

CORAZON VELOSO DE TORRES, PETITIONER, VS. THE TREASURER OF THE PHILIPPINES AND ANTONIO FRANCO, RESPONDENTS.

G. R. No. 47569. April 14, 1941

Ponente: LAUREL, J.

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LAUREL, J.:

In the Manapla cadastre, Occidental Negros, lot No, 46 was claimed by Anselmo Lagarto on the basis of a homestead, application previously filed by him. Vicente Franco also claimed the lot, but later renounced his claim thereto in open court. On August 2, 1926, the register of deeds of Occidental Negros issued original certificate of title No. 254 to Anselmo Lagarto. On October 10, 1930, Vicente Franco filed a motion with the Court of First Instance of Occidental Negros, without notice to Anselmo Lagarto, alleging that a clerical error had been committed in the decision regarding lot No. 46 and praying that said lot be declared his property. The lower court granted this petition on July 10, 1931, declaring Vicente Franco owner of lot No. 46. Pursuant to this, the register of deeds of Occidental Negros issued on October 5, 1931, original certificate of title No. 30095 covering said lot No. 46, in the name of Vicente Franco. Subsequently, Vicente Franco sold the lot to his grandson Antonio Franco, who obtained, on March 19, 1932, transfer certificate of title No. 14311. On July 9, 1932, Antonio Franco mortgaged the lot in question to the Visayan Surety and Insurance Corporation for the sum of P4,000. On July 27, 1932, the Attorney General filed with the Supreme Court a petition for a writ of certiorari, praying for the annulment of all the proceedings had in the issuance of original certificate of title No. 30095 issued in the name of Vicente Franco. On this very date, a notice of lien pendens was duly registered in the Registry of Property of Occidental Negros. On November 10, 1932, the Supreme Court rendered judgment declaring null and void ab initio the decree of the Court of First Instance of Occidental Negros awarding lot No. 46 to Vicente Franco, and ordering the annulment and cancellation of original certificate of title No. 30095 issued to Vicente Franco. The register of deeds of Occidental Negros, by order of the Supreme Court, cancelled and annulled transfer certificate of title No. 14311. On July 13, 1934, the Visayan Surety & Insurance Corporation, for a valuable consideration, assigned, sold and conveyed to Corazon Veloso de Torres, the herein intervenor, all its credits, mortgage, title, chose in action against Antonio Franco and the Insular Treasurer of the Philippine Islands. On October 8, 1934, Antonio Franco filed a complaint, which was later amended on March 12, 1935, against the Insular Treasurer of the Philippine Islands and Vicente Franco, Jr., administrator of the intestate estate of the deceased Vicente Franco, praying for indemnity for losses and damages and likewise praying that in case the execution was returned unsatisfied, in whole or in part, to sentence the defendant Treasurer of the Philippine Islands, as depository of the assurance fund, to pay the plaintiff the amount of the judgment unsatisfied. The defendant Insular Treasurer of the Philippine Islands and Vicente Franco, Jr., filed their answer to the amended complaint. On January 12, 1935, the intervenor, with leave of court, filed a complaint against Antonio Franco and the defendant Treasurer of the Philippine Islands, praying the court to sentence Antonio Franco to pay the sum of P7,760, plus interests. The defendants Insular Treasurer and Antonio Franco, respectively, filed their answer to the complaint of intervention. On December 4, 1937, the lower court rendered a decision absolving the defendant Treasurer of the Philippine Islands and ordering Antonio Franco to pay Corazon Veloso de Torres the sum of P4,000, with interests until

payment. Antonio Franco filed exception and motion for new trial, and so did the intervenor-appellant. Both these motions were denied by the lower court. Both Antonio Franco and the intervenor-appellant filed exception and notice of appeal. On January 29, 1938, the joint bill of exceptions was approved by the lower court. The Court of Appeals affirmed on May 31, 1940, the decision of the lower court. This case is now before us on appeal by a writ of certiorari taken by the herein petitioner from the decision of the Court of Appeals.

At the time lot No. 46 was granted to Vicente Franco by the Court of First Instance of Occidental Negros on July 10, 1931, the said property was already registered in the name of Anselmo Lagarto under original certificate of title No. 254. While said Vicente Franco filed his claim over lot No. 46 at the cadastral hearing, on the date set for the hearing, he renounced his claim thereto. This Supreme Court, in its decision in G. R. No. 37852, declared the title of Vicente Franco over lot No. 46 null and void ab initio. The result is that Vicente Franco had no right or interest in lot No. 46 and had nothing to transfer to any subsequent holder. (*Laureano vs. Stevenson*, 45 Phil., 252.) To entitle a person to the assurance fund, the interest of which such person has been deprived must be an interest which has been actually vested in him. (*James Edward Hogg, Australian Torrens System with Statutes*, pp. 847-848.)

Moreover, in order to entitle a person to receive damages from the assurance fund, one of the essential conditions is that the claimant should be a purchaser in good faith. (*La Urbana vs. Bernardo*, 62 Phil., 803.) It is admitted that when the Attorney General filed his petition on July 27, 1932 to declare the decree of the Court of First Instance of Occidental Negros of July 10, 1931 null and void, a notice of lis pendens was filed on the same date. This was a notice to the whole world that the validity of the title to lot No. 46 was being controverted. Appellant-petitioner bought the property from the Visayan Surety & Insurance Corporation on July 13, 1934. She knowingly acquired the property affected by the lis pendens, (*Atkins, Kroll & Co. vs. Domingo*, 46 Phil., 362.) She cannot allege that she was a purchaser in good faith. It appears from these data that when the plaintiff purchased the lands at public auction, it had already direct notice or advice that the property was in litigation and that the title held by the Tabiens was judicially questioned. In view of this knowledge, it is legally impossible to hold that the plaintiff acted as an innocent purchaser in good faith in acquiring the property. (*Tuazon vs. Reyes and Siochi*, 48 Phil., 844; *Ignacio vs. Chua Hong*, 52 Phil., 940.) Consequently, not being the registered owner of the portions included in the sixteen titles and not having acquired any right which may be protected in connection with said lands, it is evident that the plaintiff is not entitled to any indemnity for damages from the assurance fund. (*Leung Yee vs. F. L. Strong Machinery Co. and Williamson*, 37 Phil., 644; *Martinez de Gomez vs. Jugo and Lopez de Jesus*, 48 Phil., 118; *Rivera vs. Moran*, 48 Phil., 836; *Angelo vs. Director of Lands*, 49 Phil., 833; *Government of the Philippine Islands vs. Tombis Trino*, 50 Phil., 708; *Cui and Joven vs. Henson*, 51 Phil., 606.) (*La Urbana vs. Bernardo*, 62 Phil., 804.)

Regarding the misfeasance imputed to the register of deeds for having issued the certificates of title in the names of Vicente Franco and Antonio Franco, the Court of Appeals, on the evidence of record, found that the register of deeds had not committed the acts imputed to him by the petitioner and had not been negligent in the performance of his duties.

The petition is hereby dismissed and the judgment sought to be reviewed is affirmed, with costs against the petitioner. So ordered.

Imperial, Diaz, Moran, and Horrilleno, JJ., concur.

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