

ILDEFONSA VARGAS, PLAINTIFF AND APPELLEE, VS. AGATONA EGAMINO, DEFENDANT AND APPELLANT.*G.R. No. 2994. November 18, 1908*

Ponente: TORRES, J.

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On the 25th of October, 1901, Ildefonsa Vargas filed a written complaint with the Court of First Instance of Tayabas, setting forth that she owned two parcels of land adjoining each other, situated in Calantas, a barrio of the town of Tayabas, Province of Tayabas, the location, area and boundaries of which were described; that the said property formerly belonged to Rosenda Edralinda, known by the name of Florinda, who had donated it to her son Salustiano Salvaña some time in October, 1889, according to the title deeds, which were lost during the insurrection, but which are entered in volume 35, book 10 of the registry of property of Tayabas, on file at the office of the municipal president; that since then Salustiano possessed the lands until his death, which occurred on the 23d of November, 1892, when the daughter, Severina Salvaña, inherited the same, and as the mother of the latter, the plaintiff administered the land; that her daughter Severina having died on the 6th of January, 1894, the plaintiff succeeded to the intestate estate of her daughter as well as to the possession of the aforesaid lands; but that more than one month prior to the filing of the complaint, a woman named Agatona, a resident of Tayabas, took possession of the lands under the pretense that the said properties belonged to her; therefore, the plaintiff prayed that judgment be entered in her favor as to the ownership of the lands, for loss and damages and the products not received, and costs; in support of her contention she attached to the complaint canonical certificates of baptism and of burial to prove the relationship and the death of her principals.

In answer to the complaint, on the 6th of November, 1901, the defendant alleged: That, even if the plaintiff's husband, Salustiano Salvaña, were living, she would have no right whatever to the lands in question because they had been conveyed by an unconditional sale by Salustiano to Juliana Edralinda, and that since the time of the sale they ceased to possess them; that Juliana Edralinda afterwards sold the said lands, under an agreement with pacto de retro, to Glicería Divinagracia who, in turn, sold them under equal condition to the plaintiff, Vargas; that Juliana Edralinda prior to her death conveyed the lands to Urbano Salvaña on condition that he pay the redemption price, and this condition was fulfilled by the defendant in behalf of the children had with Urbano Salvaña, and complied therewith through Glicería Divinagracia, because it was the latter who sold them under pacto de retro to Ildefonsa Vargas; the proceeds of the sale, amounting to 400 pesos, Mexican currency, was received by Crispin Obrique, the husband of the plaintiff, in the court of the justice of the peace of Tayabas; therefore she asked that judgment be entered holding that the plaintiff had no title to the land claimed in the complaint, because it was the lawful property of Margarita and Rosa Salvaña, daughters had by the late Urbano Salvaña with the defendant herein, with the costs of the action against the plaintiff; in support of the claim six documents or canonical certificates were attached to the answer.

In reply thereto the plaintiff denied each and all of the allegations made by the defendant in her answer, and insisted on everything that she had stated in her complaint, and moved that, notwithstanding the exceptions

offered by the adverse party, judgment be entered in her favor. Evidence was adduced by both parties to the suit, and their exhibits were made of record. On the 30th of September, 1903, the parties agreed as to the following facts which were added to the record on the same date :

- That the two parcels of land in litigation are considered as one sole parcel which was the subject of the conciliatory action in the court of the justice of the peace of Tayabas, on the 1st of October, 1901, and that the value thereof is 500 pesos;
- That the original owner of the said lands was Rosenda Edralinda from whom Salustiano Salvaña, a son of the former and the husband of the plaintiff inherited them;
- That as Salustiano Salvaña died on the 23d of November, 1892, his wife, the plaintiff herein, afterwards inherited the lands from her daughter who died a minor on January 6, 1894;
- That the plaintiff was in possession of the said lands during four years, according to her own statement, but for only one year, according to that of the defendant, and both parties agree that this last year was immediately prior to the year when the "conciliation" took place and that the plaintiff entered into possession as owner; but the defendant alleged that the plaintiff could not inherit the said lands because her husband, Salustiano, while in life had already sold them, and that, if the plaintiff had lately been in possession of the same, it was on account of the sale with pacto de retro, made to the plaintiff by Gliceria Divinagracia, as proven by the confession made by Crispin Obrique, the legal representative and administrator of the plaintiff's property, in the court of the justice of the peace;
- That in full court the plaintiff offered the defendant the sum of 400 pesos, Mexican currency, in return for an equal amount which the defendant delivered to the husband of the plaintiff at the time of the settlement, which was rejected by the defendant.

The parties to the suit came to an agreement in asking the court's decision regarding the following points of law:

- Whether Salustiano Salvaña had really sold the land in question to Juliana Edralinda;
- If so, whether the defendant was the real owner of the said land by reason of her being the wife of Urbano Salvaña who, in life, was the adopted child of Juliana Edralinda.

At the conclusion of the trial, the judge below, on the 30th of September, 1903, annulled the conciliation proceedings brought in the court of the justice of the peace of Tayabas on October 1, 1901, ordering that the possession of the said lands be restored to the plaintiff, Ildefonsa Vargas, who enjoyed the same before the said act of conciliation, without prejudice to the superior right of a third person, and sentenced the defendant, Agatona Egamino, to pay the usual costs, and the 20 pesos as costs in favor of the plaintiff for her appearance and that of her lawyer.

The defendant excepted to the above judgment and stated her desire to present a bill of exceptions through the ordinary channels, and presented the said bill and made a motion for a new trial on the ground of accident and deceit, and because the evidence did not sufficiently justify the decision of the court. The motion was overruled, the petitioner excepted, and by an order of the court below, of August 10, 1905, the bill of exceptions was approved.

In view of the terms of the complaint and of the judgment appealed from, there can be no question but that the action taken by Ildefonsa Vargas in this litigation is for the recovery of an estate, so much so that she asked that judgment be entered in her favor for the ownership of the lands in question, and in further support thereof it is shown that, as a matter of fact, such was the nature of the action brought under the aforesaid agreement entered

into between the parties in submitting to the court below for decision the question of the sale of the land claimed, and the rights of the defendant, Agatona Egamino, the wife of Urbano Salvaña.

The facts, which appear as fully proven in this case, and which are even recognized by the defendant are as follows: That the lands were the property of Rosenda Edralinda, known by the name of Florinda, as shown by the title by "composition" with the State, issued in her favor and recorded in the registry of property in Tayabas, at folio 28; that the son, Salustiano Salvaña inherited the property, and when he died on the 23d of November, 1892, he in turn left it to Severina Salvaña, a daughter that he had by the plaintiff, Ildefonsa Vargas; that, as the former died on the 6th of January, 1894, at the age of two years, her mother, Ildefonsa, succeeded to her rights and entered into possession of the said property as the heir of her daughter, a fact which has not been impugned by the defendant; and that, on the 26th of September of the following year, the widow, Ildefonsa Vargas, contracted a second marriage with Crispin Obrique.

It has also been proven that on the 12th of May, 1889, Salustiano Salvaña and his wife, the plaintiff herein, sold the said property, under an agreement with pacto de retro, to Candido Salazar and Juliana Salvafia for the sum of 177 pesos and 7 reales, on condition that they might redeem the same within four years, the purchasers having no right to sell it to another person within the said period of time, after which, if the vendors did not repurchase the property, the sale would become final; this is shown by the document written in Tagalog which may be seen at folio 33 of the record, signed by the vendors and several witnesses.

The land was repurchased by the vendors; and the repurchase was so affirmed by the plaintiff and corroborated by the purchaser, Felipe, not Candido, Salazar, the husband of Juliana Edralinda who states, at folio 79, that the plaintiff Ildefonsa repurchased the land and delivered the 200 pesos, redemption money, to Gliceria Divinagracia who was then in possession of said land because it had been mortgaged to her. The fact that the plaintiff kept in her possession the aforesaid document, exhibited at folio 27, confirms the alleged repurchase whereby she recovered her indisputable right to the ownership and possession of the lands in question.

Agatona Egamino, the defendant, alleged that Salustiano Salvaña had transferred the ownership of the lands by means of an actual and absolute sale to Juliana Edralinda, from whom the rights acquired over the property by the children who were represented by the defendant had originated; but this allegation of an unconditional sale does not appear to have been proven by means of any document, and the discordant testimony of two witnesses who allege it is not sufficient.

The property was sold to Juliana and her husband, Felipe Salazar, under a contract with pacto de retro for the term of four years, and the vendors managed to repurchase it in due course, as the record clearly shows.

It should be noted that the peculiar transaction in connection with the land in question is that the mortgagees or purchasers with pacto de retro, in 1889, Juliana and Felipe, in their turn, sold it or pledged it also under pacto de retro to Oliceria Divinagracia who, as she stated, pledged it to Crispin Obrique, the second husband of the plaintiff, in the month of May, 1901, handing over to him the old document of sale that she received from Juliana Edralinda.

It has not been proven, and it is inexplicable how Oliceria Divinagracia could have pledged to Crispin Obrique for the sum of 400 pesos land which, as fully proven by the record, had already been repurchased and redeemed by Ildefonsa Vargas, the lawful owner, who was in possession in 1901, several months prior to the filing of the complaint.

The lack of proof of the pledge or sale with pacto de retro to Obrique, the conciliatory action between the latter and the so-called pledgor, Gliceria Divinagracia, the circumstance that the plaintiff, who is the wife of the so

called mortgagee and who is the real owner of the land, took no part whatever in the conciliatory action, and the request of the pretended owner of the property, Juliana Edralinda, that, after redemption, the property should be kept by Urbano Salvana, the defendant's husband, demonstrate in a convincing manner that such supposed pledge and conciliatory action were the means used in order to deprive the plaintiff of the possession of the property for the purpose of transferring it to the defendant, as has been done; serious trouble has existed ever since between the plaintiff and her husband, who seems' to have taken part in the plot whereby he received 400 pesos according to the record of the act of conciliation; for this reason it is not surprising that the plaintiff, in view of the conduct of her husband, offered to pay the amount that was received by the latter in order to save her property and prevent its conveyance to the defendant

Inasmuch as it has not been proven that Ildefonsa Vargas had alienated the said lands which belonged to her exclusively, and since they are paraphernal property belonging to the wife, the husband, Crispin Obrique, could not have disposed of nor conveyed them to a third person to the prejudice of his wife. (Arts. 1382 and 1383, Civil Code.)

Under article 348 of the said code, the owner has a right of action against the holder and the possessor of the thing to recover the same; and, if it is sufficient for the possessor to possess the thing in order that his right be respected, the application of this principle shall always be understood to be proper so long as no other person having a better title comes forward to substantiate his claim, as the plaintiff has done, since the defendant, who retained the lands which form but one parcel, has not shown that her children, or their principal, were the owners or had any title to the property in question.

In view of the foregoing it is our opinion that, holding that Ildefonsa Vargas is the owner of the property or land in litigation, the judgment appealed from should be and is hereby affirmed, with costs against the appellant, provided, however, that the words "without prejudice to the better right of a third person" shall be stricken out. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

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