JAY HIDALGO UY, REPRESENTED BY HIS FATHER, ANTONIO J. UY, PETITIONER, VS. SPOUSES FRANCISCO MEDINA AND NATIVIDAD MEDINA, ANTONIO MANAGUELOD AND SWIFT FOODS, INC., RESPONDENTS.

G.R. No. 172541. August 08, 2010

Ponente: MENDOZA, J.

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MENDOZA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the October 13, 2005 Decision[1] and the April 6, 2006 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 82703 entitled "Jay Hidalgo Uy v. Spouses Francisco Medina and Natividad Medina, Antonio Managuelod and Swift Foods, Inc." The CA Decision reversed the February 26, 2004 Judgment[3] of the Regional Trial Court, Branch 18, Ilagan, Isabela (RTC) in Civil Case No. 1058 favoring the petitioner.

From the records, it appears that on February 16, 1996, respondent spouses Francisco and Natividad Medina (the Medinas) executed in favor of petitioner Jay Hidalgo Uy a Deed of Conditional Sale over a parcel of land with an area of 2,158 square meters covered by Transfer Certificate of Title (TCT) No. T-252042 of the Register of Deeds of Ilagan, Isabela. Subsequently, on February 16, 1997, the Medinas executed a deed of absolute sale over the same parcel of land in favor of the petitioner in view of the full payment of the agreed selling price.

Meanwhile, respondent Swift Foods, Inc. (Swift) filed an action for sum of money against the Medinas before the Regional Trial Court of Ilagan, Isabela, Branch 17 which rendered a judgment on May 20, 1998 in its favor. Eventually, a writ of execution was issued on August 13, 1998.[4]

On August 28, 1998, respondent Sheriff Antonio Managuelod came out with the corresponding Amended Sheriff's Notice of Levy and Auction Sale. The notice was inscribed at the back of TCT No. T-252042 on September 1, 1998.[5]

After the annotation, petitioner presented the deed of absolute sale earlier executed by the Medinas in his favor, with the Register of Deeds. Consequently, on September 14, 1998, TCT No. T-252042 in the name of the Medinas was cancelled and TCT No. T-286432 was issued in the name of Jay Hidalgo Uy. Per regulation, the annotation of the levy of execution was carried over in the new title as an encumbrance.[6]

On September 28, 1998, respondent Sheriff Managuelod proceeded with the auction sale and awarded the property to respondent Swift as the lone bidder.[7] Thus, petitioner filed a Complaint for Annulment of Sale with

Damages against the Medinas, Sheriff Managuelod and Swift,[8] with RTC Branch 18, docketed as Civil Case No. 1058.

On February 26, 2004, the trial court ruled in favor of petitioner finding that the Amended Sheriff's Notice of Levy and Auction Sale failed to comply with the basic requirements of notice to the judgment obligor of the exact

time and place of the sale pursuant to Section 15, Rule 39 of the Rules on Civil Procedure.[9] The dispositive portion of the Judgment reads:

> WHEREFORE, and in view of the foregoing and for failure of the Amended Sheriff's Notice of Levy and Auction Sale to meet the requirements of Section 15, Rule 39 of the Rules on Civil Procedure, judgment is hereby rendered, as follows:
>
> - Declaring the Auction Sale held on September 28, 1998 null and void;
>
> - Directing the Register of Deeds of Isabela to cancel Entry No. 2974 at the back of TCT No. T-286432.[10]

Aggrieved, Swift appealed the foregoing judgment before the CA and assigned the following errors: (1) the lower court erred in deciding the case on a matter that was not pleaded and not the subject of the proceeding; and (2) the lower court erred in not ruling that the levy on execution was superior to the subsequent registration of the deed of sale.[11]

The CA found the appeal meritorious holding that nowhere in the pleadings submitted and proof presented by the parties was the validity of the Amended Sheriff's Notice of Levy and Auction Sale assailed or placed in issue.[12] The appellate court observed that the main basis for petitioner's cause of action for the nullity of the execution of the judgment was the existence of other properties of the Medinas that could be levied upon.[13] Petitioner never raised any issue on the infirmity of the sheriff's notice. Thus, the CA ruled that a judgment going outside the parameters of issues and adjudicating something which the parties were not heard would be invalid.[14] In addition, it stated that a prior registration of a lien create a preference such that even the subsequent registration of prior sale would not diminish this preference which retroacts to the date of the levy.[15]

Aggrieved, petitioner elevated the CA decision to the Court anchoring his prayer for a reversal thereof on the following assigned errors:

> I.
>
> THE APPELLATE COURT ERRED IN REVERSING THE TRIAL COURT'S FINDINGS IN DECIDING THE CASE ON A MATTER THAT WAS NOT PLEADED NOR SUBJECT OF THE PROCEEDING.
>
> II.
>
> THE APPELLATE COURT ERRED IN RULING THAT THE LEVY ON EXECUTION IS SUPERIOR TO THE SUBSEQUENT REGISTRATION OF A DEED OF SALE.[16]

Petitioner insists that contrary to the factual conclusions of the appellate court, the validity of the notice of levy and auction sale was raised by him as an issue before the trial court. This contention obviously involves a question of fact as the resolution of which would entail another review of the evidence on record.

We have consistently ruled that in petitions for review on certiorari, this Court will not re-examine the findings of fact of the appellate court[17] except (a) when the latter's findings are grounded entirely on speculations, surmises or conjectures; (b) when its inference is manifestly mistaken,

absurd or impossible; (c) when there is a grave abuse of discretion; (d) when its findings of fact are conflicting; and (e) when it goes beyond the issues of the case.[18] The review which is sought in the case at bar does not fall under any of the foregoing exceptions warranting the exercise of this Court's discretionary power.

Be that as it may, the Court has no basis to deviate from the factual findings of the CA on this score because petitioner did not attach to the petition a copy of the Complaint. It would have helped petitioner's case had he attached a copy thereof to demonstrate that the issue on the infirmity of the sheriff's notice was properly pleaded.

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Unfortunately, petitioner failed to do so and, for said reason, the Court can only rely on the findings of the CA.

The rule is that a judgment must conform to, and be supported by, both the pleadings and the evidence, and must be in accordance with the theory of the action on which the pleadings were framed and the case was tried.[19] The reason for this was discussed in the case of Development Bank of the Philippines v. Teston:[20]

> x x x x x x x x x x
>
> Due process considerations justify this requirement. It is improper to enter an order which exceeds the scope of relief sought by the pleadings, absent notice which affords the opposing party an opportunity to be heard with respect to the proposed relief. The fundamental purpose of the requirement that allegations of a complaint must provide the measure of recovery is to prevent surprise to the defendant.[21] (emphasis supplied)

We now go to the second issue of whether or not a levy on execution is superior to the subsequent registration of a deed of sale. The CA properly ruled that a prior registration of a lien creates a preference.

Even though the sale of the land to petitioner took place before the judgment of the trial court in favor of Swift and the issuance of the writ of execution over the property in question, failure to register it with the Register of Deeds negated any priority which he may have acquired by virtue of the earlier sale. Elementary is the rule that it is the act of registration which gives validity to transfer or liens created upon land registered under the Torrens System.[22] This is clear in Section 51 and Section 52 of Presidential Decree No. 1529, also known as the Property Registration Decree, which read:

> Section 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 Register 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)
>
> Section 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.

Considering that the sale was not registered earlier, the right of petitioner over the land became subordinate and subject to the preference created over the earlier annotated levy in favor of Swift. The levy of execution registered and annotated on September 1, 1998 takes precedence over the sale of the land to petitioner on February 16, 1997, despite the subsequent registration on September 14, 1998 of the prior sale. Such preference in favor of the levy on execution retroacts to the date of levy for to hold otherwise will render the preference nugatory and meaningless.[23] In Valdevieso v. Damalerio,[24] We held that:

> The settled rule is that levy on attachment, duly registered, takes preference over a prior unregistered sale. This result is a necessary consequence of the fact that the property involved was duly covered by the Torrens system which works under the fundamental principle that registration is the operative act which gives validity to the transfer or creates a lien upon the land.
>
> The preference created by the levy on attachment is not diminished even by the subsequent registration of the prior sale. This is so because an attachment is a proceeding in rem. It is against the particular property,

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> enforceable against the whole world. The attaching creditor acquires a specific lien on the attached property which nothing can subsequently destroy except the very dissolution of the attachment or levy itself. Such a proceeding, in effect, means that the property attached is an indebted thing and a virtual condemnation of it to pay the owner's debt. The lien continues until the debt is paid, or sale is had under execution issued on the judgment, or until the judgment is satisfied, or the attachment discharged or vacated in some manner provided by law. (emphases supplied)

WHEREFORE, the October 13, 2005 Decision and the April 6, 2006 Resolution of the Court of Appeals in CA-G.R. CV No. 82703 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Abad, JJ., concur.

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[1] Penned by Associate Justice Roberto A. Barrios with Associate Justice Mario L. Guariña III and Associate Justice Arturo G. Tayag, concurring; Rollo, pp. 24-30.

[2] Id. at 18-20.

[3] Penned by Judge Juan A. Bigornia, Jr.; id. at 85-87.

[4] Id. at 25.

[5] Id. at 85.

[6] Id. at 25.

[7] Id.

[8] Id. at 86.

[9] Id. at 87.

[10] Id.

[11] Id. at 26.

[12] Id. at 27.

[13] Id.

[14] Id. at 28.

[15] Id. at 29.

[16] Id. at 9.

[17] Spouses Espiridion and Macaria Teruñez v. Intermediate Appellate Court, 219 Phil. 379, 382 (1985).

[18] Tiburcio Guita v. Court of Appeals, 224 Phil. 123, 126 (1985).

[19] Jose Clavano, Inc. v. Housing and Land Use Regulatory Board, 428 Phil. 212, 225 (2002), citing Ramirez v. Orientalist Company, 38 Phil. 634, 647 (1918).

[20] G.R. No. 174966, February 14, 2008, 545 SCRA 422.

[21] Id. at 429.

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[22] Lavides v. Pre, 419 Phil. 665, 671 (2001).

[23] Defensor v. Brillo, 98 Phil. 427 (1956).

[24] 494 Phil. 51 (2005), citing Luz Du v. Stronghold Insurance Co., Inc., G.R. No. 156580, June 14, 2004, 432 SCRA 43; Lavides v. Pre, 419 Phil. 665 (2001); Caviles, Jr. v. Bautista, G.R. No. 102648, November 24, 1999, 319 SCRA 24; First Integrated Bonding & Insurance Co., Inc. v. Court of Appeals, G.R. No. 119577, August 28, 1996, 261 SCRA 203; Calalang v. Register of Deeds of Quezon City, G.R. Nos. 76265 and 83280, March 11, 1994, 231 SCRA 88; Tay Chun Suy v. Court of Appeals, G.R. Nos. 91004-05, August 20, 1992, 212 SCRA 713; BF Homes v. Court of Appeals, G.R. Nos. 76879 and 77143, October 3, 1990, 190 SCRA 262; Capistrano v. PNB, 101 Phil. 1117 (1957); Defensor v. Brillo, 98 Phil. 427 (1956); Villasor v. Camon, 89 Phil. 404 (1951); Gomez v. Levy Hermanos, 67 Phil. 134 (1939).

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