

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLANT, VS. PAMPANGA SUGAR MILLS, INC., DEFENDANT AND APPELLEE.

G.R. No. 46668. September 25, 1939

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

The Insular Government brought this action against the Pampanga Sugar Mills, Inc., for the recovery of the sum of P233.55 with interest at 6 per cent per annum from February 26, 1923 until fully paid. Said amount is a part of the costs of cadastral survey corresponding proportionately to lot No. 702 included in the cadastral record of Angeles, Pampanga, and now belonging to Pampanga Sugar Mills, Inc., by purchase. At the trial, the provincial fiscal of Pampanga and the defendant, through counsel, agreed and stipulated upon the following proven facts:

- That on September 3, 1920, original certificate of title No. 1441 was issued by the registrar of deeds of Pampanga in the name of Martina Martin, widow and resident of San Fernando, Pampanga, over lot No. 702 of the cadastral survey of Angeles, consisting of a parcel of land with all the buildings and improvements thereon. In said certificate of title were stated the liens mentioned in section 39 of the Land Registration Act in the following language—

"(a) a first lien in favor of the Insular Government to guarantee the payment of the fees and special taxes assessed pursuant to the provisions of sections 17 and 18 of Act No. 2259, as amended by Act No. 2558;

"(b) that the property above described, is subject to a promise of sale in favor of Thomas J. Piffard."

- That on February 10, 1921, before the court ordered the apportionment of the costs of cadastral survey—which apportionment was ordered on February 26, 1923—Martina Martin executed a deed of sale of said lot No. 702 in favor of Thomas J. Piffard. Without paying the corresponding fees for expenses of survey and costs of said lot noted as a lien according to the preceding paragraph, without any court order declaring that said costs of cadastral survey are already paid, and without presentation by Martina Martin in the office of the registrar of deeds of the corresponding receipt of payment of said fees, the registrar of deeds of the Province of Pampanga erroneously issued transfer certificate of title No. 249 omitting therefrom the lien above-mentioned.

- That on August 24, 1927, Thomas J. Piffard executed a deed of sale of the aforesaid lot in favor of the defendant Pampanga Sugar Mills, Inc., in consideration of the sum of P86,639.80, and upon presentation of said deed to the office of the registrar of deeds of Pampanga, the latter issued in favor of Pampanga Sugar Mills, Inc., transfer certificate, of title No. 2177, likewise omitting therefrom any mention of the aforesaid lien noted on original certificate of title No. 1441.

- That on April 2, 1923, the clerk of the Court of First Instance notified Martina Martin of the apportionment of the costs of cadastral survey of said lot 702 pursuant to the order issued by said court on February 26, 1923, but having failed to pay said fees and costs, she was required by the Director of Lands on December 23, 1932 to pay the fees and costs corresponding to the said lot, which amounted to P233.55, plus 6 per cent interest per annum from February 26, 1923. The municipal treasurer of Angeles, Pampanga, by instructions of the

provincial treasurer, also required Martina Martin to pay the said fees and costs.

- Having discovered that the Pampanga Sugar Mills, Inc., is the owner of lot 702, the deputy provincial treasurer of Pampanga, by letter dated September 19, 1933, required it to pay the said fees and costs of cadastral survey plus interest. Pampanga Sugar Mills has refused and still refuses to make said payment.

Upon the foregoing facts and the law applicable to the case, the Court of First Instance of Pampanga absolved the Pampanga Sugar Mills from the complaint by its decision of August 24, 1936, which is now the subject matter of the present appeal.

Counsel for the Government contends that under Act No. 2558, which was the one in force on the date the costs of cadastral survey were taxed in the aforesaid case, the lien for the payment of the proportionate part of the costs of cadastral survey is demandable against the land whoever may be its owner. In fact, the said lien noted on original certificate of title No. 1441 is expressly based upon the said law which has created it in favor of the Government.

We believe that Act No. 3081 approved on March 16, 1923, not Act No. 2558, is applicable to the case in view of the fact that the former was the law in force when the Pampanga Sugar Mills purchased lot No. 702 on August 24, 1927.

But even under the provisions of Act No. 2558, the Government is without right to require the defendant Pampanga Sugar Mills to pay the proportionate part of the costs of cadastral survey corresponding to the said lot No. 702. The said Act, amending section 18 of Act No. 2259, provided that the amount taxed against each of the lots or parcels of land included, in the cadastre "shall be considered a special assessment of taxes against the respective parcels, shall constitute a first lien upon the land, and shall be collected by the provincial treasurer in equal annual installments in not less than five nor more than fifteen years". Each installment shall become due and payable at the same time as the general land tax.

There is no doubt that the said Act considered the payment of the costs of the cadastral survey as a special assessment of taxes, and although the lien be not noted on the certificate of title, payment thereof could be demanded; but this could only be done within the two years after the special assessment has become due and payable, as provided in the second paragraph of section 39 of Act No. 496, as amended by Act No. 2011.

According to the stipulated facts, the appointment of the costs of survey in the aforementioned cadastral record, was ordered on February 26, 1923. Hence, the payment thereof could be demanded as a lien within two years from that date. Payment was demanded of the defendant on September 19, 1933, many years after the special assessment in question has become due; for from the year 1923, the date of the apportionment, until September 19, 1933, when the defendant was required to pay the sum of P233.55 plus 6 per cent interest per annum from 1923, more than ten years have elapsed.

Under Act No. 3081, which, as above stated, was the law in force when the Pampanga Sugar Mills purchased lot 702, it was the duty of the registrar of deeds, under paragraph (b) of section 18 thereof, to demand of the vendor before registering the deed of sale of the lot, to exhibit the receipt showing that the said incumbrance or lien has already been paid. If the apportionment of costs has not yet been decreed, the same section 18, paragraph (b), provides that the registrar shall endorse on the certificate of transfer issued by him the incumbrance or lien appearing on the former certificate as guarantee of the payment of the costs above referred to.

In the original certificate of title of said lot issued on September 3, 1920 in favor of Martina Martin, it was stated: "a first lien in favor of the Insular Government to guarantee the payment of the fees and special taxes assessed pursuant to the provisions of sections 17 and 18 of Act No. 2259, as amended by Act No. 2558." This

incumbrance was not stated in the transfer certificate of title in favor of Thomas J. Piffard who purchased the lot in question from Martina Martin. Hence, when Pampanga Sugar Mills purchased said lot from Piffard, no incumbrance appeared on the latter's transfer certificate of title. Consequently, the incumbrance in question was likewise not stated in the certificate of title issued in favor of Pampanga Sugar Mills. In these circumstances, "pursuant to the provisions of section 39 of Act No. 496, as amended by Act No. 2011 (Pampanga Sugar Mills), an assignee of title is not and cannot be held responsible for any obligation not appearing on the Torrens title assigned and transferred to (it) him. That is to say, no claim or obligation can affect (its) his right of owner ship as a subsequent holder of the title unless said claim or obligation has been previously endorsed or noted on the title". (Vargas & Mañalac, Philippine Land Registration Law, p. 347.)

"The general purpose of the Land Registration Act was to create an indefeasible title and one free from all charges, Hens and incumbrances except those preserved against it by special mention in the decree of registration or by provision of law." (De Jesus vs. City of Manila, 29 Phil. 73).

"The title intended to be created by the Land Registration Act is one not subject to hidden defects, to undeveloped or inchoate claims, to any sort of restriction, limitation or reduction except those named in the certificate of registration and in the law itself as having been preserved against the land." (De Jesus vs. City of Manila, supra.)

The appealed decision is affirmed, without costs. So ordered.

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

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