

GEORGE L. PARKS, PLAINTIFF AND APPELLANT, VS. PROVINCE OF TARLAC, MUNICIPALITY OF TARLAC, CONCEPCION CIRER, AND JAMES HILL, HER HUSBAND, DEFENDANTS AND APPELLEES.*G. R. No 24190. July 13, 1926*

Ponente: AVANCEÑA, C.J.

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On October 18, 1910, Concepcion Cirer and James Hill, the owners of parcel of land No. 2 referred to in the complaint, donated it perpetually to the municipality of Tarlac, Province of Tarlac, under certain conditions specified in the public document in which they made this donation. The donation was accepted by Mr. Santiago de Jesus in the same document on behalf of the municipal council of Tarlac of which he was the municipal president. The parcel thus donated was later registered in the name of the donee, the municipality of Tarlac. On January 15, 1921, Concepcion Cirer and James Hill sold this parcel to the herein plaintiff George L. Parks. On August 24, 1923, the municipality of Tarlac transferred the parcel to the Province of Tarlac which, by reason of this transfer, applied for and obtained the registration thereof in its name, the corresponding certificate of title having been issued to it.

The plaintiff, George L. Parks, alleging that the conditions of the donation had not been complied with and invoking the sale of this parcel of land made by Concepcion Cirer and James Hill in his favor, brought this action against the Province of Tarlac, the municipality of Tarlac, Concepcion Cirer and James Hill and prayed that he be declared the absolute owner entitled to the possession of this parcel, that the transfer of the same by the municipality of Tarlac to the Province of Tarlac be annulled, and the transfer certificate issued to the Province of Tarlac cancelled.

The lower court dismissed the complaint.

The plaintiff has no right of action. If he has any, it is only by virtue of the sale of this parcel made by Concepcion Cirer and James Hill in his favor on January 15, 1921, but that sale cannot have any effect. This parcel having been donated by Concepcion Cirer and James Hill to the municipality of Tarlac, which donation was accepted by the latter, the title to the property was transferred to the municipality of Tarlac. It is true that the donation might have been revoked for the causes, if any, provided by the law, but the fact is that it was not revoked when Concepcion Cirer and James Hill made the sale of this parcel to the plaintiff. Even supposing that causes existed for the revocation of this donation, still, it was necessary, in order to consider it revoked, either that the revocation had been consented to by the donee, the municipality of Tarlac, or that it had been judicially decreed.

None of these circumstances existed when Concepcion Cirer and James Hill sold this parcel to the plaintiff. Consequently, when the sale was made Concepcion Cirer and James Hill were no longer the owners of this parcel and could not have sold it to the plaintiff, nor could the latter have acquired it from them.

But the appellant contends that a condition precedent having been imposed in the donation and the same not having been complied with, the donation never became effective. We find no merit in this contention. The

appellant refers to the condition imposed that one of the parcels donated was to be used absolutely and exclusively for the erection of a central school and the other for a public park, the work to commence in both cases within the period of six months from the date of the ratification by the parties of the document evidencing the donation. It is true that this condition has not been complied with. The allegation, however, that it is a condition precedent is erroneous. The characteristic of a condition precedent is that the acquisition of the right is not effected while said condition is not complied with or is not deemed complied with.

Meanwhile nothing is acquired and there is only an expectancy of right. Consequently, when a condition is imposed, the compliance of which cannot be effected except when the right is deemed acquired, such condition cannot be a condition precedent. In the present case the condition that a public school be erected and a public park made of the donated land, work on the same to commence within six months from the date of the ratification of the donation by the parties, could not be complied with except after giving effect to the donation. The donee could not do any work on the donated land if the donation had not really been effected, because it would be an invasion of another's title, for the land would have continued to belong to the donor so long as the condition imposed was not complied with.

The appellant also contends that, in any event, the condition not having been complied with, even supposing that it was not a condition precedent but subsequent, the non-compliance thereof is sufficient cause for the revocation of the donation. This is correct. But the period for bringing an action for the revocation of the donation has prescribed. That this action is prescriptible, there is no doubt. There is no legal provision which excludes this class of action from the statute of limitations. And not only this,—the law itself recognizes the prescriptibility of the action for the revocation of a donation, providing a special period of five years for the revocation by the subsequent birth of children (art. 646, Civil Code), and one year for the revocation by reason of ingratitude. If no special period is provided for the prescription of the action for revocation for noncompliance of the conditions of the donation (art. 647, Civil Code), it is because in this respect the donation is considered onerous and is governed by the law of contracts and the general rules of prescription. Under the laws in force (sec. 43, Code of Civ. Proc), the period of prescription of this class of action is ten years. The action for the revocation of the donation for this cause arose on April 19, 1911, that is, six months after the ratification of the instrument of donation of October 18, 1910. The complaint in this action was presented July 5, 1924, more than ten years after this cause accrued.

By virtue of the foregoing, the judgment appealed from is affirmed, with the costs against the appellant. So ordered.

Street, Villamor, Ostrand, Johns, Romualdez, and Villa- Real, JJ., concur.

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