

REHABILITATION FINANCE CORPORATION (NOW DEVELOPMENT BANK OF THE PHILIPPINES), PETITIONER, VS. LUCIO JAVILLONAR, ET AL., RESPONDENTS.

G.R. No. 14224. April 25, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal from the decision of the Court of Appeals, 4th Division, affirming in all its parts the decision of the Court of First Instance of Quezon City, in Civil Case No. Q-255.

The property involved is a house described as No. 2, Bulusan St., Quezon City, mortgaged by Consuelo Agrava Vda. de Agoncillo in favor of Paz R. de Tubangui. The house was built on a lot which at the time of the mortgage was not owned by the mortgagor, but which was later acquired by her. The house was subsequently sold in an execution sale and bought by Tubangui, who later sold it to Lucio Javillonar. In the meantime, the lot above mentioned together with its improvements were mortgaged to the Rehabilitation Finance Corporation (RFC), and later sold at a foreclosure sale to the RFC, which took possession of the house and collected the rentals for the same. The question is whether or not the right of the RFC is superior to that of Javillonar and of his predecessor-in-interest, Tubangui.

The facts of the case are embodied in the decision of the Court of Appeals, the pertinent portions of which we reproduce below:

"This is an appeal from a decision of the Court of First Instance of Quezon City of which the following is the dispositive portion:

'IN VIEW OF THE FOREGOING, judgment is hereby rendered as follows :

- (a) Declaring the plaintiff, Lucio Javillonar, owner of the building in question, that is, House No. 2, Bulusan St., Quezon City;
- (b) Ordering the defendant, Rehabilitation Finance Corporation, to deliver possession of the said building to the plaintiff;
- (c) Ordering the defendant, Rehabilitation Finance Corporation, to turn over the rental collected for the use and occupation of said building to the plaintiff corresponding to the period from August 14, 1951, until the plaintiff shall have been placed in possession of the building; and,
- (d) Without special pronouncement as to costs.'

"On September 9, 1947, Consuelo Agrava Vda. de Agoncillo constituted a mortgage over her real and personal properties in favor of Paz R. de Tubangui to secure the repayment of a loan in the sum of P11,000.00 on or before September 25, 1947. Among the properties covered by the mortgage and considered personal property by the parties for purposes of their contract is a house denominated as No. 2, Bulusan St., Quezon City, and located on a

lot not then owned by Agoncillo. On September 17, 1947, the mortgage contract was registered with the Chattel Mortgage Register of Quezon City (Exhibits A and B.) Agoncillo failed to pay her indebtedness. On October 20, 1947, Tubangui sued Agoncillo for the recovery of her money (Civil Case No. 338 of the Court of First Instance of Rizal). The house in question, among others, was attached in said case on or about October 28, 1947 (Exhibits C and C-1). The case was decided on March 2, 1948, upon an amicable settlement, resulting in the lifting of the attachment only with respect to the personal properties of Agoncillo (Exhibits C-2 and C-3 Agoncillo did not comply with the amicable settlement, so that an order of execution was issued on April 7, 1948, and a land and the house in question were attached on April 24, 1948, and sold at public auction to Tubangui on May 27, 1948. On June 21, 1949, an 'Officer's Deed of Sale was executed by the Sheriff of Manila in favor of Tubangui for the said land and house. On August 14, 1951, Tubangui sold the building in question to plaintiff Lucio Javillonar for P1.00 and for services rendered in criminal case No. Q-359, People versus 'Consuelo Agrava Vda. de Agoncillo.' (Exhibit D).

"In the meantime, the land in which the house in dispute was built was subsequently acquired by Agoncillo who obtained Transfer Certificate of Title No. 5431. On March 8, 1948, Agoncillo mortgaged several properties, among which is the parcel of land and its improvement, the building in question, covered by Torrens Title No. 5431 to secure the repayment of a loan of P42,000.00 obtained from the defendant Rehabilitation finance Corporation which shall hereafter be referred to briefly as the RFC. On March 10, 1948, the mortgage agreement (Exhibit E) was registered in the Registry of Deeds of Quezon City, and an annotation thereof inscribed on Transfer Certificate of Title No. 5431. Agoncillo failed to pay the amortizations and the mortgage was foreclosed by the RFC. On November 29, 1948, the RFC was awarded the mortgaged properties as the highest bidder at the auction sale. A year after the sale, without Agoncillo exercising her right of redemption, Transfer Certificate of Title No. 12226 was issued in the name of the RFC. Since then, the RFC has been collecting the rentals for the use and occupation of the building.

"These were the antecedents leading up to the filing of the complaint in the instant action, wherein it is urged that: (a) the sale in favor of plaintiff Lucio Javillonar be declared valid; (2) the mortgage agreement between the, RFC and Consuelo Agrava Vda. de Agoncillo be declared null and void ab initio; and, (3) the plaintiff be declared the owner of the building at No. 2 Bulusan St. La Loma, Quezon City, free from any lien or encumbrance whatever including that of the RFC, and the RFC be ordered to render an accounting of all rentals collected by it from August 14, 1951, and to turn over the house and the rents to the plaintiff. The RFC filed its answer, but defendant Agoncillo did not. Upon the facts, the lower court declared that Tubangu's lien and right over the house were superior to those of the RFC. In this appeal, appellant RFC maintains that the levy and execution sale in its favor should be preferred over that of Tubangui."

In finding and holding that the right of Javillonar derived from his predecessor-in-interest Tubangui was superior to that of the RFC for the reason that the latter was aware of the mortgage of the house by Agoncillo in favor of Tubangui, the Court of Appeals said the following:

"It is noteworthy that the amount of P11,000.00 earmarked by the parties for payment to Tubangui and representing the expenses incurred by Agoncillo 'in the construction of the building' is the same amount alleged in Civil Case No. 338 to have been advanced by Tubangui for which Agoncillo had mortgaged the house, among others, to secure its repayment. The RFC was apprised of this credit before the execution of the mortgage agreement of March 8, 1948. The RFC recognized it when the parties stipulated that the sum of P11,000.00 out of loan shall be paid to Tubangui. If the RFC had acted with that measure of diligence reasonably expected of a prudent man in a like situation, it would have furthermore learned that Agoncillo's debt of P11,000.00 was long overdue and Tubangui has filed a case and obtained a judgment in her favor on March 2, 1948, which was not yet satisfied. In *Leung Yee vs. F. L. Strong Machinery Co.*, 37 Phil. 644, 611, it

was stated that a party's mere refusal to believe that a defect exists or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title, will not make him an innocent purchaser for value, if it afterwards develops that, the title was in fact defective, and it appears that he had such notice of the defect as would have led to its discovery had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation. That previous knowledge of the RFC was equivalent to registration, thereby making Tubangui's lien superior to the mortgage lien of the said KFC over the house. In *Parsona Hardware Co., Inc. vs. Villahermosa*, 40 Off. Gaz., No. 10, September 6, 1941, p. 111, our Supreme Court ruled as follows:

'Without deciding upon the effect of the notation of respondents' purchase in the register of deeds' entry book and even assuming that such purchase has not been duly registered, we believe and so hold that the same has preference over the levy. After the property was levied upon for the first time, a third-party claim was filed by the respondents V and his wife, alleging under oath, their having purchased the property on a previous date. The levy was dissolved upon the creditor's failure, after notice, to give the indemnity bond, Of course, this dissolution could not operate to wipe out the notice given the creditor as to the purchase made by said respondents, as alleged in their verified third-party claim. When, therefore, the second levy was effected, the creditor, may be regarded as having a previous knowledge of said purchase; and, although the purchase was not duly registered, the creditor's knowledge thereof was equivalent to registration, at least with respect to the creditor itself who acquired the property at the judicial sale.'

After a careful study of the case, we are in entire accord with the holding of the Court of Appeals.

In view of the foregoing, finding no error in the appealed decision, the same is hereby affirmed, with costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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