

FELIPE BUENCAMINO, JR., PLAINTIFF AND APPELLEE, VS. FLAVIANO BANTUG, IN HIS CAPACITY AS DEPUTY SHERIFF OF NUEVA ECIJA, AND JUAN DE DIOS OCAMPO, DEFENDANTS AND APPELLANTS.

G.R. No. 37849, October 05, 1933

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

The plaintiff herein brought this action in the Court of First Instance of Nueva Ecija to have himself declared the owner of a rice field situated in Palanas within the barrio of Santa Rita, in the municipality of Cabiao, Nueva Ecija, known as lot G of the subdivision plan Psd. 3339, and to restrain the defendant sheriff from selling it at public auction by virtue of a writ of execution obtained by the other defendant.

The defendants herein appealed from the judgment rendered by the trial court, the dispositive part of which reads as follows:

"Wherefore, the court is of the opinion and so holds that the writ of preliminary injunction issued in this case against the defendants, their attorneys, agents and all persons acting in their behalf, should be declared final and permanent, that they must henceforth abstain from selling at public auction the land which is the subject matter of the complaint herein. The attachment levied on the land in question is hereby dissolved and declared null and void and, therefore, of no effect, and the annotation thereof on the corresponding certificate of title is likewise ordered cancelled. The damages amounting to P500 which the plaintiff claims in the complaint cannot be allowed on the ground that they have not been proven during the trial. With respect to the counterclaim of the defendant Juan de Dios Ocampo, the plaintiff Felipe Buencamino, jr., is hereby absolved therefrom, without any pronouncement as to costs. It is so ordered."

The land in question, together with other lands, originally formed part of the real property belonging to Mariano Llanera, described in the certificate of title No. 30. On March 12, 1929, Mariano Llanera sold it, together with other parcels of land, to his daughter-in-law, Clara Lazaro Vda. de Llanera, for the sum of P15,000. The corresponding deed of sale was not recorded in the registry of deeds until November 25, 1930. On July 11, 1929, Clara Lazaro, widow of Salvador Llanera, in turn, sold the land for the same amount to the herein appellee who recorded the deed of sale executed therefor on the said date of November 25, 1930. On June 21, 1927, the appellant herein, Juan de Dios Ocampo, obtained a judgment against Mariano Llanera for the sum of P4,710 in civil case No. 4071 of the Court of First Instance of Nueva Ecija. This judgment was affirmed by this court on September 15, 1928.[1] Upon issuance of the corresponding writ of execution, the appellant sheriff attached the real property in question and advertised the sale thereof at public auction on a certain date. The appellee herein filed a third party claim thereto and, inasmuch as it was denied, he brought the action which gave rise to the present appeal.

As may be seen, Clara Lazaro Vda. de Llanera and the appellee herein acquired the real property in question after judgments had been rendered against Mariano Llanera. This circumstance creates the legal presumption that such conveyances were made in fraud of creditors, in accordance with, the provisions of article 1297 of the Civil Code.

This presumption, however, is not conclusive and may be rebutted, as we believe has been done, by means of satisfactory and convincing evidence. After reviewing all the evidence presented, we have reached the conclusion that both acquisitions were made in good faith, without the least intention of impairing the judgment obtained by Ocampo against Mariano Llanera in civil case No. 4071. There is not the least shadow of a doubt but that Clara Lazaro, as well as the appellee herein, paid the price of P15,000 therefor, and that both bought the land in the belief that Mariano Llanera could freely dispose of it, as he did in view of the fact that it was not included in said civil case No. 4071. The belated registration of the deeds of conveyance does not impair the validity and efficacy thereof, inasmuch as the records show that all the essential requisites of the law therefor have been complied with. It necessarily follows, therefore, that when the sheriff-appellant attached the real property in question, it no longer belonged to the judgment debtor Mariano Llanera.

The contention that the appellee herein could not legally acquire the real property in question on the alleged ground that he is one of the attorneys of Mariano Llanera, being a member of the law firm that represented him in the suit brought against him, is likewise of no merit, inasmuch as the real property in question was not the subject matter of said litigation and, therefore, the said prohibition did not include the herein appellee.

Wherefore, not finding in the judgment appealed from any of the errors assigned, it is hereby affirmed, with the costs against the appellants. So ordered.

Malcolm, Villa-Real, Abad Santos, and Hull, JJ., concur.

[1] G. R. No. 28911, Llanera vs. Galang, not reported.

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