

**MACARIA PASCUAL, RAFAEL PASCUAL AND TIMOTEA PASCUAL,
PLAINTIFFS AND APPELLEES, VS. LORENZA RAMIREZ ET AL.,
DEFENDANTS. LUNETA MOTOR CO., INC., APPELLANT.**

G.R. No. 45597. April 29, 1939

Ponente: MORAN, J.

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MORAN, J.:

On May 6, 1936, plaintiffs herein, as heirs of the deceased Esteban Pascual, instituted against Lorenza Ramirez an action in the Court of First Instance of Pangasinan for the foreclosure of a mortgage on a parcel of land, now lot No. 3359 of the cadastral survey of Umingan, Pangasinan, The Luneta Motor Company and E. G. Turner, claiming: interests in the property, were joined as parties defendant. Lorenza Ramirez was declared in default, and as to the remaining parties, the case was submitted for judgment on a stipulation of facts.

The agreement discloses that on March 22, 1926, Lorenza Ramirez mortgaged the parcel of land in question to Esteban Pascual, now deceased, for P700. The deed of mortgage was, however, never registered in the office of the register of deeds of Pangasinan. On July 5, 1928, this lot was adjudicated to Lorenza Ramirez in cadastral case No. 21, G. L. R. O. Rec. No. 654, subject to the mortgage in favor of Esteban Pascual; and, on June 17, 1930, the corresponding decree was issued to her carrying the following annotations on the face thereof: "(1) A first lien in favor of the Insular Government to guaranty the payment of special taxes assessed pursuant to the provisions of section 18 of Act No. 2259, as amended; and (2) that this lot is subject to a mortgage in favor of Esteban Pascual." It also appears that on August 30, 1926, Lorenza Ramirez had also mortgaged the same lot together with lot No. 3358 to the Luneta Motor Company for P1,500, and, after a foreclosure suit instituted by the latter, the two parcels were sold to it. The sale was confirmed on July 21, 1929, On April 9, 1929, the lot in question was again sold to E. G. Turner at an execution sale, and on July 21, 1930, a final deed was issued in his favor.

It is worthy to note that prior to the issuance of the decree to Lorenza Ramirez, neither the Luneta Motor Company nor E. G. Turner has ever filed in the cadastral proceedings its or his claim to the lot in question. It was only on July 5, 1930, when the Luneta Motor Company filed a motion which was, in effect, a petition for the review of the decree on the ground of fraud, but which petition the lower court denied. On July 25 and December 8, 1930, the lower court authorized the annotation of their respective claims as encumbrances on the back of the original certificate of title for the land in question.

In the light of the stipulation of facts, the lower court adjudged the plaintiffs as heirs of Esteban Pascual as having a superior right than the defendants over the land in question. From this judgment the Luneta Motor Company appealed.

Certificates of title granted by virtue of the decree of award in a cadastral case have the same effect as those issued under the Land Registration Act (section 11, Act No. 2259, as amended). Accordingly, the decree of registration issued in favor of Lorenza Ramirez in the instant case quiets the title to the land in question, and is effective not only against the owners of adjacent properties who appear at the trial, but also against those who

may have interest in the land (sec. 38, Act No. 496; *Escueta vs. Director of Lands*, 16 Phil., 482). As the decree awarded in favor of Lorenza Ramirez recites no other encumbrances, at the time of its issuance, but the lien in favor of the Insular Government and the mortgage in favor of Esteban Pascual, it is obvious that the mortgage lien of the plaintiffs herein as successors in interest of said Esteban Pascual is superior to that of the appellant. The fact that the mortgage executed by Lorenza Ramirez in favor of said Esteban Pascual was never registered in the office of the registrar of deeds of Pangasinan, is now of no moment. Whatever might be the nature or character of a lien upon the land prior to the registration thereof under the Torrens system, that character or nature given in the original decree of registration will be accepted (*Abellana vs. Obias and Ylaya*, 46 Phil, 535). In other words, as the transaction between Lorenza Ramirez and Esteban Pascual was recognized and declared by and in final decree as a mortgage, that declaration constitutes *res judicata* and cannot now be disturbed (*Calimbas vs. Paguio*, 46 Phil., 566).

Judgment is affirmed, with costs against appellant.

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

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