

**BERNARDA ALIASAS ET AL., PLAINTIFFS AND APPELLEES, VS.
PEDRO ALCANTARA ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 5628. August 22, 1910*

Ponente: TORRES, J.

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On June 25, 1907, counsel for the plaintiffs, Bernarda Aliasas et al., filed a written, amended complaint against Pedro Alcantara et al., in which it is alleged that the plaintiffs are the owners of a lot situated on Calle San Pablo of the pueblo of the same name, in the Province of La Laguna, and the owners of the house of strong material built on the land; the land is about half a hectare in extent, and is bounded on the front by the said Calle San Pablo, on the right of the entrance by the lot of Bernarda Aliasas, on the left by that of Isidro Tolentino and Agapito Aquino, and on the back by that of the church; that the said lot was acquired during the existence of the marriage between the plaintiff Bernarda Aliasas and her husband Doroteo Alinea, now deceased; that at the latter's death, one-half of the property described above belonged to the plaintiff Aliasas as having been acquired during her marriage, and the other half thereof belonged, in equal shares, to her daughter Candida and her (plaintiff's) sons, Florentino, Luis and Ambrosio Alinea, as the heirs of the deceased Doroteo Alinea, although the said property continues to be undivided; but that Ambrosio Alinea, who was in possession of the property mentioned, proceeded to sell and transfer the same to the other defendant, Pedro Alcantara, without the consent, knowledge, or authorization of his co-owners, to their grave detriment, inasmuch as the sale was made with malice and bad faith, for 480 pesos, a sum infinitely less than the true value of the property, which is assessed at 1,200 pesos; that moreover the defendants positively knew that the vendor, Ambrosio Alinea, could only dispose of one-third of one-half thereof; that, therefore, the plaintiffs have been unjustly deprived of the control and possession of the said property, through a contract executed between Ambrosio Alinea and Pedro Alcantara, to which the plaintiffs were not parties, and have suffered damages by spoliation to the amount of 1,500 pesos, through the loss of rentals and benefits; and that the vendee Alcantara, when once in possession of the property, proceeded to destroy the windows and partitions of the house and will continue to destroy the house, to the grave detriment of the plaintiffs' interests, unless he is prevented from so doing by the court, wherefore they pray that, upon their giving bond, a preliminary injunction be issued against the defendant Pedro Alcantara, restraining him from destroying the said house, and ask that the sale executed between the defendants be declared null and void with respect to the rights of the plaintiffs in the said property and that the possession of the latter be restored to the plaintiffs. The complaint further prays that the defendants be adjudged to pay P1,500 and the costs of the trial.

The demurrer filed by the defendants against the preceding complaint having been overruled, Pedro Alcantara, in an amended answer and after excepting to the ruling of the court in rejection of the said demurrer, alleged that he denied generally and specifically all the facts set forth in the said complaint, and, as a special defense, averred that the plaintiffs, Bernarda Aliasas, Florentino Alinea, and Candida Alinea, considered the property in question to belong to the defendant Ambrosio Alinea who, for more than ten years prior to its sale to the defendant Alcantara, had been in possession of it as the exclusive owner, for which reason, and in view of the plaintiffs' conduct with respect to the said property, Alcantara was obliged to execute with his codefendant, Ambrosio Alinea, the contract

of purchase and sale, the annulment of which is sought, and he prayed that judgment be rendered ordering the plaintiffs to respect the said contract and to pay the costs of the suit.

Even before the amended complaint had been filed, Ambrosio Alinea stated in writing, on November 23, 1906, that he denied having sold the said property to Pedro Alcantara and that he had no interest in defending himself in this suit, on account of his having a case pending decision in the Supreme Court against the said Alcantara, and asked that he be excluded from the complaint.

The case having come to trial and both parties having adduced their testimony, the documents exhibited being attached to the record, the court, on January 11, 1909, rendered judgment declaring the sale made by Ambrosio Alinea to be null and void with respect to the parts of the property that should belong to the plaintiffs, that is, to five-sixths of the house and lot in question, and valid and subsistent in favor of Pedro Alcantara with regard to the other one-sixth of the said property. The judgment contained no special finding as to costs and reserved to Pedro Alcantara the right to demand from Ambrosio Alinea the return of five-sixths of the sum paid as the value of the house.

Pedro Alcantara excepted to this judgment and, by a written motion of the 13th of January, asked for a new trial on the grounds that the findings of fact were openly and manifestly contrary to the weight of the evidence, and that the judgment was contrary to law. In view of this motion, the court, by order of March 18, 1909, and for the reasons therein contained, modified the aforesaid judgment of the 11th of January and declared the sale made by Ambrosio Alinea to be null and void with respect to the parts of the property which belong to the plaintiffs, that is, to six-eighths of the house and lot owned by them, and that the said sale was valid and subsistent in favor of Pedro Alcantara with respect to another one-eighth, and that until the rights that pertained to the deceased Luis Alinea should be determined by the proper action, the defendant Alcantara should be entitled to possess the other one-eighth of the property, which part belonged to the said deceased. No special finding was made as to the costs. Counsel for the defendant Alcantara also appealed from this modified judgment and announced his intention of filing the necessary bill of exceptions, which was duly filed and was approved, certified, and forwarded to the clerk of this court, together with the original record and the evidence taken at the trial.

Among the documents exhibited during the course of the trial there appears, as Exhibit 1, the original document written in Tagalog and presented by the defendant (p. 34 of the record) whereby it is shown that the spouses Ambrosio Alinea and Eudosia Belarmino received from Pedro Alcantara on February 21, 1903, the sum of 300 pesos which they bound themselves to repay in February of the following year, 1904, and in case they should not be able to do so, they agreed to indemnify their creditor therefor, and gave as security a lien on their house with galvanized-iron roof, situated in Calle San Pablo. The witnesses to the transaction were a brother and an uncle, who must be those named Florentino Alinea and Irineo Azucena, whose signatures appear at the foot of the instrument with those of the debtor spouses.

Page 10 of the record also shows, as Exhibit F, a copy of the instrument written in Tagalog and executed on February 29, 1904, by the same spouses, Ambrosio Alinea and Eudosia Belarmino, in which it appears that they received as a loan from Pedro Alcantara the sum of 480 pesos which they bound themselves to repay at the end of January, 1905, or else sell to the creditor for the sum loaned the house and lot owned by them which Ambrosio Alinea inherited from his father Doroteo. The witnesses to this instrument were Doroteo Belen and Potenciano Cabrera.

The previous action instituted by Pedro Alcantara against Ambrosio Alinea and wife in the court of La Laguna, for breach of contract, was decided favorably to Alcantara and the judgment rendered therein was affirmed by decision of this court in *Alcantara vs. Alinea* (8 Phil. Rep., 111). The claim of the defendant Alcantara in that

litigation was founded on the obligation contained in the said instrument of February 29, 1904, expressive of a loan of 480 pesos, on the supposition "that the debtors who appear therein as the obligated parties were the owners of the property which they bound themselves to sell to the creditor Alcantara in case they should not be able to pay their debt, as has occurred.

It was not alleged by the defendants in that suit, nor was it shown by evidence, that the house or property, the promise of sale of which was in dispute, was the common and undivided property of the widow and heirs of the deceased Doroteo Alinea.

The object of the present suit is to obtain from the courts the explicit declaration that the sale of the property in question is null and void, in so far as it affects and injures the rights of the widow and other coheirs of the vendor, Ambrosio Alinea, notwithstanding the executory judgment obtained by the herein defendant, Pedro Alcantara, in the previous suit for breach of contract. The said executory judgment is, indeed, binding on Ambrosio Alinea, but it can not affect the rights of his mother and coheirs, inasmuch as they were not parties to the contract aforesaid, nor are they obliged to fulfill the same.

The record shows it to be fully proved that the property concerned was acquired in May, 1895, during the lifetime of Doroteo Alinea and while his wife was still living, from Sotero Bautista for the sum of 550 pesos, which sale was executed in the court of San Pablo before the capitan municipal, his secretary and witnesses. It can not, therefore, be doubted that the property in question was transferred by the parents of Ambrosio Alinea, and, as it was acquired by the former during the conjugal partnership, it now belongs to the widow and heirs of the deceased Doroteo Alinea.

The rights to a person's succession are transmitted from the moment of his death, and thus it is that the heirs of the deceased, by the mere fact of his death, succeed to all his rights and obligations, (Arts. 657, 661, Civil Code.)

The defendant, notwithstanding his having denied in his answer all the facts alleged in the complaint, withal admits implicitly that the house and lot in question belonged exclusively to Doroteo Alinea and the latter's wife, Bernarda Aliasas, and that, when Doroteo Alinea died on June 27, 1899, the rights of the deceased were, in fact, and by operation of law, transmitted to the four children of the latter, Florentino, Luis, Candida, and Ambrosio Alinea. Such admission arises from the fact that the first and second errors, imputed by the appellant Alcantara to the judgment appealed from, consist in the averment that the court erred by not declaring that the real and personal property left at his death, by Doroteo Alinea, was adjudicated to and divided between his widow, Bernarda Aliasas, and his four children, and that the court also erred by not declaring that, by virtue of such partition, the house and lot claimed in the complaint, and included in the property left by the deceased, belonged to Ambrosio Alinea.

It was asserted by the plaintiffs that the said house and lot, as property left by the deceased Doroteo Alinea, were as yet undivided and unallotted to his widow and heirs, and the record shows no proof of any kind to the contrary, to wit, that such partition was made and that the said house and lot fell to Ambrosio Alinea, notwithstanding the intention and purposes of the defendant Alcantara, who knowingly acquired the whole of the property when he was aware that it was not exclusively owned by the seller, Ambrosio Alinea, but belonged in common to the widow and heirs of its previous owner. The defendant should not have been ignorant of the fact that only a division legally made of hereditary property can confer upon each heir the exclusive ownership of the property which may have been awarded to him. (Art. 1068, Civil Code.) The defendant was unable to prove such a partition.

Pedro Alcantara could not have believed that Ambrosio Alinea was the sole and legitimate owner of the said house and lot, because, aside from the fact that he could and should have made the proper investigations prior to

his having accepted the said property as security for the money he loaned to Ambrosio Alinea, and without assenting to a mere statement made by the latter, it is conclusively shown that he received from his debtor, and had in his possession, the deed of the property, which the original owner, Doroteo Alinea, obtained on purchasing the property. By a perusal of the said deed, before exhibiting it in the justice of the peace court of San Pablo for the purpose of obtaining the ejection of his debtor, Ambrosio Alinea, in order that the latter might abandon and remove from the property given as security for his unsettled debt, the defendant would have learned that the said property came from the deceased father of the debtor, Ambrosio Alinea, and therefore then belonged in common, and pro indiviso, to the widow of the deceased and to his heirs, and that, at most, Ambrosio Alinea was only the owner of one-eighth of the said property or of that part of its value.

In the record of the proceedings in the court of the justice of the peace of San Pablo there is found, on page 18, a true copy of the title deed to the property before referred to, and inasmuch as that record shows, on page 12, that the court certified to the authenticity and exactness of the said proceedings, including the copy of the deed mentioned, unless this deed be impugned as false and proved so to be, it would be unjust and improper to reject it or to fail to recognize its validity in this action, especially since the defendant Alcantara did not see fit to exhibit the original deed which was delivered to him by his debtor. It is to be regretted that the official who copied the deed of transfer did not record at the bottom, among other details called for by the old laws then in force in this country, the name of the person to whom the original was delivered or returned. If he had done so, it would be known with certainty who is now in possession of the original instrument.

The possession of the said house and lot, which Ambrosio Alinea has been ostensibly enjoying since the death of his father Doroteo, can not have created a right in favor of the possessor, inasmuch as, the property remaining in a condition of pro indiviso, the said possession by Ambrosio Alinea over the property of common ownership is understood to be that held by him as an heir and in the name of his mother and the other coheirs, for as one of the latter he could not hold it exclusively for the purposes of prescription, since common pro indiviso property can not be acquired by a coheir through prescription. (Art. 1965, Civil Code.)

On the grounds just above related, Ambrosio Alinea could not legally dispose of the whole of the said property, nor deprive his mother and the coheirs of their unquestionable rights in the same, and, consequently, he could not transfer to Pedro Alcantara any right in the property yet undivided save only such as he has to a one-eighth part of the said house and lot. The sale or transfer, therefore, made by the said Ambrosio Alinea in favor of the defendant Alcantara, of the remaining seven-eighths of the property referred to, is absolutely null and void.

For the reasons herein stated, it has been fully shown that the assignments of error alleged against the judgment of the court below are entirely unfounded.

It is to be noted that, in the judgment appealed from, the question raised by the petition relative to damages was not decided, and that, also, it was ordered that the defendant Alcantara might continue in the possession of one-eighth part of the property in question until the rights which pertained to the deceased Luis Alinea should be decided by the courts. Withal, the said judgment appears to have been acquiesced in, with respect to these points, by the plaintiff appellee.

For the foregoing reasons, and accepting those set forth in the judgments appealed from, it is proper, in our opinion, to affirm, as we do hereby affirm, the said judgments, with the costs against the appellant.

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

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