

GREGORIO ESCARIO, PLAINTIFF AND APPELLANT, VS. ANTERO REGIS ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 9980. October 06, 1915*

Ponente: TORRES, J.

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This appeal was brought up on a bill of exceptions by counsel for the plaintiff from the judgment of January 22, 1914, whereby the Honorable Adolph Wislizenus, judge, having absolved the defendants from the complaint, rendered judgment in their favor as against the plaintiff for the sum of P7,100, of which P2,700 are for the contents of certain warehouses which the plaintiff sold when he got possession of same and P4,400 for the value of crops at the rate of P400 a year for eleven years, with the corresponding interest at 6 per cent per annum; and furthermore, ordered the lands in question, together with the warehouses and buildings thereon and the produce and crops therein restored to the defendants, with the costs.

On June 2, 1902, Gregorio Escario filed suit in the Court of First Instance of Cebu declaring that the land and warehouses described in his complaint belong to him; praying for a judgment in his favor and for the issuance of a preliminary injunction ordering the defendant Antero Regis to refrain in the future from performing acts like those related in the complaint, the taking from the possession of his manager of the keys of his two warehouses and the removing therefrom of some 30 cavanese of corn, the taking possession of 13 bales of tobacco, or the doing of anything else that would tend to disturb the plaintiff's possession; as well as for payment of 1,000 damages by the defendant, and the costs. As ground therefor plaintiff alleged that he possessed under title of ownership the three rural estates in question, situate in Punay, barrio of Rosario, municipality of Aloguinsan, Province of Cebu, the location, area, and boundaries whereof appear in the annexed title of ownership inscribed in the property registry of the province; that on one of said three rural estates he had two warehouses, one large and the other small, for storing produce, which warehouses were at that time filled with corn in the ear gathered from his said estates; that in August, 1901, the defendant Antero Regis took from the possession of his caretaker the keys of said two warehouses and removed therefrom 30 cavanese of shelled corn; that in April, 1902, he also took possession of 13 bales of leaf tobacco that were stored in the house of one of his tenants, and that by means of threats and intimidation he had prevented complainant's tenants from delivering to plaintiff the share of the crops that was due him; that the defendant had no legal reason, cause or right to perform the said acts tending to disturb the lawful possession the plaintiff enjoyed in said property, and that by retaining the keys of the warehouses the defendant had prevented the plaintiff from opening them and, as owner, disposing of the produce therein stored.

On June 3 a preliminary injunction was issued, under bond of ₱2,000, directing the defendant Antero Regis to return to the plaintiff the keys of the warehouses and cautioning him, likewise his agents and employees, to refrain from performing any act that should prevent the plaintiff from opening the warehouses and from disposing of the produce, until further order.

In a written statement sworn to on July 22, 1902, plaintiff averred that he is the owner by composition with the state of the said three parcels of land described in his complaint; that he has possessed them for some 28 years, as

well as the warehouses and all the produce therein stored; and that the property does not belong to Fausta Regis or her estate, or to her heirs.

In a written answer to the foregoing complaint the defendant, on August 10, denied that the plaintiff was the owner of said three rural estates together with the two warehouses, or of the produce therein stored, and further denied the allegations contained in paragraphs 2, 3, 4, and 5 and the other parts of the complaint. In special defense he alleged that since the month of July, 1899, when Fausta Regis, the absolute owner of the property, died, it had all belonged to her heirs; that in the lifetime of Fausta Regis the plaintiff had by fraudulent means secured from the Spanish government in his own name by composition with the state a title to the said lands, but, in order to escape the consequences of the fraud he had perpetrated, the plaintiff in good faith executed and signed on December 29, 1893, a deed of gift inter vivos transferring the title and absolute ownership of all the said lands to Fausta Regis; that after the latter's death the defendant Antero Regis had been appointed administrator of her estate by her legal heirs, and as such he is entitled to possession and administration of her property. He prayed for final dismissal of the case, with the costs against the plaintiff, and judgment in his favor as against the plaintiff for the damages caused him by the preliminary injunction issued under bond of P2,000.

On August 12, 1902, plaintiff set forth in writing by way of amendment to his complaint that he denied each and all of the allegations set up as a special defense in the answer thereto, with the exception of the point referring to the fact of the gift, which he admitted as the truth but denied the explanations offered as the reasons that prompted it, adding that said gift never really became effective because he had, with the donee's consent, continued to possess and enjoy the property affected; that the gift had been made while the plaintiff was yet childless, but afterwards he had had several legitimate children, wherefore the gift had been rescinded. He therefore added to the prayer of his complaint the request that the judgment in his favor declare the gift under discussion to be revoked, confirming him in possession of the property affected.

In an undated instrument, subscribed and sworn to on April 5, 1907, Magno Regis, as administrator of the estate of the deceased Fausta Regis, with the court's permission, denied that the plaintiff was or ever had been the owner of the property described in the complaint, or of the warehouses erected thereon. In special defense he stated that Fausta Regis had been the owner of the property described in the complaint; that the manager thereof had been the plaintiff Escario who by means of fraud secured from the Spanish Government a title to the three parcels of land mentioned in the complaint and which had belonged to Fausta Regis; that she had not discovered the fraud until many years after the title had been issued, wherefore she had filed suit against him, when he, acknowledging her rights in the premises, executed in her favor a deed transferring to her all his rights in said lands; that Fausta Regis died in 1900, leaving heirs; that the affiant, Magno Regis, was in 1901 appointed administrator of her estate; and that because of the fraud and deceit practiced by the plaintiff the said titles secured from the Spanish Government are null and void and without legal effect. He prayed that judgment be rendered declaring plaintiff's title null and void, and that the lands, their improvements and their produce be adjudicated to the heirs of Fausta Regis.

In view of the written statement of the attorney for Antero Regis, wherein appears a list of the various heirs interested in Fausta Regis' estate (folio 46), counsel for the plaintiff amended his complaint so as to include as defendants the persons enumerated in his written statement (folio 49) as interested therein.

By virtue of the appeal filed by counsel for the plaintiff from the order of dismissal issued by the trial court in this case, that order and the others set forth in the decision of this court were quashed, with directions that the case be restored to the stage it was in when the demurrer filed by Aniceto and Petrona Regis was overruled, and that proceedings therein be continued in accordance with law.

After receipt of the record, with a certified copy of the decision of this court, counsel for the plaintiff, in answer to

the counterclaim set up by the defendants, denied each and all of the allegations therein contained and prayed that he be absolved from said counterclaim and that judgment be rendered in his favor. In another writing of April 24, 1913, he set up as a special defense against the new facts contained in the amended answer a denial of each and all of the allegations of said answer, and added that about December 29, 1893, the plaintiff Escario, having neither legitimate, legitimized, nor recognized natural children and desiring to manifest his appreciation of the confidence displayed by Fausta Regis in entrusting to him these affairs, executed in her favor a deed of gift inter vivos, a copy whereof is annexed, presenting to her three parcels of land, described in the complaint; that by agreement with the donee he continued in possession of the realty donated, which had remained in his possession from that time on; that Fausta Regis had not exercised any act of ownership over it; that after execution of the deed of gift the plaintiff had had eight children, the last of whom was born on January 1, 1911; that by the birth of such children the said gift had been rescinded by operation of law, so he prayed for judgment in his favor declaring the said deed of gift he had executed in Fausta Regis' favor on December 29, 1893, to be rescinded. In rejoinder counsel for the defendants set forth in writing (folio 174) that they denied that said gift had been made by the plaintiff for the reasons and causes he alleged; that the real reason for making said gift was the facts contained in sections C, D, and E of the amended answer, and that they denied the allegations contained in Nos. 2, 3, and 4 of plaintiff's replications. On October 2, 1913, counsel for the defendants requested in writing that the petition in his complaint be augmented by the prayer that the court order and compel the plaintiff to execute a deed of transfer of the lands in question to the defendants, and especially to Magno Regis in the capacity of administrator, and to deliver to them the lands in litigation.

On September 29, 1913, counsel for the defendants set forth in writing that Antero Regis, one of the defendants, had died the preceding August, leaving five children of legal age, and moved for an order of final dismissal with reference to all the defendants except Magno Regis, as administrator of the property of the said deceased, and Antero Regis' five children (named Santiago, Magno, Vicente, Domingo, and Sergia) who are the persons really interested in this case as defendants in representation of their deceased father.

After hearing the evidence adduced by both parties and after attaching the exhibits to the record, the trial court rendered the judgment appealed from.

The principal question submitted to this court for decision in the present litigation consists in determining who is the real and lawful owner of the three parcels of land situated in the barrio of Rosario, pueblo of Aloguinsan—that is, whether it is the now deceased Fausta Regis or the plaintiff Gregorio Escario.

The parol evidence introduced by both parties to prove their respective ownership of said three parcels of land, with the two warehouses erected on one of them, is contradictory and inadequate. The executor or administrator of Fausta Regis' estate presented no document to substantiate the ownership the latter exercised in her lifetime over the said three parcels of land; while Gregorio Escario exhibited at the hearing a composition title issued under date of April 30, 1892, by the politico-militar governor of Cebu, acting as the delegate of the Director General de Administration Civil, for the said three parcels of land, which title is evidenced by a certified copy issued by the clerk of the Court of Land Registration, wherein exists the original, annotated in the general registry of titles of that island and inscribed in the property registry of Cebu on October 28, 1901.

In order to annul and destroy the efficacy of the said title it was alleged by defendants in their petition of April 5, 1907, that the plaintiff Escario is not the owner of said three parcels of land, but that as he was at that time the manager for their aunt, Fausta Regis, he had secured a composition title to the said lands by means of fraud and deceit practiced on the Government under the former sovereignty. Judgment was therefore prayed declaring such title null and void and without legal effect, that the lands in question with their improvements and products belonged to said deceased, and that they be adjudicated to her successors in interest.

It was also alleged that after the real owner discovered accidentally the fraudulent inscription of the lands in the registry by the plaintiff Escario in his name to her prejudice, an action was about to be brought to secure annulment of said composition title and to recover possession of the tracts of land in question, but it was not filed because Gregorio Escario executed before a notary a deed of gift inter vivos, under date of December 29, 1893, of the lands in litigation, in favor of Fausta Regis who accepted it (Exhibit B, folio 27 of the second part of the record), although the gift later became invalid through operation of law because after this date, by a legal wife, the plaintiff Gregorio Escario had eight children in succession, the last having been born on January 1, 1911.

Defendants likewise presented document Exhibit 3, folio 264 of the second part of the record, which is a will executed by Fausta Regis before a notary public on March 18, 1891. In one of the clauses thereof she named Gregorio Escario as the legatee to receive under said will, among other property, half of the lands that the testatrix possessed as owner on Mount Rosario of the pueblo of Aloguinsan, this legacy being one of the largest the testatrix made in said will; but on February 2, 1898, the same Fausta Regis executed a new will, the last exhibit, No. 4, folio 274 of the second part of the record, in which, by reason undoubtedly of Gregorio Escario's action in having secured a composition title to the lands in litigation, she revoked her previous will and, without bequeathing him anything at all, stated in clause 6 thereof that when she had commissioned him to secure composition titles to various tracts of land she possessed he had passed himself off as owner of the lands in Aloguinsan, wherefore she charged the heir named in her final will to institute suit against him, for while it was true that he had made to the testatrix a gift inter vivos of the said lands, according to the provisions of articles 644 and 645 of the Civil Code, this gift had become invalid through his having later had legitimate children.

During the trial and taking of evidence, Magno Regis, son of Antero Regis and administrator of the estate of the deceased Fausta Regis, presented a copy of an instrument whereby the plaintiff Escario applied for composition with reference to certain tracts of land that were said to have been given to him by Fausta Regis and he also exhibited a copy of a certificate issued by the gobernadorcillo of Aloguinsan on March 12, 1892, wherein it was recorded that Escario was the possessor of three parcels of land in the barrio of Rosario, which he had acquired as a gift made to him by Fausta Regis. This certificate, marked No. 2, was not admitted by the court, nor was the copy of the instrument mentioned above, marked No. 1, which disappeared from the judge's desk during the hearing of the case. (Folios 170 and 173 of the third part of the record.)

If the plaintiff's claim were not supported by a composition title issued in due form by a competent administrative officer, the evidence adduced by the defendants should and would beyond peradventure preponderate in their favor; but as this evidence cannot invalidate and annul plaintiff's said composition title then he must be recognized as the sole owner of the three parcels of land embraced therein.

The possessor of a title issued in due form has in his favor the legal presumption that in the issuance thereof all the requisites prescribed therefor by law have been fulfilled.

After administrative proceedings have been instituted and terminated in accordance with law, to secure from the Government in these Islands a composition title to a tract of unoccupied land that has not passed into private ownership, the presumption is that all the requisite and necessary steps prescribed by law have been taken and that the tract of land which is the subject matter of the composition was in fact unoccupied; and when title has once been issued the grantee is the sole owner of the land adjudicated by the Government under composition, especially when during the proceedings and in consequence of the notices, advertisements, and decrees published nobody entered any protest or presented any claim in opposition to the composition sought from the Government with reference to the whole or any portion of the tract of land that is the subject matter of the case.

When the whole of a tract of land has been adjudicated under composition title, without the exception or

exclusion of any part as private property, the presumption is that all the land granted to the applicant belonged to the state, and the claim by a third party who contends that he is prejudiced but who is not on record as having protested against or opposed the administrative procedure for the grant sought, cannot be sustained in court, when he has not at the proper time shown that he is the legitimate owner of the whole or any portion of the tract he alleges to be embraced in the composition title. (Moreno vs. Gaco, 26 Phil. Rep., 469.)

Notwithstanding the notices and the publicity given to the application filed with the administrative authorities by plaintiff Escario to secure composition from the state of the three parcels of land under consideration, neither Fausta Regis nor any of her kindred interested in the preservation of her property protested or presented any claim in due season, nor did they perform or execute any act tending to the protection of their rights and interests, so there can be no question that they have fallen into notorious abandonment and inexcusable neglect, with the result that the possessor, Fausta Regis, has been despoiled of the lands to which she perhaps had at least the right of possession.

Such great respect is due from the law and the courts to a composition title secured from the state that article 5 of the royal decree of October 26, 1881, published in the Official Gazette of Manila of December 18 of the same year, prescribes: "During the proceedings in administrative cases for land grants the parties interested may present through governmental channels all the claims bearing upon the defense of their rights and interests, but after the case has once been terminated and the grant made, parties who think themselves prejudiced may make their objections by judicial proceedings against the government but not against the grantees of the land"

If titles duly issued by the Government under the laws in force could be destroyed or invalidated by purely parol evidence nobody would be secure in his property, and even one who had the very best title would be in danger of losing it, if parol evidence could in any manner prevail as a general rule over documentary proof. (In the decision of the case of Dancel and Mina vs. Ventura, 24 Phil. Rep., 421, the principle was laid down that the grantee of a tract of unoccupied land, who has obtained a composition title issued by and in the name of the Government and duly inscribed in the property registry, is the sole owner of the land granted that appears in his name in the registry, until his title be annulled or canceled by a final judgment of the courts.)

So long as the composition title secured by the plaintiff Gregorio Escario, through a final judgment rendered after a hearing had in due form and according to the provisions of the laws that treat of the efficacy and validity of the titles granted by the state with reference to sale and composition, has not been declared null and void and without force or effect, he is the only one to be regarded as the legitimate owner of the lands in question, to the exclusion of anybody else who cannot exhibit better right and title thereto.

The sum of the parol evidence adduced by the defendants has not satisfactorily demonstrated that said composition title was fraudulently obtained or vitiated by any defect that would nullify it, and therefore no legal reason exists to declare it null and void.

For the rest, in view of the terms and statements appearing in the deed of gift, Exhibit B. no legal reason or ground is afforded whereby it can be held that the gift inter vivos which is recorded in said instrument is not really a gift but a transfer of ownership made by Gregorio Escario to restore or transfer to Fausta Regis the title to the lands with which it deals.

Even on the theory that Escario chose to make a free gift inter vivos as a means of restitution of the lands in litigation in order to avoid a lawsuit—an act liable to rescission through the supervention of children, under the provisions of articles 644 and 645 of the Civil Code—the fact is that the donee, Fausta Regis, agreed to and accepted the gift that said plaintiff made to her. In permitting the method chosen by the holder of the composition title, she might have been informed by some one of the lawyers she may have consulted that the gift would be

rescinded by operation of law if any children were born to the donor, as has happened, in which case she would have to restore the lands affected, a thing she was not called upon to do, because the donor, who kept the composition title in his own possession, continued to occupy the lands and did not part with them despite said gift.

After rescission of the gift made in the instrument Exhibit B, it is impossible to assert that the donee should thenceforth preserve her right of ownership to the lands, contrary to the provisions of the code, as she herself acknowledged in her final will which she executed on February 2, 1898, and therefore the property of the lands that were the subject matter of a gift which has been rescinded lies in the donor who recovered them.

Article 621 of the Civil Code states: "Gifts which are to produce their effects inter vivos shall be governed by the general provisions of contracts and obligations in all that is not determined in this title."

There is nothing in the text or the tenor of the notarial instrument Exhibit B, to warrant the supposition that the person executing it, Gregorio Escario, had any intention of performing any act other than that of making a gift or that the donee accepted anything else than the gift made to her. All the statements and terms set down in said instrument express in a positive, plain and unquestionable manner that the intention of the person executing it was to make a free gift and that of the donee was to accept it openly; there does not appear to be any contradiction per se or and conflict between such terms and statements and the intentions of the donor and the donee; wherefore the literal sense of the provisions of said instrument must be observed. (Civil Code, art. 1281.)

Article 1283 of the same code provides:

"However general the terms of the contract may be, there should not be understood as included therein things and cases different from those with regard to which the persons interested intended to contract."

Gregorio Escario's purpose was, for the reasons he stated when he executed the instrument, to make a gift of the lands in litigation to his aunt, Fausta Regis, who accepted them; and even though it be held that his intention was to restore them and to transfer to the donee the title he had obtained from the government, still from the moment the gift was rescinded for legal reasons, the donee's right has become indefensible, and the donor who recovered the lands is the sole owner thereof by virtue of the composition title he had before making the gift.

The successors in interest of the deceased Fausta Regis might have directly assailed the said title in the manner provided by law and impugned it as false, demonstrating by means of conclusive proof that the plaintiff, Gregorio Escario, secured it through fraud and deceit to the prejudice of the owner of the lands in litigation, but this they certainly have not done.

For these reasons the judgment appealed from must be reversed and Gregorio Escario must be declared, as we do so declare, the sole owner of the lands in litigation, with their improvements, by virtue of the composition title he secured from the government under the former sovereignty; without special finding as to the costs in either instance. So ordered.

Arellano, C. J., Johnson and Araullo, JJ., concur.

CONCURRING

MORELAND, J.,

I concur.

I do not believe that the defendants have established any defense to the claim of the plaintiff He has a composition

title obtained from the state which has not been attacked in the manner or by any of the means prescribed by law; and the donation which he made of the lands in question to Fausta Regis now produces no effect by reason of the birth of children to the donor after the donation was made.,

I agree to the decision of the court that a title by composition with the government, having once been obtained, cannot be set aside or invalidated by any person or persons claiming to have been injured by the composition proceedings, except by a proceeding directed to the government within the time and in the manner prescribed by law. Such title cannot be set aside or invalidated by an action begun against the individual who obtained it from the state by composition.

While the title cannot be set aside or invalidated by the persons who claim to have been injured by reason of the acts of the person who obtained the composition title from the state, that principle does not impair their rights against the individual who obtained that title in violation of their rights; and if it had been fully established in this case that the plaintiff, by fraud and deceit, obtained title by composition in his own name when it should have been in the name of himself and Fausta Regis, or the latter only, she would have shown herself entitled to a remedy for the fraud which he had practiced upon her. Such a remedy, however, would not permit her to set aside the conveyance by which the title passed from the state to the plaintiff. It would consist in a right of action against him to repair, in one of the ways prescribed by law, the injury which he had caused her by obtaining title in his own name.

DISSENTING

CARSON, J.,

I dissent.

I think that the evidence of record fully establishes defendant's allegations touching the fraud practiced by the plaintiff in procuring a composition title to the land in question in his own name.

Upon this proof, I am of opinion that without setting aside or invalidating the composition title, plaintiff should be required to turn over the land to the defendant with appropriate title deeds, and to pay all damages resulting from his fraudulent conduct in procuring the issuance of the original title deed in his own name.

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