

ARSENIO CAMO, AS JUDICIAL ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED CLARO CRUSILLO, PLAINTIFF AND APPELLANT, VS. JOSE RIOSA BOYCO, DEFENDANT AND APPELLEE.

G.R. No. 8304. February 11, 1915

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

Claro Crusillo and Mariano Crusillo were legitimate brothers and lived together in the same house with their mother. Claro Crusillo died on September 3, 1904, being survived by his brother Mariano and his mother, who is his sole legitimate heir. These are admitted facts.

By order of October 21, 1908, of the Court of First Instance of Albay, Arsenio Camo was appointed judicial administrator of Claro Crusillo's estate and he took possession and made an inventory of the property.

One day he happened to notice that certain parcels of realty which belonged to the decedent, Claro Crusillo, were advertised for sale at public auction on March 9, 1909.

These were: (1) A parcel of abaca land in Bunsuran, barrio of Naga, municipality of Tiwi, Albay, with an area of 6 hectares 98 ares and 75 centares and the boundaries set forth in the inventory presented by the judicial administrator or the property title of Claro Crusillo. (2) A lot of 280 square meters in Cararayan, municipality of Tiwi, Albay, with boundaries as set forth in the property title of Claro Crusillo. (3) A house of light materials of 5 varas frontage and 4 depth, with its corresponding kitchen, also the property of Claro Crusillo.

On February 8, 1909, the administrator filed with the sheriff who had advertised the sale notice of intervention of ownership, basing it upon muniments of title, for the clearance of the said three parcels of realty. But the judgment creditor, the Chinaman Boyco, filed a bond and the sheriff proceeded with the public auction on the date stated, March 9, 1909, said parcels being adjudicated therein to the Chinaman Boyco, the judgment creditor himself.

After the sale had been consummated the administrator presented in due form the complaint at bar in the Court of First Instance of Albay and with it the titles of ownership of Claro Crusillo, because the latter was the one who had acquired them in his lifetime for himself, exclusively; Mariano Crusillo, who appears to have been the judgment debtor, had nothing to do with said property. These titles are so perfect and such proof of the exclusive ownership of Claro Crusillo that they are beyond any question. Claro Crusillo's ownership is a proven and undeniable fact.

When at the trial the plaintiff attempted to prove the legality of said property titles by means of parol evidence, counsel for the defendant came forward and stated that he desired to amend his answer and estop the plaintiff. This the court did not allow, saying that there was nothing to demonstrate that Claro Crusillo and his administrator were estopped; he allowed the evidence to be presented, and consequently the witness the plaintiff was examining continued to testify.

When the witness Mariano Crusillo was presented and testified regarding Claro Crusillo's exclusive right of ownership the defendant protested, alleging that he also was estopped from testifying that the lands in question were not his after he had declared for assessment purposes that they were his. But the court overruled the objection on the ground that the parties themselves are the only ones that can be estopped, and as the witness Mariano Crusillo was not a party in this trial he could not be prevented or estopped from testifying. On the stand witness said that the lands were the exclusive property of Claro Crusillo, and that when he made the declaration for assessment it was by direction of his mother, who was then old, and that before Claro Crusillo died nobody had directed him to make the declaration for assessment.

When the defendant Boyco was testifying and he was asked if he knew, at the time he lent money to Mariano Crusillo, that the lands which are the subject matter of this litigation were declared for assessment in Mariano Crusillo's name, the plaintiff objected; but the court overruled the objection, saying that the attorney for the defendant desired to prove estoppel, and the defendant replied affirmatively to the question.

The declarations for assesment were made by Mariano Crusillo, one in 1904 while Claro Crusillo was still alive, and another in the year 1906 after the latter was dead.

The intervention of ownership was not admitted. The court ruled it out and absolved the defendant, with the costs against the plaintiff, who has appealed.

On appeal we find that the principal basis of the judgment appealed from is nothing more than the rule of estoppel, which, in the opinion of the trial court, must be applied in this case, as he understands "Mariano Crusillo and his mother to be the sole heirs of Claro Crusillo, and that under section 596 of the Code of Civil Procedure they are entitled to divide between themselves the inheritance left by said Claro Crusillo at his death," a finding in every way incorrect, for only one person, his mother, is entitled to the property of the deceased Claro Crusillo, Mariano Crusillo having no right thereto as he is only a relative in the collateral line, excluded from the inheritance when there exists, as there does exist, a legitimate heir in the ascending line, which is his mother.

As for the estoppel. This is thus defined:

"Whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he can not, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it." (Sec. 333, par. 1, Cod. Civ. Proc.)

The conclusions in the case are:

- That no evidence has been presented or attempted to be presented regarding any declaration, act, or omission either of Claro Crusillo himself in his lifetime or of the judicial administrator of his intestate estate after his death, that would have intentionally and deliberately induced Boyco to believe that Mariano Crusillo was the lawful owner of the three parcels of realty that are the subject matter of the intervention, or as to whether Mariano Crusillo may have made any declaration for assessment which might have deliberately and intentionally induced Boyco to believe that he was the lawful owner of said property. Hence the correctness of the court's finding at the trial:

"There is nothing which demonstrates that Claro Crusillo and his administrator are estopped, and therefore this evidence is admitted." (p. 4)

- That it does not anywhere appear in the record that Claro Crusillo or his intestate estate had any relation, either direct or indirect, with Boyco, or that Mariano Crusillo had any direct relation with Boyco that would have deliberately and intentionally induced him to believe anything; so the latter cannot invoke in his favor any declaration, act, or omission of Mariano Crusillo's that may have deliberately and intentionally made him believe

when he sought to obtain the execution that the three parcels of realty in question really belonged to Mariano Crusillo and could and ought to be sold as his property. In a word, there is no proof of deliberate and intentional inducement on the part of Mariano Crusillo in any dealing with Boyco.

- That the only facts proven are: That Mariano Crusillo made out in the Chinaman Ayeng's favor a promissory note for P656, and that Ayeng indorsed this note to Boyco and Boyco brought an action against Mariano Crusillo for payment of this debt.

- That Mariano Crusillo did not subject any of the three parcels of realty now under consideration to the payment of such debt; rather, when Boyco was asked at the present trial if he knew that Mariano Crusillo had any property of his own, he replied:

"He has some rice fields, but they are mortgaged to him; they don't belong to him; their value is very small" (p. 15)

- That, with only a judgment in Boyco's favor for the payment of that debt, the sheriff attached the three parcels of realty in question and sold them to Boyco himself; and hence it was that between the attachment and the sale the intervener fully demonstrated to the sheriff that they were not and could not be Mariano Crusillo's, because they were the exclusive property of the deceased Claro Crusillo, as has been plainly demonstrated in this case.

We do not see what estoppel can be applied in this case. As for the way in which Mariano Crusillo may have been estopped, the court itself, when Boyco's attorney attempted to prevent Mariano Crusillo from confirming the fact of Claro Crusillo's ownership, correctly made this ruling:

"The objection is overruled; the Code of Civil Procedure says that one of the parties can be estopped; this person, testifying as a witness, is not a party in this case, although he may be an heir" (which is also incorrect).

Claro Crusillo or his intestate estate not being estopped, and as Mariano Crusillo cannot be estopped because he is not a party to the case, there is no estoppel that can be effectively applied. Consequently, there is no reason apparent why the owner of the property illegally sold should fail to recover his possession and ownership.

But the dominating idea of the defense seems to be that:

"The declaration for the land tax is the only record in existence regarding the land, a record made in the name of Mariano Crusillo and not of Claro Crusillo, against which record no objection has been presented by any member of the family, and so the defendant just as any other interested party is entitled to confide in said record."

This amounts to saying in a few words that there is no owner of a parcel of realty other than he who has declared it in the assessment office, and that the real and lawful owner who has not contradicted that declaration has lost his ownership of the realty belonging to him.

This is a theory that can in no sense be accepted in law. The assessment office is not a property registry, but simply an office for collection of the land tax. He who neglects to declare his realty that is subject to such tax, allowing opportunity for another to declare and inscribe it in his own name, exposes himself to the penalties fixed in the law regulating such tax, but never to loss of his ownership under the consideration that it is conveyed to the one who made the declaration and inscription in his own name; and even payment of such tax by the usurper is not one of the ways of losing ownership or possession according to the fundamental laws that regulate ownership of property.

Even though Mariano Crusillo might have borrowed the P656 that he got from the Chinaman Ayeng and in order to obtain the loan he might have deliberately and intentionally induced him to believe that he was the owner of the

realty in question, exhibiting to him the declaration for assessment that he had made, and even though he might have mortgaged said property as security for payment of the debt (nothing of which has occurred in the present case), the real and lawful owner of said realty, Claro Crusillo, would not thereby have lost his right of ownership; and once this has been asserted the court cannot do less in truth and justice than to declare to be the owner he who is actually such and to annul the ownership fictitiously created by him who is not; and not because, in this hypothetical case, which is not after all the real one at bar, the person who incautiously furnished the money should not be cheated and he who is not such must be made the owner, while the owner himself who has done no cheating should lose his ownership. One who lends his money must take care, just the same as one who buys anything or enters into a contract or performs any judicial act, to learn everything that will conduce to the stability and correctness of the act he has to perform or the contract he has to make; and not through deception, if due diligence has not been exercised, must he be placed in a more favored condition than one who had nothing to do with the act or contract from which the deception resulted.

Mariano Crusillo has not cheated or tried to cheat anybody, as is made out in the decision, either Boyco or Ayeng. He did not deal directly with Boyco, but became indebted to him by the transfer Ayeng made to him of his rights. He offered nothing in connection with the realty in question either to Ayeng or to Boyco. Neither did the declaration for assessment made by him have any influence in obtaining the P656 from Ayeng's hands; at least, there is nothing in the record that says so or induces such a presumption. Mariano Crusillo did not pay his debt; but he is not to be called an embezzler for failing to do so; and not because it is impossible to sustain the purchase of another's property, made incautiously and precipitously, must he be considered cheated who applied for the attachment and sale and later made the purchase. The deception suffered in this purchase must not be rectified by sacrificing the ownership vested in its lawful owner and possessor, who has done nothing to lose it.

Declaration for assessment is not a ground on which to base proof of ownership of realty. This Supreme Court has repeatedly held that the declaration of ownership for the purposes of assessment and the payment of the tax are not sufficient evidence to prove ownership. (*Evangalista vs. Tabayuyong*, 7 Phil. Rep., 607; *Elumbaring vs. Elumbaring*, 12 Phil. Rep., 384.)

In *Whitney vs. Thomas*, 23 N. Y., 281, it was said: If lands belonging to one person could be validly assessed in the name of another; and if such assessment could be made the foundation of a sale and conveyance of title by the comptroller, great inconvenience and injustice might result. The true owner would be misled. He would have no notice of the assessment or of the proceedings upon it, and it would require diligence to discover and trace out such proceedings. The law protects the real owners of property from being placed in such a position by requiring that, when they are to be divested of their title to such property by any statutory proceeding, the directions of the statute must be strictly followed.

This Supreme Court has said: "The American law does not create a presumption of the regularity of any administrative action which results in depriving a citizen or taxpayer of his property, but, on the contrary, the due process of law to be followed in tax proceedings must be established by proof and the general rule is that the purchaser of a tax title is bound to take upon himself the burden of showing the regularity of all proceedings leading up to the sale." (*Valencia vs. Jimenez*, 11 Phil. Rep., 492.)

Sale of a person's land, assessed in the name of a person other than the lawful owner, is completely invalid and can not convey any right to the purchaser. (37 Cyc, 1292, and cases there cited.) In no way can the judgment appealed from be affirmed.

The plaintiff has tried to show the damages that have been caused him by the continuation of the attachment and sale of the lands despite his justified objection made according to law to the sheriff; but the sheriff, who is the one

responsible for these damages under security of the bond filed by the execution creditor, has not been made a party in this case and no adequate and competent finding can be made with reference to this part of the complaint. The heading of section 442 of the Code of Civil Procedure sufficiently shows this: "Right of third party against officer." Against the sheriff, therefore, must be directed the action for damages resulting from an improper execution.

The judgment appealed from is reversed. In lieu thereof, it is held that the sale at public auction made to the Chinaman Jose Riosa Boyco on September 24, 1910, is null and void; that Claro Crusillo is the lawful owner of the three parcels of realty as described in the complaint, the administrator of his intestate estate being such now, and he must be placed in possession; without special finding as to costs in both instances. So ordered.

Torres, Johnson, and Araullo, JJ., concur.

Carson, J., dissents.

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