

MATEO RAMIRO ET AL., PLAINTIFFS. MATEO RAMIRO, APPELLANT, VS. CLEMENCIA GRAÑO ET AL., DEFENDANTS. ESTANISLAO REYES, APPELLEE.*G. R. No. 32296. March 31, 1930*

Ponente: ROMUALDEZ, J.

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On account of the intimate relationship between these two cases, the court below tried and adjudged them jointly, and they shall now also be dealt with in the same opinion.

They refer to four parcels of land situated in the barrio of San Lorenzo, municipality of San Pablo, Laguna.

One of these parcels is that marked as parcel A in case G. R. No. 32296, and as realty No. 2 in case G. R. No. 32331. This parcel is claimed both by Mateo Ramiro and Juana Villanueva on the one side, and by Estanislao Reyes, on the other. It is also claimed by Jose Martinez, intervenor in case G. R. No. 32331.

The second parcel is that marked as parcel B in case G. R. No. 32296, wherein it is claimed on the one hand by the plaintiff-spouses Ramiro and Villanueva, and on the other by the intervenor Isidro Martinez.

The third parcel is that marked parcel C in case G. R. No. 32296, and as realty No. 3 in case G. R. No. 32331. It is claimed by said spouses Ramiro and Villanueva, and likewise by Estanislao Reyes.

Another parcel is that marked as realty No. 1 in case G. R. No. 32331, claimed by Estanislao Reyes.

Of this parcel, the part known as lot 3 is claimed by the spouses Ramiro-Villanueva in case G. R. No. 32296, and that known as lot 30 is claimed by Mariano Cabanos, intervenor in case G. R. No. 32331.

The parcel marked as realty No. 4 in Estanislao Reyes's complaint (G. R. No. 32331) is claimed by Jose Martinez, intervenor therein.

Having tried the case, the Court of First Instance of Laguna rendered the following judgment:

"Wherefore, the court finds that Estanislao Reyes is the real owner of the realty described in his complaint civil case No. 4838, and orders the defendant and the intervenors therein to abstain henceforth and forever from disturbing him in his enjoyment of said property; holding the heirs of Isidro Martinez to be the owners of the land designated as lot B in the first cause of action of the spouses Mateo Ramiro and Juana Villanueva in civil case No. 4852, subject to the mortgage held by the Hogar Filipino, and the result of case No. 4744 of this court, and disallowing altogether the complaint filed by the aforesaid spouses Mateo Ramiro and Juana Villanueva in case No. 4852." (Pages 18 and 19, Bill of Exceptions, G. R. No. 32296.

From this judgment, Clemencia Graño and Jose Martinez, Mariano Cabanos, and Mateo Ramiro, appealed. Clemencia Graño and Jose Martinez, through counsel, assign the following errors:

"1. In finding that the four parcels of coconut land belonged to plaintiff Estanislao Reyes.

"2. In basing its judgment on Estanislao Reyes having acquired said four parcels by a valid auction.

"3. In not finding that parcels Nos. 2 and 4 of the complaint belong exclusively to defendant Jose Martinez.

"4. In deciding the controversy with respect to parcel No. 4 of the complaint, with the assertion that there had been no dispute between the parties in this case." Counsel for Mariano Cabanos assigns the following errors to the court below:

"1. In declaring that the lot in question had been sold by Jose Martinez to Clemencia Graño.

"2. In holding that intervenor was advised of the rights of plaintiff and in considering that as a basis for the decision.

"3. In holding intervenor estopped from claiming property as against plaintiff.

"4.. In not finding that plaintiff is the one estopped from claiming ownership of the same lot.

"5. In not giving judgment in favor of the intervenor and in not declaring him owner of the questioned lot.

"6. In not adjudicating damages in favor of intervenor." Counsel for the spouses Mateo Ramiro and Juana Villanueva impute the following errors to the court below:

"1. In holding that the four parcels described in the complaint do not belong to the plaintiff and appellant spouses.

"2. In holding it against the plaintiffs and appellants that their predecessor Justiniano Jaojoco did not file a third-party claim in the execution of the judgment in favor of Estanislao Reyes.

"3. In not taking into account the appellee's admission against his own interests.

"4. In unduly applying the doctrine of res judicata against Clemencia Graño and her assignees, the plaintiffs-appellants, in view of the decision of a case in which none of them took part, and in which the subject matter was quite different; and in not applying said doctrine to the present case against the appellee Estanislao Reyes in view of the decision of another case between himself and Clemencia Graño, the assignor of the plaintiffs and appellants, dealing with the same lands in question.

"5. In not sentencing the defendant-appellee Estanislao Reyes to pay the plaintiffs-appellants damages at the rate of P484.50 per annum from January 18, 1922, and of P204.50 per annum from April 25, 1922, until the four parcels are delivered to the plaintiffs and appellants.

"6. In not having alternately sentenced the defendants and appellees Clemencia Graño and Jose Martinez to repay to the plaintiffs-appellants the selling price of the four parcels."

With respect to the manner in which Estanislao Reyes acquired the four parcels of land which he claimed in these two cases, it appears that they were adjudicated to him, together with two other parcels, at an auction in pursuance of an execution issued in a judgment of the Court of First Instance of Manila, in his favor and against Clemencia Graño (civil case No. 20211 of the Court of First Instance of Manila, and G. R. No. 18910 of the Supreme Court.)(1] It further appears that Estanislao Reyes's ownership of said lands was disputed and passed upon in the case of Martinez vs. Graño (Exhibit L) which reached this court (51 Phil., 287, 301) and where it was decided that said property belonged to Estanislao Reyes. The following is what this court held upon the point:

"From the discussion contained in the briefs, it may be collected that the appellants entertain a belief that the property which Reyes acquired by purchase under execution against Clemencia Graño, as already stated in this opinion, ought to be adjudged to the receivership. It is true that in testifying as a witness in this case Reyes repeatedly insisted that his operations against Graño were conducted in behalf of the owners of the receivership

property. But as we have already shown, he actually acquired title to those lands in his individual right; and in charging him with the credit of P5,215.89 which he used in purchasing said property, we have gone on the assumption that he had acquired a good individual title. The appellants must therefore leave that property to him, and in fact they will hereafter be estopped from questioning his right thereto."

Of the parcels in question, the one marked as realty No. 3 in Reyes's complaint (G. R. No. 82331), and as parcel C in that of the spouses Ramiro and Villanueva (G. R. No. 32296) is already registered in the name of Estanislao Reyes in accordance with the Land Registration Law, Act No. 496 (Exhibits K, K-1).

The errors assigned by the appellants Clemencia Graño and Jose Martinez have not been proved. They come directly under the ruling of this court in the aforementioned case of Martinez vs. Graño (51 Phil., 287 and 301) to the effect that Estanislao Reyes personally acquired and now owns the property in question.

With regard to the claim filed by Jose Martinez to the lots marked as realty No. 2 and No. 4 in Estanislao Reyes's complaint (G. R. No. 32331), in view of the aforementioned ruling of this court cited in the preceding paragraph, it is evident that such a claim will not lie. Furthermore, as to realty No. 4, Jose Martinez has produced no evidence.

Passing now to the assignments of error made by counsel for Mariano Cabanos, claiming lot 30, which is a part of realty No. 1 of Reyes's complaint (G. R. No. 32331), we note that said appellant Cabanos alleges that he purchased it of Jose Martinez on August 18, 1927. When this court held in the above-mentioned case (51 Phil., 287 and 301) that the heirs of Martinez and therefore, Jose Martinez, who is one of them—were in estoppel, such a ruling also affected the successors-in-interest of said Jose Martinez. This defense is alleged in Estanislao Reyes's answer to Jose Martinez's third-party claim.

At any rate, Estanislao Reyes takes precedence over appellant Cabanos as owner of said property, having acquired and registered it in his name long before.

The first assignment of error of appellant Cabanos, even if well taken, would not alter the result of the case.

The court below did not, in our opinion, incur the second assignment of error, for it appears from the record that Mariano Cabanos was aware of Estanislao Reyes's rights over the land. The very deed of sale executed in Cabanos' favor states that the land was assessed in said Reyes's name.

The estoppel referred to in the third assignment of error has been alleged against Jose Martinez, whom Cabanos in his answer acknowledged as his predecessor-in-interest. In that answer Cabanos alludes to the public auction where, according to Reyes's answer to Jose Martinez's third-party claim, said Reyes acquired the property in question. We believe there is enough in the pleadings to justify a holding of estoppel against appellant Cabanos.

With respect to the fourth assignment of error, it must be observed that it is no ground for estoppel to allege that Estanislao Reyes was unaware of his rights to the property in question. This ignorance only ceased to exist when the judgment was rendered in the aforesaid prior case (51 Phil., 287 and 301).

"No estoppel arises where the representation or conduct of the party sought to be estopped is due to ignorance founded upon an innocent mistake. And while there is authority to the contrary, the weight of authority is that the acts and declarations of a party based upon an innocent mistake as to his legal rights will not estop him to assert the same, especially where every fact known to the party sought to be estopped is equally well known to the party setting up the estoppel" (21 C. J., 1125, 1126.)

In support of the fifth assignment of error, counsel for appellant Cabanos alleges that when the property was levied upon and sold to Estanislao Reyes at auction, it belonged not to Clemencia Graño, but to Jose Martinez. It happens that, even if this assertion were true, the money recovered by Reyes in that case from Clemencia Graño,

and for the payment of which the property was put up at auction, was owed to him not by Clemencia Graño personally, but by the heirs of Martinez, including Jose Martinez, predecessor-in-interest of appellant Cabanos, for whose benefit the amount owed to Reyes was by the latter paid in to the Hogar Filipino, on account of and in behalf of said heirs of Martinez.

The objection that the publication preceding the auction was insufficient cannot be considered at this stage of the proceedings, inasmuch as it was not raised in the first instance and does not affect the jurisdiction of the court (Tan Machan vs. Gan Aya de la Trinidad, 3 Phil., 684; United States vs. Inductivo, 40 Phil., 84).

The sixth assignment of error made by appellant Cabanos is a consequence of the preceding ones.

Passing to the appeal taken by the spouses Mateo Ramiro and Juana Villanueva, and that the husband's appeal is for the benefit of his wife as well, it must be remembered that these appellants claim the following property: Lot 3, a part of realty No. 1 of case G. R. No. 32331, which is the only parcel of land claimed in the second case, G. R. No. 32296; parcel A in the latter case, which is realty No. 2 in G. R. No. 32331; parcel B in G. R. No. 32296 only claimed by Isidro Martinez; and parcel C in G. R. No. 32296 which is realty No. 3 in G. R. No. 32331 to which Estanislao Reyes has a certificate of title under Act No. 496.

With regard to lot 3, the appellant-spouses claim to have purchased it of Clemencia Graño on April 25, 1922, when the land had already been adjudicated at auction to Estanislao Reyes on December 17, 1921 (Exhibit E), and was in the latter's possession. The court below rightly found that Estanislao Reyes both acquired and took possession of the land prior to the appellants.

Parcel A or realty No. 2, they claim to have purchased from Clemencia Graño and Jose Martinez on January 18, 1922, when Estanislao Reyes was already in possession thereof, and prior thereto the same had been adjudicated in favor of the latter. He therefore preceded the appellants in acquiring both ownership and dominion of this land.

The latter, however, contend that Clemencia Graño and Jose Martinez had acquired that property from Justiniano Jaojoco on January 18, 1922, the very day on which they sold it to the appellant-spouses, and that Justiniano Jaojoco had bought the land at the public auction held on December 8, 1919, in execution of a judgment obtained by surveyor Francisco Licuanan against Clemencia Graño.

It is a fact that at the time of the auction sale the land was in possession of the receiver Benedicto Martinez, appointed in civil case No. 3002 (Martinez vs. Graño, 42 Phil., 35). Hence, when Justiniano Jaojoco purchased the land at public auction, it was not in the possession of the judgment debtor, Clemencia Graño, and he could not have taken possession of it, because it was in the hands of the receiver, which the latter must have continued to hold until that case was finally decided by this court in August, 1921, declaring that Clemencia Graño did not own either this particular land or the others in question, all of which belonged to the plaintiffs therein, the heirs of Martinez. Clemencia Graño, then, was not the owner of the land sold to Jaojoco in execution of the judgment rendered against her. Since she was not the owner, Jaojoco did not acquire said land at the auction, and could not have sold the same to said Clemencia Graño and to her son Jose Martinez on January 18, 1922. As this last conveyance did not transfer the land to them, neither could they, Clemencia Graño and Jose Martinez, transfer it to the appellant-spouses by the sale thereof on the same date, January 18, 1922.

Therefore, Estanislao Reyes and not appellant-spouses is the owner of the aforesaid parcel of, land marked as A in G. R. No. 32296, and as realty No. 2 in G. R. No. 32331.

The court below held that parcel B belongs to Isidro Martinez, "subject to the decision in civil case No. 4744 now pending," in the words of the judgment appealed from. The appellant-spouses, Ramiro and Villanueva, insist that this parcel having been sold at auction to Justiniano Jaojoco to satisfy a debt contracted by the Martinezes and

Clemencia Graño, all rights of the former, including Isidro Martinez, who is one of them, passed in said auction sale to Justiniano Jaojoco and from the latter to his legal successors, of which the last are the appellant-spouses, Ramiro and Villanueva. But it must be taken into consideration that, according to the judgment rendered in civil case No. 2835 (Exhibit Ramiro A-2) in favor of Francisco Licuanan against Clemencia Graño, the latter's children and nephews had sold to her "their share in the 35 parcels of land surveyed by the plaintiff, and said defendant undertook to pay and did pay all the fees stipulated with the plaintiff." It is thus seen that that judgment was rendered against Clemencia Graño personally, and without including the Martinez heirs, and the writ of execution only applied to her and to her exclusive property. If the property of the Martinez heirs was levied upon in pursuance of the execution of that judgment the same was levied upon and sold at auction, not as if it were their property, but as property belonging to Clemencia Graño, who, according to said judgment, had purchased it of them. It follows, then, that Isidro Martinez, as one of the Martinez heirs, was not affected by that auction, and all of them continued to claim certain rights over those lands even after that auction, and after this court in *Martinez vs. Graño* (51 Phil., 287) held that a portion of the aforesaid property belonged exclusively to Estanislao Reyes. As to parcel B with which we are concerned, Isidro Martinez still claims its ownership.

In view of the litigation pending anent this parcel, as stated in the judgment appealed from, we should abide by the position taken by the court below upon said parcel.

Coming now to the land indicated in case G. R. No. 32296 as parcel C, and in case G. R. No. 32331 as realty No. 3, we have already stated that it has been registered in accordance with Act No. 496 in favor of Estanislao Reyes. The record contains nothing derogatory to the validity of such registration, and the same must stand with full force and effect.

Taking up now the specific points raised by the appellant-spouses' assignments of error, the first is a mere consequence of the others, and upon the preceding conclusions, may be held unjustified.

The second error, if so, does not affect the decision, because even admitting that Jaojoco, or rather his present successors, under section 451 of the Code of Civil Procedure can still enforce their rights, although they did not file a third-party claim at the attachment levied in favor of Reyes, by the same line of reasoning applied to the Martinez heirs, would lead to the conclusion that although they did not file a third-party claim at the auction where the land was sold to Justiniano Jaojoco as if it belonged to Clemencia Graño, they were not precluded from claiming, and they did in fact claim and obtain a final judgment against said Graño in the aforesaid case found in 42 Phil., 35. The result is that neither Jaojoco nor any of his successors acquired any right to the land in question.

With regard to the third error, we have already stated in dealing with Mariano Cabanos' appeal, that Estanislao Reyes's mistake with respect to his acquisition of these lands at the said auction sale, argues nothing against his rights. Under the circumstances it does not lessen his right to these lands acquired by said auction, and subsequently to one of them by the title recorded in his name in accordance with Act No. 496.

The fourth assignment of error is made to consist in having the court below held that the decision of this court in *Martinez vs. Graño* (51 Phil., 287) in so far as it declares that Estanislao Reyes had acquired title to the lands in his individual capacity, constitutes *res judicata* against Clemencia Graño and her assignees, the herein appellant-spouses. Counsel for the appellants contends that that part of the opinion is a mere *obiter dictum*. This is not so. The question involved is Reyes's accounts as receiver, with a balance of P28,249.63 in his favor. If the said lands had been acquired for the Martinez heirs, then Reyes would have been entitled to the whole of this balance; but if, as the court held, those lands were purchased for himself and became his property, then he was not entitled to be reimbursed the P5,215.89 which he paid the Hogar Filipino for the benefit of said Martinez heirs, and that sum had to be, as it was, deducted from the aforementioned balance. Therefore, it was material and essential to decide

in whose behalf Reyes purchased the property. We find no merit in the fourth assignment.

Having reached the conclusions set forth above, we find no justification for the fifth assignment of error.

In the sixth assignment of error, it is alleged that Clemencia Graño by a sale of some land, and together with Jose Martinez by a sale of the rest of the lands included in the complaint filed by the spouses Ramiro and Villanueva, are bound to return to said spouses, the price of the land in question, that is, Clemencia Graño must pay P9,300 and she and Jose Martinez, P2,000. These questions not having been raised before by the parties, the same cannot now be passed upon by this court. Aside from this, warranty will lie in favor of the spouses when the eviction provided in this decision takes place. (Art. 1478, Civil Code.)

The judgment appealed from is affirmed with the costs of this instance against the appellants. So ordered.

Malcolm, Villamor, Ostrand, Johns and Villa-Real, JJ., concur.

[1] Reyes vs. Graño, promulgated December 9, 1922, not reported.

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