

SIXTO PANTOJA, PLAINTIFF AND APPELLANT, VS. CLARO PALENCIA, DEFENDANT AND APPELLEE.

G.R. No. 7206. January 27, 1913

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Catalino Pantoja owed Claro Palencia P215 Philippine currency as rent for a piece of arable land which belonged to the latter and was leased to the former on shares. An action was instituted for the collection of the debt and Catalino Pantoja was sentenced to pay the same. In execution of the judgment, four parcels of land, thought to be Catalino Pantoja's, were sold at public auction, and thereby transferred to Claro Palencia.

But Sixto Pantoja intervened in the suit, both before and after the auction, as the owner of said four parcels, and exhibited a notarial instrument of sale, executed in his favor by Catalino Pantoja one year prior to the date of the auction, which instrument, as evidence of his title, he presented with his complaint.

The defendant, Claro Palencia, attacked this notarial instrument on the ground that it was forged and executed in fraud of creditors. The Court of First Instance of Albay suspected from the representations of Sixto Pantoja that the sale to him of the parcels of land in question was effected without a consideration, as it appeared to the court that Pantoja very probably did not have the sum of P989 which the instrument recited as the price for the land. Besides, the court considered the failure of Sixto Pantoja to appear as a witness in connection with the said sale to be a suspicious circumstance. This the trial judge thought Pantoja certainly would have done had the sale been effected in good faith. Furthermore, the court considered the following two circumstances as militating against the validity of the notarial instrument: That it was not registered, and that it was executed on a date when the forging of notarial instruments, for the purpose of withdrawing property from execution, was very easy. For these reasons the court absolved the defendant from the complaint. From this judgment the plaintiff appealed.

After due consideration of the appeal, we hold as follows:

- That it certainly was easy to forge a notarial instrument by inserting therein a false date, thereby causing acts and contracts to appear to have been performed and executed on past dates; but this court, without convincing proof, cannot deny to a notarial instrument the validity which the law confers upon it, so long as its falsity or lack of authenticity has not been proven, all which have in no wise been established in the present case.
- That the lack of registration of an instrument of sale does not argue a forgery, because there is no law which requires the registration of an instrument of sale of realty, except in special cases, in none of which can the document in question be comprised.
- That the insolvency of a debtor, or the fact that he has many creditors, does not invalidate a sale he may make of his property when it is not definitely burdened with any specific obligation; for so long as the thing sold is not in any way pledged to a merely personal creditor he is not an intervener with respect to the vendor or the vendee to enable him to say that he may be prejudiced by any sale his debtor might have made.

- That the vendee did not appear to testify, when the vendor did and hers the person who can and must be examined regarding the deal he originated and who under the law of ejectment could even be compelled so to do in a contrary case, cannot militate in any way against the vendee, when at most it could only be held as a corroboratory circumstance in connection with other evidence in the case, a thing that does not exist herein, where it has been impossible to find any other circumstance; but rather it appears that at the defendant's request the vendee was carefully examined before the justice of the peace prior to the attachment and sale of the realty in question.

- That if the transfer had been made without a consideration, then it would be fraudulent or executed in fraud of creditors; but it must be proven, and not merely presumed, that there was no consideration. Nowhere in the case is it shown that there was no consideration, or price paid at the sale, while the vendee testified that he also was a creditor and had urged his debtor to sell him the said lands in payment of what the latter owed him, without prejudice to his continuing to cultivate them on his own account; and nothing to offset these assertions was demonstrated by the defendant during the trial.

- That the circumstance which the appellee alleges, of being an acknowledged creditor of the vendor, Catalino Pantoja, before the instrument of sale was executed, in no way supports the presumption referred to, since a debtor is not prevented from selling his property on account of the existence of previous creditors, if none of the latter prohibit him from so doing. Besides, it appears from the trial record that, if before the sale herein concerned, Claro Palencia was an acknowledged creditor of Catalino Pantoja, the latter made payment with the land which he continued to cultivate in partnership with Palencia, and from this partnership sprang the debt of the products of the cultivation. That acknowledgment does not appear to have existed previous to the sale, since this was effected on the 11th of March, 1909, and until the 25th of the following August the complaint of Palencia against Catalino Pantoja had not been filed, nor until the 3d of September of the same year was an agreement made whereby a settlement was effected of Pantoja's debt to Palencia.

For these reasons the judgment appealed from is reversed, without special findings as to costs, and the trial court shall grant the relief prayed for in the complaint.

Torres, Mapa, Johnson, Moreland, and Trent, JJ., concur.

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