

**VICENTE G. SINCO, PILAR G. SINCO, ASSISTED BY HER HUSBAND  
JOSE E. ROMERO, AND MARIA DESAMPARADOS G. SINCO,  
PLAINTIFFS AND APPELLEES, VS. AGAPITO LONGA AND AGUEDA  
LONGA, ASSISTED...**

*G.R. No. 27962. February 14, 1928*

Ponente: STREET, J.

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**STREET, J.:**

This action was instituted on July 16, 1926, in the Court of First Instance of Oriental Negros by Vicente G. Sinco, Pilar G. Sinco, and Maria Desemparados G. Sinco with whom is joined Jose E. Romero, as husband of Pilar G. Sinco, against Agapito Longa and Agueda Longa, with whom is joined the latter's husband, Manuel Tevez, for the purpose of annulling a sale of an undivided third interest formerly pertaining to the three first-named plaintiffs in the hacienda Rosario, situated in the municipality of Bais, Oriental Negros, said sale having been effected with judicial approval in November, 1910, by the then guardian of said plaintiffs, one Emilio Tevez, and for the purpose of compelling the defendants, who are now the registered owners of said hacienda, to convey to the plaintiffs the undivided third of the hacienda claimed by the plaintiffs, or in default thereof to pay the just value of the same property, and in either case to pay damages to the plaintiffs in the sum of P160,000, with lawful interest from the date of the filing of the complaint, with costs.

Upon hearing the cause the trial judge resolved the controversy in favor of the plaintiffs and ordered a division of the hacienda into three equal parts one of which should be delivered to the plaintiffs. He also ordered the defendants to pay to the plaintiffs the sum of P2,000, as a third part of the estimated value of machinery and improvements on the hacienda at the time of the sale, and further ordered that the defendants deliver to the plaintiffs certain live-stock, or its equivalent in money to the extent of P833.33, and to pay to the plaintiffs the sum of P71,162.08 as indemnization for the produce harvested by the defendants from the plaintiffs' third of the land since the sale referred to was consummated. From this judgment the defendants appealed.

It appears that the hacienda Rosario was originally owned by Don Rafael Sinco y Librado, the plaintiffs' great grandfather, from whom it passed to his son Escolastico G. Sinco who died prior to 1901, probably during the troubled period of the Filipino revolution under the Spanish regime. Escolastico G. Sinco left a widow, Saturnina Lopez, and three children, namely, Sergio, Maria Paz, and Coloma Sinco. Of these Sergio and Maria Paz are still living, but Coloma died in 1904, leaving the three children who are the plaintiffs in the present case, namely, Vicente, Pilar, and Desemparados.

The estate of Escolastico G. Sinco appears to have been encumbered with debts to the extent of some P14,000; and in order to liquidate this indebtedness, the widow and the three children, in the year 1901, leased the property for seven years at an annual rental of P3,000 to Agapito Longa and Trinidad Diago, widow, with the understanding that the lessees would assume the indebtedness then existing against the estate and apply the rent due under the lease to the satisfaction of said indebtedness until it should be completely paid. In July, 1903, the

seven-year lease was extended by the same parties at the same stipulated rent for a further period of two years. On October 7, 1907, the same lessors, with the exception of Coloma, who had died in 1904, entered into an agreement with the Longas for a further extension of the lease for one year. This contract also called for P3,000 as rent for the additional year, and of this amount the sum of P1,500 was advanced to meet pressing needs of the lessors. In August, 1909, Saturnina Lopez died, and she is supposed to have left a will acknowledging an encumbrance to the extent of on the hacienda Rosario in favor of her three grand-children, the present plaintiffs. Proceedings for the probate of this will were at one time contemplated or begun but were subsequently abandoned. Sergio and Maria Paz, uncle and aunt of the plaintiffs, appear to have questioned the right of their nephew and nieces, the present plaintiffs, as heirs to the share of their mother Coloma, but in the end the claims of the three children were maintained and the opposition on the part of uncle and aunt subsided. Nothing more was done in the matter of enforcing their claim to the P3,000 mentioned in the will of their grandmother. Part explanation of this may possibly be found in the fact that the hacienda in question had been the separate property of Escolastico G. Sinco, and the widow's share therein was less than it would have been had the property been of a ganancial character between her and her deceased husband.

After the death of Saturnina Lopez, her son Sergio Sinco was hard pressed for money to sustain a numerous family, and he proposed to Agapito Longa to sell to the latter his one-third undivided interest in the hacienda. Longa appears at first to have taken languid interest in the suggestion and told Sergio that the guardian of the three children would have to be consulted. Finally Longa, in conjunction with his kinswoman, Trinidad Diago, widow of Mateo Longa, agreed to buy the property if Maria Paz, the sister of Sergio, would join in selling her share, it being understood furthermore that the part of the three minors would also be sold by the guardian, upon the approval of the sale by the court. The assent of Maria Paz and her husband, Tiburcio Chavez, having been obtained to this suggestion, steps were taken for the consummation of the sale. One reason why the Longas insisted in acquiring the whole undivided interest in the property, instead of the undivided third of Sergio, was that the Longas looked to the Tabacalera Company for funds to purchase the property, and this entity was averse to lending its money upon the security of an undivided third in the property. As regards the sale of the portions pertaining to Sergio and Maria Paz the transaction was consummated in February, 1910, while as regards the interest of the minors the sale was not consummated until November 17, 1910, owing to the fact that the approval of the court to the sale was not obtained until immediately before said date.

The deed of sale (Exhibit 1) executed in favor of the Longas by Sergio Sinco and his sister, Maria Paz, bears date of February 12, 1910. For the purposes of said conveyance it is therein declared that the hacienda, with its improvements, is valued at P23,600; and since the two grantors were respectively conveying only their undivided thirds, the consideration of the conveyance was declared to be two-thirds of the above-mentioned sum, or P15,733.32, which is acknowledged to have been received by the grantors.

On the same date a number of other documents were executed by Sergio Sinco and Maria Paz Sinco which have a bearing upon the principal transaction. Among these we note a contract by which Sergio and Maria Paz agree to sell the remaining one-third of the hacienda to the Longas in case it should be judicially determined that they are the owners of said third. This instrument of course has reference to the controversy between Sergio Sinco and Maria Paz Sinco on the one hand and their minor nephew and nieces on the other, with respect to the right of the minors to inherit the undivided third of the hacienda which had pertained to their mother Coloma (Exhibit G). In another document the same grantors (Sergio and Maria Paz) enter into an undertaking with the Longas to the effect that the undivided two-thirds sold by them to the Longas as already stated shall not be adversely affected by any judicial decision which might be reached with respect to the title of the hacienda (Exhibit A). In still another document, Sergio Sinco and Maria Sinco guarantee that they will interpose no obstacle to the sale of the remaining third part of the hacienda, in case the court should decide that the minor children of Coloma Sinco are

owners of the same, and they agree to answer in damages for breach of this guaranty (annotation 335, Exhibit G).

In addition to the foregoing documents the Longas issued two receipts (Exhibits H and I), which cannot be understood without reference to certain past financial occurrences between the Sincos and the Longas which have not as yet been mentioned. After Coloma Sinco had died but while her mother, Saturnina Lopez, was still living, the latter united with her son Sergio and daughter Maria Paz in the execution of a mortgage on the hacienda Rosario in favor of Trinidad Diago, widow of Mateo Longa, to secure a sum of money, and on February 3, 1909, the court authorized Emilio Tevez, guardian of the minors, to join in said instrument, thereby binding the plaintiffs' share to the extent of said mortgage. At that time the mortgage amounted to P8,800, and the debt bore interest at the rate of 10 per cent per annum.

After the death of Saturnina Lopez, her son Sergio fell into embarrassed circumstances; and since he could not look to the hacienda Rosario for means of support, owing to the fact that the rent was tied up for years ahead, he was driven to borrow money from Agapito Longa. As lessee of the hacienda Longa doubtless looked ahead, and he must have considered his advances to Sergio Sinco safe, as he probably counted upon future extensions of the lease to recover such indebtedness. The amount of these advances was apparently considerable as may be inferred from the first of two receipts executed by Agapito Longa on February 12, 1910, or contemporaneously with the sale to the Longas of the interests of Sergio Sinco and Maria Paz in the hacienda. In the document now referred to (Exhibit H) Agapito Longa acknowledges having received from the Sincos the sum of P10,000 owing to him by reason of the cancellation of a lease of the hacienda Rosario extending to 1915. The language of this document is doubtless intentionally obscure, but the insinuation is that the mother (Saturnina Lopez) and her three children had made a lease of the hacienda until 1915 for the purpose of securing an indebtedness. The only actual lease of the hacienda known to this record is that executed first in 1901 for the period of seven years and later extended for the additional periods of two and one year, as already mentioned in this opinion. The suggestion in Exhibit H that a lease of the hacienda had been made for the period from 1911 to 1915 thus appears to be false; but it is of course possible that the grantors of the supposed lease may have had some sort of understanding with Longa that his advances would be secured in this way. Such an agreement, if made, was of course not binding upon the minors. The Exhibit H accordingly states that the sum of P10,000 therein mentioned had been paid by Sergio and Maria Paz exclusively. It is then declared that, in so far as they were concerned, the contract of lease was cancelled for the future. But as to the other third it was stated to be still encumbered by said lease and would so remain until the conflicting claims between the two Sincos and the minors should be adjusted. Meanwhile the part of the rent pertaining to said undivided third for the uncanceled portion of the lease was to be left with Longa for future delivery to the person to whom it might lawfully belong. It was further stipulated that if Sergio and his sister should win in the controversy, Longa would pay them the sum of P7,333.33 for said undivided third and that they in turn would pay the proportionate part of the mortgage encumbering the same.

In the other receipt (Exhibit I) Agapito Longa, as attorney-in-fact of Trinidad Diago, acknowledged that he had received from Sergio Sinco and Maria Paz Sinco the sum of P7,333.33 in full payment of the two-thirds part of the mortgage encumbering the hacienda. From this it will be seen that the amount of the mortgage was then estimated at P11,000, a sum somewhat in excess of the amount which would have been due had the principal truly been P8,800, as elsewhere stated in this opinion, with interest at the rate of 10 per cent per annum. The payment of this P7,333.33 left, so the receipt states, leaves a mortgage for P3,666.66 upon the undivided third pertaining to the minors.

The documents above mentioned completed the sale, of the hacienda Rosario, in so far as relates to the interest of Sergio Sinco and his sister Maria Paz. In order to accomplish the transfer of the remaining third it was necessary to obtain a deed from the guardian, Emilio Tevez; and to this end a petition was filed in the Court of First Instance

of Oriental Negros by the guardian on November 7, 1910. Among the substantial recitals of this petition we note the presence of the following statements, namely, first, that the undivided interest of the minors was encumbered by its proportional share of the mortgage for P8,800, with interest at 10 per cent; secondly, that in addition to said mortgage, the hacienda was rented to Agapito Longa as far into the future as 1915 and that the rent up to that date had been received by the predecessor in interest of the minors and the other coo'wners, to the extent of P11,900, with the result that the estate was encumbered, by the obligation just mentioned and that of the mortgage, to the extent of P21,000; thirdly, that Saturaina Lopez, grandmother of the minors, died intestate in the municipality of Bais, Oriental Negros, in the month of August 1909, and that the minors had inherited from her and their father an undivided third interest in the hacienda; fourthly, that the true value of the hacienda is P33,600 and that after deducting the encumbrances chargeable to the property, there would remain a balance of P12,600, of which one-third, or P4,200 would belong to the minors; fifthly, that in view of the fact that interest on the indebtedness was increasing and of the further fact that the owners could not themselves cultivate the property, owing to lack of capital, the two adult owners had decided to sell the part of the hacienda pertaining to them, and had in fact sold the same, for the sum of P22,400, leaving the share of the minors untouched; sixthly, that the minors have no cash assets to meet their subsistence and education and that one of them was in fact then being maintained in Silliman Institute by one of his kinsmen; and seventhly, that it is convenient and in the interest of the minors to sell the part of the hacienda pertaining to them on the basis of a valuation of P33,600 in order to free said share from the mortgage and rent encumbrance, and that thereby the minors would obtain a liquid capital which could be put out at interest in order to take care of their education and subsistence.

On November 16, 1910, or nine days after the filing of the application, the court issued its order authorizing the guardian to make the sale as requested; and on the next day a deed of conveyance was executed by the guardian in favor of the Longas (Exhibit 2). The order authorizing this sale recites that Sergio Sinco, Maria Paz Sinco, and the latter's husband, Tiburcio Chavez, coowners of the property and next of kin of the minors, had appeared before the court and ratified the facts alleged by the guardian, and stated that it would be in the interest of the minors that the sale be made. It is also stated therein that Vicente Sinco, the elder of the three minors, he being then 16 years of age, had appeared and testified in similar terms. Vicente Sinco, it may here be stated, admits that he was brought into court from the Silliman Institute, which he was then attending, and that he was asked some questions in which he took little interest and about which he had less knowledge, relative to the property and his situation.

It should be stated that all the records of the Court of First Instance of Oriental Negros were destroyed by fire, after the order above-mentioned was made and only fragmentary portions of the proceedings in the guardianship have been subsequently collected, including, fortunately, a copy of the petition and the decree.

A little reflection upon the foregoing incident is suggestive to the effect that the rights of the present plaintiffs, then minors, were really in a dangerous position, since no one intervened in the transaction who could have had any real and unbiased interest in protecting them. Sergio Sinco was being urged by his supposed necessities to sell his own share in the property, a purpose that could only be consummated by his attaining a sale of the whole. The Longas were of course interested in securing the property, since they would thereby collect the mortgage of Trinidad Diago and the advances that had been made to Sergio and probably his sister Maria Paz. If we may accept the statements of Sergio Sinco, even the guardian, Emilio Tevez, was not a disinterested protector, since he is said to have been anxious to get the minors' share in cash into his hands in order to meet some urgent claims against himself; and it is a fact that after he had obtained the money, he applied it to his own uses, instead of lending it upon interest to some third person. But he appears to have been solvent, and the money thus retained was paid out of the estate of Tevez to another guardian of the minors after Tevez had died.

The statements in the petition for leave to sell the property are untrue and uncandid in more than one particular, as

may be discovered by comparing the statements contained in said petition with the data already supplied in this opinion. In particular, the petition erred in exaggerating the necessities of the minors, for they had inherited other property from which subsistence for them could be obtained. In fact they got along in the succeeding years without any help from what had been obtained in the sale now in question, vln the light of the proof before us it seems undeniable that the sale was unwise and was accomplished to some extent without a fair and true exposition to the court of the actual situation. But it must be remembered in this connection that the shares of the elder owners were sacrificed by adults in the full possession of their powers, and we see no reason to doubt why Maria Paz Sinco at least and her husband, Tiburcio Chavez, should not be considered competent to deal for themselves in this matter. Years after this sale was effected the Bais Sugar Central was established in the neighborhood of the hacienda Rosario and the values of agricultural property in this section then increased enormously. In the light of these events anyone can see that the sale of the minors' share was unwise in the extreme. Indeed, from a perusal of the testimony of Sergio Sinco, in connection with the documents above referred to, it is not difficult to conclude that sinister forces were at work against the true interest of the minors in bringing about this sale, and for the purposes of this decision it may be admitted that there was an imposition on the court, and that the sale may have been tainted by fraud.

We are of the opinion, however, after a careful study of the documents, in connection with the testimony of Sergio Sinco, that this fraud, if fraud it be, has not been brought home to the Longas. The plaintiffs place much emphasis upon the notarial annotation 335, of Exhibit C, wherein Sergio Sinco and Maria Paz Sinco (in conjunction with her husband Tiburcio Chavez) agreed to interpose no obstacle to the sale of the share of the minors in the hacienda Rosario. From this it is argued that the purpose of Agapito Longa in securing this document was to tie the hands of the uncle and aunt of the minors who were the very persons who should, in contemplation of law, be looked to for advice with respect to the interest of the minors, and that this act was preparatory to the carrying into effect of the conspiracy by which the Longas would obtain the children's share of the hacienda. But the name of Longa does not appear in annotation 335 as that of the person in whose favor the instrument was executed. It may be true, as stated by Sergio Sinco, that said instrument may have been made at Longa's request; but it looks very much as if it might have been made by anxious sellers angling for any purchaser who could be induced to take the property off of their hands. The testimony of Sergio Sinco is rambling and confused, as might perhaps be expected from a person testifying about acts that had occurred nearly seventeen years previously of which he had become heartily ashamed. His insinuation that the sale was obtained by fraudulent conspiracy instigated by the Longas cannot be accepted as the true interpretation of the transaction. The real source of danger to the children in those days, it must be remembered, was the attitude of their uncle and aunt, who had steadily opposed the claim of the children to share in the hacienda and who were only too anxious to be rid of all connection with the property.

In passing upon controversies of this character experience teaches the danger of accepting lightly charges of fraud made many years after the transaction in question was accomplished, when death may have sealed the lips of the principal actors and changes effected by time may have given a totally different color to the cause of controversy. In the case before us the guardian, Emilio Tevez, is dead. The same is true of Trinidad Diago, mother of the defendant Agueda Longa; while Agapito Longa is now living in Spain. It will be borne in mind also that, in so far as oral proof is concerned, the charge of fraud rests principally on the testimony of a single witness who, if fraud was committed, was a participant therein and who naturally would now be anxious, so far as practicable, to put the blame on others. In this connection it is well to bear in mind the following impressive language of Mr. Justice Story:

"\* \* \* But length of time necessarily obscures all human evidence; and as it thus removes from the parties all the immediate means to verify the nature of the original transactions, it operates by way of presumption, in favor of innocence, and against imputation of fraud. It would be unreasonable, after a great length of time, to

require exact proof of all the minute circumstances of any transaction, or to expect a satisfactory explanation of every difficulty, real or apparent, with which it may be incumbered. The most that can fairly be expected, in such cases, if the parties are living, from the frailty of memory, and human infirmity, is, that the material facts can be given with certainty to a common intent; and, if the parties are dead, and the cases rest in confidence, and in parol agreements, the most that we can hope is to arrive at probable conjectures, and to substitute general presumptions of law, for exact knowledge. Fraud, or breach of trust, ought not lightly to be imputed to the living; for, the legal presumption is the other way; and as to the dead, who are not here to answer for themselves, it would be the height of injustice and cruelty, to disturb their ashes, and violate the sanctity of the grave, unless the evidence of fraud be clear, beyond a reasonable doubt." (Prevost vs. Gratz, 6 Wheat. [U. S.], 481, 498.)

The attorneys for the appellees criticize the order of the court of November 16, 1910, authorizing the sale of the share of the minors in the hacienda as irregular and beyond the jurisdiction of the court. We are unable to concur in this view. The petition presented by the guardian stated a case, we think, for a sale of a portion of the guardianship estate for reinvestment, as contemplated in section 569 of the Code of Civil Procedure. In the petition it was clearly set forth that the income of the children's property was insufficient properly to maintain and educate them and that it was for their benefit that their share should be sold. It was also therein stated that the property was encumbered. Admitting that these statements of the petition were untrue, the jurisdiction of the court to authorize the sale was not thereby affected, because the jurisdiction of the court rests on the averments of the petition and not upon the truth of those averments (28 C. J., 1178; Scott vs. Gypsy Oil Co., 112 Okla., 13; 239 Pac., 887). The suggestion that the order was irregular and beyond the jurisdiction of the court because publication was not made over the whole period required by law loses its force in view of the fact that the next of kin of the minors are stated in the order to have personally appeared in court.

In the view we take of the decisive points above discussed it becomes unnecessary to consider the bearing of the statute of limitations on the right of action in this case and certain other important questions that would have required solution if the plaintiffs' right of action against the purchasers had been considered to have been established.

The judgment appealed from will be reversed and the defendants absolved from the complaint. It is so ordered, without costs.

Johnson, Malcolm, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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