

ROMAN GUERRERO, PLAINTIFF AND APPELLEE, VS. JUAN V. AGUSTIN, ET AT., DEFENDANTS, MARCELINO MACLANG, ET AL., DEFENDANTS AND APPELLANTS.*G. R. No. L-18117. April 27, 1963*

Ponente: BAUTISTA ANGELO, J.

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Roman Guerrero obtained a levy in execution against Juan V. Agustin in connection with a parcel of land belonging to the latter covered by Transfer Certificate of Title No. T—2134 in CAR Case No. 58—NE—56 which was annotated on the back thereof on January 5, 1957. On August 21, 1956, Agustin executed in favor of Marcelino Maclang and Corazon Marcelo a deed of mortgage on the same property but the same was annotated on the back of the aforesaid certificate of title only on August 20, 1958.

Agustin failed to pay the judgment rendered against him and so his property was sold at public auction for the sum of P2,000.00 in favor of Guerrero, the certificate of sale having been annotated on the back of the same title on November 24, 1958. Agustin having failed to redeem the property within the reglementary period, a final deed of sale was executed in favor of Guerrero on November 18, 1959, which was also annotated on the back of the same title on March 17, 1960. As a consequence, the court ordered Marcelino Maclang, the mortgagee, to surrender within five days the certificate of title covering the property so that it may be cancelled and a new one issued in favor of Guerrero, and having Maclang failed to do so, Guerrero moved to have him declared in contempt for having disobeyed the order. The court however denied the motion upon the manifestation of Maclang's counsel that he would be willing to surrender the title provided that the mortgage lien standing in his favor be annotated on the backs of the new title. Accordingly, the certificate of title was surrendered and complying with the order of the court the register of deeds issued a new title in favor of Guerrero but annotating on the back thereof the mortgage existing in favor of Maclang and his co—mortgagee. Whereupon, Guerrero instituted an action before the Court of First Instance of Nueva Ecija to secure the cancellation of the mortgage of Maclang from the title issued in his name on the ground that his right over the property was superior and paramount.

Defendants resisted the claim contending that their mortgage lien was superior to that of plaintiff inasmuch as the deed of mortgage covering the same was executed on August 21, 1956, or prior to the registration of the levy in execution obtained by the plaintiff.

After issues were joined, the court a quo rendered decision sustaining the claim of plaintiff thereby ordering the cancellation of the mortgage executed in favor of defendants from the certificate of title issued in the name of the former. Hence the present appeal.

It is appellants' contention that while the writ of attachment issued in favor of appellee in CAR Case No. 58—NE—56 was registered on January 5, 1957, or ahead of the registration of appellants' mortgage lien, the latter lien is still superior over that of the former even if it was registered later in view of a decision of the Supreme

Court of Spain rendered on January 28, 1903 wherein it was held that an attachment does not constitute a real right and its annotation on the title is not preferred to an unrecorded deed. Appellants argue that said decision has a binding force in this jurisdiction because the same Mortgage Law under which it is based has likewise force and effect in the Philippines. In the light of the aforesaid decision, appellants contend, the notice of attachment issued in favor of appellee cannot constitute a real right that may bind the land and its annotation cannot give him any right of preference over the recorded mortgage executed in their favor. Appellants argument is devoid of merit. To begin with, appellants overlook the fact that the interest of appellee which was annotated on the back of the original title was not a notice of attachment as they claim but a levy in execution as may be plainly seen from the annotation or inscription appearing on the back of the title itself. Thus, said annotation reads:

"Entry 29156/Nt-2134; Kind—Execution in favor of—Roman Guerrero; Conditions—All the rights, interests and participation of Juan V. Agustin in and over the property described in this title has been levied in connection with Case No. 58-NE-56 of the CAR; Date of Instrument—1/4,1957, Date of Inscription—1/5, 1957; at 11:07 a.m. (Sgd.) F. C. Cuizon, Register of Deeds."

In the second place, even assuming that the lien that was registered in favor of appellee merely partakes of the nature of an attachment, the same still should be deemed superior over that of appellants' mortgage lien it appearing that the same was created much ahead in time. The decision invoked by appellants may be correct if we have to decide this issue in line with the provisions of the Spanish Mortgage Law, but the fact remains that this case is covered by the Land Registration Act because the land in question is covered by a Torrens title. Thus, the pertinent law is Section 51 of Act 496 which provides that every conveyance mortgage, lease, lien, attachment and the like affecting registered land shall, if registered in the office of the register of deeds, be a notice to all persons from the 'time of such "registering, filing or entering." And in accordance with Section 50 of the same Act, the act of registration constitutes the operative act that affects the land and binds the whole world. From this it follows that the lien created in favor of appellee with regard to the land in controversy, be it a levy in execution or notice of attachment, is prior and superior over the mortgage lien created in favor of appellants because of the fact that the former was established ahead of the latter. This is the essence of registration that constitutes a cardinal feature of our Torrens system.

It cannot be contended that appellee's lien over the property became subordinated to that of the mortgage Hen of appellants for the reason that the sale of the property at public auction and the consequent registration of the sale in favor of appellee took place after the registration of the deed of mortgage of appellants, for it has been held in a long line of decisions that the rights acquired by a purchaser at an execution sale revert back to the date of the annotation of the levy, with the concomitant right to have a certificate of title issued in his favor on the basis thereof as if it were annotated on the same date.[1]

Wherefore, the decision appealed from is affirmed. Costs against appellants.

Bengzon, C. J., Labrador, Concepcion, Reyes, J. B, L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1]Tuazon vs. Koymundo, 28 Phil., 289; Worcester vs. Ocampo, 34 Phil., 646; Government of the Philippines vs. Aballe, 60 Phil., 986; Director of Lands vs. Abad, 61 Phil., 479.

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