

PABLO DEL ROSARIO, PLAINTIFF AND APPELLANT, VS. VALENTIN MALLARI ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 37459. March 27, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

Pablo del Rosario brought this action in the Court of First Instance of Tarlac principally to seek the annulment of certain deeds of sale executed by him in favor of Valentin Mallari and by the latter in favor of Agustin Cuyugan. The following remedies were prayed for in the complaint:

"(a) That the said deed of sale of the said lot No. 818 and its improvements supposed to have been signed by Pablo del Rosario in favor of Valentin Mallari on November 14, 1923, be declared fraudulent, null and void ab initio;

"(b) That the supposed deed of sale of the same land and its improvements signed by Valentin Mallari in favor of Agustin Cuyugan on January 11, 1928, be also declared null and void;

"(c) That the register of deeds of Tarlac be ordered to cancel the said transfer certificate of title No. 1930 in the name of Agustin Cuyugan, and all annotations or inscriptions in his office relative to said lot No. 818 and its improvements in favor of either Valentin Mallari or Agustin Cuyugan;

"(d) That the register of deeds of Tarlac be ordered to issue another certificate of title of the said lot No. 818 with its improvements in favor of Pablo del Rosario, married to Maria Asuncion, and residing at Concepcion, Tarlac, P. I., free from any lien;

"(e) That the possession of the said lot No. 818 with its improvements be legally restored to the herein plaintiff;

"(f) That all the defendants be condemned to pay, jointly and severally, to the plaintiff the sum of two thousand pesos (P2,000), Philippine currency, as damages; and the further sum of two thousand pesos (P2,000), Philippine currency, as damages, a year until the possession of the said lot No. 818 and its improvements, his belongings, and his house shall be legally restored to the herein plaintiff; and

"(g) For costs and equitable relief."

After the trial, the court absolved all the defendants, with costs, and the above-named plaintiff appealed from said judgment.

The appellant and Pedro N. Liongson each claimed lot No. 818 in the Cadastral Proceeding of Tarlac, G. L. R. O. Record No. 187. The court ordered its registration in the name of Pablo del Rosario, and upon appeal, said order was affirmed by this court.[1]

After the record had been remanded to the Court of First Instance of Tarlac, the appellee, Mallari, alleging to be the owner of the aforementioned lot No. 818 by virtue of the deed of sale, Exhibit H, alleged to have been

executed in his favor by Del Rosario on November 14, 1923, filed a motion in court praying that immediately after the issuance of the final decree of the court thereof, the register of deeds of Tarlac be directed to issue a certificate of title in favor of Bel Rosario, then to cancel the same, and in lieu thereof to issue another certificate of title in his (Mallari's) name. Del Rosario was not notified of such motion but the court sustained it and granted the relief sought therein.

On January 11, 1928, Mallari resold said lot No. 818 to the other appellee, Agustin Cuyugan, for the sum of P28,000, executing the corresponding deed of sale. In view of this last transfer, Mallari and Cuyugan succeeded in having the register of deeds of Tarlac issue certificate of title No. 37921 in favor of Del Rosario, cancel the same, and issue transfer certificate of title No. 1930 in favor of Cuyugan without first issuing any certificate of title in favor of Mallari.

Upon being informed of the cancellation of his certificate of title and the issuance of another in favor of Cuyugan, Del Rosario filed a motion in the cadastral proceeding for the revocation of the order providing for the aforementioned cancellation and the issuance of the new transfer certificate of title. He alleged as his grounds that he was not notified of the motion to that effect and that the deed of sale, Exhibit H, alleged to have been executed by him in favor of Mallari, was false and fraudulent. The court accordingly set a date for the hearing of the motion and the presentation of evidence but as Del Rosario did not appear or present his evidence on that date, the court denied his motion and confirmed its previous order authorizing the register of deeds to cancel Del Rosario's certificate of title and to issue a new one in favor of Mallari. Pablo del Rosario then appealed from said orders to this court and his appeal was registered under G. R. No. 30425.[1] After a review of the appeal, this court affirmed the orders appealed from, holding that even if the first order were defective, it was ratified and confirmed by the second, and that Del Rosario had expressly waived the presentation of evidence to support his allegation that the deed of sale executed by him in favor of Mallari was fraudulent.

After receiving his transfer certificate of title No. 1930, Agustin Cuyugan filed a motion in the said cadastral proceeding praying that he be placed in possession of the land in question. Neither was Del Rosario notified of this motion but, in spite of such omission, the court issued the corresponding writ of possession. Del Rosario then applied for a writ of certiorari in this court, which was registered under G. R. No. 33169.[2] He alleged as his grounds that he had not been notified of the motion for a writ of possession; that Cuyugan was not entitled to the possession of the land; that the deeds of sale executed in favor of Cuyugan and Mallari were fraudulent and that the court should not have issued the writ of possession on the ground that its order for the hearing of his other motion and the presentation of evidence therein was still in force and the question of fraud still pending. After hearing and consideration of the petition for the writ of certiorari, the same was denied by this court, with costs, on the ground, as already stated in the decision in case G. R. No. 30425, that Del Rosario had voluntarily refused to present evidence to substantiate his allegation of fraud and that the trial court's order directing the issuance of certificate of title in favor of Mallari and giving the possession of the land to Cuyugan, were valid and had become final.

With respect to the appeal now under consideration, the trial court found that the evidence showed that Mallari did not fraudulently obtain the deed of sale, Exhibit H, and that the other deed of sale executed by him in favor of Cuyugan is likewise valid.

The appellant assigns the following alleged errors in the judgment appealed from:

"I. The trial court erred in not declaring fraudulent, false and null and void ab initio the sale for P6,000 of the land in question, lot No. 818, evidenced by the deed, Exhibit H, alleged to have been executed on November 14, 1923, by the plaintiff herein, Pablo del Rosario, in favor of the defendant, Valentin Mallari.

"II. The trial court erred in not declaring that the defendant, Valentin Mallari, never considered himself a true owner and absolute possessor of the land in question, lot No. 818, by reason of the fraud committed by him in the execution of the document, Exhibit H.

"III. The trial court erred in not declaring that whatever real right the defendant, Valentin Mallari, might have acquired over lot No. 818 by virtue of his alleged deed of sale Exhibit H was extinguished; and likewise erred in not holding that the Torrens Title to said lot, obtained by Pablo del Rosario, is superior to any other previous title of Valentin Mallari.

"IV. The trial court erred in not declaring that the defendant, Valentin Mallari, as well as his attorney Salvador Barrios, are actually in estoppel by laches in insisting in their futile claim that the alleged deed of sale of the land in question, Exhibit H, was duly executed by Pablo del Rosario in favor of Mallari.

"V. The trial court erred in not applying in this case the doctrine of stare decisis with respect to the alleged rights and interests of the defendant, Valentin Mallari, in the land in question, lot No. 818, the possession and ownership of which was discussed and definitely decided in cadastral case No. 9, G. L. R. O. Record No. 187 of the Court of First Instance of Tarlac; and likewise erred in not declaring that the question of ownership of lot No. 818 constitutes res adjudicata between Pablo del Rosario and his alleged successor in interest, Valentin Mallari. "VI. The trial court erred in declaring that the defendant, Valentin Mallari, did not take possession of the land in question because the plaintiff, Pablo del Rosario, would not turn it over to him.

"VII. The trial court erred in declaring that the evidence presented by the plaintiff, Pablo del Rosario, is not sufficient to overcome the presumption that Exhibit H, as a public document, was duly executed and that the same is genuine, valid and effective, basing its decision on the cases of Asido vs. Guzman (37 Phil., 652), and Naval vs. Enriquez (3 Phil., 669).

"VIII. The trial court erred in declaring that there is nothing in the record which would cast a doubt to the testimony of the notary, Barrios, and in holding that he is not capable of committing the falsification imputed to him by the plaintiff, based on the latter's mere opinion.

"IX. The trial court erred in not declaring fraudulent, and null and void ab initio the alleged sale of the land in question for P28,000 evidenced by the document, Exhibit 33, alleged to have been executed on January 11, 1928, by the defendant, Mallari, in favor of his co-defendant Agustin Cuyugan; and likewise erred in not holding that the transfer certificate of title No. 1930 corresponding to said lot No. 818, issued in the name of Agustin Cuyugan, is illegal and null and void.

"X. The trial court erred in not holding that the defendant, Agustin Cuyugan, is a negligent purchaser in bad faith of the land in question.

"XI. The trial court erred in not ordering the defendants to pay jointly and severally to the plaintiff herein the sum of P2,000 as damages for each agricultural year from February 5, 1930, when the latter was ousted from the land in question, to the date the same, together with the building thereon, is returned to the aforementioned plaintiff.

"XII. The trial court erred in not granting the motion for a new trial filed by the plaintiff and in absolving the defendants from the complaint herein, with costs against the plaintiff."

The first ten assignments of error all deal with the appellant's contention that the deed of sale executed by him in favor of Valentin Mallari is fraudulent and that the transfer certificate of title No. 1930 issued in favor of Cuyugan is null and void, having been obtained through a motion of which he had never been notified. To refute all of them, suffice it to say that the questions raised in this appeal have already been discussed and decided in cases Nos. 30425 and 33169 mentioned at the beginning of this decision. Furthermore, if the judgments rendered in those two cases do not constitute res judicata for lack of identity of cause of action, they are, nevertheless, binding

upon the appellant under the doctrine of stare decisis. The same questions now raised by the appellant have been discussed in both cases wherein this court held valid the trial court's orders by virtue of which the certificate of title issued in favor of the said appellant was cancelled and in lieu thereof transfer certificate of title No. 1930 was issued in favor of Cuyugan who was given possession of the lot No. 818. To permit the appellant to maintain the action upon which the present appeal is based would be tantamount to considering and deciding for the third time the very same questions already discussed and decided. This procedure is untenable in good practice, for if it were followed litigations in the courts would never cease.

Even taking for granted that the judgments rendered by this court in cases Nos. 30425 and 33169 are not binding upon the plaintiff Del Rosario in the case at bar, we agree with the trial court that the evidence presented herein does not support his claim that the sale of the land in question effected by him in favor of Mallari was fraudulent; and that a clear preponderance of evidence establishes beyond a doubt that the transfer thereof was made legally and with the aforementioned plaintiff's full knowledge.

The rest of the assignments of error are mere corollaries of the previous ones and need no further discussion in view of the fact that the preceding conclusions, which are adverse to the appellant's claim, have already been reached. The judgment appealed from is hereby affirmed, with costs against the appellant. So ordered.

Villamor, Ostrand, Villa-Real, and Vickers, JJ., concur.

[1] G. R. No. 26701. Director of Lands vs. Aguilar, promulgated December 13, 1927, not reported.

[1] Director of Lands vs. Aguilar, promulgated December 28, 1929, not reported. [2] Del Rosario vs. Recto and Cuyugan, promulgated December 6, 1930, not reported.

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