

DATU BUALAN ET AL., PLAINTIFFS AND APPELLANTS, VS. JUAN A. SARENAS, DOMINGO BRAGANZA AND ARSENIO E. ATIENZA, DEPUTY SHERIFF OF DAVAO, DEFENDANTS AND APPELLEES.*G. R. No. 39442. November 19, 1936*

Ponente: CONCEPCION, J.

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This is an action to have the sale at public auction of two parcels of land situated in Sirawan, Davao, Davao, known as lots Nos. 107 and 700 of the cadastre of said province, declared null and void, praying for the transfer in favor of the plaintiffs of the title of ownership of the first lot which two of the defendants had succeeded in registering in their name.

The plaintiffs, all Bagobos, brought an action in the Court of First Instance of Davao to recover the hacienda Sirawan, composed of the two parcels of land in question, from Ciriaco Lizada. They won the case in both instances but when they went to take possession of the hacienda, they found that their attorneys Juan A. Sarenas and Domingo Braganza had preceded them and were appropriating the fruits thereof. They brought civil case No. 607 against said attorneys to recover said property from them. The defendants alleged that they had really taken possession of the lands because by virtue of a contract of fees entered into between them and the Bagobos, upon winning the recovery suit against Ciriaco Lizada they would become the owners of two-thirds of the hacienda pro indiviso with the plaintiffs. This second suit was compromised by means of an amicable settlement between the parties whereby judgment was rendered by the court on January 18, 1927, ordering the defendants to return said lots Nos. 107 and 700 to the plaintiffs and sentencing the plaintiffs, in turn, to pay to the defendants the sum of P6,000 as fees in the aforesaid suit for recovery of possession. On April 27, 1927, the plaintiffs paid the sum of P5,126.13 to their attorneys, on account of the P6,000 adjudicated to the latter, and the sum of P1,035.87 to the municipal treasurer of Davao as land tax on the two lots in question for the year 1926, which the defendants had failed to pay while they were in possession as alleged owners thereof. Both sums amounting to P6,126, include not only the amount of the judgment of P6,000 but also the interest thereon at 12 per cent per annum. The defendants, thinking that they were not obliged to pay for the land tax, protested against the payment thereof and succeeded in having the clerk of court of Davao issue a writ of execution for the sum of P1,053.87 in said civil case No. 607, on October 13, 1927. Under said writ of execution, lot No. 107 was attached and sold at public auction to the defendant Juan A. Sarenas for the sum of P600, the sheriff issuing the deed of absolute sale thereof on August 30, 1929. For the balance of P553.87 to complete the sum of P1,053.87 which had been paid for land tax, the defendants obtained an alias writ of execution dated March 19, 1930, whereby the other lot No. 700 was attached and sold at public auction by the sheriff to said defendants Juan A. Sarenas and Domingo Braganza, for the sum of P877.25, the sheriff issuing the deed of absolute sale thereof on June 23, 1931.

Prior thereto, said attorneys had applied for the registration of the two lots in question in the name of their then clients, the plaintiffs, but after they had purchased the lots at public auction, they applied for the registration thereof in their name in cadastral case No. 1 of Davao, without the plaintiffs' knowledge. The registration of lot

No. 107 in their name was decreed on March 24, 1930, whereupon original certificate of title No. 725 was issued on December 10, 1930, With respect to lot No. 700, the application filed by the defendants sometime after June 23, 1931, the date of the deed of absolute sale issued by the sheriff, was denied, and the registration of said lot in favor of the plaintiffs was decreed, the decision of the court having been affirmed by this court on December 18, 1934 (G. R. No. 38581, 61 Phil., 70). This court, without discussing the other questions raised by the parties, declared the sale at public auction of said lot No. 700 null and void on the ground that the sum of P877.25, for which it was sold to the defendants, was an inadequate price, taking into consideration the fact that the assessed value thereof in 1927 was more than P60,000. This court likewise declared that the amount of P1,053.87, paid by the plaintiffs as land tax on said lots, for the year 1926, should have been credited to the amount of the judgment obtained by the defendants in civil case No. 607, because said tax and penalty became due while the lands were in their possession as the alleged owners thereof.

After the issuance of the certificate of registration of lot No. 107, and pending the application for registration of lot No. 700, the appellants filed the complaint in this case for the purpose of obtaining the two pronouncements stated in the first paragraph of this decision. After the hearing, the case was decided by dismissing the complaint as to lot No. 107 and declaring it unnecessary to make any 'pronouncement with respect to lot No. 700, on the ground that the registration proceedings thereof were then pending in this court, upon appeal. From the decision, the plaintiffs appealed to this court.

From the foregoing facts, it appears that there is no longer any question to be decided with respect to the right of ownership of lot No. 700, because it has been irrevocably adjudicated by this court to the plaintiffs, in a final judgment. With respect to lot No. 107, however, there arises the question whether or not the defendants may be ordered, as prayed for in the original complaint in this case, to execute a deed of transfer of said lot in favor of the plaintiffs, in case it has not been alienated to a third person. There is no doubt that the defendants obtained the decree of registration of the lot in question by fraud; which decree is null and void because the defendants really had no legal title to said lot. Leaving aside the other questions raised by the appellants, whether or not the attachment and sale at public auction of said lot had been made strictly in accordance with the provisions of Act No. 190, there is another reason for the nullity of the attachment and judicial sale thereof, and it is the absolute lack of a judgment to serve as the subject matter of the execution. . It is a proven fact that the plaintiffs-appellants paid the entire amount of the judgment rendered in civil case No. 607, and the Supreme Court, in deciding the appeal with respect to lot No. 700, expressly held that the plaintiffs' payment of the land tax was chargeable to the amount of the judgment in question. Therefore, when the writs of execution were issued and said lots Nos. 107 and 700 were attached, the defendants-appellees had absolutely no judgment to execute. As all the proceedings had in the execution of an already executed judgment are, for these reasons, null and void, and as the alleged deed of sale of the defendants-appellees is null and void, the decree of registration and the certificate of title issued in their favor likewise had to be null and void. Now, inasmuch as the plaintiffs had not applied for the review of the decree of registration, and inasmuch as the lot in question had not been sold to a third person, it is not just and equitable that the defendants enrich themselves to the prejudice of the plaintiffs by keeping said land which does not belong to them by any title. Therefore, this action for the annulment of the sale at public auction of said lot No. 107 and to compel the defendants to transfer it to the plaintiffs, cannot be more legal and it must be sustained. (Severino vs. Severino, 44 Phil., 343; Government of the Philippine Islands vs. Court of First Instance of Nueva Ecija, 49 Phil., 433; Clemente and Pichay vs. Lukban and Domingo, 53 Phil., 931.) However, in the event—which does not appear of record—that said lot has been transferred to a third person who acted in good faith, thus making the transfer thereof to the plaintiffs impossible, the defendants should be ordered to pay to the plaintiffs the sum of P2,810 which is the value of said lot at the time it was sold at public auction. (Manotoc vs. Choco, 30 Phil., 628; Roman Catholic Bishop of Nueva Caceres vs. Municipality of Tabaco, 46 Phil., 271; Government of the

Philippine Islands vs. Court of First Instance of Nueva Ecija, supra,) In either case, the defendants should be ordered to pay for the fruits which the plaintiffs have failed to receive from the time the former took possession of the two lots, that is from the date said lots were sold at public auction until the date on which they have turned over the possession thereof to the plaintiffs. However, inasmuch as the date on which the defendants turned over to the plaintiffs the possession of lot No. 700 and the fruits produced by said lot during the above-stated period, does not appear of record, because the court did not permit the plaintiffs to prove such extremes, and inasmuch as the evidence to determine the exact amount of the production of lot No. 107 during the time the defendants deprived the plaintiffs of their possession, is not clear, the trial should be reopened in order that all these deficiencies may be corrected.

Wherefore, the appealed judgment is reversed, ordering the defendants-appellees to execute as promptly as possible a deed of transfer of lot Nd. 107 in favor of the plaintiffs-appellants, or if this is not possible because said lot has been alienated to a third person, to pay the sum of P2,810, the value thereof, to the plaintiffs-appellants; and directing the court a quo to reopen the present case in order to receive evidence on the production of lots Nos. 107 and 700 during the time the defendants had them in their possession, sentencing them, upon the evidence, to pay for the fruits of said lots, with the costs of both instances to said defendants. With respect to the defendant deputy sheriff of Davao, the complaint is dismissed without costs. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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