

**JUANITA P. PINEDA, ASSISTED BY HER HUSBAND, CRISPIN PINEDA,
AND LILIA SAYOC, PETITIONERS, VS. COURT OF APPEALS AND
TERESITA A. GONZALES, ASSISTED BY HER HUSBAND, FRANCISCO G.
GO...**

G.R. No. 114172. August 25, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This petition for review on certiorari[1] seeks to reverse the Decision[2] of the Court of Appeals dated 26 August 1993 in CA-G.R. SP No. 28651 as well as the Resolution dated 4 March 1994 denying the motion for reconsideration. In its assailed decision, the Court of Appeals declared void the orders[3] of the Regional Trial Court[4] of Cavite City dated 10 January 1992, 5 February 1992 and 30 April 1992, and made the preliminary injunction permanent. In the first order, the trial court declared that Teresita A. Gonzales, despite notice, failed to appear at the hearing of the motion to surrender Transfer Certificate of Title No. T-16084 and to file opposition to the motion. In the second order, the trial court declared void the original and owner's duplicate of Transfer Certificate of Title No. T-16084 and ordered the reinstatement of Transfer Certificate of Title No. T-8361. In the third order, the trial court denied the motions to lift the first order and to reconsider the second order.

The Facts

On 4 January 1982, the Spouses Virgilio and Adorita Benitez ("Spouses Benitez") mortgaged a house and lot ("Property") covered by Transfer Certificate of Title No. T-8361 ("TCT 8361") in favor of Juanita P. Pineda ("Pineda") and Leila P. Sayoc ("Sayoc"). The real estate mortgage secured the Spouses Benitez's loan of P243,000 with a one-year maturity period.[5] Pineda and Sayoc did not register the mortgage with the Register of Deeds. The Spouses Benitez delivered the owner's duplicate of TCT 8361 to Pineda.

On 9 November 1983, with the consent of Pineda, the Spouses Benitez sold the house,[6] which was part of the Property, to Olivia G. Mojica ("Mojica"). On the same date, Mojica filed a petition for the issuance of a second owner's duplicate of TCT 8361 alleging that she "purchased a parcel of land"[7] and the "owner's duplicate copy of TCT No. T-8361 was lost." [8]

On 7 December 1983, the trial court granted the petition. The Register of Deeds of Cavite City issued the second owner's duplicate of TCT 8361 in the name of the Spouses Benitez.

On 12 December 1983, the Spouses Benitez sold the lot[9] covered by TCT 8361 to Mojica. With the registration of the deed of sale and presentation of the second owner's duplicate of TCT 8361, the Register of Deeds cancelled TCT 8361 and issued Transfer Certificate of Title No. T-13138 ("TCT 13138") in the name of Mojica.

On 22 February 1985, Mojica obtained a loan of P290,000 from Teresita A. Gonzales ("Gonzales"). Mojica executed a promissory note and a deed of mortgage over the Property in favor of Gonzales. Gonzales registered

this deed of mortgage with the Register of Deeds of Cavite City who annotated the mortgage on TCT 13138 as Entry No. 33209.

Meanwhile, on 8 May 1985, Pineda and Sayoc filed a complaint before the Regional Trial Court[10] of Cavite City, docketed as Civil Case No. 4654, against the Spouses Benitez and Mojica. The complaint prayed for the cancellation of the second owner's duplicate of TCT 8361 and the award of moral damages and attorney's fees.

In their answer, the Spouses Benitez admitted selling to Mojica the Property which was already subject to a previous mortgage in favor of Pineda and Sayoc. The Spouses Benitez claimed that under the Acknowledgment of Indebtedness,[11] Mojica, with the conformity of Pineda and Sayoc, agreed to assume the balance of the mortgage debt of the Spouses Benitez to Pineda and Sayoc.

The Spouses Benitez denied any knowledge of Mojica's petition for the issuance of a second owner's duplicate of TCT 8361. The Spouses Benitez prayed for the dismissal of the complaint and the award of moral damages and attorney's fees. The Spouses Benitez also prayed that in case the court would render judgment in favor of Pineda and Sayoc, only Mojica should be held liable.

On the other hand, Mojica denied conspiring with the Spouses Benitez and committing fraud in filing the petition for the issuance of a second owner's duplicate of TCT 8361. Mojica stated that the Spouses Benitez sold to her the Property. Mojica claimed that upon the execution of the deed of sale, the Spouses Benitez delivered to her the owner's duplicate of TCT 8361. However, Mojica alleged that the owner's duplicate of TCT 8361 was lost.

Mojica also asserted that she verified with the Register of Deeds of Cavite City the provision in the deed of sale that the Property was free from all liens and encumbrances and found the same to be true. Mojica added that on learning of the Spouses Benitez's mortgage with Pineda and Sayoc, she signed the Acknowledgment of Indebtedness. Mojica contended that since Pineda, for herself and Sayoc, conformed to this agreement, Pineda and Sayoc had no personality to file the complaint. Mojica further alleged that Pineda and Sayoc were in estoppel from challenging the validity of the second owner's duplicate of TCT 8361 because Pineda and Sayoc, despite notice, failed to oppose the reconstitution of the title.

Mojica maintained that the Spouses Benitez are indispensable parties because TCT 8361 was in their name. Mojica also asserted that she did not breach the Acknowledgment of Indebtedness since she had paid the Spouses Benitez an amount more than their debt to Pineda and Sayoc. Mojica contended that had the Spouses Benitez paid the amount to Pineda and Sayoc, there would have been no obligation to assume. Mojica prayed for the dismissal of the complaint and the award of moral and exemplary damages and attorney's fees.

During the pendency of the case, Pineda caused the annotation on 18 August 1986 of a notice of lis pendens on the original of TCT 8361 with the Register of Deeds.

After trial, the trial court rendered a Decision dated 15 June 1987, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment declaring the second owner's duplicate of TCT No. T-8361 of the land records of Cavite as null and void and the Register of Deeds of Cavite City is hereby ordered upon payment of the corresponding legal fees the annotation of this pronouncement in its record and the revival of the first owner's duplicate with the same faith and credit before its alleged loss. The counterclaim of defendants Benitezes is hereby dismissed. No pronouncement as to costs.

SO ORDERED.[12]

On 7 December 1987, Mojica defaulted in paying her obligation to Gonzales. Hence, Gonzales extrajudicially foreclosed the mortgage. On 27 January 1988, Gonzales purchased at public auction the Property for P423,244.88.

For failure of Mojica to redeem the Property, Gonzales consolidated the title to the Property. On 29 March 1989, Gonzales executed the corresponding Affidavit of Consolidation.

On 30 March 1989, the Register of Deeds of Cavite City cancelled TCT 13138, which was in Mojica's name, and issued Transfer Certificate of Title No. T-16084 ("TCT 16084") in the name of Gonzales. TCT 16084 contained Entry No. 35520, the notice of lis pendens dated 18 August 1986 in relation to Civil Case No. 4654.[13] The Register of Deeds annotated on TCT 16084 the notice of lis pendens, even though TCT 13138 did not contain such annotation.

Meanwhile, dissatisfied with the trial court's decision, the Spouses Benitez and Mojica appealed to the Court of Appeals, docketed as CA-G.R. CV No. 15417. On 29 January 1991, the Court of Appeals rendered a Decision[14] affirming the trial court's decision declaring void the second owner's duplicate of TCT 8361. The decision of the Court of Appeals became final and was entered in the Book of Entries of Judgments on 17 June 1991.

The Court of Appeals returned the records of the case to the trial court on 10 July 1991. On motion of Pineda and Sayoc, the trial court issued a writ of execution to enforce the judgment.

However, the writ of execution was returned unsatisfied. The Sheriff's Return of 12 September 1991 stated that the Register of Deeds could not implement the writ of execution. The Sheriff's Return showed that the Register of Deeds had already cancelled TCT 8361 and issued TCT 16084 in the name of Gonzales by virtue of the consolidation of title dated 29 March 1989.

Consequently, on 6 December 1991, Pineda and Sayoc filed a motion with the trial court for the issuance of an order requiring Gonzales to surrender the owner's duplicate of TCT 16084 to the Register of Deeds of Cavite City.

In its Order dated 10 January 1992 ("first order"), the trial court declared that Gonzales, despite notice, failed to appear at the hearing and to oppose the motion to surrender TCT 16084. In the same order, the trial court directed Gonzales to file a memorandum. Gonzales received this order on 20 January 1992.

Subsequently, Gonzales filed a motion to lift the first order alleging that since she was not a party in Civil Case No. 4654, the decision did not bind her. Gonzales also claimed that she did not receive notice of the hearing, copy of the motion to surrender TCT 16084 and the order resetting the hearing because she was in the United States of America. Gonzales finally alleged that she was an innocent purchaser for value.

In an Order dated 5 February 1992 ("second order"), the trial court declared void the original and the owner's duplicate of TCT 16084 in the name of Gonzales. The trial court ordered the reinstatement of TCT 8361 in the name of the Spouses Benitez.

Gonzales filed a motion for reconsideration of the second order. On 30 April 1992, the trial court issued an Order ("third order") denying Gonzales' motions to lift the first order and to reconsider the second order.

Aggrieved by the trial court's orders, Gonzales filed with the Court of Appeals a petition for the issuance of a writ of prohibitory injunction.

On 26 August 1993, the Court of Appeals rendered a decision disposing as follows:

WHEREFORE, the petition is granted. The assailed orders dated 10 January 1992, 5 February 1992, and 30 April 1992 are hereby declared NULL and VOID, and the preliminary prohibitory injunction is made permanent.

SO ORDERED.[15]

Hence, the instant petition.

The Ruling of the Court of Appeals

In the Court of Appeals, Gonzales maintained that the trial court had no jurisdiction over her person and property because Pineda and Sayoc did not implead her as a party in Civil Case No. 4654. Insisting that the questioned orders were procured through extrinsic or collateral fraud, Gonzales claimed that the orders of the trial court were void. Gonzales further alleged that she was an innocent purchaser for value making her title to the Property indefeasible and imprescriptible.

Pineda and Sayoc, on the other hand, argued that the notice of lis pendens annotated on the title of the Property bound Gonzales, as subsequent purchaser of the Property, to the outcome of the case. Pineda and Sayoc contended that Gonzales was not a purchaser in good faith because Gonzales had constructive notice of the pending litigation when she purchased the Property.

Moreover, Pineda and Sayoc argued that no separate action is necessary to cancel the title because Gonzales is bound by the outcome of the litigation. They contended that there was no extrinsic fraud because the notice of lis pendens warned Gonzales of the pendency of Civil Case No. 4654 where she could have intervened. Pineda and Sayoc further alleged that foreclosure and sale, not a mortgage, vest title on a mortgagee. Foreclosure and sale, however, are always subject to a notice of lis pendens.

In granting the petition, the Court of Appeals ruled that the trial court erred when it voided TCT 16084 upon a mere motion for the surrender of the owner's duplicate of TCT 16084. The Court of Appeals further held that the trial court erred in ordering the reinstatement of TCT 8361 in the name of the Spouses Benitez.

The Court of Appeals held that Pineda and Sayoc should have filed the petition to surrender TCT 16084 in the original case where the decree of registration of TCT 16084 was entered and not in Civil Case No. 4654. The second paragraph of Section 108 of Presidential Decree No. 1529[16] ("PD 1529") requires the filing of such separate petition. The appellate court stated that it was beyond the trial court's authority to act on the matter on a mere motion to surrender TCT 16084.

The Court of Appeals likewise ruled that the trial court did not acquire jurisdiction over the person of Gonzales because she was not a party in Civil Case No. 4654. The appellate court found that Gonzales could not have known of, and appeared at, the hearing of the motion to surrender TCT 16084 because Gonzales was then out of the country.

Assuming that the trial court could validly act on the motion of Pineda and Sayoc, the Court of Appeals declared that the orders nevertheless contravened Section 107 of PD 1529. This provision of law requires a hearing before the court can act on a petition to surrender a duplicate certificate of title.

The Issues

Petitioners raise the following issues for resolution:

- Whether a notice of lis pendens binds a subsequent purchaser of the property to the outcome of the pending case.
- Whether TCT 13138 and TCT 16084, being derived from the void second owner's duplicate of TCT 8361, are also void.
- Whether a separate action should be filed to cancel TCT 16084.
- Whether Gonzales was an innocent purchaser for value.
- Whether Gonzales was denied due process of law.

The Ruling of the Court

We deny the petition.

Validity of TCT 13138 and TCT 16084

Mojica filed a petition for reconstitution[17] of the owner's duplicate of TCT 8361 claiming that this owner's duplicate was lost. However, contrary to Mojica's claims, the owner's duplicate of TCT 8361 was not lost but in Pineda's possession. Since the owner's duplicate of TCT 8361 was in fact not lost or destroyed, there was obviously nothing to reconstitute or replace. Therefore, the trial court correctly ruled that the reconstitution proceedings and the second owner's duplicate of TCT 8361 are void.[18] As the Court held in *New Durawood Co., Inc. v. Court of Appeals*: [19]

In the instant case, the owner's duplicate certificates of title were in the possession of Dy Quim Pong, the petitioner's chairman of the board and whose family controls the petitioner-corporation. Since said certificates were not in fact "lost or destroyed", there was no necessity for the petition filed in the trial court for the "Issuance of New Owner's Duplicate Certificates of Title . . ." In fact, the said court never acquired jurisdiction to order the issuance of new certificates. Hence, the newly issued duplicates are themselves null and void. (Emphasis supplied)

Mojica registered with the Register of Deeds the deed of sale executed by the Spouses Benitez conveying the Property to her. Mojica also presented to the Register of Deeds the second owner's duplicate of TCT 8361. The Register of Deeds cancelled TCT 8361 and issued on 14 December 1983 TCT 13138 in the name of Mojica. However, since TCT 13138 is derived from the void second owner's duplicate of TCT 8361, TCT 13138 is also void. No valid transfer certificate of title can issue from a void transfer certificate of title, unless an innocent purchaser for value has intervened.[20]

Mojica was not a purchaser in good faith. Mojica alleged that the Spouses Benitez gave her the owner's duplicate of TCT 8361 on 9 November 1983, the day the Spouses Benitez sold to her the house. However, in her petition for reconstitution, which she also filed on the same day, 9 November 1983, Mojica claimed that the owner's duplicate of TCT 8361 was lost. In effect, Mojica claimed that she received the owner's duplicate of TCT 8361 from the Spouses Benitez, lost the same, and filed the petition for reconstitution, all on the same day, 9 November 1983.

In her petition for reconstitution, Mojica also claimed that she "purchased a parcel of land" when in fact she only purchased on 9 November 1983 the house, and not the lot covered by TCT 8361. Obviously, Mojica procured the reconstitution of the second owner's duplicate of TCT 8361 through misrepresentation. Hence, Mojica was not a purchaser in good faith when she later purchased on 12 December 1983 the lot since she knew of the irregularity in the reconstitution of the second owner's duplicate of TCT 8361.

Therefore, TCT 13138 issued in the name of Mojica is void. However, what is void is the transfer certificate of title and not the title over the Property. The title refers to the ownership of the Property covered by the transfer certificate of title while the transfer certificate of title merely evidences that ownership. A certificate of title is not equivalent to title as the Court explained in *Lee Tek Sheng v. Court of Appeals*: [21]

xxx The certificate referred to is that document issued by the Register of Deeds known as the Transfer Certificate of Title (TCT). By title, the law refers to ownership which is represented by that document. Petitioner apparently confuses certificate with title. Placing a parcel of land under the mantle of the Torrens system does not mean that ownership thereof can no longer be disputed. Ownership is different from a certificate of title. The TCT is only the best proof of ownership of a piece of land. Besides, the certificate cannot always be considered as conclusive evidence of ownership. Mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership

with persons not named in the certificate or that the registrant may only be a trustee or that other parties may have acquired interest subsequent to the issuance of the certificate of title. To repeat, registration is not the equivalent of title, but is only the best evidence thereof. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeable. xxx (Emphasis supplied)

Mojica's Title

The prior mortgage of the Property by the Spouses Benitez to Pineda and Sayoc did not prevent the Spouses Benitez, as owners of the Property, from selling the Property to Mojica. A mortgage is merely an encumbrance on the property and does not extinguish the title of the debtor who does not lose his principal attribute as owner to dispose of the property.[22] The law even considers void a stipulation forbidding the owner of the property from alienating the mortgaged immovable.[23]

Since the Spouses Benitez were the undisputed owners of the Property, they could validly sell and deliver the Property to Mojica. The execution of the notarized deed of sale between the Spouses Benitez and Mojica had the legal effect of actual or physical delivery. Ownership of the Property passed from the Spouses Benitez to Mojica.[24] The nullity of the second owner's duplicate of TCT 8361 did not affect the validity of the sale as between the Spouses Benitez and Mojica.

Gonzales' Title

After the sale of the Property to her, Mojica obtained a loan from Gonzales secured by a real estate mortgage over the Property. Gonzales registered this mortgage on 22 February 1985 with the Register of Deeds who annotated the mortgage on the void TCT 13138 in Mojica's name. The nullity of TCT 13138 did not automatically carry with it the nullity of the annotation of Gonzales' mortgage. The rule is that a mortgage annotated on a void title is valid if the mortgagee registered the mortgage in good faith.[25] In *Blanco v. Esquierdo*,[26] the Court held:

That the certificate of title issued in the name of Fructuosa Esquierdo is a nullity, the same having been secured thru fraud, is not here in question. The only question for determination is whether the defendant bank is entitled to the protection accorded to "innocent purchasers for value", which phrase, according to sec. 38 of the Land Registration Law, includes an innocent mortgagee for value. The question, in our opinion, must be answered in the affirmative.

The trial court, in the decision complained of, made no finding that the defendant mortgagee bank was a party to the fraudulent transfer of the land to Fructuosa Esquierdo. Indeed, there is nothing alleged in the complaint which may implicate said defendant mortgagee in the fraud, or justify a finding that it acted in bad faith. On the other hand, the certificate of title was in the name of the mortgagor Fructuosa Esquierdo when the land was mortgaged by her to the defendant bank. Such being the case, the said defendant bank, as mortgagee, had the right to rely on what appeared in the certificate and, in the absence of anything to excite suspicion, was under no obligation to look beyond the certificate and investigate the title of the mortgagor appearing on the face of said certificate. (*De Lara, et al. vs. Ayroso*, 95 Phil., 185; 50 Off. Gaz., [10] 4838, *Joaquin vs. Madrid, et al.*, 106 Phil., 1060). Being thus an innocent mortgagee for value, its right or lien upon the land mortgaged must be respected and protected, even if the mortgagor obtained her title thereto thru fraud. The remedy of the persons prejudiced is to bring an action for damages against those causing the fraud, xxx. (Emphasis supplied)

Thus, the annotation of Gonzales' mortgage on TCT 13138 was valid and operated to bind the Property and the world, despite the invalidity of TCT 13138.

Gonzales registered her mortgage in good faith. Gonzales had no actual notice of the prior unregistered mortgage in favor of Pineda and Sayoc. To bind third parties to an unregistered encumbrance, the law requires actual notice.[27] The fact that Mojica, who sold the Property to Gonzales, had actual notice of the unregistered

mortgage did not constitute actual notice to Gonzales, absent proof that Gonzales herself had actual notice of the prior mortgage. Thus, Gonzales acquired her rights as a mortgagee in good faith.

When Mojica defaulted in paying her debt, Gonzales caused the extrajudicial foreclosure of the mortgaged Property. Gonzales purchased the mortgaged Property as the sole bidder at the public auction sale. For Mojica's failure to redeem the foreclosed Property within the prescribed period, Gonzales consolidated her title to the Property. Absent any evidence to the contrary, the sale at public auction of the Property to Gonzales was valid. Thus, the title or ownership of the Property passed from Mojica to Gonzales. At this point, therefore, Gonzales became the owner of the Property.

When Gonzales purchased the Property at the auction sale, Pineda and Sayoc had already annotated the lis pendens on the original of TCT 8361, which remained valid. However, the mortgage of Gonzales was validly registered prior to the notation of the lis pendens. The subsequent annotation of the lis pendens could not defeat the rights of the mortgagee or the purchaser at the auction sale who derived their rights under a prior mortgage validly registered. The settled rule is that the auction sale retroacts to the date of the registration of the mortgage,[28] putting the auction sale beyond the reach of any intervening lis pendens, sale or attachment. As the Court explained in *Caviles, Jr. v. Bautista*:[29]

We have also consistently ruled that an auction or execution sale retroacts to the date of levy of the lien of attachment. 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.

A contrary rule would make a prior registration of a mortgage or any lien meaningless.[30] The prior registered mortgage of Gonzales prevails over the subsequent notice of lis pendens, even if the auction sale took place after the notation of the lis pendens. Consequently, TCT 16084, issued to Gonzales after she presented the sheriff's certificate of sale and her affidavit of consolidation, is valid.

What remained with Pineda and Sayoc after the foreclosure was the mortgagor's residual rights over the foreclosed Property, which rights are the equity of redemption[31] and a share in the surplus fund, if any.[32] Since Mojica was not a purchaser in good faith, the residual rights of Mojica were subject to the claim of Pineda and Sayoc. Of course, Pineda and Sayoc may still file an action to recover the outstanding debt of the Spouses Benitez, and even after Mojica for her assumption of obligation under the Acknowledgment of Indebtedness.

The Equities Favor Gonzales over Pineda and Sayoc

Pineda and Sayoc were negligent in not registering their mortgage, which ultimately led to this controversy. Had Pineda and Sayoc registered their mortgage, their rights as prior mortgagees would have prevailed over that of Gonzales. Pineda and Sayoc were also negligent in not foreclosing their mortgage ahead of Gonzales, when they could have done so as early as 4 January 1983 after the Spouses Benitez defaulted on their loan.[33] In contrast, the loan of Mojica fell due only on 7 December 1987.

Since Gonzales vigilantly exercised her right to foreclose the mortgaged Property ahead of Pineda and Sayoc, Gonzales' mortgage would still prevail over the mortgage of Pineda and Sayoc even if Gonzales' mortgage was

not validly registered. The unregistered mortgage of Pineda and Sayoc was extinguished upon foreclosure of Gonzales' mortgage even assuming for the sake of argument that the latter mortgage was unregistered. Between two unregistered mortgagees, both being in good faith, the first to foreclose his mortgage prevails over the other.

Even assuming that Gonzales' mortgage was not validly registered, the notice of lis pendens could still not defeat Gonzales' right under the foreclosure sale. The effect of the notice of lis pendens was to subject Gonzales, as the subsequent purchaser of the Property, to the outcome of the case. The outcome of the case is the cancellation of the second owner's duplicate of TCT 8361. The complaint of Pineda and Sayoc simply prayed for the cancellation of the second owner's duplicate of TCT 8361 and the award of damages.[34]

The notice of lis pendens would only bind Gonzales to the declaration of nullity of the second owner's duplicate of TCT 8361. Gonzales could not use TCT 13138, as a void issue of the void second owner's duplicate of TCT 8361, to secure a new TCT in her name. This is the legal consequence of the notice of lis pendens, which would have bound Gonzales had the registration of her mortgage been void. However, the declaration of nullity of TCT 13138 would still not make the mortgage of Pineda and Sayoc preferred over that of Gonzales. Since Gonzales foreclosed her mortgage ahead of Pineda and Sayoc, she would still have a better right than Pineda and Sayoc who slept on their rights as mortgagees.

Conclusion

The nullity of TCT 13138 did not affect the validity of the title or ownership of Mojica or Gonzales as subsequent transferees of the Property. What is void is the transfer certificate of title, not the title or ownership itself of Mojica or Gonzales. The notice of lis pendens could not defeat Gonzales' rights over the Property for two reasons. First, Gonzales registered in good faith her mortgage before the notation of the lis pendens, making the registration of her mortgage valid despite the invalidity of TCT 13138. Second, since Gonzales' mortgage was valid, the auction sale retroacted to the date of registration of her mortgage, making the auction sale prior in time to the notice of lis pendens. Thus, TCT 16084, issued to Gonzales as a result of the foreclosure sale, is valid.

WHEREFORE, the petition is DENIED. The Decision dated 26 August 1993 and the Resolution dated 4 March 1994 of the Court of Appeals in CA-G.R. SP No. 28651 are AFFIRMED. Petitioners Juanita P. Pineda and Lilia Sayoc are directed to surrender the owner's duplicate of Transfer Certificate of Title No. 8361 to the Register of Deeds of Cavite City for cancellation. Transfer Certificate of Title No. 16084 in the name of Teresita A. Gonzales is declared valid. This is without prejudice to any action petitioners Juanita P. Pineda and Lilia Sayoc may file against the Spouses Virgilio and Adorita Benitez as well as Olivia G. Mojica. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Buenaventura J. Guerrero, with Associate Justices Lourdes K. Tayao-Jaguros, Gloria C. Paras and Alfredo J. Lagamon concurring, and Associate Justice Artemon D. Luna dissenting.

[3] Penned by Judge Rolando D. Diaz.

[4] Branch 17.

[5] Paragraph 1 of the Deed of Real Estate Mortgage, Exhibit "B," Records, p. 5.

[6] Exhibit "D," *ibid.*, p. 9.

[7] Records, p. 8.

[8] Ibid.

[9] Exhibit "C," *ibid.*, p. 56.

[10] Branch 17.

[11] Records, p. 34.

[12] Rollo, pp. 29-32.

[13] In TCT 16084, the notice of *lis pendens* erroneously referred to Civil Case No. 4554.

[14] Penned by Associate Justice Alfredo L. Benipayo with Associate Justices Manuel C. Herrera and Regina G. Ordoñez-Benitez concurring.

[15] Rollo, pp. 75-82.

[16] Otherwise known as the "Property Registration Decree."

[17] Sec. 109 of PD 1529 provides:

"SEC. 109. Notice and replacement of lost duplicate certificate. - In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree."

[18] *Demetriou v. Court of Appeals*, G.R. No. 115595, 14 November 1994, 238 SCRA 158; *Serra Serra v. Court of Appeals*, G.R. No. 34080, 22 March 1991, 195 SCRA 482.

[19] 324 Phil. 109 (1996).

[20] *Sps. Eduarte v. CA*, 323 Phil. 462 (1996); *Tenio-Obsequio v. Court of Appeals*, G.R. No. 107967, 1 March 1994, 230 SCRA 550; *Jose v. Court of Appeals*, G.R. No. 85157, 26 December 1990, 192 SCRA 735; *Duran v. Intermediate Appellate Court*, G.R. No. L- 64159, 10 September 1985, 138 SCRA 489.

[21] G.R. No. 115402, 15 July 1998, 292 SCRA 544.

[22] *E. C. McCullough Co. v. Veloso and Serna*, 46 Phil. 1 (1924).

[23] Article 2130 of the Civil Code.

[24] Articles 1496 and 1498 of the Civil Code provide, respectively:

"Art. 1496. The ownership of the thing sold is acquired by the vendee from the moment it is delivered to him, in any of the ways specified in Articles 1497 to 1501, or in any other manner signifying an agreement that the possession is transferred from the vendor to the vendee.

xxx

Art. 1498. When the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the thing which is the object of the contract, if from the deed the contrary does not appear or cannot clearly be inferred.

xxx."

[25] *Penullar v. PNB*, 205 Phil. 127 (1983).

[26] 110 Phil. 494 (1960).

[27] See note 20.

[28] *Dr. Caviles, Jr. v. Bautista*, 377 Phil. 25 (1999).

[29] *Ibid.*

[30] *Capistrano v. PNB*, 101 Phil. 1117 (1957).

[31] *Looyuko v. Court of Appeals*, 413 Phil. 445 (2001).

[32] *Sulit v. Court of Appeals*, G.R. No. 119247, 14 February 1997, 268 SCRA 441.

[33] See note 5.

[34] *Records*, pp. 1-4.

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