43 Phil. 604

[G. R. No. 17314. July 03, 1922]

VICTORIA T. DE WINKLEMAN AND C. L. WINKLEMAN, PLAINTIFFS AND APPELLANTS, VS. FILEMON VELUZ, DEFENDANT AND APPELLANT.

D E C I S I O N

ROMUALDEZ, J.:

Segunda Abuel owned two parcels of land situated in the Province of Tayabas. On February 20, 1918, she leased them to Filemon Veluz for the term of nine years, with the express stipulation that in case these lands were sold, the lease should stand.

Early in January, 1919, Victoria T. de Winkleman, who desired to buy one of these parcels of land, had information that the lands were leased, investigated the matter and found that such was the case, having personally read the contract of lease.

On January 11, 1919, she purchased from the owner, Segunda Abuel, one of the aforesaid parcels of land, which was situated in the municipality of Unisan, no mention having been made, in the deed of sale, of the contract of lease alluded to.

These lands were not registered in the registry of deeds, and for that reason neither the contract of lease, nor that of sale was recorded.

Victoria T. de Winkleman attempted to take possession of the land thus purchased by her, but Filemon Veluz refused to deliver it to her.

These facts were duly proven in the case.

Believing herself to have the right to terminate the contract of lease, insofar as the property purchased by her was concerned, and, therefore, to enter upon the possession thereof, Victoria T. de Winkleman brought this action to compel Filemon Veluz to deliver the property to her, as the legal owner of the same, together with its fruits, or in default of the latter, to pay her their value, amounting to P1,500, with costs.

The defendant set up several defenses, in which he prayed that he be absolved from the complaint; and in the event that the contract of lease be declared rescinded, that his right to remain on the land during that agricultural year be respected, and that the lessor, Segunda Abuel, indemnify him the damages sustained and return to him the rents paid in advance, and to this end, he asked the court below that said lessor be included as a party to the action, which last point is not insisted upon by him on this appeal.

The trial court decided the case, rendering judgment partly in favor of the plaintiff.

The plaintiff assails the judgment of the lower court, for having awarded the fruits of the property to the defendant, and the latter, for having declared terminated the contract of lease.

An error is also assigned by the defendant to the lack of jurisdiction of the lower court. He contends that this is an action of forcible entry and detainer, and falls, therefore, within the original jurisdiction of the justice of the peace court. We think that this contention is untenable. The issue joined in this cause by the complaint and the defendant's answer is not merely whether or not ejectment lies, but whether or not under the particular circumstances of the case, the plaintiff has a right to terminate the lease.

Therefore, the Court of First Instance had jurisdiction to try and adjudicate this cause.

The fundamental point in this litigation turns on the question Whether or not, under the circumstances of the case, the plaintiff, as purchaser of the property, can invoke article 1571 of the Civil Code for the purpose of terminating the lease which was in force at the time that the purchase was made.

Let us see, then, whether the plaintiff is protected by this article of the Code which literally is as follows:

> "ART. 1571. The purchaser of a leased estate shall be entitled to terminate any lease in force at the time of making the sale, unless the contrary is stipulated, and subject to the provisions of the Mortgage Law."

As Manresa observes (10 Civil Code, p. 637), this right is given by the law to such a purchaser as is regarded by it as a third person. Hence, when he is not a third person, either for having been a party to the stipulation to respect the lease, or because he has no

such standing under the Mortgage Law, then he is not entitled to terminate the lease.

The article cited contains, therefore, a general rule on which the plaintiff relies, but which has no application in two cases, to wit: When there is a stipulation to the contrary, and when the purchaser is not regarded as a third person under the Mortgage Law.

As to the first exception, it is settled that the stipulation to the contrary referred to in this article is that between the seller and the purchaser of the property, and not that between the lessor and the lessee. In the case before us there was no such stipulation in the deed of conveyance of the estate; but the stipulation contained in the contract of lease that the lease should be respected in case the properties were sold, was known to the purchaser who, before buying the property, had read said contract. Consequently, she made the purchase with knowledge of such a stipulation, which thus became incorporated into the contract of sale executed in her favor. It is true that such a stipulation was not expressly stated in the deed of sale, but it was known and consented to by the purchaser. As the law does not require that this stipulation be reduced to writing, we believe it sufficient if, as in the instant case, although it is only implied, there can be no doubt, that it existed and was consented to by the purchaser. An analogous view has been maintained by this court in the case of Pang Lim and Galvez vs. Lo Seng (42 Phil., 282).

The second exception contained in the above cited article of the Civil Code applies to the contracts of lease referred to in article 2, No. 5, of the Mortgage Law, which says:

> "ART. 2. In the Registries mentioned in the preceding article shall be recorded:
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> " 5. Contracts for the lease of real property for a period exceeding six years, or such contracts on which rent has been paid in advance for three or more years, or, if having neither of these conditions, they contain a special covenant by which record thereof is required."

In these cases the lease is considered as a real right (*see* "Exposicion de Motivos de la Ley Hipotecaria" and "Legislation Hipotecaria" by Galindo y Escosura, vol. I, pp. 459-462) and when registered, it is effective against third persons (art. 1549, Civil Code). So that when the lease of an estate falls within one of the cases enumerated in the last cited provision and can, consequently, be registered, and is in fact registered, the purchaser of the estate is not

entitled to terminate the lease.

The lease in question in the present case is for a term exceeding six years. It can, therefore, be registered, and is, for this reason, a real right in the eyes of the law. True, it is not registered, because the estate has not been previously registered, but the plaintiff, the purchaser of the land thus leased, acquired it with full knowledge of the existence, duration and other conditions of the lease, including the stipulation to respect it in case the property was sold, having read the document evidencing it. Is such knowledge equivalent to the registration of the contract of lease so as to take the lease from the operation of the general precept contained in article 1571 of the Civil Code? The judicial decisions give an affirmative answer.

> "That as one of the principal grounds and objects of the Mortgage Law is the publicity of the encumbrances and liens upon real properties so that nobody may become responsible for anything unknown to him, there can be no doubt that under said law, one cannot be considered as third person, who, although he did not intervene in the act or contract registered, had, at the time of acquiring the property possessed by him, perfect knowledge of the encumbrances upon it, which doctrine is in harmony with the principles of law, by virtue of which nothing can be impugned which has been accepted without objection, or expressly or impliedly consented." (Decision rendered Oct. 8, 1885, 58 *Juris. Civil*, p. 460.)

This doctrine has been repeatedly upheld in recent cases by the same Supreme Court, as may be seen from the decisions rendered April 5, 1898, December 6, 1901, May 13, 1903, and March 23, 1906.

> "* * * The purpose of registering an instrument relating to land, annuities, mortgages, liens, or any other class of real rights is to give notice to persons interested of the existence of these various liens against the property. If the parties interested have *actual notice* of the existence of such liens, then the necessity for registration does not exist. Neither can one who has actual notice of existing liens acquire any rights in such property free from such liens by the mere fact that such liens have not been recorded.

> "It is our conclusion, therefore, that the defendant having had actual notice of the existence of the mortgage in question against the property cannot take advantage of the failure of the plaintiff to have the same transferred to the new registry under the Mortgage Law. *The effect of his actual notice is equivalent to the registration of said mortgage under the Mortgage Law*." (Obras Pias vs. Devera Ignacio, 17 Phil., 45, 47.)
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> "The object of all registry laws is to impart information to parties dealing with property, respecting its transfers and incumbrances, and thus to protect them from prior secret conveyances and liens. Actual knowledge by a purchaser of an existing mortgage or title *is equivalent* to a notice resulting from the registry." (Patterson vs. De la Ronde, 8 Wall., 292; 19 U. S. [L. ed.], 415; Findlay vs. Hinde, 7 U. S. [L. ed.], 128; Landis vs. Brant, 13 U. S. [L. ed.], 449; Fowler and Badgett vs. Merrill, 13 U. S. [L. ed.], 736; National Bank of Genesee vs. Whitney, 26 U. S. [L. ed.], 443; Moelle vs. Sherwood, 37 U. S. [L. ed.], 350.)

A consequence and obvious application of this doctrine, which is common to the Philippines, Spain, the country which left us a juridical inheritance, containing our laws on the matter, and North America, from which the principles of the Anglo-Saxon law are being1 taken and incorporated into our laws, is that the plaintiff's actual knowledge of the lease in question and of the stipulation that it should stand in case the property was sold has, in this particular case and so far as she is concerned, just the same effects as those of the registration of the said lease in the registry of property.

This being so, this lease cannot but fall also within the last exception enumerated in the above cited article 1571 of the Civil Code.

The rights, therefore, acquired by the defendant as lessee of the estate above referred to, which were known to the plaintiff at the time of purchasing it, cannot be prejudiced, as they cannot be affected by such a transfer.

The plaintiff is not, therefore, entitled to terminate the lease in question, and having been subrogated into the legal situation of the lessor, created by the contract of lease which was known to her, it is her duty to respect it *in toto*.

The fundamental question having thus been solved, all the other points raised by the parties in this appeal are impliedly decided, and it is not necessary to discuss them specifically and

separately. The judgment appealed from is reversed and the defendant absolved from the complaint, without special pronouncement as to costs. So ordered.

Araullo, C. J., Villamor, Ostrand, and *Johns, JJ.,* concur.

Avanceña, J., concurs in the result.

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