

FRANCISCO COLLEGE, INC., PETITIONER AND APPELLEE, VS. TOMAS P. PANGANIBAN, ET AL., OPPOSITORS AND APPELLANTS.

G.R. No. L-12758. November 28, 1959

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal from an order of the Court of First Instance of Manila directing the cancellation of the annotation of a deed of sale on the back of Transfer Certificate of Title No. 38606.

On February 5, 1957, Francisco College, Inc. filed a petition before the court a quo alleging that Jose J. Francisco was the owner of a parcel of land containing an area of 260 sq. m., more or less, with the building and improvements thereon, situated in the City of Manila, and covered by Transfer Certificate of Title No. 9865; that Francisco mortgaged the property to the Rehabilitation Finance Corporation and because he failed to comply with the conditions of the mortgage, the same was foreclosed and the property sold at public auction on April 12, 1950 to the Rehabilitation Finance Corporation as the highest bidder; that on July 13, 1951, the Register of Deeds issued to said corporation Transfer Certificate of Title No. 26609 free from any lien or encumbrance; that on February 17, 1955, petitioner bought the property from the Rehabilitation Finance Corporation for the sum of P62,000.00 and the Register of Deeds issued in its favor Transfer Certificate of Title No. 38606 also free from any lien or encumbrance; that on account of an alleged tax sale made by the city treasurer on August 4, 1949 in favor of Luciano L. Tapia and Tomas P. Panganiban of the same property allegedly owned by Jose Urrutia Francisco for the latter's failure to pay the taxes thereon for the years 1945, 1946 and 1947, the Register of Deeds of Manila demanded from petitioner its owner's duplicate transfer certificate of title and inscribed thereon the alleged sale of the property made by the said treasurer; and on February 5, 1957, petitioner filed the instant petition praying for the cancellation of the annotation above referred to.

On March 4, 1957, Luciano L. Tapia and Tomas P. Panganiban filed a written opposition alleging that the property in question belonged to Jose Urrutia Francisco; that due to his failure to pay taxes for the year 1945, 1946 and 1947, the property was sold at public auction on February 14, 1948 by the City Treasurer of Manila, the same having been adjudicated to oppositors for the sum of P276.00, and that upon failure of Francisco to redeem the property within one year, the city treasurer executed on August 4, 1949 a final deed of sale in favor of oppositors, which sale has become final and irrevocable.

On March 7, 1957, the court, overruling the opposition, ordered the cancellation of the annotation in question on the back of Transfer Certificate of Title No. 38006. Oppositors filed a motion for reconsideration, and when the same was denied, they interposed the present appeal. The first point raised by oppositors is that the trial court erred in not dismissing the petition for the reason that their opposition raises a controversial question which cannot be acted upon by it in its capacity as land registration court under Section 112 of the Land Registration Act in view of its special and limited jurisdiction.

The contention is untenable for the simple reason that the issue involved herein is not one-of ownership but

merely; of priority of the sales made covering the same property which is covered by a Torrens Title. The purpose of the petition is merely to ask for the cancellation of the annotation made on the back of petitioner's certificate of title of the deed of sale made in favor of oppositors by the City Treasurer of Manila it being alleged that petitioner bought said property from its original owner in good faith and for value free from any lien or encumbrance of any nature. And this can be determined by a cursory examination of the pleadings in relation to the law and jurisprudence on the matter. The trial court made a correct evaluation of the equities, of the parties when on this matter it made the following pertinent consideration:

"It appearing indisputably from the pleadings of both parties that the registration of the final deed of tax sale in question in the Office of the Register of Deeds was subsequent to the issuance of Transfer Certificate of Title No. 38606 in favor of the petitioner; this Court can find no valid reason to subject or subordinate the title, right and interests of the petitioner over said property, to such final deed of tax sale. Under the provisions of the Land Registration Act, he who is first in time is preferred in right. (Martinez de Gomez vs. Hugo, 48 Phil. 118.) Moreover Section 39 of said Act, provides, among other things, that every subsequent purchaser of registered land who takes certificate of title for value in good faith shall hold the same free of all encumbrances except those noted on said title. In the instant case, when the title of the petitioner was issued, it was free of the annotation of the final deed of tax sale in favor of the oppositors. Unless, therefore, the oppositors can positively prove otherwise in an independent action the herein petitioner is legally presumed to have acquired the property described in Transfer Certificate of Title No. 38606 for value in good faith and by law is entitled to hold the same free from such annotation of the final deed of sale."

It is true that the taxes for which the property was sold by the City Treasurer of Manila were for the years 1945, 1946 and 1947 and the property was sold at public auction on February 14, 1948 and therefore are of a nature that create a statutory lien which need not be registered to be binding upon third persons, but it is likewise true that oppositors did not register their deed of sale until June 16, 1955, or months after Transfer Certificate of Title No. 38606 was issued in favor of petitioner. We should bear in mind that there is a difference between a statutory lien established by law to protect a tax claim and the right of the purchaser of property sold to satisfy the lien insofar as its effect and validity on a subsequent purchaser is concerned, for while a statutory lien need not be registered, the sale of registered-land to foreclose a tax lien need be registered to be considered preferred. This is the issue squarely decided by this Court in the case of Metropolitan Water District vs. Reyes, 74 Phil., 142, from which we quote:

"Is it necessary to register a tax sale of real property covered by a Torrens Title to affect said property insofar as third persons are concerned? Respondent contends that since he bought the property at the foreclosure of a tax lien thereon and since by virtue of section 39 of Act No. 496 a tax lien does not have to be registered, it was not necessary for him to register his certificate of sale in order to affect third persons. Such contention fails to distinguish the lien itself from the foreclosure thereof. It is not necessary to register a tax lien because it is automatically registered, once, the tax accrues, by virtue of section 89, which expressly provides that every person receiving a certificate of title in pursuance of a decree of registration and every subsequent purchaser of registered land who takes a certificate of title for value in good faith shall hold the same free of all encumbrance except those noted on said certificate and any of the following incumbrances which may be subsisting: '* * * taxes within two years after the same became due and payable * * *.' But there is no provision of law to the effect that the sale of registered land to foreclose a tax lien need not be registered. On the contrary, section 77 of Act No. 496 specifically provides (insofar as it is pertinent here) that whenever registered land is sold for taxes or for any assessment, any officer's return, or any other instrument made in the course of proceedings to enforce such liens shall be filed and registered in the registration book, and a memorandum made upon the proper certificate, in each case, as an adverse claim or incumbrance. Section 50 also expressly provides that the act of registration shall be the operative act to convey and affect the land."

It appearing that petitioner bought and registered the property in question from its original owner free from any

lien or encumbrance, and oppositors registered their deed of sale concerning the same properly subsequent thereto, even if the property was sold for taxes within two years after the same become due and payable, it follows that the deed of sale of oppositors cannot be deemed preferred over that of petitioner, and therefore the trial court did not err in ordering the cancellation of the annotation of said sale on the back of Transfer Certificate of Title No. 38606. As this Court said in the Metropolitan Water District case: "It is clear therefore that the tax sale made by the City Treasurer to the respondent on May 4, 1937 did not bind the land and did not affect the petitioner until it was registered on November 8, 1988" (*Italics supplied.*)

Wherefore, the order appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Labrador, Endencia, Barrera, and Gutierrez David, JJ., concur.

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