

JOSE A. ARCHES, PETITIONER-APPELLANT VS. AURORA BILLANES, OPPOSITOR-APPELLEE.*G.R. No. L-20452. April 30, 1965*

Ponente: BAUTISTA ANGELO, J.

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In a decision rendered on December 24, 1935, the Court of First Instance of Capiz declared Jose A. Arches owner of a portion of Lot No. 3150 of the Panay cadastre containing an area of 2,250 square meters and ordered that Original Certificate of Title No. 17104 covering said lot be cancelled and a new certificate be issued annotating on the back thereof the portion adjudicated to Arches. Subsequently, Original Certificate of Title No. 17104 was cancelled and in lieu thereof Transfer Certificate of Title No. 3906 was issued on June 26, 1939 in the names of Tiburcio Espi and Modesta Marcelino at the back of which the interest of Arches was annotated pursuant to the aforesaid decision.

Then, the following transfers took place concerning Lot No. 3150; on December 29, 1915, spouses Tiburcio Espi and Modesta Marcelino sold the lot to Felicisima Aguilos; on March 15, 1946, Felicisima Aguilos sold it to spouses Amado Bibit and Petra Obligar; and on January 2, 1947, the latter spouses in turn sold the lot to Aurora Billanes. Since the original of Transfer Certificate of Title No. 3906 was destroyed during the last war and only the owner's duplicate thereof was existing, said title was administratively reconstituted by the Register of Deeds of Capiz on January 16, 1947 on the basis of said duplicate resulting in the issuance of Transfer Certificate of Title No. RT-34(a) (8906). On the same date, the various documents of sale made over Lot No. 3150 were simultaneously registered resulting in the issuance of separate certificates of title to each and every transferee, the last one being Aurora Billanes. The title issued to the latter is Transfer Certificate of Title No. 123, free from all liens and encumbrances.

On December 1, 1959, Jose A. Arches who came to know for the first time the reconstitution made of Transfer Certificate of Title No. 3906 in 1947, as well as the issuance of transfer certificates of title in favor of the subsequent transferees, filed a petition before the Court of First Instance of Capiz praying for the annotation of his interest in Lot No. 3150 not only on Transfer Certificate of Title No. RT-34(a) (3906), as reconstituted, but also on all the titles issued subsequent thereto by the Register of Deeds of Capiz, on the ground that such interest which appears on the original of Transfer Certificate of Title No. 3906 has been improperly omitted on the reconstituted title and on the other titles issued subsequent thereto to his prejudice, he being the owner of a portion of Lot No. 3150 covered by them.

Aurora Billanes filed an opposition to this petition alleging, among other things, that when she bought Lot No. 3150 from spouses Amado Bibit and Petra Obligar on January 2, 1947, she examined the owner's duplicate of Transfer Certificate of Title No. 3906 covering the same and found no lien or encumbrances annotated thereon. It is on the basis of this duplicate that she bought said lot and the reconstitution of the original title was made by the Register of Deeds of Capiz.

After setting the hearing of the petition on September 1, 1961, the court a quo without any hearing on the merits, issued an order dismissing the petition for lack of sufficient legal basis. But the dismissal was made "without prejudice to the petitioner's right to take recourse to a more appropriate remedy."

Petitioner took the present appeal which was certified to this Court on the ground that the only issue involved is one of law.

The order of the court a quo which is now the subject of this appeal reads as follows:

"Lot No. 3150, Panay Cadastre, is registered under the Torrens system. It appears that the only copy of the various certificates of title issued thereon, which has survived through the last world war, is the Owner's Duplicate Certificate of Transfer Certificate of Title No. 3906, now on file in the Office of the Register of Deeds of Capiz, which was issued as appearing from the face thereof, on June 26, 1939. On the basis of the said existing copy, the said title was administratively reconstituted on January 16, 1947 in accordance with Republic Act No. 26, and the reconstituted title bears No. RT-34(a) (3906).

Now comes the petitioner herein claiming to have a lien on the property aforementioned and claiming further that said lien was registered before the war. Petitioner also prays that his said lien be made to appear as annotated on the title as requested.

It appearing that the Owner's Duplicate Certificate of Transfer Certificate of Title No. 3906 does not bear any annotation with reference to the aforementioned lien, the Court cannot see its way dear to ordering the said lien annotated on the copy as reconstituted from the Owner's Duplicate Certificate.

Therefore, the within petition is hereby dismissed without prejudice to the petitioner's right to take recourse to an appropriate remedy."

It should be noted that Lot No. 3150, a portion of which was acquired by petitioner, was originally covered by Original Certificate of Title No. 17104, which was later cancelled and substituted by Transfer Certificate of Title No. 3906. It should also be noted that on both originals of said titles the interest of petitioner was annotated as directed by the Court of First Instance of Capiz in its decision rendered in Civil Case No. 3286, but no such annotation was made on the owner's duplicate of Transfer Certificate of Title No. 3906 which was issued in the names of spouses Tiburcio Espi and Modesta Marcelino. And since this owner's duplicate has been the basis of the different transfers made on Lot No. 3150 up to the time it was sold to oppositor Aurora Billanes and the reconstitution of the original of Title No. 3906 was also made on the basis of said duplicate, the resultant effect was that the title as reconstituted [RT-34(a) (3906)], as well as the transfer certificates of title issued to the different transferees of the same lot, do not bear any annotation concerning the interest adjudicated in favor of petitioner. In other words, it may be stated that on the basis of the pleadings submitted, the persons who subsequently bought Lot No. 3150 from spouses Tiburcio Espi and Modesta Marcelino in whose names the original of Certificate of Title No. 3906 was issued, down to herein oppositor Aurora Billanes, bought the lot with the knowledge that the same was free from any lien or encumbrance. They did not have any knowledge of the interest now claimed by petitioner except only when he filed the present petition on December 1, 1959 praying for the annotation of his interest on the title as *British Traders his. Co., Ltd. vs. Comm. of Int. Revenue* reconstituted as well as on the titles issued subsequent thereto, a matter which could have been avoided had petitioner been more solicitous in securing the annotation of his interest not only on the original title but on the owner's duplicate as well. It is for this reason that the Court a quo considered the petition improper though reserving to him the right to take any other action that may be appropriate to protect his interest.

We do not find error in this regard. Since there are third parties who claim to have acquired the property in good faith and for value, there seems to be no other more appropriate recourse than to take a separate action in court in

order that the parties concerned may have an opportunity to defend their interests. Republic Act No. 26 which provides for reconstitution of titles does not afford such an opportunity for the proceedings therein authorized are merely summary in nature and do not cover controversial issues. These have to be threshed out in a separate action.

WHEREFORE, the order appealed from is affirmed. Costs against petitioner.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P. and Zaldivar, JJ., concur.

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