

LA SOCIEDAD ANG IKAGUIGUINHAWA, PLAINTIFF-APPELLANT, VS. SOR JOSEFA SORIANO AND MANUEL SORIANO, DEFENDANTS. SOR JOSEFA SORIANO, DEFENDANT-APPELLEE.*G.R. No. 48798. March 17, 1943*

Ponente: OZAETA, J.

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On October 3, 1934, appellant obtained judgment against Manuel Soriano for the sum of P1,000 in civil case No. 6380 of the Court of First Instance of Laguna. Thereafter Manuel Soriano delivered to appellant two powers of attorney dated, respectively, December 31, 1932, and September 22, 1933, executed by his sister, the herein appellee Sor Josefa Soriano, whereby she authorized him to mortgage to appellant and to the Pagsanjan Agricultural Association one half pro indiviso of her land known as lot No. 4066 of the Pagsanjan cadastre and described in original certificate of title No. 11277 to guarantee his indebtedness to them, and bound herself to recognize any incumbrance that might be constituted on said property in their favor. Manuel Soriano did not execute any mortgage on his sister's property in favor of appellant by virtue of said powers of attorney, but the appellant considered the delivery to it of said powers of attorney as sufficient security.

On January 19, 1937, appellant procured a writ of execution in said civil case No. 6380 against Manuel Soriano and caused the sheriff to levy upon and sell at public auction one half pro indiviso of said lot No. 4066, on the assumption that appellee had guaranteed the payment of Manuel Soriano's obligation. The sheriff adjudicated said property to appellant as the highest bidder in the sum of P1,308.69, and after the lapse of one year issued to it a final deed of sale.

After failing in its attempt to have the certificate of title transferred to its name by means of a motion in the cadastral case, appellant instituted the present action to recover the possession and ownership of the land in question from the appellee. His Honor, Judge Alejo Labrador, absolved the appellee from the complaint, holding that appellant acquired no right as purchaser at the sheriff's sale because the execution debtor Manuel Soriano had no interest or participation in the property levied upon.

Upon the undisputed facts above set forth, we are at a loss to see how plaintiff's action could prosper. It is true that appellee authorized her brother to mortgage the land in question in favor of appellant; but until that authority was exercised, it is too obvious for argument that appellant could claim no right either to said land or against appellee. Appellee's obligation to recognize any incumbrance that might be constituted on her land certainly did not accrue until such incumbrance was actually constituted. Even if appellee had authorized Manuel Soriano to sell the land in question to pay his obligation, as contended by appellant, the stubborn fact remains that Manuel Soriano did not exercise that authority. It was the sheriff who sold the land in question on the assumption that Manuel Soriano had an interest or participation therein. That assumption being false, the purchaser acquired nothing by virtue of the sale.

Appellant further contends that the trial court should have granted its alternative prayer that Manuel Soriano and

the appellee be sentenced to pay appellant the total sum of P2,761.83 with compound interest at 12% per annum from July 3, 1938, on the theory that appellee had constituted herself a surety for her brother and codefendant. There is no basis in fact and in law for such contention.

his appeal is entirely devoid of merit. The judgment is affirmed, with costs against the appellant. So ordered.

Yulo, C.J., Moran, and Bocobo, JJ., concur.

Paras, J., concurs in the result.

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