

SIMPLICIA LIMA, PLAINTIFF AND APPELLEE, VS. ISIDORO LIM CHU KAO, DEFENDANT AND APPELLANT.*G.R. No. 28203. February 06, 1928*

Ponente: MALCOLM, J.

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This action was brought by Simplicia Lima, the mother, to recover from Isidoro Lim Chu Kao, her son, the motor boat Rubi and the sailboat Zafiro, or their value. The judgment in the Court of First Instance of Iloilo, Judge Salas presiding, declared null the documents of sale, Exhibits C and D, of the vessels Rubi and Zafiro, found the plaintiff to be the owner of the vessels with the right to their possession, and ordered the defendant to turn over immediately the two boats to the plaintiff, with costs against the defendant.

For some years prior to 1920, the Chinaman Manuel Lim Ya resided in Iloilo. Simplicia Lima there became his mistress and the mother of three children begotten by him. One of them was Isidoro Lim Chu Kao. At the same time, Manuel Lim Ya had a Chinese wife in China. In 1920, Manuel Lim Ya left for China, and died there two years later.

On November 25, 1916, the vessel called the Rubi was sold to Simplicia Lima by Sixto Baylon for the sum of P11,000. On the same day, she mortgaged the Rubi to the partnership M. Lim Ya Tan Boon Kong & Co. to guarantee the payment of the sum of P11,000. On July 6, 1917, the vessel called the Zafiro was sold to Simplicia Lima by Julio Javellana for the sum of P4,000. One week later, Simplicia Lima mortgaged the Zafiro to the partnership M. Lim Ya Tan Boon Kong & Co. to guarantee the payment of the sum of P4,000. Repairs and improvements were afterwards made on the vessels, which greatly increased their value. So on January 28, 1919, Simplicia Lima again mortgaged the Rubi to the partnership M. Lim Ya Tan Boon Kong & Co. to guarantee the payment of the sum of P40,000 and the Zafiro to the same partnership to guarantee the payment of the sum of P8,000. On March 15, 1919, the two mortgages were cancelled by the partnership M. Lim Ya Tan Boon Kong & Co. because Manuel Lim Ya paid the amount of P48,000 to the company by deducting this sum from his capital in the company. Thereafter, a board appointed by the Collector of Customs in Iloilo investigated the status of the vessels Rubi and Zafiro. After taking the statements of Simplicia Lima, Lim Ya, and Tan Boon Kong, the board recommended that the documents "be registered in the record of transfers and incumbrances of vessels, in the name of Simplicia Lima declaring her the sole and rightful owner of said vessels," and this recommendation was confirmed by the Collector of Customs of Iloilo, who directed "that a certificate of Philippine register be issued again in favor of said vessels which now appear to be fully owned by Simplicia Lima, a Filipina woman, free of all incumbrances." Certificates of ownership for the Rubi and Zafiro were issued on June 19, 1919, by the customs house of Iloilo in the name of Simplicia Lima as the sole owner of said vessels and as a native inhabitant of the Philippine Islands. Then after Manuel Lim Ya had departed for China, and after it is alleged that he had directed Simplicia Lima to transfer the vessels to the son, Isidoro Lim Chu Kao, two documents of sale were executed on July 8, 1920, in favor of Isidoro Lim Chu Kao, one referring to the sale of the Rubi for P40,000, and the other of the Zafiro for P8,000. Both documents were registered in the customs house of Iloilo.

There is more than a suspicion that the arrangement which provided for the ownership of the vessels to appear in the name of Simplicia Lima, a Filipina woman, was arrived at to circumvent the provisions of law relating to the registration of vessels. (Administrative Code, secs. 1166 et seq.) Defendant, however, has only in his favor, with respect to the transfers of the vessels from the mother at the instance of the father to himself, his own vague oral testimony lacking corroboration. His answer admits that the two instruments executed by his mother were sham documents. On the other hand, the mother can claim ownership of the vessels Rubi and Zafiro by virtue of the documents of sale to her, the testimony of Manuel Lim Ya before the customs authorities, and the certificates of ownership issued by the Collector of Customs of Iloilo. It is not shown that Simplicia Lima was acting in bad faith, or took a direct part in the illegal maneuvering of her Chinese associates.

It should not be forgotten that between the date when the mortgages were cancelled by the Chinese partnership and the date when Lim Ya left for China, there was an interval of nearly a year, and it was during this period that the customs authorities investigated the status of the vessels. At that time, Lim Ya, among other things, stated: "Q. Who is the legal owner of these vessels?—A. Simplicia Lima. Q. In case of the death of Simplicia Lima, who will be the owner of these?—A. Her three children. * * * Q. Why did you take your capital of P48,000 in order to give your concubine these two vessels?—A. In order that she will not take any more money from me for her expenses. Q. Will your wife in China have any share in these vessels?—A. No." The presumption must be that a consideration existed for the transfers to Simplicia Lima and that it was licit since the contrary has not been proved. (Civil Code, arts. 1277, 1305, 1306; *Bough and Bough vs. Cantiveros and Hanopol* [1919], 40 Phil., 209.)

The person in whose name a vessel is registered and to whom is issued a certificate of ownership is presumed to have the legal title thereto. (*Martinez vs. Martinez* [1903], 1 Phil., 647.) Even where a Filipino and a Spaniard became the owners of a certain vessel which was licensed in the name of the Filipino as the sole owner in order to thwart the provisions of the Coastwise Law, it was yet held that the plaintiff could recover his share of the earnings, notwithstanding the illegal agreement, because he was able to establish his right independently thereof. (*Perez vs. Herranz* [1907], 7 Phil., 693.) The case at bar is much stronger for the plaintiff than are the two above cited decisions.

What was undoubtedly in Lim Ya's mind, when he was arranging his affairs preparatory to his return to China was to establish, what was in the nature of a trust for his Filipina mistress and the children had by him with her. We cannot fairly say on the record and the findings of fact made in the trial court that we can go against this intention and reward an ungrateful son with the possession of vessels which do not rightfully belong to him.

The judgment will be affirmed, with the costs of this instance against the appellant.

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

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