

THE DIRECTOR OF LANDS, APPLICANT, VS. SEYMOUR ADDISON ET AL., CLAIMANTS; SOLEDAD P. HERNANDEZ, CLAIMANT AND APPELLEE; TOMAS ANGELES ET AL., CLAIMANTS AND APPELLANTS.*G. R. No 23148, March 25, 1926*

Ponente: OSTRAND, J.

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Omitting the features not strictly relevant to the points of law involved, the facts of the present case are briefly as follows: On February 8, 1916, a Torrens certificate of title (No. 414) to a parcel of land containing an area of nearly 61 hectares, in the barrio of Santo Niño, municipality of Concepcion, in the Province of Tarlac, was issued in favor of Juana Angeles and seventeen others as tenants in common (hereinafter referred to collectively as the "Angeles heirs," though a few of them in fact bear other surnames). The certificate of title was issued in pursuance of a decree of registration entered in land registration case No. 6540.

On April 29, 1921, a deed purporting to be executed by eleven of the persons in interest in said land and to have been acknowledged before a notary public, and conveying about 47 hectares consisting of a western portion of the tract described in the certificate of title to Pedro Manuntag, the son of Juana Angeles, was presented to the register of deeds of Tarlac together with the owner's duplicate of said certificate of title No. 414. The deed contained no technical description of the land conveyed, the aforesaid certificate of title was not cancelled, and no transfer certificate of title was issued neither to the vendors nor to the vendee; in fact no attempt was made to comply with the provisions of sections 57 and 58 of the Land Registration Act, the register of deeds contenting himself by noting the transaction by way of a memorandum on the original certificate of title. It has been proven beyond dispute that the deed was a forgery, at least one of the purported conveyors being dead at the time of the date of the instrument. Armed with the owner's duplicate of the original certificate of title containing the memorandum of the alleged sale to him, Pedro Manuntag proceeded to mortgage the property to Soledad P. Hernandez for the sum of P3,000. This mortgage was also noted on the owner's duplicate of the original certificate of title, the memorandum bearing the date of August 1, 1921. On July 22, 1922, the mortgage was cancelled and an absolute deed of conveyance of the property made by the same Pedro Manuntag to said Soledad P. Hernandez, the consideration stated in the deed being P3,940. The deed was presented to the register of deeds of Tarlac who repeated the error committed in connection with the deed from the Angeles heirs to Pedro Manuntag and simply entered the transaction by memorandum on the back of the original certificate of title without complying with sections 57 and 58, *supra*. The memorandum is dated August 1, 1921. The owner's duplicate of the original certificate of title remained in possession of Soledad P. Hernandez who, on October 4, 1923, executed a deed of sale with pacto de retro for the term of one year and in consideration of the sum of P2,000 in favor of Arturo Sanchez y Mijarez. This transaction was also noted on the original certificate of title, the entry bearing the date of October 12, 1923.

In the meantime a cadastral proceeding was instituted by the Director of Lands in the municipality of Concepcion including among other lands the tract covered by certificate of title No. 414. In this cadastral proceeding the

Angeles heirs appeared as claimants and as no other person at first appeared to contend with them, the court on November 17, 1921, entered a decision awarding the property to them though in some respects erroneously stating the respective shares of the coowners. After the period allowed by law for an appeal from this decision had passed, Soledad P. Hernandez appeared by her attorney and, representing that she had acquired the property now in question by purchase from Pedro Manuntag, asked that the corresponding certificate of title be issued to her in the cadastral case. This motion was denied by Judge Anacleto Diaz, then presiding over the Court of First Instance in Tarlac, on the ground that the judgment had become final.

However, on July 26, 1923, the chief surveyor of the General Land Registration Office, having found certain errors in the decision in the cadastral case and having observed the memoranda aforementioned upon certificate of title No. 414, asked the court to set the cause for hearing in order that after due notification to the various parties in interest, the question of ownership might be finally and definitely determined. This suggestion was opposed by Tomas Angeles in behalf of the Angeles heirs, and Soledad P. Hernandez again came forward and asked that the proper certificate be issued in her name. The judge presiding over the court (now Judge Cayetano Lukban) accepted the suggestion of the chief surveyor and, after the parties had all been notified, proceeded to determine the controversy between the Angeles heirs and Soledad P. Hernandez. Upon hearing the court found that the document of April 21, 1921, purporting to be a deed of conveyance of the land from the Angeles heirs to Pedro Manuntag, was a forgery, but nevertheless on the authority of the decision of this court in the case of *De la Cruz vs. Fabie* (35 Phil., 144), decided the controversy in favor of Soledad P. Hernandez by an order dated August 27, 1924, from which the present appeal is taken.

Of the various questions raised by the assignments of error only one need be answered, namely, whether the court erred in holding that Soledad P. Hernandez had acquired title to the property, notwithstanding the fact that the deed of eleven of the Angeles heirs to Pedro Manuntag had been shown to be a forgery.

The principle that a forged deed is an absolute nullity and conveys no title is firmly embedded in our jurisprudence and it is clear that standing alone the deed purporting to be executed by the Angeles heirs did not make Pedro Manuntag the owner of the land. But citing the case of *De la Cruz vs. Fabie* (35 Phil., 144), it is argued that under our Torrens registration system the act of registration is, in the language of section 50 of the Land Registration Act, "the operative Act to convey and affect the land" and that a deed of conveyance of registered land "shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration," and it is therefore urged that the presentation of the owner's duplicate certificate and the entry thereupon of the memorandum of a transfer in fee simple to Soledad P. Hernandez, an innocent third party, constituted in itself a valid conveyance of the title to the land in question.

It must be conceded that if the transfers to Pedro Manuntag and by him to Soledad P. Hernandez were duly registered, it would be difficult to differentiate the present case from that of *De la Cruz vs. Fabie*. But, in our opinion, the entry of a mere memorandum of a conveyance in fee simple upon the original certificate of title without the issuance of a transfer certificate of title to the purchaser is not a sufficient registration of the conveyance of the fee. Sections 57 and 58 of the Land Registration Act prescribe how conveyances in fee of registered land must be made and read as follows:

"Sec. 57. An owner desiring to convey in fee his registered land or any portion thereof shall execute a deed of conveyance, which the grantor or grantee may present to the register of deeds in the province where the land lies. The grantor's duplicate certificate shall be produced and presented at the same time. The register of deeds shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee, and shall prepare and deliver to him an owner's duplicate certificate. The register of deeds shall note upon the original and duplicate certificates the date of transfer, the volume and page of the

registration book where the new certificate is registered, and a reference by number to the last prior certificate. The grantor's duplicate certificate shall be surrendered, and the word 'canceled' stamped upon it. The original certificate shall also be stamped 'canceled. The deed of conveyance shall be filed and indorsed with the number and place of registration of the certificate of title of the land conveyed.

"Sec. 58. When a deed in fee is for a part only of the land described in a certificate of title, the register of deeds shall also enter a new certificate and issue an owner's duplicate to the grantor for the part of the land not included in the deed. In every case of transfer the new certificate or certificates shall include all the land described in the original and surrendered certificates: Provided however, That no new certificate to a grantee of a part only of the land shall be invalid by reason of the failure of the register of deeds to enter a new certificate to the grantor for the remaining unconveyed portion: And provided further, That in case the land described in a certificate of title is divided into lots, designated by numbers or letters, with measurements of all the bounds, and a plan of said land has been filed with" the clerk and verified pursuant to section forty-four of this Act, and a certified copy thereof is recorded in the registration book with the original certificate, when the original owner makes a deed of transfer in fee of one or more of such lots, the register of deeds may, instead of canceling such certificate and entering a new certificate to the grantor for the part of the land not included in the deed of transfer, enter on the original certificate and on the owner's duplicate certificate a memorandum of such deed of transfer, with a reference to the lot or lots thereby conveyed as designated on such plan, and that the certificate is canceled as to such lot or lots; and every certificate with such memorandum shall be effectual for the purpose of showing the grantor's title to the remainder of the land not conveyed as if the old certificate had been canceled and a new certificate of such land had been entered; and such process may be repeated so long as there is convenient space upon the original certificate and the owner's duplicate certificate for making such memorandum of sale of lots."

As will be seen, the issuance of a transfer certificate of title to the purchaser is one of the essential features of a conveyance in fee by registration and in order to enjoy the full protection of the registration system, the purchaser must be a holder in good faith of such certificate. This appears clearly from section 39 of the Land Registration Act which provides that "every applicant receiving a, certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value in good faith, shall hold the same free of all incumbrance except those noted on said certificate, and any of the following incumbrances which may be subsisting, namely: (enumeration of subsisting incumbrances)." In fact the register of deeds has no authority to register a conveyance in fee without the presentation of the conveyor's duplicate certificate unless he is ordered to do so by a court of competent jurisdiction (see Land Registration Act, section 55). As we have already shown, neither Pedro Manuntag nor Soledad P. Hernandez ever held a certificate of title to the land here in question and there had therefore been no sufficient legal conveyance in fee to them neither by deed nor by registration. The original certificate of title No. 414 in favor of the Angeles heirs has never been cancelled and is the only certificate in existence in regard to the property.

In the case of *De la Cruz vs. Fabie*, supra, the situation was entirely different. There the registration of the property in question was decreed in the name of Gregoria Hernandez and a duplicate original certificate of title issued to her. She turned the duplicate certificate over to her nephew, the defendant Vedasto Velasquez, who forged a deed to himself of the property and presenting the same with the duplicate certificate of title to the register of deeds obtained a transfer certificate with its corresponding duplicate in his own name. He thereafter sold the land to his codefendant Ramon Fabie to whom a transfer certificate of title was issued upon the cancellation of Velasquez' certificate. There was therefore a complete chain of registered title. The purchaser was guilty of no negligence and was justified in relying on the certificate of title held by the vendor. In the present case, on the other hand, the vendor held no certificate of title and there had therefore been no complete conveyance of the fee to him. The purchaser was charged with presumptive knowledge of the law relating to the

conveyance of land by registration and, in purchasing from a person who did not exhibit the proper muniments of title, must be considered to have been guilty of negligence and is not in position to complain of his loss.

We may say further that the distinction we have drawn between the two cases is not a mere technicality; if in the present case the procedure prescribed by section 58 of the Land Registration Act had been followed and which, in accordance with paragraph 3 of section 30 of the Rules for the Uniform Administration of the Registries of Deeds, as amended by Circular No. 31 of the General Land Registration Office, dated September 28, 1921, and approved by the Secretary of Justice, would have required the presentation of a subdivision plan and through the publicity attending the necessary monumenting of the dividing lines, the forgery of the deed would in all probability have been discovered before any harm could have been done.

It appears to be conceded by the parties that Pedro Manuntag has legitimately acquired the interests of Juana Angeles and Silvino Angeles, amounting in all to a one-eighth share in the land, which interests passed to Soledad P. Hernandez through the deed executed by Manuntag in her favor; the rest of the land is, as we have seen, still the property of the remaining Angeles heirs. It appears that Bernardino Angeles and Matias Angeles have died since certificate of title No. 414 was issued and it, is possible that some of the other original coowners have suffered the same fate. The evidence before us is hardly sufficient to definitely or exactly determine the present ownership of the shares of the various original heirs, but the record indicates that Soledad P. Hernandez is the owner of a one-eighth interest in the land; the estate of Bernardino Angeles of one-twelfth; Leonarda, Tomasa, Ambrosia, Tomas, and Pelagia Angeles of one-twelfth each; the estate of Matias Angeles of one-twelfth; Alberto, Florencio and Agustin Angeles of one-twenty-fourth each; Maria, Romana, and Matias Angeles 2d one-thirty-sixth each; and Clemente, Eulalia, and Aquilino Tullo of one-thirtysixth each.

The order appealed from is reversed and it is ordered that certificate of title No. 414 be cancelled and that in its stead a transfer certificate of title be issued describing the land in accordance with the cadastral survey and stating the names and shares of the various coowners as hereinabove set forth unless it should be found that recent changes in ownership have occurred, in which case the court below may upon motion and hearing, in accordance with section 112 of the Land Registration Act, make such modifications as the evidence before it justifies. All memoranda existing on certificate of title No. 414 will be cancelled except the one entered under document No. 1425, evidencing the sale with the right of repurchase in favor of Arturo Sanchez, which memorandum shall, however, affect only the one-eighth interest of Soledad P. Hernandez. No costs will be allowed in this instance. So ordered.

Avanceña, C, J., Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

CONCURRING

STREET, J.,

I agree, but in order that my concurrence may not be taken in any wise as an indorsement of the doctrine of *De la Cruz vs. Fabie* (35 Phil., 144), I hasten to add that in my opinion that case was wrongly decided and should be entirely overruled.

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