

G.R. No. L-9332

[G.R. No. L-9332. November 28, 1956]

DIOSCORO GUINTU, ET AL., PLAINTIFF-APPELLANTS, V.S. PETRONILA ORTIZ, ET AL., DEFENDANTS-APPELLEES

D E C I S I O N

PARAS, C.J.:

On September 20, 1950, the defendants-appellees execution in favor of the plaintiff-appellants a mortgage over an unregistered parcel of land and its improvements situated in Masantol, Pampanga, to secure a loan of P3,000.00 bearing interest at ten per cent per annum and payable within one year. In view of appellees failure to pay the loan, the appellants filed an action of foreclosure in the Court of First Instances of Pampanga which after trial, rendered a decision sentencing the appellees to pay to the appellants the sum of P3,000.00, with interest at ten per cent per annum from September 20, 1950, plus the sum of P200.00 as damages, and with costs. The court held that as the mortgage although executed before a notary public, was not registered, it was merely an evidence of indebtedness between the parties. From this decision the plaintiff have appealed.

The appealed decision is erroneous, because under section 194 of the Revised Administrative Code, as amended by Act No. 3344. which provides that no instrument or deed establishing, transmitting, acknowledging, modifying or extinguishing, rights with respect to real estate not registered under the provision of Act 496, entitled "The Land Registration Law" and its amendments, or under the spanish Mortgage Law, shall be valid, except as between parties thereto, until such instruments or deed has been registered in the manner hereinafter prescribed in the Office of the Register of Deeds for the province or city where the real Register of Deeds for the province or city where the real estate lies," the mortgage in question is valid and effective between the parties.

"The trial court erred in holding that the mortgage was null and void. It is true that the contract does not contain some of the date mentioned in section 194 of

the Administrative Code, but the mortgage was actually in the registry of deeds by the registrar, and we are of the opinion that it is valid between the contracting parties, as it would be even if it had not been recorded. From among the decision of this court cases may be cited wherein it is held that a mortgage upon unregistered real property is void under the Spanish Mortgage Law, but the rule upon this Administrative Code, as amended, which clearly recognizes the validity of such a contract between the contracting parties." (Mota vs. Concepcion, 56 Phil. 713)

Where, the appealed judgment will be as it is hereby modified in the sense that, upon failure of the defendants-appellees to pay said judgment within ninety days after notice of this decision, the mortgaged property shall be sold at public auction and the proceeds disposed of in accordance with section 4 of Rule 70 of the Rules of Court. So ordered with costs against the appellees.

Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.