

## TERESA G. ENRILE AND MAXIMO VILLAVERDE, PLAINTIFFS AND APPELLEES, VS. ANASTACIO ROBERTO AND EUGENIA DE LOS SANTOS, DEFENDANTS AND APPELLANTS.

*G.R. No. 42309. July 12, 1935*

Ponente: VICKERS, J.

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### VICKERS, J.:

Defendants appeal from a decision of the Court of First Instance of Bulacan, the dispositive part of which is as follows:

"Por tanto, salvo los derechos hereditarios que pudieran tener cualesquiera herederos de la finada Juana Roberto, se dicta'sentencia: (a) declarando nula la compraventa supuestamente otorgada por dicha Juana Roberto y su esposo Maximo Villaverde a favor de los demandados; (b) se ordena la cancelaci6n del certificado de transf erencia de titulo No. 11908 (Exhibit 1) expedido a favor de los mismos; y (c) se declara a los demandantes con derecho a poseer el terreno en cuesti6n y a cobrar de los demandados, en concepto de daiios y perjuicios, setenta y cinco (75) cavanos de palay al afio, o su valor correspondiente que se probare, a partir del afio 1930 hasta que la posesidn del terreno les sea entregada. Con las costas del juicio a cargo de los demandados."

It appears from the evidence that the defendants, Anastacio Roberto and Eugenia de los Santos, were formerly the owners of the parcel of land in question, which was then unregistered. On January 19, 1927 Anastacio Roberto conveyed the land to his sister, Juana Roberto, the wife of the plaintiff Maximo Villaverde (Exhibit R). In the cadastral proceedings of 1930 the land was registered in favor of the conjugal partnership of Maximo Villaverde and Juana Roberto, as evidenced by original certificate of title No. 15353 in the office of the register of deeds for the Province of Bulacan (Exhibit I). Exhibit 2 is a deed of conveyance executed on June 14, 1930, which purports to evidence the sale of the aforesaid property by Juana Roberto, with the consent of her husband, Maximo Villaverde, to the defendant Eugenia de los Santos for P900 This document purports to bear the finger print of Juana Roberto and the signature of Maximo Villaverde, and to have been signed in the presence of Constancio R. Fernando and Carlos Fabian and td have been acknowledged before Isidro Alejandro as notary public.

Juana Roberto died on July 12, 1930.

On July 6, 1933 Anastacio Roberto in representation of his wife, Eugenia de los Santos, filed a verified motion in the cadastral case praying that the original certificate of title No. 15315 be cancelled and a new certificate be issued in favor of Eugenia de los Santos (Exhibit B).

On July 7, 1933 Maximo Villaverde executed a public document, Exhibit A, which purports to evidence the sale of his one-half interest in the aforesaid land to the plaintiff Teresa G. Enriie for P600, together with all the right, title and interest which he might have in said land as the heir of his deceased wife, Juana Roberto, and any right of action which he might have against Anastacio Roberto and Eugenia de los Santos with respect to said land.

The aforementioned motion for the cancellation of the original certificate of title was granted and on July 8, 1933

transfer certificate of title No. 11908 was issued in the name of Eugenia de los Santos (Exhibit 1).

Plaintiffs brought this action to have the deed of conveyance of June 14, 1930 declared null and void for fraud, and the transfer certificate of title in favor of Eugenia de los Santos cancelled, to recover possession of the land in question, and to require the defendants to account for the products which they had received therefrom.

The lower court sustained the contentions of the plaintiffs as hereinabove set forth.

In support of their appeal the defendants make the following assignments of error:

"I. The lower court erred in not holding that since the estate of Juana Roberto had, up to the filing of the complaint, nor even now, no legal administrator, and that there not having been proved an extrajudicial partition of said estate, plaintiffs could not present this action for reivindicacion and accounting without first obtaining legal administration.

"II. The lower court erred in arbitrarily declaring as falsified the notarial deed of sale, Exhibit 2 of the defendants ; and this is a consequence of the following errors:

"A. In considering as evidence against the defendants, Exhibits O, P, and Q; and in arbitrarily presuming a conspiracy between the notary public, Isidro Alejandro, the witnesses to the questioned document, and the defendant, Anastacio Roberto, when not even an iota of evidence was offered by plaintiffs to this effect.

"B. In considering as evidence against defendants the testimony of Benigno Suva and Serafin Tecson; in not discounting altogether as artificial, false, and incredible, the testimony of Benigno Suva; and in misinterpreting the version of Anastacio Roberto of his interview with those two witnesses as merely to have Maximo Villaverde refrain from paying the land tax for 1933 already paid by him.

"C. In considering as evidence against the defendants, that Eugenia de los Santos was absent at the trial.

"D. In giving credence to the plaintiff, Maximo Villaverde, and in not considering^ the strange, unnatural, and suspicious conduct of the plaintiffs in this case.

"E. In not holding that the evidence for the defendants, plain, straight, and correct, as given by the witnesses and the documentary proofs, fully sustained their side of the case.

"F. In declaring that the signatures of Maximo Villaverde on the notarial deed, Exhibit 2 of the defendants, were falsified; in admitting as evidence, Exhibit R; in totally disregarding the probative force of the notarial deed, Exhibit 2; and in not holding that as to the execution of said notarial deed, the clearest preponderance of the evidence was on the side of the defendants.

"III. The lower court erred in not dismissing the complaint with costs against the plaintiffs; and

"IV. The lower court erred in denying the motion for new trial."

We do not need to consider separately the various assignments of error, because in our view of the case the evidence is not sufficient to sustain the finding of the lower court that the alleged sale of the land to Eugenia de los Santos and the signature of Maximo Villaverde in the document in question are fictitious and forged.

According to the evidence for the defendants, Exhibit 2, the document in question, was executed in the house of the defendants by Juana Roberto and Maximo Villaverde. The two instrumental witnesses and the notary public testified to the due execution of the document and the payment of the consideration in their presence. They testified that Juana Roberto signed Exhibit 2 by placing her finger print thereon and Maximo Villaverde by writing his name under that of his wife. It will be observed that Exhibit R, the deed from Anastacio Roberto to Juana Roberto on January 19, 1927, also bears the finger print of Juana Roberto. No attempt was made to show that the finger print on Exhibit 2 is different from that on Exhibit R. Maximo Villaverde testified that the

signatures at the foot of Exhibit 2 and in the left margin purporting to be his were not his signatures, but that they looked like his signature. After comparing the questioned signatures in Exhibit 2 with the signature of Maximo Villaverde in Exhibit R, Exhibit S, and Exhibit 13, we are satisfied that the questioned signatures in Exhibit 2 are the genuine signatures of Maximo Villaverde. The trial judge pointed out certain differences between the questioned signatures in Exhibit 2 and the admittedly genuine signatures of Maximo Villaverde, especially the fact that in the signature at the foot of Exhibit 2, the first name reads "Masio", while in the authentic signatures it reads "Masimo" or "Masixmo". The fact is, however, that in the left margin of the second page of Exhibit 2 the first name is written as "Maxino", and in Exhibit S, which was written in court, the first name is written in the same way except that the "i" is not dotted. It is apparent that Maximo Villaverde is illiterate and barely able to write his name at all. We find no such dissimilarities between the questioned signatures and the genuine ones that justify the finding that they were not written by the same person, especially in view of the clear and convincing testimony of the instrumental witnesses and the notary public, which stands unimpeached.

The trial judge appears to have attached importance to the fact that Anastacio Roberto had been twice convicted of coercion. The fact that a witness has been convicted of a felony is a circumstance to be taken into consideration as affecting his character and credibility, but in the present case we see no particular force in the fact that the defendant has been convicted of coercion, because it is not the contention of Maximo Villaverde that he was forced to sign the document in question, but that he never signed it at all.

The trial judge also seemed to attach importance to the fact that Eugenia de los Santos did not appear at the trial, although according to Exhibit 2 she was the real party in interest. Anastacio Roberto explained in his testimony that his wife did not appear at the trial because she was taking care of a sick child. Contrary to the finding of the trial judge, this explanation seems to us satisfactory. The trial judge gave much weight to the testimony of Benigno Suva and Serafin Tecson, who testified that Anastacio Roberto asked them to intervene in order that he might make a compromise with Maximo Villaverde. Benigno Suva testified that Anastacio Roberto offered to pay Maximo Villaverde P500 for his interest in the land in order to effect the compromise, but that the settlement was never consummated because Anastacio Roberto did not return; that Anastacio Roberto showed the witness a document, which Anastacio Roberto said was fictitious. This witness admitted on cross-examination that he was not acquainted with Anastacio Roberto until Anastacio came to the house of the witness with a letter of introduction from Serafin Tecson. It seems to us highly improbable that Anastacio Roberto would under these circumstances have shown the document to Suva and told him that it was fictitious. In our opinion this witness is unworthy of credit.

Serafin Tecson testified that Anastacio Roberto asked him to try to convince Villaverde to return the land, because the original sale from Anastacio Roberto to Villaverde was simulated; that it was made to prevent the land from being levied upon because of the sentence against Anastacio Roberto in a criminal case; but that Villaverde refused to agree to return the land, alleging that the transfer was a true sale.

The conflict between the testimony of Suva and Tecson is apparent. While according to Suva, Anastacio Roberto said the document now in question was fictitious, Tecson testified that Anastacio Roberto told him that it was the original sale by Anastacio Roberto to Maximo Villaverde that was simulated. It will be noted that Tecson did not mention any offer of Anastacio Roberto to pay Villaverde P500 for the land. Anastacio Roberto admitted having conferred with Suva and Tecson for the purpose of effecting an amicable settlement with his brother-in-law. He denied having shown the document in question to Suva or told him that it was false. He likewise denied that he offered to pay Maximo Villaverde P500 or any other sum for the land.

Another circumstance tending to impeach Benigno Suva is the following conflict between him and Maximo Villaverde: Suva was asked if he did know before Anastacio Roberto consulted him that there was a difference or

conflict of interests between Anastacio Roberto and Maximo Villaverde over the land in question. He said that he did not. Maximo Villaverde testified, however, that he spoke to Suva one day about the possession and title of his land, and that Suva answered that he would undertake to investigate the matter.

The trial judge does not mention the testimony of Santiago Hipolito and Josefa Tiongson. Santiago Hipolito, a former tenant of Maximo Villaverde and Juana Roberto, testified that Maximo Villaverde told him that he had sold the land to Eugenia de los Santos, the wife of Anastacio Roberto. Josefa Tiongson testified that Anastacio Roberto and Maximo Villaverde came to her house in Baliuag about December 27, 1930; that Anastacio Roberto brought a certificate of title; that she intervened in a conversation between them, and Maximo Villaverde told her he had sold the land to Anastacio Roberto.

The defendants have been in possession of the land in question since they claim to have bought it in 1930, and have been paying the taxes and the irrigation charges. Maximo Villaverde testified that since his wife's death he went to the treasurer's office each year when it was time to pay the taxes, but each time he was told the taxes had been paid, and then he went home; that the only payment he made was in May, 1933.

For the foregoing reasons, the decision appealed from is reversed, and the defendants are absolved from the complaint, with the costs of both instances against the plaintiffs:

Abad Santos, Hull, Diaz, and Recto, JJ., concur.

Judgment reversed and defendants absolved from the complaint,

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