

**FRANCISCO C. MANABAT, IN HIS CAPACITY AS PROVINCIAL
SHE-RIFF OF LAGUNA, BRANCH I, PLAINTIFF-APPELLEE, VS.
LAGUNA FEDERATION OF FACOMAS, INC., ET AL.,
DEFENDANTS-APPELLEES, FLORE...**

G.R. No. L-23888. March 18, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

In a suit filed by Laguna Federation of Facomas, Inc. against Nieves M. Vda. de Roxas,[1] a judgment for the plain-tiff was rendered. And pursuant to it, a writ of execu-tion was issued on February 8, 1960, by virtue of which Francisco Manabat, the provincial sheriff, sold at public auction on November 24, 1960 all rights, titles and inte-rests of Nieves M. Vda. de Roxas in ten (10) parcels of land for a total price of P37,000.

Discovering, however, that the parcels of land solo were subject to registered liens such as writs of execu-tion and attachment annotated at the back of the respec-tive title certificates, the sheriff instituted an action for interpleader on February 21, 1961 in the same Court of First Instance of Laguna,[2] for the different creditors or lienholders to litigate among themselves and determine their rights to the P37,000 proceeds of the sale.

As a result, the following pertinent claims were thereafter asserted:

Claimant

Nature of Annotation

Date of Re-gistration

of Credit

Amount

of Claim

1. Laguna Federa-

tion of Facomas,

Inc.

Attachment

writ in CFI Laguna Case SC-152.

October 10, 1958

P17,448.00

2. Valeriana Lim-

aco de Almeda

Attachment

writ in CFI Laguna Case SC-153.

October 13, 1958

P 3,735.00

3. Cosmopolitan Insurance Co.,

Inc.

Attachment

writ in CFI Manila Case

No. 38118

October 20, 1985

12, 650.00

4. Florentino Cayco and Jose Fernan-

dez Zorilla

Attachment

writ in CFI

Rizal Case

No. 5238.

October 29, 1958

26, 787.50

5. Vicotoria Dima-

yuga

Attachment

writ in CFI Manila Case 3878.

May 23, 1960

12, 500.00

6. Jose Marfori and Josefina Reyes

Execution

writ in CFI Cavite Case

No. 6480-R.

September 26, 1960

9, 410.00

7. Pastor Canillas

Attachment

writ in CFI Manila Case

No. 38872

November 23, 1960

25, 552.00

8. Trinidad Calatin

Execution

writ in CFI Laguna Case No. B-191.

November 29, 1960

3, 450.00

9. Rosauro Taningco and Simplicio Ramos

Reg. of Deeds denied registration of

deed of mortgage; registrability became object of suit in Supreme Court, G.R. No. L-15242.[3]

Not re-

gistered

9,000.00

After stipulation of facts and submission of documentary evidence by the parties, the Court of First Instance ruled, in its decision of December 6, 1961, that the aforementioned defendants-claimants are entitled to the proceeds of the sale in the order of preference in accordance with the dates of the registration of their credits.

From said judgment only Florentino Cayco and Jose Fernandez Zorilla appealed.[4] And finding that it involves a question purely of law, the Court of Appeals, by resolution of November 12, 1964, has certified their appeal to Us.

The only issue presented is whether the rule to follow in the satisfaction of the credits involved is that of preference in the order of dates of registration, as held by the court a quo, or distribution pro rata, as appellants maintain.

Appellants' reasoning is that this is an instance of several credits referring to the same specific real property; and that the rule in such case is to satisfy all the aforesaid credits pro rata, following Article 2249 of the Civil Code:

"ART. 2249. If there are two or more credits with respect to the same specific real property or real rights, they shall be satisfied pro rata, after the payment of the taxes and assessments upon the immovable property or real right."

The above provision of the new Civil Code altered the set-up under the old one[5] in that while previously the rule

provided for was priority of payment in regard to credits referring to the same specific real property, now the general rule is pro rata.

Nonetheless, even under the new system, not all credits referring to the same specific real property come under the pro rata rule. Article 2249 itself, *supra*, expressly provides that taxes and assessments upon the real property are to be paid first.

Similarly, the rule of pro rata does not apply to the credits mentioned in subpar. (7) of Article 2242 of the Civil Code:

"ART. 2242. With reference to specific immovable property and real rights of the debtor, the following claims, mortgages and liens shall be preferred, and shall constitute an encumbrance on the immovable or real right:

x x x x x

"(7) Credits annotated in the Registry of Property, in virtue of a judicial order, by attachments or executions, upon the property affected, and only as to later credits;"

It being expressly provided that said credits are preferred "only as to later credits", it follows that the same limitation applies as to their preference among themselves; i.e., for purposes of satisfying several credits annotated by attachments or executions, the rule is still preference according to priority of the credits in the order of time. For, otherwise, the result would be absurd: the preference of an attachment or execution lien over later credits, as above provided for, could easily be defeated by simply obtaining writs of attachment or execution, and annotating them, no matter how much later.

It not being disputed that appellants' credit is "later" than those of appellees Laguna Federation of Facomas, Inc., Valeriana Lim-aco de Almeda and Cosmopolitan Insurance Co., Inc., the appellees' credits must be deemed preferred to that of appellants. To satisfy them pro rata would erase the difference between earlier and later credits provided for by subpar. (7) of Article 2242 aforementioned.

WHEREFORE, the judgment appealed from ruling preference is hereby affirmed. No costs.

SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] Civil Case No. B-188, CFI of Laguna.

[2] Civil Case No. B-280, CFI of Laguna.

[3] Decided on June 29, 1962 in favor of registrability.

[4] No. 4 in foregoing tabulation.

[5] Cf. Article 1927, Old Civil Code.

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