

MANUELA MACASAET, PLAINTIFF AND APPELLANT, VS. TOMASA MASONGSONG ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 32480. October 03, 1930*

Ponente: JOHNS, J.

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

Benito Africa was the original owner of the land described in paragraph 5 of the complaint, and in 1882 in a public document duly executed and registered, he made a donation propter nuptias of the land to the defendant, Tomasa Masongsong, who was then his fiancée and later became his wife. That instrument was duly registered in the office of the register of deeds of Batangas, and there is no question about its execution or validity. Even so, in 1906 the grantor, Benito Africa, executed a public document of donation in which he bequeathed the same land in equal parts to his then wife, Tomasa Masongsong, and to his daughters, Natividad Africa and Patrocinio Africa, and to Jose Galo Africa, with the proviso that they should not take possession of it until after his death,, and his then wife, Tomasa Masongsong, now defendant here, was a party to, and joined in the execution of, that instrument. From which it must follow that Tomasa Masongsong and her personal heirs are now estopped to claim or assert title under the donation of propter nuptias which Benito Africa made to her in 1882. That is to say, by the last instrument, the legal title to the land in question became vested in Tomasa Masongsong, Natividad Africa, 'Patrocinio Africa, and Jose Africa in equal parts.

It is admitted that in civil case No. 1399 of the Court of First Instance of Batangas, the plaintiff recovered judgment against Natividad Africa upon which an execution was issued and her interest in the land was sold and bid in by the plaintiff for P3,134.68, and that no redemption was ever made. It is also admitted that on December 27, 1923, the defendants, Tomasa Masongsong, Natividad Africa, Patrocinio Africa, and Jose Africa filed an application in the Court of First Instance of Batangas for the registration of the land in question, and that in the application no statement or reference was made to the fact that the interest of Natividad Africa in the land had been levied upon and sold under execution to the plaintiff, or that plaintiff had any interest in the land. Even so, in that proceedings, a decree and final certificate of title to all the land was issued to, and in the name of, Tomasa Masongsong only, and without any reference to the rights of the plaintiff. It also appears that after such final decree was issued, the land was sold and conveyed to an innocent person for its full value. In that situation, the plaintiff applied for and sought to have a review of the final decree, and to set it aside on the ground that it was obtained through fraud, which motion was denied by the court, and from which no appeal was taken. Plaintiff then brought this action under the provisions of section 38 of Act No. 496 to recover the value of the land from the defendants, Tomasa Masongsong, Jose Africa, Natividad Africa, and Patrocinio Africa, and in case of their insolvency that the amount of the judgment should then be paid out of the Assurance Fund.

The material portions of the section are as follows :

"Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the Court of Land Registration a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal hereinbefore provided. But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. Whenever the phrase 'innocent purchaser for value' or an equivalent phrase occurs in this Act, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value."

It will be noted that at the time of its purchase, on August 21, 1921, plaintiff bid P3,134.68, which was the full amount of the judgment, costs and interest on that date. Neither is there any question that after its registration, the land was sold and conveyed to an innocent purchaser for value and without knowledge of plaintiff's rights. The lower court found as a fact that the final decree of registration was obtained through fraud. It may well be doubted whether the evidence sustains that finding. Although they did not employ an attorney of their own, the defendants, Jose Africa and Patrocinio Africa, testified for the defense at the trial, and among other things Patrocinio Africa testified:

"When application was about to be made for the registration of title to the land donated to our mother, Manuela Macasaet went over to our house, and as we were unwilling to make over that land to her, she told us: 'We must not fall out. I only wanted to collect my credit. You get the title to this land and after selling or mortgaging it, pay me your debt.' And she was in possession for only one week, but we did not give her the possession. We were in Manila, when she took possession of the land. She went alone with a sheriff to the land. When we came back and saw that she had taken a portion which she should not have taken possession of, we held up her possession, pointing out the portion she should have taken, and she did not want the latter portion. She only planted a hundred coconut trees. That is all I can say."

And Jose Africa said:

"When we applied for the registration of title, she was aware of it."

And again he said:

"A. No, sir, because she told us: 'If there is, more trouble, go ahead with the registration of land and pay me.'"

"Q. When did she tell you this?—A. Before the registration of the land title."

This evidence tends to show that the land was registered in the name of Tomasa Masongsong with the knowledge of the plaintiff, under an agreement in and by which after it was registered that it would be sold or mortgaged and the debt of the plaintiff would be paid, which tends to show that there was no actual fraud in the registration of the land.

For such reasons, we are clearly of the opinion that the judgment of the lower court in favor of the Government must be sustained. Based upon this testimony, we are also of the opinion that the plaintiff is entitled to judgment against the defendants, Tomasa Masongsong, Jose Africa, Natividad Africa, and Patrocinio Africa for the amount of her judgment against Natividad Africa for the full amount of her bid at the sheriff's sale on her judgment against Natividad Africa, which on the 21st day of August, 1921, was P3,134.68, together with interest thereon from that date at the rate of 6 per cent per annum; that the judgment should be joint; and that each of the said defendants is liable for, and should pay, the one-fourth of the amount. Plaintiff to have her costs on this appeal

against those defendants. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Ostrand and Villa-Real, JJ., concur.

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