

FELICITAS OLEGA ET AL., PETITIONERS, VS. MAGDALENA GARCIA ET AL., RESPONDENTS.*G.R. No. 33483. August 30, 1930*

Ponente: STREET, J.

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This is an original petition for the writ of certiorari, with injunction, instituted in this court by Felicitas, Rafaela, and Vicenta, of the surname Olega, with whom are joined their three several husbands, against Magdalena Garcia and husband, with whom are joined, in their official capacity, the judge of the Court of First Instance and the sheriff of the Province of Tayabas. The purpose of the proceeding is to quash an execution issued from the Court of First Instance of Tayabas, now in the hands of the respondent sheriff. Upon the filing of the petition in this court a preliminary injunction was granted, upon the giving of bond by the petitioners in the amount of P400, enjoining the respondents from levying the execution referred to. None of the respondents have appeared or answered the petition, and the cause is now¹ before us for resolution upon the allegations of the petition and the facts appearing in the exhibits accompanying the same.

It appears that heretofore a civil action was instituted by the herein petitioners against Magdalena Garcia and husband, Timoteo Santos, the same being civil cause No. 2554 in the Court of First Instance of Tayabas. One of the features of the complaint in said action was that the plaintiffs prayed for an order requiring the defendants to sell to the plaintiffs a lot upon which is located a house belonging to the plaintiffs. As a result of said litigation the court gave judgment, upon this prayer, in favor of the plaintiffs, requiring the defendant Magdalena Garcia to sell said lot to the plaintiffs for the sum of P400. By a subsequent order the court appears to have required the plaintiffs to pay the additional sum of P17.56 as travel expenses incurred by the defendants.

Pursuant to the aforesaid judgment, Magdalena Garcia and husband executed a deed, conveying to the Olegas the lot which had been the subject of the aforesaid litigation for the sum of P400. The Olegas,, however, failed to make the corresponding payment; and on March 24, 1930, Magdalena Garcia and her. husband filed in the court a petition asking for the issuance of a writ of execution to compel the Olegas to pay to the defendants the sum of P417.56, plus the sheriff's fees. Opposition to this petition was made by the Olegas; but in the end the court acceded to the petition and the execution against which the present petition is directed was issued.

As will be noted from the statement above made, the present petitioners, as plaintiffs in civil case No. 2554 of the Court of First Instance of Tayabas, obtained a judgment against the respondents herein, who are also defendants in said litigation, requiring them to sell to the plaintiffs a lot of land; and while the defendants are prepared to consummate the sale, the plaintiffs, in whose favor and at whose instance the judgment was granted, have failed to comply with the obligation imposed by the judgment therein to pay to the defendants the sum of money which was awarded to the defendants as the price of the land. The petitioners now claim that, the judgment having been made" in their favor and not against them, they alone have control of the judgment; and it is insisted that while the plaintiffs might enforce the execution of the judgment, it cannot be enforced against them by the defendants.

This idea is in our opinion untenable. The existence of an obligation implies mutuality of right; and when the Court of First Instance of Tayabas adjudged that the defendant Magdalena Garcia and husband were bound to sell the lot which had been the subject of the litigation to the Olegas for the sum of P400, this implied a legal obligation upon the part of the Olegas to comply with the order to make payment for the lot. It is true that it was not expressed in the judgment that Magdalena Garcia and husband might have execution for the money due to them, but the making of such an order was an appropriate supplemental proceeding; and we are of the opinion that when the trial court, upon the petition of the defendants and against the opposition of the plaintiffs, ordered execution to issue against the plaintiffs, the court was acting within the limits of its jurisdiction.

The petition must therefore be denied and the preliminary injunction heretofore granted will be dissolved. So ordered, with costs against the petitioners.

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

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