

PARSONS HARDWARE CO., INC., PETITIONER, VS. COURT OF APPEALS, DLOSCORRO VLLLAHERMOSA AND ROSARIO IMPROGO, RESPONDENTS.

G.R. No. 46141. January 22, 1940

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

An appeal, by certiorari, from a decision of the Court of Appeals, wherein Parsons Hardware Co., Inc., is petitioner and the spouses Dioscorro Villahermosa and Rosario Improgo, respondents.

On December 20, 1930, the spouses Antonino Improgo and Fructuosa Casamayor sold the parcels of land, covered by the transfer certificate of title No. 7276, to respondents Dioscoro Villahermosa and his wife Rosario Improgo. On October 22, 1932, the deed of sale was presented before the register of deeds who entered the same in his entry book; but no new certificate was issued to the vendees for their failure to present vendors' certificate of title. Such failure was due to circumstances beyond the vendees' control, circumstances which need not be specified here. On January 31, 1931, the Manila Overland Sales Co., Inc., predecessor in interest of the petitioner, brought an action against the spouses, Antonino Improgo and Fructuosa Casamayor, for the recovery of P2,899.37, and after trial, judgment was rendered for the plaintiff. A writ of execution was issued on February 3, 1932, and the parcels of land in question were levied upon. On April 4, 1932, respondents Villahermosa and his wife filed a third-party claim based on the absolute deed of sale aforementioned, and the levy was discharged. Thereafter, petitioner, as successor in interest of the judgment creditor, applied for an alias writ of execution, which was granted, and, in pursuance thereof, the properties in question were again levied upon on September 27, 1934. Respondents Villahermosa and his wife again filed a third-party claim, but upon the filing of a bond by the petitioner, the sheriff proceeded with the levy and subsequent sale of the properties. On January 13, 1936, an absolute deed of sale was executed in favor of the petitioner, which was registered on February 12, 1936. Wherefore, respondents Villahermosa and his wife brought the present action for recovery. The lower court rendered judgment for the respondents which, on appeal to the Court of Appeals, was affirmed. The case is now before this Court upon a writ of certiorari granted to the petitioner. The only question of law before us is whether or not the absolute deed of sale executed in favor of the respondents Villahermosa and his wife on December 20, 1930, and noted in the entry book of the register of deeds on October 22, 1932, should take priority over the levy effected on September 27, 1934, in favor of the petitioner.

Without deciding upon the effect of the notation of respondents' purchase in the register of deeds' entry book, and even assuming that such purchase has not been duly registered, we believe and so hold that the same has preference over the levy. After the property was levied upon for the first time, a third-party claim was filed by the respondents Villahermosa and his wife, alleging, under oath, their having purchased the property on a previous date. The levy was dissolved upon the creditor's failure, after notice, to give the indemnity bond. Of course, this dissolution could not operate to wipe out the notice given the creditor as to the purchase made by said respondents, as alleged in their verified third-party claim. When, therefore, the second levy was effected, the

creditor may be regarded as having a previous knowledge of said purchase, and, although the purchase was not duly registered, the creditor's knowledge thereof was equivalent to registration, at least with respect to the creditor itself who acquired the property at the judicial sale.

In *Winkleman vs. Veluz*, 43 Phil., 604, where the lease there in question was not registered but of the existence of which the purchaser of the land had full knowledge, this Court held that such knowledge is equivalent to registration. In support of this ruling, the following authorities have been cited therein:

" The purpose of registering an instrument relating to land, annuities, mortgages, liens or any other class of real rights is to give notice to persons interested of the existence of these various liens against the property. If the parties interested have actual notice of the existence of such liens, then the necessity for registration does not exist. Neither can one who has actual notice of existing liens acquire any rights in such property free from such liens by the mere fact that such liens have not been recorded.

"It is our conclusion, therefore, that the defendant having had actual notice of the existence of the mortgage in question against the property cannot take advantage of the failure of the plaintiff to have the same transferred to the new registry under the Mortgage Law. The effect of his actual notice is equivalent to the registration of said mortgage under the Mortgage Law. (*Obras Pias vs. Devera Ignacio*. 17 Phil., 45, 47.)"

" The object of all registry laws is to impart information to parties dealing with property, respecting its transfers and incumbrances, and thus to protect them from prior secret conveyances and liens. Actual knowledge by a purchaser of an existing mortgage or title is equivalent to a notice resulting from the registry/ (*Patterson v. De la Ronde*, 8 Wall., 292; 19 U. S., (L. ed.), 415; *Findlay v. Hinde*, 7 U. S. (L. ed.), 128; *Landis v. Brant*, 13 U. S. (L. ed.), 449; *Fowler and Badgett v. Merrill*, 13 U. S. (L. ed.), 736; *National Bank of Genesee v. Whitney*, 26 U. S. (L. ed.), 350.)" (p. 609.)

In *Gustilo vs. Maravilla*, 48 Phil., 442, 448, wherein the purchaser of the land had full knowledge of the fact that the land had been leased to a third person, it was held that the purchaser is bound to respect said lease, although it is not entered upon the certificate of title, and that, in effect, it became a part of the contract of sale. We there observed that "the Land Registration Act only protects the holder in good faith, and cannot be used as a shield for frauds." And in *La Urbana vs. Bernardo*, 34 Off. Gaz., 2572, wherein plaintiff at the time of purchasing the registered lands there in question at public auction had notice of the fact that the property was under litigation, this Court held that in view of this knowledge, it is legally impossible to hold that said plaintiff is an innocent purchaser in good faith. (See also 23 C. J., sec. 812.)

It is well to reiterate here what this Court has very aptly observed in *Leung Yee vs. F. L. Strong Machinery Co. and Williamson*, 37 Phil., 644, 651:

"One who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor. A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor. His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title, will not make him an innocent purchaser for value, if it afterwards develops that the title was in fact defective, and it appears that he had such notice of the defect as would have led to its discovery had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation." (Underscoring ours.)

Judgment is affirmed, with costs against petitioner.

Avanceña, C.J., and Villa-Real, J., concur.
Laurel, concurs in the result.

CONCEPCION, M., disidente: Siento tener que disentir de la mayoría, porque, dicho sea con los debidos respetos, su decision esta en abierta pugna con la ley, socava en sus cimientos uno de los cardinales principios que informan el sistema de registro Torrens, y destruye dos conocidos axiomas jurldicos. Los hechos son:

'Manila Overland Sales Co., Inc., obtuvo una sentencia para recobrar de los esposos Antonio Improgo y Fructuosa Casamayor cierta suma de dinero. A su instancia, se expidid un mandamiento de ejecucion y se les embargaron dos parcelas de terreno a dichos demandados; pero el embargo quedo sin efecto por haber presentado los recurridos Dioscoro Villahermosa y Rosario Improgo, el 4 de abril de 1932, una terceria de dominio y Manila Overland Sales Co., Inc. no presto la fianza necesaria para que el sheriff proeediese a la subasta de los terrenos embargados. Mas tarde, la recurrente Parsons Hardware Co., Inc., como sucesora de Manila Overland Sales Co., Inc., pidid otro mandamiento de ejecucidn y en cumplimiento del mismo, los terrenos en cuestion fueron de nuevo embargados en 27 de septiembre de 1934, anotandose en esta misma fecha el embargo en el certificado de registro de titulo, que obraba en la oficina del registrador de la provincia, correspondiente a los terrenos embargados. Cuando se anoto el embargo en el registro, dichos terrenos aparecian inscritos a nombre de los deudores judiciales, los esposos Antonino Improgo y Fructuosa Casamayor. Los recurridos volvieron a presentar terceria de dominio; pero habiendo la recurrente prestado la fianza requerida por la ley, se Hevo adelante la ejecucion y los terrenos embargados fueron vendidos en publica subasta a favor de la recurrente Parsons Hardware Co., Inc. Transcurrido el ano concedido por elCodigo de Procedimiento Civil sin que los deudores por sentencia verificaran el retracto de dichos terrenos, se otorgo por el sheriff la escritura de venta definitiva en 13 de enero de 1936, la cual escritura fue registrada en 12 de febrero de 1936, extendiendse a favor de la recurrente el certificado de transferencia de titulo correspondiente.

Los recurridos presentaron una demanda para que se declare nula la venta de los referidos terrenos, alegando como fundamento que ellos los habian comprado el 20 de diciembre de 1930, con anterioridad al embargo y la venta obtenidos por la recurrente. El Juzgado fallola causa a favor de los demandantes y la Corte de Apelacion confirmo la sentencia.

CONSIDERACIONES LEGALES

No obstante el hecho de que los terrenos embargados a los deudores judiciales estaban inscritos a su nombre cuando se trabo tanto el primer embargo como el segundo, y continuaban asi inscritos cuando se efectuo la venta en publica subasta, y no obstante el hecho de que los recurridos Dioscoro Villahermosa y Rosario Improgo nunca habian inscrito en el registro su alegada venta obteniendo el certificado de transferencia de titulo a su favor, la decision de la mayoría confirma la de la Corte de Apelacion.

Semejante decision, como ya se ha dicho al principio es absolutamente contraria a la ley y mina en sus cimientos uno de los fundamentales principios del sistema de registro Torrens; porque segun lo dispuesto en el articulo 50 de la Ley No. 496, la supuesta escritura de venta a favor de loi recurridos, tratandose de un terreno inscrito de acuerdo con dicha Ley, no habiendo sido debidamente registrada, carece absolutamente de valor para todo el mundo, y no ha Hegado a producir el traspaso del dominio de los terrenos a favor de los recurridos, pues el acto de la inscription o registro es lo que da validez al traspaso y gravamen de la propiedad. Una escritura de venta no registrada, como la invocada por los recurridos, es solo un contrato entre Ia3 partes y obra como autorizacion para que el registrador haga la inscription correspondiente. Art. 50, supra; Niblack, pp. 126-127; Liong-Wong-Shih vs. Sunico & Peterson, 8 Phil., 91; Tabigue vs. Green, 11 Phil., 105; Buzon vs. Licauco, 13 Phil., 358; Tuason vs. Raymundo, 28 -Phil, 635; Worcester vs. Ocampo & Ocampo, 34 Phil., 653; Fidelity & Surety Co. vs. Conegro,

41 Phil., 401; Manalo vs. Young & Sheriff of Rizal, 51 Phil., 419; Government of P. I. vs. Mendoza, 51 Phil., 405; Anderson & Co. vs. Garcia, 35 Gac. Of. No. 155, p. 2999; Gomez vs. Levy Hermanos, Inc. et al., R. G. No. 45112, Abril 3, 1939; Vargas vs. Tancio y Guerrero, R. G. No. 45899, Abril 12, 1939.

Para todo el mundo, la unica verdad legal acerca del dominio, gravamen y otros derechos que limiten o afecten el dominio de un terreno inscrito, es tan solo lo que aparece en el certificado de registro, cuyo original obra en el registro y el duplicado en manos del propietario inscrito. Los deudores judiciales Antonio Improgo y Fructuosa Casamayor, a quienes se embargaron esos terrenos, aparecian ser los propietarios inscritos de los mismos y esta es la unica verdad legal que debemos apreciar, no la tercera presentada por los recurridos, o cualquier otra noticia o informacion por referenda que tenga la recurrente. Esta no tiene medios de averiguar la verdad o falsedad de la tercera de dominio, y no esta obligada a hacer averiguacion alguna teniendo a su facil alcance la verdad legal que se encuentra en el certificado de titulo obrante en la oficina del registro. La recurrente tenia derechos a descansar en lo que aparece en el registro cuando ella embargo los terrenos y los compró en publica subasta en pago de su credito.

Si la simple presentacion de la tercera fuese legalmente suficiente, como opina la mayoria, para que uno que hubiese embargado un terreno debiera desistir del embargo y de la venta, a pesar de que el terreno embargado estuviese inscrito en el registro a nombre de su deudor, podria ocurrir una de dos: o que el acreedor por sentencia quedase burlado, si creyera en la tercera, o que por el contrario, no creyendo en ella, tuviese que afrontar un litigio con el tercerista, con el resultado de perder su derecho de ejecutar su sentencia y pagar costas y danos y perjuicios.

El primer supuesto ocurriria, si el deudor por sentencia se valiese de un amigo o pariente que se prestase a presentar una tercera bajo juramento, alegando falsamente que era dueño del terreno por haberlo adquirido antes del embargo. Si el acreedor le cree, queda burlado.

Por el contrario, si la venta del terreno fuese un hecho cierto antes del embargo, pero que no se hubiese inscrito en el registro, y el acreedor por sentencia fiado en lo que aparece en el registro, prescindiese de la tercera y siguiese adelante con la ejecucion, ocurriria el segundo supuesto, esto es, perderia el litigio que promoviese luego el tercerista y pagaria costas y danos y perjuicios.

Todo esto ocurriria si no se mantuviese en toda su fuerza y vigor el principio de registro consagrado en el articulo 50 de la Ley No. 496. Si nos atuviesemos solamente a la verdad legal que aparece en el Registro, todos los indicados inconvenientes se evitarian.

Otra razon. Supongamos que los recurridos despues del embargo hubieran ido al registro y con su escritura de venta hubieran obtenido la expedicion a su favor del certificado de transferencia de titulo de los terrenos en cuestion. En tal caso, es indudable que se hubiera anotado por el registrador en dicho certificado el gravamen del embargo y los recurridos no podrian impedir que se vendieran en publica subasta dichos terrenos como consecuencia del embargo, a menos que paguen el credito judicial de la recurrente. No batiendo los recurridos registrado su alegada escritura de venta, obteniendo en cambio a su favor del certificado de titulo, ¿por que razon, segun la decision de la mayoria, se han de quedar con los terrenos libres de todo gravamen? De modo que, segun la decision de la mayoria, estarian los recurridos en mejores condiciones no registrando su escritura de venta que registrandola. Absurdo.

Ademas, la decision de la mayoria destruye el antiguo principio juridico de "prior tempore, potior jure". La recurrente que inscribio la venta a su favor en febrero de 1936, es sin embargo, segun la decision de la mayoria, vencida en juicio, por los recurridos que desde el año de 1930 no han registrado su alegada venta cambiando a su nombre el certificado de titulo.

La decision de la mayoria tambien destruye el axioma juridico de equidad: "vigilantibus et non dormientibus aequitas subvenit" equity aids one who has been vigilant. 19 American Jurisprudence, p. 333.

Soy por tanto de opinion que la decision recurrida debe ser revocada y que debiamos declarar que la recurrente ha adquirido legalmente los terrenos en cuestion. DIAZ, M., disidente:

Disiento de la opinion de la mayoria por las mismas razones que constan en la disidencia del Magistrado Concepcion.

Imperial, M.:

Goncurro con la opinidn disidente del Magistrado Sr. Concepcion.

Judgment affirmed.

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