

PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLEE, VS. LUZON SURETY COMPANY, INC., DEFENDANT AND APPELLANT.*G.R. No. 11112. May 28, 1958*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a judgment of the Court of First Instance of Nueva Ecija "declaring that the Philippine National Bank had acquired absolute ownership of the rights, interests, and participation of the spouses Paulino Candelaria and Dionisia Tecson in the parcels of land covered by Transfer Certificate of Title No. T-6241 now Transfer Certificate of Title No. T-12343 and Transfer Certificate of Title No. T-6242 now Transfer Certificate of Title No. T-12344; declaring that the defendant Luzon Surety Company acquired nothing by virtue of the final bill of sale executed in its favor by the Provincial Sheriff, Exhibits 6 and 7, except the right of redemption which had been lost; ordering the cancellation of the notice of attachment, Entry No. 15019 NT-6364 in favor of the Luzon Surety Company on Transfer Certificate of Title No. NT-12343, as well as the certificate of sale in favor of the Luzon Surety Company, Entry No. 32264, NT-6241, and the notice of attachment and certificate of sale on Transfer Certificate of Title No. NT-12344, Entries Nos. 15019, NT-3664, and No. 32264, No. NT-6241; and finally declaring the rights of the Philippine National Bank to the said properties free from any claim, lien or incumbrances in favor of the Luzon Surety Company. With costs against the defendant." From this judgment, the defendant Luzon Surety Company appealed to this Court purely on questions of law.

Inasmuch as the questions of fact as found by the trial court are not disputed, we will quote hereunder the pertinent portion necessary for the decision of this case:

"In Civil Case No. 7647 of the Court of First Instance of Manila, entitled, 'Philippine National Bank vs. Paulino Candelaria, et al., the Philippine National Bank attached the rights, interest, and participation of Paulino Candelaria and Dionisia Tecson in the parcels of land covered by Transfer Certificates of Titles Nos. 21035 and 21045 of the Register of Deeds of Nueva Ecija, Exhibit B. The writ of attachment which is dated March 25, 1949 was registered and annotated in Certificate of Title No. 21035, Exhibit F, and No. 21045, Exhibit G, on March 25, 1949. Transfer Certificates of Title No. 21035, Exhibit F, was cancelled by Transfer Certificate of Title No. NT-6241, Exhibit H, which in turn was cancelled by Transfer Certificate of Title No. NT-12343, Exhibit J. Transfer Certificate of Title No. NT-6242, Exhibit I, which in turn was cancelled by Transfer Certificate of Title No. NT-12344. Exhibit K. All these certificates of title carry the attachment in favor of the Philippine National Bank. On October 13, 1950, Paulino Candelaria and Dionisia Tecson assigned and conveyed to the Philippine National Bank several parcels of land, among which were those covered by Transfer Certificates of Title No. 21035 and 21045 in consideration of the judgment rendered against them in Civil Case No. 7647. This deed of assignment had not been registered or annotated in the certificate of title. Pursuant to the judgment in Civil Case No. 7647, several parcels of land, including the parcels of land in question then covered by Transfer Certificates of Title No. N-6241 and NT-6242, were sold at public auction in which the Philippine National Bank was the highest bidder, and the Provincial Sheriff ex-officio executed a certificate of sale in favor of the Philippine National Bank dated April 1, 1952, Exhibit D. This certificate of sale was registered and annotated on Transfer Certificates of Title No. NT-12343 and NT-12344 on December

24, 1954.

"In Civil Case No. 5633 of the Court of First Instance of Manila, entitled, Rafael Viola vs. Ricardo Linsangan, et al., the rights, interest, and participation of the spouses Paulino Candelaria and Dionisia Tecson in the parcels covered by T.C.T. Nos. 21035 and 21045 were attached by the Luzon Surety Company. The writ of attachment, Exhibit 2-A, was registered and annotated on certificate of title on April 5, 1949. By virtue of the judgment rendered in the same Civil Case No. 5633, the properties of Paulino Candelaria, including his rights, participation, and interests in the lands now in question, covered by Transfer Certificates of Title Nos. 12343 and 12344, were sold at public auction, in which the Luzon Surety Company was the highest bidder. The provincial Sheriff of the Province of Nueva Ecija executed a certificate of sale in favor of the Luzon Surety Company on October 10, 1951, Exhibit 5, which was registered on the same date. Paulino Candelaria and his wife having failed to redeem the property within the period prescribed by law, the Provincial Sheriff executed the final bill of sale on November 29, 1952, Exhibit 6, in favor of the Luzon Surety Company.

"Various incidents took place in Cadastral Case No. 51, G.L.R.O. Record No. 1045, with respect to the conflicting claims of the Philippine National Bank and the Luzon Surety Company over the parcels of land covered by Transfer Certificates of Title Nos. 12343 and 12344. The Court, being of the opinion that the controversy between the parties involved a contentious litigation, did not resolve the preference of the parties, but ordered the registration and annotation of the final bill of sale executed by the Provincial Sheriff in favor of the Philippine National Bank and the Luzon Surety Company. The Philippine National Bank registered the final bill of sale in its favor, but no action was taken by the Luzon Surety Company." (Decision, Record on Appeal, pp. 38-41).

The several errors assigned by appellant in its brief consist in substance in that the trial court failed to hold (1) that the deed of assignment, Exhibit 15, operated as a complete payment and satisfaction of the judgment rendered in favor of the Philippine National Bank by the Court of First Instance of Manila in Civil Case No. 7647; (2) that said satisfaction of judgment served to extinguish or dissolve the writ of attachment issued in favor of said bank; (3) that the execution sale in favor of said bank was null and void since the judgment sought to be executed had already been paid or satisfied; and (4) that appellant is the absolute owner of the parcels of land in question by virtue of the final bill of sale issued in its favor in Civil Case No. 5633.

There is no dispute that the writ of preliminary attachment in favor of appellee in Civil Case No. 7647 of the Court of First Instance of Manila has preference over the writ of preliminary attachment in favor of appellant issued in Civil Case No. 5633, since appellee's writ was registered prior to the registration of the attachment in favor of appellant. There is also no dispute, as admitted by appellant, that a sale by virtue of an attachment retroacts to the date of the registration of the writ of attachment, and that the preference of the attachment creditor is determined, not by the date of the execution sale, but by the date of the registration of the writ. With this premise, it would appear that appellee has acquired a valid and preferential title to the lands in question by virtue of the final bill of sale executed in its favor by the sheriff as a result of the auction sale held in Civil Case No. 7647. Since appellant was merely a redemptioner who stepped into the shoes of the judgment debtors in Civil Case No. 5633 and has failed to exercise the right of redemption within the period prescribed by law, its right, if any, to the properties in question has become forfeited.

It is claimed however that after judgment was rendered in favor of appellee in Civil Case No. 7647 on September 12, 1950, the judgment debtors Paulino Candelaria and Dionisia Tecson made on October 30, 1950 an assignment of all their rights and interests over the parcels of land in question in satisfaction of the judgment rendered in favor of appellee and that said assignment has the effect of dissolving the writ of attachment issued in favor of appellee. And if we are to hold, it is contended, that the assignment thus made has the effect of dissolving the writ in favor of appellee, it follows that the writ issued in favor of appellant became prior and preferential and the sale made in

its favor as a consequence thereof valid and absolute.

While it is true that a deed of assignment was made in favor of appellee by its judgment debtors allegedly in satisfaction of the judgment rendered in its favor, it appears however that the deed was never registered in the registry of property and as such it has not ripened into a conveyance in contemplation of law. The assignment failed to bind the land. And since the purpose of the assignment is the transfer of the ownership of the land in payment of the amount of the judgment which amounted to P63,737.53 and the conveyance did not materialize because of failure of registration, it would be incongruous to hold that that assignment in contemplation of law operated to dissolve the writ of attachment issued in favor of appellee. The best proof that appellee never intended to consider such an assignment as a full satisfaction of the judgment in its favor is the fact that it took steps to enforce its judgment through an auction sale where it bought the property as the highest bidder and was given a final bill of sale by the sheriff.

Moreover, there is no incompatibility between the deed of assignment and the writ of attachment issued in favor of appellee, for the two can co-exist. The first is merely one of the means by which appellee may avail of to insure the transfer of the lands subject of the writ in satisfaction of the judgment without in any way relinquishing the priority it has acquired over them by virtue of the writ, whereas the second is a precautionary measure taken to assert its rights over the land against third persons. Ordinarily, a deed of assignment may bind the assignee with regard to the land even if the deed is not registered, but not so when the right of a third party is involved (Section 50, Act 496). This is the situation herein obtained. Because of a conflicting right asserted by appellant, appellee deemed it best to carry out its writ of execution to the extent allowed by law so that it may derive the full benefit that the law grants to a prior lien holder. Under the law and equity, therefore, it is clear that the prior lien of appellee over the lands has not been lost with the execution of the deed of assignment Exhibit 15. Wherefore, the decision appealed from is affirmed, with costs against appellant.

Paras, C.J, Bengzon, Montemayor, Labrador, Endencia, and Felix, JJ., concur.

Reyes, A., and Concepcion, JJ., concur in the result.

CONCURRING

REYES, J. B. L., J.,

I concur for the reason that the deed of assignment in favor of the Bank not having been registered, the same did not, and could not, prejudice or favor strangers to the agreement. The rule, I understand, is that *res inter alios acta aliis neque nocet neque prodest*.

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