

**PASTOR B. CONSTANTINO AND PASTOR CONSTANTINO, JR.,
PLAINTIFFS AND MOVANTS AND APPELLEES, VS. HERMINIA
ESPIRITU, DEFENDANT, NICANOR B. AVES, PURCHASER AND
OPPOSITOR AND APPELLANT.**

G.R. No. L-23268. June 30, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

The crucial issue in this appeal from an order of the lower court, one on which no pronouncement has as yet come from this Tribunal, is the binding effect, if any, of a declaration of nullity of the cancellation of a *lis pendens* on the rights of an innocent purchaser for value, who had relied on the title of the vendor, with such cancellation duly noted. The answer given by the lower court would consider the reliance as misplaced even as to such vendee, if thereafter such cancellation could be shown to be improper and illegal, resulting in the challenged order requiring that such *lis pendens* be inscribed in his title. Hence this appeal, predicated on the contention that a sale, under such circumstances with the vendor's title clear of such encumbrance, due to such previous cancellation, could not thereafter be saddled with such burden, the purchaser, appellant Nicanor B. Aves, being a beneficiary of the Torrens system of registration. The teaching to be culled from authoritative precedents sustains such a stand. Appellant has made out a case for reversal.

The appealed order of December 19, 1963 started with a statement of the case: "The plaintiff Pastor B. Constantino filed the instant Motion to Reinstate *Lis Pendens* dated July 17, 1963 and the Amending Motion dated July 23, 1963 praying [for the] cancellation of *lis pendens* on the property described in Transfer Certificate of Title No. 32744 effected by the Register of Deeds of Rizal on September 5, 1960 be declared null and void, and that the said Register of Deeds be forthwith ordered to reinstate not only on Transfer Certificate of Title No. 32744 but also on Transfer Certificate of Title No. 82798 the *lis pendens* originally inscribed on said Transfer Certificate of Title No. 32744." [1]

Then came a statement of the antecedent facts: "* * * On December 3, 1959 the plaintiff filed the complaint in this case against the defendant Herminia Espiritu, praying among other things: 'a) That pending this suit, a writ of preliminary injunction be issued restraining the defendant, her agents, attorneys, representatives, or any other persons acting in her behalf, to absolutely abstain from further alienating or otherwise disposing of the property described in Paragraph IV hereof and that, after trial, the same be made permanent; 'b) That the defendant be forthwith ordered to execute a deed of absolute conveyance of the said property in favor of Pastor Constantino, Jr., the beneficiary, free from all liens and encumbrances; '* * *.' Upon a motion to dismiss filed by the defendant, the complaint was ordered dismissed on January 8, 1960. A motion to admit amended complaint was filed by the plaintiff on January 12, 1960, but the same was denied on February 1. Appeal was taken by the plaintiff from the second order and after said appeal was found to have been filed out of time, a motion for reconsideration was filed, which was however also denied on March 23. A petition for mandamus was filed before the Supreme Court to compel this Court to approve the record on appeal filed by the plaintiff in this case. (G.R. No. L-16853). This

petition was granted in a decision promulgated on June 29, 1963." [2]

The appealed order then noted the circumstances indicative of bad faith in the cancellation of such lis pendens: "It is alleged that while the mandamus proceeding was still pending before the Supreme Court, the defendant on September 5, 1960 fraudulently and in bad faith caused the cancellation of lis pendens on Transfer Certificate of Title No. 32477 by filing with the Office of the Register of Deeds of Rizal a true copy of the Order dated January 8, 1960, which ordered the dismissal of the complaint, 'Knowing fully well that this case is still pending in this Court by virtue of the mandamus proceeding the plaintiffs filed in the Supreme Court [and] the Register of Deeds of Rizal, without first verifying if the said Order of January 8, 1960 had really become final by requiring the defendant to secure a certificate to that effect from the Clerk of this Court, illegally cancelled from the said certificate of title the lis pendens inscribed thereon under Entry No. 88374, L. P. 478, as follows: * * *,' and thereafter the defendant executed a purported deed of sale of the property in favor of one Nicanor B. Aves on December 31, 1960, as a result of which Transfer Certificate of Title No. 32744 was cancelled and, in lieu thereof, Transfer Certificate of Title No. 82798 was issued in favor of said supposed vendee, * * *. Subsequently, or on January 26, 1961, said Nicanor Aves mortgaged the property in favor of the Philippine Banking Corporation to guarantee the payment of the sum of P30,000.00. These transactions took place while this case was still (and still is) pending by virtue of the petition for mandamus, which was granted in a decision promulgated on June 29, 1963." [3]

The claim of appellant to a clear title was next taken up. Thus: "In answer to the plaintiffs' motion, the vendee, Nicanor B. Aves, admitted being the purchaser of the property but claimed lack of knowledge of the pendency of the litigation between the plaintiffs and the defendant; that he is an innocent purchaser in good faith and for value and that the sale was consummated only after the title which appeared to be clean and free from all liens and encumbrances had been shown to him, and furthermore, after having been assured by the vendor to that effect, that he mortgaged the property as an exercise of ownership and dominion; and, finally, that his title to the property cannot be attacked collaterally in the present motion." [4]

After stating that there was bad faith in the cancellation of such lis pendens, the order of the lower court discussed its legal effect: "The cancellation of the notice of lis pendens is of doubtful validity, considering that its cancellation was based merely on the Order of January 8, 1960 * * *, which is the Order dismissing the original complaint, while there had been subsequent order after said date. Moreover, such cancellation was made not on express order of the Court but only by reason of the dismissal of the Complaint contrary to [law]. Such was not done in the cancellation of the lis pendens in question. The cancellation of the lis pendens was, therefore, improper and illegal." [5] The dispositive portion of such a decision was to declare the cancellation null and void and "to inscribe the same lis pendens on Transfer Certificate of Title No. 82798 [in the name of appellant Nicanor B. Aves]."

Appellant Aves elevated the matter to this Court. He had every reason to. There is, as was pointed out, merit in his appeal. As an innocent purchaser for value, he was well within the mantle of protection that is a distinctive feature of the Torrens system of registration.

1. A notice of lis pendens, it is to be noted, flows from the conclusive character of a decree in land registration cases. That is a basic aspect of the Torrens system as stressed in our decisions, beginning with *Jones vs. The Insular Government*, [6] promulgated in 1906. As set forth in the leading case of *Legarda vs. Saleeby*: [7] "The real purpose of the system is to quiet title of land; to put a stop forever to any question of the legality of the title, except claims which were noted at the time of registration, in the certificate, or which may arise subsequent thereto. That being the purpose of the law, it would seem that once a title is registered the owner may rest secure, without the necessity of waiting in the portals of the courts, or sitting in the 'mirador de su casa,' to avoid the

possibility of losing his land." [8] For such title "accumulates in one document a precise and correct statement of the exact status of the fee held by its owner. The certificate, in the absence of fraud, is the evidence of title and shows exactly the real interest of its owner. The title once registered, with very few exceptions, should not thereafter be impugned, altered, changed, modified, enlarged, or diminished, except in some direct proceeding permitted by law. Otherwise all security in registered titles would be lost." [9] Such a principle applies not only to the holder of the title but to one who buys it from him for value.

The notice of *lis pendens* thus serves a useful purpose. Nothing could be more appropriate, considering the reliance that any person wishing to deal with a holder of a certificate of title could place thereon. If there be anything adverse to the fullness of his rights then, including the pendency of a suit, the title itself would show it. So we have made clear in our decisions from *Sikatuna vs. Guevara*, [10] to *Jose vs. Blue*. [11] An excerpt from the opinion of Justice Zaldivar, speaking for the Court, in *Jose vs. Blue* summarizes the matter neatly: "The notice of *lis pendens* is an announcement to the whole world that a particular real property is in litigation, and serves as a warning that one who acquires an interest over said property does so at his own risk, or that he gambles on the result of the litigation over said property. Since appellant herein bought the land in question with knowledge of the existing encumbrances thereon, she cannot invoke the right of a purchaser in good faith, and she could not have acquired better rights than those of her predecessors in interest." [12]

2. Appellant Aves would impugn the order for not respecting his rights as an innocent purchaser for value. There he is on solid ground. Had lower court yielded deference to controlling decisions of this Court, it would not have decided as it did. For appellant was an innocent purchaser for value. At the time of the sale the title exhibited to him by the seller had this entry: "Entry No. 4756/T-No. 32744 [Cancellation of *Lis Pendens*]: In the order of the Court of First Instance of Rizal, in Case No. 5924, the opposition of plaintiff and the rejoinder of defendant, finding the ground for dismissal being meritorious, the complaint in said Case is dismissed, by virtue of which the *Lis Pendens* inscribed under Entry No. 88374, L. P. 478 is hereby cancelled. Date of the Instrument – Jan. 8, 1960, Date of the inscription – Sept. 5, 1960 – 8:49 a.m. (Sgd) Jose D. Santos, Register of Deeds." [13]

It was Justice Moreland who as far back as 1914 stressed: "The peculiar force of a Torrens title [is brought] into play [if the sale be] to an innocent third person for value." [14] Even a previous sale, according to the same jurist would have "no effect upon a [later] purchase * * * for value and in good faith * * *." [15] The same thought finds expression in a still later opinion of his in these words: "To repeat, the purpose was to give to the person registering, and to his transferee for value, an absolutely clean title, one not subject to hidden defects, to undeveloped or inchoate claims, to any sort of restriction, limitation, or reduction except those [found therein]." [16] There has been no deviation on the part of this Court from such an approach. [17] Only recently in 1967, in *Gestosani vs. Insular Development Co., Inc.*, [18] Justice Dizon, after stressing the incontrovertible and indefeasible character of a title stated: "In the instant case the above doctrine should apply with more reason, considering the fact that the property has passed from the hands of the original registered owner into those of clearly innocent third parties." [19] A restatement of the doctrine in the latest opinion in point, *Maquiling vs. Umadhay*, [20] this time from Justice Makalintal, is illuminating. Thus: "However, while the Umadhay spouses cannot rely on the title, the same not being in the name of their grantor, respondent Crisanta S. Gumban stands on a different footing altogether. At the time she purchased the land the title thereto was already in the name of her vendors (T.C.T. - 15522). She had the right to rely on what appeared on the face of said title. There is nothing in the record to indicate that she knew of any unregistered claims to or equities in the land pertaining to other persons, such as that of herein petitioner, or of any other circumstances which should put her on guard and cause her to inquire behind the certificate. According to the Court of Appeals, 'she took all the necessary precautions to ascertain the true ownership of the property, having engaged the services of a lawyer for the specific purpose and, it was only after said counsel had assured her that everything was in order did she make the final arrangements to

purchase the property.' The appellate court's conclusion that respondent Crisanta S. Gumban was a purchaser in good faith and for value is correct, and the title she has thereby acquired is good and indefeasible." [21]

In the light of the above, the conclusion is fairly obvious that the appealed order cannot stand.

WHEREFORE, the order of the lower court of December 19, 1963 requiring the inscription of the lis pendens on Transfer Certificate of Title No. 82798 in the name of Nicanor B. Aves is reversed. With costs against appellees.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Makasiar, and Antonio, JJ., concur.

Reyes, J.B.L., concurs with J. Barredo.

Teehankee, J., reserves his vote.

Barredo, J., concurs in a separate opinion.

[1] Record on Appeal, pp. 22.

[2] Ibid, pp. 22-24.

[3] Ibid, pp. 24-25.

[4] Ibid, pp. 25-26.

The mortgagee, the Philippine Banking Corporation, appellant Aves having thereafter mortgaged it to guarantee the payment of a loan extended to him, was likewise an oppositor and did also appeal from the order. However, in a motion dated November 7, 1964 it withdrew such appeal and was permitted to do so by a resolution of this Court of November 13, 1964.

[5] Ibid, pp. 27-28.

[6] 6 Phil. 122.

[7] 31 Phil. 590 (1915).

[8] Ibid, p. 593.

[9] Ibid, p. 594. The Legarda decision was cited with approval in the following cases: *Acantilado vs. De Santos*, 32 Phil. 350 (1915); *Altavas vs. Moir*, 36 Phil. 198 (1917); *De los Reyes vs. Razon*, 38 Phil. 480 (1918); *Aquino vs. Director of Lands*, 39 Phil. 850 (1919); *Government of the Phil. Islands vs. Zamora*, 41 Phil. 905 (1920); *Sotto vs. Sotto*, 43 Phil. 688 (1922); *Director of Lands vs. Insa*, 47 Phil. 158 (1924); *Bishop of Cebu vs. Phil. Railway Co.*, 49 Phil. 723 (1926); *Reyes and Nadres vs. Borbon*, 50 Phil. 791 (1927); *El Hogar Filipino vs. Olviga*, 60 Phil. 17 (1934); *Addison vs. Payatas Estate*, 60 Phil. 673 (1934); *Bachrach Motor Co. vs. Kane*, 61 Phil. 504 (1935); *La Urbana vs. Bernardo*, 62 Phil. 790 (1936); *Yumul vs. Rivera*, 64 Phil. 13 (1937); *Seva vs. Nolan*, 64 Phil. 13 (1937); *Director of Lands vs. Gan Tan*, 89 Phil. 184 (1951); *Bacolod-Murcia Milling Co. vs. De Villaruz*, 90 Phil. 154 (1951); *De Jesus vs. Belarmino*, 95 Phil. 365 (1954); *Manila Railroad Co. vs. Luzon Stevedoring Co.*, 100 Phil. 135 (1956) and *Pichay vs. Celestino*, L-18292, May 30, 1967, 20 SCRA 314.

[10] 43 Phil. 371 (1922).

[11] L-28646, Nov. 29, 1971, 42 SCRA 351. Some other cases after *Sikatuna* and before *Blue* follow: *Fetalino vs. Sanz*, 44 Phil. 691 (1923); *Atkins, Kroll and Co. vs. Domingo*, 46 Phil. 362 (1924); *De Gomez vs. Jugo*, 48 Phil. 118 (1925); *Pineda vs. Santos*, 56 Phil. 583 (1931); *Lazaro vs. Mariano*, 59 Phil. 627 (1934) and *Jamara vs. Duran*, 69 Phil. 3 (1939).

[12] Ibid, pp. 360-361.

[13] Exhibit A-1.

[14] Medina vs. Imaz, 27 Phil. 314, 318 (1914).

[15] Tuason vs. Raymundo, 28 Phil. 635, 638 (1914).

[16] De Jesus vs. City of Manila, 29 Phil. 73, 78 (1914).

[17] Cf. De Gomez vs. Jugo, 48 Phil. 118 (1925); Jurado vs. Flores, 79 Phil. 451 (1947); Levin vs. Bass, 91 Phil. 419 (1952); Mirasol vs. Gerechi, 93 Phil. 480 (1953); Avecilla vs. Yatco, 103 Phil. 666 (1958); Aguilar vs. Goagdan, 105 Phil. 661 (1959); Paraiso vs. Camon, 106 Phil. 187 (1959); Tiburcio vs. PHHC, 106 Phil. 477 (1959); Joaquin vs. Madrid, 106 Phil. 1060 (1960); Revilla vs. Galindez, 107 Phil. 480 (1960); Carreon vs. Agcaoili, L-11156, Feb. 23, 1961, 1 SCRA 521; Moldero vs. Yandoc, L-14321, Oct. 20, 1961; Fule vs. De Lagare, L-17951, Feb. 28, 1963, 7 SCRA 351; J.M. Tuason and Co. vs. Vibat, L-18884, May 29, 1963, 8 SCRA 54; and Pichay vs. Celestino, L-18292, May 30, 1967, 20 SCRA 314.

[18] L-21166, Sept. 15, 1967, 21 SCRA 114.

[19] Ibid, p. 124. Cf. Melgar vs. Pagayon, L-22731, Nov. 15, 1967, 21 SCRA 841.

[20] L-25147, May 29, 1970, 33 SCRA 99.

[21] Ibid, pp. 103-104. Cf. Godinez vs. Pelaez, L-18491, Feb. 27, 1971, 37 SCRA 625.

CONCURRING OPINION

BARREDO, J.:

I concur, but I would like to add a few words to the main opinion penned by Mr. Justice Fernando only to meet the argument advanced by appellees that the impugned cancellation of the lis pendens in question "was not on express order of the Court but only by reason of the dismissal of the Complaint contrary to law", which, of course, is untenable.

At the outset, it must be noted that the cancellation of the lis pendens involved here took place on October 8, 1960. The applicable rule then was Section 24 of Rule 7 of the Rules of 1940. That provision did not contain yet the second paragraph now found in Section 24 of Rule 14 of the Rules of 1964 reading as follows:

"The notice of lis pendens hereinabove mentioned may be cancelled only upon the order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded."

It may perhaps be true that even without such an express provision, the decisional rule would have been just the same had an appropriate occasion arisen to warrant a ruling by this Court. Still, to be accurate, the only decisions actually rendered close to the point were in *Victoriano vs. Rovira*, 55 Phil., 1000 and *Municipal Court of Parañaque vs. Court of First Instance*, 70 Phil., 363, wherein the Supreme Court went no further than to hold that the courts have inherent power to order the cancellation of a notice of lis pendens when under the peculiar circumstances of a case, the court believes in the exercise of sound discretion that said cancellation is proper, such as when there is undue delay in the prosecution of the action, unless, as in the case of *Rovira*, the plaintiff files a sufficient bond to answer for damages that might be occasioned to the defendant as a result of the continuance of

the annotation.

The more important consideration, however, is that the case at bar does not refer to a cancellation during the pendency of a litigation but of one done after the action had already been dismissed, albeit said dismissal was subsequently subjected to an appeal ordered given due course only after plaintiff had secured a mandamus from the Supreme Court. In this connection, it must be borne in mind that by its very nature and literally, a notice of lis pendens is a warning only of the pendency of a suit, still pending and undetermined. Naturally, while in that state, it is to be expected that cancellation of the annotation of such pendency may be done only upon express orders of the court after properly hearing the parties concerned.

It is quite another thing already once the action is terminated by dismissal thereof. There are at least two cases already decided by this Court on this point. In the earlier case of *Lazaro vs. Mariano*, 59 Phil., 627, Justice Villareal held for the Court that:

"In view of the foregoing, this Court is of the opinion and so holds: (1) That the order dismissing a civil case, upon petition of the defendant by reason of the plaintiff's failure to appear, is not final and does not constitute *res judicata*, and therefore, not appealable; and (2) that the dismissal of a civil case upon petition of the defendant by reason of the plaintiff's failure to appear, operates as a cancellation of the notation of lis pendens."

In the later case of *Capitol Subdivision, Inc. and Montelibano Subdivision vs. Montelibano and Hojilla*, 109 Phil., 546, Justice Padilla ruled for the Court thus:

"Although an unrecorded sale of a parcel of land registered under the Torrens System is binding upon the parties, yet 'The act of registration shall be the operative act to convey and affect the land * * * ' (Section 50, Act No. 496.) Such being the law any acquired right in a registered land is effective as between and binding upon the parties and their privies but not as to third parties. The sale made of the two lots by the registered owners to Corazon J. Lacson and Marcelino Lalantakan, respectively, not having been registered, such sales do not affect third parties. The lots continue or remain the property of the registered owners. And when the latter are sued by a party concerning or involving or affecting the lots thus sold by the registered owners and the suing party causes a notice of lis pendens to be noted on the back of the certificates of title to the lots sold, such notice cannot be cancelled upon motion of the vendors or vendees predicated upon the fact that the vendees had acquired the lots prior to the noting of the notice of lis pendens. If judgment is rendered in favor of the plaintiffs in the action brought against the registered owners, the unrecorded right acquired by the vendees in the lots sold to them is subject or subordinate to the right of the plaintiffs in whose favor judgment is rendered. If judgment is rendered against the plaintiffs in the action, the notice of lis pendens noted on the certificate of title to the lots loses its efficacy or is ipso facto cancelled." (Italics supplied)

In other words, an express order of cancellation of a notice of lis pendens is necessary only while the case to which it refers is still pending, but the dismissal of said case operates by itself to effect the cancellation of the annotation. In the case at bar, although the notice of cancellation made by the register of deeds seems to give the impression that the Court had ordered the cancellation in question, whereas there was no such order, in legal effect such action of the register of deeds appears to be in accordance with jurisprudence.

It may not be amiss to add here also that there is a pertinent provision of the Land Registration Act reading as follows:

"SEC. 80. At any time after final judgment or decree in favor of the defendant, or other disposition of the action such as to terminate finally all rights of the plaintiff in and to the land and buildings involved, in any case in which a memorandum has been registered as provided in the preceding section, a certificate of the clerk of the court in which the action or proceeding was pending stating the manner of disposal thereof shall be

entitled to registration."

Accordingly, I agree that appellant Aves should be considered as a purchaser in good faith not subject to the legal consequences of the notice of lis pendens in question.

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