

BARTOLOME TABLANTE, PLAINTIFF AND APPELLEE, VS. JOSE AQUINO, DEFENDANT AND APPELLANT.

G.R. No. 8675. September 18, 1914

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

This case involves a claim of intervention under title of ownership for the recovery of possession of a lot and a warehouse erected thereon which were sold at public auction by the sheriff of Nueva Ecija as though they were the property of Paulino Mendiola, which, according to the plaintiff intervener, they are not.

The facts that occurred are the following:

On May 9, 1904, the said sheriff publicly announced that on June 2 of the same year he would sell at public auction, pursuant to a judgment rendered by the justice of the peace of Cabanatuan against Paulino Mendiola and his property, a lot and a warehouse situated in Sumacab of the said municipality. The description of the property is given in the notice and corresponds with that contained in the complaint; it is therefore regarded as correct and here reproduced, for there is no question as to the identity of the property then sold and now demanded (Exhibit 4). At the auction Emilio Vergara was the highest bidder and the lot and warehouse were knocked down to him. This was on June 2, 1904, the date announced for the sale (Exhibit 6). On February 10, 1906, Emilio Vergara sold the said lot and warehouse acquired at auction to Maria Romares (Exhibit 5); and the latter, in turn, sold them, on December 29, 1910, to Jose Aquino, their present possessor (Exhibit 7).

From Exhibits 1 and 2 it is seen that in 1906 the lot was still assessed as being the property of Paulino Mendiola.

The record in this case shows the following evident facts; (1) That as far back as 1895 the said lot was recorded in the property registry of Nueva Ecija in the name of the spouses Marcelino Gatchalian and Ciriaca Pascual, its owners, who, on December 18, 1894, had conferred upon Mateo del Rosario power to administer their property and especially to sell it, and, in the exercise of this authority, Mateo del Rosario sold the lot and warehouse in question to Paulino Mendiola who in turn sold them to Ciriaco Bautista on August 13, 1895, all of which sales were recorded in the said property registry. (2) That Paulino Mendiola, notwithstanding the sale made to Ciriaco Bautista, continued in the possession of the lot and warehouse, pursuant to a contract of lease executed between himself and the latter. Hence, in 1904, when the judgment of the justice of the peace of Cabanatuan was rendered against Mendiola, the said property was attached as though it still at that time belonged to him.

However, it is not Ciriaco Bautista, the last owner recorded in the registry, but Bartolome Tablante who now intervenes for the recovery of the said property. The latter averred in his complaint that he purchased it from the former and "presented as the only proof of such purchase his Exhibit B, which is a letter addressed to him by Ciriaco Bautista, couched in the following terms:

"CONCEPCION, July 6, 1908,

"Mr. BARTOLOME TABLANTE.

"DEAR SIR: I have taken note of the contents of your letter to Captain Bias relative to the Sumaeab warehouse. I would inform you that this warehouse belongs exclusively to me, as you will see by the title deed that you already have. I have sold it to no one else but you, nor have I, as regards this warehouse, any agent or authorized representative except Captain Bias, whom I have entrusted to deliver the title deed to you. Paulino Mendiola begged me to lease to him only the said warehouse, at P100 per annum; but he has not fulfilled his promise and a long time has elapsed since he gave up the warehouse. I hereby grant you full power to do whatever you please with the warehouse as well as with the land on which it stands * * *

(Signed) "CIRIACO BAUTISTA."

With this proof and the titles aforementioned presented by the plaintiff, Exhibit A, the Court of First Instance of Nueva Ecija rendered judgment in the case "by sentencing Jose Aquino to deliver to the plaintiff, Bartolome Tablante, the property in litigation and to pay to the said plaintiff the sum of P387.50 with interest thereon at the rate of 6 per cent per annum from this date, and to pay the costs of this suit."

The defendant appealed to this court and made the following assignments of error: (1) The trial court erred in finding that the plaintiff is the owner of the real properties in question; (2) the court erred in finding that the defendant's possession was held in bad faith; and (3) the court erred in holding that the latter was liable for losses and damages and in sentencing him to the payment of the sum aforesaid with interest at 6 per cent per annum from the date of the sentence, and the costs.

The last two assignments of error must of course be sustained. The defendant was a possessor in good faith. "Any person who is not aware that there is in his title or in the manner of acquiring it any flaw invalidating the same shall be considered a possessor in good faith." (Civil Code, art. 433.) "Good faith is always presumed, and any person alleging bad faith on the part of the possessor is obliged to prove it;" (Civil Code, art. 434.) The plaintiff could not have averred, nor did he aver in his complaint that the defendant was a possessor in bad faith, and if he had made such a claim he neither produced nor attempted to produce any proof whatever of possession in bad faith on the part of the defendant and his predecessors. Consequently, the finding of possession in bad faith and the award of damages contained in the judgment appealed from are entirely unfounded.

With respect to the first assignment of error, strictly speaking it also should be sustained, inasmuch as the recovery of possession was decreed in the judgment without having first set aside the sales consecutively made by the sheriff to Emilio Vergara, by Vergara to Maria Romares, and by Romares to Jose Aquino, and without any previous pronouncement, made upon petition of one of the parties, that such sales were null and void. However, since an order to this effect may virtually be understood to be included in the recognition of ownership in the plaintiff, this first assignment of error will be examined only in connection with the ground upon which it was specified by the appellant.

This ground is no other than the averment that it was not proved at the trial that the sale, though consented to by Ciriaco Bautista in favor of Bartolome Tablante, was at any time consummated through the tradition or delivery of the thing sold. In fact, the ownership of things is not transferred from one person to another by mere consent in the contract, but through the delivery of the thing that is the subject of the contract. In the present case, it is admitted by the appellee that there was no material delivery of the lot and warehouse by Ciriaco Bautista to Bartolome Tablante, as up to now no proof has been presented of a contract of sale made between Bautista and Tablante.

Nevertheless, the law prescribes that "the placing of the titles of ownership in the possession of the vendee or the use which he may make of his right with the consent of the vendor shall be considered as a delivery." (Civil Code, art. 1464.) The title deeds form the plaintiff's Exhibit A, and the use of his right by the purchaser who in his

complaint lays claim to the lot and the warehouse, appear to have been consented to by the vendor, by means of the aforementioned Exhibit B. It is the same as though Ciriaco Bautista were the intervener, and if he had been, there would have been no cause for discussion.

Therefore, after first declaring the sale made by the sheriff, together with the subsequent ones, to be null and void, we declare Bartolome Tablante to be the owner of the lot and warehouse described in the complaint, and the defendant, Jose Aquino, is sentenced to restore them to the plaintiff, without special finding as to costs of both instances, affirming the judgment appealed from in so far as it is in agreement with this decision and reversing it in so far as it is not.

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

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