

THE REGISTER OF DEEDS OF ILOILO, PETITIONER AND APPELLEE, VS. C. N. HODGES, OPPOSITOR AND APPELLANT, FERMIN JALOVER, INTERVENOR AND APPELLEE.

G. R. No. L-18178. January 31, 1963

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Fermin Jalover was the owner of Lot No. 986 of the Iloilo cadastre which is covered by Transfer Certificate of Title No. T-2125. On March 25, 1953, Jalover mortgaged the lot to the Rehabilitation Finance Corporation to guarantee a loan of P6,500.00, which was registered on the same date.

On May 31, 1957, the said lot, together with another of the same cadastre, was sold at public auction by the sheriff by virtue of a writ of execution issued in Civil Case No. 3316 in favor of C. N. Hodges as the highest bidder, the same sale having been repeated in connection with Civil Case No. 3520, with the result that the sheriff executed two separate certificates of sale in favor of Hodges covering the amounts adjudicated in said cases. These two certificates of sale were registered in the office of the register of deeds, having been annotated on the back of Transfer Certificate of Title No. T-2125 as entries Nos. 15102 and 15104, respectively.

On March 14, 1960, Jalover wrote a letter to the register of deeds requesting the cancellation of the aforesaid entries alleging that their annotation was null and void being contrary to Section 26 of Commonwealth Act 459. The register of deeds denied the request on the ground that he had no authority to cancel the registration without an order of the court, whereupon Jalover elevated the matter en consulta to the Land Registration Commissioner who in due time rendered decision directing the register of deeds to file a petition with the proper court of land registration to secure the cancellation requested pursuant to Section 112 of Act 496. And complying with this directive, the register of deeds filed on June 28, 1960 a petition with the Court of First Instance of Iloilo praying for the cancellation of entries Nos. 15102 and 15104 from Transfer Certificate of Title No. T-2125.

On July 26, 1960, C. N. Hodges, the purchaser of the lot in question, opposed the petition on the grounds, among others, (1) that the court has no jurisdiction to entertain the petition because it is beyond its limited jurisdiction as court of land registration, and (2) Fermin Jalover has no right to avail of Section 26, Commonwealth Act No. 459, because said Act refers only to loans obtained from the Agricultural and Industrial Bank and not from the Rehabilitation Finance Corporation.

After hearing the petition, as well as the opposition interposed thereto, together with the memoranda submitted by the parties, the court on September 10, 1960 issued an order assuming jurisdiction over the case and ordering the cancellation of the entries requested.

Oppositor Hodges interposed the present appeal.

While Section 112 of Act 496, among other things, authorizes a person in interest to ask the court for any erasure, alteration, or amendment of a certificate of title upon the ground that the registered interests of any description,

whether vested, contingent, expectant or inchoate, have terminated and ceased, such relief can only be granted if there is unanimity between the parties, or there is no adverse claim or serious objection on the part of any party in interest; otherwise, the case becomes controversial and should be threshed out in an ordinary case or in the case where the incident properly belongs (*Tanganan, et al. vs. Republic of the Philippines*, 94 Phil., 171, December 29, 1953; See also *Government of the Philippine Islands vs. Jalandoni*, 44 Off. Gaz., p. 1837). Here, the petition is seriously opposed by C. N. Hodges who purchased the lot in question at a public auction sale carried out by the sheriff of Iloilo City and in whose favor the entries which petitioner now seeks to cancel have been made. And the basis of his objection is important for it raises the validity of the claim that the properties encumbered in favor of the Rehabilitation Finance Corporation enjoy the same privilege of exemption from subsequent attachment as those encumbered with the defunct Agricultural and Industrial Bank. This is an important legal issue that cannot be determined under Section 112 of Act 496. There is, therefore, merit in the contention that the court a quo cannot act on the petition under consideration in its capacity as court of land registration.

Even if we hold that the court a quo could act on the matter, still we say that its finding that the lot in question is exempt from any additional encumbrance in the same manner as any property mortgaged to the defunct Agricultural and Industrial Bank is untenable, it appearing that said lot was encumbered to guarantee the payment of a loan obtained from the Rehabilitation Finance Corporation. Being a security created to secure a loan not originally obtained from the Agricultural and Industrial Bank, the same does not enjoy the privilege of exemption from subsequent attachment as provided for in Section 26 of Act No. 459.[1] Republic Act No. 85, which creates the Rehabilitation Finance Corporation, successor to the Agricultural and Industrial Bank, does not contain a similar provision with regard to loans obtained from said Corporation. The transitory provisions of Section 9 of Republic Act 85 which refer to the transfer of the powers and duties formerly conferred upon the Agricultural and Industrial Bank to the Rehabilitation Finance Corporation merely have reference¹ to transactions contracted with the former, the latter having been charged merely with the duty of dealing with them as trustee until they are liquidated or terminated. In fact, said section provides that "The Agricultural and Industrial Bank shall stand abolished on the date when the Corporation shall begin to operate."

Wherefore, the order appealed from is reversed. No costs.

Bengzon, C. J., Padilla, Labrador , Concepcion , Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

[1]"Securities on loans granted by the Agricultural and Industrial Bank shall not be subject to attachment, nor can they be included and obligations of the debtor to the Agricultural and Industrial in the properties of insolvent persons or institution, unless all debts Bank have been previously paid, including, accrued interest, collection expenses and other charges."

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