

INES PORCIUNCULA, ETC ET AL., PLAINTIFFS AND APPELLANTS, VS. NICOLAS E. ADAMOS, ET AL., DEFENDANTS AND APPELLEES.

G. R. Nos. 11519-20. April 30, 1958

Ponente: FELIX, J.

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FELIX, J.:

Lots Nos. 818-C-3, 818-C-4 and 818-C-5 of the Piedad Estate, subdivision plan Psd-16489, containing 29,995, 29,995 and 50,005 square meters, respectively, formerly parts of Lot No. 818-C of plan Psd-2507, GLRO Record No. 6975, located in barrio Bayanbayanan, Caloocan, Rizal (now Diliman, Quezon City) were formerly owned and registered in the name of Juan Porciuncula, married to Regina Nicolas, and covered by Transfer Certificate of Title No. 419 (Exh. A). Ten thousand (10,000) square meters of Lot No. 818-C-5, however, appears to have been sold to Antonio Isidro on September 26, 1940.

On November 22, 1940, Juan Porciuncula executed a deed conferring on Nicolas E. Adamos, a lawyer, the authority to look for buyers of the abovementioned lots as well as of Lot No. 824-B of the Piedad Estate, subdivision Plan Psd-824, the area of which was not stated, also owned by the former and covered by Transfer Certificate of Title No. 20898 (Exh. G). This instrument was superseded by another document dated January 13, 1941, authorizing said Nicolas Adamos to subdivide the same into small lots to be sold either in cash or on installments (Exh. H), and pursuant thereto, Lots Nos. 818-C-3, 818-C-4, and 818-C-5 were consolidated and divided into 3: Lot No. 1 containing an area of 40,000 sq. m. was sold in cash to the Real Monasterio de la Purisima Concepcion de Nuestra Madre Santa Clara de Manila which was duly registered and for which Transfer Certificate of Title No. 69059 in the name of said corporation was correspondingly issued (Exh. C). Transfer Certificate of Title No. 69060 covering Lots 2 and 3 of the said consolidation and subdivision plan Psd-1078 with 3,600 and 56,395 square meters, respectively, was issued on December 11, 1943, in the name of Juan Porciuncula married to Regina Nicolas (Exh. D), although the latter had already been dead for several years or since August 29, 1931 (Exh. B). These remaining properties of Porciuncula were consequently transformed into subdivision (University Orchard Subdivision) and among those who were able to purchase lots in cash or on installment basis were the following:

Gavino Custodio..... Lot 67, Block 1—

384

sq.m.

Juan Belisario..... Lot 1, 2, 15 & 16, Block 4—

1,392

sq.m.

Guadalupe Cabrera..... Lot 5, Block 5—

300

sq.m.

Doroteo Peralta..... Lot 76, Block 1—

300

sq.m.

Conrado Rosete..... Lot 8, Block 1—

300

sq.m.

Conrado Rosete..... Lot 9, Block 1—

300

sq.m.

Catalina Alba..... Lot 11, Block 1—

300

sq.m.

Alfonso Cabrera..... Lot 68, Block 1—

384

sq.m.

Guadalupe Cabrera..... Lot 69, Block 1—

384

sq.m.

Geronimo Mercado..... Lot 74, Block 1—

295

sq.m.

Geronimo Mercado..... Lot 75, Block 1—

360

sq.m.

Patricio Rigonan..... Lot 98, Block 1—

300

sq.m.

Filomena Paragas..... Lot 99, Block 1—

300

sq.m.

Filomena Paragas..... Lot 100, Block 1—

300

sq.m.

Filomena Paragas..... Lot 101, Block 1—

295

sq.m.

Filomena Paragas..... Lot 10, Block 4—

396

sq.m.

Rosario Eufemio..... Lot 1, Block 2—

390

sq.m.

Amado Aleta..... Lot 17, Block 2—

300

sq.m.

Amado Aleta..... Lot 18, Block 2—

390

sq.m.

Patricio Rigonan..... Lot 8, Block 5—

396

sq.m.

Donato Valenzuela..... Lot 1, Block 7—

396

sq.m.

Donato Valenzuela..... Lot 16, Block 7—

396

sq.m.

Pacita Roxas..... Lot 1, Block 8—

396

sq.m.

Agapito Fabra..... Lot 16, Block 8—

396

sq.m.

Remedios Aguilar..... Lot 1, Block 9—

396

sq.m.

Maura Aguilar..... Lot 2 Block 9—

300

sq.m.

Gervacio Factora..... Lot 8, Block 9—

396

sq.m.

Pacita Lopez..... Lot 16, Block 9—

396

sq.m.

Troadio Millora..... Lot 10, Block 1—

300

sq.m.

(Exhs. 9, 10, 11, 12, 13, 13a, 14, 15, 16 17, 17a, 18, 19, 20, 20a, 20b, 20c, 21, 22, 22a, 23, 24, 24a, 25, 26, 27, 28, 29, 30, 31). Adamos claimed that the records of other purchases were even lost during the last world war.

On December 13, 1943, Juan Porciuncula, then about 88 years of age, executed a deed revoking the power of attorney conferred on Atty, Nicolas Adamos and relieving the latter of his responsibility under said agency on the ground that the trust had been performed to his satisfaction. In virtue of the same instrument, Porciuncula further ratified all acts performed by his attorney-in-fact in accordance with the special power of attorney granted him and same were made binding upon the heirs of said principal (Exh. 34). On the same day, however, (December 13, 1943), Porciuncula conveyed ownership of Lots Nos. 2 and 3 unto Nicolas Adamos and Vicente Feria by means of an absolute deed of sale in consideration of P21,703.80, except a portion with an area of 1,692 square meters already sold to Patrocinio Valenzuela and Angel Giron, although the payment for the said area was included in the aforementioned purchase price (Exh. 35). Consequently, T.C.T. No. 69475 covering said properties was issued on December 14, 1943 in the names of Nicolas Adamos and Vicente Feria (Exh. E).

It appears that even subsequent to the said transfer of ownership, lots in the University Orchard Subdivision were sold by Adamos and Feria, now in their capacity as owners of the same, to third parties some of whom were:

Matilde de Veyra..... Lot 2,

Block 2 —

400

sq.m.

Matildo de Veyra..... Lot 1 & Lot 114,
Block 3 —

409

sq.m.

Ramon Obaña..... Lot 4,
Block 3 —

400

sq.m.

Espiridion Bacsa..... Lot 3,
Block 2 —

400

sq.m.

Narciso Fontecha..... Lot 7,
Block 7 —

409

sq.m.

Romeo Vergara..... Lot 3,
Block 2 —

400

sq.m.

Josefa Asuncion..... Lot 3,
Block 3 —

400

sq.m.

Josefa Asuncion..... Lot 4,
Block 3 —

400

sq.m.

Viola Adamos..... Lot 1,

Block 6 —

409

sq.m.

Viola Adamos..... Lot 2,

Block 6 —

400

sq.m.

Jose S. Villanueva Lot 1,

Block 8 —

532

sq.m.

(Exhs. 38, 38-a, 39, 40, 41, 42, 43, 43-a, 44 and 45).

Juan Porciuncula died of old age on January 20, 1945 (Exh. F). On March 31, 1947, his surviving daughter, Ines Porciuncula, together with his granddaughters Calixta Porciuncula, Adelaida Porciuncula and Pelagia de los Santos filed a complaint against Nicolas Adamos, Vicente Feria and the Register of Deeds of Quezon City, with the Court of First Instance of Rizal (Civil Case No. 174) seeking the annulment of the deed of sale executed by the deceased Juan Porciuncula in favor of said defendants (Exh. 35) allegedly because same had no valuable consideration; that it was obtained through fraud; that said sale was prohibited by law because when it was executed, Adamos was the attorney-in-fact of the vendor whereas Feria was the deceased's notary and lawyer. The complaint thus prayed that the sale be declared a nullity; that Transfer Certificate of Title No. 69475 in the names of defendants be cancelled and a new one issued in favor of plaintiffs; or in case this would not be possible, defendants be ordered to pay the current value of the properties at P2 per square meter; that defendants be ordered to pay them P11,000 out of the P13,294.45—the uncollected payments of the lots sold on installments, payment of which was assumed by the said defendants; plus the costs of the suit. A notice of lis pendens was likewise registered with the Register of Deeds of Quezon City. Defendants filed a motion to dismiss said complaint on the grounds that plaintiffs had no legal capacity to sue and that they were already estopped from presenting their claim. But in view of the answer filed by the Register of Deeds of Quezon City to the effect that the deeds and titles involved in the action were in the file of the Register of Deeds of Manila, the Court ordered the corresponding amendment of the complaint so as to make the latter official a party defendant therein in lieu of the former. A motion to dismiss was again filed by defendants, but was denied by the Court. Defendants thus filed their answer alleging that the transactions between Juan Porciuncula and defendants Adamos and Feria were in accordance with law; that the deceased voluntarily offered the remaining unsold portion of the properties in question to defendants; that the husbands of plaintiffs Ines Porciuncula and Pelagia de los Santos were even witnesses to the due execution of the deed of sale and consideration therefor was paid in their presence; that the said deed of sale was executed after the special power of attorney granted to defendant Adamos by the deceased was cancelled; that plaintiffs received their respective shares of the proceeds of the sale for which they signed certain receipt and waiver; that as in the final settlement of the trust defendants assumed the responsibility of collecting and turning over to Pelagia de los Santos and her husband the uncollected installments on the lots already purchased amounting to P13,294.45, the late Juan Porciuncula gave them 5 years from the termination of the then period of emergency within which to settle the same; that immediately after the consummation of the

sale, the spouses Ines Porciuncula and Leon Cruz entered as tenants of defendants on the cultivable portion of the property and such relationship of landlord and tenant continued until the filing of the instant action. By way of counterclaim, defendants demanded the amounts of P2,500 for transportation expenses and loss of earning and P50,000 for damages. Plaintiffs, however, presented a second amended complaint on April 24, 1948 which was practically the same as the first amended complaint with the addition that the properties were acquired during the existence of the conjugal partnership and were conjugal properties of said spouses. Said pleading was admitted by the trial court on May 21 of the same year. To this order of admission, defendants filed a motion for reconsideration which was set for hearing on July 14, 1948, together with the trial of the case on the merits.

Meanwhile or on August 27, 1947, the same plaintiffs filed another complaint with the Court of First Instance of Rizal (Civil Case No. 295) against Nicolas Adamos and Vicente Feria, demanding for the adjudication in their favor of 54,997 1/2 sq. m. of the parcels of land, now covered by Transfer Certificate of Title No. 68475 in the names of said defendants, which was allegedly the share of Regina Nicolas in the conjugal properties acquired by her and Juan Porciuncula during their marriage; or in case that would be impossible to do, then defendants be ordered to pay the value thereof at the rate of P1.00 per square meter and for such other remedies as may be just in the premises. A motion to dismiss was timely filed by defendants, but as the determination of the grounds adduced therein was deferred until the trial of the case on the merits, defendants correspondingly filed their answer. It was averred that granting that the heirs of Regina Nicolas had any right at all, such right had been lost when it was not exercised against Porciuncula during the latter's lifetime; that plaintiffs could not have done so because they had already received their shares from the estate of Regina Nicolas; that the right of partition cannot be invoked against innocent purchasers for value; that having received part of the purchase price, plaintiffs were now estopped from claiming said properties any further; that the sale between Juan Porciuncula and defendants was legal and valid; that the lots mentioned in the complaint was also the subject matter of another action between the same parties before the same court. Defendants therefore prayed for the recovery of P2,000 by way of attorney's fees and transportation expenses.

The records show that on July 14, 1948, Civil Cases Nos. 174 and 295 were called for hearing but the defendants in said cases failed to appear, thus their motion for reconsideration of the order admitting the second amended complaint was denied and the lower court proceeded with the reception of plaintiffs' evidence for both cases. On November 12, 1948, the lower court rendered judgment declaring the sale of the properties in favor of defendants as null and void for lack of consideration and dismissed Civil Case No. 295. Hence, it was ordered that Transfer Certificate of Title No. 69475 be cancelled and a new one be issued in favor of plaintiffs as heirs of the deceased spouses Juan Porciuncula and Regina Nicolas. Defendant Nicolas Adamos was also required to pay the sum of P13,294.45 to plaintiffs with legal interest from the date of the filing of the action in Civil Case No. 174 to the date of actual payment, with costs.

On being notified of the decision on January 13, 1949, defendants filed separate motions for new trial asserting that their failure to appear at the trial was based on their belief that the hearing would be postponed; that even granting that the motion for postponement would be denied, the matter to be considered should have been only the admission of the second amended complaint, the result of which defendants should have been properly notified in order to give them opportunity to file their answer thereto. They contend, therefore, that the promulgation of the decision was premature as it deprived defendants of the right to present their evidence. On February 28, 1949, plaintiffs opposed the motion for new trial and prayed in turn that in accordance with Article 1, Rule 39 of the Rules of Court, an order of execution of the decision already rendered in Civil Case No. 174 be issued. On March 19, 1949, the lower court, presided over by another Judge, set aside the decision of November 12, 1948, and ordered a new trial, thus denying plaintiffs' prayer for the issuance of an order of execution. Due hearing was conducted thereon until August 21 of that year. On January 23, 1950, however, the spouses Quirino and Pacita

Carpio filed a petition to allow them to intervene in the proceedings, claiming that they were the purchasers of Lots Nos. 4, 5, 10 and 11 of Block No. 5 of the consolidation and subdivision plan No. 1078 (University Orchard Subdivision) on December 1, 1943; that due to the loss of the vendors' duplicate certificate, they were not able to register their aforementioned lots; that they were not advised by vendors Adamos and Peria of any claim on said properties and obtained knowledge of the controversy only when they presented to the Register of Deeds for registration the deed of sale in their favor and same was refused in virtue of the existence of the notice of lis pendens. They prayed the Court that said intervenors be adjudged owners of Lots Nos. 4, 5, 10 and 11 of Block No. 5 of the University Orchard Subdivision (It is to be noted, however, that lot No. 5 of Block No. 5 was sold by Adamos as attorney-in-fact of Juan Porciuncula to Guadalupe Cabrera—Exhibit 11); and that the Register of Deeds of Quezon City be ordered to issue the corresponding title in their names. After plaintiffs and defendants had filed their respective answers to said. complaint in intervention, the Court a quo rendered decision dated November 24, 1950, dismissing plaintiffs' complaint in Case No. 174 on the ground that the contract of absolute sale sought to be nullified was valid, the relationship between Porciuncula on one hand and Adamos and Feria on the other having been terminated before said sale was consummated; that there could not have been any fraud or deceit in said sale because plaintiffs were present when the transaction took place and furthermore said heirs received their respective shares in the proceeds thereof. The court also denied plaintiffs' prayer for the immediate delivery to them of the amount of P13,294.45 for the reason that because of the existence of the notice of lis pendens, defendants were not able to collect the same and should not therefore be held accountable therefor. Intervenor Quirino and Pacita Carpio were likewise declared owners of the lots purchased by them from defendants. Plaintiffs filed a motion for reconsideration of said decision and new trial, which was denied on February 22, 1951. Thus the matter was brought on appeal to the Court of Appeals, but as the amount involved therein exceeds P50,000, the latter Tribunal elevated the same to Us for proper consideration in accordance with Section 17 (5) of the Judiciary Act of 1948. Abandoning their claim for partition and concentrating on the questions presented by Civil Case No. 174, appellants in this appeal claim that the lower court erred:

- In granting a new trial and in denying plaintiffs' motion for execution.
- In holding that the contract of sale, entered into between Juan Porciuncula, vendor, and Nicolas E. Adamos and Vicente O. Feria, vendees, on December 13, 1943, was valid.
- In not ordering the cancellation of Transfer Certificate of Title No. 69475 in the names of Nicolas E. Adamos and Vicente C. Feria and the issuance of a new transfer certificate of title in the names of Ines Porciunculan Calixta Porciuncula.
- In holding that the intervenors have acquired the ownership of the four small lots sold to them by defendant Feria alone on September 25, 1944.
- In holding that the obligation of defendant Adamos to pay the amount of P13,294.45 was not due and demandable.
- As a general rule, the granting or denial of a motion for new trial rests upon the sound discretion of the court and in the interest of justice, a motion for new trial based on a ground which may be considered as falling under fraud, accident, mistake or excusable negligence may be allowed by the courts. And where a court's ruling on a question calls for the exercise of this prerogative, such ruling certainly deserves the respect of the appellate courts in the absence of manifest abuse of discretion. Thus, taking into account the reasons on which the motions filed by defendants were founded, we find no reason to disturb the lower court's action in setting aside the decision of November 12, 1948, and ordering for a new trial of the case.
- The records contain no specific data or list of the properties acquired by the spouses Juan Porciuncula and

Regina Nicolas during their married life nor of their separate properties, if there were any, other than the affidavit executed by Pelagia de los Santos (Exh. 2-Adamos), one of the original plaintiffs in Civil Case No. 174 but who did not join with the others in this appeal; and as the facts stated (therein were not controverted by appellants, we have no alternative but to rely on the same.

It appears from said Exhibit 2 that the spouses Juan Porciuncula and Regina Nicolas were the owners of Lot No. 818 of the Piedad Estate located in Diliman, Quezon City; of a homestead in Diliquias, Montalban, Rizal, with an area of 16 hectares; of an urban lot in Lopez Jaena street, also in Montalban; and of Lot No. 824-B, with an area of 8.7060 hectares, in Diliman, Quezon City. Although in the power of attorney conferred on Adamos by the deceased Juan Porciuncula (Exh. G he was instructed that the lot covered by T.C.T. No. 20898 (Lot No. 824-B) should be disposed of as a whole, it seems that this piece of property was actually divided and distributed among the heirs as follows:

824

B-1

..... 3.0005 hectares

—

Pelagia de los Santos

824

B-2

..... 2.7066 hectares

—

Oliva Porciuncula

824

B-3

..... 1.0002 hectares

—

Adelaida Porciuncula

824

B-4

..... 1.0001 hectares

—

Adelaida Porciuncula

824

B-5

..... .9986 hectares

—

Adelaida Porciuncula

The homestead in sitio Diliquias, Montalban, went to Ines Porciuncula and Adelaida Porciuncula, while the urban property in Lopez Jaena, Montalban, was in turn given to Calixta Porciuncula. Lot No. 818 was first divided as follows:

818

A

..... 5.000 hectares

—

Simeon de los Santos

818

B

..... 4.998 hectares

—

Ine's Porciuncula

818

C

..... 14.995 hectares

—

remained undisposed of

The records does not give any enlightenment as to when said properties were distributed nor in what capacities the aforementioned persons received the same. It does appear, however, that Lot No. 818-C which was left to the spouses was further divided into the following: Lots 818-C-1 and 818-C-2, with a total area of 4.000 hectares were sold to Dr. Gumersindo Garcia and others (Dr. Garcia actually purchased only 20,000 sq. m. of the same on November 5, 1938-Exh. 49); and Lots 818-C-3, 818-C-4, and 818-C-5, with an aggregate area of 10.995 hectares were registered on July 17, 1940, in the name of Juan Porciuncula, married to Regina Nicolas, for which T.C.T. No. 419 was correspondingly issued (Exh. A). These lots were later consolidated and then divided into 3 lots (Pcs-1078) after deducting 10,000 square meters which were purchased by Dr. Antonio Isidro on September 26, 1940 (Exh. 48), thus leaving 9.995 hectares in the name of Juan Porciuncula, married to Regina Nicolas. Of this remaining portion Lot No. 1, containing, an area of 4.0000 hectares, was sold to the Real Monasterio de la Purisima Concepcion de Nuestra Madre Santa Clara de Manila (Exh. 33), and Lots 2 and 3, with 3,600 square meters and 5.6395 hectares, respectively, were later divided into small lots and transformed into a subdivision

(University Orchard Subdivision) under the supervision of Nicolas Adamos. Said Lots 2 and 3 of the consolidation and subdivision plan (Pcs-1078) with a total area of 5.9995 hectares were registered on December 11, 1943, still in the name of Juan Porciuncula, married to Regina Nicolas and was covered by T.C.T. No. 69060. Three days thereafter, however, or on December 14, 1943, said title was cancelled and T.C.T. No. 69475 was issued in the names of Nicolas Adamos and Vicente Feria on the strength of an absolute deed of sale dated December 13, 1943, executed by Juan Porciuncula in their favor (which appellants claimed to be without consideration). While we may agree that the registration of Lots Nos. 2 and 3 in the name of Juan Porciuncula, married to Regina Nicolas, on December 11, 1943, which must have been procured by Attys. Adamos and Feria and the circumstances under which said title was cancelled and a new one issued in their favor, arouse suspicion, the evidence presented by appellants falls short of a degree that may sustain a conclusion that the absolute deed of sale executed by Porciuncula was vitiated for lack of consent or consideration. On the other hand and despite appellees' protestations to the contrary, the insertion of the vendor's status as married does not seem to be a mere honest mistake or could be attributed to their ignorance of the true fact considering that appellees are familiar with the family of the vendor; and having prepared the deeds connected with the transactions in question, such matter as status of a person should ordinarily have been looked into. Although the way We look at it, such misstatement seems to be part of a preconceived scheme to facilitate the transfer of the properties to them and thus avoid the consequential questions that might have arisen in case the vendor would appear to be a widower, such fact alone does not prove that undue influence was exercised or fraud in the nature of specific acts or machinations was employed to induce the vendor, a very old man, to enter into the contract of sale sought to be nullified.

Appellants' assertion that what Juan Porciuncula sold did not absolutely belong to him deserves consideration. It was maintained that upon the death of Regina Nicolas on August 29, 1931, the properties acquired by the spouses during their marriage ceased to belong to the conjugal partnership which was then dissolved, and instead became the properties of the surviving spouse and the heirs of the deceased. Thus, appellants contend, that Juan Porciuncula as co-owner of the same could only validly alienate His corresponding interest in the conjugal partnership which still had to be determined after proper liquidation and distribution. There is no controversy that the properties involved herein were acquired by Juan Porciuncula and Regina Nicolas during their marriage and while it is true that upon the death of the wife she was survived by her husband, her daughter Ines and granddaughters Calixta Porciuncula, Adelaida Porciuncula and Pelagia de los Santos, no liquidation of the conjugal partnership appears to have been ever effected, although Juan Porciuncula continued to be the administrator thereof. As upon the death of the wife, Regina Nicolas, her share in the conjugal partnership was transmitted to her heirs (Art. 657, Spanish Civil Code; now Art. 777); and considering that Juan Porciuncula disposed of the properties of the partnership after the demise of his wife and before any partition was ever made and in the absence of proof that the heirs had renounced their inheritance from the deceased, because Exhibit "36" that in part is hereafter reproduced, can by no means be taken as Ines Porciuncula's waiver of her share of the property left by her mother, Regina Nicolas, the conclusion is inevitable that as far as the portion or share that corresponds to said deceased wife and which descended to her heirs is concerned, any alienation thereof by the husband is null and void.

Appellees do not contest that the properties in controversy were conjugal; they, however, set up the defense that upon the death of the wife, the husband became the administrator of the conjugal estate and could lawfully encumber or dispose of the same. This point was already settled by this Court when it pronounced that:

The death of either husband or wife does not make the surviving spouse the de facto administrator of the conjugal estate or invest him or her with the power to dispose of the same. The sale of conjugal property by the surviving spouse without the formalities established for the sale of the property of deceased persons shall be null and void, except as to the portion that may correspond to the survivor in the partition (*Corpuz vs.*

Corpuz, 51 Off. Gaz. No. 10, p. 5185).

Appellees also advance the argument that appellants Ines Porciuncula and Calixta Porciuncula received their corresponding share in the proceeds of the sale and signed separate waiver of whatever right they may still have. Said waiver, most likely drawn and prepared by appellees, containing the thumbmark of Ines Porciuncula (the receipt allegedly signed by Calixta Porciuncula was said to have been lost), was ordered as follows:

"That I hereby and by these presents acknowledged to have received this date to my entire satisfaction the sum of five thousand pesos (P5,000), Philippine Currency, in hand paid by my father JUAN PORCIUNCULA, as my share in full FROM HIS ESTATE in addition to what I have already received;

"That in consideration of the said sum given to me, I hereby voluntarily and by these presents DO waive any right that I may or might have on any remaining portion of His estate or on any property, personal or real, which he has or will acquire from now on;

* * *" (Exh. 36).

A perusal of the aforequoted receipt discloses that it is more of a renunciation by Ines Porciuncula of whatever she expects to inherit from her father, upon receipt of the sum of P5,000 in addition to whatever she may have already received from him. It cannot be gainsaid that appellants are claiming, not for the share of Juan Porciuncula in the conjugal partnership, but of Regina Nicolas which was transmitted to them by operation of law upon her death in 1931. Furthermore, said instrument is by itself also void as it partakes of a renunciation of a future inheritance (Art. 816, Spanish Civil Code; now Art. 905). Obviously, therefore, appellees' allegation that appellants had waived their right to inherit from Regina Nicolas cannot be sustained. In this connection, We may say that while it may be presumed that the sale in question was made for a valuable consideration, the vendees Adamos and Feria may not be considered as innocent purchasers because it is inconceivable that they should not know all along that the properties being conveyed by Juan Porciuncula were, part of the conjugal estate which should be liquidated and that no partition among the heirs had yet been effected. As a sale involves the transfer of dominion and no man can transfer to another a better title that he himself had over it, nor can he transmit any right over properties that do not belong to him (*Coronel vs. Ona*, 33 Phil. 456), the dispositions made by Juan Porciuncula, in so far as the portions or shares corresponding to the heirs of Regina Nicolas are concerned, must be held to be a complete nullity.

The foregoing considerations notwithstanding, We notice that the record of the case is incomplete in many essential points which need clarification, because the evidence submitted by the parties are insufficient to arrive at a proper and adequate determination of the questions at issue. For example, arid as already stated before, the evidence does not show:

- (1) What were the conjugal properties of the spouses Juan Porciuncula and Regina Nicolas at the time of the latter's death on August 29, 1931;
- (2) On what date Lots 824-b-1, 824-b-2, 824-b-3, 824-b-4, 824-b-5, 818-a and 818-b were received by Pelagia de los Santos, Oliva Porciuncula, Adelaida Porciuncula, Simeon de los Santos and Ines Porciuncula or in what capacities they accepted said properties;
- (3) Whether there was any liquidation and distribution of the personal properties of Regina Nicolas and of her share in the properties acquired during her marriage to Juan Porciuncula, and if so, when and how such liquidation and distribution were carried out;
- (4) Whether Ines and Calixta Porciuncula have ever renounced all or any part of their inheritance from Regina Nicolas aside from Exhibit "36" which refers to the estate of Juan Porciuncula;

(5) The real value of the properties sold to defendants Adamos and Feria, and whether by such sale the legitime of appellants has been adversely affected; and

(6) Whether such sale is subject to the liquidation of the conjugal partnership of the spouses Juan Porciuncula and Regina Nicolas.

A writer on mystery cases has inspiredly stated that "the law is the science of applying justice to facts which have previously been determined and which are properly adduced in a court of law. When those facts have not been properly collected, the law is groping in the dark. That is why we have cases involving a miscarriage of justice." In order that any such miscarriage of justice may not happen in the case at bar, We are inclined 'to avail of the provisions of Section 9, Rule 50, in connection with Section 1, Rule 58, of the Rules of Court, and in the interests of justice and for the proper determination of the issues involved therein, We consider necessary to remand the record of the case to the lower court for rehearing and further proceedings.

Wherefore, the decision in case G. R. No. L-11519 (CFI Civil Case No. 174) is hereby set aside and the records thereof remanded to the lower court for reception of such evidence as the parties may care to produce in order to establish their respective contentions in this matter. Case G. R. No. L-11520 (CFI Civil Case No. 295) is dismissed, appellants having desisted from prosecuting the same. Without pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Reyes, J. B. L., and Endencia, JJ., concur.

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