

THE DIRECTOR OP LANDS, PETITIONER, VS. ESTEBAN ABAD ET AL., CLAIMANTS. LA URBANA, MUTUAL BUILDING AND LOAN ASSOCIATION; CLAIMANT AND APPELLANT. LEVY HERMANOS, INC., CLAIMANT AND...

G.R. No. 42323. May 27, 1935

Ponente: GODDARD, J.

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GODDARD, J.:

This is an appeal from an order of the Court of First Instance of Occidental Negros, ethe dispositive part of which reads:

"Por todo lo expuesto, en virtud de las disposiciones del articulo 112 de la Ley No. 496, se ordena al Registrador de Titulos de la Provincia de Negro& Occidental que anote en el Certificado de Transferencia de Titulo No. 13126 el embargo trabado de los bienes a que se refiere dicho certificado de tificio y el certificado de venta definitiva de los mismos, haciendo consta? en la anotacion el tiempo y la fecha en que los citados documentos fueron originariamente registrados en su oficina, y se ordena tambien a la entidad La Urbana, o a su presidente, gerente, tesorero o cualquiera otra persona que tenga en su posesion eJ duplicado del Certificado de Transferencia de Titulo No. 13126, que lo entreguen a la Oficina del Registrador de Titulos de Negros Occidental, para los efectos consiguientes."

Levy Hermanos, Inc., instituted a civil action, case No. 8562, in the Court of First Instance of Iloilo against Crecenciano M. Torres in which that court issued an order of attachment by virtue of which the right, title and interest of said Crecenciano M. Torres in a parcel of land, known as lot No. 296-A of the cadastral survey of Bacolod, Occidental Negros, and in a house of strong materials situated thereon were attached. This order was filed in. the office of the register of deeds of the above-mentioned province on January 14, 1931, and duly noted, that same day, in the entry book of that office. The register of deeds of that province through negligence failed to comply with the requirements of section 72 of the Land Registration Law, Act No. 496, which reads as follows:

"Sec. 72. In every case where an attachment or other lien or adverse claim of any description is registered, and the duplicate certificate is-not presented at the time of registration to the register of deeds, he shall within twentyfour hours thereafter send notice by mail to the registered owner, stating that such paper has been registered, and requesting him to send or produce the duplicate certificate in order that a memorandum of the attachment or other lien or adverse claim shall be made thereon. If the owner neglects or refuses to comply within a reasonable time, the register of deeds shall suggest the fact to the court, and the court, after notice, shall enter an order to the owner to produce his certificate at a time and place to be named therein, and may enforce the order by suitable process."

Seven months later, on August 14, 1931, La Urbana, a building and loan association, filed a deed of mortgage, in the same office, executed by Crecenciano M. Torres in favor of that company, which the register of deeds noted on the back of transfer certificate of title No. 13126 without first noting thereon the attachment of Levy Hermanos, Inc. Lot No. 296-A was then covered by that certificate of title. So great was the negligence of the

register of deeds of that province that he did not discover, until about April 9, 1932, that he had failed to note the attachment of Levy Hermanos, Inc., on the former certificate of title No. 9074, covering the attached land at the time notice of said writ was filed, nor on the new certificate No. 13126. On that date, April 9, 1932, he filed a belated motion in the Court of First Instance of Occidental Negros in which he alleged that "por descuido involuntario" the La Urbana mortgage had been noted on said certificate of title, "sin antes anotar en dicho titulo la precitada notificaci6n de embargo," alleging further "que dicha omision puede causar, si aun no esta causando perjuicios a la referida entidad demandante, Levy Hermanos, Inc." and prayed:

"Por lo expuesto, con el proposito de salvaguardar los intereses de dicha Levy Hermanos, Inc., y de acuerdo con el articulo 112 de" la Ley No. 496, el Registrador de Titulos comparedente respetuosamente pide a esta Hon. Corte tenga a bien autorizar y ordenar al Registrador mocionante la anotaci6n de la precitada anotaci6n de embargo en el mencionado Certificado de Transferencia de Titulo No. 13126; y que se ordene al propio tiempo a la xnencionada La Urbana, con oficina central en Manila, I. F., la entrega a la oficina del mocionante del aludido Certificado de Transferencia de Titulo No. 13126, para el fin indicado."

This motion was denied and Levy Hermanos, Inc., after becoming the owner of lot No. 296-A and the house thereon by virtue of an execution sale in civil case No. 8562 of the Court of First Instance of Iloilo, filed a motion in the Court of First Instance of Occidental Negros, setting forth the following facts:

"That on January 14, 1931, at 11.35 a. m., as may be seen from entry No. 29182 in the day hook of the office of the register of deeds at Bacolod, Occidental Negros, there has been registered a notice of attachment against the defendant Crecenciano M. Torres by virtue of a writ of attachment issued by the Court of First Instance of, Iloilo in case No. 8562 * * * wherein the properties of said defendant * * * have been attached by the provincial sheriff * * * especially lot No. 296-A of the cadastral survey of Bacolod; that said lot and the house of strong materials thereon were sold at public auction and as Levy Hermanos, Inc., was the highest bidder the sheriff of Occidental Negros had executed in its favor a deed of sale for the sum of f*3,100 and that in spite of the fact that the said attachment and the deed of sale in its favor had been duly registered in the office of the register of deeds of Bacolod, Occidental Negros, said register of deeds failed to annotate same in the transfer certificate of title No. 13126 covering said lot." In view of the above it was prayed:

"That by virtue of the provisions of section 112 of Act No. 496, the register of deeds at Bacolod, Occidental Negros, be ordered to annotate the attachment and the deed of sale mentioned above in transfer certificate of title No. 13126 making the entry thereof at the time and date when said document was first originally registered; it having come to the knowledge of the petitioner Levy Hermanos, Inc., that La Urbana, a corporation with central office at Manila, P. I., has the possession of owner's duplicate copy of transfer certificate of title No. 13126, it is therefore respectfully prayed that the president, manager,, or treasurer or any other person who has the possession of saM owner'& duplicate copy of transfer certificate of title No. 13126 be ordered to surrender same to the office of the register of deeds at Bacolod, Occidental Negros, so that proper annotation may be made accordingly."

The motion was opposed by La Urbana and Crecenciano M. Torres. However, Judge Braulio Bejasa in a well considered opinion dictated an order, the dispositive part of which is copied above.

The appeal from this order is now before this court and the appellant La Urbana makes the following assignments of error:

"I. El Juzgado erro al no declarar que el supuesto embargo de Levy Hermanos, Inc., era nulo, porque al tiempo de hacerse, el embargado Crecenciano M. Torres no era el dueno de la propiedad embargada.

"II. El Juzgado err6 al no declarar que un embargo anotado en el lihro diario del regi3tro pero no anotado en el certificado de titulo, no constituye un gravamen sobre los bienes descritos en ese certificado.

"III. El Juzgado erro al declarar que la hipoteca de la apelante estaba supeditada al embargo de Levy Hermanos, Inc., a pesar de que este embargo no consta anotado en el certificado correspondiente.

"IV. El Juzgado erro al conceder la moci6n de Levy Hermanos, Inc., en vez de denegarla.

"V. El Juzgado erro al denegar la moci6n de nueva vista presentada por la apelante."

As to the first assignment of error, one George Ramos was the owner of lot No. 296 of the cadastral survey of Bacolod, Occidental Negros, by virtue of transfer certificate of title No. 9074. In the month of June, 1929, he sold 918 square meters of this lot to "Sra. Casimira Lajrrazabal, mayor de edad, casada con Crecenciano Torres" for the sum of P918 (Exhibit H). This portion was later surveyed and segregated from lot No. 296 and designated as lot No. 296A. After this segregation, on March 5, 1931, George Ramos executed, through his attorney-in-fact, another document (Exhibit B) by virtue of which he sold lot No. 296-A, for the same consideration, to "Crecenciano Torres, mayor de edad, casado con Dfia. Casimira Larrazabal". The attachment of Levy Hermanos, Inc., was entered in the day book of the register of deeds of Occidental Negros on January 14, 1931, about one year and seven months after Exhibit H was executed. Why Exhibit H was executed in favor of the wife of Crecenciano Torres and Exhibit B in his favor is not disclosed by the record At any rate the latter, as a member of the conjugal partnership, had an attachable interest in lot No. 296-A on January 14, 1931. Consequently the first assignment of error is overruled.

The other assignments of error will be considered together.

Sections 51 and 56 of Act No. 496 read:

"Sec. 51. Every conveyance, mortgage, lease, lien, attachment, order, decree, instrument, or entry affecting registered land which would under existing laws, if recorded, filed, or entered in the office of the register of deeds, affect the real estate to which it relates shall, if registered, fi'ed, or entered in the office of the register of deeds in the province or city where the real estate to which such instrument relates lies, be notice to all persons from the time of such registering, filing, or entering."

"Sec. 56. 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 are 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 * * * ."

The language of these sections is so plain that there is no need of further comment. In G. R. No. 41342, promulgated November 28,. 1934, entitled "The Government of the Philippine Islands, applicant, vs. Eustaquia Aballe et al., claimants. Levy Hermanos, Inc., petitioner-appellee. Antonio Alegato and Chiong Bonco, oppositors appellants," this court stated:

"Neither is his opposition with respect to lot No. 762 founded, notwithstanding the fact that the notice of attachment had not been noted on the original certificate of title to this lot in the name of Gervasio Ignalaga and Petra Maderazo or on the transfer certificate of title which was later issued in his name, inasmuch as this notice of attachment was duly inscribed in the books of the registry of deeds. According to section 51 of Act No. 496, the registration of the instrument in the books of the registry of deeds is notice to all as regards such document. It does not provide that it is the notation thereof on the certificate of title. And section ,56 of the same Act, in prescribing the form in which the registers of deeds should keep their entry books and directing the entry therein, in the order cf their reception, of all deeds and other voluntary instruments and all copies of writs and other process filed with them relating to registered land, noting therein" tjae year, month, day, hour and minute when' they received them, provides that inscription or registration shall be regarded as made from

the time so noted. According to this, the notation of the attachment of this lot in the entry book of the register of deeds produces all the effects which the law gives to its registration or inscription." [1]

When Levy Hermanos, Inc., delivered its notice of attachment to the register of deeds of Occidental Negros and paid the corresponding fees, it had a right to presume that that official would perform his duty properly. When its attachment was entered upon the entry book it was duly registered according to section 56

La Urbana, when it presented its mortgage for registration, also had a right to rely upon the presumption that the official duty of the register of deeds of Occidental Negros as set forth in section 72 of Act No. 496 had been regularly performed. The unexcusable negligence of that official in failing to perform that duty has most certainly damaged that company. A person who in good faith acquires any right or title to land registered under the provisions of Act No. 496 would not need to go behind the certificate of title if the register of deeds of the province in which such land is situated performs his legal duty. If a certificate of title cannot be taken at its face value the owner of land registered under the Torrens system will be greatly handicapped in making sales thereof or borrowing money thereon. For instance, in the present case La Urbana would have had to examine over 29t000 day book entries before making the loan to Crecenciano M. Torres if it had been obliged to go behind the transfer certificate of title No. 13126. Certainly negligence should not be imputed to one who does not go behind a certificate of title in view of the fact that if the register of deeds performs his legal duty such a certificate will show all mcumbrances¹ on the land described therein. This court stated in the case of Quimson vs. Suarez (45 Phil., 901, 906), that:

"One of the principal features of the Torrens System of registration is that all incumbrances on the land or special estates therein shall be shown, or, at least, intimated upon the certificate of title and a person dealing with the owner of the registered land is not bound to go behind the certificate and inquire into transactions, the existence of which is not there intimated. * * *"

According to the above doctrine La Urbana was not bound to go behind the certificate of title No. 13126 in the name of Crecenciano M. Torres.

The order appealed from is affirmed without costs.

Malcolm, Hull, Butte, and Diaz, JJ., concur.

Order affirmed.

[1] 60 Phil., 986

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