

TOMAS GUISON Y SALCEDO, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.

G.R. No. 4559. March 29, 1909

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Tomas Guison y Salcedo applied to the registrar of property for the registration of his title to a building lot.

The facts and titles which the applicant presented before the Court of Land Registration are the following:

- That Jose Garcia y Salcedo and his sister Ciriaca Garcia y Salcedo held undivided interests in the building lot which is the subject of this application, the supposed situation, boundaries, and area of which had been repeatedly established; and, as they lacked title of ownership thereto, they drew up in 1893, a possessory information which was recorded in the registry of property. In this instrument they seem to have set up that they had acquired said lot by inheritance from their deceased parents, Pablo Garcia and Ciriaca Concepcion y Salcedo, and that they had held possession of it since 1864.
- That Jose Garcia and his sister Ciriaca Garcia sold the said lot to Fernanda Felisa Corrales on the 11th of May, 1895, under pacto de retro, and definitely, on the 2d of October, 1897; both sales were recorded in the registry of property on the 10th of June, 1895, and 24th of November, 1897, respectively.
- That on the 8th of March, 1898, the said lot was sold by Fernanda Felisa Corrales to Lucia Mercado. The title was recorded on the 4th of December, 1906.
- That on the 5th of December, 1906, Lucia Rizal Mercado sold it to Jose Salvador Natividad. The title was registered on the 7th following.
- And that on the 5th of January, 1907, Jose Salvador Natividad sold it to Tomas Guison y Salcedo, the title being registered on the same day.

Against the application of Tomas Guison, the representative of the Insular Government, as administrator of the San Lazaro Hospital, presented another, to the effect that the said lot be registered as the property of said hospital. The latter possesses an extensive hacienda, the lot in question forming a part of it; he produced the registration of the hacienda, owned by the said hospital, entered in the old registry of property.

After the hearing of the case, the Court of Land Registration rendered the following decision:

"The adjudication and registration of the property described in the expediente in favor of Tomas Guison y Salcedo and of his wife Juana Mariano is hereby decreed. Upon the decision becoming final, let the decree be issued, and let the registrar for the city of Manila cancel the entry with reference to said property and in favor of the applicant, Tomas Guison y Salcedo, which appears at folio 489 and previous folios of volume 47 of the Quiapo section, and 91 of the archives, property No. 2324, 1st entry. At the same time, let the entry be partially canceled which refers to the property in question, consisting of 457.60 square meters, and which forms part of

what is known as the Hacienda de Mayhaligue, pertaining to the San Lazaro Hospital, which appears in favor of the hospital of the same name at folio 109 of volume 20 of the Quiapo section and 44 of the archives, property No. 1214, 1st entry." (B. of E., 6 and 7.)

The legal foundations of the decision are as follows:

"That, as the possession of said real property was recorded on the 10th of July, 1895, in favor of Fernanda Felisa Corrales, and was likewise recorded in favor of the San Lazaro Hospital of this city on the 5th of November of the same year, in accordance with article 393 of the Mortgage Law, now in force, the registrar should have suspended the record of the possessory information in favor of the San Lazaro Hospital, entered a cautionary notice, if so requested by the interested party and transmitted a copy of said entry to the court which approved such information, in

order that, after complying with the provisions of the said article, it might confirm or revoke the order approving the instrument to be recorded, subject to the prior record of the other instrument relating to the same property.

"That, even though the inscription made of the hacienda of the San Lazaro Hospital was one of ownership, it should not at all events have been made under article 17 of the said Mortgage Law, according to which, after any instrument transferring the ownership or possession of realty, or of property rights thereto, has been recorded or a cautionary notice thereof made in the registry, as occurs with regard to the possession of Fernanda Felisa Corrales, which was acquired from the person who, like Jose and Ciriaca Garcia, had the same recorded, no other instrument of the same or of a previous date could be recorded or noted by which the ownership of the same estate or property right is transferred or encumbered.

"That, under the provisions of the common law, the applicant has won by prescription the ownership of the thing so possessed, inasmuch as he has been in possession of the realty for more than twelve years, his possession being computed with that enjoyed by his ancestors, acquired by a just title such as is the instrument of purchase and sale by virtue of which it was transferred to Fernanda Felisa Corrales, and possessed with good faith, which is always presumed in the possessor!

"And finally, that in connection with the ownership of the realty which is the subject of the opposition, a final judgment has been rendered by the Court of First Instance of Manila between the same parties who are now contending, and said judgment is now res adjudicata between the said parties and their successors."

The representative of the Insular Government has appealed from the said judgment, and his appeal has been submitted to this court. He assigned as the only cause of error the fact that the court below adjudicated to the petitioner the land that was the subject of his own application. He based his claim of error on the allegation that the possessory information instituted by Jose and Ciriaca Garcia and recorded in the registry of property was null and void by reason of fraud committed by the said interested parties in failing to summon the San Lazaro Hospital as an adjoining owner to the realty claimed by them; that, had it not been for said omission, the result would have been the opposition of the San Lazaro Hospital to their pretended possession of the said parcel which is but a portion of the hacienda owned by the hospital; that only by such means has it been possible to justify their adverse possession, and obtain the judicial approval of the possessory information which was the basis of all the ulterior transfers of ownership that constitute the claim of title now presented by the applicant to the new registry of property.

This cause of error can not be alleged in this instance, for the reason that this question was not raised in the lower court.

But, even had this been done, the allegation could not have been sustained, for the reason that suits for cancellation of title can not be instituted against third persons who have recorded the instruments evidencing their respective interests. (Mortgage Law, 36.) And it has not been proven that Felisa Corrales or the subsequent

holders were parties to the fraud attributed to the Garcias, the first grantors. (Mortgage Law, art. 37, par.2 subd. 2.) And after they have been recorded, instruments or contracts executed or covenanted by a person who, according to the registry, has a right thereto, shall not be invalidated with regard to third persons, although the right of the person executing them be annulled or terminated later by virtue of a prior deed not recorded, or for reasons which do not clearly appear from the same registry. (Id. 34.)

There being no other ground for the appeal, the judgment of the lower court is hereby affirmed with the costs of this instance against the appellant.

Torres, Mapa, Johnson, Carson, and Willard, JJ., concur.

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