

ARMED FORCES AND POLICE MUTUAL BENEFIT ASSOCIATION, INC., PETITIONER, VS. INES BOLOS SANTIAGO, RESPONDENT.

G.R. No. 147559. June 27, 2008

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated July 31, 2000 and the Resolution[2] dated March 15, 2001 of the Court of Appeals (CA).

The Facts of the Case

The antecedent facts, as culled by the CA from the findings of the Land Registration Authority (LRA), are as follows:

This refers to a Notice of Levy on Attachment on Real Property dated September 12, 1994, issued in Civil Case No. Q-92-11198 entitled "The Armed Forces of the Philippines Mutual Benefit Association, Inc., Plaintiff, vs. Eurotrust Capital Corporation, Elsa B. Reyes, Rene M. Reyes, Celedonio N. Reyes, Digna Blanca, Fernando C. Francisco, Ma. Cristina C. Cornista, EBR Realty Corporation and B.E. Ritz Mansion International Corporation, Defendants, Regional Trial Court, Branch 216, Quezon City, levying all the rights, claims, shares, interests and participation of EBR Realty Corporation in the real property covered by Transfer Certificate of Title No. PT-79252.

On September 14, 1994, the Notice of Levy was presented for registration in the Registry of Deeds of Pasig City. The Notice was entered in the Primary Entry Book under Entry No. PT-1305. However, it was not annotated on TCT No. PT-79252 because the original copy of said title on file in the Registry of Deeds was not available at that time. Aniana Estremadura, the employee who examined the notice of levy, kept the said document in the meantime "hoping some later days said title may be found" as "at the time we were yet in turmoil or in disarray having just transferred from our old office."

On September 20, 1994 or six (6) days after the presentation of the Notice of Levy, a Deed of Absolute Sale dated February 24, [1994], executed by EBR Realty Corporation in favor of Ines B. Santiago involving the same parcel of land covered by TCT No. PT-97252 was presented for registration and entered under Entry No. PT-1653. The deed of sale was examined by the same employee who examined the notice of levy, but she failed to notice that the title subject of the sale was the same title which was the subject of the notice of levy earlier presented. Unaware of the previous presentation of the notice of levy, the Register of Deeds issued TCT No. PT-94912 in the name of vendee Ines B. Santiago on the basis of the deed of sale. It was only after the Register of Deeds had already acted on the said deed of sale that Aniana Estremadura informed him of the presentation of the notice of levy. (Ltr. dated October 24, 1994 of the Register of Deeds to Ms. Ines B. Santiago).

Nevertheless, when the Register of Deeds discovered the error he immediately sent a letter dated October 24, 1994 to Ms. Ines B. Santiago requesting her to surrender the documents, particularly the deed of sale and owner's duplicate of TCT No. PT-94912 so that he can take appropriate rectification or correction. Ms. Santiago refused to surrender the documents and owner's duplicate of said title saying that "it was your office

that caused this confusion so I do not see an iota of reason why I should be implicated in this kind of mess." This prompted the Register of Deeds to file a Manifestation dated November 11, 1995 in Civil Case No. Q-92-11198 informing the court of the foregoing circumstances and praying that the Register of Deeds be authorized to annotate on TCT No. PT-94912 the Notice of Levy on Attachment of Real Property.

Since the court has not yet issued any order on the matter, the Register of Deeds is now asking if he may proceed with the annotation of the Notice of Levy on the original copy of TCT No. PT-94912 or wait for the order of the court.[3]

On May 28, 1997, acting on the consulta by the Registry of Deeds of Pasig City on the propriety of annotating the notice of levy on attachment on Transfer Certificate of Title (TCT) No. PT-94912, the LRA issued a Resolution,[4] the fallo of which reads:

WHEREFORE, premises considered, this Authority is of the opinion and so holds that the subject Notice of Levy cannot be annotated on TCT No. PT-94912, except by order of the court.

SO ORDERED.[5]

Petitioner filed a motion for reconsideration. On October 12, 1998, the LRA issued an Order[6] denying the motion for reconsideration for lack of merit.

On appeal to the CA, petitioner submitted the following grounds in support of its contention that a court order is not necessary in order that the notice of levy on attachment may be annotated on TCT No. PT-94912: (1) the notice of levy on attachment in favor of petitioner was registered in the primary entry book before the deed of absolute sale in favor of respondent and such involuntary registration already binds the land subject of TCT No. PT-94912; (2) respondent is not an innocent purchaser for value because she had actual and constructive knowledge of the issuance of the notice of levy on attachment dated September 12, 1994; (3) the annotation of the notice of levy on attachment does not constitute an alteration, amendment or revocation of TCT No. PT-94912; and (4) the LRA decision requiring a court order before petitioner's attachment lien can be annotated on TCT No. PT-94912 is tantamount to penalizing petitioner for the irregularities committed by the Pasig Registry of Deeds.

On July 31, 2000, the CA dismissed the petition. The pertinent portions of the Decision read:

Records of the case disclose that at the time the levy on attachment in issue was inscribed in the Primary Entry Book on September 14, 1994, the property covered by Transfer Certificate of Title No. PT-79252 in the name of ERB Realty Corporation had already been previously sold to private respondent Santiago on February 24, 1994. With this in mind, it cannot be said at once that respondent Santiago is not a buyer in good faith and for value. To assume this position is too preposterous, premature and dangerously unprocedural since at the time of such sale, the inscription has not been done as yet.

Furthermore, Transfer Certificate of Title No. PT-94912 may undeniably be derived from Transfer Certificate of Title No. PT-79252, yet, to allow the inscription of the levy on attachment on TCT No. PT-94912 would be levying on a property not owned by anyone of the defendants in this (sic) main civil case. Albeit Ines Bolos Santiago is a sister of Elsa Bolos Santiago (a defendant in the civil case), the fact still remains that respondent Santiago is not one of the defendants in the suit.

Upon the other hand, to allow the inscription of the controversial levy on attachment upon the title of respondent Santiago will be tantamount to prematurely declaring her as a buyer in bad faith of the property. Such controversy is substantially a judicial issue over which the Registry of Deed nor the Land Registration Authority has no jurisdiction. Verily, on a mere Consulta, the Land Registration Authority could not rule on such issue on whether or not a registered owner is a buyer in good faith or not. Only our ordinary courts have that exclusive jurisdictional prerogative to try and decide such controversy. In fine, the question of whether or not the conveyance was made to defraud [the] creditor of the transferor should be left for determination of the

proper court. There is much danger in giving this authority to the Register of Deeds without judicial intervention as there would be injustice in the suggested frustrations of a judicial victory for a party to the case. (In re: Consulta of Vicente J. Francisco on behalf of Cabantug, 67 Phil. 222, Peña on Land Titles, supra, p. 112).

In sum, We find no error in the challenged resolutions of the Land Registration Authority.

IN VIEW OF ALL THE FOREGOING, the instant petition for review is ordered DISMISSED. No pronouncement as to costs.

SO ORDERED.[7]

Petitioner filed a motion for reconsideration; however, the same was denied in a Resolution dated March 15, 2001. Hence, this petition.

The Issues to Be Resolved

- Whether the notice of levy on attachment may be annotated on TCT No. PT-94912;
- Whether a declaration from the court that respondent is a purchaser in bad faith is necessary before the notice of levy on attachment may be annotated on TCT No. PT-94912; and
- Whether a court order is necessary in order that the notice of levy on attachment may be annotated on TCT No. PT-94912.

The Ruling of the Court

I

The notice of levy on attachment in favor of petitioner may be annotated on TCT No. PT-94912. Levin v. Bass[8] provided the distinction between voluntary registration and involuntary registration. In voluntary registration, such as a sale, mortgage, lease and the like, if the owner's duplicate certificate be not surrendered and presented or if no payment of registration fees be made within fifteen (15) days, entry in the day book of the deed of sale does not operate to convey and affect the land sold. In involuntary registration, such as an attachment, levy upon execution, lis pendens and the like, entry thereof in the day book is a sufficient notice to all persons of such adverse claim.[9]

The entry of the notice of levy on attachment in the primary entry book or day book of the Registry of Deeds on September 14, 1994 is sufficient notice to all persons, including the respondent, that the land is already subject to an attachment. The earlier registration of the notice of levy on attachment already binds the land insofar as third persons are concerned. The fact that the deed of absolute sale was dated February 24, 1994 is of no moment with regard to third persons.

Sections 51 and 52 of the Property Registration Decree (Presidential Decree [P.D.] 1529) provide:

SEC. 51. Conveyance and other dealings by registered owner. - An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Registry of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of

Deeds for the province or city where the land lies. (Emphasis supplied.)

SEC. 52. Constructive notice upon registration. - Every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land shall, if registered, filed or entered in the office of the Register of Deeds for the province or city where the land to which it relates lies, be constructive notice to all persons from the time of such registering, filing or entering.

Under the aforesaid provisions, the act of registration is the operative act to convey or affect the land insofar as third persons are concerned.[10] Constructive notice is also created upon registration of every conveyance, mortgage, lease, lien, attachment, order, judgment, instrument or entry affecting registered land.

In this case, the preference created by the levy on attachment is not diminished by the subsequent registration of the prior sale to respondent. The attachment that was registered before the sale takes precedence over the latter.[11] Superiority and preference in rights are given to the registration of the levy on attachment; although the notice of attachment has not been noted on the certificate of title, its notation in the book of entry of the Register of Deeds produces all the effects which the law gives to its registration or inscription.

II

Respondent cannot be considered an innocent purchaser for value. Under the rule of notice, it is presumed that the purchaser has examined every instrument of record affecting the title. Such presumption is irrebuttable. He is charged with notice of every fact shown by the record and is presumed to know every fact shown by the record and to know every fact which an examination of the record would have disclosed. This presumption cannot be overcome by proof of innocence or good faith. Otherwise, the very purpose and object of the law requiring a record would be destroyed. Such presumption cannot be defeated by proof of want of knowledge of what the record contains any more than one may be permitted to show that he was ignorant of the provisions of the law. The rule that all persons must take notice of the facts which the public record contains is a rule of law. The rule must be absolute; any variation would lead to endless confusion and useless litigation.[12] For these reasons, a declaration from the court that respondent was in bad faith is not necessary in order that the notice of levy on attachment may be annotated on TCT No. PT-94912.

The fact that the notice of levy on attachment was not annotated on the original title on file in the Registry of Deeds, which resulted in its non-annotation on TCT No. PT-94912, should not prejudice petitioner. As long as the requisites required by law in order to effect attachment are complied with and the appropriate fees duly paid, attachment is duly perfected. The attachment already binds the land. This is because what remains to be done lies not within the petitioner's power to perform but is a duty incumbent solely on the Register of Deeds.

III

The Administrator of the LRA did not commit a reversible error in referring to the court the propriety of annotating the notice of levy on attachment. Section 71 of PD 1529 is the controlling law on the matter, viz.:

SEC. 71. Surrender of certificate in involuntary dealings. - If an attachment or other lien in the nature of involuntary dealing in registered land is registered, and the duplicate certificate is not presented at the time of registration, the Register of Deeds shall, within thirty-six hours thereafter, send notice by mail to the registered owner, stating that such paper has been registered, and requesting him to send or produce his duplicate certificate so that a memorandum of the attachment or other lien may be made thereon. If the owner neglects or refuses to comply within a reasonable time, the Register of Deeds shall report the matter to the court, and it shall, after notice, enter an order to the owner, to produce his certificate at a time and place named therein, and may enforce the order by suitable process. (Emphasis supplied.)

In this case, since respondent refuses to surrender the owner's duplicate certificate so that the attachment lien may

be annotated, a court order is necessary in order to compel the respondent to surrender her title. As a rule, the functions of the Register of Deeds are generally regarded as ministerial and said officer has no power to pass upon the legality of an order issued by a court of justice.[13]

WHEREFORE, in view of the foregoing, the Decision of the Court of Appeals in CA-G.R. SP No. 50923 is hereby reversed and set aside. The Register of Deeds of Pasig City is hereby ordered to annotate in the original copy of Transfer Certificate of Title No. PT-97252 the notice of levy on attachment dated September 12, 1994, issued in Civil Case No. Q-92-11198. Respondent is ordered to surrender the owner's duplicate certificate of Transfer Certificate of Title No. PT-97252 for the proper annotation of the aforesaid notice of levy on attachment.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr. (now Presiding Justice), with Associate Justices Mariano M. Umali and Eriberto U. Rosario, Jr., concurring; rollo, pp. 40-46.

[2] Rollo, p. 48.

[3] Id. at 40-41.

[4] Penned by Administrator Reynaldo Y. Maulit; rollo, pp. 86-87.

[5] Id. at 87.

[6] Penned by Administrator Alfredo R. Enriquez; rollo, pp. 89-90.

[7] Rollo, pp. 45-46.

[8] 91 Phil. 420 (1952); see also Dr. Caviles, Jr. v. Bautista, 377 Phil. 25 (1999); Garcia v. Court of Appeals, 184 Phil. 358 (1980).

[9] Levin v. Bass, *supra*, at 436-437.

[10] P.D. 1529, Sec. 51.

[11] Du v. Stronghold Insurance Co., Inc., G.R. No. 156580, June 14, 2004, 432 SCRA 43; Garcia v. Court of Appeals, *supra* note 8; Capistrano v. Philippine National Bank, G.R. No. L-9628, August 30, 1957, 101 Phil. 1117; Government of the Philippine Islands v. Aballe, G.R. No. 41342, November 28, 1934, 60 SCRA 986.

[12] Sumaya v. Intermediate Appellate Court, G.R. Nos. 68843-44, September 2, 1991, 201 SCRA 178; People v. Reyes, G.R. Nos. 74226-27, July 27, 1989, 175 SCRA 597; Gatioan v. Gaffud, 137 Phil. 125 (1969).

[13] Register of Deeds, Pasig, Rizal v. Heirs of Caiji, et al., 99 Phil. 25 (1956).

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