

AGRICULTURAL CREDIT COOPERATIVE ASSOCIATION OF HINIGARAN, MOVANT AND APPELLEE, VS. ESTANISLAO YULO YUSAY, ET AL., OPPOSITORS AND APPELLANTS.

G.R. No. L-13313. April 28, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from an order of the Court of First Instance of Negros Occidental, Hon. Jose S. de la Cruz, presiding, directing the Register of Deeds of Negros Occidental to register a mortgage executed by Rafaela Yulo in favor of the movant covering Lot No. 855, Pontevedra Cadastre, covered by Original Certificate of Title No. 4979.

The records disclose that on July 20, 1952, Rafaela Yulo executed in favor of the movant a mortgage for P33,626.29, due from her, her mother, sisters, brothers, and others, which amount she assumed to pay to the movant. A motion was presented to the court by the movant demanding the surrender of the owner's duplicate certificate of title that he may annotate said mortgage at the back of the certificate. Estanislao Yusay, a part owner of the lot, opposed the petition on the ground that he is owner of a part of the property in question; that the granting of the motion would operate to his prejudice, as he has not participated in the mortgage cited in the motion; that Rafaela Yulo is dead; that the motion is not verified and movant's rights have lapsed by prescription. Finally it is argued that his opposition raises a controversial matter which the court has no jurisdiction to pass upon. Margarita, Maria, Elena and Pilar, all surnamed Yulo, joined the oppositor Estanislao Yusay, raising the same objections interposed by Yusay.

The existence of the mortgage is not disputed, and neither is the fact that the mortgagor Rafaela Yulo is part owner of Lot No. 855 of the Cadastral Survey of Pontevedra. The oppositors do not dispute that she is such a part owner, and their main objection to the petition is that as part owners of the property, the annotation of the mortgage on the common title will affect their rights.

The court held that even if the ownership of the deceased Rafaela Yulo over the portion of the lot in question and the validity of the mortgage are disputed, such invalidity of the mortgage is no proof of the non-existence of the mortgage nor a ground for objecting to its registration, citing the case of *Register, of Deeds of Manila vs. Maxima Tinoco Vda. de Cruz, et al.*, 95 Phil., 818; 53 Off. Gaz., 2804.

In his Brief before, this Court, counsel for appellants argue that the mortgage sought to be registered was not recorded before the closing of the intestate proceedings of the deceased mortgagor, but was so recorded only four months after the termination of said proceedings, so that the claim of movant has been reduced to the character of a mere money claim, not a mortgage, hence the mortgage may not be registered. In the first place, as the judge below correctly ruled, the proceeding to register the mortgage does not purport to determine the supposed invalidity of the mortgage or its effect. Registration is a mere ministerial act by which a deed, contract or instrument is sought to be inscribed in the records of the Office of the Register of Deeds and annotated at the back

of the certificate of title covering the land subject of the deed, contract or instrument.

"The registration of a lease or mortgage, or the entry of a memorial of a lease or mortgage on the register, is not a declaration by the state that such an instrument is a valid and subsisting interest in land; it is merely a declaration that the record of the title appears to be burdened with the lease or mortgage described, according to the priority set forth in the certificate.

"The mere fact that a lease or mortgage was registered does not stop any party to it from setting up that it now has no force or effect." [Niblack, pp. 134-135, quoted in Francisco Land Registration Act, 1950 ed., p. 348.)

The court below, in ordering the registration and annotation of the mortgage, did not pass on its invalidity or effect. As the mortgage is admittedly an act of the registered owner, all that the judge below did and could do, as a registration court, is to order its registration and annotation on the certificate of title covering the land mortgaged. By said order the court did not pass upon the effect or validity of the mortgage—these can only be determined in an ordinary case before the courts, not before a court acting merely as a registration court, which did not have the jurisdiction to pass upon, the alleged effect or invalidity.

Wherefore, the order appealed from is hereby affirmed, with costs against oppositors-appellants. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Endencia, and Gutierrez David, JJ., concur.

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