

**FAUSTINA ACOSTA ET AL., PLAINTIFFS AND APPELLEES, VS.
TEODORO Y. GOMEZ AND BENITA AUSTRIA, DEFENDANTS AND
APPELLANTS.***G.R. No. 29304. February 06, 1929*

Ponente: MALCOLM, J.

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A correct disposition of this appeal is beset with some difficulty considering the numerous legal proceedings which have been begun but which have not been carried through to the end, considering the state of the pleadings, and considering the failure of proof in some respects. While notwithstanding these obstacles the case has been given prolonged attention by the court, yet for its prompt disposal it would be well to concentrate on the essential facts with the purpose in mind of doing substantial justice to the parties.

Prior to June 3, 1916, Faustina Acosta, the widow of Domingo Holanday, and her children were owners pro indiviso of three parcels of land situated in the municipality of Bayambang, Province of Pangasinan. This land was encumbered in the amount of P5,000 in favor of the Government Agricultural Bank. On the date mentioned, Faustina Acosta and her children executed a deed of sale purporting to convey the land to Father Justo Claudio. The consideration for this conveyance was mentioned in the document as the sum of P30,000, but the real consideration, as disclosed by the promissory note and other circumstances, may have been only P10,000. The real purpose of the parties was to enable Father Claudio more easily to effect the sale of the property. During the period subsequent to this transaction, Faustina Acosta remained in possession of the land.

When these events occurred, the property was duly registered in accordance with the Torrens system. Father Claudio made use of the same legal form by securing the registry of the property in his name. He then sold the land in question to one Esteban I. Vasquez for the purported sum of P31,000. Esteban I. Vasquez in turn sold the land to Macario Marco for the purported sum of P31,000. Macario Marco sold the land to Feliciano Gomez and Gregorio Ocampo for the purported sum of P10,000. Feliciano Gomez sold the land to Teodoro Y. Gomez for the purported sum of P6,000. Teodoro Y. Gomez sold the land to Benita Austria for the purported sum of P25,000. In all of these sales, the proper changes and notations were made on the certificate of title.

In connection with these numerous transfers, it need only be said here that there is no showing that Faustina Acosta ever received a centavo from Father Claudio. It should further be mentioned that Vasquez and Marco were companions of Father Claudio and that Benita Austria who lived with Teodoro Y. Gomez when she purchased the land is his mother-in-law,

The foregoing are the necessary facts. While there may be some dispute with reference to some of their details as before set forth, they are a resume of the facts as previously found in a decision of this court in *Teodoro Y. Gomez vs. Faustina Acosta*, No. 16449,[1] and as found by Judge Zandueta in the trial court. Both this court when it had the case before it in 1922, and the lower court in the present proceedings were emphatic in bearing down on the idea of a chain of simulated transfers having all the indicia of fraud, to the prejudice of the rightful owners, the

widow and her children.

As related to the facts, reference should be made to the legal proceedings which have been started to obtain control of the land in question. Omitting all reference to prior fruitless litigation, we may as well begin with the action begun in the Court of First Instance of Pangasinan in the name of Feliciano Gomez and Gregorio Ocampo with a view to obtaining an injunction against Faustina Acosta. In the lower court, the plaintiffs to this suit were successful. On appeal, however, this court reversed the judgment and absolved the defendant from the complaint without prejudice to the right of the plaintiff to file an appropriate complaint, if so advised, to obtain a declaration of ownership and to recover the property." As a result of this decision, Faustina Acosta was legally entitled to the possession of the land in dispute, but seems to have lost her control through the machinations of her adversaries. At any rate, Teodoro Y. Gomez, taking advantage of the reservation made in his favor by this court, brought an action in the Court of First Instance against Faustina Acosta in which he asked that he be declared the absolute owner of the land. The complaint was, however, dismissed on the petition of the plaintiff. It then became necessary not for Gomez to take the initiative because he had assumed dominion over the land, but for Faustina Acosta to do so in order to protect her interests. This she did by instituting the present suit against Teodoro Y. Gomez, who was the plaintiff in the injunction suit, and Benita Austria to whom he had transferred his interests during the pendency of this suit. The judgment on this action declared the plaintiffs the sole and absolute owners of the land in question; ordered the cancellation of all the transfers and notations made with respect to original certificate of title No. 90; sentenced the defendants to deliver to the plaintiffs the possession of the said land, and to pay them the sum of P21,975 annually from March, 1922, as damages until restitution, with the costs; and condemned the plaintiffs to pay to Teodoro Y. Gomez the sum of P3,711.71, representing the amount paid by him on account of the mortgage debt to the bank. It is from this judgment that the defendants have appealed.

The eleven assigned errors raise two principal questions and a number of subsidiary questions which need resolution. The first question to which, attention is directed is whether defendants' predecessors in interest must be included as parties defendant for the correct resolution of this case. In this connection, it will be recalled that the defendants are the last and next to the last purchasers of the parcels of land in dispute. But little time need be taken to dispose of this point for it was the purpose of this court in the previous case of Gomez vs. Acosta to dispose of all pending matters up to the time of the promulgation of the decision. That action went against Teodoro Y. Gomez with a reservation in his favor, of which he never took advantage. That being the state of the record, the only necessary parties were then Teodoro Y. Gomez on account of his usurpation of legal rights and the party to whom he had transferred whatever rights he had. The action in reality is one to compel Benita Austria, as a purchaser in bad faith, to return the land she illegally possesses to the rightful owners.

The second question is whether the defendants are innocent purchasers for value. On this point, when the case was here before, Mr. Justice Street, speaking for the court, said that the right of action of Faustina Acosta and her children could be "maintained by them against any successor in interest of Father Claudio except an innocent purchaser for value and without notice and those claiming under such. Upon the facts before us it is exceedingly doubtful if any of the persons who have successively acquired title subsequent to Father Claudio can be considered to be innocent purchasers for value; and it is not improbable that nothing was ever paid by any of them. Certainly, no proof upon this point has been adduced in favor of the plaintiff." Now, when that was said, the party before the court was Teodoro Y. Gomez. He acted, it is true, to protect the land by paying the mortgage debt to the bank and by making good for the taxes. On the other hand, a sale to Benita Austria by Teodoro Y. Gomez can only be looked upon with suspicion when the relationship of the parties is recalled and when it must be assumed that Benita Austria was fully informed as to the pending litigation concerning the title to the land. Also, while Teodoro Y. Gomez claims to have paid for the land the sum of P6,000, a sum much lower than his predecessors in interest had paid for it, he sold the land to his mother-in-law for the sum of P25,000, a price much

higher than he paid for it. The trial court even went 'so far as to express a doubt if any sale had really been made, and as to this finding we are not prepared to say that it was wrong.

In addition to these two main questions, there is a subsidiary one which has been somewhat perplexing. This has to do with the claim put in by Faustina Acosta before the commissioners on claims of the estate of Father Claudio for the sum of P3,670 plus P500 by way of damages, which was approved by the Court of First Instance of Manila. This might be explained as merely a precautionary measure by Faustina Acosta. On the other hand, it might be taken as a ratification. However, a perusal of the answer interposed by the defendants will disclose that it is in the nature of a general denial and that ratification is not pleaded. The court has, therefore, resolved that it would be unauthorized to present and sustain a special defense for the defendants which they themselves have not set up.

The only other points which need special consideration are those relating to the amount of the damages. The trial court allowed the plaintiffs P21,975 annually and allowed the defendants P3,711.71 as a sort of a set-off although no counterclaim was presented. Over P20,000 a year as income on property which apparently is not valued at much more, at once impresses one as exorbitant. As a total, it would come to more than P100,000. Moreover, to substantiate the amount of the damages, only one witness was presented, and he, an interested party, whose testimony, to say the least, is vague and general. Under these conditions, we do not think it would be fair to confirm such extraordinary damages without adequate evidence. The burden of proof in this respect was on the plaintiffs, and we do not think they have carried the burden to a successful conclusion. From the standpoint of equity, it would seem a just conclusion simply to permit the plaintiffs to recover the land and offset whatever amount the defendants have obtained from the cultivation of the land against the amounts which they have paid on the mortgage and for taxes.

To conclude, we resolve each of the assigned errors against the appellants except the seventh which, in relation with the eighth, is in part held sustainable. Otherwise, the findings and the judgment of the trial court are adhered to.

In accordance with the foregoing pronouncements, the judgment appealed from will be modified by the elimination of the following phrases: "y a pagarles la cantidad de P21,975 anuales desde el mes de marzo de 1922 hasta que restituyan los mismos en concepto de daños y perjuicios. Tambien se condena a los demandantes Faustina Acosta y sus hijos a que restituyan a Teodoro Y. Gomez la cantidad abonada por este montante a "P3,711.71 con intereses legales desde la fecha en que Teodoro Y. Gomez pago dicha cantidad"—and as thus modified, the judgment will be affirmed, without special finding as to costs in this instance.

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

[1] Promulgated January 13, 1922, not reported.

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