

REBECCA LEVIN, PLAINTIFF AND APPELLEE, VS. JOAQUIN V. BASS ET AL., DEFENDANTS. EUGENIO MINTU, DEFENDANT AND APPELLANT.*G.R. No. L-4340. May 28, 1952*

Ponente: PADILLA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/64e680fe2289/>**PADILLA, J.:**

G.R. No. L-4340 is an action (case No. 70054 of the Court of First Instance of Manila) for annulment of sales of, and mortgage on, a lot and two houses erected thereon and damages brought by Rebecca Levin against Joaquin V. Bass, Emiliano R. Eustaquio, Co Chin Leng and Eugenio Mintu where the last named defendant is the appellant; G. R. No. L-4343 is the same case where Joaquin V. Bass is the appellant; G. R. No. L-4341 is an action (case No. 71549 of the same court) for detainer brought by Joaquin V. Bass against Jose C. Robles and Aminta T. de Robles, in which Rebecca Levin and Eugenio Mintu interrened, and where the last named intervenor is the appellant; G. R. No. L-4345 is the same case for detainer where Joaquin V. Baas is the appellant; G. R. No. L-4342 is an action (case No. 516 of the same court) for annulment of sale brought by Joaquin V. Bass against Eugenio Mintu where the latter is the appellant; G. R. No. L-4344 is an action (case No. 71159 of the same court) for detainer of a building located at No. 328 San Rafael street brought by Joaquin V. Bass against Rebecca Levin where the former is the appellant; and G. R. No. L-4346 is an action (case No. 2371 of the same court) for detainer brought by Joaquin V. Bass against Aminta T. de Robles where the fomer is the appellant. The two main cases (G.R. Nos. L-4340 and L-4342) around which the others revolve fall under the appellate jurisdiction of this Court.

After a joint hearing the trial court rendered judgment annulling Exhibit A dated 5 January 1944, where it appears that, for and in consideration of P30,000, Rebecca Levin sold and conveyed to Emiliano R. Eustaquio a lot containing an area of 317.70 square meters and the house erected thereon bearing No. 326 San Rafael street, Manila; Exhibit B dated 30 March 1944, where it appears that, for and in consideration of P38,000, Emiliano R. Eustaquio sold and conveyed to Joaquin V. Bass the same lot and house; and Exhibit C dated 16 February 1944, where it appears that, for and in consideration of P65,000, Rebecca Levin sold and conveyed t.o Joaquin V. Bass a lot containing an area of 1,006.80 square meters and the house erected thereon bearing No. 328 San Rafael street, Manila; directing the Registrar of Deeds of Manila to cancel transfer certificates of title Nos. 73450 and 73451 issued in the name of Joaquin V. Bass and in lieu thereof to issue new Torrens certificates of title in the name of Rebecca Levin, widow, of legal age, and resident of the city of Manila at No. 323 San Rafael street, said new certificates to bear a memorandum of mortgage in favor of Co Chin Leng, entry No. 16166, as said mortgage appears on both transfer certificates of title Nos. 73450 and 73451 to be cancelled, and the certificate of title to be issued in the name of Rebecca Levin, in lieu of transfer certificate of title No. 73450, to bear a memorandum of a notice of lis pendens noted on said transfer certificate of title in connection with civil case No. 2562 of the Court of First Instance of Manila entitled "Isabelo Martinez vs. Joaquin V. Bass," entry No. 20955; holding that Rebecca Levin is entitled to recover from Joaquin V. Bass damages for losses which she may suffer by reason of

said mortgage annotation and notice of lis pendens; dismissing the complaint of Joaquin V. Baas in civil case No. 516, holding that the deed of sale under certain conditions executed by Joaquin V. Bass in favor of Eugenio Mintu is without force and effect as against Rebecca Levin, and ordering Joaquin V. Bass to pay Eugenio Mintu the sum of P4,173.16, together with lawful interests thereon from 23 October 1946, the date of the filing of the answer in said civil case, until paid; dismissing the complaint of Joaquin V. Bass in civil cases Nos. 71159, 71549 and 2371 and declaring Rebecca Levin to be entitled to the payment of rentals by Jose C. Robles and/or Aminta T. de Robles for the use and occupation of the premises at No. 326 San Rafael street, Manila, from 11 March 1945 until the tenants move out of the premises and to receive from the clerk of court the sums of money deposited by Aminta T. de Robles and/or Jose C. Robles by way of rentals for the said property at No. 326 San Rafael street, still remaining in his possession, the said amounts to be applied to the rentals to be agreed upon by and between them or those which may be declared by final judgment to be the reasonable compensation for the use and occupation of the premises; and ordering Joaquin V. Bass to render an accounting of the sums of money he had received from the court, or otherwise, as rentals of the house at No. 326 San Rafael street from and after 11 March 1945, and to pay to Rebecca Levin the balance that may result from said accounting. Costs were taxed against Joaquin V. Bass.

In 1943 Rebecca Levin was a widow, 65 years old and the registered owner of a lot on which two houses stood—one bearing No. 326 and the other No. 323 San Rafael street, Manila—as evidenced by transfer certificate of title No. 62630. She was illiterate and knew only how to sign her name. At about the end of December 1943 Joaquin V. Bass called on Rebecca Levin at her house on No. 328 San Rafael street, Manila, and representing himself to be a real estate broker asked her whether she would sell her lot and house at No. 326 adjoining her residence. At that time there lived in the house of Rebecca Levin some Japanese civilians, officers or employees of the Pacific Mining Co., occupying or renting two rooms, Angelita Martinez, a boarder, and Meliton Villaseñor, a houseboy. In addition to P50 collected by her as monthly rental for the house at No. 326, the Japanese renting the two rooms paid her P200 monthly and supplied her with rice and other foodstuffs without charge. Rebecca Levin told Joaquin V. Bass that she was not selling her house at No. 326 San Rafael street. On subsequent calls Joaquin V. Bass told Rebecca Levin that it would be to her advantage and benefit to sell the lot and house at No. 326 San Rafael street and with the proceeds of the sale to purchase another house. He told her that if she would not sell the lot and house the Japanese who had been looking for houses to occupy might deprive her thereof without getting anything in exchange therefor. He told her further that by selling her house, which she rented for P50 a month only, and buying for P26,000 one on Antonio Rivera street she would gain because the monthly rental of the latter was P140. She consented to see the house at Antonio Rivera street and went there accompanied by Joaquin V. Bass and Meliton Villaseñor, her houseboy. Joaquin V. Bass pointed to a building (Exhibit G) of four apartments (accesorias) not far from the Tutuban railroad station. They were not able to see the second story of the building because, according to Joaquin V. Bass, the owner had gone to Pampanga. For the second time they went to see the building on Antonio Rivera street but they again failed to see the second story of the building for the same reason given by Joaquin V. Bass when they went to see it the first time. Relying upon the representations made by Joaquin V. Bass, Rebecca Levin finally consented to sell her house. One of the last days of December 1943 or of the first days of January 1944, while Rebecca Levin was engaged in conversation with Dr. Pastor L. Manlapaz and Angelita Martinez, Joaquin V. Bass called on her bringing along with him certain papers. Upon Joaquin V. Bass suggestion Rebecca Levin followed by him entered a room adjoining that where she, Dr. Manlapaz and Angelita Martinez were conversing, and upon repeated representations and assurances made by Joaquin V. Bass that the papers he brought were just an authority to sell the house at No. 326 San Rafael street, Rebecca Levin signed five documents and Bass took from her bag which she placed on a small table in the room her residence certificate and the receipt showing payment of realty tax on her property. None of the documents Rebecca Levin signed was left to her. The following day (6 January 1944), Joaquin V. Bass called on Rebecca

Levin at her house and handed to her P10,000 saying that it was a partial payment of the purchase price of the lot and house at No. 326 San Rafael street which he represented had been sold to a Japanese and asked her to give him the Torrens title of the lot and house. Upon being informed by her that the Torrens title of the houses and lot was in the possession of the Agricultural and Industrial Bank, to which they were mortgaged for P2,000, Joaquin V. Bass took from her P2,000 and requested her to go with him to the Agricultural and Industrial Bank where they paid the mortgage debt of Isidore Reich (presumably the predecessor of the late husband of Rebecca [Exhibit M]) and received a mortgage release and the Torrens certificate of title No. 62630. On 10 January 1944, Joaquin V. Bass signed a receipt for the Torrens certificate of title No. 62630 (Exhibits K and K-1); and on 17 February 1944, he signed a receipt for P2,000 (Exhibits L and L-1). Joaquin V. Bass not only took P2,000 to pay the mortgage debt to the Agricultural and Industrial Bank (Exhibit M) but also the balance of P3,000 telling her that he would pay it to the owner of the building on Antonio Rivera street; that the balance of the purchase price of her house at No. 326 San Rafael street would be paid to her as soon as the lot and house sold be segregated or separated from the larger lot on which her house at No. 323 San Rafael street stood; and that it was necessary to make such subdivision to be approved by the court in order that the sale of her house and lot at No. 326 San Rafael could be carried out. In order not to arouse any suspicion on her part Joaquin V. Bass gave her a receipt for the partial amount paid for the building on Antonio Rivera street signed by one Mariano Irurin y Reyes but the amount written therein was just P6,000. The signer of the receipt promised to deliver the deed of sale of the building on Antonio Rivera street within 15 days from the date of payment of P20,000, the balance of the purchase price (Exhibit H). Being illiterate Rebecca Levin did not notice that the amount appearing in the receipt was P6,000 instead of P3,000 which was the sum taken from her by Joaquin V. Bass. To make her believe that she was the owner of the building on Antonio Rivera street, Joaquin V. Bass turned over to her the monthly rentals of the building for five months which he claimed he had collected from the tenants of the building. Not long after the signing by Rebecca Levin of the documents giving Joaquin V. Bass authority to sell the house at No. 326 San Rafael street and the pretended purchase by her through him of the building on Antonio Rivera street, the latter called on the former at her house. He found her sick. He told her that he had a tested medicine or drug for ailments such as the one she was suffering from and that if she would take it she would feel immediately and completely relieved. He went down. Immediately after his return to the house he called and told the houseboy Meliton Villaseñor to bring a glass of water where he diluted the drug and asked Rebecca Levin to take it. The latter did not hesitate to take it as until then she did not have the least suspicion of him who succeeded in winning and enjoyed her trust and confidence. After taking the medicine she began to vomit and suffer stomach pains and her face and lips became swollen. She sent for Dr. Pastor L. Manlapai who found that she was poisoned. After application of antidotes she recovered from the poisoning. This incident coupled with the failure of Joaquin V. Bass to return to her the documents she had been asking made Rebecca Levin suspicious of him and consulted with Dr. Pastor L. Manlapaz and Filemon Poblador, the latter then working in the office of the President of the Republic. As Poblador was not a lawyer he talked to attorney Esteban Nadruda who being also an employee in the office of the President of the Republic at Malacañan refused to handle the case but promised to investigate it. After investigation Nadruda found that the lots were transferred and registered in the name of Joaquin V. Bass and mortgaged by him. Finally, the services of attorney Cesar de Larrazabal were engaged. The latter went to get copies of the documents on the property of Rebecca Levin which were registered in the office of the Register of Deeds of Manila. It was found out that the papers signed by her on 5 January 1944 were a deed of sale of her house and lot at No. 326 San Rafael street for P30,000 in favor of Emiliano R. Eustaquio acknowledged on the same day before notary public Eliezer A. Manikan (Exhibit A) and another deed of sale of her house and lot at No. 328 San Rafael street for P65,000 in favor of Joaquin V. Bass dated 18 February 1944 and acknowledged on that date before the same notary public Eliezer A. Manikan (Exhibit C); and that on 30 March 1944, for and in consideration of P38,000, Emiliano R. Eustaquio sold to Joaquin V. Bass the lot and the house at No. 326 San

Rafael street (Exhibit B). Prior to the registration of these three deeds of sale, or on 24 January 1944, a petition was filed by attorney Eliezer A. Manikan in the name of Rebecca Levin praying for the subdivision of a parcel of land into two lots—the certificate of title to lot No. 1 containing an area of 317.7 square meters to be issued in the name of Emiliano R. Eustaquio and the certificate of title to lot No. 2 containing an area of 1,006.80 square meters to be issued in the name of Rebecca Levin (Exhibit I). On 22 February 1944, the petition was granted by the Court of First Instance of Manila Fourth Branch, presided over by Judge Gervasio Diaz (Exhibit J). Transfer certificate of title No. 62680 in the name of Rebecca Levin describing a parcel of land located on San Rafael street containing an area of 1,323.40 square meters entered on 13 September 1941 together with a memorandum of mortgage executed in favor of the Agricultural and Industrial Bank entered on 26 September 1939—a memorandum noted on the previous certificate of title No. 9220—was cancelled, and in lieu thereof transfer certificate of title No. 71907 in the name of Emiliano R. Eustaquio for a parcel of land containing an area of 317.70 square meters, more or less, and the house erected thereon, and transfer certificate of title No. 71903 in the name of Rebecca Levin for the remaining area of 1,006.30 sq. m. and the house erected thereon, were issued by the Registrar of Deeds of Manila on 27 February 1944, pursuant to the order of the court dated 22 February 1944 referred to (Exhibit J). On 11 May 1944, transfer certificate of title No. 7190S in the name of Rebecca Levin was cancelled and in lieu thereof transfer certificate of title No. 73451 was issued in the name of Joaquin V. Bass by the Registrar of Deeds of Manila; and on 10 April 1944, transfer certificate of title No. 71907 in the name of Emiliano R. Eustaquio was cancelled and in lieu thereof transfer certificate of title No. 73450 was issued in the name of Joaquin V. Bass by the Registrar of Deeds. On 8 April 1944, to secure the payment of P70,000, together with interests thereon at 5 per cent per annum, payable in five years, Joaquin V. Bass mortgaged to Co Chin Leng the two lots and houses erected thereon and the instrument of mortgage was registered on 10 April 1944 on both certificates of title Nos. 73450 and 73451. On 6 July 1944, a notice of lis pendens was noted on the back of transfer certificate of title No. 73450 in connection with civil case No. 2562 of the Court of First Instance of Manila entitled "Isabelo Martinez vs. Joaquin V. Bass." On 14 October 1944, for and in consideration of P200,000 "present circulating currency," Joaquin V. Bass sold to Eugenio Mintu the lot and house at No. 326 San Rafael street described in transfer certificate of title No. 73450, P90,000 of which was paid on the date of the execution of the deed of sale; P10,000, to be retained by the vendee (Eugenio Mintu) and to be paid to the vendor (Joaquin V. Bass) after the notice of lis pendens in connection with civil case No. 2562 of the Court of First Instance of Manila entitled "Isabelo Martinez vs. Joaquin V. Bass" shall have been removed or cancelled; and P100,000, the balance, to be deposited by the vendee (Eugenio Mintu) upon instructions of the vendor (Joaquin V. Bass) with the clerk of court of Manila after the return of the former from a trip to Ilocos Norte, the deposit to be made within 30 days from the date of the deed of sale and for the purpose of securing the release of the mortgage in favor of Co Chin Leng, the vendor (Joaquin V. Bass) undertaking to obtain the release of the mortgage on the property sold and to deliver it (the mortgage release) to the vendee (Eugenio Mintu) and the cancellation of the notice of lis pendens on or before 8 April 1945 (Exhibit 3-Mintu). To secure the fulfillment of the undertaking—the mortgage release and cancellation of the notice of lis pendens—the vendor (Joaquin V. Bass) assigned, transferred and conveyed by way of liquidated damages to the vendee (Eugenio Mintu) his title, rights, interest, participation or share in and to lot No. 2, the larger lot on which house No. San Rafael street is erected, and both parties agreed that if the condition provided for in paragraph (d) of the deed of sale be fulfilled, the condition in paragraph (e) thereof relative to the assignment, transfer and conveyance of lot No. 2 to the vendee would be null and void and without legal effect, otherwise it would remain in full force and effect. The following clause was inserted with initials of both parties: "force majeure and fortuitous events exempts the vendor from compliance thereto." (Exhibit 3-Mintu). On 1 November 1944, Eugenio Mintu and Jose C. Robles entered into a lease contract on the house and lot at No. 326 San Rafael street, Manila (Exhibit 1-Mintu). From November 1944 to January 1945 Jose C. Robles paid to Eugenio Mintu the rental of P45 a month as agreed upon (Exhibit

2-Mintu), but beginning February the rentals of the house were not paid to Mintu because there was a dispute as to who was the owner of the house. On 3 November 1944, Eugenio Mintu deposited with the sheriff of Manila for the account of Joaquin V. Bass the sum of P100,416.67 as full payment of the purchase price of the property sold to him on 14 October 1944. The sum of P100,000 is the total of Bass indebtedness to Co Chin Leng—P70,000 secured by mortgage and P30,000 unsecured, the sum of P416.67 represents the interest on the amount owed to Co Chin Leng up to the time of the deposit (Exhibit 4-Mintu) and the sum of P158.02 represents the sheriff's fees on the amount deposited (Exhibit 5-Mintu). On 8 November 1944, Eugenio Mintu presented and filed with the office of the Registrar of Deeds of Manila the original of the deed of sale (Exhibit E) duly notarized and paid the sum of P224.50: P.50 for entry in the day book; P220 for registration fees; and P4.00 for the issuance of two titles (Exhibit 6-Mintu). On the same date, together with the original deed of sale (Exhibit E) the owner's duplicates of transfer certificates of title Nos. 73450 and 73451 were presented and filed with the office of the Registrar of Deeds of Manila but said documents were not among those salvaged and were presumed to have been lost or burned according to the certification of the Registrar of Deeds in and for the city of Manila (Exhibit 3-Mintu). On 19 January 1945, Eugenio Mintu paid to Joaquin V. Bass the sum of P10,000 in full settlement of the purchase price of the property acquired by him on 14 October 1944 (Exhibit 7-Mintu). On 29 October 1945, a notice of lis pendens was noted on the back of transfer certificates of title Nos. 73450 and 73451 in connection with civil case No. 70054 of the Court of First Instance of Manila entitled "Rebecca Levin vs. Joaquin V. Bass."

Joaquin T. Bass testifies that he acquired the lot and house on No. 326 San Rafael street from Emiliano R. Eustaquio for P38,000 and the lot and house on No. 328 San Rafael street from Rebecca Levin for P65,000, the first on 30 March 1944 and the second on 18 February 1944; that Rebecca Levin paid him the monthly rental of P150 for the house at No. 328 San Rafael street from March 1944 to January 1945, as shown by the stubs of the receipts issued to her (Exhibits 20-Bass to 20-K-Bass); that Rebecca Levin refused to pay the rental for February unless it was reduced to P100; that on 19 May 1945 he brought against her an action for detainer which on appeal to the Court of First Instance of Manila bears No. 71159; that after he acquired the property at No. 326 San Rafael street from Emiliano R. Eustaquio the latter brought him to the tenant, Rosario Vda. de Altonaga, who left the premises to go to Cagayan to look for her daughter; that Vicente Tagle rented the premises signing a contract for one year but after 2 or 4 months he left the premises and his daughter Aminta T. de Robles married to Jose C. Robles became the tenant; that in February 1945 Jose C. Robles left the premises after a quarrel he had with his wife Aminta T. de Robles; that in April 1945 he brought against Jose C. Robles and Aminta T. de Robles an action for detainer which on appeal to the Court of First Instance of Manila bears No. 71549; that on 1 May 1946 Aminta T. de Robles and he signed a lease contract (Exhibit 1-Bass); that he did not make Rebecca Levin sign documents or papers authorizing him to sell her house at No. 326 San Rafael street, as testified to by Dr. Manlapaz; that he did not show to Rebecca Levin any house on calle Antonio Rivera to be exchanged with or for her property at No. 326 San Rafael street, as testified to by Dr. Manlapaz, Meliton Villaseñor and Angelita Martinez; that it is not true that Rebecca Levin did not receive the consideration for the sale of her house at No. 326 San Rafael street; that on 14 October 1944 he sold for P200,000 the house and lot at No. 326 San Rafael street to Eugenio Mintu, who handed to him P65,000 and a check for P25,000 which the bank refused to cash, but later on Mintu told him that he had deposited funds in the bank and so the check was honored and cashed at the Bank of the Philippine Islands; that all in all he was paid P90,000 and P10,000 for 16 gantas of rice given him by Mintu; that the balance of P100,000 was never and has not been paid to him; that he has not given possession of the property to Eugenio Mintu, the transaction not having been consummated because of force majeure; and that he was bound to return to Eugenio Mintu the P100,000 received by him.

Eliezer A. Manikan, the notary public before whom the deeds of sale sought to be annulled were acknowledged, testifies that Rebecca Levin appeared before him and acknowledged the execution of the documents in favor of

Emiliano R. Eustaquio on 5 January 1944 and in favor of Joaquin V. Bass on 13 February 1944.

The testimony of Rebecca Levin as to how she consented to sell her house and lot on No. 326 San Rafael street and the manner she was induced by Joaquin V. Bass to sign papers which he represented were mere authorization to sell is corroborated by Dr. Pastor L. Manlapaz, Angelita Martinez and Meliton Villaseñor. These witnesses had no interest to pervert the truth. Rebecca Levin was not in need of money which would prompt her to sell her two houses. As a matter of fact she led quite a comfortable life. Only because of the misrepresentations that she would gain by selling her house at No. 326 San Rafael street and of the threat made by Joaquin V. Bass that she might lose it did she finally consent to sell it.

On the other hand, Joaquin V. Bass has a criminal record was convicted of estafa (Exhibit O) and was involved in a shady deal (Exhibit R) and found to have presented a promissory note for P5,000 and a chattel mortgage which he claimed Rebecca Levin had signed and upon which he brought an action against her for foreclosure (civil case No. 71481, Court of First Instance of Manila), when in truth and in fact, as pronounced by the trial court, they were not signed and acknowledged by her before a notary public (Exhibit P). He succeeded in winning the trust and confidence of Rebecca Levin, a widow, 65 years old, a foreigner in this country and without relatives. Joaquin V. Bass claims he was employed at that time by the Manila Electric Co. as mechanical engineer but on cross examination he had to admit that he did not have any degree nor was he licensed by the Government of the Philippines to practice the profession of mechanical engineer. When he was pressed to answer the question whether he was actually employed by the Manila Electric Co. he evaded it by saying that he was employed by White and Co. which owned 60% of the shares of the Manila Electric Co. During the occupation of the country by the enemy he was engaged in the buy-and-sell business and had no known income. It is unbelievable that he could acquire the house and lot of Rebecca Levin at No. 323 San Rafael street for P65,000 and the one allegedly sold to Emiliano R. Eustaquio at No. 326, same street, through his machinations, for P38,000. He claims he deposited his money in the Bank of Taiwan but in the same way that he presented his pass book (Exhibit 7) showing his deposits in the Bank of the Philippine Islands, he could have presented the pass book or certificate of deposit of money he had in the Bank of Taiwan, Ltd. In fact, during the occupation of the country by the enemy and before he mortgaged the two houses and lots to Co Chin Leng Joaquin V. Bass had no money. According to Exhibit 7, on 10 April 1944 only he made the first or initial deposit of P50,000 with the Bank of the Philippine Islands. That money must be part of the P70,000 loaned to him by Co Chin Leng on 8 April 1944 secured by mortgage on the houses and lots he had acquired fraudulently from Rebecca Levin.

Eliezer A. Manikan perverted the truth when he testified that P10,000 was paid to or received by Rebecca Levin in his office, whereas Joaquin V. Bass testified that she received it in her house; when he testified that on the date of the execution of the deed of sale (Exhibit A) by Rebecca Levin, or on 5 January 1944, the Torrens title to the property was brought by her to his office, when in truth and in fact the title was on that date kept by the Agricultural and Industrial Bank and taken from it the following day when the mortgage debt was paid. Eliezer A. Manikan did not tell the truth when he testified that on the date of the execution of the deed of sale by Rebecca Levin the sum of P65,000 in Japanese war notes, consisting of six packages of P10,000 each of P10 bills and the rest of P5 bills, was counted by her, because, according to Joaquin V. Bass, Rebecca Levin mortgaged her house to him for P35,000 and later on converted it into an absolute sale for P65,000 (Exhibits S and S-1). Eliezer A. Manikan did not tell the truth when he testified that the deed of sale marked Exhibit C was executed two or three weeks after the order of the court—referring to the order approving the subdivision of the parcel of land of Rebecca Levin into two lots presented for registration on 24 February 1944—because the deed of sale (Exhibit C) dated 18 February 1944 was executed and acknowledged on that date, whereas the court order approving the subdivision was dated 22 February 1944, so the deed of sale was executed four days before the order of the court approving the subdivision and six days before its presentation for registration. On cross-examination Joaquin V. Bass

testified that the consideration for the sale of the house and lot on No. 328 San Rafael street consisted of payment in cash of P35,000 and the transfer to or assumption by him of Rebecca Levin's debt for P30,000 to one Concepcion de la Rama. On further cross-examination he testified that the purchase price agreed upon between him and Rebecca Levin was P60,000 plus P2,800 which was not included in the price.

There is overwhelming evidence to support the conclusion of the trial court that Rebecca Levin did not execute the deeds of sale Exhibit A and Exhibit C. What she was made to believe she signed was an authorization to sell the house at No. 326 San Rafael street.

As to the mortgage in favor of Co Chin Leng we hold with the court below that there is no evidence to show that the mortgage was made in bad faith and without consideration. He must, therefore, be deemed to be a mortgagee in good faith and for value. As to the sum consigned by Eugenio Mintu for Joaquin V. Bass' account there is no evidence as to the outcome of the complaint for consignment filed on 3 November 1944 by Joaquin V. Bass against Co Chin Leng in the Court of First Instance of Manila (case No. 2984).

As regards Eugenio Mintu, the evidence shows that he paid P200,000 to Joaquin V. Bass in the manner and form above stated; that the original deed of sale (Exhibit E), together with the owner's duplicate certificates of title Nos. 73450 and 73451, was presented for registration on 8 November 1944 in the office of the Registrar of Deeds of Manila and entered in the day book—entry No. 27161, but that, according to the certification of the Registrar, the original deed of sale and the owner's duplicate certificates of title have not been found, were not among the salvaged records and were, therefore, presumed to have been lost or burned (Exhibit 8-Mintu). It also appears that the registration fees consisting of P.50, the fee for the entry in the day book; P220, the registration fees for a sale of P200,000; and P4, the fee for the issuance of two certificates of title were paid by Eugenio Mintu (Exhibit 6-Mintu). On the other hand, on 29 October 1945, a notice of lis pendens was filed in the office of the Registrar of Deeds of Manila and noted on the back of transfer certificates of title Nos. 73450 and 73451 in connection with civil case No. 70054 of the Court of First Instance of Manila entitled "Rebecca Levin vs. Joaquin V. Bass et al."

The claim of Joaquin V. Bass that the sale between him and Mintu was conditional is devoid of merit, because the conditional part of the deed of sale concerns the guarantee undertaken by him as vendor to obtain the release of the mortgage of Co Chin Leng and the cancellation of the notice of lis pendens in connection with civil case No. 2562 entitled "Isabelo Martinez vs. Joaquin V. Bass," which release and cancellation he promised he would secure on or before 3 April 1945. It is not a condition which, if not fulfilled, would avoid the sale made of the lot and house on No. 326 San Rafael street, but one which, if not performed, would cause the vesting in the vendee (Eugenio Mintu) of the title to the lot and house on No. 328, same street, which was given as security for the fulfillment of the undertaking.

We now take up the question between Eugenio Mintu and Rebecca Levin. Under the Torrens system the act of registration is the operative act to convey and affect the land.[1] Do the entry in the day book of a deed of sale which was presented and filed together with the owner's duplicate certificate of title with 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.[2] 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 to claim.[3] Eugenio Mintu fulfilled or took all the steps he was expected to take in order to have the Registrar of Deeds in and for the city of Manila issue to him the corresponding transfer certificate of title on the lot and house at No. 326 San Rafael street sold to him by Joaquin V. Bass. The evidence shows that Eugenio Mintu is an innocent purchaser for value. Nevertheless, the court

below held that the sale made by Bass to Mintu is as against Rebecca Levin without force and effect because of the express provision of law which in part says:

* * * Provided, however, That in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title: (Section 55, Act 496, as amended by Act 3322).

In other words, the sale made by Joaquin V. Bass to Eugenio Mintu is valid as between them but not as against Rebecca Levin who could avail herself of all her legal and equitable remedies against Joaquin V. Bass and reach the property acquired fraudulently by the latter and subsequently sold to Eugenio Mintu who admittedly is an innocent purchaser for value, for the reason that the latter though an innocent purchaser for value is not a holder of a certificate of title. 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." The court below has strictly and literally construed the provision of law applicable to the case. If the strict and literal construction of the law made by the court below be the true and correct meaning and intent of the law making body, the act of registration—the operative act to convey and affect registered property—would be left to the Registrar of Deeds. True, there is a remedy available to the registrant to compel the Registrar of Deeds to issue to him the certificate of title but the step would entail expense and cause unpleasantness. 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 the contemplation of law the holder of a certificate thereof the moment he presents and files a duly notarized and lawful deed of sale and 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. 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.

Taking into consideration all the circumstances of the case and bearing in mind that the only objective courts must strive to attain is to do justice, we believe that our interpretation of the law applicable to the cases at bar subserves the interests of justice. True, Rebecca Levin loses her house and lot at No. 326 San Rafael street, but "as between two innocent persons, one of whom must suffer the consequence of a breach of trust, the one who made it possible by his act of confidence must bear the loss." [4]

We hold, therefore, that Eugenio Mintu is the rightful owner of the lot and house at No. 326 San Rafael street since 3 November 1944 and entitled to collect the rentals due and unpaid from that date until possession of the premises shall have been restored to him and the balance that may result from an accounting to be rendered by Joaquin V. Bass of rentals and moneys received by him imputable to such rentals as ordered by the trial court, subject to the registered mortgage in favor of Co Chin Leng. What has been awarded to Rebecca Levin in the judgment appealed from, in so far as the lot and house at No. 326 San Rafael street are concerned, is deemed awarded to Eugenio Mintu.

The rest of the judgment appealed from not inconsistent herewith is affirmed, with costs against Joaquin V. Bass.

Let a copy of this decision be furnished the City Fiscal of Manila who is directed to conduct an investigation of Joaquin V. Bass and attorney and notary public Eliezer A. Manikan in connection with the execution and acknowledgment of the documents involved and the testimony given by them in these cases and to take such action as the result of the investigation may warrant.

Paras, C.J., Feria, Pablo, Bengzon, Montemayor, Reyes, and Bautista Angelo, JJ., concur.

[1] Section 50, Act 496.

[2] Sections 55 and 56, Act 496.

[3] Villasor vs. Camon et al., 89 Phil., 404.

[4] Eliason vs. Wilborn (1930), 281 U. S. 457, 461; Blondeau et al. vs. Nano et al., (1935), 61, Phil. 625, 630.

CONCURRING

TUASON, J.:

Crime and fraud can not serve as the root of a valid title notwithstanding the good faith of the purchaser for value. This rule is qualified by the condition that the rightful owner was not guilty of any negligence contributing to or facilitating the commission of the crime or fraud. Subject to this qualification, the doctrine that, as between two innocent parties, the one who made the crime or fraud possible must bear the loss, should be applied. From the facts of this case, it appears that Rebecca Levin was not free from blame for the issuance of a new certificate of title in the name of Bass. With these circumstances in mind, I concur in the foregoing decision.

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