

**VICTORIANO GATCHALIAN, PLAINTIFF AND APPELLEE, VS.  
MAMERTO MANALO ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 46207. October 10, 1939*

Ponente: LAUREL, J.

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This is an appeal from a judgment of the Court of First Instance of Manila adjudging the plaintiff-appellee, Victoriano Gatchalian, to be the owner of house No. 1125 Int. Kusang-loob, Manila, standing on a lot formerly belonging to the defendant-appellant, Mamerto Manalo, and restraining the latter and the sheriff of Manila from levying execution upon said house.

The house in question was originally the property of the spouses Juan Domingo and Ignacia Maigui. Upon default of the latter in the payment of the rents for the land on which their house was built, Mamerto Manalo instituted in the Municipal Court of Manila an action (Civil Case No. 105911) wherein judgment was rendered on August 23, 1935, sentencing Juan Domingo and Ignacia Maigui to pay to Mamerto Manalo the sum of P175, with legal interest from August 15, 1935, and costs. On October 24, 1935, Juan Domingo and his wife deeded the house in question to the herein plaintiff-appellee who bought the same after making the precautionary inquiry from the City Hall and the then owner of the land, Calixto Torres, as to the ownership of said property and any encumbrance thereon. The plaintiff is not related to his vendors whom he came to know only a few days before the sale. From the time the house was conveyed to him the plaintiff has been paying the real estate tax thereon and the rents for the land on which it was built, and has made improvements on the property costing P400. On November 6, 1935, a writ of execution was issued in Civil Case No. 105911, and on November 21, 1935, the house in question was levied upon, it appearing that the defendants therein had no other property which was leviable. On December 11, 1935, the plaintiff filed a third party claim, and on December 27, 1935, the present action was instituted for the purpose of obtaining a judicial decree to the effect that the plaintiff is the owner of the house and an injunction restraining the defendants from levying upon it, with the result noted in the opening paragraph of this decision.

When an alienation is made, as in this case, after a judgment has been rendered against the person alienating, there arises the legal presumption that the alienation is fraudulent (Art. 1297, Civil Code) and the alienation may be rescinded (Art. 1291, Civil Code) and the only question raised in this instance is one of law, namely, whether or not this presumption is disputable and will yield to proof to the contrary. This court has already held that the presumption established in article 1297 "is not conclusive and may be rebutted \* \* \* by means of satisfactory and convincing evidence." (Buencamino vs. Bantug, [1933], 58 Phil., 521, 523; vide, also Peña vs. Mitchell, 9 Phil., 587; Kuenzle & Streiff vs. Collector of Customs, 31 Phil., 643; National Exchange Co. vs. Katigbak, 54 Phil., 599). Manresa, commenting on said provision, is of the same opinion:

"Quizas el mas importante, o a lo menos el mas invocado de los articulos que comprende este capitulo, es el 1297, que establece las presunciones legales de fraude, susceptibles de impugnacion, aunque dificil, y no excluyentes de otras que no pueden ofrecer duda. (Manresa, Comentarios al Codigo Civil Espanol, 4.[a])

edicion, Tomo VIII, pag. 685.)

"Las presunciones establecidas por la ley no excluyen la prueba en contrario, segun declara el art. 1251, si expresamente no la prohíben, y no conteniendose tal prohibicion en el art. 1297, cabe que se aduzca prueba para desvirtuar la presuncion de fraude establecida por las leyes. Mas dificil es que se estime la demostracion de esa prueba, pues sobre ser necesario que la demostracion, frente a toda presuncion legal, sea muy evidente, se lucha con la prevention que naturalmente suscita la habilidad y mala fe características del fraude. Sin embargo, cabe que a ese resultado se llegue teniendo declarado el Supremo que 'la presuncion del art. 1297 del ser fraudulentas las enajenaciones hechas por aquellos a quienes se hubiese condenado en alguna instancia o contra quienes se hubiese expedido mandamiento de embargo, puede destruirse, como todas, mediante prueba en contrario, de conformidad con el art. 1251, y estimandolo asi la Sala en el ejercicio de las facultades que le reconoce el 1248, de acuerdo con la ley de Enjuiciamiento, no infringe el 1297, ni el 1291, ni menos el 1248.' Sentencia de 15 de junio de 1897, confirmada por las de 26 de mayo de 1908 y 2 de enero de 1912. (Manresa, Comentarios al Codigo Civil Espanol, 4.[a] edicion, Tomo VIII, pags. 689-690.)"

Without in the least intimating that the plaintiff was a purchaser in bad faith, appellants rely on the proposition that that it is the good faith of the vendors (judgment debtors in civil case No. 105911) that should be proved in order that the title derived by the plaintiff from the sale in question may be upheld. But, if the legal presumption of fraud is rebuttable as against the judgment debtor, the presumption should likewise be rebuttable as against a purchaser from him. Moreover, by express mandate of article 1295 of the Civil Code, an action for rescission will not lie when the subject matter of the contract is legally in the possession of third persons acting in good faith, and this can only mean that a showing of good faith on the part of a purchaser is sufficient to avoid rescission.

"La adquisicion por un tercero estorba a la eficacia de la accion rescisoria, concurriendo estas dos circunstancias; que aquel tenga los inmuebles legalmente, es decir, protegido por la ley contra aquella accion mediante la inscripcion en el Registro, y que no haya procedido de mala fe. (Manresa, Comentarios al Codigo Civil Espanol, 4.[a] edicion, Tomo VIII, pag. 681.)

"La aplicacion del mismo esta referida, por tanto, mas frecuentemente al caso de enajenaciones a titulo oneroso, principalmente si son segundas, es decir, hechas por el que adquirio del deudor, o terceras, etc., y el origen de la accion no consta en el registro, necesitandose entonces que el tercero a quien la accion perjudique haya procedido de mala fe; ya que, como dice la sentencia de 12 de octubre de 1899, ratificando el precepto del Codigo que ahora estamos comentando: 'la accion rescisoria nunca procede contra el tercero que tiene en su poder legalmente las cosas objeto del contrato, si no hubiera procedido de mala fe.' (Manresa, Comentarios al Codigo Civil, 4.[a] edicion, Tomo VIII, pag. 682.)"

The good faith of the plaintiff not being controverted and adhering to our view in Buencamino vs. Bantug, supra, the judgment appealed from is affirmed, with costs against the appellants. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Concepcion, and Moran, JJ., concur.

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