

**SANTIAGA BLANCO, ET AL., PLAINTIFFS AND APPELLEES, VS.
FRUCTUOSA ESQUIERDO, ET AL., DEFENDANTS. DEVELOPMENT
BANK OF THE PHILIPPINES (FORMERLY REHABILITATION FINANCE
CORPORATION...**

G.R. No. 15182. December 29, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal from a decision of the Court of First Instance of Negros Occidental ordering the cancellation of Transfer Certificate of Title No. T-6582 issued in the name of Fructuosa Esquierdo on the ground that it was procured thru fraud, including the registration of a mortgage annotated on the back thereof which was constituted on the land by said Fructuosa Esquierdo as security for the loan obtained by her from the appellant Development Bank of the Philippines.

It appears that the land covered by the certificate of title above-mentioned was originally registered in the name of the "Heirs of Maximiano Blanco" as evidenced by Original Certificate of Title No. P-268 of the land records of Negros Occidental. The latter certificate was issued pursuant to the homestead application of Maximiano Blanco, who died on June 15, 1930 before the corresponding patent could be issued. After his death, his common law wife, Fructuosa Esquierdo, and his surviving brothers and sisters took joint possession of the land in question.

On July 24, 1950, Fructuosa Esquierdo made an extra judicial adjudication in her favor of the entire land, claiming in an affidavit filed by her with the Register of Deeds that she was Maximiano Bianco's widow and only heir. In accordance with said adjudication, the Register of Deeds, on the following day, cancelled Original Certificate of Title No. P-268 and in lieu thereof issued Transfer Certificate of Title No. T-6582 in her name.

On August 3, 1956, after learning of the transfer of title, Santiago, Meycala, Facunda, Florencia, Mamerta, Teodora, Fabian and Juan, all surnamed Blanco, filed the present proceedings with the Court of First Instance of Negros Occidental, praying for the annulment of the affidavit executed by Fructuosa Esquierdo and the cancellation of the certificate of title issued in her name. The complaint, in substance, alleged that the deceased Maximiano Blanco died single without leaving any descendant, ascendant or forced heir, except the plaintiffs who are his brothers and sisters, and that defendant Fructuosa Esquierdo, through the inducement of her nephew and co-defendant Fabio Silva, secured the issuance of the certificate of title in her name thru fraud, or by means of false and fraudulent representations made by her in the affidavit adjudicating the entire property to herself. Included as party defendant was the Development Bank of the Philippines (formerly Rehabilitation Finance Corporation) to which the property was alleged to have been mortgaged by defendant Fructuosa Esquierdo.

In due time, the defendants Fructuosa Esquierdo and Fabio Silva filed their answer, which was subsequently amended. In a separate answer, the Development Bank of the Philippines admitted that a mortgage was constituted on the land by the defendant Fructuosa Esquierdo as security for the loan obtained by her from the said bank, and as special defenses alleged that the complaint did not state facts sufficient to constitute a cause of

action as against it and that it is a mortgagee in good faith.

After trial, the lower court, on December 11, 1958, rendered judgment declaring the certificate of title issued in the name of Fructuosa Esquierdo invalid, and ordering its cancellation and the restoration of Original Certificate of Title No. P-268 in the name of the Heirs of Maximiano Blanco, or the issuance of a new transfer certificate of title in the name of said heirs. The court, likewise, ordered the cancellation of the registration of the mortgage deed annotated on the back of the certificate of title.

Arguing that it is an innocent mortgagee for valuable consideration and as such it is fully protected by law in its rights in the mortgage, regardless of whether the title to the land has been secured fraudulently or not by the defendant mortgagor Fructuosa Esquierdo, the defendant bank moved for a reconsideration of the decision. The court below, however, after opposition to the motion has been filed by plaintiff, denied the same. Hence, this appeal by the defendant bank.

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, and if the latter are insolvent, an action against the Treasurer of the Philippines may be filed for the recovery of damages against the Assurance Fund (De la Cruz vs. Fabie, 35 Phil., 144; Blondeau vs. Nano, 61 Phil., 625; Sumira et al. vs. Vistan et al., 74 Phil. 138; Raymundo et al. vs. Afable, et al., 96 Phil., 655; 51 Off. Gaz. [3] 1329; Domingo, et al. vs. Mayon Realty Corp., et al., 102 Phil., 32; 54 Off. Gaz., [17] 4954; Avecilla vs. Yatco, et al., 103 Phil., 666; 54 Off. Gaz. 6415.)

In this connection, it will be noted that the deceased Maximiano Blanco died way back in 1930 and the certificate of title pursuant to his homestead application was issued in the name of his heirs sometime in 1934. Plaintiffs, however, took no steps for the settlement of their late brother's estate, and instead merely took possession of the land in question jointly with Fructuosa Esquierdo. They also appear to have entrusted the owner's certificate to said Fructuosa Esquierdo thus making it possible for, her to fraudulently secure a transfer certificate of title in her name. This should be emphasized, for in several cases it is what impelled this Court to apply the principle of equity that "as between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss." (De Lara et al. vs. Ayroso, supra.)

Wherefore, the judgment appealed from is hereby modified in the sense that the annulment of Transfer Certificate of Title No. T-6582 and the issuance of a new one in lieu thereof in the names of the heirs of Maximiano Blanco shall be without prejudice to the rights of the defendant-appellant bank as an innocent mortgagee for value. So

ordered without costs.

Paras, C.J., Bengzon, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

Judgment modified.

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