

LUZ DU, PETITIONER, VS. STRONGHOLD INSURANCE CO., INC., RESPONDENT.

G.R. No. 156580. June 14, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Preference is given to a duly registered attachment over a subsequent notice of lis pendens, even if the beneficiary of the notice acquired the subject property before the registration of the attachment. Under the torrens system, the auction sale of an attached realty retroacts to the date the levy was registered.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to nullify the March 19, 2002 Decision[2] and the December 5, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 50884. The CA disposed as follows:

“Parenthetically, when the decision in Civil Case No. 90-1848 became final and executory, levy on execution issued and the attached property sold at public auction, the latter retroacts to the date of the levy. Said the High Court:

‘In line with the same principle, it was held that where a preliminary attachment in favor of ‘A’ was recorded on November 11, 1932, and the private sale of the attached property in favor of ‘B’ was executed on May 29, 1933, the attachment lien has priority over the private sale, which means that the purchaser took the property subject to such attachment lien and to all of its consequences, one of which is the subsequent sale on execution (Tambao v. Suy, 52 Phil. 237). The auction sale being a necessary sequel to the levy, it enjoys the same preference as the attachment lien enjoys over the private sale. In other words, the auction sale retroacts to the date of the levy. [Were] the rule be otherwise, the preference enjoyed by the levy of execution would be meaningless and illusory (Capistrano v. Phil. Nat. Bank, 101 Phil. 1117).’ (Underscoring supplied)

“By and large, We find no reversible error in the appealed decision.

“IN VIEW OF ALL THE FOREGOING, the instant appeal is ordered DISMISSED. No pronouncement as to cost.”[4]

The questioned Resolution, on the other hand, denied petitioner’s Motion for Reconsideration.

The Facts

The CA narrated the facts as follows:

“x x x Aurora Olarte de Leon was the registered owner of Lot No. 10-A (LRC Psd 336366) per Transfer Certificate of Title No. 582/T-3. Sometime in January 1989, De Leon sold the property to Luz Du under a ‘Conditional Deed of Sale’ wherein said vendee paid a down payment of P75,000.00 leaving a balance of P95,000.00.

“Then again, on April 28, 1989, Aurora de Leon sold [the] same property to spouses Enrique and Rosita

Caliwag without prior notice to Luz Du. As a result, Transfer Certificate of Title No. 582/T-3 was cancelled and Transfer Certificate of Title No. 2200 was issued in favor of the Caliwag spouses.

“Meanwhile, Stronghold Insurance Corp., Inc. x x x commenced Civil Case No. 90-1848 against spouses Rosita and Enrique Caliwag et al., for allegedly defrauding Stronghold and misappropriating the company’s fund by falsifying and simulating purchases of documentary stamps. The action was accompanied by a prayer for a writ of preliminary attachment duly annotated at the back of Transfer Certificate of Title No. 2200 on August 7, 1990.

“On her part, on December 21, 1990, Luz Du initiated Civil Case No. 60319 against Aurora de Leon and the spouses Caliwag for the annulment of the sale by De Leon in favor of the Caliwags, anchored on the earlier mentioned Deed of Conditional Sale.

“On January 3, 1991, Luz Du caused the annotation of a Notice Of Lis Pendens at the back of Transfer Certificate of Title No. 2200.

“On February 11, 1991, the decision was handed down in Civil Case No. 90-1848 in favor of Stronghold, ordering the spouses Caliwag jointly and severally to pay the plaintiff P8,691,681.60, among others. When the decision became final and executory, on March 12, 1991, a notice of levy on execution was annotated on Transfer Certificate of Title No. 2200 and the attached property was sold in a public auction. On [August] 5, 1991,[5] the certificate of sale and the final Deed of Sale in favor of Stronghold were inscribed and annotated leading to the cancellation of Transfer Certificate of Title No. 2200 and in lieu thereof, Transfer Certificate of Title No. 6444 was issued in the name of Stronghold.

“It came to pass that on August 5, 1992, Luz Du too was able to secure a favorable judgment in Civil Case No. 60319 and which became final and executory sometime in 1993, as well.

“Under the above historical backdrop, Luz Du commenced the present case (docketed as Civil Case No. 64645) to cancel Transfer Certificate of Title No. 6444 in the name of Stronghold with damages claiming priority rights over the property by virtue of her Notice Of Lis Pendens under Entry No. 13305 and inscribed on January 3, 1991, and the final and executory decision in Civil Case No. 60319 she filed against spouses Enrique and Rosita Caliwag. According to Luz Du, despite her said notice of lis pendens annotated, Stronghold still proceeded with the execution of the decision in Civil Case No. 90-1848 against the subject lot and ultimately the issuance of Transfer Certificate of Title No. 6444 in its (Stronghold’s) name.”[6]

The trial court ruled that Stronghold had superior rights over the property because of the prior registration of the latter’s notice of levy on attachment on Transfer Certificate of Title (TCT) No. 2200. For this reason, it found no basis to nullify TCT No. 6444, which was issued in the name of respondent after the latter had purchased the property in a public auction.

Ruling of the Court of Appeals

Sustaining the trial court in toto, the CA held that Stronghold’s notice of levy on attachment had been registered almost five (5) months before petitioner’s notice of lis pendens. Hence, respondent enjoyed priority in time. Such registration, the appellate court added, constituted constructive notice to petitioner and all third persons from the time of Stronghold’s entry, as provided under the Land Registration Act -- now the Property Registration Decree.

The CA also held that respondent was a purchaser in good faith. The necessary sequels of execution and sale retroacted to the time when Stronghold registered its notice of levy on attachment, at a time when there was nothing on TCT No. 2200 that would show any defect in the title or any adverse claim over the property.

Hence, this Petition.[7]

Issues

Petitioner submits the following issues for our consideration:

“I.

“Whether a Notice of Levy on Attachment on the property is a superior lien over that of the unregistered right of a buyer of a property in possession pursuant to a Deed of Conditional Sale.

“II.

“Whether the acquisition of the subject property by Respondent Stronghold was tainted with bad faith.”[8]

The Court’s Ruling

The Petition has no merit.

Main Issue:

Superiority of Rights

Petitioner submits that her unregistered right over the property by way of a prior conditional sale in 1989 enjoys preference over the lien of Stronghold -- a lien that was created by the registration of respondent’s levy on attachment in 1990. Maintaining that the ruling in *Capistrano v. PNB* was improperly applied by the Court of Appeals, petitioner avers that unlike the circumstances in that case, the property herein had been sold to her before the levy. We do not agree.

The preference given to a duly registered levy on attachment or execution over a prior unregistered sale is well-settled in our jurisdiction. As early as *Gomez v. Levy Hermanos*,^[9] this Court has held that an attachment that is duly annotated on a certificate of title is superior to the right of a prior but unregistered buyer. In that case, the Court explained as follows:

“x x x. It is true that she bought the lots with pacto de retro but the fact of her purchase was not noted on the certificates of title until long after the attachment and its inscription on the certificates. In the registry, therefore, the attachment appeared in the nature of a real lien when Apolonia Gomez had her purchase recorded. The legal effect of the notation of said lien was to subject and subordinate the right of Apolonia Gomez, as purchaser, to the lien. She acquired the ownership of the said parcels only from the date of the recording of her title in the register, which took place on November 21, 1932 (sec. 51 of Act No. 496; *Liong-Wong-Shih vs. Sunico and Peterson*, 8 Phil. 91; *Tabigue vs. Green*, 11 Phil. 102; *Buzon vs. Lucauco*, 13 Phil. 354; and *Worcester vs. Ocampo and Ocampo*, 34 Phil. 646), and the right of ownership which she inscribed was not an absolute but a limited right, subject to a prior registered lien, by virtue of which *Levy Hermanos, Inc.* was entitled to the execution of the judgment credit over the lands in question, a right which is preferred and superior to that of the plaintiff (sec. 51, Act No. 496 and decisions cited above). x x x”^[10]

Indeed, the subsequent sale of the property to the attaching creditor must, of necessity, retroact to the date of the levy. Otherwise, the preference created by the levy would be meaningless and illusory, as reiterated in *Defensor v. Brillo*:^[11]

“x x x. The doctrine is well-settled that a levy on execution duly registered takes preference over a prior unregistered sale; and that even if the prior sale is subsequently registered before the sale in execution but after the levy was duly made, the validity of the execution sale should be maintained, because it retroacts to the date of the levy; otherwise, the preference created by the levy would be meaningless and illusory.

“Even assuming, therefore, that the entry of appellants’ sales in the books of the Register of Deeds on November 5, 1949 operated to convey the lands to them even without the corresponding entry in the owner’s duplicate titles, the levy on execution on the same lots in Civil Case No. 1182 on August 3, 1949, and their subsequent sale to appellee Brillo (which retroacts to the date of the levy) still takes precedence over and must be preferred to appellants’ deeds of sale which were registered only on November 5, 1949.

“This result is a necessary consequence of the fact that the properties herein involved were duly registered under Act No. 496, and of the fundamental principle that registration is the operative act that conveys and binds lands covered by Torrens titles (sections 50, 51, Act 496). Hence, if appellants became owners of the properties in question by virtue of the recording of the conveyances in their favor, their title arose already subject to the levy in favor of the appellee, which had been noted ahead in the records of the Register of Deeds.”[12] (Citations omitted, italics supplied)

The Court has steadfastly adhered to the governing principle set forth in Sections 51 and 52 of Presidential Decree No. 1529:[13]

“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 the city where the land lies.

“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.”(Italics supplied)

As the property in this case was covered by the torrens system, the registration of Stronghold’s attachment[14] was the operative act that gave validity to the transfer and created a lien upon the land in favor of respondent.[15]

Capistrano Ruling Correctly Applied

The preference created by the levy on attachment is not diminished even by the subsequent registration of the prior sale.[16] That was the import of *Capistrano v. PNB*,[17] which held that precedence should be given to a levy on attachment or execution, whose registration was before that of the prior sale.

In *Capistrano*, the sale of the land in question -- though made as far back as 1946 -- was registered only in 1953, after the property had already been subjected to a levy on execution by the Philippine National Bank. The present case is not much different. The stipulation of facts shows that Stronghold had already registered its levy on attachment before petitioner annotated her notice of *lis pendens*. As in *Capistrano*, she invokes the alleged superior right of a prior unregistered buyer to overcome respondent’s lien.

If either the third-party claim or the subsequent registration of the prior sale was insufficient to defeat the previously registered attachment lien, as ruled by the Court in *Capistrano*, it follows that a notice of *lis pendens* is likewise insufficient for the same purpose. Such notice does not establish a lien or an encumbrance on the property affected.[18] As the name suggests, a notice of *lis pendens* with respect to a disputed property is intended merely to inform third persons that any of their transactions in connection therewith -- if entered into subsequent to the notation -- would be subject to the result of the suit.

In view of the foregoing, the CA correctly applied *Capistrano*, as follows:

“x x x the rule now followed is that if the attachment or levy of execution, though posterior to the sale, is registered before the sale is registered, it takes precedence over the latter.

“The rule is not altered by the fact that at the time of the execution sale the Philippine National Bank had information that the land levied upon had already been deeded by the judgment debtor and his wife to Capistrano. The auction sale being a necessary sequel to the levy, for this was effected precisely to carry out the sale, the purchase made by the bank at said auction should enjoy the same legal priority that the levy had over the sale in favor of plaintiff. In other words, the auction sale retroacts to the date of the levy. Were the rule otherwise, the preference enjoyed by the levy of execution in a case like the present would be meaningless and illusory.”[19] (Citations omitted, italics supplied)

Second Issue:

Taking in Bad Faith

We now tackle the next question of petitioner: whether Stronghold was a purchaser in good faith. Suffice it to say that when Stronghold registered its notice of attachment, it did not know that the land being attached had been sold to petitioner. It had no such knowledge precisely because the sale, unlike the attachment, had not been registered. It is settled that a person dealing with registered property may rely on the title and be charged with notice of only such burdens and claims as are annotated thereon.[20] This principle applies with more force to this case, absent any allegation or proof that Stronghold had actual knowledge of the sale to petitioner before the registration of its attachment.

Thus, the annotation of respondent’s notice of attachment was a registration in good faith, the kind that made its prior right enforceable.[21]

Moreover, it is only after the notice of *lis pendens* is inscribed in the Office of the Register of Deeds that purchasers of the property become bound by the judgment in the case. As Stronghold is deemed to have acquired the property -- not at the time of actual purchase but at the time of the attachment -- it was an innocent purchaser for value and in good faith.

WHEREFORE, the Petition is DENIED, and the assailed Decision and Resolution AFFIRMED. Costs against petitioner.

SO ORDERED.

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

Ynares-Santiago, J., on leave.

[1] Rollo, pp. 8-21.

[2] *Id.*, pp. 22-28. Penned by Justice Conrado M. Vasquez Jr. (Tenth Division chair) and concurred in by Justices Andres B. Reyes Jr. and Amelita G. Tolentino (members).

[3] *Id.*, p. 30.

[4] CA Decision, pp. 6-7; rollo, pp. 27-28.

[5] TCT No. 2200, records, p. 8.

[6] CA Decision, pp. 1-3; rollo, pp. 22-24. Boldface in the original.

[7] The case was deemed submitted for decision on October 3, 2003, upon the Court’s receipt of respondent’s Memorandum, signed by Atty. Ricardo L. Saclayan of Gascon, Rellora & Associates. Petitioner’s Memorandum, signed by Atty. Benjamin A. Moraleda Jr., was received on September 4, 2003.

[8] Petitioner’s Memorandum, p. 6; rollo, p. 55.

[9] 67 Phil. 134, April 3, 1939.

[10] Id., p. 137, per Concepcion, J.

[11] 98 Phil. 427, February 21, 1956.

[12] *Defensor v. Brillo*, supra, pp. 429-430, per Reyes, J.

[13] Otherwise known as the Property Registration Decree. The above-quoted Sections were §§50 and 51 of Act No. 496 or the Land Registration Act. See *Lavides v. Pre*, 419 Phil. 665, 671-672, October 17, 2001; *Sajonas v. CA*, 258 SCRA 79, 91, July 5, 1996; *Calalang v. Register of Deeds of Quezon City*, 231 SCRA 88, 103, March 11, 1994; *Landig v. US Commercial Co.*, 89 Phil. 638, 642, July 31, 1951.

[14] The lien or security obtained by attachment -- even before judgment -- is a fixed and positive security, the existence of which is no way contingent, conditional, or inchoate. (*BF Homes, Inc. v. CA*, 190 SCRA 262, 272, October 3, 1990; citing *Ching Liu & Co. v. Mercado*, 67 Phil. 409, 413, April 13, 1939). It ripens into a judgment against the res when the order of sale is made. (*Republic v. Saldares*, 384 Phil. 192, 204, March 9, 2000).

[15] See also *Vargas v. Tancioco*, 67 Phil. 308, 311, April 12, 1939; *Landig v. US Commercial Co.*, supra.

[16] *Lavides v. Pre*, supra, p. 672 (citing *Defensor v. Brillo*, supra; and *Gomez v. Levy Hermanos, Inc.*, supra).

[17] 101 Phil. 1117, 1120, August 30, 1957. The same ruling -- over competing claims of a third-party claimant and the attaching creditor/purchaser -- was made earlier in *Vargas v. Tancioco*, supra.

[18] *Legarda v. CA*, 345 Phil. 890, 903, October 16, 1997.

[19] *Capistrano v. PNB*, supra, p. 1120, per Reyes, J.

[20] *Legarda v. CA*, supra, p. 903; *Sandoval v. CA*, 260 SCRA 283, 295, August 1, 1996; *Sajonas v. CA*, supra.

[21] *Cheng v. Genato*, 360 Phil. 891, 911, December 29, 1998.

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