

JUAN GARCIA, PLAINTIFF AND APPELLANT, VS. FRANCISCO REYES ET AL., DEFENDANTS AND APPELLEES.*G.R. No. 5592. September 27, 1910*

Ponente: TORRES, J.

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On November 21, 1907, Juan Garcia filed a written complaint with the Court of First Instance of this city, which, after being answered by the defendants, was amended by another of November 7, 1908. Said amended complaint alleges that on September 9, 1907, Francisco Reyes, the defendants' father, was the owner of a house of strong materials, built on leased land belonging to the Tuason estate and situated on Calle Sulucan, at No. 86, district of Sampaloc, Manila; that said property is bounded along its front by the street just named, and the right, left, and back, by lands of the said estate, and has a frontage of 21 meters and 80 centimeters and a depth of 8 meters; that the house was constructed in 1894 by the said Reyes, married since 1887 to Carmen Carvajal, with money derived from the conjugal partnership arising out of the said marriage; that on the said date of September 9 the house aforementioned was sold at public auction by the sheriff of Manila in compliance with a judgment and execution rendered and issued against the said Francisco Reyes, and was adjudicated to the plaintiff for P4,000, the selling price; that prior to such sale, Francisco Reyes, as the legal representative of his aforementioned wife, and for the purpose of eluding payment to the plaintiff of the sum specified in the judgment, transferred the said house to the attorneys, Messrs. Chicote, Miranda & Sierra, and these gentlemen then transferred it in turn to Rafael Sierra, one of the members of the said firm, who afterwards made a gift of the said house to the minor defendants. The complaint alleges that these successive transfers of the property to Chicote, Miranda & Sierra, to Sierra, and finally to the defendants, are null and void, for the reason that the said house never belonged to the said Carmen Carvajal. The plaintiff therefore prays that the said transfers be declared null and void, and that it be declared that the defendants have no right whatever to the said house and that the plaintiff is the owner thereof.

Ramon Sotelo, the guardian ad litem of the defendants, Francisco Reyes, Maria de los Dolores, Jose Reyes, Maria Luisa Reyes, Manuel Reyes, and Carlos Reyes, in his answer to the complaint, of November 18, 1908, set forth: That he denied generally and specifically all the allegations of the amended complaint, in so far as they were not in harmony with the amended answer, as well as each and all of the allegations contained in paragraphs 1, 2, 3, and 5 of the said amended complaint, and also each and all of the allegations of paragraph 4 thereof, in so far as they did not agree with his answer. As a special defense, he alleged: That on September 22, 1894, Dolores Carvajal y Guivelondo constructed, with her own funds, the building mentioned; that about the year 1905, the law firm composed of Attorneys Chicote, Miranda & Sierra rendered professional services to Francisco Reyes y Mijares, the father of the defendants and husband of the aforesaid Dolores Carvajal, earning therefor fees in the sum of P11,000 and incurring expenses, chargeable to their client, amounting to P33; that on November 10, 1905, Francisco Reyes y Mijares, by virtue of a power of attorney executed in his favor by his said wife, deeded the house, in question to the said firm of Chicote, Miranda & Sierra, in payment of the said fees; that about the month of May, 1906, Rafael Sierra, one of the members of the said firm, ceased to belong thereto and, as a result of a settlement effected between these law partners, he was awarded, together with other property, the respective

shares which Miranda and Chicote had in the house mentioned; that subsequently Sierra, in consideration of the ties of affection and love which had united him with the defendants and their parents, and because of the innumerable kindnesses and favors which he had received from the latter, made a free, absolute and irrevocable gift of the property described to the minor defendants; that all the said transfers were made in good faith and for just motives, and that the plaintiff Garcia was not a party to any of the contracts, the annulment of which is asked, nor was he either a principal or a subsidiary obligor. The said Ramon Sotelo therefore prayed that the defendants be absolved from the amended complaint.

The case having come to trial and testimony been produced by both parties, the judge, by order of May 11, 1909, dismissed the said amended complaint with the costs against the plaintiff, who, on being notified thereof, duly excepted thereto and announced his intention to file a bill of exceptions which, when presented, was approved, certified and forwarded to the clerk of this court.

As may be seen from the foregoing review of the proceedings, the plaintiff seeks an annulment of the transfers made of the house that belonged to Francisco Reyes, the defendants' father, and which was sold at public auction by the sheriff of this city to the plaintiff, Juan Garcia, who contends that the minor defendants have no right whatever to the said house, inasmuch as he is the sole owner thereof.

The issues of fact and of law relative to the fundamental features of this litigation, and the questions as to whether the plaintiff is or is not entitled to ask for the annulment of the successive transfers of the said house, and as to its donation to the minor defendants, will be resolved at the proper time when the final decision is rendered, which will also decide whether the plaintiff, as a result of the said sale effected by the sheriff, is the legitimate owner of the house referred to.

However, in order to bring this suit duly to a close, it is imperative to determine the only question raised in connection with the pending appeal, to wit, whether all the persons who intervened in the matter of the transfers and donation herein referred to, are or are not necessary parties to this suit, since it is asked in the complaint that the said transfers and donation be declared null and void an indispensable declaration for the purpose, in a proper case, of concluding the plaintiff to be the sole owner of the house in dispute.

If such a declaration of annulment can directly affect the persons who made and who were concerned in the said transfers, nothing could be more proper and just than to hear them in the litigation, as parties interested in maintaining the validity of those transactions, and therefore, whatever be the nature of the judgment rendered, Francisco Reyes, Dolores Carvajal, Alfredo Chicote, Vicente Miranda, and Rafael Sierra, besides the said minors, must be included in the case as defendants.

Section 114 of the Code of Civil Procedure reads:

"Every action must be prosecuted in the name of the real party in interest. * * *

"Any person should be made a defendant who has or claims an interest in the controversy or the subject matter thereof adverse to the plaintiff, or who is a necessary party to a complete determination or settlement of the questions involved therein. * * *."

Section 122 of the same code prescribes:

"The court may determine any controversy between parties before it, if it can be done without prejudice to the rights of others, or by preserving their rights for future action; but, when a complete determination of the controversy can not be had without the presence of other parties, the court must order them to be brought in, and to that end may order amended or supplemental pleadings, or a cross complaint, to be filed, and summons therein to be duly issued and served."

In the order from which appeal is taken it is admitted that it would be impossible, to decide the allegations made in the complaint without a previous hearing of all the parties interested who may be affected by the final decision of the present litigation; wherefore the provisions of law contained in the two preinserted sections must be complied with, and if the plaintiff shall so include the said parties in a new amended complaint, the judge, fulfilling the requirements of the law, must, in accordance therewith, continue the trial through all its proceedings.

The nonobservance of the rules established by the Code of Procedure for the substantiation and proper decision of causes in which questions of controversy between the parties are ventilated prevents the due determination of the same with respect to the fundamental issues of the litigation and makes it necessary to decide, in the first place, such questions as relate to the form of the action. Obedience to the rules of procedure, established by law for the substantiation and proper decision of a cause, is a matter of public policy.

It is to be presumed that the parties herein before mentioned, and the representative of the said minors, are directly interested in sustaining the validity of the deed, transfers, and donation above-mentioned; wherefore, now that it is asked that the same be annulled, in order that they may defend themselves, they must be considered as necessary parties to this suit, since, without their being heard or their intervention, it would be impossible, validly to declare, in a proper case, the said transfers and donation null and void, nor, without such a declaration, could the prayer be granted in case it were proper so to do, which proposes that the plaintiff be found to be the sole owner of the property. (Sanidad vs. Cabotaje, 5 Phil. Rep., 204; Rugman vs. Ruguian, 9 Phil. Rep., 527.)

For the foregoing reasons, it is proper, in our opinion, with a revocation of the order of dismissal appealed from, to return the case to the Court of First Instance, in order that, if the plaintiff should amend his complaint by including therein as defendants the representative of the minors and all the parties mentioned in this decision as being interested in the present litigation, the court may continue the trial and in due time render such judgment as the law and the evidence demand. So ordered.

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

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