

MANUEL COUTO SORIANO, PETITIONER AND APPELLEE, VS. BLAS CORTES, RESPONDENT AND APPELLANT.*G. R. No. 3628. August 30, 1907*

Ponente: WILLARD, J.

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The appellee filed a petition in the Court of Land Registration asking that a tract of land therein described, situated in the city of Iloilo, be registered in his name. Blas Cortes appeared in the court below and opposed the petition, alleging that he was the owner of the land. Judgment was entered in favor of the petitioner and from that judgment Blas Cortes has appealed.

The petitioner derives his title from Baldomero Sola by a deed dated the 30th of December, 1896, and recorded in the registry of property of Iloilo on the 2d of January, 1897. In this deed the grantor, Baldomero Sola, states that he acquired the property by purchase from Blas Cortes in the month of August, 1894.

It thus appears that there is a common source of title and the important question in the case is whether or not Blas Cortes sold the land to Baldomero Sola. There is no written evidence of such sale. That Baldomero Sola procured a possessory title to said land on the 23d day of November, 1896, is, we think, clearly proven. The documents relating thereto were recorded in the registry of property on the 30th of November, 1896. But these documents could not in any way constitute a written contract of sale between Blas Cortes and Baldomero Sola, although Blas Cortes was present when the proceedings were taken in the Court of First Instance and gave his assent thereto. It could not constitute the public document which is mentioned in article 1280, paragraph 1, of the Civil Code.

The only contract of sale then was a verbal one, and the question to be decided is whether a verbal contract of sale of real estate in 1896 was valid according to the laws then in existence. That a contract of that kind now made could not be enforced is apparent from the reading of section 335, paragraph 5, of the Code of Civil Procedure. The only provision of the Civil Code requiring such a contract to be in writing which has been called to our attention is said paragraph 1 of article 1280. The provisions of that article were discussed by this court in the case of *Thunga Chui vs. Que Bentec* (2 Phil. Eep., 561), and it was there held that a contract required by said article 1280 to be in writing was, nevertheless, valid and produced legal effects between the parties although it was made verbally. It was there considered that this effect was given to such oral contracts by article 1278, and although it might be necessary for the party seeking to enforce such verbal contract to take some action under article 1279 to secure the execution of the proper documents, yet this requirement did not render the contract invalid.

Applying the principles of that case to the present case, it follows that a verbal contract, if made between Blas Cortes and Baldomero Sola, was valid. (See also *Fortis vs. Gutierrez Hermanos*, 6 Phil. Rep., 100; *Irureta vs. Tambunting*, 1 Phil. Rep., 490.)

Upon the question of fact whether such contract was or was not made, the evidence is conflicting. We have examined all of it and we can not say that it preponderates against the findings of the court below, which was to the effect that such contract existed.

The appellant suggests in his brief that even if he had no title to the property, nevertheless there was no proof that the petitioner had any title, inasmuch as there was no proof that he, Blas Cortes, was ever the legal owner of the land, and he claims that in cases of this kind the first question to be examined by the court relates to the petitioner's title, and that if he has no title it is not necessary to consider whether the respondent has or has not. This involves a consideration of Act No. 496, which established the Court of Land Registration. Section 34 of that act is as follows;

"Any person claiming an interest, whether named in the notice or not, may appear and file an answer on or before the return day, or within such further time as may be allowed by the court. The answer shall state all the objections to the application, and shall set forth the interest claimed by the party filing the same, and shall be signed and sworn to by him or by some person in his behalf."

Stated in other terms the question is, whether, if a person who was not mentioned in the petition in any way appeared and demurred to the petition, this demurrer would give him any standing in the court. This question has been recently examined in this court and decided in the case of Roxas vs. Cuevas [1] (5 Off. Gaz., 561). It was there held that to give a respondent any standing in the Court of Land Registration he must make some claim to the property. That case is decisive of this one.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. So ordered.

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

[1]Page 469, post.

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