

ENGRACIO L. VALMONTE ET AL., PLAINTIFFS AND APPELLEES, VS. PEDRO VILLAROMAN ET AL., DEFENDANTS. PEDRO VILLAROMAN, APPELLANT.

G.R. No. 28394. October 22, 1928

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

Pedro Villaroman appeals to this court from the judgment of the Court of First Instance of Nueva Ecija, the dispositive part of which is as follows:

"For the foregoing reasons, the court hold that the land described in the complaint is the common and undivided property of the plaintiffs and defendants, and orders the partition thereof between them in the proportions set forth in the complaint, to wit: (a) Of the one-half belonging to Julia Mariano, (1) one-third to Manuel Valmonte, (2) onethird in equal parts to the children of the deceased Doroteo Valmonte, Engracio, Donata and Esperanza surnamed Valmonte, and (3) the one-third belonging to Marcelina Valmonte, divided equally between her two grandsons Ricardo, and Marcos surnamed Advincula; (b) of the one-half belonging to Buenaventura Valmonte, (1) one-seventh in equal parts to Ricardo and Marcos Advincula, (2) oneseventh in equal parts to Engracio, Donata, and Esperanza surnamed Valmonte, (3) one-seventh to Manuel Valmonte, (4) one-seventh to Dominga Valmonte; (5) one-seventh to Ignacia Valmonte, (6) one-seventh to Hipolito Valmonte and (7) one-seventh to Maria Valmonte: declaring the defendant Pedro Villaroman subrogated to the rights of the coowners who transferred them to him, namely, Manuel, Dominga, Ignacia, Hipolito and Maria Valmonte. It is further ordered that the defendant render an account of the income received by him from the land in question, from the year 1916 until the date of the rendition of said account, bringing to the estate for collation the amount of the net profit received by him from such portions of the lands not assigned to him, which amount shall be divided among the parties in the same proportions as the lands. Without special pronouncement as to costs."

In support of his appeal, the appellant assigns the following alleged errors as committed by the trial court in its judgment, to wit:

"1. The trial court erred in finding that the defendant and appellant Pedro Villaroman has not been in possession of the land in question since the 15th of July, 1914, as owner, continuously, peacefully, publicly; and adversely.

"2. The trial court also erred in holding that the certificate of title obtained by the defendant and appellant Pedro Villaroman under the Land Registration Law was not conclusive against the whole world, and that the same is no bar to an action for partition."

The preponderance of the evidence establishes the following points:

Buenaventura Valmonte and Julia Mariano were husband and wife, the latter having died first, leaving three sons named Marcelino, Doroteo and Manuel Valmonte. Buenaventura Valmonte contracted a second marriage with Celestina Marin by whom he had four children named Dominga, Ignacia, Hipolito and Maria Valmonte.

Buenaventura Valmonte died in the year 1909, leaving a widow, Celestina Marin, and three children by the first marriage, named Marcelino, Doroteo and Manuel Valmonte, and four children by the second marriage, named Dominga, Ignacia, Hipolito and Maria Valmonte. His son Marcelino Valmonte by the first marriage, died leaving a son named Ambrosio Advincula. Doroteo Valmonte, his second son by the first marriage, died leaving a widow named Constancia Linsangan, and three children named Ernesto, Donata and Esperanza Valmonte, who are the herein plaintiffs. His father Buenaventura Valmonte and his two brothers Marcelino and Doroteo Valmonte, who having died, Manuel Valmonte, with his nephew Hipolito Valmonte, and his nieces Donata, Ignacia and Maria Valmonte sold the land the subject matter of the complaint, which was one of the several properties left by said Buenaventura Valmonte on his death to Pedro Villaroman on July 15, 1914, for the sum of P2,100, P1,100 payable on the execution of the deed, and the remaining P1,000 in the month of December 1914 (Exhibit A). The purchaser Pedro Villaroman having defaulted in the payment of the sum of P600, the vendors instituted an action against him on February 14, 1926 for the recovery of said balance (Exhibit B). In his answer, after making a general and specific denial of the facts alleged in the complaint, Pedro Villaroman alleged by way of special defense that the reason why he had not paid the rest of the purchase price was that the vendors had assured him that they had inherited the land they sold to him from their father Doroteo Valmonte, but that it appeared later that the title was in the name of Pantaleon Valmonte. In view of the fact that Buenaventura Valmonte's grandchildren namely Engracio, Donata and Esperanza Valmonte (children of Doroteo Valmonte), and Ambrosio Advincula (son of Marcelino Valmonte), might have an interest in said land, he required the said vendors to obtain from said grandchildren a waiver of their rights. In order to clear all doubt the vendors and the purchaser entered into an agreement whereby the former bound themselves, to file a bond in the latter's favor for the sum of P2,100, the purchase price of the land in question within the period of five days, and the purchaser in turn bound himself to deliver to said vendors the sum of P600, the unpaid portion of the purchase price of the land, within the period of ten days, both submitting said agreement to the court and praying that judgment be rendered in accordance therewith. Engracio, Donata, and Esperanza Valmonte, with their mother Constancia Linsangan, appeared at the trial of the case and filed a motion alleging that they had an interest in the land sold, and that of the P600 which is the subject matter of the complaint in this case, was the unpaid balance of the purchase price, the P500 rightfully belonging to them, being their share of inheritance, and giving their assent the sale provided they received said sum of P500, and they prayed the court to award them the same (Exhibit E).

Immediately after having acquired the land in question, Pedro Villaroman began to work and cultivate a portion thereof, and on October 21, 1914, declared it for the purpose of paying the land tax (Exhibit 2), paying the corresponding land tax from that date up to the present.

Subsequently, Pedro Villaroman applied for the registration of said land and the Court of First Instance of Nueva Ecija, after having heard the evidence presented by the applicant, on November 29, 1923, adjudicated said land to him and ordered its registration in his name. When said judgment became final the Chief of the Land Registration Office issued the proper decree of registration on May 20, 1926, and on the 25th of the same month the corresponding certificate was issued without any notation of an encumbrance.

While all this was taking place Ambrosio Advincula, son of Marcelino Valmonte and grandson of Buenaventura Valmonte, Was in America, having been absent from the Philippines since February 1913, his wife Dionisia Marin and his two minor sons Ricardo and Marcos Advincula, 14 and 12 years old, respectively, having been left here. No news was received from Ambrosio Advincula from the time he left until the year 1917, and since that date nothing has been known of his whereabouts up to the present date.

This action was commenced on January 7, 1925, with a notice of lis pendens in the office of the registry of deeds, and the plaintiffs seek the following in this action:

"In view of the foregoing, the plaintiffs pray the honorable court:

"(a) To decree the partition of the land described above, with its fruits since the year 1916, at the rate of P4.80 for each cavan of unhulled rice;

"(b) That Dionisia Marin be appointed guardian ad litem for her minor children Ricardo and Marcos Advincula;

"(c) That defendant Pedro Villaroman and the other defendants pay, proportionately, the costs of the present action, ordering and granting likewise, any other just and equitable remedy it may deem proper."

The appellees maintain that when Pedro Villaroman acquired the land in question by purchase from some of Buenaventura Valmonte's heirs, he was subrogated to the rights of said heirs, becoming coowner with the other coheirs who did not intervene in the sale.

We have seen that Pedro Villaroman bought all the land in question from Manuel, Dominga, Ignacia, Hipolito and Maria Valmonte, believing that these were the only persons with an interest therein and not only the portion belonging to the latter. In taking possession of the property sold, then, he did so not as coowner, but as the sole and exclusive owner.

As we have seen, the preponderance of the evidence shows that Pedro Villaroman took possession of the land when he acquired it by" purchase on July 15, 1914, having declared it for the land tax on October 21st, of the same year. The fact that upon being sued for the balance of the price, which amounted to P600, he answered that he was willing to pay said sum provided the vendors obtained a waiver of the rights of the grandchildren of Buenaventura Valmonte, of whose rights he was convinced, do not destroy the adverse nature of his possession as owner, for it was secured by a bond filed by the vendors. Moreover, the plaintiffs Engracio L. Valmonte, Donata L. Valmonte, and Esperanza B. Valmonte, with their mother Constanca Linsangan, in a motion filed with the court in that case, expressed their acquiescence in said sale provided they were given P500, of the P600 the unpaid balance of the purchase price, which represent their share of the inheritance, and prayed the court to award them said sum. In the absence of evidence to the contrary it is reasonable to suppose that the vendors gave the security required by Pedro Villaroman and that the latter paid the balance of the sale. It is likewise reasonable to suppose that the trial court granted the motion of the plaintiffs Engracio L. Valmonte, Donata L. Valmonte, and Esperanza B. Valmonte, Awarding them the P500 prayed for.

With respect to the plaintiffs Engracio L. Valmonte, Donata L. Valmonte, and Esperanza B. Valmonte, since they agreed to the sale, they cannot now allege that the same was made without their consent.

Regarding the minors Ricardo and Marcos Advincula, since there has been no word from their father since the year 1917 it is presumed that he died on December 31, 1924, that is, seven years after the receipt of the last news of him (Act No. 190, section 334, No. 24). If Pedro Villaroman began to possess the land in question on July 15, 1914, by July 15, 1924, or ten years thereafter, he acquired title thereto acquisitive by prescription, he having possessed it openly, continuously, adversely, and as owner, with no one interrupting said possession (Act No. 190, section 41). Upon the said date of July 15, 1924, when it is presumed that Ambrosio Advincula still lived, the latter's right of action to recover said possession and ownership of said land became extinguished (section 40, Act No. 190), and on December 31, 1924, when it is presumed he died, he no longer had any right of action to transmit to his heirs and, therefore, upon his presumed death the latter acquired no such right.

Briefly, then, it appears that Pedro Villaroman acquired the lands in question by purchase from some heirs, whom he believed to be the sole owners, and having entered upon the possession thereof, cultivating them publicly, adversely, continuously and without any interruption whatsoever for over ten years, the fact that after said sale he

believed that other heirs existed does not destroy the adverse and proprietary nature of his possession as owner, all doubt as to the existence of other heirs having been removed by the vendors' having filed a bond to secure the sale, and it does not prevent Pedro Villaroman from acquiring by prescription, through said possession, the title to any portion of the land in which the coheirs that did not intervene in the sale, might have.

Moreover, as Pedro Villaroman applied for the registration of said land in his name and the proper decree of registration was issued on May 20, 1926, and recorded on the 25th of the same month and year, in his name, and since it does not appear that the said decree was issued through fraud, it cannot be revised, notwithstanding the fact that one year has not yet elapsed since its issuance, because section 38 of Act No. 496 only allows such revision when it was procured by fraud—neither absence nor minority being a ground therefor.

The notice of lis pendens filed by the plaintiffs with the registrar of deeds in the present case cannot affect the decree of registration issued in favor of Pedro Villaroman upon the lands in question, since its object is to protect the rights which the plaintiffs might have in the aforesaid lands, against third persons (section 401, Act No. 190), and it does not relieve them from the necessity of objecting to the application for registration filed by Pedro Villaroman on the same lands some two years previous to the filing and recording of said notice of lis pendens for the protection of their rights.

Wherefore, the judgment appealed from is reversed and the defendant-appellant Pedro Villaroman is absolved from the complaint, which is hereby dismissed, with costs against the appellees.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Ostrand, and Romualdez, JJ., concur.

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