

45 Phil. 252

[ G.R. No. 20783. October 16, 1923 ]

**FELIX LAUREANO, PLAINTIFF AND APPELLEE, VS. A. STEVENSON, C. N. HODGES, E. S. YAP PONCO, MARIANO MERMEJO AND GREGORIO YULO, AS PROVINCIAL SHERIFF OF ILOILO, DEFENDANTS AND APPELLANTS.**

## **D E C I S I O N**

### **MALCOLM, J.:**

The rather unusual situation which arises in the instant case can best be understood and decision can best be made by a chronological narration of the controlling facts.

In September, 1912, Felix Laureano sold to Eugenio Kilayco a piece of property situated in the city of Iloilo. Shortly thereafter, the property was brought under the Torrens system by a petition presented by Kilayco to the proper court which ordered the registration of the property in his name. Adjoining the property of Kilayco was other property belonging to Laureano.

When the cadastral survey was initiated in Iloilo in 1914, Kilayco made proper representations to confirm the title to his property. Thereafter, title was issued to him, but later, for some unknown reason, the certificate of title was ordered cancelled and a new one was issued. Then, presumably by mistake, the title was made to include not only Kilayco's property but property belonging to his neighbor, Laureano. The final decree to this effect was issued on August 29, 1916.

Creditors of Kilayco, becoming aware of the existence of the title to the property above-mentioned, instituted actions and obtained writs of execution during the month of May, 1922. The proper annotations were made in the office of the register of deeds on the title to the property. The sale of the property was set for October 18, 1922.

During all of this time, Laureano had done nothing to protect his interests in the property which had been wrongfully adjudicated to Kilayco. He claims to have been absent in Spain at the time of the hearing in the cadastral case and to have known nothing of it. He only awakened to his danger following the levies made by the creditors of Kilayco on the property which Laureano claimed was his. On June 3, 1922, Laureano brought action in the Court of First Instance of Uoilo against Kilayco to obtain a judgment, declaring him to be the owner of the parcels of land, and ordering the cancellation of the certificate of title theretofore issued in the name of Kilayco. Kilayco in turn confessed judgment which accordingly was rendered practically in the terms of the complaint. The trial judge, however, failed to accede to a request to cancel the annotations on the certificate of title in favor of the creditors of Kilayco for the very good reason that the creditors were not parties to the action.

The present action arises from the foregoing facts. The object was to secure a preliminary injunction afterwards to be made permanent, stopping the sale of the property at public auction, to annul the levies made on the property, to obtain the cancellation in the registry of property of the annotations made, and to secure a new title for the plaintiff without these encumbrances. After trial, judgment was handed down in favor of the plaintiff. Defendants appealed.

The fundamental principles governing the Torrens system are well known. Ordinarily if one takes no steps to protect his property interests at the time of the cadastral survey, he is estopped to dispute the title. He has one year from the issuance of the decree to allege and prove fraud. But he may not wait longer than this period to assert his rights. And were this an ordinary registration case, we would reach a conclusion satisfactory to the appellants. But we think that there is more to the case than this.

It must not be forgotten that Kilayco never laid claim to this property; that the two lots Nos. 4267 and 4289 covered by the certificate of title No. 830 were mistakenly registered in the name of Eugenio Kilayco; that the court did not have jurisdiction to confirm the title of said two lots either in favor of Eugenio Kilayco or of anybody else, for the reason that no petition for title was filed, no trial was held, no evidence was presented, and no judgment was rendered regarding these two lots in the land registration proceedings; that Kilayco never asserted any right of ownership over the property; that the rent

was paid to Laureano; and that judgment was obtained in the courts in favor of Laureano through the acquiescence and consent of Kilayco. Kilayco was, in effect, merely holding the title of the property in trust for Laureano. The creditors of Kilayco could acquire no higher or better right than Kilayco had in the property, which, in this case, was nothing.

We are of the opinion that this was a proper case for the issuance of an injunction to prevent the execution of judgments which would be against conscience, and that it is just and legal to give to plaintiff Laureano full right and title to his property.

Finding no reversible error, judgment is affirmed with costs against the appellants. So ordered.

*Johnson, Avanceña, Villamor, Johns, and Romualdez, JJ., concur.*

---

*CONCURRING*

**STREET, J.:**

I concur and wish merely to add that in my view the case is controlled by the same rule that would govern if the property had been held by any other species of title than a Torrens title. By mistake property in which Kilayco had no interest or right whatever had become registered in Kilayco's name. In him this title was a nude title, the beneficial interest being in the true owner, Felix Laureano. Under these circumstances it was entirely legitimate and honest for Kilayco to confess judgment in the action brought by Laureano to correct the mistake. It is rudimentary that an execution creditor acquires only the interest which the execution debtor has in the property which is the subject of levy; and the purchaser at the execution sale in this case, if the property had been sold, would in any event have taken the property subject to the equitable right of Laureano to have the mistake corrected. This must be true regardless of the form of the title by which the property was held. Section 70 of Act No. 496 plainly shows that, generally

speaking, registered land is held subject to the same rights and liabilities as unregistered land; and this case supplies a good illustration of a right and liability identical as regards both.

---

Date created: June 09, 2014