

IGNACIO ACASIO, PLAINTIFF AND APPELLANT, VS. FELICISIMA ALBANO, DEFENDANT AND APPELLEE.

G.R. No. 3606. March 18, 1908

Ponente: MAPA, J.

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MAPA, J.:

We consider that the following facts have been proven in the present action:

- That the land in litigation originally belonged to a certain Castora Sales, who sold it to Federico Martinez in September, 1881.
- That Federico Martinez exchanged the land for another parcel, which was the property of Andres Albano, which exchange took place in January, 1884.
- That when Albano became the owner of the land in question, by virtue of such exchange, he sold it to the plaintiff herein, on the 8th of March, 1894, for the sum of 160 pesos, although Albano continued to retain the material possession of the same, because at the time when the sale was made it was stipulated that the latter would lease the property.

The proof of these facts is contained in Exhibits A and B, and the testimony of the witnesses offered by the plaintiff. Exhibit A is the document which substantiates the sale made by Albano¹ to the plaintiff, and it has been recognized as the genuine instrument by the witnesses who subscribed it and who were present at its execution. Albano was unable to recognize it because he died before the hearing took place.

In his decision the judge says that—

"(1) The ownership of the land described in the complaint had been adjudicated to Felicisima Albano (the defendant) in an action brought against Andres Albano; (2) that even though the plaintiff, Ignacio Acasio had purchased, the said land from Andres, there is now no reason to vacate the former adjudication or judicial declaration, because the right of the purchaser, who may have lost the purchased thing, against the vendor is fixed by the law; and (3) that the plaintiff may bring such action as he may be entitled to against Andres Albano, but he can not bring an action for recovery against the defendant, who considered that she was the owner, a title that she obtained after the corresponding trial."

Basing his opinion on the foregoing statement, the judge found for the defendant and dismissed the complaint with costs against the plaintiff.

As a matter of fact the only proof offered by the defendant of her pretended title to the land in question was a certified copy of the judgment rendered on the 24th of February, 1905, in the suit brought by her against Andres Albano, whereby she was declared to be the owner of the land that was the subject of said action, the court ordering that the land be delivered to her. This judgment was entered by default against the defendant, Andres Albano, who did not appear at the trial.

This latter action was only between Felicisima Albano and Andres Albano; the present plaintiff, Ignacio Acasio, was not a party thereto. For this reason the judgment entered therein does not prejudice the latter, nor can it prejudice him because it is only conclusive between the parties litigating and their principals, and not as to a third party who is entirely foreign to the suit, following the provisions of section 306, paragraph 2, of the Code of Civil Procedure. It is axiomatic in law that no person shall be deprived of the ownership or possession of a thing without being previously heard and defeated in an action. In view of the fact that it has been proven that the land in question was acquired by the plaintiff by purchase in 1804, he can not be deprived of the same, as would be the case were the theory maintained by the trial judge to prevail, by virtue of a decision rendered exclusively against the person who sold it to said plaintiff in an action instituted in 1905; that is, eleven years after the purchase was made. The said judgment can not constitute a conclusive and final defense in favor of the defendant herein; therefore, an error of law was committed by the court below when finding to the contrary in the judgment which is the subject of this appeal.

The judgment appealed from is "hereby reversed, and the defendant is hereby ordered to make restitution of the land in question to the plaintiff, without any special ruling as to costs in both instances. So ordered.

Arellano, C. J., Torres, Johnson, Carson, Willard, and Tracey, JJ., concur.

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