

VICTORIANO HERNANDEZ, PLAINTIFF AND APPELLEE, VS. MACARIA KATIGBAK VIUDA DE SALAS, DEFENDANT AND APPELLANT.*G.R. No. 46840. June 17, 1940*

Ponente: MORAN, J.

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Appeal from a judgment rendered by the Court of First Instance of Rizal.

The facts as agreed upon by the parties and material to the disposition of the case, are as follows:

Vicente Singson Encarnacion was, at first alone, and later with others, the registered owner of lots Nos. 27, 28 and 29 of the "Hacienda Maysilo", located at Tuliahan, municipality of Caloocan, Rizal, with an aggregate area of 234 hectares, and covered by Torrens certificates of title Nos. 8540 and 8548 of the register of deeds of Rizal. Nicolas Rivera repurchased, in pursuance of his registered right to that effect, 40 hectares of these three lots, and later sold to Mariano P. Leuterio an unsegregated portion of about 18 hectares thereof. The latter, in turn, sold a total area of 16,900 square meters to Rafael Villanueva by deeds which had never been registered. These deeds are dated September 21, 1920, September 24, 1920, August 31, 1922 and September 1, 1922, respectively. Later Rafael Villanueva sold to the herein plaintiff, Victoriano Hernandez, all his rights in the said total area of 16,900 square meters.

In civil case No. 2861 of the Court of First Instance of Rizal, instituted by Perfecto J. Salas Rodriguez, against Mariano P. Leuterio, a writ of execution was issued against the defendant, and, in pursuance thereof, the provincial sheriff of Rizal levied upon the properties of said defendant, among them, a parcel of land containing an area of 177,657.4 square meters. This is the same property that the defendant bought from Nicolas Rivera. The levy was duly recorded in the office of the Register of Deeds and noted on transfer certificate of title No. 8540 covering lot No. 28. Rafael Villanueva filed with the sheriff a thirdparty claim, but as the judgment creditor gave an indemnity bond, the sheriff proceeded with the execution and sold the property at a public auction at which the judgment creditor himself was the highest bidder. On March 30, 1926, said officer executed the corresponding deed in favor of the purchaser.

Prior to the execution of the officers deed, or on March 1, 1926, the 40 hectares bought by Nicolas Rivera from Singson Encarnacion were segregated, and on March 5, 1926, two transfer certificates of title were issued in favor of Nicolas Rivera, one with No. 10533, for 79,014 square meters, designated as lot No. 28-A, and the other with No. 10535, for 62,661 square meters and 174,130 square meters, designated as lots Nos. 27-A and 29-A, respectively. The execution lien of Perfecto J. Salas Rodriguez as well as the auction sale held on March 30, 1926, which were annotated on transfer certificate of title No. 8540, were transferred to and annotated on the new transfer certificate of title No. 10533 covering lot No. 28-A. And there having been no redemption, a final deed of sale was executed on March 30, 1927 by the sheriff in favor of the purchaser, Perfecto J. Salas Rodriguez, and transfer certificate of title No. 12242 was issued the following day in the latter's name. Perfecto J. Salas died, and by virtue of a partition approved by the probate court, lot No. 28-A was adjudicated to his widow, Macaria

Katigbak Vda. de Salas, now defendant, in whose favor transfer certificate of title No. 22157 was issued by the Register of Deeds of Rizal on August 9, 1932.

On the basis of the foregoing facts, the Court of First Instance of Rizal rendered judgment, ordering the defendant to segregate from lot No. 28-A, covered by her transfer certificate of title No. 22157, a portion equivalent to 16,900 square meters, and to execute, in due form, the corresponding deed in favor of the herein plaintiff. The judgment is predicated on the decisions rendered by this Court in cases G. R. Nos. 33950 and 33969 which in turn are founded on the ruling laid down in *Lanci vs. Yangco*, 52 Phil., 563.

The question is: who has a better right—the purchaser at the execution sale, Perfecto J. Salas Rodriguez, predecessor in interest of the defendant, or the purchaser in the private sale, Rafael Villanueva, predecessor in interest of the plaintiff?

The two purchasers derived their title from Mariano P. Leuterio, who in turn acquired his from Nicolas Rivera. The purchase made by Villanueva took place prior to the execution sale, but was never registered. The property is registered under the Torrens system, there being a certificate of title issued in favor of Nicolas Rivera bearing No. 10533 on lot No. 28-A. No certificate of title was ever issued in favor of Mariano P. Leuterio, but the levy and the execution sale of the property were noted on the transfer certificate of title of Nicolas Rivera without the latter's objection, and in the notation it appeared that the property had been sold by Nicolas Rivera to Mariano P. Leuterio. It was, therefore, Mariano P. Leuterio alone who, in Rivera's certificate of title, appeared as the sole owner of the property at the time of the levy and execution sale.

It is a well-settled rule that, when the property sold on execution is registered under the Torrens system, registration is the operative act that gives validity to the transfer, or creates a lien on the land, and a purchaser, on execution sale, is not required to go behind the registry to determine the conditions of the property. Such purchaser acquires such right, title and interest as appear on the certificate of title issued on the property, subject to no liens, encumbrances or burdens that are not noted thereon. (*Anderson & Co. vs. Garcia*, 35 Of. Gaz., 2847; *Reynes vs. Barrera*, G. R. No. 46724.) It follows that, on the property in question, defendant has a better right than the plaintiff.

Judgment is reversed, with costs against plaintiff appellee.

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

Judgment reversed.

RESOLUTION ON MOTION FOR RECONSIDERATION

MORAN, J.:

The doctrine in *Lanci vs. Yangco* (52 Phil., 563), which purports to give effect to all liens and encumbrances existing prior to the execution sale of a property registered under the Torrens system, even if such liens and encumbrances are not noted in the certificate of title, has been abandoned by this court. (See *Philippine National Bank vs. Camus*, G. R. No. 46870, June 27, 1940.) The new doctrine, from which we have no reason to depart, is that, in an execution sale of a land registered under the Torrens system, the purchaser acquires such right and interest as appear on the certificate of title, unaffected by any prior lien or encumbrance not noted therein. (*Anderson & Co. vs. Garcia*, 35 Of. Gaz., 2847, sec. 39, Act No. 496, as amended by Act 2011.) The purchaser is thus "not required to explore farther than what the Torrens title, upon its face, indicates in quest for any hidden defect or inchoate right that may subsequently defeat his right thereto. If the rule were otherwise, the efficacy and

conclusiveness of the certificate of title which the Torrens system seeks to insure, would entirely be futile and nugatory." (Reynes vs. Barrera, G. R. No. 46724, September 30, 1939.)

The only exception to this rule is where the purchaser had acknowledge, prior to or at the time of the levy, of such previous lien or encumbrance. In such case, his knowledge is equivalent to registration and taints his purchase with bad faith. (Gustilo vs. Maravilla, 48 Phil., 442; La Urbana vs. Bernardo, 62 Phil., 790; 23 C. J., sec. 812; Parsons Hardware Co. vs. Court of Appeals, G. R. No. 46141.) But if knowledge of any lien or encumbrance upon the property is acquired after the levy, the purchaser cannot be said to have acted in bad faith in making the purchase and, therefore, such lien or encumbrance cannot affect his title.

In the present case, the third-party claim was filed about one month after the levy was recorded. The validity of the levy is thus unaffected by any subsequent knowledge which the judgment creditor might have derived from the third-party claim. The fact that this thirdparty claim was presented one day before the execution sale, is immaterial. If the levy is valid, as it was, the execution sale made in pursuance thereof is also valid, just as a mortgage lien validly constituted may validly be foreclosed regardless of any equities that may have arisen after its constitution. In Vargas vs. Tancioco, supra:

"* * * el terreno en cuestion estaba cubierto por el Certificado de Titulo que llevaba el No. 17088 de la Oficina del Registrador de Titulos de Negros Occidental y que fue expedido a nombre de Sua Tico el dia 26 de julio de 1923. En dicho certificado no constaba ningun gravamen excepto el embargo que se habia trabado sobre el terreno a que alude, como un acto o paso preliminar para vender el referido terreno, en publica subasta, en cumplimiento de un mandamiento judicial expedido con las formalidades de la ley." * * *

"De paso debe decirse que el Tribunal de Apelaciones halló tambien probado el hecho de que un dia antes de ponerse en publica subasta el terreno de que se viene hablando, el recurrente presents al Sheriff Provincial de Negros Occidental un escrito de tercera para reclamarlo como de su exclusiva propiedad; pero, habiendo prestado la recurrida Nieves Tancioco la fianza correspondiente, el Sheriff hubo de estar adelante con la venta anunciada, vendiendo el terreno en cuestion, con el resultado que ya se sabe."

Upon these facts, this court held:

"La contencion del recurrente de que la recurrida no era compradora de buena fe, porque al comprar en publica subasta el terreno cuestionado ya sabia que el mismo no era de Sua Tico, por haberselo vendido a el, como asi lo habia expresado en su escrito de tercera presentado un dia antes de la venta, no tiene importancia, y porque esta implicitamente aclarada y resuelta en los parrafos anteriores. Cuando dicha recurrida obtuvo el embargo y este se efectuó y se anotó en el Registro, ella no tenia la mas remota idea de que el mismo terreno embargado habia sido vendido meses antes por Sua Tico. La razon es obvia, porque la pretendida venta no fue anotada jamas en el Registro como lo fue el referido embargo."

Expressions of dissatisfaction made by the appellee's attorney in his motion for reconsideration are uncalled for, and except for this observation, they deserve no attention from this court. Motion for reconsideration is denied.

Avanceña, C.J., Imperial, Diaz, and Laurel, JJ., concur.

Motion denied.

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