

SIMEON RAE, APPLICANT AND APPELLANT, VS. THE PROVINCIAL GOVERNMENT OF RIZAL, OPPOSITOR AND APPELLEE.*G.R. No. 45255. April 29, 1939*

Ponente: IMPERIAL, J.

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On October 4, 1930, Miguel Paterno, as principal, and Domingo Madrilejo, Manuel Madrinal and Leon Samson, as sureties, executed a bond for P5,000 in favor of the municipality of Caloocan, Province of Rizal, to guarantee the payment of the license fees of the cabaret or dance hall situated in Lerma, barrio of Maypajo, of the said municipality, of which the said Miguel Paterno was the grantee corresponding to the fourth quarter of the year 1930, to the years 1931 and 1932, and to the first, second and third quarters of the year 1933; all of them undertaking, jointly and severally, to pay said fees as they fell due. As the grantee failed to pay the municipal license for the first quarter of 1931, the provincial fiscal of Rizal, on behalf of the municipal treasurer of Caloocan, brought suit on May 16, 1931, in the Court of First Instance of Rizal, against Miguel Paterno, Manuel Madrinal and Domingo Madrilejo (civil case No. 4781) to recover the amount of the said municipal tax. Judgment was rendered in said case against the defendants, ordering them to pay, jointly and severally, to the plaintiff the sum of P1,250 with legal interest thereon from May 16, 1931. Upon appeal of the case this court (Villegas vs. Paterno, G. R. No. 38936 [58 Phil, 978]), rendered final judgment modifying that of the lower court in the sense that both the principal and the sureties should pay, jointly and severally, the aforesaid amount of money together with the legal interest thereon. When this judgment was executed the court levied a writ of execution upon the properties of Manuel Madrinal, one of the sureties, by virtue of which the sheriff, on January 18, 1934, attached all his interest, participation and title in the land described in transfer certificate of title No. 12141 issued by the registrar of deeds of the Province of Rizal in favor of Maximo Madrinal and Manuel Madrinal. This attachment was noted as a lien at the back of the said transfer certificate of title on January 24, 1934. On May 2, 1931, Maximo Madrinal and Manuel Madrinal sold the land described in the transfer certificate of title No. 12141 to the applicant and appellant Simeon Rael, reserving their right to redeem it within two years. The deed to this effect was, however, noted or recorded at the back of the said transfer certificate of title on February 19, 1934 only. The two-year period for the repurchase having expired, the applicant consolidated his ownership and the consolidation was again noted in transfer certificate of title No. 12141, whereupon, the registrar of deeds cancelled the latter and issued transfer certificate of title No. 25437 in favor of the applicant-appellant Simeon Rael. At the back of this last title the registrar noted the attachment in favor of the municipality of Caloocan appearing in the transfer certificate of title No. 12141 and also the certificate of sale which the sheriff issued in favor of the provincial government of Rizal of the land described in the last title on February 10, 1934. This certificate of sale was recorded on August 26, 1935. On September 11, 1935, Simeon Rael filed a motion in court asking for the cancellation of the notation of the attachment and that of the sale appearing in his transfer certificate of title No 25437, on the ground that, ownership having been consolidated in his favor, he was the absolute owner of the land free from all encumbrance. The provincial government of Rizal, through the fiscal, opposed this motion on the ground that its right to the land is superior and preferred to that acquired by Simeon Rael. After trial, the court

denied the motion because when the petitioner acquired the land and recorded his right, the aforesaid land was already attached by the municipality of Caloocan and this lien is superior and preferred to the right invoked by the petitioner. The latter appealed from the order to this effect.

The appellant contends that the court erred in denying his motion for the cancellation of the liens appearing at the back of his transfer certificate of title No. 25437, and in likewise denying his petition for the reopening of the case.

Section 50 of Act No. 496 provides, among other things, that a deed of conveyance is merely an authority for the registrar to proceed to its registration and that the act of registration is what gives validity thereto and affects the registered property (*Buzon vs. Licauco*, 13 Phil., 354; *Worcester vs. Ocampo and Ocampo*, 34 Phil., 646; *Ramirez vs. Joseph*, G. R. No. 34358 [56 Phil., 834]). This legal provision and the doctrines enunciated in the cited cases are applicable to the present case because this has to do with land registered under the Torrens system. When the deed of sale with the right of repurchase was registered and noted at the back of transfer certificate of title No. 12141, there was already registered and noted in the same title the attachment levied by the sheriff in favor of the municipality of Caloocan, predecessor-in-interest of the provincial government of Rizal. For this reason the right acquired by the latter entity by virtue of said Ken is superior and preferred to the sale obtained by the appellant, consequently, the court acted legally in denying the motion. For the same reason the court did not err in denying the motion for the reopening of the case. To what has been stated may be added that the sale with the right of repurchase is, moreover, fraudulent under article 1297 of the Civil Code because when the contract was perfected and the deed was executed, judgment had already been entered against Manuel Madrinal and the attachment on the land subject of said sale had already been noted at the back of the title.

The appealed order is affirmed, with the costs of this instance to the applicant-appellant. So ordered.

Avanceña, C. J., Villa-Real, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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