

**FIRST DIVISION EXPRESSCREDIT FINANCING CORPORATION,
PETITIONER, VS. SPS. MORTON AND JUANITA VELASCO,
RESPONDENTS.**

G.R. NO. 156033. October 20, 2005

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a Petition for Review on Certiorari under Rule 45 appealing the Decision[1] dated August 20, 2002 and the Resolution[2] dated November 12, 2002 of the Court of Appeals in CA-G.R. CV No. 56491, entitled "Juanita Velasco v. Sps. Jesus V. Garcia." The assailed Decision reversed the Decision of the Regional Trial Court of Quezon City, Branch 101, in Civil Case No. Q-90-7037, while the assailed Resolution denied petitioner's Motion for Reconsideration.

The antecedent facts are as follows:

On May 25, 1988,[3] respondents purchased on installment, from spouses Jesus and Lorelei Garcia ("Garcia spouses"), a house and lot in Quezon City, covered by Transfer Certificate of Title No. 3250 in the name of Jesus Garcia.

In July 1988,[4] a Deed of Absolute Sale[5] was executed whereby the Garcia spouses bound themselves to deliver the title of the property purchased, free from all liens and encumbrances within 15 days from full payment. Respondents were thereafter informed by the Garcia spouses that since the house on the property was still under construction, the lot was still covered by the mother title and had no separate title as yet. They promised to give the title after the construction was completed.

In August 1988, the keys to the property were delivered to the respondents. They moved in, applied for a telephone connection, and insured the house. When respondents followed up on the title, the Garcia spouses told them that since the Quezon City Hall was razed by a fire in June, the title had to be reconstituted, so their separate title could not yet be delivered to them. Because the Garcia spouses would not deliver the title despite repeated demands, respondents went to the Register of Deeds in Quezon City and discovered that the Garcia spouses had mortgaged the property to petitioner, Expresscredit Financing Corporation, for P250,000 on June 15, 1989, or more than a year after the property was sold to them.

On October 23, 1990, the respondents filed a case for Quieting of Title and Specific Performance against the Garcia spouses before the court a quo, whereby they caused registration of a notice of lis pendens on the title, attaching thereto a copy of their complaint stating that they have been the owners of the said property since May 25, 1988. The Garcia spouses were subsequently declared in default for failing several times to appear in court despite notice.

On October 7, 1992, petitioner foreclosed on the property in defiance of the notice of lis pendens and the Writ of Preliminary Injunction issued by the lower court, enjoining petitioner from selling or in any manner disposing of

the property without permission from the court. Petitioner sold the property in a public auction where petitioner was the highest bidder. Due to the failure of the Garcia spouses to redeem the property, petitioner thereafter executed an Affidavit of Consolidation and secured Certificate of Title No. 69049 in its name.

On March 1, 1996, the Regional Trial Court rendered its Decision, stating as follows:

Under the foregoing circumstances, there is no need for the defendant corporation to go beyond the title itself because the title is in the name of defendant Garcia and it was defendant Garcia who offered the title as collateral to the loan agreement. But nonetheless, defendant corporation went beyond the certificate of title by conducting an [ocular] inspection of the property. Surely, defendant corporation could never have accepted the property as a collateral to the loan of defendant spouses Garcia had there been any knowledge of any encumbrance over the same, much more that the title thereto had been transferred and sold. The defendant corporation's failure to make further inquiry apart from the ocular inspection, concerning the rights of herein plaintiffs who were in possession of the property thru their caretakers is not fatal because it relied on the title on the property which is in the name of Garcia and it was Garcia himself who is the registered owner of the land and not someone else claiming the right from Garcia.

Clearly then, under the foregoing circumstances, defendant [Expresscredit] Financing Corporation is an innocent purchaser and is, therefore, in good faith.

The Court, however, recognized the rights pertaining to herein plaintiffs, only said rights are subservient to that of defendant corporation. Plaintiffs, based on the evidence, both testimonial and documentary, adduced in Court are likewise considered as innocent purchasers of the subject property. Had they registered the Deed of Sale executed between them and Spouses Garcia, they [would] have, undoubtedly, a preferential right over the property.

Plaintiffs spouses [deserve] to be reimbursed of whatever amount they have [spent] for the purchase of the property sold to them by the Garcia spouses. Considering the predicament of herein plaintiffs, and the fact that they were the first to buy the properties, were it not for their failure to register the sale before the Registry of Property, defendant corporation is hereby enjoined to REIMBURSE plaintiffs of the amount spent for the purchase of the 37.50 square meters of a parcel of residential land, Lot 6-B-1, Subdivision plan PSD 342248, situated in the district of Diliman, Quezon City and formerly covered by TCT No. 3250 now TCT No. 69049, Registry of Deeds, Quezon City, with right of recovery from co-defendants, spouses Garcia.

WHEREFORE, premises above considered, the above-entitled case filed against defendant [Expresscredit] Financing Corporation is hereby ordered DISMISSED for lack of merit.

Counterclaims filed by defendant [Expresscredit] Financing Corporation against herein plaintiffs are likewise ordered DISMISSED.

No pronouncement as to the costs of the suit.

SO ORDERED.[6]

The spouses Velasco, herein respondents, then filed an appeal before the Court of Appeals alleging that the court a quo erred in (1) not declaring Expresscredit Financing Corporation as an incumbrancer in bad faith such that it did not acquire good title as against them and (2) not incorporating in the dispositive portion of the decision, an order to Expresscredit Financing Corporation to reimburse the money they paid.

The Court of Appeals reversed the Decision of the trial court as follows:

WHEREFORE, the Decision of the lower court is hereby REVERSED and SET ASIDE. Accordingly:

1. Appellants Juanita and Morton Velasco are declared purchaser for value and in good faith with respect to the

subject property;

2. The Deed of Mortgage, Sheriff's Certificate of Sale, Affidavit of Consolidation in favor of appellee [Expresscredit], and the Transfer Certificate of Title No. 69049 in the name of [Expresscredit], are hereby declared of no force and effect;

3. Defendants Jesus and Lorelei Garcia are hereby ordered to pay to appellants Velasco the amount of P40,000 as moral damages, P15,000 as attorney's fees; and P10,000 as litigation expenses.

Costs against appellee.

SO ORDERED.[7]

Before us, petitioner raises the following issues:

I. THE APPELLATE COURT COMMITTED GRAVE ERROR IN REVERSING THE DECISION OF THE LOWER COURT.

II. THE APPELLATE COURT COMMITTED GRAVE ABUSE OF DISCRETION AND ERROR IN HOLDING SUPREME, AN UNREGISTERED DEED OF ABSOLUTE SALE OVER A REGISTERED REAL ESTATE MORTGAGE.

III. THE APPELLATE COURT ERRED IN VOIDING THE SALE ON PUBLIC AUCTION AS A RESULT OF THE EXTRA JUDICIAL PETITION FOR FORECLOSURE OF MORTGAGE.[8]

The main issue is, Who has preferential right over the property, the respondents who acquired it through prior purchase or the petitioner who acquired the same in a foreclosure sale as the highest bidder?

Petitioner alleges that this is a clear case of a double sale. The first sale is the unregistered sale of the property covered by TCT No. 3250 by the Garcia spouses to the respondents; the second is the sale during the foreclosure proceedings by the Ex-Officio Sheriff in favor of the petitioner as the winning bidder.

Article 1544 of the Civil Code is the rule on double sale. It provides:

...

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

An "innocent purchaser for value" or any equivalent phrase shall be deemed to include, under the Torrens System, the innocent lessee, mortgagee, and other encumbrancer for value.[9]

In *Bautista v. Court of Appeals*,[10] we held that where the thing sold twice is an immovable, the one who acquires it and first registers it in the Registry of Property, in good faith, shall be the owner.

Who then can be considered a purchaser in good faith?

In the early case of *Leung Yee v. F.L. Strong Machinery Co. and Williamson*,[11] we explained good faith in this wise:

One who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor.[12]

Good faith, or the want of it, is capable of being ascertained only from the acts of one claiming its presence, for it is a condition of the mind which can only be judged by actual or fancied token or signs.[13]

As shown by the evidence, the property had already been sold by the Garcia spouses to the respondents on May 25, 1988. The respondents immediately took possession, applied for a telephone line, and insured the property with Pioneer Insurance in September 1988. When the same land was mortgaged by the Garcia spouses, respondents have been, since May 25, 1988 in actual, physical, continuous and uninterrupted possession.

Petitioner justifies its acquisition of the property by saying that when it was mortgaged, the previous sale of the land was not annotated on the title and so its purchase was in good faith. To fulfill the requirement of good faith, it is imperative for a mortgagee of the land, in the possession of persons not the mortgagor, to inquire and investigate into the rights or title of those in possession. It is true that a person dealing with the owner of registered land is not bound to go beyond the certificate of title. He may rely on the notices of the encumbrances on the property annotated on the certificate of title or absence of any annotation. However, we note that the Garcia spouses are unlike other mortgagors. They are in the business of constructing and selling townhouses and are past masters in real estate transactions. Further, petitioner is in the business of extending credit to the public, including real estate loans. In both these businesses, it devolves upon both, greater charge than ordinary buyers or encumbrancers for value, who are not in such venture. It is standard in their business, as a matter of due diligence[14] required of banks and financing companies, to ascertain whether the property being offered as security for the debt has already been sold to another to prevent injury to prior innocent buyers. They also have the resources to ascertain any encumbrances over the properties they are dealing with.

According to respondents' witness, Conchita Cotoner, on the second week of June 1989, two credit investigators of petitioner visited the subject property to investigate concerning the occupants on the property. They were promptly informed by the witness, who was the caretaker of the property, that the same had been sold to respondents by the Garcia spouses in May of 1988. Clearly, petitioner, through its agents, had been informed of the earlier sale of the subject property to the respondents. Since the Garcia spouses no longer had the right to alienate the property, no valid mortgage was ever constituted on it.[15] Since the mortgage contract was void, the foreclosure of the property was ineffectual as well.[16] Sadly, petitioner, despite having knowledge of the unregistered sale still accepted the mortgage and to our mind, in bad faith, purchased the same at the foreclosure sale.

A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard and claim that he acted in good faith under the belief that there was no defect in the title of the vendor. His mere refusal to believe that such 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. Good faith or the lack of it, is a question of intention; but in ascertaining the intention, courts are necessarily controlled by the evidence as to the conduct and outward acts by which alone the inward motive may, with safety, be determined.[17]

Indeed, where the land sold in auction sale was registered under the Torrens System, the purchaser at the execution sale acquired such rights, title and interest of the judgment debtor as appearing on the certificate of title issued on the property, subject to no liens, encumbrances or burdens that were not noted thereon. Petitioner's claim that it purchased the property at an auction sale is of no moment. In this case, particular circumstances constrain us to rule that petitioner was neither a mortgagee nor a purchaser in good faith and as such, could not acquire good title to the property as against the former transferee.[18]

WHEREFORE, the assailed Decision dated August 20, 2002 and Resolution dated November 12, 2002 of the Court of Appeals in CA-G.R. CV No. 56491 are AFFIRMED.

SO ORDERED.

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

[*] Sometimes "Express Credit" in the records.

[1] Rollo, pp. 22-32. Penned by Associate Justice Romeo A. Brawner, with Associate Justices Jose L. Sabio, Jr., and Mario L. Guariña III concurring.

[2]Id. at 33-34.

[3]Records, pp. 125-127.

[4] CA Decision in CA-G.R. CV No. 56491, Rollo, p. 28.

[5]Records, pp. 139-141.

[6] Records, pp. 347-348.

[7] Rollo, p. 31.

[8]Id. at 14-15.

[9] Narciso Peñalva, et al., Registration of Land Titles and Deeds 145-146 (1994).

[10] G.R. No. 106042, 28 February 1994, 230 SCRA 446, 454.

[11] No. 11658, 15 February 1918, 37 Phil. 644.

[12] Id. at 651.

[13] Id. at 652.

[14] See Agag v. Alpha Financing Corporation, G.R. No. 154826, 31 July 2003, 407 SCRA 602, 611.

[15]Civil Code, Art. 2085. The following requisites are essential to the contracts of pledge and mortgage:

(1) That they be constituted to secure the fulfillment of a principal obligation;

(2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged;

(3) That the persons constituting the pledge or mortgage have the free disposal of their property, and in the absence thereof, that they be legally authorized for the purpose.

...

[16] Puerto v. Court of Appeals, G.R. No. 138210, 6 June 2002, 383 SCRA 185, 201.

[17]Supra, note 11 at 651.

[18] See William H. Anderson & Co. v. Garcia, No. 42897, 27 July 1937, 64 Phil. 506.

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