

ASSOCIATED INSURANCE & SURETY CO., INC., PETITIONER AND APPELLANT, VS. REGISTER OF DEEDS OF PAMPANGA, RESPONDENT AND APPELLEE.

G. R. No. L-11932. January 30, 1959

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On May 19, 1956, the Court of First Instance of Manila, issued a writ of execution to enforce a judgment rendered in Civil Case No. 26035, entitled Associated Insurance & Surety Co., Inc. vs. Jose L. Manuel, et al., for recovery of the sum of P7,044.22, with interest at the rate of 127 per annum from April 5, 1955, plus attorney's fees and costs of action. Acting on said writ, the Provincial Sheriff of Pampanga filed with the Register of Deeds the necessary notice of levy upon the property of Pedro Barin, one of the defendants in said case, which is covered by Transfer Certificate of Title No. 11449, said notice stating expressly that since the property was subject to a mortgage lien in favor of the Rehabilitation Finance Corporation the levy would be subordinated to the preferential right of said corporation.

In answer to the notice, the Register of Deeds informed the sheriff that the registration of the levy could not be made because, under the provisions of Commonwealth Act No. 459, Section 26, a property subject to mortgage in favor of the defunct Agricultural and Industrial Bank, which was succeeded by the Rehabilitation Finance Corporation, cannot be subject to attachment unless the encumbrance shall have first been fully paid. Not agreeable to this opinion, the judgment creditor elevated the matter to the Land Registration Commission by way of con suit a and on November 12, 1956 said Commission issued a resolution upholding the ruling of the Register of Deeds. In due time, the judgment creditor interposed the present appeal.

The Land Registration Commission in upholding the ruling of the Register of Deeds of Pampanga invoked the provisions of Section 26 of Commonwealth Act No. 459, which reads:

"Securities on loans granted by the Agricultural and Industrial Bank shall not be subject to attachment nor can they be included in the property of the insolvent persons or institutions, unless all debts and obligations of the debtor to the Agricultural and Industrial Bank have been previously paid, including accrued interest, collection expenses, and other charges."

It would appear that any security on a loan granted by the Agricultural and Industrial Bank, which under Section 9 of Republic Act No. 85 was succeeded by the Rehabilitation Finance Corporation, is declared exempt from attachment unless the loan shall have been previously paid, including accrued interest, collection expenses and other charges. The idea is to free the property from any other encumbrance to protect the investment of the Government in the aforesaid financial institution. While the law merely makes reference to attachment, it may be said that the term embraces levy on execution or any other encumbrance, unless the same is created with the consent of that institution. A different interpretation would defeat the very purpose of the law which is to maintain unhampered the value of the property until the encumbrance shall have been released.

It is true that Section 12 of Rule 39 enumerates the properties that are declared exempt from execution and a property mortgaged to the Rehabilitation Finance Corporation is not one of them, but it should be noted that said Section 12 contains the following qualification: "except as otherwise expressly provided by law." And Section 26 of Commonwealth Act No. 459, quoted above, can be considered as an exception to the rule. We therefore find correct the ruling made by the Land Registration Commission.

Wherefore, the resolution appealed from is hereby affirmed, with costs against appellant.

Paras, C.J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J.B.L., and Endencia, JJ., concur.

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