

**SALVADOR PIANSAY AND CLAUDIA B. VDA. DE UY KIM, PLAINTIFFS
AND APPELLANTS, VS. CONRADO S. DAVID AND MARCOS
MANGUBAT, DEFENDANTS AND APPELLEES.**

G.R. No. L-19468. October 30, 1964

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal from an order of the Court of First Instance of Manila in Civil Case No. 47664 thereof. The pertinent facts are set forth in said order from which we quote:

"It appears from the complaint that on December 11, 1943, defendant herein Conrado S. David received a loan of P3,000 with interest at 12% per annum from Claudia B. Vda. de Uy Kim, one of the plaintiffs, and to secure the payment of the same, Conrado S. David executed a chattel mortgage on a house situated at 1259 Sande Street, Tondo, Manila; that the chattel mortgage was registered with the Register of Deeds of Manila on December 19, 1948; that on February 10, 1953, the mortgaged house was sold at public auction to satisfy the indebtedness to Claudia B. Vda. de Uy Kim, and the house was sold to Claudia B. Vda. de Uy Kim in the said foreclosure proceedings; that on March 22, 1954, Claudia B. Vda. de Uy Kim sold the same house to her co-plaintiff, Salvador Piansay for the sum of P5,000.00; that on November 22, 1949, defendant Conrado S. David mortgaged the said house to Marcos Mangubat, and on March 1, 1956, Marcos Mangubat filed a complaint against Conrado S. David, Civil Case No. 29078, in the Court of First Instance of Manila, for the collection of the loan of P2,000; that on March 24, 1956, the complaint was amended to include the plaintiffs herein Salvador Piansay and Claudia B. Vda. de Uy Kim as party defendants and praying that auction sale executed by the Sheriff on February 10, 1953, and the deed of absolute sale executed by Claudia B. Vda. de Uy Kim in favor of Salvador Piansay be annulled; that decision was rendered in Civil Case No. 29078 ordering Conrado S. David to pay the plaintiff the sum of P2,000, damages and attorney's fees, and dismissing the complaint with respect to Claudia B. Vda. de Uy Kim, Leonardo Uy Kim and Salvador Piansay; that upon appeal, the Court of Appeals affirmed the decision but setting aside the award of damages in favor of Claudia B. Vda. de Uy Kim; that in the execution of Civil Case No. 29078 which was affirmed by the Court of Appeals in CA-G. R. No. 21797-R, the house which had been bought by Uy Kim at the foreclosure proceedings and sold by her to Salvador Piansay was levied upon at the instance of the defendant Marcos Mangubat; that to prevent the sale at public auction of the house here in question, the plaintiffs herein filed a petition for certiorari and mandamus with preliminary injunction in the Court of Appeals, CA-G. R. No. 28974-R, entitled Claudia B. Vda. de Uy Kim and Salvador Piansay versus Hon. Judge Jesus Y. Perez, et al.; that acting upon the said petition, the Court of Appeals in its order of April 28, 1961, denied the petition to lift or discharge the writ of execution."

Thereupon, or on July 31, 1961, Piansay and Mrs. Uy Kim, hereinafter referred to as the plaintiffs, instituted the present action, which was docketed as Civil Case No. 47664 of the Court of First Instance of Manila, against David and Mangubat, hereinafter referred to as the defendants. In their complaint plaintiffs, after averring the foregoing facts, allege that, in the proceedings for the execution of the decision in Civil Case No. 29078, David demanded from Piansay the payment of rentals for the use and occupation of the house aforementioned, which,

Piansay claims, is his property, and that the defendants are threatening to cause said house to be levied upon and sold at public auction in violation of the alleged rights of the plaintiffs. Accordingly, plaintiffs prayed that a writ of preliminary injunction to restrain said levy and sale at public auction be issued and that, after appropriate proceedings, judgment be rendered declaring that Piansay is the true and lawful owner of said house, sentencing the defendants to pay damages and making the preliminary injunction permanent.

Mangubat moved to dismiss said complaint, upon the theory that the same is barred by the principle of res judicata and that plaintiffs have no personality to bring this action or to question the levy upon the house in question, because they have no interest therein. After due hearing the lower court issued the order appealed from granting said motion and dismissing the complaint, with costs against the plaintiffs. A reconsideration of said order having been denied, plaintiffs interposed the present appeal directly to this Court, only questions of law being raised in the appeal, namely: (1) applicability of the principle of res judicata; and (2) validity of the chattel mortgage constituted in favor of Mrs. Uy Kim.

With reference to the first question, it should be noted that in case CA-G.R. No. 21797-R, the Court of Appeals affirmed the decision in Case No. 29078 of the Court of First Instance of Manila, stating:

"In the case of Ladera, et al. vs. Hodges, et al. (CA-G. R. No. 8027-R, promulgated Sept. 23, 1952) this Court, thru Justice J. B. L. Reyes, said, among others:

'Since it is a rule in our law that buildings and constructions are regarded as mere accessories to the land (following the Roman maxim *omne quod solo ineditur solo credit*) it is logical that said accessories should partake of the nature of the principal thing, which is the land, forming, as they do, but a single object (res) with it in contemplation of law.'

'* * * While it is true that said document was correspondingly registered in the Chattel Mortgage Register of Rizal, this Act produced no effect whatsoever for where the interest conveyed is in the nature of real property, the registration of the document in the registry of chattels is merely a futile act. Thus the registration of the chattel mortgage of a building of strong materials produced no effect as far as the building is concerned (*Leung Yee vs. Strong Machinery Co.*, 37 Phil. 644). Nor can we give any consideration to that contention of the surety that it has acquired ownership over the property in question by reason of the sale conducted by the Provincial Sheriff of Rizal for as this court has aptly pronounced:

'A mortgage creditor who purchases real properties at an extra-judicial foreclosure sale thereof by virtue of a chattel mortgage constituted in his favor, which mortgage has been declared null and void with respect to said real properties, acquires no right thereto by virtue of said sale'. (*De la Riva vs. Ah Kee*, 60 Phil. 899).

"Thus Mrs. Uy Kim had no right to foreclose the alleged chattel mortgage constituted in her favor, because it was in reality a mere contract of an unsecured loan. It follows that the Sheriff was not authorized to sell the house as a result of the foreclosure of such chattel mortgage. And as Mrs. Uy Kim could not have acquired the house when the Sheriff sold it at public auction, she could not, in the same token, have sold it validly to Salvador Piansay. Conceding that the contract of sale between Mrs. Uy Kim and Salvador Piansay was of no effect, we cannot nevertheless set it aside upon instance of Mangubat because, as the court below opined, he is not a party thereto nor has he any interest in the subject matter therein, as it was never sold or mortgaged to him" (*italics supplied*).

that, thereafter, the records of the case was remanded to the Court of First Instance of Manila, which caused the corresponding writ of execution to be issued; that upon the request of Mangubat, the house in question was levied upon; that Piansay filed with the trial court, presided over by Hon. Jesus Y. Perez, Judge, a motion to set aside said levy; that this motion was denied by said court, in an order dated February 4, 1961, upon the following ground:

"Considering that the decision rendered by the Court of Appeals in this case when the same was elevated to said Court recognizes that defendant Claudia B. de Uy Lim did not acquire the house of defendant Conrado S. David under the chattel mortgage executed by the latter in favor of said defendant so that defendant Salvador Piansay did not likewise acquire said house from defendant Claudia B. de Uy Kim, the said house continues to be the property of defendant Conrado S. David and can therefore be executed by the plaintiff to satisfy the judgment rendered against said defendant David in favor of the plaintiff. The mere fact that the dispositive part of the decision states that the complaint is dismissed with respect to defendants Claudia B. de Uy Kim, Leonardo Uy Kim and Salvador Piansay is of no moment because the chattel mortgage executed by David in favor of Claudia B. de Uy Kim might not be annulled but it did not transmit any right from defendant David to Claudia B. de Uy Kim. The house in question can therefore be levied upon because it had remained the property of defendant David" (*italics supplied*);

that a reconsideration of this order of February 4, 1961 having been denied by Judge Perez, on February 25, 1961, plaintiffs instituted case CA-G.R. No. 28974-R of the Court of Appeals, for a writ of certiorari and mandamus to annul said orders of Judge Perez and to compel him to release said house from the aforementioned levy; and that on March 3, 1961, the Court of Appeals denied said petition for certiorari and mandamus "insofar as it prays that the order of respondent Judge denying the lifting and discharge of the writ of execution be set aside and revoked".

In other words, in Civil Case No. 29078 of the Court of First Instance of Manila, Piansay assailed the right of Mangubat to levy execution upon the house in question alleging that the same belongs to him, he having bought it from Mrs. Uy Kim, who had acquired it at the auction sale held in connection with the extrajudicial foreclosure of the chattel mortgage constituted in her favor by David. This pretense was, however, overruled by Judge Perez, who presided said court, in its order of February 4, 1961, upon the theory that the chattel mortgage and sale in favor of Mrs. Uy Kim had been annulled in the original decision in said case, as affirmed by the Court of Appeals in CA-G.R. No. 21797-R. Regardless of whether this theory is accurate or not, the fact is that said order became final and executory upon the denial of the petition for certiorari and mandamus, to annul the same, in CA-G.R. No. 28974-R of the Court of Appeals. Hence, plaintiffs are not barred from asserting that the aforementioned chattel mortgage and sale are valid.

At any rate, regardless of the validity of a contract constituting a chattel mortgage on a house, as between the parties to said contract (*Standard Oil Co. of N.Y. vs. Jaramillo*, 44 Phil. 632-633), the same cannot and does not bind third persons, who are not parties to the aforementioned contract or their privies (*Leung Yes vs. Strong Machinery Co.*, 37 Phil. 644; *Evangelista vs. Alto Surety*, 103 Phil., 401; *Navarro vs. Pineda*, G. R. No. L-18456, November 30, 1963). As a consequence, the sale of the house in question in the proceedings for the extra-judicial foreclosure of said chattel mortgage, is null and void insofar as defendant Mangubat is concerned, and did not confer upon Mrs. Uy Kim, as buyer in said sale, any dominical right in and to said house (*De la Riva vs. Ah Yee*, 60 Phil. 800), so that she could not have transmitted to her assignee, plaintiff Piansay, any such right as against defendant Mangubat. In short, plaintiffs have no cause of action against the defendants herein.

Wherefore, the orders appealed from are hereby affirmed, with costs against plaintiffs Salvador Piansay and Claudia B. Vda. de Uy Kim. It is so ordered.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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