

**CHINO DIEVAS, PLAINTIFF AND APPELLEE, VS. MODESTO ACUÑA CO
CHONGCO, DEFENDANT AND APPELLANT.***G.R. No. 5356. August 17, 1910*

Ponente: TRENT, J.

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The plaintiff brought this action in the Court of First Instance of the Province of Occidental Negros to compel the defendant to execute to him a public document of purchase and sale for a part of a certain lot described in the complaint, which description of the entire lot is as follows:

"* * * with a width of 28 meters by 33 meters in depth, bounded on the north with the land of Jose de la Pena; on the east with the land of Enrica Segovia; on the south with the land of Modesto Acuña Co Chongco, and on the west with Calle Washington."

The plaintiff alleges that in 1899 he, by means of a verbal contract, purchased from the defendant the above-described lot upon which is situated a certain camarin, and that later he resold to the defendant that part of the said lot which is described in the fourth paragraph of his complaint as follows:

"* * * being gajd portion 6 meters in width by 33 meters in depth, bounded on the north with the land of the plaintiff; on the east with the land of Enrica Segovia; on the south with the land of Modesto Acuna Co Chongco, and on the west with Calle Washington."

Defendant in his answer denied all the allegations of the complaint, and as a special defense alleged that he is the owner of the camarin and lot, the subject of this litigation; that in August, 1899, he ceded the said property to the plaintiff as a favor or loan for the period of eight years, granting the plaintiff the privilege of using said property, receiving the rents from the same, with the obligation on the part of the plaintiff of keeping the camarin in repair and paying the taxes on the said property. The defendant in his counterclaim asks the court to direct the plaintiff to return to him the said camarin and lot and the rent therefor from the 1st of September, 1907, being the date of the termination of the eight-year lease.

After the termination of the trial the court rendered judgment in favor of the plaintiff directing the defendant to execute in favor of the plaintiff the proper document for the transfer and sale of that part of the lot, including the camarin, which was not resold to the defendant. The defendant having been notified of this decision, made a motion for a new trial upon the ground that the findings of fact made by the court below are plainly and manifestly against the weight of the evidence, which motion was denied by the trial court. He appealed.

The sale of the lot and camarin in question was not evidenced by any documents, either private or public. The only proof presented is the oral testimony of the witnesses for both parties. The court below stated that, after a careful examination of the evidence, it was of the opinion that it had been satisfactorily established that the defendant did, in fact, sell to the plaintiff in the year 1899 or 1900 the property described in the complaint for the sum of 1,050 pesos, and directed the defendant to execute in favor of the plaintiff the corresponding document of purchase and sale for that part of the lot, including the camarin, which was not resold to the defendant.

After a careful examination of the proofs presented in this case we are of the opinion that the findings of fact of the trial court are fully sustained by the record inasmuch as it has been established that the plaintiff did by means of a verbal contract in 1899 or 1900 purchase from the defendant the lot camarin in question and turned over to the defendant the sum of 1,050 pesos in cash, which the defendant received to his entire satisfaction. This was a consummated verbal sale of real estate. Nothing was left for the parties to do except the obligation on the part of the defendant to express this consummated contract in writing. So the only contract of sale in this case was a verbal one. The defendant insists that in order for a sale, transferring any right, title or interest in real estate, to be valid it must be evidenced by a public document and in support of this theory cites article 1280 of the Civil Code. This is not the first time this question has been before this court. In the case of Soriano vs. Cortes, 8 Phil. Rep., 459, the court said (p. 460):

"The provisions of that article (1280) were discussed by this court in the case of Thunga Chui vs. Que Bentec (2 Phil. Rep., 561), and it was there held that a contract required by said article 1280 to be in writing was, nevertheless, valid and produced legal effects between the parties, although it was made verbally. It was there considered that this effect was given to such oral contracts by article 1278, and although it might be necessary for the party seeking to enforce such verbal contract to take some action under article 1279 to secure the execution of the proper documents, yet this requirement did not render the contract invalid." (Citing Fortis vs. Gutierrez Hermanos, 6 Phil. Rep., 100; Iureta vs. Tambunting, 1 Phil. Rep., 490.)

The consummated verbal contract in the case at bar is valid among the parties themselves according to the above rule laid down by this court.

The judgment of the lower court is, therefore, affirmed, with costs against the appellant.

Arellano, C. J., Torres, Johnson, and Moreland. JJ., concur.

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