

**DEVELOPMENT BANK OF THE PHILIPPINES,
REGISTRANT-APPELLANT, VS. THE ACTING REGISTER OF DEEDS OF
NUEVA ECIJA, RESPONDENT-APPELLEE.**

UDK No. 7671. June 23, 1988

Ponente: NARVASA, J.

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NARVASA, J.:

This case, rather cut-and-dried as far as factual background is concerned, turns upon a determination of the true meaning and intendment of Section 56 of Presidential Decree No. 1529,[1] which in part reads:

"Sec. 56. Primary Entry Book; fees, certified copies. — Each Register of Deeds shall keep a primary entry book in which, upon payment of the entry fee, he shall enter, in the order of their reception, all instruments including copies of write and processes filed with him relating to registered land. He shall, as a preliminary process in registration, note in such book the date, hour and minute of reception of all instruments, in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each instrument, when made on the certificate of title to which it refers, shall bear the same date: Provided, that the national government as well as the provincial and city governments shall be exempt from the payment of such fees in advance in order to be entitled to entry and registration.

x x x

x x x

x x x."

The facts are few and undisputed. On June 13, 1980, the Development Bank of the Philippines (hereafter, DBP) presented for registration to the Register of Deeds of Nueva Ecija, Cabanatuan City, a sheriffs certificate of sale in its favor of two parcels of land covered by Transfer Certificates of Title Nos. NT-149033 and NT-149034, both in the names of the spouses Andres Bautista and Marcelina Calison, which said institution had acquired as the highest bidder at an extrajudicial foreclosure sale. The transaction was entered as Entry No. 8191 in the Registry's Primary Entry Book and DBP paid the requisite registration fees on the same day. Annotation of the sale on the covering certificates of title could not, however be effected because-the originals of those certificates were found to be missing from the files of the Registry, where they were supposed to be kept, and could not be located.[2] On

the advice of the Register of Deeds, DBP instituted proceedings in the Court of First Instance of Nueva Ecija to reconstitute said certificates, and reconstitution was ordered by that court in a decision rendered on June 15, 1982.[3] For reasons not apparent on the record, the certificates of title were reconstituted only on June 19, 1984.[4]

On June 25, 1984, DBP sought annotation on the reconstituted titles of the certificate of sale subject of Entry No. 8191 on the basis of that same four-year-old entry. The Acting Register of Deeds, being in doubt of the proper action to take on the solicitation, took the matter to the Commissioner of Land Registration by consulta raising two questions: (a) whether the certificate of sale could be registered using the old Entry No. 8191 made in 1980 notwithstanding the fact that the original copies of the reconstituted certificates of title were issued only on June 19, 1984; and (b) if the first query was answered affirmatively, whether he could sign the proposed annotation, having assumed his duties only in July 1982.[5]

The resolution on the consulta held that Entry No. 8191 had been rendered "**** ineffective due to the impossibility of accomplishing registration at the time the document was entered because of the non-availability of the certificate (sic) of title involved. For said certificate of sale to be admitted for registration, there is a need for it to be re-entered now that the titles have been reconstituted upon payment of new entry fees," and bypassed the second query as having been rendered moot and academic by the answer to the first.[6]

Unwilling to accept that result, the DBP appealed the resolution to the Court of Appeals (then the Intermediate Appellate Court)[7]which, after reviewing the record, certified the appeal to this Court as involving a question purely of law.[8] The appealed resolution appears to be based upon a reading of the cited Section 56 of PD No. 1529, and particularly of the provision therein referring to the Register's act of making a primary entry as "**** a preliminary process in registration ***," as depriving of any effect a primary entry without a corresponding annotation thereof on the certificate of title to which the instrument subject of said entry refers.

That view fails to find support from a consideration of entire context of said Section 56 which in another part also provides that the instrument subject of a primary entry "**** shall be regarded as registered from the time so noted ***," and, at the very least, gives such entry from the moment of its making the effect of putting the whole world on notice of the existence the instrument on entered. Such effect (of registration) clearly attaches to the mere making of the entry without regard to the subsequent step of annotating a memorandum of the instrument subject of the entry on the certificate of title to which it refers. Indeed, said Section, in also providing that the annotation, "**** when made *** shall bear the same date ***" as the entry, may be said to contemplate unspecified intervals of time occurring between the making of a primary entry and that of the corresponding annotation on the certificate of title without robbing the entry of the effect of being equivalent to registration. Neither, therefore, is the implication in the appealed resolution that annotation must follow entry immediately or in short order justified by the language of Section 56.

Furthermore, it is amply clear that the four-year hiatus between primary entry and proposed annotation in this case has not been of DBP's making. Though it was under no necessity to present the owner's duplicates of the certificates of title affected for purposes of primary entry, since the transaction sought to be recorded was an involuntary transaction,[9] and the record is silent as to whether it presented them or not, there is nonetheless every probability that it did so. It was the mortgagee of the lands covered by those titles and it is usual in mortgage transactions that the owner's duplicates of the encumbered titles are yielded into the custody of the mortgagee until the mortgage is discharged. Moreover, the certificates of title were reconstituted from the owner's duplicates,[10] and again it is to be presumed that said duplicates were presented by DBP, the petitioner in the

reconstitution proceedings.

It is, furthermore, admitted that the requisite registration fees were fully paid and that the certificate of sale was registrable on its face.[11] DBP, therefore, complied with all that was required of it for purposes of both primary entry and annotation of the certificate of sale. It cannot be blamed that annotation could not be made contemporaneously with the entry because the originals of the subject certificates of title were missing and could not be found, since it had nothing to do with their safekeeping. If anyone was responsible for failure of annotation, it was the Register of Deeds who was chargeable with the keeping and custody of those documents.

It does not, therefore, make sense to require DBP to repeat the process of primary entry, paying anew the entry fees as the appealed resolution disposes, in order to procure annotation which through no fault on its part, had to be deferred until the originals of the certificates of title were found or reconstituted. That it is hardly just or equitable to do so also seems to have occurred to the Solicitor General, who dilutes his argument in support of the appealed resolution with the suggestion that "the making of a new entry *** would be the more orderly procedure," and that DBP should not be made to pay filing fees anew.[12]

Jurisprudence on the subject, while it has not been entirely consistent, is not wanting. In *Government vs. Aballe*,[13] this Court ruled that "the (a)lthough a notice of attachment has not been noted on the certificate of title, its notation in the book of entry of the register of deeds produces all the effects which the law gives to its registration or inscription." Seemingly, that ruling was abandoned in the wartime case of *Basa vs. Dela Rama*, [14] where it was held that the entry of an instrument in the primary entry book produces no legal effect unless a memorandum thereof is noted on the certificate of title. *Villasor vs. Camon*,[15] however, clarified that *Aballe* was never really abandoned or reversed insofar as it applied to involuntary transactions. Said the Court in that case, which involved a voluntary transaction — a deed of assignment of rights in a parcel of land and its improvements:

The appellant cannot invoke in support of her contention, the ruling laid down in the case of *Government of the Philippine islands vs. Aballe*, 60 Phil., 986, which was followed in *Director of Lands vs. Abad*, 61 Phil. 479, to the effect that an attachment entered upon the entry book is duly registered although the duplicate certificate is not presented at the time of registration to the register of deeds. Appellant cannot invoke said ruling, not because it has been abandoned by the Supreme Court during The Japanese occupation in the case of *Bass vs. De la Rama, et al*, *** in which it was said that 'we are constrained to abandon the ruling in said two cases,' — it was not abandoned for the decision was concurred by only two justices or less than a majority, and said statement was nor necessary or an obiter dictum and against the law, as correctly stated by the two associate justices who dissented and only concurred in the result, but because said ruling, subsisting and in force, does not support appellant's contention, for it is only applicable to registration of involuntary instruments, such as attachment, or other liens and adverse claims of any description. This ruling is correct or in conformity with the provisions of Section 72 of Act No. 496, which do not require the production by registrant of the duplicate certificate of the land to be affected, ***." (Italics supplied)

The decision in *Villasor* also quoted with approval the following excerpt from an earlier case, *Philippine National Bank vs. Fernandez*[16]:

"Coming now to the second ground on which the appellant bases his claims, we find that when Simona Fausa executed the document, Exhibit 3, on October 17, 1928, conveying her interest in the land to the appellant, her interest therein had already been attached by the provincial sheriff and also by him at public auction to the Philippine National Bank, and the certificate of sale filed in the office of the register of deeds in accordance

with the law (Sections 429 and 450 of the Code of Civil Procedure). It was not necessary for the sheriff to present the owner's duplicate of the certificate of title when he filed notice of attachment with the register of deeds, nor was it necessary for the Philippine National Bank to present the owner's duplicate when the bank filed its certificate of sale for registration (Sections 71 and 72 of Act No. 496)."

Later cases appear to have applied the Aballe ruling that entry in the day book, even without the corresponding annotation on the certificate of title, is equivalent to, or produces the effect of, registration to voluntary transactions, provided the requisite fees are paid and the owner's duplicates of the certificates of title affected are presented. Thus, in *Levin vs. Bass, et al.*,^[17] it was held:

**** Under the Torrens system the act of registration is the operative act to convey and affect the land. Do the entry in the day book of a deed of sale which was presented and filed together with owner's duplicate certificate of title which the office of the Registrar of Deeds and full payment of registration fees constitute a complete act of registration which operates to convey and affect the land? In voluntary registration, such as a sale, mortgage, lease and the like, if the owner's duplicate certificate be not surrendered and presented or if no payment of registration fees be made within 15 days, entry in the day book of the deed of sale does not operate to convey and affect the land sold. In involuntary registration, such as an attachment, levy upon execution, lis pendens and the like, entry thereof in the day book is a sufficient notice to all persons of such adverse claim. ***. The pronouncement of the court below is to the effect that an innocent purchaser for value has no right to the property because he is not a holder of a certificate of title to such property acquired by him for value and in good faith. It amounts to holding that for failure of the Registrar of Deeds to comply and perform his duty an innocent purchaser for value loses that character — he is not an 'innocent holder for value of a certificate of title.' *** Neither violence to, nor stretching of the meaning of the law would be done, if we should hold that an innocent purchaser for value of registered land becomes the registered owner and in contemplation of law the holder of a certificate thereof the moment he presents the owner's duplicate certificate of title to the property sold and pays the full amount of registration fees, because what remains to be done lies not within his power to perform. The Registrar of Deeds is in duty bound to perform it. We believe that is a reasonable and practical interpretation of the law under consideration — a construction which would lead to no inconsistency and injustice." (Italics supplied)

A similar ruling was made in *Potenciano vs. Dineros, et al.*,^[18] concerning land a deed of sale of which was entered in the day book upon payment of the corresponding fees and presentation of the owner's duplicate of the covering certificate of title, on November 4, 1944. However, due to the confusion arising from the bombing of Manila (this having happened during the final months of the Japanese Occupation), the papers presented by the registrant were either lost or destroyed, no certificate of title was issued to him and as far as the records of the Register of Deeds showed, the property remained in the name of the vendor. Another party later sued the vendor, obtained judgment against him and purchased the property on execution sale. In affirming judgment annulling the execution sale in an action brought by the original purchaser, this Court held:

"The judgment creditor contends that entry of the deed in the day book, is not sufficient registration. Both upon law and authority this contention must be rejected. Section 56 of the Land Registration Act says that deeds relating to registered land shall, upon payment of the filing fees, be entered in the entry book — also called day book in the same section — with notation of the year, month, day, hour, and minute of their reception and that 'they shall be regarded as registered from the moment so noted.' And applying the provision in the cases of *Levin vs. Bass, etc.*, G.R. Nos. L-4340 to 4346, decided on May 28, 1952, this Court held that 'an innocent purchaser for value of registered land becomes the registered owner and in contemplation of law the holder of a certificate thereof the moment he presents and files a duly notarized and lawful deed the same is entered on

the day book and at the same time he surrenders or presents the owner's duplicate certificate of title to the property sold and pays the full amount of registration fees, because what remains to be done lies not within his power to perform."

Current doctrine thus seems to be that entry alone produces the effect of registration, whether the transaction entered is a voluntary or an involuntary one, so long as the registrant has complied with all that is required of him for purposes of entry and annotation, and nothing more remains to be done but a duty incumbent solely on the register of deeds.

Therefore, without necessarily holding that annotation of a primary entry on the original of the certificate of title may be deferred indefinitely without prejudice to the legal effect of said entry, the Court rules that in the particular situation here obtaining, annotation of the disputed entry on the reconstituted originals of the certificates of title to which it refers is entirely proper and justified. To hold said entry "ineffective," as does the appealed resolution amounts to declaring that it did not, and does not, protect the registrant (DBP) from claims arising, or transactions made, thereafter which are adverse to or in derogation of the rights created or conveyed by the transaction thus entered. That, surely, is a result that is neither just nor can, by any reasonable interpretation of Section 56 of PD 1529 be asserted as warranted by its terms.

The qualms implicit in the query of the respondent (and present appellee) register of deeds about making annotation of an entry effected before he assumed that office are more imagined than real. He would only be making a memorandum of an instrument and of its entry based on or reciting details which are already of indubitable record and, pursuant to the express command of the law, giving said memorandum the same date as the entry. No part of that function is exclusive to the incumbent of the office at the time entry was made or is forbidden to any of his successors.

WHEREFORE, the appealed resolution of the Acting Commissioner of Land Registration is SET ASIDE. The respondent-appellee Register of Deeds of Nueva Ecija, or his successor, is ordered to annotate on the originals of the reconstituted Transfer Certificates of Title Nos. NT-149033 and NT-149034 of his Registry a memorandum of the certificate of sale in favor of appellant Development Bank of the Philippines as entered under Entry No. 8191 dated June 13, 1980 of the Primary Entry (Day) Book of said Registry. No pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] The Property Registration Decree

[2] Record of LRC Consulta No. 1411, pp. 2, 4.

[3] Record of LRC Consulta No. 1411, pp. 5-6.

[4] Id., pp. 2-3.

[5] id., p. 3.

[6] Record of LRC Consulta No. 1411, pp. 18-21

[7] Docketed as AC-G.R. SP No. 06693.

[8] Resolution of February 26, 1987; Record, pp. 31-33.

[9] Section 72 of Act No. 496, now 'Section 71 of PD 1529' see also citations from Villazor vs. Camon and Phil. National Bank vs. Fernandez, *infra*.

[10] Record of LRC Consulta No. 1411, pp. 8, 9.

[11] *Id.*, at p. 2.

[12] Brief for the Appellee, at p. 25 of Record, p. 18.

[13] 60 Phil. 986: see also Director of Lands vs. Abad, 61 Phil 479.

[14] 73 Phil. 682.

[15] 89 Phil. 404, 410.

[16] 61 Phil, 448.

[17] 91 Phil 420.

[18] 97 Phil. 196.

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