

THE DIRECTOR OF LANDS, APPLICANT, VS. CRISTOBAL ABAGAT ET AL., CLAIMANTS. SISENANDO PALARCA ET AL., APPELLANTS.*G.R. No. 30514. March 27, 1929*

Ponente: OSTRAND, J.

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The spouses, Juan Soriano and Vicenta Macaraeg, were the owners of twelve parcels of land. Vicenta Macaraeg died in November, 1909, leaving a large number of collateral heirs but no descendants. Litigation between the surviving husband, Juan Soriano, and the heirs of Vicenta Macaraeg immediately arose, and the herein appellant Sisenando Palarca acted as Soriano's lawyer. On May 2, 1918, Soriano executed a deed for the aforesaid twelve parcels of land in favor of Sisenando Palarca, and on the following day, May 3, 1918, Palarca filed an application for the registration of the land described in the deed. After hearing, the Court of First Instance declared that the deed was invalid by virtue of the provisions of article 1459 of the Civil Code, which prohibits lawyers and solicitors from purchasing property or rights involved in any litigation in which they may take part by virtue of their profession. The application for registration was consequently denied, and upon appeal by Palarca to the Supreme Court, the judgment of the lower court was affirmed by a decision promulgated November 16, 1925.[1]

In the meantime cadastral case No. 30 of the Province of Tarlac was instituted, and on August 21, 1923, Eleuteria Macaraeg, as administratrix of the estate of Vicenta Macaraeg, filed claims for the parcels in question. Buenaventura Lavitoria, administrator of the estate of Juan Soriano, did likewise and so did Sisenando Palarca. In a decision dated June 21, 1927, the Court of First Instance, Judge Carballo presiding, rendered judgment in favor of Palarca and ordered the registration of the land in his name. Upon appeal to this court by the administrators of the estates of Juan Soriano and Vicenta Macaraeg, the judgment of the court below was reversed and the land adjudicated to the two estates as conjugal property of the deceased spouses.[2]

Upon the return of the record to the Court of First Instance, the administrators filed a motion asking that a writ of possession for the land be issued in their favor and against Sisenando Palarca. Palarca opposed the motion on the ground that he could not legally be ejected until he had been reimbursed for the consideration stated in the deed hereinbefore referred to, as well as for land taxes and for improvements, the total amount of the reimbursement being P16,250.

The opposition of Palarca was overruled by the court, and the motion of the administrators granted. Palarca thereupon brought the present appeal.

We can find no error in the appealed orders. The appellant Palarca is a lawyer and is presumed to know the law. He must, therefore, from the beginning, have been well aware of the defect in his title and is, consequently, a possessor in bad faith. In cases of ejectment only the possessor in good faith may retain the land until the necessary expenses have been refunded (art. 453, Civil Code). The appellant has been a possessor in bad faith for many years and is bound to account for the fruits received and for those which the lawful possessor might have received (art. 455, Civil Code.) The probability is that the fruits are much more than equivalent to the

expenditures and improvements made by the appellant. We may say further that, under the circumstances of the case, we find it difficult to believe that the appellant Palarca ever paid any part of the consideration stated in the deed executed in his favor by Juan Soriano, and there is room for more than a suspicion that the deed was purely fictitious, and, in our opinion, article 1308 of the Civil Code has no application to this case. It may also be noted that the appellant has made no offer to indemnify the appellees for the fruits received by him from the lands in question. The orders appealed from are therefore affirmed with the costs against the appellant. So ordered.

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

[1] G. R. No. 24329, Palarca vs. Director of Lands, not reported.

[2] G. R. No. 28226, Director of Lands vs. Abagat, promulgated May 21, 1928, not reported.

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