

REGISTER OF DEEDS AND GONZALO PUYAT, PETITIONERS AND APPELLEES, VS. PHILIPPINE NATIONAL BANK AND PEDRO B. CRUZ, OPPOSITORS AND APPELLANTS.

G.R. No. L-1781. September 27, 1949

Ponente: TORRES, J.

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TORRES, J.:

This is a petition filed by Rodolfo R. Dimzon as register of deeds of Pampanga, whereby he seeks to correct "the error, omission or mistake made in transfer certificate of title No. 16342 by transferring on the said title the liens on the property covered by said certificate, consisting of a mortgage in favor of Gonzalo Puyat under document No. 262 and the lease affecting the portion of 1,045,848 square meters under document No. 1149."

The parcels of land covered by transfer certificate of title No. 5377 of the Office of the register of deeds of Pampanga were registered in the name of Martin Gonzales. Among those parcels, there was a lot 1-J which is a portion of lot No. 1 located in the municipality of Lubao, with an area of 3,045,848 square meters, more or less. All the parcels of land described in the said certificate No. 5377, as well as those described in certificate No. 5379, original certificate of title No. 11578 and original certificate of title No. 17261 and other parcels of land located in Bataan, were mortgaged in favor of Gonzalo Puyat, to guaranty a loan of P250,000. Those parcels of land were, besides, leased to one Romualdo Rivera for a period of six agricultural years, which will expire on June 30, 1951, for the amount of P150,000 which was paid in advance.

The above-mentioned mortgage was on October 23, 1943 registered in the Office of the register of deeds of Pampanga, and the corresponding annotation made on the back of the respective certificate of title (5377) covering the lands affected by that encumbrance.

On September 8, 1944, a portion of lot No. 1-J consisting of 2,000,000 square meters was sold by Jose Gonzales Carrion, as administrator of the estate of Martin Gonzales, to Pedro B. Cruz for the sum of P60,000. On October 3, 1945, the remaining portion of said lot No. 1-J, covering an area of 1,045,848 square meters was likewise sold by the administrator to Pedro B. Cruz for P104,584.80.

On October 17, 1944, Romualdo Rivera sold his rights on the lease over the 2,000,000 square meters of lot No. 1-J to Pedro B. Cruz for the sum of P30,000.

By virtue of such sales, transfer certificate of title No. 5377 was partially cancelled as to the whole lot No. 1-J, and transfer certificate of title No. 16342 was issued on November 26, 1945, in the name of Pedro B. Cruz, and the only lien appearing thereon is the milling contract executed in favor of Pampanga Sugar Mills.

On January 4, 1946, Pedro B. Cruz mortgaged the whole of lot No. 1-J described in transfer certificate of title No. 16342 to the Philippine National Bank, Manila, for the sum of P50,000. Said mortgage was duly registered in the office of the register of deeds of Pampanga.

It is contended by the register of deeds that Luis Panaguition, then acting provincial fiscal and ex-officio register

of deeds of Pampanga, "overlooked or failed to transfer in the new title," the liens referring to the mortgage in favor of Gonzalo Puyat (document No. 262).

Gonzalo Puyat joined the register of deeds in his petition.

The above petition was opposed by the Philippine National Bank on the ground that it will adversely affect the interest of the mortgagee, bank; it will defeat the primary object of the Torrens system, and it will not be in accordance with law and the doctrine enunciated by the Supreme Court.

But inasmuch as according to recent developments shown in the record, the oppositor Philippine National Bank executed in favor of the other oppositor Pedro B. Cruz, a release of the mortgage for P50,000 annotated on the back of transfer certificate of title No. 16342, and cancelled said mortgage, by virtue of the fact that Pedro B. Cruz paid the Philippine National Bank the amount of his loan, counsel for oppositor-appellant Philippine National Bank in his "Manifestation" attached to the record on August 24, 1949, stated that "the questions raised in the case at bar as ventilated by the parties in their respective briefs are now academical."

By virtue of the foregoing, in view of the settlement thus effected between the oppositors Philippine National Bank and Pedro B. Cruz, resulting from the payment by the latter of his debt to the former and the release and cancellation of the mortgage annotated on the back of transfer certificate of title No. 16342, the legal tangle between the register of deeds of Pampanga and his co-petitioner Gonzalo Puyat, on the one hand, and the Philippine National Bank, as oppositor, on the other, has now become a moot question.

There remains now for us to consider the merit of the petition of the register of deeds and his co-petitioner Gonzalo Puyat, who pray that an error committed by the predecessor of the register of deeds of Pampanga be corrected. According to the record when transfer certificate of title No. 16342 was issued to Pedro B. Cruz, the former register of deeds did not annotate on the back of said transfer certificate of title the mortgage in favor of Gonzalo Puyat for the sum of P250,000, dated October 23, 1943, and the lease over the portion of 1,045,848 square meters in favor of Romualdo Rivera, notwithstanding the fact that those liens and encumbrances were duly annotated on the back of transfer certificate of title No. 5377, which oppositor Pedro B. Cruz surrendered to the Office of the register of deeds for the issuance in his name of a new certificate, when he (Pedro B. Cruz), became the owner of the property covered by said transfer certificate of title No. 5377.

Pedro B. Cruz also filed his opposition to the petition of the register of deeds. His pleading, among other things, alleges that when on September 20, 1945, the probate court of Pampanga authorized the sale of 104 additional hectares of the Hacienda of the late Martin Gonzales, over the objection of Gonzalo Puyat, and notwithstanding a subsequent motion for reconsideration of the order approving the sale, which was denied, it stated that the land was free from all liens and encumbrances. Accordingly, the deeds of sale covering the 200 hectares and the additional 104 hectares show that they were all free from all liens and encumbrances of whatsoever nature, and, therefore, the register of deeds of Pampanga acted correctly in registering the two deeds of sale in the name of Pedro B. Cruz, free from all liens and encumbrances of whatsoever nature. It is further alleged by Pedro B. Cruz that Gonzalo Puyat as mortgagee of the remaining portion of the Gonzales Estate and plaintiff in civil case No. 70 of the Court of First Instance of Pampanga, entitled "Gonzalo Puyat vs. Jose Gonzales et al.," did not appeal from the various orders of the probate court of the sale for the 104 hectares free from all liens and encumbrances of whatsoever nature; neither had he taken steps, up to the date of the institution of the present proceedings, to secure the amendment or the correction of the orders respectively issued and the transfer certificate of title No. 16342 of the register of deeds of Pampanga.

It is further averred by Cruz that the petition of the register of deeds of Pampanga is in the nature of a petition for review under section 38 of Act No. 496, which provides that the final decree of registration can not be reopened

or set aside after the expiration of one year from the entry thereof, and that the register of deeds of Pampanga, not being the owner or person in interest of the property ifl question, has no legal personality to ask for the correction of the entry in transfer certificate of title No. 16342 of the register of deeds of Pampanga.

Pedro B. Cruz has not contested, much less denied, that he had in his possession or at least must have seen and read the contents of transfer certificate of title No. 5377, on which it was shown very clearly that the property described therein, and which he had purchased from the estate of Martin Gonzales, was encumbered by a mortgage in favor of Gonzalo Puyat and the 6-year lease of Romualdo Rivera. It is for this reason that counsel for Gonzalo Puyat accuses him of being guilty of fraud when he secured from the Office of the register of deeds of Pampanga—in exchange for said transfer certificate of title No. 5377—transfer certificate of title No. 16342, free from all encumbrances, that is, without the corresponding annotation of the mortgage of Gonzalo Puyat and the 6-year lease of Romualdo Rivera. For our part, the least that we can say, is that when he accepted from the acting register of deeds transfer certificate of title No. 16342, in lieu of transfer certificate of title No. 5377, without the corresponding annotation of the mortgage of Gonzalo Puyat, and negotiated a loan of P50,000 to be secured by a mortgage on the land described in the new transfer certificate of title No. 16342, which, as already stated, did not contain any annotation on the mortgage existing on transfer certificate of title No. 5377, the Philippine National Bank was made to believe that his property was unencumbered and he was guaranteeing the loan of P50,000 he was seeking from said institution by a first mortgage, when in truth and in fact, the Philippine National Bank was getting only a second mortgage. To be sure, had the bank been duly informed of the existence of the prior existing mortgage in favor of Gonzalo Puyat, that institution would have thought twice before granting a loan of such amount.

In opposing the petition of the register of deeds of Pampanga and Gonzalo Puyat, oppositor-appellant Pedro B. Cruz challenges the personality of the register of deeds to file the same under the provisions of section 112 of Act No. 496. We believe that such objection is without merit. It can not be denied that said official is a person in interest" as this phrase is used in section 112 of Act No. 496. If, upon discovering the anomaly involved in this litigation, the petitioner register of deeds of Pampanga had kept silent about it, he would have been liable for damages as provided in Section 102 of said act. But even assuming arguendo that the register of deeds is not the "person in interest" referred to in section 112, such defect, if any, has been cured when the mortgagee Gonzalo Puyat Joined in the petition of the register of deeds by making it his own. As stated in the case of *Alonso vs. Villamor* (16 Phil. 315),—"A litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other. It is, rather, a contest in which each contending party fully and fairly lays before the court the facts in issue and then, brushing aside as wholly trivial and indecisive all imperfections of form and technicalities of procedure, asks that justice be done upon the merits. Lawsuits, unlike duels, are not to be won by a rapier's thrust. * * *."

It is charged that Gonzalo Puyat is guilty of laches in not having brought the anomaly under consideration to the attention of the proper court of justice. It appears, however, that on February 24, 1947, Gonzalo Puyat brought suit for the foreclosure of the mortgage executed in his favor against Jose Gonzales et al., in civil case No. 70 still pending in the Court of First Instance of Pampanga. But at that time, the Philippine National Bank was not included as defendant because Gonzalo Puyat had no knowledge that Pedro B. Cruz had mortgaged the same property in favor of said bank. Upon discovering that Pedro B. Cruz had obtained transfer certificate of title No. 16342 free from the encumbrance in favor of Gonzalo Puyat, this petitioner took the necessary steps to have his first mortgage annotated on the back of said title, and inasmuch as the register of deeds had already filed his petition, Gonzalo Puyat joined the register of deeds in his petition. Consequently, upon discovery of the existence of the other mortgage in favor of the Philippine National Bank, petitioners amended their complaint by making said banking institution an additional defendant as a second mortgagee of the portion of the land mortgaged in

favor of Gonzalo Puyat.

It is further contended by appellant Pedro B. Cruz that the order of the probate court in approving the sale of the land is *res judicata* in the present case. We don't believe that such contention is tenable.

The jurisdiction of the Court of First Instance, whether original or appellate, is provided in the Organic Law of the Judiciary. Formerly, it was the Court of Land Registration that had exclusive jurisdiction over land matters and proceedings. That court was, however, abolished, and its jurisdiction and functions were transferred to the Court of First Instance. At the present time, the Judiciary Act of 1948 (Republic Act No. 296), which is a compilation of all the previous enactments concerning the various courts of justice, in its Chapter IV, sections 43 and 44, provides for the original jurisdiction of the Courts of First Instance established in the Philippine Islands. Paragraph (e) of section 44, which, we repeat, embodies previous statutory provisions on the subject, refers to jurisdiction of the Courts of First Instance on probate matters, "both of testate and intestate estates, * * *, and all such special cases and proceedings as are not otherwise provided for." The special mention made therein of the original jurisdiction given the Court of First Instance in "all matters of probate, both testate and intestate estates," is a clear expression of the legislative intent that when a Court of First Instance is sitting as a probate court it can not in the same proceeding deal with or adjudicate a matter which has no reference or bearing on the case under its consideration.

Gonzalo Puyat was not a party in the proceedings of the Estate of Martin Gonzales, and when the Court of First Instance of Pampanga, as probate court—not as land registration court—authorized the sale to appellant Pedro B. Cruz of a lot belonging to the estate of Martin Gonzales, it acted as such probate court, in accordance with paragraph (e) of Section 44 of the Judiciary Act, but its pronouncement regarding the existence or non-existence of encumbrances on the lot it authorized to be sold to Pedro B. Cruz, was beyond its jurisdiction as probate court.

It is, therefore, undeniable that since the probate court had no jurisdiction to cancel the mortgage, the order given by it approving the sales of the properties of the estate of Martin Gonzales to appellant Pedro B. Cruz did not and does not, in any manner, affect the existence of the mortgage executed by Gonzales in favor of Gonzalo Puyat. And inasmuch as said mortgage was still in force when Pedro B. Cruz purchased from the estate of Martin Gonzales the property covered by transfer certificate of title No. 5377, which was subsequently replaced by Transfer certificate No. 16342, the conclusion is inevitable that the mortgage in favor of Gonzalo Puyat being prior in date than the date of the mortgage executed by Pedro B. Cruz in favor of the Philippine National Bank, in the absence of any showing that the former mortgage of Gonzalo Puyat had been cancelled, the existence thereof cannot be questioned, and it becomes the duty of the register of deeds to annotate that mortgage on transfer certificate of title No. 16342 when the same was issued to Pedro B. Cruz, in lieu of transfer certificate of title No. 5377. *Potior est in tempore, potior est in jure.* (He who is first in time, is preferred in right.)

In the light of all the above, we have come to the conclusion that under the provisions of section 112 of Act No. 496, the petition made herein by the register of deeds of Pampanga and Gonzalo Puyat should be granted.

The order of July 1, 1947, issued in this case by the Court of First Instance of Pampanga, is affirmed. The appellant Pedro B. Cruz shall pay the costs.

Moran, C.J., Ozaeta, Feria, Bengzon, Tuason, and Montemayor, JJ., concur.

Paras, J., concurs in the result.

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