

PACIFIC COMMERCIAL CO., CLAIMANT AND APPELLANT, VS. ROSARIO GEAGA, CLAIMANT AND APPELLEE.

G.R. No. 46261. October 31, 1939

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal from a resolution of the Court of First Instance of Negros Occidental ordering the registrar of deeds of said province to cancel the notation of an attachment on the certificate of title of lot No. 1254-B of the Pontevedra cadastre.

By virtue of a writ of execution issued by the Court of First Instance of Iloilo in civil case No. 9447 entitled, Pacific Commercial Company vs. Manuel E. Geaga, the sheriff of said province levied an attachment on any right or interest which the defendant Manuel E. Geaga might have in the said lot, which is registered in the name of Angela Exito in certificate of title No. 25875, issued by the registrar of deeds of Negros Occidental.

The herein appellee, Rosario Geaga, in her capacity as administratrix of the intestate of Angela Exito, filed a petition asking that the court order the registrar of deeds to cancel the notation of the attachment on the aforesaid certificate of title, on the ground that Manuel E. Geaga is a stranger to said property. The petition was opposed by the provincial sheriff and by the Pacific Commercial Company, both of them contending that the attachment levied on any right or participation which the defendant Manuel E. Geaga has or might have in the aforesaid lot, is valid and legal pursuant to the decision of this Supreme Court in the case of Declaro et al. vs. Lanaha et al. (G. R. No. 35592, July 25, 1932). The court, without hearing and without receiving any evidence on whether or not Manuel E. Geaga had an attachable interest in the lot in question, or was an heir of the deceased Angela Exito and was therefore entitled to succeed her in the said lot No. 1254-B of Pontevedra, issued the appealed order on January 29, 1938.

We are of the opinion, under the circumstances, that the court's order is erroneous, because under section 450 of the Code of Civil Procedure, any interest which Manuel E. Geaga has or might have in the aforesaid lot may be attached even if said interest be indeterminate because of the pendency of the liquidation of the intestate of Angela Exito. (Consulta No. 1013 of the registrar of deeds of Tayabas, 59 Phil., 756.)

The appealed order is reversed, with the costs to the appellee.

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

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