

EUGENIO SOBREVILLA, ADMINISTRATOR OF THE INTESTATE ESTATE OF BENITO DECENA, PLAINTIFF AND APPELLEE, VS. FELIX MONTINOLA Y CELIS, ADMINISTRATOR OF THE ESTATE OF MAGDALENO JIMENEA...

G.R. No. 6471. February 29, 1912

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 10th day of July, 1909, Benito Decena, now deceased, commenced an action in the Court of First Instance of the Province of Occidental Negros against the said defendants, for the purpose of prohibiting the sale, under an attachment, of the parcels of land, particularly described in the third paragraph of the complaint, and for the sum of P100, for the unlawful interference with the possession of said property. After hearing the evidence, the lower court prohibited the sale as prayed for by the plaintiff and directed the sheriff to return the property to the plaintiff, with costs against the defendants.

The facts as gathered from the record seem to be as follows:

First. That on the 15th day of May, 1908, a justice of the peace of the municipality of Saravia, rendered a decision against the said Antonio Decena and in favor of the estate of Magdaleno Jimenea. Later, on the 17th day of July, 1908, the Court of First Instance of the Province of Occidental Negros declared said decision null and void.

Second. On the 18th of August, 1908, Felix Montinola, as administrator of the said estate of Jimenea, commenced an action in the Court of First Instance of Occidental Negros against Antonio Decena, based upon the same grounds as the action theretofore commenced in the court of the said justice of the peace. After hearing the evidence, the court, on the 26th of January, 1909, rendered a decision in favor of the estate of the said Jimenea and against Antonio Decena, for the sum of P600.

Third. On the 23d day of April, 1909, an execution was issued upon said judgment in favor of the estate of Jimenea and against the property of Antonio Decena. Under said execution the property in question was attached.

Fourth. On the 1st day of July, 1908, Antonio Decena sold and delivered the property in question, under a public document, to Cristeto de Leon. The deed of sale between Antonio Decena and Cristeto de Leon was presented in evidence during the trial of the cause in the court below. The said deed was registered in the registry of property on the 4th day of August, 1908.

Fifth. On the 13th day of August, 1908, Cristeto de Leon, by virtue of a public document, sold and transferred the property in question to the said Benito Decena. This deed of transfer was also duly registered in the registry of property on the 16th day of December, 1908.

The defendants, during the trial of the cause in the lower court, alleged that the said deeds of transfer of the property in question were fraudulent and that the said Antonio Decena was still the real owner of the said lands,

but no proof whatever was adduced to support this contention. The defendants and appellants rely upon the provisions of article 1297 of the Civil Code, for the purpose of sustaining their contention that the said conveyances were fraudulent.

Article 1297 provides that:

"All contracts, by virtue of which a debtor conveys property under gratuitous title are presumed to be made in fraud of creditors.

"Conveyances under onerous titles, made by persons against whom a condemnatory sentence, in any instance, has been previously rendered, or a writ of seizure of property has been issued, shall also be presumed fraudulent."

It will be noted that no proof was adduced in the court below to show that the said transfers were made under gratuitous title. It will also be noted that at the time of the transfer of the property in question by Antonio Decena to Cristeto de Leon (July 1, 1908), no valid condemnatory sentence had been rendered against Antonio Decena, and so far as the record shows no sentence had been rendered against him until nearly six months after the transfer of the said property had been made by de Leon to the plaintiff herein.

There may have been fraud in the different transfers of the property in question, but the record fails to show it. If the defendants believed that the transfers were fraudulent, that fact should have been established by competent evidence.

After a careful consideration of the, record brought to this court, we are of the opinion that the judgment of the lower court should be affirmed with costs. So ordered.

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

Mapa and Moreland, JJ., concur as to the dispositive part.

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