

AURELIA DE LARA AND RUFINO S. DE GUZMAN, PLAINTIFFS AND APPELLANTS, VS. JACINTO AYROSO, DEFENDANT AND APPELLANT.*G.R. No. L-6122. May 31, 1954*

Ponente: REYES, J.

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This is an action for foreclosure of mortgage.

From the stipulation of facts and the additional evidence submitted at the hearing the lower court found and it is not disputed that the spouses Jacinto Ayroso and Manuela Lacanilao were the registered owners of a parcel of land, situated in the municipality of Cabanatuan, Nueva Ecija, their title thereto being evidenced by Transfer Certificate No. 4203 of the land records of that province. The land had an area of a little over 3 1/2 hectares, but according to an annotation on the back of the certificate a large portion of that area—a little less than 3 hectares—had already been alienated, sold to the Pilgrim Holiness Church in 1940. The certificate was kept in Jacinto Ayroso's trunk in his house in the poblacion of Cabanatuan, but somehow his daughter, Juliana Ayroso, managed to get possession of it without his knowledge and consent and gave it to a man whose name does not appear in the record. With the certificate in his possession and representing himself to be Jacinto Ayroso, this man was able to obtain from the plaintiff spouses the sum of P2,000 which he agreed to pay back in three months and as security therefor constituted a mortgage on Jacinto Ayroso's interest in the land covered by the certificate, signing the deed of mortgage with the latter's name. At that time, April 19, 1949, Jacinto Ayroso was already a widower, his wife having died on the 31st of the preceding month. Neither Jacinto Ayroso nor the man who impersonated him was personally known to the plaintiffs, though the latter believed in good faith that the two were one and the same person, the impostor being then accompanied by Ayroso's daughter Juliana whom they knew personally and who also signed as a witness to the mortgage deed. The mortgage was later registered in the office of the Register of Deeds of Nueva Ecija and annotated on the back of the certificate of title. Jacinto Ayroso never authorized anyone to mortgage the land and received no part of the mortgage loan.

Upon the foregoing facts, the trial court rendered judgment declaring the mortgage invalid, ordering the Register of Deeds of Nueva Ecija to cancel the corresponding annotation on Transfer Certificate of Title No. 4203 and dismissing the complaint with costs. From this judgment an appeal has been taken directly to this court, and the question for determination is whether the said mortgage may be enforced by plaintiffs against the defendant Jacinto Ayroso.

There can be no question that the mortgage under consideration is a nullity, the same having been executed by an impostor without the authority of the owner of the interest mortgaged. Its registration under the Land Registration Law lends it no validity because, according to the last proviso to the second paragraph of section 55 of that law, registration procured by the presentation of a forged deed is null and void.

Plaintiffs, however, allege that they are innocent holders for value of a Torrens certificate of title, and on the authority of *Elason vs. Wilborn* (281 U. S., 457), *De la Cruz vs. Fabie* (35 Phil., 144), and *Blondeau et al. vs.*

Nano and Vallejo (61 Phil., 625), invoke the protection accorded to such holders. But an examination of those cases will show that they have no application to the one before us.

In the case first cited, *Eliason vs. Wilborn*, the appellants, owners of registered land, delivered the certificate of title to a party under an agreement to sell and the said party forged a deed to himself, had the certificate issued in his name and then conveyed it to others, who were good faith purchasers for value. Upholding the last conveyance, the U. S. Supreme Court said: "The appellants saw fit to entrust it (the certificate) to Napleton and they took the risk * * *. As between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

In the second case, *De la Cruz vs. Fabie*, the attorney-in-fact of the owner of registered land, having been entrusted with the title to said property, abused the confidence thus reposed upon him, forged a deed in his favor, had a new title issued to himself and then conveyed it to another, who thereafter was issued a new certificate of title. This court held the purchaser to be the absolute owner of the land as an innocent holder of a title for value under section 55 of Act No. 496.

It will be noted that in both of the above cases the certificate of title was already in the name of the forger when the land was sold to an innocent purchaser. In such case the vendee had the right to rely on what appeared in the certificate and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the vendor appearing on the face of said certificate to be the registered owner. It should also be noted that in both cases fraud was made possible by the owner's act in entrusting the certificate of title to another. And this should be emphasized because it is what impelled this court to apply in those cases the principle of equity that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

In the present case the title was still in the name of the real owner when the land was mortgaged to the plaintiffs by the impostor. And it is obvious that plaintiffs were defrauded not because they relied upon what appeared in a Torrens certificate of title—there was nothing wrong with the certificate—but because they believed the words of the impostor when he told them that he was the person named as owner in the certificate. As the learned trial judge says in his decision, it was not incumbent upon plaintiffs to inquire into the ownership of the property and go beyond what was stated on the face of the certificate of title, but it was their duty to ascertain the identity of the man with whom they were dealing, as well as his legal authority to convey, if they did not want to be imposed upon. That duty devolves upon all persons buying property of any kind, and one who neglects it does so at his peril. It should be added that the appellee has not entrusted the certificate of title to anybody, an element essential to the application of the principle of equity above cited. It is thus clear that the circumstances which impelled this court, in the cases cited to extend protection to the innocent holders for value of the Torrens certificates, at the expense of the owner of the registered property, are not present in the case at bar.

Nor could the third case cited, *Blondeau et al. vs. Nano and Vallejo*, serve as a good precedent for the one now before us. That case, it is true, was also for foreclosure of mortgage, and the defense set up by the registered owner was also forgery. But it should be noted that in that case this court found as a fact that the mortgage had not been forged and in addition there was the circumstance that the registered owner had by his negligence or acquiescence, if not actual connivance, made it possible for the fraud to be committed. It is thus obvious that the case called for the application of the same principle of equity already mentioned, and the decision rendered by this court was in line with the two previous cases. But that decision does not fit the facts of the present case, where the mortgage is admittedly a forgery and the registered owner has not been shown to have been negligent or in connivance with the forger. The contention that it was negligence on appellee's part to leave the Torrens title in his trunk in his house in the poblacion when most of the time he was in the farm, was we think well answered by

the trial court when it said:

"* * * it was not shown that the defendant has acted with negligence in keeping the certificate of title in his trunk in his own house. That his daughter was able to steal it or take it from the trunk without his knowledge and consent and was able to make use of it for a fraudulent purpose, (it) does not necessarily follow that he was negligent. It is in keeping with ordinary prudence in common Filipino homes for the owners thereof to keep their valuables in their trunks. It would be too much to expect of him that he should carry said certificate with him to wherever he goes."

On the other hand the considerations underlying the decision in the case of *Ch. Veloso & Rosales vs. La Urbana & Del Mar* (58 Phil., 681), cited by the appellee, would seem to be applicable to the present case. In the case cited, the plaintiff Veloso, owner of certain parcels of registered land, brought action to annul certain mortgages constituted thereon by her brother-in-law, the defendant Del Mar, using two powers of attorney purportedly executed for that purpose by plaintiff and her husband Rosales, but which were in reality forged, the forgery having been committed by Del Mar himself. How Del Mar obtained possession of the certificate of title the report does not show, but the mortgages were duly registered and noted on the certificates of title. In holding the mortgages void, this court said:

"* * * Inasmuch as Del Mar is not the registered owner of the mortgaged properties and inasmuch as the appellant was fully aware of the fact that it was dealing with him on the strength of the alleged powers of attorney purporting to have been conferred upon him by the plaintiff, it was his duty to ascertain the genuineness of said instruments and not rely absolutely and exclusively upon the fact that the said powers of attorney appeared to have been registered. In view of its failure to proceed in this manner, it acted negligently and should suffer the consequences and damages resulting from such transactions." (P. 683.)

Appellants, however, contend that the doctrine laid down in that case has already been overruled by the *Blondeau* case, *supra*. This is not so, and to show that it is still good jurisprudence, this court quotes it with approval in *Lopez vs. Seva et al.* (69 Phil., 311), a case decided after the *Blondeau* decision.

We are with the learned trial judge in applying to the present case the principle underlying the decision in the *Veloso* case, which, as His Honor well says, "is fair and just because it stands for the security and stability of property rights under any system of laws, including the Torrens system," affording protection against the dangerous tendency of unprincipled individuals "to enrich themselves at the expense of others thru illegal or seemingly lawful operations." And as His Honor also says, "as between an interpretation and application of the law which serves as an effective weapon to curb such dangerous tendency or that which technically may aid or foment it, the choice is clear and unavoidable." For, as repeatedly stated by this court, although the underlying purpose of the Land Registration Law is to impart stability and conclusiveness to transactions that have been placed within its operations, still that law does not permit its provisions to be used as a shield for the commission of fraud.

In view of the foregoing, the judgment appealed from is affirmed, with costs against the appellants.

Paras, C. J., Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, Labrador and Concepcion, JJ., concur.

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