

**DEMETRIA FLORES, PLAINTIFF AND APPELLANT, VS.
REHABILITATION FINANCE CORPORATION, DEFENDANT AND
APPELLEE.**

G.R. No. L-5798. February 26, 1954

Ponente: BENGZON, J.

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BENGZON, J.:

The case.—On August 2, 1948, Demetria Flores filed a complaint in the Court of First Instance of Negros Occidental to annul the mortgage executed in September, 1938 by K. Ishiwata (then appellant's common-law husband) in favor of the National Investment Board, and also to cancel the certificate of sale subsequently made on foreclosure, to the Agricultural and Industrial Bank. She prayed either for the return of the land or the payment of P250,000 plus interest and other items of indemnity.

After due hearing, the court absolved the defendant (successor to the Agricultural and Industrial Bank), sustaining the validity of the mortgage and foreclosure proceedings. The plaintiff appealed.

The facts. On August 31, 1928, the Roman Catholic Bishop of Jaro sold lot No. 379 to K. Ishiwata, by a deed of sale showing that the vendee was "single". The document having been registered, the Register of Deeds of Negros Occidental issued Transfer Certificate of Title No. T-10022 in the name of "K. Ishiwata, single, Japanese citizen."

On March 4, 1932, K. Ishiwata bought from Jose de la Rama lot No. 169. The deed of sale was duly filed and the Register of Deeds of Negros Occidental issued, for the lot, Transfer Certificate of Title No. 14275 in the name of "K. Ishiwata, single, Japanese citizen."

On September 1, 1938, K. Ishiwata applied for a mortgage loan of P120,000 to the National Investment Board (later Agricultural and Industrial Bank). The application, stated he was single and a Japanese citizen. The next day, K. Ishiwata submitted to the said Board a sworn statement of his financial condition, admitting that he had outstanding obligations with the Philippine National Bank, Bacolod branch, and with the La Urbana in Manila. Later, the National Investment Board sent a committee of three employees to Bacolod city to appraise the properties offered as security. This committee was not informed of any other persons interested in the property. His application was approved for a loan of P70,000 only, and on September 29, 1938 Ishiwata received that amount from the National Investment Board, signing the corresponding promisory note, and mortgaging the lots 169 and 379 covered by Transfer Certificates of Title Nos. 14275 and 10022 herein-above mentioned. The mortgage was duly registered.

Upon the failure of K. Ishiwata to pay some amortizations, foreclosure proceedings were had in accordance with Act 3135, and the property was auctioned off, in 1940, to the highest bidder, the Agricultural and Industrial Bank. And as the mortgagor failed to exercise his right of redemption, the said bank became the absolute owner, and took possession of the mortgaged property in 1941. Subsequently, the Rehabilitation Finance Corporation-legal successor of the Agricultural and Industrial Bank, obtained the corresponding certificates of title in its name.

The issue. Six errors are assigned revolving around one vital question: Is the mortgage executed by K. Ishiwata valid as to the whole property, or is it good only for one-half?

Discussion, The plaintiff-appellant maintains she has a right to one-half of lots Nos. 169 and 379 because she and Ishiwata acquired such lots during the period when they were living together as husband and wife, although not married. Explaining why the titles covering these lots were registered solely in the name of K. Ishiwata, she alleges that it was due to her husband's bona fide belief he was representing the family.

She declared in open court that since the year 1922 she lived with Ishiwata as his wife, without benefit of marriage; that in 1923 she delivered to him P50,000 as contribution to his business as building contractor; that she looked for customers of the construction business, acting furthermore as cashier and paymaster; that these two lots were acquired during their marital life; that she knew nothing about the mortgage until the year 1946 when Ishiwata, then a prisoner, informed her about it.

The tendency of her assertions was obviously to lay the groundwork of her claim to one-half in accordance with the doctrines laid down in *De Leon vs. Villanueva*, 51 Phil., 677 and *Marata vs. Dionio*, G. R. No. 2449. (Partnership during cohabitation of a man with woman.)

However the trouble with her position is the absence of proof or allegation that the property was acquired "thru their joint efforts or labor". And while it may be true that she assisted in the construction business, there is no evidence that the lots were bought in connection with such business. Her burden of overcoming the strong evidentiary value of the documents in the sole name of "K. Ishiwata, single", proved to be all the more difficult, what with the weakness of her moral character, and the improbability of her total ignorance of the transaction, she being, according to her own testimony, cashier and paymaster. And as the property was in the poblacion itself, in a prominent place, the foreclosure proceedings could not have escaped her notice or that of her friends, relatives or acquaintances. Such proceedings occurred in 1940 and her silence until 1948[1] is incompatible with the asserted co-ownership.[2]

At any rate, in the absence of any showing that the National Investment Board and the Agricultural and Industrial Bank were cognizant of her rights as co-owner, such purchaser and/or mortgagee in good faith that relied on the certificates of title in the name of "K. Ishiwata, single", must be afforded the full protection of the Torrena system, as correctly observed by his honor, the trial judge.[3]

"A mortgagee who, in good faith, advances money on land covered by a Torrens title, without notice of any defect in the title of the mortgagor, will obtain a good title as mortgagee, although in the hands of the mortgagor, the title may have been defeasible for fraud." (*Gabriel vs. Baens*, 56 Phil., 314.)

"A person who in good faith acquires any right or title to land registered under the provisions of Act No. 496 would not need to go behind the certificate of title if the register of deeds of the province in which such land is situated performs his legal duty. If a certificate of title cannot be taken at its face value the owner of land registered under the Torrens system will be greatly handicapped in making sales thereof or borrowing money thereon". (*Director of Lands vs. Abad*, 61 Phil., 480.)

Judgment. It follows from the foregoing that the mortgage of the lots by K. Ishiwata must be held valid. And as there is no claim of irregularity in the foreclosure proceeding, it must also be sustained.

The appealed decision is, therefore, affirmed, with costs.

Paras, C, J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.

[1] Action filed August 1948.

[2] It couldn't be true that she become aware of it only in 1946. The property was taken in 1941 by reason of foreclosure.

[3] See *Castillo vs. Valdes*, 53 Phil., 123; *Anderson vs. Garcia*, 64 Phil., 506.

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