

MARIANO LIMJAP, PLAINTIFF AND APPELLEE, VS. TOMASA VERA MOGUER, DEFENDANT AND APPELLANT.*G.R. No. 4590. October 12, 1908*

Ponente: WILLARD, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-4590/>**WILLARD, J.:**

On the 17th of April, 1893, Doña Pnaxedes de los Santos sold the land in question in this suit to Doña Rita Juan Carballo, reserving the right to repurchase it within eight years from said date. The time expired on the 17th day of April, 1901. Prior thereto Doña Tomasa Vera, the defendant in this suit, claiming to be one of the heirs of Doña Praxedes de los Santos, offered to repurchase the property. Doña Rita Juan refused to allow such repurchase, and prior to the expiration of the time Doña Tomasa deposited the money necessary to make the repurchase in the Court of First Instance of Manila. On the 19th day of April, 1901, Doña Rita Juan caused to be made in the registry of property an entry to the effect that no repurchase had been made (nota de consolidacion), and on the 23d of July, 1901, sold the property to Telesforo Ablaza, who caused his deed therefor to be recorded in the registry of property on the 25th of July, 1901.

Ablaza thereafter commenced an action, No. 321, in the Court of First Instance of Manila, against Doña Tomasa Vera for the recovery of the possession of the property, and asked that he be declared the owner thereof. Final judgment was rendered in this case on the 2d day of July, 1902, declaring that Ablaze was the owner of the property and ordering the defendant, Doña Tomasa, to vacate it. This judgment was based upon the proposition that the nota de consolidacion having been made in the registry of property, and Doña Tomasa having taken no action to have that entry canceled, and Ablaza having bought while it was still in force, his rights were to be preferred to those of Doña Tomasa. No appeal was ever taken by Doña Tomasa from this judgment. However, she thereafter brought an action (No. 1016) in the Court of First Instance of Manila against Doña Rita Juan and Ablaza. In this action a judgment was entered on the 17th day of October, 1902, ordering the case dismissed as to Ablaza on the ground that it had been finally determined in case No. 321 that he was the owner of the property as against Doña Tomasa. Afterwards, another judge of the same court entered judgment not only against Doña Rita but also against Ablaza in this same action, No. 1016. Later, a third judge vacated this judgment so far as Ablaza was concerned. This last order was affirmed by this court on the 2d of November, 1905. (Moguer vs. Carballo, 5 Phil. Rep., 195.)

After the action No. 1016 had been commenced, as we understand the record, the plaintiff's lawyer filed on the 23d day of July, 1902, in the registry of property a notice of the pendency of that action, and on the 24th day of July, 1902, the court made an order for the annotation of the complaint in th6 registry of property, which annotation was made on the 26th day of July, 1902. On the 20th day of February, 1906, the court, in action No. 1016, made an order denying the motion of the plaintiff Doña Tomasa Vera to have the order of the 17th of October, 1902, vacated and annulled.

Case No. 1016 proceeded against Doña Rita Juan, and on the 27th day of December, 1906, the court entered a judgment declaring that the contract of sale between Rita Juan Carballo and Ablaza Avas null and void as

between Doña Tomasa and Doña Rita Juan, and that Doña Tomasa was entitled to the possession of the land as against Doña Rita Juan.

On the 15th day of November, 1904, Ablaza sold the land in controversy to the plaintiff, Mariano Limjap, who recorded his deed on the 20th day of February, 1906, and on the 5th of August, 1907, commenced this action asking that he be declared the owner of the property.

It will be seen from what has been stated above that the question as to who was the owner of this property, Ablaza or Doña Tomasa, had been decided three times in favor of Ablaza before this action was commenced. It was definitely and finally decided in case No. 321. No appeal was ever taken from that judgment. It was again decided by the judgment of the 17th of October, 1902. That judgment has never been reversed. It was again decided by the order of the 20th of February, 1906, from which no appeal was taken. So far as Ablaza and his grantee, the plaintiff herein, are concerned, the question as to whether Doña Tomasa should have been allowed to repurchase the property in 1901 is not now open to discussion.

The appellant, Doña Tomasa, in this case relies upon the notices of *Lis pendens* filed in July, 1902. The one filed by the lawyer was evidently presented in accordance with the provisions of section 401 of the Code of Civil Procedure. The order of the court was probably made in accordance with article 42, paragraph 1, of the Mortgage Law. The only effect of these notices, either under the Code of Civil Procedure or under the Mortgage Law, was to secure the rights of the plaintiff in the suit, if she finally prevailed. As she did not prevail and judgment was rendered against her, they could produce no effect. Considerable space in the appellant's brief is devoted to the question of the good faith of the plaintiff Limjap, it being claimed that he furnished the money to Ablaza with which the land was bought in 1901. This fact is of no importance whatever in the case.

The judgment of the court below in favor of the plaintiff is affirmed, with the costs of this instance against the defendant. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.