

JOSEPH N. WOLFSON, PLAINTIFF AND APPELLANT, VS. ELIAS REYES ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 3456. August 14, 1907*

Ponente: TORRES, J.

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TORRES, J.:

On the 16th of November, 1905, an application, to which several documents were attached, was filed by Joseph N. Wolfson with the Court of Land Registration, requesting registration under the Land Registration Act of property owned by him which consisted of a parcel of land located in 106-112, Calle Solana, Walled City, having an area of 658 square meters and 61 centimeters, bounded as stated in the application, and valued according to the last assessment at \$3,441, United States currency; he further stated that, according to his understanding, said land was not subject to any incumbrance nor was any title to or interest in the same claimed by any person whatever, and that he occupied the property, which he purchased from D. A. J. Gies, and had a man guarding the same.

In spite of the fact that the examiner of titles reported adversely on the title of the applicant, and stated that it could not be registered, the applicant, in his petition dated December 22, 1905, insisted upon his request and expressed his desire to proceed with his application for the registration of the land above referred to.

On the same date Lorenzo D. Holden stated in writing, on behalf of Findlay & Co., that he agreed to the registration of the title filed by Wolfson, the applicant, and moved that the same be recorded subject to a mortgage in favor of Findlay & Co., his principals.

On the 30th of January, 1906, Elias C. Reyes filed a petition objecting to the registration requested by Wolfson, and prayed that his opposition be considered and the registration denied, alleging that the land or building lot in question, located at 106 Calle Solana, Walled City, was the property of Lorenzo Fernandez, deceased, who while living in February, 1890, appointed the petitioner as custodian of said lot, and promised him monthly compensation therefor, but that a few months later Fernandez died at the Hospital of San Juan de Dios; that in November, 1905, the petitioner requested the Court of First Instance to issue letters of administration to the estate of Fernandez, who died intestate; and that by an order of the court, under date of the 2d of December, he was appointed judicial administrator of the same, and that upon taking the oath he entered upon his duties on the 7th of the said month of December, the said building lot being the only piece of real estate which constituted the patrimony of the late Lorenzo Fernandez, according to the inventory filed in court on the 28th of December, 1905.

On the 12th of February, 1906, Edmond Block, acting attorney for the city of Manila, on behalf thereof, objected to the registration and moved that the same be denied, on the ground that the late Fernandez, owner of the said lot, died intestate in this city toward the year 1890, leaving no heirs or any person to lawfully succeed him, and that for this reason the city of Manila considered itself entitled to the said building lot.

On the 16th of February, in the same year, a legal entity known as "Obras Pias de la Sagrada Mitra del Arzobispado de Manila," through its attorneys Hartigan, Rohde & Gutierrez, petitioned in writing that in the event that the registration asked for were granted the same be made out subject to a lien, the conditions of which were

stated in the deed whereby it had been constituted; the reason for this petition, as alleged, was that a real right existed against the said property, under the lien executed by Antonio Pereyra on the 21st of July, 1821, for \$2,601, gold, in favor of the Obras Pias, as entered at folio 72 of the book of the old anotaduria (office of the recorder of mortgages) for the years 1820-1825; that by means of subsequent writings the lien has been recognized by the successive owners of the property, to wit, Angela Isaac, on the 6th of March, 1829, before Juan Castillo; and Ignacio Ponce de Leon, on the 16th of January, 1841; and that not having been redeemed, it continues in force at the present day.

The case came on for hearing by virtue of said petition and the judge of the Court of Land Registration rendered judgment on the 10th of April, 1906, denying the application of Joseph N. Wolfson, and in view of the nature of the decision, the opposition offered by the Obras Pias and the city of Manila were not considered. As against this final judgment exception was taken by the applicant, who in addition moved for a new trial on the ground that the decision was contrary to law and to the weight of evidence. He has now asked for a rehearing, and with the appeal has filed the corresponding bill of exceptions.

It is an acknowledged legal doctrine that a person can only transfer such title as he himself has, and in no case that of another without the consent of the latter.

A contract of purchase and sale is one of the legal means whereby the ownership of a thing may be conveyed to a third party, who by virtue thereof enters into and enjoys the rights and privileges of owner; but no rights are thus transferred except those of the vendor, and the sale is subject to existing incumbrances. "The vendee is subrogated to the rights of the vendor." (Art. 1511, Civil Code.)

There is no evidence in this cause showing that Elias C. Reyes was the owner of the land said to have been sold by the latter to Anthony J. Gies; therefore, notwithstanding the contents of the documents signed by the said Reyes in favor of Gies, the pretended purchaser, the latter could not have acquired any right of ownership, for the reason that no such right was ever transferred to him.

Article 1953 of the Civil Code reads: "The title for prescription must be true and valid." Reyes had no such title. For this reason, even if it were true that he enjoyed possession of the land during twelve years, the said possession was exercised under some right other than that of owner. Therefore no title could have been acquired by prescription under the circumstances.

It is a well-known legal principle that a coheir, lessee, agent, or any other person possessing a thing placed in his charge by the owner thereof, can not acquire any rights therein by prescription, because of the lack of title and good faith, and for the reason that he holds possession on behalf of the lawful owner.

And if Anthony J. Gies did not acquire any legal rights of ownership by the transfer from the supposed vendor, Reyes, it follows that the said Gies could not convey any such rights to Wolfson, the applicant, who pretends to be the purchaser of the property. It is not, therefore, proper to grant the registration applied for by him, for the reason that he is not the owner of the land in question, and is not the holder of a lawful title which may be recorded in the Court of Land Registration in accordance with the law.

For the reasons above set forth, and in view of the fact that the judgment appealed is just and lawful we are of the opinion, that it should be affirmed with the costs against the appellant. So ordered.

Arellano, C. J., Johnson, Willard, and Tracey, J., concur.

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