

JULIA TUASON PLAINTIFF AND APPELLEE, VS. FAUSTO RAYMUNDO, DEFENDANT AND APPELLANT.*G.R. No. 9372. December 16, 1914*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of Manila in favor of the plaintiff and against the defendant for the possession of certain real property described in the complaint and for the sum of P25 per month from the 12th day of June 1913 until the property is returned, and for the sum of P6, the costs of the transfer of the tenant's personal property, and for the costs of the action.

From the evidence in the case it appears that Vicente Rodriguez and Gregoria Baroto Cruz, his wife, were in possession of the real property described in the complaint and that this property, together with several other pieces of real estate, had been the subject of a loan by the owners from one Alfonso Debrunner to the amount of P1,750, and that on the 3d of March, 1913, the owners sold the property described in the complaint, together with other properties, to the plaintiff herein for the sum of P2,800, plaintiff to pay the said Alfonso Debrunner the sum of P1,750 due him, the balance to be paid to the vendors. The plaintiff immediately entered into possession of the property and leased the same to one Trinidad Maranga, who immediately took and remained in possession until she was ousted by the sheriff of the city of Manila under an execution issued on a judgment procured in an action brought by the defendant in this case against the said Vicente Rodriguez and Gregoria Baroto Cruz, in which action neither the plaintiff nor her tenant was a party.

The defendant justifies his entry upon the premises and the ouster of plaintiff's tenant upon the ground of a sale of the property to him on the 1st May, 1911, at which time it appears he purchased the property described in the complaint under a pacto de retro for the sum of P400, the period of redemption being one year. There was no redemption within the year but the defendant extended the time within which the redemption might be made without fixing a limit to the extension. The sale with the right to repurchase was not registered in the registry of property and no attempt was made to register it until the 9th day of June, 1913, some time after this action was begun, at which time registry was refused for the reason that the property had never been, registered in the name of the vendors.

It thus appears that Vicente Rodriguez and Gregoria Baroto Cruz sold the same property to two different individuals, namely, the defendant on the 1st of May, 1911, the sale being with the right to repurchase, and to the plaintiff on the 3d of March, 1913. The sale to the defendant was not registered and no entry was made either upon the certificate of title by which Vicente Rodriguez and Gregoria Baroto Cruz held title to the property at that time or in the registry of property; whereas the sale to the plaintiff, although made some two years later, was duly registered as required by law. The property in question being property duly registered under the Torrens system (Act No. 496) the question arises what effect has a prior unregistered transfer on a subsequent registered transfer made for value and in good faith.

The provisions of Act No. 496 made the resolution of this question very simple. Section 50 of that Act provides in part: "But no deed, mortgage, lease, or other voluntary instrument, except a will, purporting to convey or affect registered land, shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the land, and in all cases under this Act the registration shall be made in the office of register of deeds for the province or provinces or city where the land lies."

In accordance with this section, no act of the parties themselves can transfer the ownership of real estate under the Torrens system. That is done by the act of registration of the conveyance which the parties have made. It is clear, therefore, that the property in question, so far as the plaintiff is concerned, was not transferred by the conveyance from Vicente Rodriguez and Gregoria Baroto Cruz to the defendant in 1911. Their instrument amounted simply to a contract for a conveyance which would become a conveyance when it was registered in accordance with the requirements of Act No. 496. Being nothing more than a contract for the sale of land, it had no effect upon the purchase made by the plaintiff in 1913, she having bought for value and in good faith and her conveyance having duly registered as required by law.

The judgment appealed from is affirmed, with costs against the appellant.

Arellano, C. J., Torres, Johnson, Carson, and Araullo, J.J., concur.

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