

JUAN GARCIA SANCHEZ, PETITIONER, VS. MARIANO ROSAURO, AS REGISTER OF TITLES OF PROPERTY OF THE PROVINCE OF TARLAC, RESPONDENT.

G.R. No. 14609, October 02, 1919

Ponente: JOHNSON, J.

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JOHNSON, J.:

The only question presented by the petitioner is whether or not mandamus will issue to compel the registrar of titles of property to record a sheriff's deed to real property which had been sold under an execution.

The admitted facts upon which the application for the writ of mandamus is made may be stated as follows:

That a judgment was rendered in cause No. 817 pending in the Court of First Instance of the Province of Tarlac, in favor of Juan Garcia, plaintiff, and against Pablo Taruc, defendant; that on the 20th day of March, 1916, an execution was issued upon said judgment, which was delivered to the sheriff, and eight parcels of land were attached under said execution; that on the 8th day of April, 1916, after due notice of the sale had been made, the said eight parcels of land belonging to said Pablo Taruc were sold to Juan Garcia at public auction for the sum of P2,330; that on the 17th day of May, 1917, a sheriff's deed was duly executed and delivered by the sheriff of said province to the purchaser of said eight parcels of land, in accordance with the provisions of section 466 of Act No. 190; that on the 17th day of September, 1918, Juan Garcia, the purchaser of said eight parcels of land and the holder of said sheriff's deed, presented the same to the registrar of titles of the Province of Tarlac, who refused to register the same upon the ground that said parcels of land had not been previously registered in the name of the said Pablo Taruc.

Sections 443-473 of Act No. 190 provide the method by which the party in whose favor a judgment has been rendered may, by a writ of execution, recover the amount of said judgment. Said sections provide for the issuance of a writ of execution, its form, its requisites, its enforcement, the method for selling the property attached, the persons who may redeem, the time and manner of redemption, and, finally, for the execution and delivery of a sheriff's deed.

Section 463 provides that upon the sale of real property by a sheriff under execution, the sheriff shall execute and deliver to the purchaser a certificate of sale. Said section further provides that "a duplicate of such certificate must be filed by the officer (by the sheriff) in the office of the register of land titles of the province." While said section (463) provides only that a duplicate of the certificate must be filed in the office of the registrar of land titles, section 466 provides that the certificate of redemption, in case the land is redeemed, must be filed and recorded in the office of the registrar of land titles and that the registrar must note the record thereof (certificate of redemption) on the margin of the record of the certificate of sale. From reading the provisions of section 466 in relation with section 463, the conclusion must be, that the "certificate of sale of the sheriff" must not only be filed in the office of the registrar of land titles but must be by Mm recorded; for, otherwise, the requirement of section 466 that the certificate of redemption must be recorded on the "margin of the record of the certificate of sale" is

without meaning. The certificate of redemption cannot be recorded upon the "margin of the record of the certificate of sale" unless the certificate of sale itself is recorded.

The respondent relies evidently upon the provisions of the Mortgage Code in denying the right of registration of the sheriff's deed in question. The purpose of the Mortgage Code was to require the record to show a complete chain of title and the chain could not be complete if a single link was omitted. However commendable that theory is, the owner of land, by refusing to have his title recorded, should not be permitted to forever bar subsequent legitimate owners of the land, who had acquired it by a method pointed out by the law, from securing a record of a perfectly valid and subsisting title.

While we are not prepared at the present time to say to just what extent subsequent legislation has modified the provisions of the Mortgage Code, it is certainly clear from the provisions of Act No. 190 that persons who become owners of land by virtue of judicial decrees are entitled to have their titles recorded as a result of said judicial decrees. (See par. 7, sec. 722, Act No. 190; sec. 764, Act No. 190, as well as other sections of said Act.)

Moreover, section 194 of Act No. 2711 (see Act No. 2837) expressly provides that any instrument affecting the title of unregistered land, such as a deed, lease, mortgage, release, power of attorney, or other evidence of contract relative thereto, shall be delivered for record to the register of deeds for the province or city where the land lies, and it shall be the duty of the registrar, as soon as practicable after said delivery, formally to record the instrument by extending it in full upon the proper record.

Even in the absence of the provisions of Act No. 190 above quoted, relating to the record of a sheriff's deed executed and delivered in pursuance of a sale of land under execution, it seems clear that under the terms of section 194 of Act No. 2711 it is the mandatory duty of the register of deeds to record said certificate. The owners of land, by a mere failure to have their title deeds recorded, should not forever prevent subsequent owners of said land, rightfully acquired under the law, from having their evidence of title duly preserved in a public record.

For all of the foregoing, and without a further discussion, we are of the opinion that it is the duty of the registrar of property to register and record a sheriff's deed, like the one in the present case, even though the former owner's title has not been recorded.

Therefore, let the writ of mandamus as prayed for be issued; and, without any finding as to costs, it is so ordered.

Arellano, C.J., Torres, Amullo, Malcolm, and Avanceña, JJ., concur.

CONCURRING

STREET, J.,

I concur in the conclusion reached in the opinion of the court, and wish to point out that section 194 of the Administrative Code (Act No. 2711) contains provisions which, in my opinion, if given effect according to the apparent intention of the Legislature, makes a departure in our system of registration and supplies the basis for the recording of the instruments therein mentioned whether the property concerned has been already inscribed under the Mortgage Law or not.

Writ granted.

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