

**ADELA ROMERO DE PRATTS, ASSISTED BY HER HUSBAND,
FRANCISCO PRATTS, PLAINTIFF AND APPELLANT, VS. MENZI &
CO., INC., AND THE PROVINCIAL SHERIFF OF RIZAL, DEFENDANTS
AND APPELLEES.**

G.R. No. 30020. March 23, 1929

Ponente: OSTRAND, J.

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OSTRAND, J.:

On December 10, 1924, three actions, civil cases Nos. 27315, 27316, and 27318, were brought in the Court of First Instance of Manila. Case No. 27315 was instituted by Menzi & Co., Inc., against the partnership Hanna, Bejar & Co., Pratts & Co. and Francisco Pratts, Elias Hanna, and Isidoro Bejar, the regular collective partners of said partnership, for the recovery of the sum of P9,336.97, with interest; case No. 27316 was brought by Antonio Brimo against the partnership Pratts & Co. and its regular collective partners, Francisco Pratts, Elias Hanna, and Isidoro Bejar, for the recovery of P21,146.56, with interest; and case No. 27318 was instituted by Talambiras Brothers against the partnership Hanna, Bejar & Co., together with Francisco. Pratts, Elias Hanna, and Isidoro Bejar, the collective partners of said partnership, for the recovery of P9,848.62, with interest.

The plaintiffs in all three of the cases sued out writs of attachment against the properties of the defendants, and on December 12, 1924, the provincial sheriff of Rizal, by virtue of said writs of attachment, levied upon all the right, title, and interest, and participation of the defendant Francisco Pratts in and to the property described in transfer certificate of title No. 6964 and all improvements thereon and also on another piece of property belonging to Pratts and described in transfer certificate of title No. 7044, with all improvements thereof.

Upon trial of the three civil cases, judgments were rendered in favor of the plaintiffs, and writs of execution were issued and placed in the hands of the sheriff of Rizal Province and levied upon the properties attached on December 12th.

In order to prevent the sale under execution of the property described in transfer certificate No. 6964, Adela Romero, the wife of Francisco Pratts, presented a third party claim alleging that she was the exclusive owner of said property. The plaintiffs gave indemnity bonds in the total sum of P80,000, and the sheriff proceeded with the publication of the sale under the executions. Before the sale was effected, Adela Romero, assisted by her husband, brought the present actions, G. R. Nos. 30020-21-22, claiming that the property described in transfer certificate of title No. 6964 was her paraphernal property and praying that the attachments made be declared null and void; that the executions levied on said property be avoided and that in each case, the defendants be required to pay damages in the sum of P3,000.

The three cases were tried together before Judge Llorente, who, on April 25, 1928, rendered a decision declaring that the property in question was community property of the marriage of Francisco Pratts and Adela Romero and ordering the dismissal of the three cases with the costs against the plaintiff. From this decision the plaintiff appeals.

The evidence is conclusive that the property in question was purchased by Francisco Pratts himself and paid for with money acquired during his marriage to the plaintiff, but the transfer certificate of title was made out in the name of "Adela Romero de Pratts casada con Francisco Pratts," and counsel for the plaintiff maintains that the defendants cannot now go behind the certificate of title and charge the property with the debts of the plaintiff's husband. This contention cannot be sustained. Section 70 of the Land Registration Act sufficiently covers the situation and reads as follows:

'Registered land, and ownership therein, shall in all respects be subject to the same burdens and incidents attached by law to unregistered land. Nothing contained in this Act shall in any way be construed to relieve registered land or the owners thereof from any rights incident to the relation of husband and wife, or from liability to attachment on mesne process or levy on execution, or from liability to any lien of any description established by law on land and the buildings thereon, or the interest of the owner in such land or buildings, or to change the laws of descent, or the rights of partition between coparceners, joint tenants and other cotenants, or the right to take the same by eminent domain, or to relieve such land from liability to be appropriated in any lawful manner for the payment of debts, or to change or affect in any other way any other rights or liabilities created by law and applicable to unregistered land, except as otherwise expressly provided in this Act or in the amendments hereof.'

It seems plain that after it has been established that the land has been acquired during the marriage with funds pertaining to the conjugal partnership, it must be considered conjugal or community property of the marriage, whether it is registered or not, and may be levied upon for the payment of debts contracted by the husband during the marriage (art. 1408, Civil Code).

Counsel also argues that community property cannot be levied upon for debts of the husband until his individual property has been exhausted. That is true in cases where the debt has been incurred prior to the marriage, but that is not the case here.

The appealed judgment is in accordance with the facts and the law and is hereby affirmed with the costs against the appellant. So ordered.

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

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