

**REGISTER OF DEEDS OF COTABATO, PETITIONER AND APPELLEE,  
VS. PHILIPPINE NATIONAL BANK, OPPOSITOR AND APPELLANT.***G.R. No. L-17641. January 30, 1965*

Ponente: BENGZON, C.J.

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This appeal originated from a petition filed by the Register of Deeds of Cotabato in Cadastral Case No. 24, L. R. C. (CRLO) Cadastral Record No. 599 of said province. He prayed that original certificates of titles Nos. V-21, V-20, V-18 and V-19 corresponding to lots Nos. 3358, 3359, 3360 and 3361, respectively, in the name of Datu Sinarimbo Binasing, be ordered cancelled on the ground that they had been issued erroneously; that Datu Binasing had secured the said titles upon false representations in an affidavit wherein he alleged that he had never, to his knowledge, secured titles for said lands.

The Philippine National Bank opposed the petition because it was the mortgagee of said lots, which were later extrajudicially foreclosed, with the Philippine National Bank itself as the highest bidder at the foreclosure sale.

The facts are not disputed. Datu Binasing was the owner of the said four lots in accordance with the decrees in Cases GLRO Nos. 552410, 552411, 552412 and 552413 pursuant to which four original certificates of titles Nos. 1606, 1607, 1608 and 1609 were issued on July 24, 1935 in his name. On July 23, 1938, he sold said lots to Soledad C. de Teruel. The deed of sale was registered in the office of the Register of Deeds and the corresponding Transfer Certificates of Title Nos. T-1253, 1254, 1245 and 1256 were accordingly issued in her name.

The Office of the said Register of Deeds was burned during the Pacific War and the records, among them, the original certificates of title in the name of Datu Binasing covering said four lots were destroyed.

In 1947, Datu Binasing secured certified copies of the aforesaid decrees Nos. 552410, 552411, 552412 and 552413 from the General Land Registration Office. And on the strength of these copies and an affidavit stating that he had not at any time secured certificates of titles for said four lots, the said Register of Deeds on August 8, 1947, issued in the name of Datu Binasing, original certificates of title Nos V-18, V-19, V-20 and V-21. Thereafter, said Datu obtained from the Philippine National Bank, a loan of P10,000.00, and he gave as security the said lots (covered by said titles) and some other properties. On March 20, 1954, the mortgage was extrajudicially foreclosed with the Philippine National Bank as the highest bidder at the foreclosure sale.

Soledad C. de Teruel, on the other and on March 8, 1948, procured a reconstitution of her transfer certificates of title namely, T-1253, T-1254, T-1255 and T-1256: in lieu thereof, Transfer Certificates of Title Nos. RT-127, RT-128, RT-129 and RT-130 were issued in her name.

Having discovered this state of affairs, (two different certificates of title for each of said four lots, and in the name of two different persons), the Register of Deeds filed the petition that gave rise to this appeal.

On the basis of these facts, the lower court directed the said Register of Deeds to cancel original certificates of title Nos. V-18 to V-21 issued in the name of said Datu in 1947, and declared valid and subsisting the Transfer

Certificates of Title issued in the name of Soledad C. de Teruel.

From the decision, the Philippine National Bank appealed contending that being an innocent mortgagee for value, it is entitled to protection under Sec. 55, Act 496 as amended; that in the case of *Blondeau vs. Nano and Vallejo*,<sup>[1]</sup> a mortgagee (relying upon a Torrens title in good faith and unaware that fraud had been committed by forgery) was protected. It cites other cases holding that the innocent purchaser for value may take good title, notwithstanding defects of the mortgagor's title deeds.

The ratio decidendi in *Hodges vs. Dy Buncio, et al.*<sup>[2]</sup> squarely resolves the issue in the instant case. Expounding on the theory of indefeasibility of titles under the Torrens System, we said that the indefeasibility of title thereunder could be claimed only if a previous valid title to the same parcel of land does not exist. Where issuance of the title was attended by fraud, the same cannot vest in the titled owner any valid legal title to the land covered by it; and the person in whose name the title was issued cannot transmit the same, for he has no true title thereto. This ruling is a mere affirmation of the recognized principle that a certificate is not conclusive evidence of title if it is shown that the same land had already been registered and that an earlier certificate for the same land is in existence.<sup>[3]</sup>

It must be observed that the titles of the Datu (actually mortgaged to the Bank) were issued in August, 19A7, as original certificates whereas in 1938, about ten years before, Soledad C. de Teruel had already acquired a Torrens title to the land. Within the meaning and scope of *Legarda vs. Saleeby*, 31 Phil. 550, and others,<sup>[4]</sup> the titles issued to Datu Binasing could not prevail against those previously issued to Teruel. (Prior in tempore, potior in jure.)

Anyway, the Bank's claim to protection does not deserve too much attention, because its credit against Binasing might still be enforced; it appearing furthermore that other properties of the Datu were also given as security.

A disturbing question although not made an issue in the lower court nor pleaded in appellant's brief is— should Soledad C. de Teruel be made a party hereto?

The petition seeks as relief the cancellation of the original certificates of title Nos. V-18, V-19, V-20 and V-21 erroneously issued in the name of Datu Binasing in 1947. The purpose was to protect the Register of Deeds of Cotabato, as administrative official relative to his liability under the Assurance Fund provisions. Soledad C. de Teruel's transfer certificates of title as may be gleaned from the allegations in the petition, are not questioned. She does not have to participate, therefore, in the proceedings. If the petition is favorably adjudged, the certificates in question would be cancelled; if otherwise, the petition should be dismissed. Any adjudication adverse to Soledad C. de Teruel in the said case should not affect her because she was, after all, not a party thereto. The cancellation of her transfer certificates of title would necessitate the filing of a separate action where she herself has to litigate as the real party in interest.

On the other hand, assuming (for the sake of argument) that she was a necessary party, her non-inclusion therein would constitute a procedural defect which this Court could remedy by directing at this stage, her inclusion as party petitioner. (*Alonso vs. Villamor*, 16 Phil. 315.)

The decision appealed from is affirmed, with costs against appellant. The Bank's recourse, if any, against the Assurance Fund, is reserved. So ordered.

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

[1] 61 Phil. 625.

[2] G.R. No. L-16096, Oct. 30, 1962.

[3] Sec. 153., p.237, William Nidbalck, "An Analysis of the Torrens System of Conveying Land, 1912 Ed.

[4] Roman Catholic Bishop vs. Phil. Railway, 49 Phil. 546; Reyes vs. Borbon, 50 Phil. 791.

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