

ENCARNACION GATIOAN, PLAINTIFF-APPELLEE, VS. SIXTO GAFFUD, ET AL., DEFENDANTS, PHILIPPINE NATIONAL BANK, DEFENDANT-APPELLANT.*G.R. No. L-21953. March 28, 1969*

Ponente: BARREDO, J.

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Appeal from the Court of First Instance of Isabela.

The facts as found by the said court are as follows:

The land in question was originally registered in the name of Rufina Permison under Original Certificate of Title No. I-3432, dated December 18, 1935 on the basis of a free patent. In the year 1948, Permison sold it to Sibreno Novasteras who in turn, conveyed it to appellee Encarnacion Gatioan on April 1, 1949. Through the initiative of appellee, the said Original Certificate of Title No. I-3432 in the name of Rufina Permison was cancelled on June 3, 1949, and in lieu thereof, Transfer Certificate of Title No. T-1212 was issued in favor of appellee.

On June 12, 1950, appellee obtained a loan in the amount of P900.00 from the appellant, Philippine National Bank, and as security therefor, mortgaged the land described in TCT No. T-1212. Said mortgage was duly inscribed at the back of the title but was cancelled when it was fully paid on June 3, 1953. Using the same land and title as collateral, appellee acquired another loan in the sum of P1,100.00 from the same bank on May 3, 1954. The annotated incumbrance covering this second loan was upon its being paid released on June 28, 1956. On July 18, 1957, appellee secured a third loan from, the same bank, this time for a bigger amount - P2,800.00. Again, she remortgaged the same land and title. This third loan appears as Entry No. 8511 at the back of TCT No. T-1212. The third loan not yet paid, she secured an additional loan of P3,170.00 from the same bank on July 30, 1957, for which she, however, gave as collateral, another parcel of land covered by TCT No. T-4807. The deed of mortgage covering the last amount was jointly and severally executed by appellee and the other registered co-owners appearing in the last mentioned title.

On August 12, 1960, appellee paid P2,800.00, plus interest, in full payment of the last loan secured by mortgage on the land covered by TCT No. T-1212, as per receipt No. 402272-B. Partial payment was also given for the other joint obligation secured with the joint deed of mortgage on the other land. Despite these payments, appellant executed no instrument releasing or discharging the incumbrance on TCT No. T-1212.

In the meantime, on January 23, 1956, the defendant spouses Sixto Gaffud and Villamora Logan procured a free patent covering the identical parcel of land described in TCT No. T-1212 of appellee, on the basis of which Original Certificate of Title No. P-6038 was issued in their favor. On May 15, 1956 and January 8, 1957, they also obtained two loans from appellant Bank in the sum of P1,400.00 and P300.00, respectively, and as collateral for both, they mortgaged the said land covered by OCT No. P-6038. Without paying these two obligations, a consolidated mortgage in the sum of P2,300.00 was executed by them on June 17, 1957, for which they gave as security, in addition to the land described in OCT No. P-6038, another parcel of land described in Original

Certificate of Title No. 3137, also in their names.

Subsequently, the Secretary of Agriculture and Natural Resources compared the technical descriptions, areas, lot numbers and cadastral numbers of the land described in TCT No. T-1212 with that covered by OCT No. P-6038, and convinced that both titles covered the same identical land, he recommended the cancellation of the latter.

On May 16, 1962, because of the existence of OCT No. P-6038 in the name of the defendant spouses Gaffud and Logan, containing an annotation of the aforementioned consolidated mortgage in favor of the appellant Bank, and, the annotation on TCT No. T-1212 of the mortgage incumbrance covering the already paid loan of P2,800.00 to the appellee, which appellant Bank refused to have cancelled, appellee filed the complaint for quieting of title in this case.

The above facts were found by the lower court from the stipulations submitted by the parties, except defendant spouses Gaffud and Logan who were declared in default. No oral evidence was presented by any of the parties.

From a judgment favorable to the plaintiff thus:

"WHEREFORE, the Court renders judgment:

"(a) Declaring null and void ab initio the patent and certificate of title No. P-6038 issued in the name of the defendant spouses Sixto Gaffud and Villamora Logan;

"(b) Ordering the Register of Deeds of Isabela to cancel, upon payment of the fees, original certificate of title No. P-6038 in the name of said spouses, and ordering the Philippine National Bank to surrender to the Register of Deeds of Isabela the owner's duplicate certificate of said title for its cancellation;

"(c) Declaring the real estate mortgage executed by the defendant spouses Sixto Gaffud and Villamora Logan in favor of the Bank, recorded on OCT P-6038 null and void and unenforceable as against the herein plaintiff, and ordering its cancellation, without prejudice of the Bank's right to collect from the said spouses;

"(d) Dismissing the complaint and its prayer, to order the defendant bank to immediately cancel or release the mortgage recorded on Transfer Certificate of Title No. T-1212 in the name of the plaintiff, unless the other joint obligation secured with the joint deed of mortgage executed, by the herein plaintiff together with her co-debtors has been fully paid; and

"(e) The court hereby sentences the defendant spouses Sixto Gaffud and Villamora Logan to pay to the plaintiff as actual or compensatory and exemplary or corrective damages, and attorney's fees, the total amount of ONE THOUSAND FIVE HUNDRED PESOS (P1,500.00), and to pay the costs."

only the appellant Bank has come to Us on appeal on a sole question of law related to paragraphs (a), (b) and (c) thereof. (See Notice of Appeal, p. 90, Record on Appeal.)

Appellant does not, however, impugn the lower court's ruling in declaring null and void and cancelling OCT No. P-6038 in favor of the defendant spouses Gaffud and Logan; it only insists that the lower court should have declared it an innocent mortgagee in good faith and for value as regards the mortgages executed in its favor by said defendant spouses and duly annotated on their above-mentioned OCT P-6038 and that consequently, the said mortgage annotations should be carried over to and considered as incumbrances on the land covered by TCT No. T-1212 of appellee which, as already stated, is the identical land covered by OCT P-6038 of the Gaffuds. We find no merit, whatsoever, in this contention, because the point raised was already passed upon by this Court in no uncertain terms in *Legarda v. Suleeby*, 31 Phil. 590, way back on October 2, 1915 and in subsequent cases of similar nature.[1] We unhesitatingly affirm the judgment of the Lower court.

Indeed, upon the facts found by the trial court as above stated, there can be no question that the decision of this Court in *Legarda v. Saleeby*, *supra*, is controlling herein. Therein this Court held:

"We find statutory provisions which, upon first reading, seem to cast some doubt upon the rule that the vendee acquires the interest of the vendor only. Sections 38, 55; and 112 of Act No. 496 indicate that the vendee may acquire rights and be protected against the defenses which the vendor would not. Said sections speak of available rights in favor of third parties which are cut off by virtue of the sale of the land to an 'innocent purchaser'. That is to say, persons who had had a right or interest in land wrongfully included in an original certificate would be unable to enforce such rights against an 'innocent purchaser', by virtue of the provisions of said sections. In the present case Teus had his land, including the wall, registered in his name. He subsequently sold the same to the appellee. Is the appellee an 'innocent purchaser', as the phrase is used in said sections? May those who have been deprived of their land by reason of a mistake in the original certificate in favor of Teus be deprived of their right to the same, by virtue of the sale by him to the appellee? Suppose the appellants had sold their lot, including the wall, to an 'innocent purchaser', would such purchaser be included the phrase 'innocent purchaser', as the same is used in said sections? Under, these examples there would be two innocent purchasers of the same land, if said sections are to be applied. Which of the two innocent purchasers, if they are both to be regarded as innocent purchasers, should be protected under the provisions of said sections? These questions indicate the difficulty with which we are met in giving meaning and effect to the phrase 'innocent purchaser', in said sections.

"May the purchaser of the land which has been included in a 'second original certificate' ever be regarded as an 'innocent purchaser', as against the rights or interest of the owner of the first original certificate, his heirs, assigns, or vendee? The first original certificate is recorded in the public registry. It is never issued until it is recorded. The record is notice to all the world. All persons are charged with the knowledge of what it contains. All persons dealing with the land so recorded, or any portion of it, must be charged with notice of whatever it contains. The purchaser is charged with notice of every fact shown by the record and is presumed to know every fact which the record discloses. This rule is so well established that it is scarcely necessary to cite authorities in its support (*Northwestern National Bank v. Freeman*, 171 U.S. 620, 629; *Delvin on Real Estate*, sections 710, 710-[a]).

"When a conveyance has been properly recorded such record is constructive notice of its contents and all interests, legal and equitable, included therein. (*Grandin v. Anderson* 15 Ohio State, 286, 289; *Orvis v. Newell*, 17 Conn. 97; *Buchanan v. International Bank*, 78 Ill. 500; *Youngs v. Wilson*, 27 N.Y. 351; *McCabe v. Grey*, 20 Cal. 509; *Montefiore v. Browne*, 7 House of Lords Cases 341.)

"Under the rule of notice, it is presumed that the purchaser has examined every instrument of record affecting the title. Such presumption is irrebutable. He is charged with notice of every fact shown by the record and is presumed to know every fact which an examination of the record would have disclosed. This presumption cannot be overcome by proof of innocence or good faith. Otherwise the very purpose and object of the law requiring a record would be destroyed. Such presumption cannot be defeated by proof of want of knowledge of what the record contains any more than one may be permitted to show that he was ignorant of the provisions of the law. The rule that all persons must take notice of the facts which the public record contains is a rule of law. The rule must be absolute. Any variation would lead to endless confusion and useless litigation.

"While there is no statutory provision in force here requiring that original deeds of conveyance of real property be recorded, yet there is a rule requiring mortgages to be recorded. (Arts. 1875 and 606 of the Civil Code.) The record of a mortgage is indispensable to its validity. (Art. 1875.) In the face of that statute, would the courts allow a mortgage to be valid which had not been recorded, upon the plea of ignorance of the statutory provision, when third parties were interested? May a purchaser of land, subsequent to the recorded mortgage, plead ignorance of its existence, and by reason of such ignorance have the land released from such lien? Could a purchaser of land, after the recorded mortgage, be relieved from the mortgage lien by the plea that he

was a bona fide purchaser? May there be a bona fide purchaser of said land, bona fide in the sense that he had no knowledge of the existence of the mortgage? We believe the rule that all persons must take notice of what the public record contains is just as obligatory upon all persons as the rule that all men must know the law; that no one can plead ignorance of the law. The fact that all men know the law is contrary to the presumption. The conduct of men, at times, shows clearly that they do not know the law. The rule, however, is mandatory and obligatory, notwithstanding. It would be just as logical to allow the plea of ignorance of the law affecting a contract as to allow the defense of ignorance of the existence and contents of a public record.

"In view, therefore, of the foregoing rules of law, may the purchaser of land from the owner of the second original certificate be an 'innocent purchaser' when a part or all of such land had theretofore been registered in the name of another, not the vendor? We are of the opinion that said sections 38, 55, and 112 should not be applied to such purchasers. We do not believe that the phrase 'innocent purchaser' should be applied to such a purchaser. He cannot be regarded as an innocent purchaser' because of the facts contained in the record of the first original certificate. The rule should not be applied to the purchaser of a parcel of land the vendor of which is not the owner of the original certificate, or his successors. He, in no sense, can be an innocent purchaser of the portion of the land included in another earlier original certificate. The rule of notice of what the record contains precludes the idea of innocence. By reason of the prior registry there cannot be an innocent purchaser of land included in a prior original certificate and in a name other than that of the vendor, or his successors. In order to minimize the difficulties we think this is the safer rule to establish. We believe the phrase 'innocent purchaser', used in said sections, should be limited only to cases where unregistered land has been wrongfully included in a certificate under the torrens system. When land is once brought under the torrens system, the record of the original certificate and all subsequent transfers thereof is notice to all the world. That being the rule, could Teus even be regarded as the holder in good faith of that part of the land included in his certificate which had theretofore been included in the original certificate of the appellants? We think not. Suppose, for example, that Teus had never had his lot registered under the torrens system. Suppose he had sold his lot to the appellee and had included in his deed of transfer the very strip of land now in question. Could his vendee be regarded as an 'innocent purchaser of said strip? Certainly not. The record of the original certificate of the appellants precludes the possibility. Has the appellee gained any right by reason of the registration of the strip of land in the name of his vendor? Applying the rule of notice resulting from the record of the title of the appellants, the question must be answered in the negative. We are of the opinion that these rules are more in harmony with the purpose of Act No. 496 than the rule contended for by the appellee. We believe that the purchaser from the owner of the later certificate, and his successors, should be required to resort to his vendor for damages, in case of a mistake like the present, rather than to molest the holder of the first certificate who has been guilty of no negligence. The holder of the first original certificate and his successors should be permitted to rest secure in their title, against one who had acquired rights in conflict therewith and who had full and complete knowledge of their rights. The purchaser of land included in the second original certificate, by reason of the facts contained in the public record and the knowledge with which he is charged and by reason of his negligence, should suffer the loss, if any, resulting from such purchase, rather than he who has obtained the first certificate and who was innocent of any act of negligence." (31 Phil. 590, 599-603)

Moreover, it is a matter of judicial notice that before a bank grants a loan on the security of land, it first undertakes a careful examination of the title of the applicant as well as a physical and on-the-spot investigation of the land itself offered as security. Undoubtedly, had herein appellant Bank taken such a step which is demanded by the most ordinary prudence, it would have easily discovered the flaw in the title of the defendant spouses; and if it did not conduct such examination and investigation, it must be held to be guilty of gross negligence in granting them the loans in question. In either case, appellant Bank cannot be considered as a mortgagee in good faith within the contemplation of the law.[2]

A more factual approach would lead to the same result. From the stipulated facts, it can be seen that prior to the execution of the mortgage between appellant and the defendant spouses, the appellee had been mortgaging the

land described in TCT No. T-1212 to it. She did this first in the year 1950 for a loan of P900.00, and again in 1954 for a loan of P1,100.00. In both instances, the appellant Bank had possession of, or at least, must have examined appellee's title, TCT No. T--1212, wherein appear clearly the technical description, exact area, lot number and cadastral number of the land covered by said title. In other words, by the time the defendant spouses offered OCT P-6038, in their names, for scrutiny in connection with their own application for loan with appellant, the latter was charged with the notice of the identity of the technical descriptions, areas, lot numbers and cadastral numbers of the lands purportedly covered by the two titles and was in a position to know, if it did not have such knowledge actually, that they referred to one and the same lot. Under the circumstances, appellant had absolutely no excuse for approving the application of the defendant spouses and giving the loans in question. To appellant, therefore, fittingly applies the following pronouncement of this Court:

"One who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor. A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor. His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title will not make him an innocent purchaser for value, if it afterwards develops that the title was in fact defective, and it appears that he had such notice of the defect as would have led to its discovery had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation. x x x." (Dayao v. Diez, supra; citing the case of Leung Yee v. Strong Machinery Co., 37 Phil. 644.)

Anyway, appellant Bank is not without any remedy. It appears that defendant spouses have another land covered by OCT 3137 which is also mortgaged to it and which perhaps may yet be sufficient to cover the loans in question. In any event, again, the following ruling of this Court in the recent case of De Villa v. Trinidad, G. R. No. L-24918, March 20, 1968, applies to appellant:

"We have laid the rule that where two certificates of title are issued to different persons covering the same land in whole or in part, the earlier in date must prevail as between original parties and in case of successive registrations where more than one certificate is issued over the land, the person holding under the prior certificate is entitled to the land as against the person who rely on the second certificate. The purchaser from the owner of the later certificate and his successors should resort to his vendor for redress, rather than molest the holder of the first certificate and his successors, who should be permitted to rest secure in their title." (Citing Legarda v. Saleeby, 31 Phil. 590) [Underlining supplied]

The recourse to the cases of Blanco et al. v. Es-quierdo, G. R. No. L-15182, December 28, 1960 and Director of Lands v. Abache, 73 Phil. 606, made by appellant in its brief is obviously unavailing. The factual settings of those cases are entirely different from the one before us now. In the case of Abache, what happened was that the land which one Santiago Imperial and his mother claimed during the cadastral proceedings was adjudicated by the cadastral court in its decision to other parties, the Adornados, who had never made any claim thereto, and when the Imperials asked later on, after the decree and title had been issued, for the annulment of such title in the name of said non-claimants, it appeared that the latter had already mortgaged the land to one Luis Meneses. This Court decreed that although the title of the Adornados was void and the Imperials were entitled to the issuance of the title in their favor, the mortgage in favor of Meneses constituted a valid lien over the lands the remedy of the Imperials was to go against the Assurance Fund. Thus, in that case, there was nothing in the title itself which could indicate to Meneses that there was a flaw in the title of the Adornados, because the error was committed by the court in the proceedings and not in the issuance of the title, hence, it contained on its face no circumstances of suspicion at all, from any point of view, unlike in the present case wherein an examination of the

title of the defendant spouses was sufficient to put appellant on notice that the land described therein was identical with the land it had previously dealt with under another title in the name of somebody else.

The same is true with the other cited case of *Blanco et als. v. Esquierdo*, supra. The pertinent portions of said decision are as follows:

"That the certificate of title issued in the name of Fructuosa Esquierdo is a nullity, the same having been secured thru fraud, is not here in question. The only question for determination is whether the defendant bank is entitled to the protection accorded to 'innocent purchasers for value', which phrase, according to sec. 38 of the Land Registration Law, includes an innocent mortgagee for value. The question, in our opinion, must be answered in the affirmative.

"The trial court, in the decision complained of, made no finding that the defendant mortgagee bank was a party to the fraudulent transfer of the land to Fructuosa Esquierdo. In-deed, there is nothing alleged in the complaint which may implicate said defendant mortgagee in the fraud, or justify a finding that it acted in bad faith. On the other hand, the certificate of title was in the name of the mortgagor Fructuosa Esquierdo when the land was mortgaged by her to the defendant bank. Such being the case, the said defendant bank, as mortgagee, had the right to rely on what appeared in the certificate and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the mortgagor appearing on the face of said certificate. (De Lara et al. vs. Ayroao, 50 Off. Gaz. 4838; Joaquin vs. Madrid et al., G. R. No. L-13551, January 30, 1960.) Being thus an innocent mortgage for value, its right or lien upon the land mortgaged must be respected, and protected, even if the mortgagor obtained her title thereto thru fraud. The remedy of the persons prejudiced is to bring an action for damages against those causing the fraud, and if the latter are insolvent, an action against the Treasurer of the Philippines may be filed for the recovery of damages against the Assurance Fund. (De la Cruz vs. Fabie, 35 Phil. 144; Blondeau vs. Nano, 61 Phil. 625; Sumira et al. vs. Vistan et al., 74 Phil. 138; Raymundo et al. vs. Mayon Realty Corp. et al., 54 Off. Gaz. 4954; Avecilla vs. Yatco et al., 54 Off. Gaz. 6415.)

"In this connection, it will be noted that the deceased Maximiano Blanco died way back in 1930 and the certificate of title pursuant to his homestead application was issued in the name of his heirs sometime in 1934. Plaintiffs, however, took no steps for the settlement of their late brother's estate, and instead merely took possession of the land in question jointly with Fructuosa Esquierdo. They also appear to have entrusted the owner's certificate to said Fructuosa Esquierdo thus making it possible for her to fraudulently secure a transfer certificate of title in her name. This should be emphasized, for in several cases it is what impelled this Court to apply the principle of equity that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss." (De Lara et al. vs. Ayroso, supra.)

Again, it is clear that in that case, the title examined by the bank had no indication, whatsoever, of any defect in it, unlike, as already stated, in this case.

By no means of reasoning, therefore, can anyone ever say that the cases cited and relied upon by appellant could have modified the doctrine in *Legarda v. Saleeby*, supra, and the other cases wherein it was reiterated. In fact, no mention at all is made by appellant of the *Legarda v. Saleeby* case in its brief by way of explaining why said appellant had to bring this case on appeal to Us in the face of the said decision which explained clearly and in detail the law on the point appellant now urges before Us. We are thus persuaded that appellant paid little heed to the merit or lack of merit of this appeal which we find to be frivolous.

WHEREFORE, as appellant has not appealed from the judgment of the lower court insofar as paragraphs (d) and (e) thereof are concerned, said paragraphs stand, and the rest of said judgment is hereby affirmed. Double costs against appellant in this instance.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, and Teehankee, JJ., concur.

Ruiz Castro, J., in the result.

[1] *Leung Yee v. Strong Machinery Co.*, 37 Phil. 644; *La Urbana v. Bernardo*, 62 Phil. 790; *Dayao v. Diez*, G. R. No. L-4106, May 29, 1952.

[2] Although the case of *Legarda v. Saleeby*, *supra*, re-fers specifically to purchasers, Section 38 of Act 496, as amended, provides that "Whenever the phrase 'innocent purchaser for value' or any equivalent phrase occurs in this Act, it shall be deemed to in-clude an innocent lessee, mortgagee, or other encumbrancer for value."

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