

**JOSE M. ARROYO, AS ATTORNEY IN FACT OF IGNACIO ARROYO,
PLAINTIFF AND APPELLEE, VS. MATIAS GRANADA AND CELEDONIA
GENTERO, DEFENDANTS AND APPELLANTS.**

G.R. No. 6289. March 02, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of Occidental Negros in favor of the plaintiff.

A careful examination of the testimony shows that the statement of facts contained in the following quotation from the opinion of the learned trial court presents clearly and fairly the evidence in the case and the contention of the parties:

"From the evidence presented it appears that in his life-time Felix Granada was indebted to Bias Gerona; that both Felix Granada and Bias Gerona are now dead, and that defendants Matias Granada and Celedonia Gentero are the son and wife, respectively, of Felix Granada, and Ignacio Arroyo, plaintiff, was the administrator of the estate of Bias Gerona. That a suit was commenced by Ignacio Arroyo as the administrator of Gerona for the recovery of this debt, and that final and amicable settlement was arranged between him and these defendants and that a document was executed on the 3d of October, 1905, signed by Matias Granada for himself and on behalf of his mother, Celedonia Gentero, whereby he acknowledged an indebtedness of P2,261, and agreed to pay to the estate of Gerona P1,000 in the month of March, 1906, and P1,261 in the month of March, 1907.

"It appears further from the evidence that this payment of P1,000, to be made in March, 1906, was not complied with by Matias Granada, and as a settlement of that, an arrangement was made between him and Ignacio Arroyo, whereby Matias Granada executed a mortgage as security for the payment of P1,000, payable at 12 per cent interest one year after the execution of the mortgage, which was executed on the 14th of April, 1906. This mortgage gave as security about 130 cavanos of land located in Hinigaran, Occidental Negros.

"It appears further that when this P1,000, together with the P1,261 heretofore referred to, became due in 1907, Matias Granada or his mother was unable to or did not pay the amount to Ignacio Arroyo. In May, 1907, J. M. Arroyo, son of Ignacio, and a lawyer by profession, and with the full power of attorney from his father to transact his affairs, came from Iloilo to the hacienda of his father, which hacienda is known by the name of Sto. Rosario, in Binalbagan, Occidental Negros, for the purpose of arranging some settlements with debtors of his father, including the defendants in this case.

"According to the testimony of the witnesses for the plaintiff, on May 23, 1907, Matias Granada came from the municipality of Isabela, where he lived, to this hacienda to effect a settlement regarding the indebtedness heretofore referred to, and which at that time amounted, with interest, to P2,381. Defendants claim it was on the 24th of May that he came.

"According to the witnesses for the plaintiff, Matias Granada there stated to J. M. Arroyo that they were unable to pay this indebtedness in money, but desired to transfer in settlement of the debt a piece of land, which Matias Granada said was first quality land, good for the raising of sugar cane and rice, and was located near

certain land in 'Cumansi,' which Ignacio Arroyo had secured from one Narciso Borja, and that these lands would be an addition and could be made a part of those secured from Narciso Borja.

"According, further, to the witnesses for the plaintiff, J. M. Arroyo at first objected to accepting these lands, stating that his father desired the money, but finally on the representation of Matias Granada as to the quality and location of the land that he desired to transfer of thirty- four hectares, and considering that it was near by to the lands secured by Ignacio Arroyo from Narciso Borja and would be an addition thereto, and if the land was such as represented, it was well worth the price of the indebtedness, J. M. Arroyo agreed to accept the same.

"The defendant denies that he represented at this time that the land was first quality land, or that it was near the lands mentioned in Cumansi, but the preponderance of evidence presented appears to support the contention of the plaintiff in this respect.

"It appears both from the testimony of plaintiff and defendant Matias Granada that on this date, whether it was the 23d or 24th of May, Arroyo in the house of this hacienda, Sto. Rosario, in Binalbagan, wrote out a cancellation of the indebtedness of P2,381, and signed it. Plaintiff claims that he then gave this cancellation to Matias Granada, together with a form of document of transfer of land with blank spaces for the description to be inserted therein, and that he gave these papers to Matias Granada, who was to return to Isabela and have his mother execute the deed transferring these thirty-four hectares to Ignacio Arroyo, and bring the deed back the next day, which according to plaintiff would be May 24th.

"Plaintiff further claims that this deed was sent back on May 25th, brought by a younger brother of Matias Granada.

"It is the claim of defendants that this transaction of the hacienda of Sto. Rosario was made on May 24th, about 10.30 in the morning; he and J. M. Arroyo started for Isabela, both going on horseback, and that on the way there they stopped" in the jurisdiction of Hinigaran to view those thirty-four hectares of land; that it was pointed out by the defendant, Matias Granada, and examined by J. M. Arroyo, and that after having had dinner there on the land, they then proceeded to Isabela to the house of Matias Granada, where under the dictation of J. M. Arroyo, Matias Granada wrote out the document of transfer of the land, and the two of them, with the mother, Celedonia Gentero, went before a notary public and had the document executed, and at the same time J. M. Arroyo acknowledged before this notary public, Rosauro Barroquina, the cancellation of the debt that he had written out in the hacienda Sto. Rosario, but that instead of inserting the series and number and date of the cedula of J. M. Arroyo, it was left blank because he had left his cedula at the hacienda Sto. Rosario, and that this work was completed about 4 o'clock that evening, when J. M. Arroyo started on his return to the hacienda and sent his cedula back that evening, arriving in the hands of Matias Granada about 6 o'clock, and was the same evening by him given to the notary public and the series and number and date were inserted.

"J. M. Arroyo denies that he ever visited the land in question on this day, or that he went to the house of Matias Granada in Isabela, or that he made the acknowledgment that appears in the cancellation of indebtedness before the notary public, and testifies positively that he has never ridden a horse on any occasion since the time of the revolution, when he was thrown and injured his arm, which injury continues yet.

"The notary public as a witness for the defendants testifies to J. M. Arroyo appearing and making the acknowledgment, and two other witnesses for the defendant testify to his being in Isabela on that date, while, on the other hand, some witnesses for the plaintiff testify that Matias Granada returned from the hacienda Sto. Rosario alone and that J. M. Arroyo did not leave it.

It appears further according to the evidence of the plaintiff that in the month of June following this transaction, J. M. Arroyo sent parties to take over the delivery of this land and to report to him upon it, and that he then discovered that the land was not located where represented by Matias Granada, and neither was it of the quality as represented, nor was it land suited for the raising of sugar cane and palay, but was mostly covered with trees and at that time also covered with water from knee-deep to shoulder-deep in most places. Therefore plaintiff

has asked that this deed be set aside and that defendants be declared to be indebted to him yet in the said sum of P2,381, with the interest.

"According to the evidence presented, first-class lands located where this particular parcel is are valued at P100 to P120 per cavan, second-class lands at from P40 to P50 per cavan, and third-class lands at P20 to P25 per cavan, and fourth-class lands at P15 per cavan.

"All of the witnesses for the plaintiff who have examined this particular parcel place this land as of third or of fourth class quality and Matias Granada himself admits that he believes it to be second or third class land.

"There is some testimony on the part of the defendants stating that in Spanish times more than three thousand cavan of palay were raised from this land, but it is very evident that means not only what was raised on this parcel, but also from all of the other parcels near by there belonging to Matias Granada, his mother, or the estate of their father, because at from forty to fifty cavan of palay per cavan of land, as Matias Granada testifies this land would produce, it could not certainly produce any such total, even if it was all in palay."

Upon these facts the court found that the documents in question were executed by means of false and fraudulent representations of the defendants in this case and ordered their annulment and cancellation.

We are unable to agree with the conclusions of the learned trial court upon these facts. In our judgment there is not sufficient evidence to sustain the allegation of fraud. To set aside an instrument, solemnly executed and voluntarily delivered, upon the ground that its execution was obtained by false and fraudulent representations, the proof must be clear and convincing. We do not think that the evidence adduced shows by a fair preponderance that there were such false and fraudulent representations.

In a sense this opinion on the merits is useless, for the reason that the person bringing the action has no interest whatever in the subject matter thereof and can have no interest whatever in any judgment rendered therein. The action is brought in the name of Jose M. Arroyo as apoderado of Ignacio Arroyo. There is no provision of law permitting an action to be brought in that manner. Jose M. Arroyo, as apoderado, has absolutely no interest in this litigation. He has absolutely no right to bring the defendant into court or put him to the expense of a litigation. The real and only party in interest is Ignacio Arroyo. Under articles 114 and 122 of the Code of Civil Procedure he should be plaintiff.. He is not a party to this action and has in no way appeared or taken part herein. A judgment for or against Jose M. Arroyo personally or as apoderado in no way binds or affects Ignacio. As a necessary result a decision in this case is utterly futile. It does nothing. It touches no interest, settles no question, binds no party, quiets no litigation. Courts ought not to be required to spend their time solemnly considering and deciding cases where nobody can be bound and no interests affected as a result of such deliberation and decision.

While, as we have said, our opinion upon the merits as presented by the facts of this case is, in a sense, useless, in another sense it is not quite so. By such opinion Ignacio Arroyo will know that, although the present judgment does not, upon the record before us, bind him, the result of an action brought by him, subsequent to this opinion, will be adverse to him upon the same facts. From this point of view this opinion upon the merits, as presented in this action, may have the effect of forestalling further litigation of this question, an end worth the trouble taken to effect it.

For these reasons the complaint is dismissed, without special finding as to costs.

Arellano, C. J., Mapa, Carson, and Trent, JJ., concur.

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