

EDGARDO O. ALZATE, PLAINTIFF-APPELLEE, VS. PHILIPPINE NATIONAL BANK, ET AL., DEFENDANTS, PHILIPPINE NATIONAL BANK, DEFENDANT-APPELLANT.*G.R. No. 20068. June 26, 1967*

Ponente: MAKALINTAL, J.

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This case was originally instituted in the Court of First Instance of Quezon City by Ismael Alzate against the defendants Philippine National Bank and the Register of Deeds for Quezon City, praying that transfer certificate of title No. 38647 of Quezon City, in the name of Ismael Alzate, be declared as the legitimate title to the land described in the complaint and that transfer certificate of title No. 44422, also of Quezon City and covering the same land, but in the name of defendant Philippine National Bank, be declared null and void.

The facts are the subject of stipulation between the parties, and are set forth substantially as follows:

The former owner of the land in question was Rufino Ellison under TCT No. 21557 of Manila. On March 17, 1944, Ellison sold the land to Emeterio Ramos. On February 1, 1946, Ramos filed a petition in the Court of First Instance of Manila alleging that TCT No. 21557 had been lost and/or destroyed and praying for its reconstitution. Pursuant to said petition the Court, on February 16, 1946, ordered the reconstitution of the title in the name of Ellison and further ordered the Register of Deeds for Manila to issue a new title in favor of Emeterio Ramos by virtue of the deed of sale executed by Ellison in his favor on March 17, 1944. Accordingly, the Register of Deeds issued, on March 12, 1946, TCT No. 78189 in the name of Emeterio Ramos. Ramos then sold the land in favor of Pacita T. Javier. TCT No. 78189 was cancelled and TCT No. 2306 of Manila was issued on August 2, 1946 in the name of the vendee. On October 30, 1957, Pacita T. Javier sold the land to Ismael Alzate, the original plaintiff in this case. TCT No. 2306 in the name of Javier was thereupon cancelled and TCT No. 38647 of Quezon City,[1] was issued on the same date in the name of Alzate. During the pendency of this case Ismael Alzate sold the land to Edgardo O. Alzate, who has since then been substituted as party-plaintiff.

Meanwhile, on December 13, 1946, some nine months after the issuance of TCT No. 78189 of Manila in the name of Emeterio Ramos and more than four (4) months after its cancellation by TCT No. 2306 in the name of Pacita T. Javier, Ramos obtained another certificate of title for the same land from the Register of Deeds for Manila. The title bears No. 3936, issued in his name on the strength of the deed of sale executed on March 17, 1944, which appears to have been presented for registration and entered on the Day Book of the Register of Deeds for Manila on the same date. TCT No. 3936 of Manila was then transferred to the Office of the Register of Deeds for Quezon City, the land being located there, and TCT No. 3936 of Manila became TCT No. 28281 of Quezon City, still in the name of Ramos.

On July 6, 1955, pursuant to the final judgment for a sum of money rendered by the Municipal Court of Manila in Civil Case No. 27668, entitled "Philippine National Bank vs. Emeterio Ramos, et al.," the land covered by TCT No. 28281 of Quezon City in the name of Ramos was levied upon on execution and sold at public auction to the

Philippine National Bank as the highest bidder. No redemption was made within the period provided for by law and so a final deed of sale was executed by the Sheriff and registered with the Register of Deeds for Quezon City. By virtue, thereof, TCT No. 28281 was cancelled and a new title, TCT No. 44422 of Quezon City in the name of Philippine National Bank was issued.

The question is which of the two certificates of title (TCT No. 38647 of Quezon City in the name of Ismael Alzate and TCT No. 44422 of Quezon City in the name of Philippine National Bank) should be considered and recognized as valid. The trial court decided in favor of plaintiff and adjudged him to be the rightful owner of the land, and from that decision the Philippine National Bank interposed this appeal.

The bank maintains that since the deed of sale of March 17, 1944 was presented to the Register of Deeds for Manila and entered in his Day Book (Entry No. 14242, Vol. 8) on the same date, although the corresponding transfer certificate of title was issued in the name of Ramos as vendee only on December 13, 1946, and since the title of the bank by virtue of the sale on execution in its favor had its source in the registration of that deed of sale in favor of Ramos, said title, in effect, retroacted to the date of such registration and therefore antedated by two years the other transfer certificate of title (No. 78189) issued by the Register of Deeds for Manila in favor of Ramos on March 12, 1946 pursuant to the order of reconstitution issued by the Court on February 16, 1946, which title is the root of the one now in the name of plaintiff.

Defendant relies on Section 56 of Act 496, which provides as follows:

"Each register of deeds shall keep an entry book in which, upon payment of the filing fee, he shall enter in the order of their reception all deeds and other voluntary instruments, and all copies of writs or other process filed with him relating to registered land. He shall note in such book the year, month, day, hour, and minute of reception of all instruments, in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each instrument when made on the certificate of title to which it refers shall bear the same date; Provided, however, that no registration, annotation, or memorandum on a certificate of title shall be made unless the fees prescribed therefor by this Act are paid within fifteen days' time after the date of the registration of the deed, instrument, order, or document in the entry book or day book, and in case said fee is not paid within the time above mentioned, such entry shall be null and void." (underlining supplied)

The bank claims priority on the basis of the registration of the deed of sale in the Entry Book on March 17, 1944. But lost in the bank's argument is the fact that the same deed of sale was also the basis of the right of Pacita T. Javier, the first vendee of Ramos. After all, Ramos became the owner of the land subject-matter of this case by virtue of that deed of sale, without which he could not have sold the land to Javier. Admittedly, therefore, both the bank and the first vendee (Javier) trace their claim to a common source - the deed of sale of March 17, 1944. Since it is not disputed that Javier's title bears an earlier date than that of the bank, the former must prevail over the latter.

"Where two certificates purport to include the same land, the earlier in date prevails. x x x In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof. While the acts in this country do not expressly cover the case of the issue of two certificates for the same land, they provide that a registered owner shall hold the title, and the effect of this undoubtedly is that where two certificates purport to include the same registered land, the holder of the earlier one continues to hold the title." (Legarda vs. Saleeby, 31 Phil. 595) underlining supplied.

It must also be noted that when TCT No. 78189 was issued to Ramos on March 12, 1946 (pursuant to a lawful court order), it was judicially pronounced that Ellison's duplicate certificate of title had been destroyed and/or lost. On the other hand, there is no proof at all that Ramos was able to get another certificate of title on December 13, 1946 (TCT No. 3936, which is the root of the bank's title) because he presented Ellison's duplicate certificate of title. Even assuming that he did present Ellison's duplicate certificate of title because it was subsequently found, still it would not affect the previous decree of the court ordering reconstitution.

Anyway, the Rules of Court (Rule 39, Section 35, par. 2) provide that purchaser of real property at an execution sale "x x x shall be substituted to and acquire all the right, title, interest and claim of the judgment debtor as of the time of the levy, except as against the judgment debtor in possession, in which case the substitution shall be effective as of the date of the deed. x x x" It is an established doctrine that a judgment creditor only acquires at an execution sale the identical interest possessed by the judgment debtor in the property which is the subject of the sale. It follows that if at the time the judgment debtor had no more right to or interest in the property because he had already sold it to another, then the purchaser acquires nothing. (*Potenciano vs. Dineros*, 97 Phil. 196, 198.)

Wherefore, the judgment appealed from is affirmed, with costs against appellant.

Concepcion, C.J., Reyes, J.B.L., Dizon, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

[1] The registration record had been transferred in the meantime to Quezon City because the land is located there.

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