

SOCORRO C. VDA. DE ARANETA, PETITIONER AND APPELLEE, VS. REHABILITATION FINANCE CORPORATION, OPPOSITOR AND APPELLANT.

G.R. No. L-1438. August 11, 1949

Ponente: BENGZON, J.

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BENGZON, J.:

In December 1946 the administratrix of the estate of the deceased Ramon S. Araneta requested the Court of First Instance of Occidental Negros to order the register of deeds of said province to cancel the mortgage and incidental assignment of sugar annotated on the back of transfer Certificate of Title No. 31593 in the name of Ramon S. Araneta. She alleged in substance that said annotation had been made in March 1940 when said property was mortgaged to the Agricultural and Industrial Bank as security for the payment of a loan in the principal sum of P125,000; that said loan has been fully discharged in August 1944, as shown by the supporting papers; and that the corresponding deed of cancellation which had been executed could not be presented to the court because it was lost in the office of the deceased in Manila during the liberation.

The Agricultural and Industrial Bank replied that the indebtedness had been paid in Japanese military notes on the date mentioned. It prayed, however, that the cancellation be made subject to the provisions of paragraph 1 of Circular No. 14, dated August 25, 1945 of the Secretary of Justice, which reads as follows:

"1. Deeds, documents and other papers executed and/or acknowledged during the Japanese occupation, and filed for registration during or after said occupation, may be registered, if found to comply with the formalities prescribed in the existing laws and regulations; but, as a precautionary measure, the certificates to be issued and or the memoranda to be made on the proper certificates of title, in pursuance of such deeds, documents or papers, shall bear an annotation to the effect that the transaction involved is subject to such further dispositions as may be made by the Commonwealth Government with respect thereto."

The Honorable Buenaventura Cordova, Judge, ordered the cancellation of the mortgage annotation without subjecting the cancellation to the provisions of the aforesaid circular. The Rehabilitation Finance Corporation as successor to the Agricultural and Industrial Bank, after submitting a petition for reconsideration which was denied, appealed to this Court. It insists that the cancellation should be made "subject to such further disposition as may be made by the Commonwealth Government with respect" to transactions made during the Japanese occupation in compliance with the aforesaid departmental circular.

In *Lim v. Register of Deeds*, G. R. No. L-1739, February 3, 1949,[1] we passed upon a similar situation. We upheld the intention that cancellation of mortgages paid during the Japanese occupation need not be subject to the conditions stated in the circular herein mentioned. We said:

"There is no doubt that the above-quoted annotation in the deed of cancellation of the mortgage would be an incumbrance on the title or a charge on the property of the petitioners, because it would make the title to the property subject to any action which the government may take on the validity of the payments made with

Japanese War Notes, so that in case the Government, through Congress or the Supreme Court of the Philippines, declares those payments invalid the property would have to continue as a security for the payment of the mortgage obligation.

"According to Sec. 39 of Act No. 496, as amended, every subsequent purchaser of a registered land under the Torrens System who takes a transfer certificate of title for value in good faith, shall hold the same free of all incumbrance, except those noted on the certificate and any of the legal incumbrances enumerated in said section. It is obvious, and of judicial notice, that such incumbrance was not and could not have been noted on the transfer certificate of title No. 21783 nor on the deed of cancellation of the mortgage executed by the Agricultural and Industrial Bank on June 5, 1944, and filed for registration on October 3, 1944, which were lost or destroyed during the liberation according to Annex A, above quoted. Therefore, the Secretary of Justice had no power or authority to order or direct, by Circular No. 14, series of 1945, the respondent Register of Deeds to insert such annotation, and reciprocally the latter is not bound to comply with such instruction.

"Under Sec. 79 (B) of the Administrative Code the Secretary of Justice is only empowered to promulgate rules, regulations, orders, circulars and other instructions not contrary to law, to all offices and dependencies of his department; and compliance with the instruction in question would be contrary to the Constitution, for it would impair the obligations of contract or deprive a person of his property without due process of law. It can not be contended that the Secretary of Justice issued said circular in the exercise of the police power of the State, because Congress has not delegated such power to the Secretary of Justice. The sovereign police power is exercised by the State through its legislative branch; and its valid exercise may be and are, generally, delegated to towns, municipalities, and cities, and sometimes also to the Chief Executive in case of national emergency. (*Primicias v. Fugoso*, G. R. No. L-1800, promulgated January 27, 1948.)^[1] But is it a well settled rule that a legislative power delegated to a body or person cannot be delegated by the latter to another.

"But even if the annotation in question were not an incumbrance, and the Secretary of Justice had power to issue the aforesaid circular No. 14, such annotation would have no longer any effect and, therefore, the insertion thereof in documents relating to transactions consummated during the Japanese occupation would not serve any purpose, in view of the ruling laid down by this Supreme Court in the case of *Haw Pia vs. China Banking Corporation*, G. R. No. L-554;^[2] *Hongkong and Shanghai Banking Corporation vs. Luis Perez Samanillo*, G. R. No. L-1345,^[3] in which it was held that payments made with Japanese war notes during the occupation of obligations contracted before the war to the creditor or his legal representative, and accepted by the latter, are valid and release the said obligations. Philippine Congress having not enacted any act on the matter, the ruling of this Court in the cases aforementioned is the disposition adopted by our government regarding transactions consummated during the Japanese occupation, to which said annotation refers."

"Wherefore, the appealed order will be affirmed, with costs.

Moran, C.J., Paras, Feria, Perfecto, Padilla, and Reyes, JJ., concur.

Tuason, J., concurs in the result.

[1] 82 Phil., 789.

[1] 80 Phil., 77.

[2] 80 Phil., 604.

[3] Phil., 851, unreported.

CONCURRING AND DISSENTING

OZAETA, J.:

I concur in the affirmance of the order appealed from for the reason that it has now been definitely decided by this court in *Haw Pia vs. China Banking Corporation*, G. R. No. L-554, and other subsequent cases that payments made with Japanese military notes during the occupation of obligations contracted before the war to the creditor or his legal representative, and accepted by the latter, are valid and release the said obligations.

I dissent from the decision of the majority insofar as it relies upon the opinion, or rather dictum, of this court in *Lim vs. Register of Deeds*, G. R. No. L-1739, that the Secretary of Justice had no power or authority to issue Circular No. 14, dated August 25, 1945, quoted in the majority decision. That opinion holds in effect that the Secretary of Justice issued the circular in question without authority of law, and even contrary to law. In justice to former Secretary of Justice Honorable Ramon Quisumbing who issued said circular, and in view of the fact that because of my absence from the Philippines I was not able to participate in the decision of *Lim vs. Register of Deeds*, I avail myself of this opportunity to show that said circular was necessary, proper, and legal.

Before the promulgation of the decision of this court in *Haw Pia vs. China Banking Corporation* on April 9, 1948, nobody knew—not even the members of this Court—whether or not payments made with Japanese war notes during the occupation of obligations contracted before the war were valid and released the said obligations. That question was one of the most vexing problems confronting the Government after the liberation. It could only be resolved either by the Congress of the Philippines or by the Supreme Court. A bill defining the policy of the Government on that question was presented in Congress in one of its postliberation sessions.

In the meantime, mortgagors who had paid their prewar debts with Japanese military notes during the occupation were demanding of the various registers of deeds throughout the country the registration of the cancellation of their mortgages. The mortgagees, on the other hand, were opposing the registration of the cancellation of the mortgages on the ground that the payment with Japanese military notes was not valid. If the register of deeds should cancel outright the annotation of the mortgage before either the Congress or the Supreme Court should finally determine whether or not such payments were valid, the mortgage would have suffered injury in case it should be decided that such payments were invalid, because once the encumbrance on the mortgaged property had been cancelled outright the owner could have freely disposed of the property.

In that situation Secretary Quisumbing, by Circular No. 14, instructed the registers of deeds to register deeds, documents, and other papers executed during the Japanese occupation and filed for registration during or after said occupation, if found to comply with the formalities prescribed by existing laws and regulations; "but, as a precautionary measure, the certificates to be issued and/or the memoranda to be made on the proper certificates of title, in pursuance of such deeds, documents, or papers, shall bear an annotation to the effect that the transaction involved is subject to such further dispositions as may be made by the Commonwealth Government with respect thereto."

In its decision in *Lim vs. Register of Deeds*, the Court admits that under section 79 (B) of the Administrative Code the Secretary of Justice is empowered to promulgate rules, regulations, orders, circulars, and other instructions not contrary to law, to all offices and dependencies of his Department. I know of no law that has been infringed by that circular. On the contrary I find that such a cautionary notice as that contemplated in the circular is authorized by article 42 of the Mortgage Law when a question as to the ownership of real property or the creation, declaration, modification, or extinction of any property right is sub judice.

The argument of the Court that compliance with the circular would be contrary to the Constitution, for it would

impair the obligation of contracts or deprive a person of his property without due process of law, is not only farfetched but begs the very question involved in the issuance of said circular. The purpose of the cautionary notice required by the circular was to preserve the rights of the parties until the validity of the document sought to be registered was finally determined. The argument assumes the validity of the document or contract sought to be registered and ignores the fact that it was disputed and that the dispute was precisely what gave rise to the issuance of the circular. As a matter of fact the dispute was not settled until the promulgation of the decision of this court in the Haw Pia case three years later.

In any event, it was not necessary for the Court to pass upon the validity of the circular of the Secretary of Justice because that circular had ceased to have any force and effect since the promulgation of the decision in the Haw Pia case. The Court itself said that "even if ... the Secretary of Justice had power to issue the aforesaid Circular No. 14," it would no longer have any effect "in view of the ruling laid down by this Supreme Court in the case of Haw Pia vs. China Banking Corporation, G. R. No. L-554.[1]"

MONTEMAYOR, J.:

I concur in the foregoing opinion.

[1] 80 Phil., 604.

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