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Digest of RECENT DECISIONS of the Philippine Supreme Court

[In this column is presented a digest of current cases of general interest to practitioners. These decisions have not yet been published in the Official Gazette, and many of them, especially those rendered *in division*, will not so appear because not selected for official report.]

LAND REGISTRATION—A JUDICIAL SALE WHERE THE PRICE IS INADEQUATE IS VOID.—*The Director of Lands, Applicant vs. Timoteo Abarca, et al., G. R. No. 38581, Dec. 18, 1934.*—In a prior civil case, Datu Bualan and a number of Bagobos secured a judgment in their favor whereby the lot in controversy was adjudicated to them. Later, attorneys Sarenas and Braganza, their counsel in that suit, took possession of said parcel on failure of Datu Bualan to pay the attorney's fees. A subsequent action was instituted for the recovery of this land, and the court ordered its return to the Bagobos but required the latter to pay Sarenas and Braganza the amount of P6,000 for attorney's fees. The Bagobos complied with their part of the judgment by paying P5,126.13 to their former counsel and by depositing with the municipal treasurer the sum of P1,035.97 for taxes and penalties. In spite of these payments made, attorneys Sarenas and Braganza caused the issuance of a writ of execution on the said judgment, claiming that the amount paid to the treasurer should not be credited on the amount of the

judgment obtained by them. The lot, assessed in 1927 at P60,000, was sold by the sheriff to Sarenas and Braganza for P677.25 only. On failure of the Bagobos to redeem this property, they filed their claim in the present cadastral case, alleging that they were the absolute owners of the lot in question, while Sarenas and Braganza asserted a similar claim in their favor. *Held:* The sale by the sheriff of the parcel in controversy was null and void, because it was not made in accordance with the requirements of law, and also because the purchase price paid by Sarenas and Braganza was absolutely inadequate. A judicial sale of real property will be set aside when the price is inadequate as to shock the conscience of the court. Registration of the lot in the names of Datu Bualan and of the Bagobos was ordered. Judgment modified. (In division of five, per Santos, J., Street, Butte, Goddard and Diaz, JJ.; concurring.) *Briefed by* FELIX O. ALFELOR.

CRIMINAL LAW—ROBBERY—HOW VALUE OF STOLEN ARTICLES DETERMINED.—*P. P. I. vs. Anacleto Pan-*

lilio et al.—G. R. No. 42261, Dec. 13, 1934.—This is an appeal by Pedro Mercado from a decision of the lower court, finding him guilty of the crime of robbery in an inhabited house and sentencing him to suffer an indeterminate sentence of not less than six months and one day and not more than four years, two months, and one day of prisión correccional, to return the stolen articles, or to indemnify the offended party in the amount of P65.00, the value of the unrecovered articles and money, with the corresponding subsidiary imprisonment in case of insolvency. The trial court in rendering the above decision did not attach any value to the fifty-peso check included among the articles stolen on the occasion of the robbery, on the ground that it was alleged in the information that the check was on the owner's name and could be cashed only in China. The Supreme Court, citing the case of *U. S. v. Wickersham*, 20 Phil. 447, *Held*: It is not necessary that the subject matter of robbery should be of value to a third person. It is sufficient that it be valuable to the owner, and that the value of good and valid checks and similar commercial paper to the owner is the amount for which they are drawn. The amount of the indemnity was increased to P103.00 to include the value of the check. Judgment modified, penalty increased. (In division of three, per Vickers, J., Avanceña, C. J., and Santos, J.; concurring.) *Briefed by* FELIX O. ALFELOR.

CRIMINAL LAW—WHEN IS THERE SELF-DEFENSE AND FOR WHAT IS THE OFFENDER RESPONSIBLE.—*People of the Philippine Islands vs. Inocentes Moldes*, G. R. No. 42122, December 1, 1934.—The deceased, who was the master of ceremonies

in a dance, reproved the defendant who insisted on dancing out of turn. Defendant descended into the yard of the house and challenged everyone to a fight. The deceased, unarmed, started down the stairs, speaking to him in a friendly manner. As he was about to reach the ground, the defendant struck at him with his bolo, inflicting a wound on his left arm. As deceased fell to the ground, defendant inflicted a slight wound in the back and ran away. The wound was treated by the sanitary inspector, but the deceased remained in the care of a local "curandero". This treatment failed to stop the hemorrhage which resulted in death. Defendant urges that he did not intend to inflict as serious a wound as was inflicted but struck only in the dark and in self-defense. He also contends that if the deceased had secured proper surgical treatment, the wound would not have been fatal. *Held*: It is clear that there is no element of self-defense in the case, and that defendant was the aggressor. When one resorts to the use of a lethal weapon and strikes another with the force that must have been used in this case, it must be presumed that he realizes the natural consequences of his act. The general rule is "that he who inflicts the injury is not relieved of responsibility if the wound inflicted is dangerous, that is, calculated to destroy or endanger life, even though the immediate cause of the death was erroneous or unskillful medical or surgical treatment." 29 C. J., 1081, and the numerous cases there cited. (Per Hull, J.; Avanceña, Santos, Vickers and Diaz, JJ., concur.) *Briefed by* LEOVIGILDO V. MONASTERIAL.

LAND REGISTRATION — WHAT FRAUD THE LAW CONTEMPLATES AS SUFFICIENT GROUND FOR REOPENING A LAND REGISTRATION PROCEEDING.—*Ruperta Macapagal et al. vs. Angela Reyes et al., G. R. No. 40481, December 8, 1934.*—Pedro Reyes was twice married. In his lifetime, he executed a deed of donation for the purpose of dividing his real properties among the children of the first and second marriages, and at different times. The defendants, who are the children of Reyes by his second wife, claimed the properties now in dispute in a cadastral proceeding, and said properties were adjudicated to them. After more than one year had passed, the present action was instituted by the plaintiffs, who are the rightful heirs of the first marriage, to recover their alleged portion of said properties. *Held:* The action cannot be sustained. There is no sufficient ground for finding that the cadastral decree in favor of the defendants was obtained by fraud. The decree was in conformity with the partition, and the latter formed the basis of the judgment. It is true that the plaintiffs, whose mother was then dead, did not appear in the cadastral proceeding, but the decree was binding on them nevertheless. It is idle now to discuss whether the partition was exactly what it should have or not, or whether the plaintiffs, or rather their mother, may have been discriminated against in said partition. It is not open to the plaintiffs now to reopen the case for the purpose of discussing that question. The fraud which the law contemplates as a sufficient ground for reopening a land registration proceeding is not merely an injustice or error in the decree. The fraud contemplated is fraud upon the court, and the abuse of the registration

laws for the purpose of procuring registration in the name of a person who is not the owner. (Per Street, J.; Avanceña and Vickers, JJ., concur.) *Briefed by* LEOVIGILCO V. MONASTERIAL.

CONVEYANCE—PRIORITY IN CASE OF REGISTRATION—*Florentino Suico vs. Quirina Compahikay et al., G. R. No. 38639, December 14, 1934.*—The question of law involved in this case arises from two sales of the same property. The first sale was made to the plaintiff in 1927. This sale was not registered. The owner of the property again sold it to the defendant in 1930. This sale was registered. The first vendee now seeks to annul the second sale on some alleged ground to the effect that the second sale was procured thru fraud. The true question is: Who has a better claim to the land? *Held:* Under the section 39 of the land registration law, every purchaser of a registered land who takes a certificate of title for value in good faith, holds the same free of all encumbrance except those noted on the certificate and those especially mentioned in said section. This principle is enunciated in the case of *Manila vs. Lack*, 19 Phil. 324; it was repeated in *Castillo vs. Valdez*, 53 Phil. 120. On the other hand, article 1473 of the Civil Code provides that if the same real property is sold to different vendees, it shall belong to the purchaser who first recorded it in the registry of Deeds. (See *Po Sun Tun vs. Price*, 54 Phil. 192). The plaintiff, however, alleges that defendant can not invoke in his favor article 1473, Civil Code, because he suffers from bad faith. But, as a rule good faith is presumed, bad faith must be proved by clear and positive evidence. Having in view the fundamental purpose

of the Torrens system, it has been held by our Supreme Court that a purchaser of registered land is presumed to be innocent and for value; and that an allegation to the contrary must be substantiated by strong and convincing and clear evidence. (See *Manlapaz vs. Tolentino*, 48 Phil. 298, *Jacinto vs. Arellano*, 48 Phil. 570) Judgment reversed. (In division of three, per Santos, J., Avanceña, Vickers, JJ., concurring.) *Briefed by* MELITON G. SOLIMAN.

EXECUTION SALE—PLACE OF SALE—POSTING NOTICE AT PLACE OF LOCATION—SHARE OF ONE OF SPOUSES IN CONJUGAL PROPERTY AFTER DISSOLUTION OF MARRIAGE BY DEATH NOT ANSWERABLE FOR PERSONAL DEBTS OF THE OTHER—*Macondray and Co., Inc. vs. Pedro Coletto et al.*, G. R. No. 41223, December 19, 1934. —In a certain civil proceeding in Cebu, judgment was entered in favor of plaintiff against the defendant for the payment of the balance of an unpaid debt. A writ of execution was issued directed to the sheriff of the Province of Surigao for enforcement. But because the judgment-debtor was the same person who was sheriff for Surigao, the Court appointed one Labita to act in his stead, as special sheriff. Two questions are presented by the appellant in this appeal both touching upon the validity of the sale of the properties in question by special sheriff Labita. With respect to the first question, it is alleged that the sale is null because it was conducted in the Province of Cebu while the properties sold are situated in the Province of Surigao; and that no notice of said sale was posted in the Municipality of Surigao. *Held:*

Except when the law prescribes otherwise, the sale of an immovable must be made in the county in which it is located * * *. The sale made in a county or Judicial district of a property situated in another county or district has been declared in many cases as absolutely null * * *. (23 C. J. 631.) In this jurisdiction the laws do not expressly state where the sale of levied property be made. But, it is enough that they do not expressly authorize the sale in a different province for the doctrine above-cited to be applicable in this jurisdiction. In fact, it is inferrable from our laws that such sales should be made in the province where the property is situated. Such sales are conducted by the sheriff. A sheriff is appointed for each province and his authority is confined to such province. It seems clear, therefore, that the sale of immovables must be made where such immovables are situated, and such sale must be conducted by the sheriff of the province. Labita, in this instant case, acted as sheriff for the Province of Surigao. In the same manner that the sheriff of Surigao can not sell in Cebu properties situated in Surigao, Labita, acting in the place of the sheriff of Surigao, cannot sell the properties in question. Besides, such sales are conducted at public auction with the end in view of realizing the best price. When it is held in another province, and when, as in this case, it is held in another island, such end is not attained. The greater or lesser price that may be realized depends upon the greater or lesser demand, and this greater or lesser demand results from the greater or lesser interest inspired in the acquisition of such properties. As can be easily seen in this case; there can not exist in Cebu greater

interest in the acquisition of the questioned properties than in Surigao where they are situated. On the other hand, interested persons in Surigao had to go to Cebu to participate in the sale. Again, the failure of Labita to post the proper notice of sale in Surigao was an irregularity of sufficient gravity to nullify the entire proceedings leading to the sale and consequently also the sale itself. With respect to the second question, it is contended by appellant that since the properties sold are not the personal properties of the defendant but the properties of both himself and of his deceased wife in the conjugal partnership, the sale is invalid with respect to one-half of the properties sold. This contention is founded. The debts were the personal debts of the defendant and were contracted after the dissolution of the conjugal partnership by the death of the wife. They could not therefore be charged to the portion of the conjugal property belonging to the dead spouse. Judgment affirmed. (In division of five, per Avanceña, C. J., Street, Santos, Hull, and Vickers, JJ., concurring.) *Briefed by* MELITON G. SOLIMAN.

CIVIL LAW—RESERVABLE PROPERTY
—Ricardo H. Maximo et al. vs. Gregorio Mateo et al.—G. R. 40435—December 8, 1934.—Hermenegildo Hilario had been the owner of the lands in question. He married Valeria Perez in 1910 with whom he had a son, named Jose Hilario. He died, leaving a will in which he instituted as his sole heir his son Hilario. The latter died without descendants, and so his property was inherited by his mother intestate. The latter died in 1931. The plaintiffs are the natural children of Hermenegildo

Hilario and, therefore, natural brothers of Jose Hilario. They claimed to be relatives who have the right to the reservation established in art. 811, Civil Code. *Held:* The persons in whose favor the reservation in art. 811, Civil Code, is made refers to legitimate relatives and not to natural ones. (In division of five, per Avanceña C. J., Santos, Hull, Vickers, and Diaz JJ., concurring.) *Briefed by* RAFAEL CAÑIZA.

LAND REGISTRATION—NECESSITY OF AN ORDINARY ACTION—*Gabina Raquel vs. Jose Lugay et al.—G. R. 41594—December 15, 1934.*—On the 21st of September, 1933, there was recorded in the certificate of title in the name of Jose Lugay in Cavite, a notice of attachment by virtue of an order of execution issued by the Court of First Instance of Manila and a certificate of sale at public auction in favor of Lorenzo C. Guzman. On the 17th of October, there was presented in the office of the Registry of Deeds of Cavite a request for the inscription of a deed of sale of the same property by Jose Lugay in favor of Gabina Raquel. The Register of Deeds refused to inscribe said document. The judge of the 4th branch of the Court of First Instance of Manila resolved the question in favor of the recording of the sale, the prior notations, however, to subsist unless annulled by a competent tribunal. The question is whether the Court of First Instance of Cavite has jurisdiction to annul the prior notations according to article 112 of Act 496 by means of a mere motion. The appellant alleges that there is no doubt of the necessity of an ordinary action if the validity of the latter sale is in question. But there is a necessity to discuss the validity of the

sale in favor of Lorenzo Guzman, for the recording of the sale cannot be cancelled unless there is a declaration of its invalidity, and no certificate of transfer of title can be issued in favor of Gabina Raquel while there subsists the sale by public auction in favor of Lorenzo Guzman. This is not a case referred to by art. 112 of Act 496 and the doctrine laid down in *Cavan vs. Wizlizenus* (48 Phil. Rep. 971) is not applicable. (In division of three, per *Avanceña C. J., Hull and Diaz, JJ., concurring.*) *Briefed by RAFAEL CAÑIZA.*

OWNERSHIP OF LAND—PRESCRIPTION.—*The Director of Lands, Applicant vs. Teofilo Abad et al., Claimants, José Bautista et al., Claimants and appellants, Andres Cui-ma et al., Claimants and appellees, G. R. No. 36609, December 7, 1934.*—Jose Bautista, together with his brothers and sisters, claimed to be the owner of nine lots by inheritance

from his parents. To each of the nine lots there were other claimants, all of whom were living on their respective lots and claimed by inheritance from their various parents. None of the parties presented direct documentary evidence of title, but both claimed that they and their predecessors in interest had been in occupation for many years. The government made no claim of ownership. *Held:* As between the two sets of claimants there can be no question as to the superior rights of the appellees. Apparently, in 1916 there was some dispute between the parties as to the ownership of the lots in question. Since that date, appellees have been in open and notorious possession and hostile to the claims of the Bautistas. Therefore, prescription had run long before these claims were presented. Judgment affirmed. (In division of three, per *Hull, J.; Avanceña and Vickers, JJ., concurring.*) *Briefed by CRISOSTOMO F. PARIÑAS.*