

SIMEON HIDALGO, PLAINTIFF AND APPELLEE, VS. LA TONDENIA, INC., CELEDONIO A. BENIPAYO, AND AMADA LOGRONIO, DEFENDANTS, LA TONDENA, INC. DEFENDANT AND APPELLANT.

G.R. No. L-21752. August 18, 1972

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Plaintiff-appellee, Simeon Hidalgo, has moved for a reconsideration of our decision dated April 25, 1966, dismissing his complaint against defendant-appellant, La Tondena, Inc. and the other defendants, spouses Celedonio A. Benipayo and Amada Logronio. The issue herein raised is whether a mortgage over an unregistered parcel of land constituted earlier, but registered (under Act No. 3344) later than a levy of execution similarly accorded, can prevail over the said levy. This question was adversely resolved against plaintiff-appellee in the main decision, on the basis that under the provision of section 194 of the Administrative Code, as amended by Act 3344, "no instrument or deed creating or affecting rights over real estate not registered under the provisions of Act 496 (the Land Registration Act) or under the Spanish Mortgage Law, shall be valid except as between the parties, until such instrument or deed has been registered in the manner prescribed by said laws, but adding that "any registration made under this section shall be understood to be without prejudice to a third party with a better right." The main decision held that under the provisions of section 194 of the Administrative Code, as amended by Act 3344, and the rulings of the Supreme Court in the cases of *Estate of Mota vs. Concepcion*, 56 Phil. 713, and *Guintu, et al. vs. Ortiz*, G.R. No. L-9332, Nov. 28, 1956 (unpublished), the mortgage executed in favor of La Tondena, Inc. by Manuel Valenciano and Purita Valenciano was valid as between said parties, and was preferred over the judgment, execution levy and execution sale in favor of movant's vendor, Celedonio Benipayo, even if the levy was recorded ahead of the mortgage of La Tondena, for the reason that the latter constituted a better right under said section 194 of the Administrative Code, as amended. It was further pointed out that under previous rulings of the Supreme Court,[1] the levy in execution against a judgment debtor does not take precedence over an unrecorded deed of the same property, made by judgment debtor prior to the levy, since the purchaser under execution sale is not a third party, and acquires no more than the rights of the judgment debtor, under the caveat emptor rule.

In view of the motion to reconsider and the opposition thereto, the Court has given the case prolonged and mature restudy and reflection, and has come to the conclusion that there are equitable aspects that render the legal doctrines relied upon in the main decision inapplicable to the case at bar.

First is the fact that the mortgagee La Tondena, Inc. was negligent, lax and remiss in the protection of its rights, as compared to movant Hidalgo's predecessor in interest, Celedonio Benipayo. The record shows that, albeit the unrecorded mortgage in its favor was executed on December 15, 1952, by the mortgagors Valenciano, the mortgagee La Tondena, Inc. did not record said mortgage under Administrative Code, section 194 (Act 3344) until August 14, 1954. On the contrary, Benipayo (plaintiff's predecessor) who had obtained a final judgment against the Valencianos, proceeded to diligently carry it to execution by levying on the Valenciano's property, and

in fact he annotated and recorded his levy on July 29, 1954, sixteen (16) days before the mortgage in favor of La Tondena was in turn recorded. So that when the latter mortgagee caused its unregistered mortgage to be entered in the Registry, La Tondena was presumed to have become aware of and taken its mortgage subject to Benipayo's execution levy (that under the Rules of Court created a lien in favor of judgment creditor over the property levied upon). True it is that under the last part of the penultimate paragraph of section 194 of the Administrative Code, as amended, registration thereunder is understood to be "without prejudice to a third party with a better right;" but undoubtedly, Benipayo was then not only a stranger (*tercero*) vis-a-vis La Tondena, Inc. and the Valencianos, but his levy and lien was the better right, since it was recorded earlier and thus prejudiced the right of all subsequent registrants like La Tondena. In other words, Benipayo's prior recorded levy was a much "better right", as against La Tondena's subsequently registered mortgage, than La Tondena's unregistered 1952 mortgage contract (could be better than Benipayo's earlier recorded levy), even if the unrecorded mortgage was valid as between the parties, and only as to them.

For it would appear to us contrary to and subversive of the very purview of the legislature in creating the special registry of deeds affecting real estate not brought under the operation of Act 496 or the Spanish Mortgage Law, to permit that a transaction subsequently recorded therein should take precedence over another one entered earlier in the books of the registry. The very purpose of the registry system is to warn and subordinate later registrants to the rights earlier recorded.

Then, again, at the time that Benipayo (appellee Hidalgo's predecessor-in-interest) levied upon the undivided interest and participation of Manuel Valenciano in the property in question, he had no way of ascertaining the existence of La Tondena's mortgage; the latter was not recorded in the registry created for the purpose, and the Valencianos were in possession of the land, with all outward signs of being the owners thereof. La Tondena's negligence and laches in recording its mortgage soon after its execution, thus actually misled Benipayo into believing that the Valenciano property was free from encumbrance and could be validly levied upon. Justice and equity demand that as between two contending parties, the one at fault must shoulder the unfavorable consequences.[2] "*Vigilantibus sed non dormientibus jura subveniunt.*"

Even in the perfection of their rights, movant Hidalgo's causante, Celedonio Benipayo, proceeded with the greater diligence. The sheriff's final deed of sale in favor of Benipayo was recorded in the Administrative registry under Act 3344, on August 20, 1954; while the foreclosure sale in favor of mortgagee La Tondena, Inc. was only entered in the Registry over two (2) years later, on December 6, 1956. Of course, the title of Benipayo as a result of the sheriff's sale and deed of conveyance would relate back to the time his levy was first recorded.

We conclude that the special circumstances of this case take it out of the scope of the general principles applied in our previous decision of April 25, 1966; and that the purchase at the execution sale was valid; that said purchaser was not subject to the ordinary "caveat emptor" rule in making his acquisition and that the latter was not subject to the mortgage in favor of defendant-appellant corporation.

WHEREFORE, the decision of April 25, 1966 is hereby revoked and set aside; and a new judgment is ordered entered, affirming the judgment of the Court of First Instance that ordered the partition of the land in question, share and share alike, between appellee Simeon Hidalgo and appellant La Tondena, Inc., and ordering the latter to pay the former the sum of P892.50 minus the sum of P112.44, plus costs of the action.

SO ORDERED.

Concepcion, C.J., Makalintal, Zaldivar, Teehankee, Makasiar, Antonio, and Esguerra, JJ., concur.

Castro, Fernando, and Barredo, JJ., took no part.

[1] Fabian vs. Smith Bell & Co., 8 Phil. 496; Mediente vs. Garcia, 73 Phil. 694; Standard Oil Co. vs. Castro, 54 Phil. 716; Laxamana vs. Carlos, 57 Phil. 722 and cases therein cited.

[2] 30 CJS 1015, and cases cited therein.

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