

PHILIPPINE SAVINGS BANK, PETITIONER, VS. HON. GREGORIO T. LANTIN, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH VII, AND CANDIDO RAMOS, RESPONDENTS.

G.R. No. L-33929. September 02, 1983

Ponente: GUTIERREZ JR., J.

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GUTIERREZ JR., J.:

This is a petition for review of the decision of the Court of First Instance of Manila, Branch VII, presided over by respondent Judge Gregorio T. Lantin, in Civil Case No. 79914 entitled *Candido Ramos v. Philippine Savings Bank* and of the order denying a motion for its reconsideration. The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the defendant to pay the plaintiff the sum of P15,000.00 as his pro-rata share in the value of the duplex-apartment house which was built by the plaintiff for the spouses Filameno Tabligan and Socorro Espiritu, which is now registered in the name of the defendant under Transfer Certificate of Title No. TCT 101864 issued by the Register of Deeds of the City of Manila, on August 6, 1970, with legal interest from the date of the filing of the complaint until fully paid; to pay the sum of P500.00 as attorney's fees; and to pay the costs.

"The counterclaim interposed by the defendant is hereby dismissed."

Involved in this case is a duplex-apartment house on a lot covered by TCT No. 86195 situated at San Diego Street, Sampaloc, Manila, and owned by the spouses Filomeno and Socorro Tabligan.

The duplex-apartment house was built for the spouses by private respondent. Candido Ramos, a duly licensed architect and building contractor, at a total cost of P32,927.00. The spouses paid private respondent the sum of P7,139.00 only. Hence, the latter used his own money, P25,788.50 in all, to finish the construction of the duplex-apartment.

Meanwhile, on December 16, 1966, February 1, 1967, and February 28, 1967, the spouses Tabligan obtained from petitioner Philippine Savings Bank three (3) loans in the total amount of P35,000.00, the purpose of which was to complete the construction of the duplex-apartment. To secure payment of the loans, the spouses executed in favor of the petitioner three (3) promissory notes and three (3) deeds of real estate mortgages over the property subject matter of this litigation.

On December 19, 1966, the petitioner registered the December 16, 1966 deed of real estate mortgage with the Register of Deeds of Manila. The subsequent mortgages of February 1, 1967, and February 28, 1967, were registered with the Register of Deeds of Manila on February 2, 1967 and March 1, 1967, respectively. At the time of the registration of these mortgages, Transfer Certificate of Title No. 86195 was free from all liens and encumbrances.

The spouses failed to pay their monthly amortizations. As a result thereof, the petitioner bank foreclosed the mortgages, and at the public auction held on July 23, 1969, was the highest bidder.

On August 5, 1969, the petitioner bank registered the certificate of sale issued in its favor. On August 9, 1970, the bank consolidated its ownership over the property in question, and Transfer Certificate of Title No. 101864 was issued by the Register of Deeds of Manila in the name of the petitioner bank.

Upon the other hand, the private respondent filed an action against the spouses to collect the unpaid cost of the construction of the duplex-apartment before the Court of First Instance of Manila, Branch I, which case was docketed therein as Civil Case No. 69228. During its pendency, the private respondent succeeded in obtaining the issuance of a writ of preliminary attachment, and pursuant thereto, had the property in question attached. Consequently, a notice of adverse claim was annotated at the back of Transfer Certificate of Title No. 86195.

On August 26, 1968, a decision was rendered in Civil Case No. 69228 in favor of the private respondent and against the spouses. A writ of execution was accordingly issued but was returned unsatisfied.

As the spouses did not have any properties to satisfy the judgment in Civil Case No. 69228, the private respondent addressed a letter to the petitioner for the delivery to him (private respondent) of his pro-rata share in the value of the duplex-apartment in accordance with Article 2242 of the Civil Code. The petitioner refused to pay the pro-rata value prompting the private respondent to file the instant action. As earlier stated, a decision was rendered in favor of the private respondent.

The parties are agreed that the only issue is whether or not the private respondent is entitled to claim a pro-rata share in the value of the property in question. The applicable provision, Article 2242 of the Civil Code, reads as follows:

"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:

"(1) Taxes due upon the land or building;

"(2) For the unpaid price of real property sold, upon the immovable sold;

"(3) Claims of laborers, masons, mechanics and other workmen, as well as of architects, engineers and contractors, engaged in the construction, reconstruction or repair of buildings, canals or other works, upon said buildings, canals or other works;

"(4) Claims of furnisher of materials used in the construction, reconstruction, or repair of buildings, canals or other works upon said buildings, canals or other works;

"(5) Mortgage credits recorded in the Registry of Property, upon the real estate mortgaged;

"(6) Expenses for the preservation or improvement of real property when the law authorizes re-imbursement, upon the immovable preserved or improved;

"(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;

"(8) Claims of co-heirs for warranty in the partition of an immovable among them, upon the real property thus divided;

"(9) Claims of donors of real property for pecuniary charges or other conditions imposed upon the donee, upon the immovable donated;

"(10) Credits of insurers upon the property insured, for the insurance premium for two years."

Both the petitioner bank and private respondent Ramos rely on the case of *De Barretto v. Villanueva* (6 SCRA 928).

The petitioner bank would impress upon this Court that the proceedings had before the court below is not one of the proceedings contemplated in the De Barretto case that will sustain the authority of the respondent court to adjudicate the claims of all preferred creditors under Article 2242 of the Civil Code. Petitioner argues that for Article 2242 of the Civil Code to apply, there must have been an insolvency proceeding or other liquidation proceedings of similar import. And under the facts then obtaining, there could have been no insolvency proceeding as there were only two known creditors.* Consequently, it is argued that private respondent's unpaid contractor's claim did not acquire the character of a statutory lien equal to the petitioner's registered mortgage.

Upon the other hand, private respondent Ramos maintains that the proceedings had before the court below can qualify as a general liquidation of the estate of the spouses Tabligan because the only existing property of said spouses is the property subject matter of this litigation.

Concurrence of credits occurs when the same specific property of the debtor or all of his property is subjected to the claims of several creditors. The concurrence of credits raises no questions of consequence where the value of the property or the value of all assets of the debtor is sufficient to pay in full all the creditors. However, it becomes material when said assets are insufficient for then some creditors of necessity will not be paid or some creditors will not obtain the full satisfaction of their claims. In this situation, the question of preference will then arise, that is to say who of the creditors will be paid ahead of the others. (Caguioa Comments and Cases on Civil Law, 1970 ed., Vol. VI, 472.)

Under the system established by Article 2249 of the Civil Code of the Philippines, only taxes and assessments upon immovable property enjoy absolute preference. All the remaining specified classes of preferred creditors under Article 2242 enjoy no priority among themselves. Their credits shall be satisfied pro-rata, i.e., in proportion to the amount of the respective credits.

Under the De Barretto decision, the full application of Articles 2242 and 2249 demands that there must first be some proceeding where the claims of all the preferred creditors may be bind-ingly adjudicated, such as insolvency, the settlement of a decedent's estate under Rule 87 of the Rules of Court, or other liquidation proceedings of similar import.

The pertinent ruling reads:

"Thus, it becomes evident that one preferred creditor's third-party claim to the proceeds of a foreclosure sale (as in the case now before us) is not the proceeding contemplated by law for the enforcement of preferences under Article 2242, unless the claimant were enforcing a credit for taxes that enjoy absolute priority. If none of the claims is for taxes, a dispute between two creditors will not enable the Court to ascertain the pro rata dividend corresponding to each because the rights of the other creditors likewise enjoying preference under Article 2242 can not be ascertained. Wherefore, the order of the Court of First Instance of Manila now appealed from, decreeing that the proceeds of the foreclosure sale be apportioned only between appellant and appellee, is incorrect and must be reversed.

"In the absence of insolvency proceedings (or other equivalent general liquidation of the debtor's estate), the conflict between the parties now before us must be decided pursuant to the well established principle concerning registered lands; that a purchaser in good faith and for value (as the appellant concededly is) takes registered property free from liens and encumbrances other than statutory liens and those recorded in the certificate of title. There being no insolvency or liquidation, the claim of the appellee, as unpaid vendor, did not acquire the character and rank of a statutory lien co-equal to the mortgagee's recorded encumbrance, and must remain subordinate to the latter."

The resolution of this petition, therefore, hinges on the determination of whether an insol-vency proceeding or other liquidation proceeding of similar import may be considered to have been conducted in the court below.

The respondent court ruled in the affirmative holding that:

"There were no known creditors, other than the plaintiff and defendant herein, and the proceedings in the present case may ascertain and bindingly adjudicate the respective claims of the plaintiff and the defendant, serving as a substantial compliance with what the Supreme Court stated:

"x x x it is thus apparent that the full application of Articles 2242 and 2249 demands that there must be first some proceeding where the claims of all the preferred creditors may be bindingly adjudicated, such as insolvency, the settlement of a decedent's estate under Rule 87 of the Rules of Court, or other liquidation proceedings of similar import. (de Barretto v. Villanueva, et al., G.R. No. L-14938, December 29, 1962)."

A careful consideration of this petition leads us to agree with the petitioner. The conclusions of the lower court are not supported by the law and the facts.

The proceedings in the court below do not partake of the nature of insolvency proceedings or settlement of a decedent's estate. The action filed by Ramos was only to collect the unpaid cost of the construction of the duplex apartment. It is far from being a general liquidation of the estate of the Tabligan spouses.

Insolvency proceedings and settlement of a decedent's estate are both proceedings in rem which are binding against the whole world. All persons having interest in the subject matter involved, whether they were notified or not, are equally bound. Consequently, a liquidation of similar import or "other equivalent general liquidation" must also necessarily be a proceeding in rem so that all interested persons whether known to the parties or not may be bound by such proceeding.

In the case at bar, although the lower court found that "there were no known creditors other than the plaintiff and the defendant herein", this can not be conclusive. It will not bar other creditors in the event they show up and present their claims against the petitioner bank, claiming that they also have preferred liens against the property involved. Consequently, Transfer Certificate of Title No. 101864 issued in favor of the bank which is supposed to be indefeasible would remain constantly unstable and questionable. Such could not have been the intention of Article 2243 of the Civil Code although it considers claims and credits under Article 2242 as statutory liens. Neither does the De Barretto case sanction such instability. It emphasized the following:

"We are understandably loath (absent a clear precept of law so commanding) to adopt a rule that would undermine the faith and credit to be accorded to registered Torrens titles and nullify the beneficial objectives sought to be obtained by the Land Registration Act. No argument is needed to stress that if a person dealing with registered land were to be held to take it in every instance subject to all the fourteen preferred claims enumerated in Article 2242 of the new Civil Code, even if the existence and import thereof can not be ascertained from the records, all confidence in Torrens titles would be destroyed, and credit transactions on the faith of such titles would be hampered, if not prevented, with incalculable results. Loans on real estate security would become aleatory and risky transactions, for no prospective lender could accurately estimate the hidden liens on the property offered as security, unless he indulged in complicated, tedious investigations. The logical result might well be a contraction of credit to unforeseeable proportions that could lead to economic disaster.

"Upon the other hand, it does not appear excessively burdensome to require the privileged creditors to cause their claims to be recorded in the books of the Register of Deeds should they desire to protect their rights even outside of insolvency or liquidation proceedings."

In fact, an annotation, as suggested above, would inure to the benefit of the public, particularly those who may subsequently wish to buy the property in question or who have a business transaction in connection therewith. It would facilitate the enforcement of a legal statutory right which cannot be barred by laches. (See Manila Railroad Co. v. Luzon Stevedoring Co., 100 Phil. 135).

Respondent Ramos admitted in the partial stipulation of facts submitted by both parties that at the time of the loans to the spouses, the petitioner bank had no actual or constructive knowledge of any lien against the property in question. The duplex apartment house was built for P32,927.00. The spouses Tagliban borrowed P35,000.00 for the construction of the apartment house. The bank could not have known of any contractor's lien because, as far as it was concerned, it financed the entire construction even if the stated purpose of the loans was only to "complete" the construction.

Since the action filed by the private respondent is not one which can be considered as "equivalent general liquidation" having the same import as an insolvency or settlement of the decedent's estate proceeding, the well established principle must be applied, that a purchaser in good faith and for value takes registered land free from liens and encumbrances other than statutory liens and those recorded in the Certificate of Title. It is an admitted fact that at the time the deeds of real estate mortgage in favor of the petitioner bank were constituted, the transfer certificate of title of the spouses Tagliban was free from any recorded lien and encumbrances, so that the only registered liens in the title were deeds in favor of the petitioner.

Prescinding from the foregoing, the private respondent's claim must remain subordinate to the petitioner bank's title over the property evidenced by TCT No. 101864.

WHEREFORE, the petition is granted. The decision of the Court of First Instance of Manila, Branch VII is, hereby, reversed and set aside. The complaint and the counterclaim are dismissed.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

* Section 20 of the Insolvency Law provides that the adjudication of insolvency must be made on the petition of three or more creditors.

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