DRS. ALENDRY P. CAVILES, JR. AND FLORA P. CAVILES, PETITIONERS, VS. EVELYN T. BAUTISTA AND RAMON T. BAUTISTA, RESPONDENTS.

G.R. No. 102648. November 24, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Petitioners assail the Decision[1] dated September 20, 1991, as well as the Resolution[2] dated November 4, 1991, of the Court of Appeals in CA-G.R. CV No. 27758, which reversed the judgment dated June 2, 1990, of the Regional Trial Court of Makati, Branch 145, in LRC Case No. M-1586.[3] The trial court's judgment disposed as follows:

> "WHEREFORE, judgment is rendered (1) ordering herein respondents or any person witholding the owner's copy of Transfer Certificate of Title No. 57006 to surrender the same to the Register of Deeds of Las Pinas, Metro Manila within 15 days from the finality of this decision; thereafter, said official shall annotate on said title the certificate of sale issued by the Manila sheriff and thereafter cancel the original and duplicate copy of the same torrens title and issue a new one in favor of herein petitioners; and (2) in the event the respondents or other persons fail or refuse to deliver/surrender said owner's copy, authority is hereby granted to the same official to annul TCT No. 57006 after annotating thereon the said certificate of sale, and to issue a new transfer certificate of title in lieu thereof in the name of herein petitioners, which new certificate and all duplicate thereof shall contain a memorandum of the annulment of the outstanding duplicate."[4]

The Court of Appeals in turn ruled:

> "WHEREFORE, the decision appealed from is hereby reversed. The petition is dismissed and respondents-appellants' transfer certificate of title upheld.
>
> SO ORDERED."[5]

The antecedent facts culled by the Court of Appeals from the findings of the trial court, are as follows:

> "1. On September 22, 1982, petitioners-appellees, the spouses Alendry and Flora Caviles, Jr. filed with the then Court of First Instance of Manila, Civil Case No. 82-12668 against Renato C. Plata for recovery of a sum of money. The complaint contained an application for the issuance of a writ of preliminary attachment. On September 24, 1982, the CFI issued the writ prayed for and on October 4, 1982 Deputy Sheriff Jaime L. de Leon issued a Notice of Attachment over a piece of real estate owned by Plata covered by Transfer Certificate of Title No. S-33634 of the Pasay City (now Las Piñas) Registry.
>
> 2. The Notice of Attachment was entered in the Primary Entry Book (also known as Day Book) on October 6, 1982, but was not annotated on TCT No. S-33634 by the Register of Deeds, nor did the deputy sheriff or the plaintiffs in Civil Case No. 82-12668, now herein petitioners-appellees, take any step to annotate the attachment on the TCT No. S-33634.
>
> 3. On October 18, 1982, Plata sold the property covered by TCT No. S-33634 to herein respondents-appellants,

the spouses Evelyn and Ramon Bautista, free, of course, from the attachment or any encumbrance, and on the same date Plata's TCT No. S-33634 was cancelled and in lieu thereof TCT No. 57006 was issued in the name of respondents-appellants. From then on, respondents-appellants appear to have taken over and resided in the property.

4. No action was taken by petitioners-appellees to annotate the attachment - as indeed they remained ignorant that the property had been sold and a new title issued until very much later when, after obtaining a favorable judgment in Civil Case No. 82-12668 on September 30, 1983, they attempted execution. Thus, even as petitioners-appellees were able to obtain a writ of execution on February 3, 1984, the levy effected on February 21, 1984, was in (sic) still in regard to the by-then-cancelled TCT No. S-3364. The Notice of Levy was entered in the Day Book on February 22, 1984.

5. On March 30, 1987, close to 4 ½ years after the property was bought by respondents-appellants, and 3 years after levy on execution was effected, the property was sold on execution to petitioners-appellees.

6. The Certificate of Sale was entered in the Day Book on April 2, 1987, but when its inscription was sought to be made - the first time such idea entered petitioners-appellees' mind, apparently - it was found out that Plata's certificate had been cancelled and a new one issued to respondents-appellants. The entry was made nonetheless on the title of respondents-appellants which annotation the Register of Deeds, however, refused to sign. Upon the matter being elevated on consulta to the National Land Titles and Deeds Registration Administration, the Administrator thereof, the Honorable Teodoro G. Bonifacio, opined on February 23, 1988, that the certificate of sale may be annotated on respondents-appellants' TCT No. 57006.

7. Due to the refusal of respondents-appellants to surrender their owner's copy of TCT No. 57006, the proceedings below were initiated on January 30, 1989, with petitioners-appellees invoking Section 107 of Presidential Decree No. 1529, which insofar as herein pertinent speaks of an action to compel surrender of the owner's duplicate of title for annotation of a "voluntary instrument". In any event, on June 2, 1990, a decision was handed down by Branch 145 of the Regional Trial Court of the National Capital Judicial Region stationed in Makati and presided over by the Honorable Job B. Madayag, ordering, inter alia, respondents-appellants to surrender their owner's duplicate copy of TCT No. 57006 for inscription or annotation of the certificate of sale, and for the subsequent cancellation of said certificate of title and the issuance of a new certificate of title in favor of petitioners-appellees."[6]

On September 20, 1991, the Court of Appeals, Second Division, promulgated a decision reversing the June 2, 1990 decision of Branch 145 of the Regional Trial Court of Makati. The Court of Appeals dismissed the petition before the trial court and upheld the transfer certificate of title of respondent-appellants Evelyn T. Bautista and Ramon T. Bautista.[7]

Petitioners now assign the following errors:

"1. The court below (Court of Appeals) erred in holding that a person who in good faith acquires any right to registered land need not go beyond the certificate of title, citing in support thereof the case of Director of Lands vs. Abad, 61 Phil. 479, (Decision, Annex "A", p. 3, pars. 3 & 4, and p. 9).

2. The court below erred in holding that the ruling laid down in Levin vs. Bass, 91 Phil. 419, is OBITER DICTUM for the reason that allegedly the facts of the case in Levin are not the same, or do not involve, the issue in the case at bar - which is preferred, an encumbrance which is entered in the day book but not annotated on the title or one which is annotated on the title (Decision, Annex "A", p. 4, last par.).

3. The court below erred in holding that the facts in the case of Potenciano vs. Dineros, et. al., 97 Phil. 196, are far from being identical or similar to those obtaining in the case at bar (Decision, Annex "A", p. 5, last par.).

4. The court below erred in holding that what is controlling in the case at bar is the case of Bass vs. De la

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> Rama, 73 Phil. 682, (Decision, Annex "A", pp. 6, 6th par., to p. 9, 1st par.)." [8]

In Part VIII of the petition, petitioners identify the "ultimate" issue at bar to be:

> "Which interest will prevail, that of petitioners (which consists of a notice of attachment duly entered in the Day Book or Primary Entry Book on October 6, 1982, with corresponding fees paid for, levy or execution, execution sale, and final deed of sale but without the corresponding annotation thereof on the certificate of title of subject property) or that of respondents (which consists of a deed of sale executed on October 18, 1982, entered in the Day Book on the same date and a new certificate of title in their favor issued free from the petitioners' attachment)?"[9]

This Court is thus asked by petitioners to resolve two conflicting rights, to determine who should acquire title to the subject property. These are: the right of one party to acquire title to registered land from the moment of inscription of an attachment on the day book (or entry book) on one hand; and on the other, the right of the other party to rely on what appears on the owner's duplicate certificate of title for purposes of voluntary dealings with the same parcel of land.

It was established by both the trial court and the Court of Appeals that respondents Evelyn and Ramon Bautista purchased the subject property on October 18, 1982, from Renato C. Plata, the petitioners' judgment debtor in Civil Case No. 82-12668. On said date, Plata's Transfer Certificate of Title No. S-33634 was cancelled and Transfer Certificate of Title No. 57006 was issued in the name of respondents. They relied on Plata's duplicate certificate of title, free from the notice of attachment. However, the notice of attachment was entered on the primary entry book of the Register of Deeds of Pasay City. When respondents verified the original title with the Office of the Register of Deeds, they found the same unblemished by any liens or encumbrances. It appears that the then Register of Deeds had failed to annotate the notice of attachment on the original copy of the title.

From the facts, respondent spouses clearly had no notice of any defect, irregularity or encumbrance in the title of the property they purchased. Neither did they have any knowledge of facts or circumstances which should have put them on inquiry, requiring them to go behind the certificate of title. Respondent spouses were clearly innocent purchasers for value and in good faith at the time they acquired the subject property. Petitioners themselves admitted in their petition, "Neither can negligence be ascribed to respondents for their failure to go beyond their certificate of title..."[10] In Sandoval vs. Court of Appeals,[11] we reiterated a long line of decisions and ruled "that one who deals with property registered under the Torrens system need not go beyond the same, but only has to rely on the title. He is charged with notice only of such burdens and claims as are annotated on the title."[12]

Likewise, negligence cannot be imputed to petitioners in this case. The records show that petitioners successfully obtained a writ of preliminary attachment of the subject property in Civil Case No. 82-12668, and the notice of attachment was then entered in the primary entry book of the Register of Deeds of Pasay City on October 6, 1982. But as earlier stated, the notice of attachment was not annotated on the original copy of the transfer certificate of title TCT No. S-33634. Petitioners later obtained a favorable judgment and purchased the subject property at the execution sale. When they sought to inscribe the certificate of sale on Plata's title covering the subject property, they discovered that the latter had been sold to respondent spouses, the new title thereto - TCT No. 57006 - now in their name. The notice of attachment was later inscribed on the cancelled certificate of title on November 22, 1983, but it was made to appear that it had been annotated on October 6, 1982.[13] This belated inscription is reflected since said inscription followed the earlier entry on October 18, 1982, of the sale of the subject property to respondent spouses.[14] The notice of attachment dated October 6, 1982, was also later annotated on TCT No. 57006.[15]

In its Decision, the Court of Appeals stated that the petitioners did not "take any step to annotate the attachment

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on TCT No. S-33634" and that "No action was taken by petitioners-appellees to annotate the attachment."[16] The respondents likewise contend that "the problem in this case would not have arisen were it not for the negligence and very long delay on the part of petitioners in annotating their attachment in the original certificate of title in the possession of the Register of Deeds."[17]

We disagree. Petitioners paid the corresponding fees for the annotation of the notice of attachment and they had every right to presume that the register of deeds would inscribe said notice on the original title covering the subject property. The register of deeds had the duty to inscribe the notice on the original title. This was not a duty of petitioners. This Court has held that a party which delivers its notice of attachment to the register of deeds and pays the corresponding fees therefor has a right to presume that the official would perform his duty properly.[18] In involuntary registration, such as an attachment, levy upon execution, lis pendens and the like, it has been held that entry thereof in the day book is a sufficient notice to all persons of such adverse claim.[19] The notice should, of course, be annotated on the back of the corresponding original certificate of title, but this Court has said that this is an official duty of the register of deeds which may be presumed to have been regularly performed.[20] As we have held in DBP vs. Acting Register of Deeds of Nueva Ecija, "current doctrine thus seems to be that entry alone produces the effect of registration, whether the transaction entered is a voluntary or involuntary one, so long as the registrant has complied with all that is required of him for purposes of entry and annotation, and nothing more remains to be done but a duty incumbent solely on the register of deeds."[21]

Given this parity of good faith and the absence of negligence on the part of both parties, who between them has a better right to the property in question?

Article 1544 of the New Civil Code, provides:

> "If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property,
>
> Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
>
> Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith." (Italics supplied.)

In the case at bar, the notice of attachment covering the subject property was annotated in the entry book of the Register of Deeds of Pasay City on October 6, 1982, while the new transfer certificate of title in the name of respondent spouses was issued on October 18, 1982, the date when Plata sold the property to said respondents. Petitioners' levy on preliminary attachment was put into effect when the property was sold on execution to petitioners, after the latter obtained a writ of execution by virtue of a favorable judgment in Civil Case No. 82-12668.

This Court has repeatedly held that in involuntary registration, such as an attachment, levy on execution, lis pendens and the like, entry thereof in the day book or entry book is a sufficient notice to all persons of such adverse claim.[22] Petitioners' lien of attachment was properly recorded when it was entered in the primary entry book of the Register of Deeds on October 6, 1982.

We have also consistently ruled that an auction or execution sale retroacts to the date of levy of the lien of attachment.[23] When the subject property was sold on execution to the petitioners, this sale retroacted to the date of inscription of petitioners' notice of attachment on October 6, 1982. The earlier registration of the petitioners' levy on preliminary attachment gave them superiority and preference in rights over the attached property as

against respondents.

Accordingly, we rule that the execution sale in favor of the petitioner Caviles spouses was anterior and superior to the sale of the same property to the respondent Bautista spouses on October 18, 1982. The right of petitioners to the surrender of the owner's duplicate copy of TCT No. 57006 covering the subject property for inscription of the certificate of sale, and for the cancellation of said certificate of title and the issuance of a new title in favor of petitioners cannot be gainsaid.

Anent the matter of the existence of another case involving the same issue as raised in Part IX of the petition,[24] suffice it to state that our present disposition of this case is not inconsistent with the decision of the Court of Appeals in CA G.R. SP No. 16359, promulgated on September 28, 1990.[25] This ruling was elevated to this Court as G.R. No. 98343 by way of a petition for certiorari, but it was denied for failure to comply with the Rules governing the filing of petitions with this Court.[26]

WHEREFORE, the appealed Decision of the Court of Appeals in CA G.R. CV No. 27758 dated September 20, 1991, and its Resolution dated November 4, 1991, are hereby SET ASIDE, and the Decision of Branch 145 of the Regional Trial Court of Makati dated June 2, 1990, is hereby AFFIRMED and REINSTATED.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 18-27.

[2]Id. at 29.

[3] CA Records, pp. 7-11.

[4] Id. at 11.

[5] Supra, note 1 at 26.

[6] Id. at 19-20.

[7] Id. at 26.

[8] Id. at 6, (denominated by petitioners as "questions of law").

[9] Id. at 12-13.

[10] Id. at 14.

[11] 260 SCRA 283, 295 (1996).

[12] Legarda vs. C.A., 280 SCRA 642, 655 (1997).

[13] Rollo, p. 61.

[14] Records, p. 56, 64.

[15] Id. at 58.

[16] Supra, note 13 at 19.

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[17] Id. at 45.

[18] Director of Lands vs. Abad, 61 Phil. 479, 486 (1935).

[19] Levin vs. Bass, et al., 91 Phil. 419, 437 (1952), citing Villasor vs. Camon, et al., 89 Phil. 404 (1951).

[20] Yu vs. C.A., 251 SCRA 509, 513 (1995), citing Rivera vs. Tirona, 109 Phil. 505 (1960).

[21] 162 SCRA 450, 459 (1988).

[22] Yu vs. Court of Appeals, supra; Sumaya vs. Intermediate Appellate Court, 201 SCRA 178, 185 (1991); DBP vs. Acting Register of Deeds of Nueva Ecija, 162 SCRA 450, 458 (1988); Garcia vs. Court of Appeals, 95 SCRA 380, 388 (1980); all citing Levin vs. Bass, 91 Phil. 419 (1952).

[23] Oliva vs. Court of Appeals, 166 SCRA 632, 637 (1988); Campillo vs. Philippine National Bank, 28 SCRA 220, 228 (1969); Philippine Executive Commission vs. Abadilla, 74 Phil. 68, 69 (1942) [citing Hernandez vs. Katigbak, 69 Phil. 744, 749 (1940); Vargas vs. Tancioco, 67 Phil. 308, 311 (1939).

[24] Rollo, p. 14.

[25] Id. at 60-63.

[26] Id. at 67.

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