

CRISPINA MULFORD AND SUSAN MULFORD, PETITIONERS AND APPELLEES, VS. PHILIPPINE TRUST COMPANY, OPPOSITOR AND APPELLANT.

G.R. No. L-1857. September 20, 1950

Ponente: MORAN, C.J.

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MORAN, C.J.:

This is an appeal from a decision of the Court of First Instance of Rizal (Pasig) acting as a Court of Land Registration.

It appears that on January 17, 1940, J.R. Mulford obtained a loan from the Philippine Trust Company in the amount of P3,000 secured by a mortgage on his property covered by T.C.T. No. 39631 of the Register of Deeds of Rizal.

J.R. Mulford died on October 7, 1942, and the mortgaged property was adjudicated to his heirs, namely, Crispina Mulford, his widow, and Susan Mulford, his daughter. On November 2, 1944, during the Japanese Occupation, Crispina Mulford paid the loan in full, for which receipts were correspondingly issued to her by the Philippine Trust Company. The title, however, was not given to her.

After Liberation, Crispina Mulford asked the Philippine Trust Company for the execution and delivery to her of a deed of cancellation together with the owner's duplicate certificate of title, but said Company refused. Whereupon, Crispina Mulford filed a petition on April 24, 1947, in the Court of Land Registration of Rizal, invoking Section 112 of Act No. 496 (Land Registration Act) in support of her prayer for relief that the Register of Deeds of Rizal be ordered to cancel the annotation of the mortgage appearing on said title and that, in view of the inability of the Philippine Trust Company to produce the owner's duplicate of said title, the same be declared lost and cancelled and that another duplicate in lieu thereof be ordered issued to petitioners Crispina and Susan Mulford. At the hearing of the petition, counsel for the Philippine Trust Company made the following manifestation:

"Your Honor, this representation has no evidence to present except that this Honorable Court can take Judicial notice of the fact that during those times, if you did not accept the Japanese military notes, you will be subject to disciplinary action by the Japanese military administration."

On May 31, 1947; said Court of Land Registration issued an Order granting the petition on the ground that payment of the loan was duly proven and admitted and that the allegation of duress preferred by the Philippine Trust Company was not duly established. A motion for reconsideration which was filed, was also denied. Hence, this appeal.

Appellant makes only one assignment of error, as follows:

"The Lower Court, as a Court of Land Registration, had no Jurisdiction to entertain and grant the ^Petition."

Section 112 of said Act provides in its pertinent portions:

"* * * Any registered owner or other person in interest may at any time apply by petition to the court upon the ground that registered interests of any description, whether vested, contingent, expectant or inchoate, have terminated and ceased; * * * and the court shall have Jurisdiction to hear and determine the petition after notice to all parties in interest, and may order * * * the entry or cancellation of a memorandum upon-a certificate * * *.

Any petition filed under this section * * * should be filed and entitled in the original case in which the decree of registration was entered."

This Court finds that appellant's assignment of error is not meritorious. While it is true that the instant case involves the validity of payments made during the Occupation, yet this question has ceased to be a substantial controversy since it has been definitely settled by this Court in the case of *Haw Pla vs. China Banking Corporation* (G.R. No. L-554, April 9, 1948 45 Off. Gaz Supp. No. 9, p. 229). No proof of duress has been offered by appellant.

Order is affirmed.

Ozaeta, Paras, Pablo, Bengzon, Montemayor, and Reyes, JJ., concur.

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