

**SANTIAGO SYJUCO, INC., PETITIONER AND APPELLANT, VS.
PHILIPPINE NATIONAL BANK AND JOSE PONCE DE LEON,
OPPOSITORS AND APPELLEES.***G.R. No. L-1597. May 05, 1950*

Ponente: MONTEMAYOR, J.

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The facts pertinent to an understanding of this case may be briefly stated as follows:

For several years prior to June 16, 1944, the two parcels of land known as lots Nos. 871 and 872 of the Murcia Cadastre (Cad. Case No. 6, G.L.R.O. Cad. Rec. No. 73), were covered by Transfer Certificates of Title Nos. 17176 and 17175, respectively, of the office of the Register of Deeds of Occidental Negros, in the name of the Philippine National Bank. On May 5, 1944, the bank sold the said two lots to Jose L. Ponce de Leon. On the same date, De Leon mortgaged the same lots to Santiago Syjuco, Inc., a domestic corporation, to guarantee the payment of a loan of P200,000, evidenced by a promissory note for the same amount. The promissory note provided that the loan shall be payable "within one year from May 5, 1948 * * * peso for peso in the coin or currency of the Government of the Philippines that, at the time of payment above fixed, is the legal tender for public and private debts, with interest at the rate of 6% per annum". The deed of sale executed by the Philippine National Bank in favor of De Leon, as well as the mortgage executed by the latter in favor of Santiago Syjuco, Inc., were registered in the office of the Register of Deeds of Negros Occidental on June 16, 1944, resulting in the cancellation of Transfer Certificates of Title Nos. 17175 and 17176, the issuance of new Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) in the name of Jose L. Ponce de Leon, and with the mortgage in favor of Santiago Syjuco, Inc. duly annotated on the backs thereof. The corresponding owner's duplicate transfer certificates of title were, by agreement of the parties, entrusted to and kept by Santiago Syjuco, Inc., and are still with it.

During the fight for the liberation of the Philippines, the original records of the transactions above described, filed in the office of the Register of Deeds of Negros Occidental, were destroyed⁵ but, as already stated, the duplicate originals of the said records were preserved by Santiago Syjuco, Inc.

On May 15, 1946, Jose L. Ponce de Leon filed a verified petition in the Court of First Instance of Negros Occidental, alleging that the two lots in question, Nos. 871 and 872, were still covered by Transfer Certificates of Title Nos. 17176 and 17175, respectively; that the registered owner, Philippine National Bank, had executed in his favor a deed of absolute sale, but that copies of said deed of sale, together with the corresponding owner's duplicate Transfer Certificates of Title Nos. 17176 and 17175, were lost in his possession as a consequence of the last war; that the originals of the aforementioned transfer certificates of title were also destroyed in the office of the Register of Deeds; that he desired to reconstitute both the original and the owners duplicate Transfer Certificates of Title Nos. 17175 and 17176 on the bases of Transfer Certificate; of Title Nos. 1663 and Original Certificate of Title No. 8363, from which the said titles had been taken, and he asked the court to issue an order authorizing the Register of Deeds to make the reconstitution, and that, once reconstituted, to order the said

Register of Deeds to cancel said Transfer Certificates of Title Nos. 17176 and 17175, and issue new transfer certificates of title in his favor.

At first, the court wanted to order the publication of the said petition for the information of interested parties. De Leon, however, assured the Court that the only possible interested party was the Philippine National Bank and said entity had already given its conformity to his petition. Because of this assurance, and because the petitioner had informed the court of a supposed practice followed by the Court of First Instance of Rizal in similar cases where publication of petitions for reconstitution was not required, the Court of First Instance of Negros Occidental dispensed with the publication and issued an order dated June 4, 1946 directing the Register of Deeds to make the reconstitution applied for, and after said reconstitution, to issue in favor of the petitioner the corresponding new transfer certificates of title. De Leon served no notice of his petition on Santiago Syjuco, Inc.

Complying with the order of the Court, the Register of Deeds of Occidental Negros, on June 17, 1946, issued Transfer Certificates of Title Nos. 1297-R and 1298-R as reconstituted titles or in lieu of Transfer Certificates of Title Nos. 17175 and 17176, respectively, and, after cancelling these new titles, issued in their stead Transfer Certificates of Title Nos. 526-N and 527-N in the name of Jose L. Ponce de Leon. All these four titles (Nos. 1297-R, 1298-R, 526-N and 527-N) carried on their face the following caveat:

"This reconstitution is subject to claim by third parties whose rights was duly noted on the original of the certificate of title at the time of its loss or destruction, but for any reason has not been, noted on the reconstituted title."

On August 16, 1946, Jose L. Ponce de Leon executed a deed of mortgage on the two above-mentioned lots in favor of the Philippine National Bank to guarantee a loan of P135,000, which deed was duly registered and annotated on the backs of Transfer Certificates of Title Nos. 526-N and 527-N.

Upon learning of the reconstitution and of the subsequent issuance of new transfer certificates of title, as well as the execution of the deed of mortgage in favor of the Philippine National Bank, covering said Lots Nos. 871 and 872, Santiago Syjuco, Inc. initiated the present proceedings by filing a petition on September 14, 1946, in the Court of First Instance of Negros Occidental, calling attention to the misrepresentations made by Jose L. Ponce de Leon,—to the effect that the two lots in question were still covered by Transfer Certificates of Title Nos. 17175 and 17176 in the name of the Philippine National Bank, when in truth those two lots were covered by Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) and were subject to a lien in favor of Santiago Syjuco, Inc., calling the actuations of De Leon as maliciously false, fraudulent and felonious by concealing the registered interest and lien of Santiago Syjuco, Inc., on the said two lots, by refusing to notify said company of his petition for reconstitution, assuring the Court that the Philippine National Bank was the only possible interested party in the reconstitution and praying the court to dispense with the publication of his petition for reconstitution, thereby leading the court to authorize and direct the Register of Deeds to make the desired reconstitution. Syjuco asked the Court to declare its order of June 4, 1946, directing the Register of Deeds of Negros Occidental to make the reconstitution, illegal and void and to rule that Transfer Certificates of Title Nos. 1297-B., 1298-R, 526-N and 527-N, are void and of no effect whatsoever, and to declare that the two lots in question, known as lots Nos. 871 and 872, are still covered by Transfer Certificates of Title Nos. 399 (P.R.) and 398 (P.R.), respectively, and to order the reconstitution of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.), with the annotation of the mortgage in favor of Santiago Syjuco, Inc. This petition was opposed by Jose L. Ponce de Leon and the Philippine National Bank.

After hearing and the presentation of some evidence, the trial court issued an order dated January 31, 1947, stating among others that it had been misled by De Leon's misrepresentations into issuing its order of June 4, 1946, directing the Register of Deeds to make the necessary reconstitution, and so it declared said order of June 4, 1946

null and void and without any legal effect.

The court further found that the two lots in question were still covered by Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.), the owner's duplicate copies of which were in the possession and custody of Santiago Syjuco, Inc., and because of the destruction of the records of the Register of Deeds, the Court ordered the said Register of Deeds to reconstitute the originals of said Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) on the bases of the owner's duplicate transfer certificates of title in the possession of Santiago Syjuco, Inc. We copy the last part of the order aforementioned, dated January 31, 1947, because it is the portion subject of the appeal by Santiago Syjuco, Inc.:

* * * * *

It appearing, therefore, that Transfer Certificates of Title Nos. 526-N and 527-N covering Lots Nos. 871 and 872, respectively, of the Murcia Cadastre are also in the name of the same Jose L. Ponce de Leon, who is the owner of the same Lots, under Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) the provision of Section 18 of Republic Act 26 quoted below must be applied therefor:

"Sec. 18. In case a certificate of title, considered lost or destroyed, be found or recovered, the same shall prevail over the reconstituted certificate of title, and, if both titles appear in the name of the same registered owner, all memoranda of new liens or encumbrances, if any, made on the latter, after its reconstitution, except the memorandum of the reservation referred to in section seven of this Act, shall be transferred to the recovered certificate of title. Thereupon, the register of deeds shall cancel the reconstituted certificate of title and spread upon the owner's duplicate, as well as on the co-owner's, mortgagee's or lessee's duplicate, if any has been issued, such annotations of subsisting liens or encumbrances as may appear on the recovered certificate of title, cancelling at the same time the memorandum of the reservation referred to in section seven hereof: Provided, however, That if the reconstituted certificate of title has been cancelled by virtue of any deed or instrument, whether voluntary or involuntary, or by an order of the court, and a new certificate of title has been issued, the recovered certificate of title shall be likewise cancelled, but all subsisting liens or encumbrances, if any, appearing thereon shall be transferred to the new certificate of title and to its owner's duplicate, as well as to any co-owner's, mortgagee's or lessee's duplicate that may have been issued, the memorandum of the reservation referred to in section seven of this Act, if any, being thereby ipso facto cancelled."

Wherefore, The Court sits aside its Order dated June 4, 1946 as null and void and without any legal effect and orders the cancellation of Transfer Certificates of Title Nos. 526-N and 527-N, which were issued by virtue thereof. The Register of Deeds for this province is also hereby ordered to reconstitute the originals of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) on the basis of the owner's duplicates in the possession of Santiago Syjuco, Inc. Exhibits "8" and "9", and all subsisting liens and encumbrances affecting Lots Nos. 871 and 872 appearing on Transfer Certificates of Title Nos. 526-N and 527-N shall be transferred or annotated to the originals as well as the owners duplicates of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) upon reconstitution thereof.

"* * * * *"

On March 8, 1947, Santiago Syjuco, Inc., filed a motion to set aside the portion of the order of January 31, 1947 regarding the transfer of the liens and encumbrances appearing in Transfer Certificates of Title Nos. 526-N and 527-N to the originals as well as the owner's duplicates of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.), which portion of the said order reads as follows:

"* * * and all subsisting liens and encumbrances affecting Lots Nos. 871 and 872 appearing on Transfer Certificates of Title Nos. 526-N and 527-N shall be transferred or annotated to the originals as well as the

owner's duplicates of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) upon reconstitution thereof.

On March 11, 1947, an amended motion was filed by Santiago Syjuco, Inc., praying that the court—

* * * either * * * set aside that part of its order of January 31, 1947 that is impugned in the motion to set aside of March 8, 1947, or in the event that this Honorable Court should deem it improper to do so, then at least to make a clear and categorical pronouncement that your petitioner's lien is superior to that of the Philippine National Bank; and, in either case, to order Jose L. Ponce de Leon to pay all the costs of these proceedings, including the cost of publishing this petition.

Apparently, the court acted only on the first motion which it denied. Santiago Syjuco, Inc., has brought this case before us to reverse that portion of the order of January 31, 1947, already referred to, as well as the failure of the trial court to order De Leon to pay the costs and the expenses of the publication of its petition.

In our opinion, the main, if not the only issue involved in the present appeal is whether or not section 18 of Republic Act No. 26 is applicable in the present case. By confining ourselves to that issue, we find it unnecessary to discuss and pass upon several points raised by the parties, specially by the Philippine National Bank.

After carefully examining section 18 of said act, in relation with the facts of the case, we find that that section is not applicable. For purpose of clarity, we reproduce the first portion of said section, as follows:

"Sec. 18. In case a certificate of title, considered lost or destroyed, be found or recovered, the same shall prevail over the reconstituted certificate of title, and, if both titles appear in the name of the same registered owner, all memoranda of new liens or encumbrances, if any, made on the latter, after its reconstitution, except the memorandum of the reservation referred to in section seven of this Act, shall be transferred to the recovered certificate of title, * * *."

The phrase "certificate of title, considered lost or destroyed, be found or recovered" cannot refer to Transfer Certificates of Title Nos. 17175 and 17176, for the reason that these two certificates had never been recovered. Neither can the phrase refer to the owner's duplicate Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) in the custody of Santiago Syjuco, Inc., for the reason that, although these were recovered, they were mere owner's duplicate transfer certificates of title and not the original certificates of title which were lost or destroyed in the office of the register of deeds and contemplated by Section 18. Furthermore, the reconstituted titles herein were based on certificates Nos. 17175 and 17176, while the recovered titles were Nos. 398 (P.R.) and 399 (P.R.) which were wholly different. Consequently, there is here no finding or recovery of certificates of title contemplated by Section 18, wherein to apply its provisions.

As regards the propriety and validity of the reconstitution ordered by the trial court and made by the register of deeds, it is clear from the provisions of Section 15, Republic Act No. 26, that the destroyed or lost certificate of title which may be reconstituted, is one that was in force at the time of loss or destruction. This, however, is not true in the present case. De Leon sought and succeeded in obtaining the reconstitution of Transfer Certificates of Title Nos. 17175 and 17176, both of which at the time of their loss or destruction were no longer in force, for the reason that they had already been cancelled and superseded by Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.). In other words, the law neither contemplates nor permits the reconstitution of said two cancelled certificates of title which were no longer in force. De Leon should have asked for the reconstitution of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.) in his name, which were then in force at the time of their loss in the office of the register of deeds; but, he would not do that, because Santiago Syjuco, Inc., when notified of the petition for reconstitution, would immediately produce the owner's duplicate transfer certificates of title which he had been able to keep and preserve, and these would show to the court that the two lots in question were still mortgaged to Santiago Syjuco, Inc. So, what De Leon did was to ignore Syjuco, conceal from the trial court the

issuance of the originals and duplicates of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.), and make the court believe that the two lots in question were still covered by Transfer Certificates of Title Nos. 17175 and 17176, which he knew was not true.

The Philippine National Bank contends that it was not aware of the lien in favor of Syjuco, consisting of a mortgage to secure a loan of more than P200,000. However, as already stated, the reconstituted Transfer Certificates of Title Nos. 1297-R, 1298-R, 526-N and 527-N, bore the caveat or caution that the "reconstitution is subject to claim by third parties * * *". These should have placed the bank on its guard and impelled it to make the corresponding investigation and give the matter some thought. It must have known that it had previously sold the two lots in question as far back as May 5, 1944, and that, as a result thereof, Transfer Certificates of Title Nos. 17175 and 17176 in its name had been cancelled and that new ones (T.C.T. 398 [P.R.] and 399 [P.R.]) had been issued in the name of its vendee Jose L. Ponce de Leon. Knowing this, the bank should have wondered and speculated why De Leon did not ask for the reconstitution of his own certificates of title which he obtained as a result of his purchase of the two lots, but instead asked for the reconstitution of the certificates of title of the bank (T.C.T. No. 17175 and 17176) which had already been cancelled, and so were no longer in force at the time of their loss and destruction.

The Philippine National Bank relies upon the supposed payment or liquidation of De Leon's debt to Syjuco, based on the fact that in November 1944, De Leon attempted to pay off his debt to Syjuco, and when the latter refused to accept tender of payment, De Leon consigned the amount in court, received the corresponding receipt therein, and then filed Civil Case No. 3003 in the Court of First Instance of Manila, to compel Santiago Syjuco, Inc. to accept payment. We understand that that case is still pending in court. The bank and De Leon, however, seem to forget that, according to the agreement between De Leon and Syjuco, the loan was to be paid within one year after May 5, 1948. In other words, the obligation was not due until that date. Moreover, De Leon expressly agreed and promised not to pay the loan before the day agreed upon for payment.

Without anticipating the determination of that Civil Case No. 3003, it may be here stated that, in similar cases, this Court has already ruled,—particularly on obligations or debts contracted during the Japanese occupation, payable not within but after a certain period, specially where the parties timed the payment with their speculation or belief as to the termination of the Pacific War, - that such obligations or debts could not without the creditor's consent be legally paid before they were due, and that the creditors may not be obliged to accept premature payments.

Going back to the portion of the order of the trial court appealed from, we observe a certain inconsistency on the part of the said court. It will be noticed that in its order of January 31, 1947, it set aside its order of reconstitution dated June 4, 1946, as null and void and without any legal effect. That was correct, for the reason that the order of reconstitution was issued without any previous publication, as required by law, particularly section 13 of Republic Act No. 26. Now, if the order of reconstitution was null and void and of no effect, naturally, anything done under said void order (such as the reconstitution of the alleged lost transfer certificates of title) is also void, including the titles reconstituted under said void order (such as Transfer Certificates of Title Nos. 526-N and 527-N). If these two transfer certificates of title (526-N and 527-N) were void and of no effect, then there can be no basis or reason, as ordered by the trial court, for the transfer of the liens and encumbrances affecting lots Nos. 871 and 872, appearing on said Transfer Certificates of Title Nos. 526-N and 527-N, to the originals and owner's duplicate of Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.). This is another reason for reversing that part of the order of the trial court appealed from, dated January 31, 1947.

It is clear from the record of this case, and as found by the trial court, that the appellant Santiago Syjuco, Inc. was constrained to go into the trouble and expense of prosecuting this case in court, because of the misrepresentation,

if not fraud committed by De Leon. It is, therefore, but just that De Leon should pay the costs, including the expenses of publication of the petition Incurred by Syjuco.

Before closing, it may be stated for the satisfaction of the Philippine National Bank, that it may still take any legal steps to protect its interests in the way of annotating its lien on the validly reconstituted certificates of title covering the two lots in question. Whether or not said lien is superior to that of Santiago Syjuco, Inc., we need not decide in the present case.

In view of all the foregoing, the order of the trial court dated January 31, 1947, insofar as it orders the transfer of the liens and encumbrances affecting Lots Nos. 871 and 872, appearing on Transfer Certificates of Title Nos. 526-N and 527-N, to the original and owner's duplicate of the reconstituted Transfer Certificates of Title Nos. 398 (P.R.) and 399 (P.R.), is reversed. Jose L. Ponce de Leon is ordered to pay all the costs in these proceedings, including the cost of publication of the petition in filed by appellant Santiago Syjuco, Inc.

Moran, C.J., Ozaeta, Pablo, Bengzon, Tuason and Reyes, JJ., concur.

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