

RUPERTO SALVA, APPLICANT AND APPELLANT, VS. ADRIANA SALVADOR, OPPONENT AND APPELLEE.*G.R. No. 5893. January 03, 1911*

Ponente: TORRES, J.

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On April 22, 1907, Ruperto Salva filed an application with the Court of Land Registration for the registry, in accordance with the law, of certain property belonging to him, consisting of a parcel of land situated in the barrio of San Roque of the municipality of San Pablo, La Laguna, bounded on the north by the land of Vicente Damaraos, on the east by that of Pedro Alcantara and Rufina Belen, by a new street built in December, 1906, and by a lot of the municipality of San Pablo, on the south by the main street of the pueblo, and on the west by the lands of Poteneiano Malvar and Arcadio Brion. The said application set forth that the land had an area of 9,079 square meters, in accordance with the details contained in the plan accompanying the application; that it was appraised, for the purpose of the payment of the land tax, at \$95 United States currency, and had been acquired by the applicant as a part of his share, pursuant to a mutual agreement with Adriana Salvador with whom he had been living connubially for a long time; that the latter, before the partition was made and while she was still living with the applicant, applied for a possessory information title and inscribed in her name all of the land in the property registry of La Laguna, as the present applicant was then in the military service in the capacity of corporal of the Guardia Civil of the Spanish Government; that afterwards Adriana Salvador sold the part that belonged to her to Arcadio Brion, attaching the possessory title to the deed which she executed before the municipal president of San Pablo; that the applicant at present occupies the said land, and that, to his best knowledge and belief, there is no encumbrance on the same and no other person who might claim to have any right or share therein.

The case came up for hearing and as no one appeared to oppose the application of Ruperto Salva, notwithstanding the summons issued and the notices published after the presentation of both oral and documentary evidence by the applicant, the judge of the Court of Land Registration, in view thereof, rendered judgment on December 3, 1908, whereby he found that the adjudication and registration of the said property in the name of the applicant, in accordance with the plan and technical description presented and after the entry of a general default, was admissible, and ordered the issuance of the proper decree in his favor.

Three months after the said decree had been issued in behalf of Ruperto Salva, Francisco Faustino, by a petition of March 3, 1900, presented in the name of his wife, Adriana Salvador, requested that, in consideration of the reasons alleged therein, all the proceedings had in the said case at the instance of Ruperto Salva be declared null and void, and that a title of ownership to the land in question be decreed in his favor. The said petition further prayed that, in any case, a new trial be held, without prejudice to an investigation by the proper authority of the fraud and deceit practiced by Salva, in order that he might be punished therefor, and recited that the opponent's wife, Adriana Salvajor, was the legitimate owner of the land in question, by possession for more than fifty years, according to the composition title recorded in the property registry on November 14, 1895, which title was attached to his petition; and, further, that, notwithstanding the fact that Salvador resided in the pueblo of Quingua,

Bulacan, she exercised, through her agent, Ruperto Salva, her right of possession over the said land; that on December 4, 1907, Adriana Salvador sold one-half of her land to Arcadio Brion, as recorded on the margin of one of the sheets of her title of ownership; that, a few days before, it had come to her knowledge that her said agent, abusing her confidence, had instituted case No. 4534 in the Court of Land Registration, wherein he alleged that the remaining half of the land in question was his and applied for the issuance of a title, willfully concealing the fact that the said land belonged to Adriana Salvador, wherefore the court did not summon the latter; and the petition set forth that thereby the fraud of which Ruperto Salva availed himself, was proved, and that therefore the proceedings should be annulled, with respect to which neither Adriana Salvador nor her husband, Francisco Faustino, had any knowledge, they having learned of the fraud through a statement made to the latter by the superintendent of schools of La Laguna, to the effect that the Government desired to purchase Adriana Salvador's land for the purpose of erecting a school building thereon.

A rehearing of the case was had on a motion for a new-trial filed by Adriana Salvador's husband. On September 27, 1909, the judge annulled the decree of registration of December 3, 1908, and ordered a continuance of the hearing of the case in order to decide the question of the ownership of the property alleged to pertain to Adriana Salvador.

Upon the further hearing of the case, and after the presentation of oral evidence by the parties, the documents exhibited were attached to the record, the court pronounced judgment on November 20, 1909, granting the petition presented by Adriana Salvador on the 3d of the previous month of March, and ordered the cancellation of the decree No. 5053, issued in favor of Ruperto Salva and referred to in the ruling made on March 9, 1909, and that the register of deeds of La Laguna and the clerk of the Court of Land Registration issue another decree of registration of the said property in the name of Adriana Salvador as soon as this judgment should have become final.

Ruperto Salva, upon notice of the aforementioned order, filed a written motion for a rehearing, on the ground that the same was contrary to law and was unsupported by the weight of the evidence. This motion was denied on December 14, 1909, wherefore the applicant Salva took exception to all of the rulings and orders of the court in these proceedings of review and filed the proper bill of exceptions for certification and transmission to the clerk of this court. Section 38 of Act No. 496, among other provisions, contains the following:

"Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. * * * Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the Court of Land Registration a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest."

Did Ruperto Salva act fraudulently in applying for the registration of one-half of the land, the possessory title of which had previously been recorded in the property registry in the name of Adriana Salvador, without having expressly requested that the latter be summoned, when the partition of the said land, made between the applicant and the presumed owner of the property, appears only in a private document not duly legalized?

The applicant Salva knew perfectly well that the opponent Salvador had applied for the said possessory title with favorable result; that such title set forth that she had acquired all the land referred to, by purchase from Laureana Gabino, and that she had been in possession of the property since its acquisition, inasmuch as he himself had signed in the name of the opponent, because she did not know how to write, a petition of the date of November 8, 1895, addressed to the register of property and requesting a certified copy of the title which was entered in the registry, which copy he himself exhibited under letter C, as the assent of the real owner of the entire piece of land

was indispensable to obtain a favorable issue of his claim filed before the Court of Land Registration.

Neither could the applicant, Ruperto Salva, have been unaware of the fact that when Adriana Salvador sold one-half of the said land to Arcadio Brion, on December 4, 1901, she did so as the owner of the entire property, as stated in the instrument drawn up before the municipal president of San Pablo, Exhibit No. 3, a copy of which, or its original, must have been seen and read by him when in the possession of the vendee, who furnished him the aforesaid certified copy, letter C; therefore he must have understood that the private document, designated under letter B, which accompanied his application and contained the agreement of partition of the said land, claimed by him to have been entered into by himself and Adriana Salvador, could not be authentic nor efficacious except upon approval by the latter, the sole owner of the realty according to the documents aforementioned; and, withal, there being no record of such approval, Ruperto Salva, in applying for the registration of one-half of the land alleged by him to be his, did not request that the said owner of the land be summoned, leaving it to be inferred that the latter had transferred to him the ownership of the said one-half of the property, when, in reality, there was no authentic record to that effect, and such transfer was afterwards found not to have been made.

Ruperto Salva endeavored to prove in these proceedings the certainty and authenticity of the instrument of partition, letter B, by means of the testimony of three witnesses whose sworn statements, in the opinion of the judge, could not destroy the conclusion reached from the evidence adduced at the trial, which conclusion can not be rejected without good reason.

Adriana Salvador denied that she had made with the applicant the said agreement of partition of the land in litigation and that they were co-owners of the property. She maintained that the whole of the said land belonged to her and that she had acquired it with her own funds. These positive statements of the opponent appear to be corroborated by the text of the document No. 3, relative to the sale of one-half of the land in question to Arcadio Brion, for in it the vendor states that she owned all the land, the area and bounds of which are given, and that she sold only one-half of the same to the said vendee, Arcadio Brion. This document, dated December 4, 1901, was not impugned nor refuted as false.

Were it true that, on the first of the month just above mentioned, three days before Adriana Salvador had executed the instrument of partition, letter B, Jose Brion, who signed it at the request, according to himself and the applicant, of the said Salvador, on reading and signing the instrument of sale, No. 3, of one-half of the land at the request of or for Matea Lopez, the wife of the vendee, Arcadio Brion, his brother, would have called the latter's attention to the fact that the vendor, who on the 1st of December agreed with Ruperto Salva to divide the land and with him by deeding him one-half of it, stated on the fourth of the same month, three days afterwards, that she was still the owner of the whole of the land and that she only sold the half of it. Jose Brion, while interested in behalf of his brother, the purchaser, made no objection and said nothing, undoubtedly because it was not true that there was an agreement of partition, nor that such an instrument was really executed by Adriana Salvador.

The latter, according to the marriage certificate, Exhibit No. 2, was married to Francisco Faustino on August 26, 1901, and therefore it is to be believed that she did not continue to live with her former paramour, Ruperto Salva, on the 1st of December of the same year.

It is true that in this document it is stated that she was single, as likewise in the other instrument of sale, Exhibit No. 3, dated the fourth of the same month and year; but the opponent Salvador denied, as aforesaid, the certainty and authenticity of the first instrument of partition and admitted the sale recorded in the second one which, however, was not drawn up in her presence; and notwithstanding that the said opponent did not explain how that sale could have been effected without the authorization of her husband, as she was already a married woman on the date when she executed it, yet this court has no need to concern itself with the questions to which such a

circumstance might give rise, in spite of the ratification or confirmation of the sale on the part of the vendor.

The sole object of this decision is to decide whether the applicant acted fraudulently in asking for the registration of one-half of the land in question, which half, according to the possessory title, exclusively belonged and belongs to the opponent.

Had the applicant acted in good faith, he would frankly, and of his own accord, have stated the nature and conditions of the instrument of partition, Exhibit B, and expressly have requested that the opponent, whose name appears in the said title as the legitimate and sole owner of all the land, be summoned, in order that she might have knowledge of the registration applied for by him, and might confirm the truth of the agreement of partition set forth in the document mentioned; but he showed no interest in having any of these things done; and endeavored to obtain, and did obtain, a decree of registration without the opponent's knowledge and behind her back, which decree, had the review that was requested and filed within the term allowed by law not been granted, would have deprived the opponent of her property.

For the foregoing reasons, and because the judgment appealed from is found to be in accordance with the law, as regards the first part thereof, it is proper, in our opinion, to affirm the same, as we hereby do, thereby annulling and canceling the decree of December 3, 1908, which directs the registration, applied for by Ruperto Salva, of one-half of the said land; and the second part of the aforementioned judgment is reversed or set aside. It is ordered that another decree of registration of the property concerned be issued in favor of the opponent Adriapa Salvador, for which she may make a separate application. No special finding is made as to the costs of both instances. So ordered.

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

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