appeal deals with the second parcel sought to be registered in the above entitled proceeding, the registration having been denied by the Court of First Instance of Pangasinan, except as to one-half of portion "a" of said parcel, which was ordered registered in the name of the applicants. The latter appeal from the judgment and assign various errors thereto.

By agreement of the parties, the following facts appear in the record: That, of the parcel in question, portion "b" was acquired by Bartolome Ricanor in the year 1874 by occupancy; that portion "a" of said parcel was acquired by purchase from Josefa Bugayong, widow of Pedro Alias, on April 17, 1907, by the spouses Bartolome Ricanor and Maria Almirol, who were married in the year 1881; that these spouses had a daughter by the name of Leonora Ricanor who was married with Estanislao Rivera, the latter having died on August 30, 1910; that Bartolome Ricanor died on July 6, 1912, and his daughter Leonora in turn died on November 29 of the same year 1912, leaving two children,—Emilio Rivera Ricanor and Dominga Rivera Ricanor.

These two grandchildren of Bartolome Ricanor are the herein opponents and appellees.

The applicants and appellants alleged, and presented evidence to the effect, that they are and have been in possession of the parcel in question since the year 1912, when Bartolome Ricanor, before his death, and his wife Maria Almirol delivered to them said land pursuant to a verbal contract of sale for the price of P1,500 payable by installments, of which the applicants had then paid to the sellers P500 on account, and the latter delivered to them the documents of the lands Exhibits F and G, which are possessory informations, the first, that is, Exhibit F, referring to portion "b" of the parcel in question, and issued in the name of Bartolome Ricanor, and the second, namely, Exhibit G, to portion "a" of the same parcel, in the name of Pedro Alias, his widow having sold the land to the spouses Bartolome Ricanor and Maria Almirol.

The applicants have also introduced evidence to the effect that since then their possession has been, and is up to the present time, under claim of ownership, exclusive and continuous; that upon the death of Bartolome Ricanor, his widow demanded of them the payment of the unpaid balance of the price, and as they had no money to make such payment, it was agreed between them and said widow to sell the land to a Chinaman by the name of Uy Quico, with the right of repurchase reserved to the applicants (Exhibits J, K and L); that said agreement was carried into effect and after the land was repurchased by said applicants, Maria Almirol executed two deeds of sale in their favor (Exhibits H and I), one for the portion "a" and the other for the portion "b," of the parcel in question.

From the evidence it finally appears that Bartolome Ricanor and Maria Almirol and, before them, their predecessors in interest, had been in possession of said land long before the year 1894 as owners, publicly, peacefully and continuously, until said possession and title were delivered to the herein applicants in the year 1912.

So that taking into account the possession of the applicants, together with the possession of Bartolome Ricanor and his wife, it clearly appears that the applicants are entitled to have their title over said parcel registered, as applied for in this proceeding.

But the trial court, applying section 335 of the Code of Civil Procedure, held that the applicants could not invoke either their possession of the land or that of their predecessors in interest, for the reason that the transfer made in their favor by Bartolome Ricanor and his wife was verbal; and that for this reason the possession of the former could not prejudice the opponents, both of whom were minors at the time of the trial of this case, inasmuch as the period of prescription could not run against them while they were under age.

But section 335 of the Code of Civil Procedure upon which is founded the denial of the application for these appellants makes only ineffective the action to enforce performance of the contracts therein enumerated, but does not declare them absolutely void and of no legal effect.

Said section 335 of the Code of Civil Procedure is not applicable where, as in the instant case, the verbal contract is adduced, not for the purpose of enforcing performance thereof, but as the basis of the lawful possession of the applicants entitling them to have the land thereby sold registered in their name.

Even if this were a case for the specific performance of such a verbal contract of sale, still the theory might be invoked that said section 335 of our Code of Civil Procedure refers to executory rather than executed contracts; and the one before us is a contract partially executed since a part of the price was paid by the applicants in the year 1912 to the spouses Bartolome Ricanor and Maria Almirol, and pursuant to said contract said spouses delivered then the land to the herein applicants, as well as the documents pertaining thereto.

Consequently the evidence introduced in this case relative to the sale in question should not be rejected, but must be taken into account, and is considered by this court in the decision of this case.

Giving said evidence its worth, it appears that the applicants had the right to have the whole land in question registered in their name.

For the foregoing, the judgment appealed from is reversed so far as it is in conflict with this opinion, and it is ordered that the whole of the second parcel in question, with the improvements thereon, be adjudicated to and registered in the name of the conjugal partnership of Domingo Almirol and Maria Cariño. Without special finding as to costs, it is so ordered.

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

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