

**ANGELA BLONDEAU AND FERNANDO DE LA CANTERA Y UZQUIANO,  
PLAINTIFFS AND APPELLANTS, VS. AGUSTIN NANO AND JOSE  
VALLEJO, DEFENDANTS AND APPELLEES.***G.R. No. 41377. July 26, 1935*

Ponente: MALCOLM, J.

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This action was brought in the Court of First Instance of Manila to foreclose a mortgage alleged to have been made by the defendants Agustin Nano and Jose Vallejo to the plaintiff Angela Blondeau, bearing date November 5, 1931, to secure the payment of the sum of P12,000, and covering property situated on Calle Georgia, Manila. Nano, purporting to represent both defendants, after filing an answer, was found in contempt of court. The other defendant Vallejo thereupon presented an amended answer in which it was alleged that his signature to the mortgage was a forgery. Following the trial, judgment was rendered against Nano but not against Vallejo. From this judgment the plaintiffs have taken an appeal.

With all due deference to the findings of the trial judge, now an honored member of this court, we are inclined to the view, first, that the accesorias, bearing Nos. 905A to 905F, Calle Georgia, Manila, were as indicated in the mortgage, the property of the defendant Agustin Nano, and second, that the purported signature of the defendant Vallejo to the mortgage was not a forgery. In support of the first of our statements, attention need only be invited to a series of documents, including the transfer certificate of title, showing that Vallejo was considered the owner of the land only. As to the second statement, it needs be recalled that the mortgage was executed in the home of the plaintiffs, and that of those present, the principal plaintiff Angela Blondeau and her husband Fernando de la Cantera, together with the instrumental witness Pedro Jimenez Zoboli, identified Vallejo as the person who signed the document. As against their testimony stands the alibi of Vallejo, partially corroborated by the testimony of the notary public Gregorio Bilog. It is expecting a great deal to have us believe that not only the mortgage but the power of attorney of Vallejo in favor of Nano and a series of documents were the product of the evil machinations of Nano, and that although Nano and Vallejo, members of the same family, lived together, Vallejo was entirely unacquainted with the activities of Nano in dealing with their joint property. It is significant that the proper cedula of Vallejo were presented for the accomplishment of the documents, and that if there was fraud, not one but a number of notaries public were deceived thereby.

We repeat that upon its face, the mortgage appears to be regular and to have been duly executed and accepted by Vallejo on November 5, 1931. The evidence then resolves itself into a question of the execution of the mortgage by Vallejo on the one hand, and the denial of its execution on the other hand. That there was a conflict between experts as to the handwriting, one being of the opinion that the signatures of Vallejo were genuine, and the other being of the opinion that they were not genuine, is not unexpected. Under such conditions, the question is, which side produced the weightier testimony, and as hereinbefore indicated, we are of the opinion that the balance inclined in favor of the plaintiffs.

But there is a narrower ground on which the defenses of the defendant-appellee must be overruled. Agustin Nano had possession of Jose Vallejo's title papers. Without those title papers handed over to Nano with the acquiescence of Vallejo, a fraud could not have been perpetrated. When Fernando de la Cantera, a member of the Philippine bar and the husband of Angela Blondeau, the principal plaintiff, searched the registration records, he found them in due form, including the power of attorney of Vallejo in favor of Nano. If this had not been so and if thereafter the proper notation of the encumbrance could not have been made, Angela Blondeau would not have lent P12,000 to the defendant Vallejo.

The Torrens system is intended for the registration of title, rather than the muniments of title. It represents a departure from the orthodox principles of property law. Under the common law, if the pretended signature of the mortgagor is a forgery, the instrument is invalid for every purpose and will pass no title or rights to anyone, unless the spurious document is ratified and accepted by the mortgagor. The Torrens Act on the contrary permits a forged transfer, when duly entered in the registry, to become the root of a valid title in a bona fide purchaser. The act erects a safeguard against a forged transfer being registered, by the requirement that no transfer shall be registered unless the owner's certificate was produced along with the instrument of transfer. An executed transfer of registered lands placed by the registered owner thereof in the hands of another operates as a representation to a third party that the holder of the transfer is authorized to deal with the lands. (53 C. J., 1141, 1142; Act No. 496, as amended, sees. 47, 51, 55.)

With respect to the collusiveness of the Torrens title and the binding force and effect of annotations thereon even when through a forged deed the land passes into the possession of an innocent purchaser for value, the basic rule is found in the opinion delivered by Mr. Chief Justice Arellano in *De la Cruz vs. Table* ([1916], 35 Phil., 144). The history of the case was as follows:

"Vedasto Velazquez was the attorney in fact of Gregoria Hernandez. 'Gregoria Hernandez registered her title of ownership to the land in question in the property registry and was issued certificate of title No. 121. Vedasto Velazquez, being the attorney in fact of Gregoria Hernandez, had in his possession all the muniments of title of the land, including the certificate of title No. 121, and, abusing her confidence in him, a few days after the registration of the land, forged a notarial instrument wherein he made it appear that she had sold the said land to him for the price of P8,000.

"Vedasto Velazquez then went to the register of deeds and applied for the registration of the land in his own name, presenting Gregoria Hernandez' certificate of title No. 121 for cancellation, and the deed of conveyance which was purported to have been made by Gregoria Hernandez in his favor in order that he might be registered as the true owner of the land. All this was done; Gregoria Hernandez' title was cancelled and certificate of title No. 43 was issued to Vedasto Velazquez.

\* \* \* \* \* "On May 31, 1907, Vedasto Velazquez sold the land finally and absolutely to Ramon Fabie, who presented to the register of deeds the notarial instrument executed for the purpose and was thereupon furnished with the certificate of title No. 766." On these facts, it was held that Fabie was an innocent holder of a title for value and that, under section 55 of the Land Registration Law, he was the absolute owner of the land.

The decision above cited has repeatedly been reexamined by this court, one of the most recent instances being found in the case of *El Hogar Filipino vs. Olviga* ([1934], 60 Phil., 17). While counsel for the appellee is undoubtedly correct in his contention that neither the case of Fabie nor the case of Olviga nor any other case relied upon by the appellants is on all fours with the present facts, the principle on which these cases rest should here be carried forward and given application.

The recent decision of the United States Supreme Court in the case of *Eliason vs. Wilborn* ([1930], 281 U.S. 457), is of enlightening interest. Plaintiffs in this case, purchasers of land previously brought under the Illinois

Torrens Act, delivered the certificate of title to a party under an agreement to sell, who forged a deed to himself, had a certificate issued in his name, and then conveyed to defendants who were good faith purchasers for value. Plaintiffs informed the registrar of the forgery after the defendants had bought, and demanded the cancellation of the deeds and certificates, and the reissue of a certificate to themselves. The registrar refused, and a petition was brought to compel such action. The Circuit Court for Cook County, Illinois, the Supreme Court of Illinois, and the United States Supreme Court, united in dismissing the petition. Mr. Justice Holmes, delivering the opinion of the latter court, said:

"\* \* \* The statute requires the production of the outstanding certificate, as a condition to the issue of a new one. The appellants saw fit to entrust it to Napleton and they took the risk. They say that according to the construction of the act adopted the registrar's certificate would have had the same effect even if the old certificate had not been produced. But that, if correct, is no answer. Presumably the registrar will do his duty, and if he does he will require the old certificate to be handed in. It does not justify the omission of a precaution that probably would be sufficient, to point out "that a dishonest official could get around it. There is not the slightest reason to suppose that Napleton would have got a certificate on which the Wilborns could rely, without the delivery of the old one by the appellants. As between two innocent persons, one of whom must suffer the consequence of a breach of trust, the one who made it possible by his act of confidence must bear the loss."

Vargas & Manalac in their treatise on the Philippine Land Registration Law quote with approval the comment of Mr. Powell in his book on Land Registration, section 213. The question which the author propounded was: Why does the law say that the person who had no title at all and only a forged deed as a color of title should become the true owner of the land by merely continuing to occupy and enjoy the land which in fact does not belong to him, but which belongs to the victim of the forgery? His answer was:

"\* \* \* that public policy, expediency, and the need of a statute of repose as to the possession of land, demand such a rule. Likewise, public policy, expediency, and the need of repose and certainty as to land titles demand that the bona fide purchaser of a certificate of title to registered land, who, though he buys on a forged transfer, succeeds in having the land registered in his name, should nevertheless hold an unimpeachable title. There is more natural justice in recognizing his title as being valid than there is in recognizing as valid the title of one who has succeeded in ripening a forged color of title by prescription.

"In the first place, a forger cannot effectuate his forgery in the case of registered land by executing a transfer which can be registered, unless the owner has allowed him, in some way, to get possession of the owner's certificate. The Act has erected in favor of the owner, as a safeguard, against a forged transfer being perpetrated against him, the requirement that no voluntary transfer shall be registered unless the owner's certificate is produced along with the instrument of transfer. Therefore, if the owner has voluntarily or carelessly allowed the forger to come into possession of his owner's certificate he is to be judged according to the maxim, that when one of two innocent persons must suffer by the wrongful act of a third person the loss fall on him who put it into the power of that third person to perpetrate the wrong. Furthermore, even if the forger stole the owner's certificate, the owner is up against no greater hardship than is experienced by one whose money or negotiable paper payable to bearer is stolen and transferred by the thief to an innocent purchaser."

Other incidental facts might be mentioned and other incidental legal propositions might be discussed, but in its final analysis this is a case of a mortgagee relying upon & Torrens title, and loaning money in all good faith on the basis of the title standing in the name of the mortgagors only thereafter to discover one defendant to be an alleged forger and the other defendant, if not a party to the conspiracy, at least having by his negligence or acquiescence made it possible for the fraud to transpire. Giving to the facts the most favorable interpretation for Vallejo, yet, as announced by the United States Supreme Court, the maxim is, as between two innocent

persons, in this case Angela Blondeau and Jose Vallejo, one of whom must suffer the consequence of a breach of trust, the one who made it possible by his act of confidence must bear the loss, in this case Jose Vallejo. Accordingly, the four errors assigned will be sustained, the judgment reversed, and in the court of origin a new one entered sustaining plaintiff's mortgage and granting her the relief prayed for in her complaints. So ordered, without special pronouncement as to the costs in either instance.

Villa-Real, Imperial, Butte, and Goddard, JJ., concur.

Judgment reversed.

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