

CARMEN GUERRERO ET AL., PLAINTIFFS AND APPELLEES, VS. ANDREA GUERRERO ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 35414. November 01, 1932

Ponente: VICKERS, J.

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VICKERS, J.:

This is an appeal by the defendants from a decision of the Court of First Instance of Ilocos Norte annulling the sale of the two-fourths interest of Carmen Guerrero and Vicenta Guerrero in certain jewelry and parcels of land made by the deputy sheriff of that province, on the ground of the insufficiency of the price for which the property was sold.

The appellants Serafma Guerrero and Proceso Coloma allege that the lower court erred:

- In holding that the price was inadequate;
- In setting aside the sale made by the sheriff;
- In denying the motion for a new trial.

The other defendants make the following assignment of errors:

"I. El Juzgado inferior erro al no haber sobreseido la demanda en lo que respecta a los titulados 'terceristas', por carecer estos de derecho de accion.

"II. El Juzgado inferior erro al declarar que 'la cuantia de la fianza prestada de P4,000, es, relativamente, desproporcionada al valor de dichos bienes inmuebles bajo cualquiera condition que se aprecie'.

"III. El Juzgado inferior erro al declarar, por medio del Honorable Juez Auxiliar Bernardo de la Peiia, 'que existiendo prueba de la falta de equidad en la venta, y siendo manifiesta la insuficiencia de los precios que repugna a la conciencia del Tribunal, este, entiende, que no debe mante-nerse la venta'.

"IV. El Juzgado inferior erro al declarar, por medio del citado Juez Auxiliar, que 'no puede sostenerse la venta judicial practicada por el Delegado Sheriff, y al declarar nulas dichas ventas, cuando las ejecutadas segun sentencia tenian el derecho de redimir los bienes inmuebles vendidos en dicha subasta y la amplia oportunidad de ejercitar tal derecho'.

"V. El Juzgado inferior erro al invocar, indebidamente, como justificante de la decision apelada, el caso del Banco Nacional Filipino contra Gonzalez, 45 Jur. Fil., 728.

"VI. El Juzgado inferior erro al denegar la mocion de reconsideracion y de nueva vista presentadas en la presente causa por la representacion de los aqui demandados."

Andrea Guerrero died during the pendency of this action, and on February 18, 1932 was substituted by her heirs, Salvador, Rosa, and Tomas Lampitoc.

The defendant Serafina Guerrero also died during the pendency of this action, and was substituted by the

administrator of her estate, Froilan E. Samonte.

It appears from the evidence that in civil case No. 2528 of the Court of First Instance of Ilocos Norte an execution was issued against the property of Carmen and Vicenta Guerrero for the satisfaction of a judgment for P3,634 in favor of Andrea and Serafina Guerrero. In pursuance of this execution Pantaleon Sinay, deputy sheriff of Ilocos Norte, levied upon and sold at public auction in accordance with the law the two-fourths interest of Carmen Guerrero and Vicenta Guerrero in certain jewelry and real property.

The, plaintiffs other than Carmen and Vicenta Guerrero filed third party claims to the property, and on demand of the sheriff the execution creditors gave him an indemnity bond for P4,000. The sheriff then proceeded with the sale.

The defendants Proceso Coloma, Miguel Guieb, Monica Madamba, and Clemencia de los Santos were purchasers at the sale.

The plaintiffs alleged that the sale should be set aside because of various irregularities and the insufficiency of the price. The trial judge found that the alleged irregularities were not proved, but set aside the sale on the sole ground of the insufficiency of the price for which the interest of the judgment debtors in the land and jewelry was sold. The plaintiffs did not appeal. It is therefore unnecessary to refer to the various alleged irregularities discussed in the brief of their attorney. There was clearly a misjoinder of parties plaintiff. The property was sold as the property of the plaintiffs Carmen and Vicenta Guerrero, who allege that the price was inadequate. The terceristas were also included as plaintiffs, and notwithstanding their claim to be the owners of the property that was sold to satisfy the judgment against Carmen and Vicenta Guerrero, they too now complain that the price was insufficient. The contention of the terceristas is inconsistent and untenable.

The property consisted of sixty small parcels of land and twenty-six pieces of jewelry. Each of the judgment debtors had an undivided one-fourth interest in the property. The assessed valuation of the land was P17,010, and the jewelry was alleged to be worth P2,500. The interest of the judgment debtors in the jewelry was sold for P67, and their interest in the land for P3,463, making a total of P3,530. The property was sold in separate lots, and there

were various bidders. As already indicated, different portions of the property were bought by five different persons.

The interest of the judgment debtors in the jewelry was, as might have been anticipated, sold for merely a nominal sum.

The trial court declared the market value of the land to be P23,000, but the important fact to be kept in mind is that not the whole property was being sold, but only the two-fourths interest of the judgment debtors. The value of their interest according to the assessed valuation was P8,505. It was sold for P3,463. That sum was not so disproportionate to the assessed value or the alleged market value, under the circumstances of this case, as to justify the trial court in setting aside the sale. It is not proved that the interest of the judgment debtors in these sixty small parcels of land could have been sold for a higher price, or that there was any fraud in the sale.

In the case of the Philippine National Bank vs. Gonzalez (45 Phil., 693), the assessed value of the land was P45,940. It was sold at sheriff's sale for P15,000. The trial court first confirmed the sale and then set it aside because of the inadequacy of the price. This court reversed the judgment of the trial court, and held that "in the absence of other evidence of its unfairness, a judicial sale of real property will not be set aside for inadequacy of price alone, unless the inadequacy be so great as to shock the conscience of the court."

In the case at bar the judgment debtors had the right to redeem the property within one year or to sell their right of redemption. They did not therefore in any event suffer any irreparable injury, if any injury at all.

For the foregoing reasons, the decision appealed from is reversed, and the sale in question is affirmed, with the costs in favor of the appellants.

Avanceña, C. J., Street, Malcolm, Ostrand, Villa-Real, Abad Santos, Hull, Imperial, and Butte, JJ., concur.

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