

VISAYAN SURETY & INSURANCE CORPORATION, RECURRENTE, CONTRA VICENTE VERSOZA, RECURRIDO.

G.R. No. 47660. June 17, 1941

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PER CURIAM:

Mediante peticion de certiorari la recurrente apelo de la sentencia del Tribunal de Apelacion que confirmo la decision dictada en el asunto por el Juzgado de Primera Instancia de Manila anulando ciertos tramites seguidos en la causa civil No. 52270 y declarando que Vicente Versoza, padre, es el duefio de los Certificados de Transferencia de Titulo Nos. 17261 y 17262 del Registro de la Propiedad de la Ciudad de Manila.

Vicente Versoza, padre, el recurrido, era el dueño de 4 parcelas de terreno, con sus mejoras, situadas en el distrito de Paco, Manila, descritas en los Certificados de Tiransferencia de Titulo Nos. 17261 y 17262. En cierta ocasion el recurrido entrego a su hijo, llamado tambien Vicente Versoza, los 2 certificados de titulo para que los diera en prenda a Philippine Trust Company y pudiera obtener dinero. El 13 de marzo de 1930 Vicente Versoza, hijo, en vez de cumplir el encargo de su padre, hipoteco los terrenos a Philippine Trust Company para garantizar la suma de P5,000 que obtuvo en prestamo. En la escritura de hipoteca que se otorgo se hizo figurar que el era el dueno de los terrenos y como llevaba el mismo nombre y apellido de su padre la escritura pudo inscribirse en los libros del Registro de la Propiedad de Manila y el gravamen que asi se creo se anoto igualmente en los duplicados para el dueno de dichos titulos. En abril de 1934 Vicente Versoza, hijo, pidio a la recurrente que fuera su fiadora en cierta fianza por la suma de p10,000 y ofrecio como contrafianza los mismos terrenos que describian los referidos certificados de transferencia de titulo. La recurrente pregunto a Vicente Versoza, hijo, que propiedades tenia y este menciono los 2 certificados de transferencia de titulo, añadiendo que no podia hipotecarlos porque ya estaban pignorados a Philippine Trust Company. La recurrente examino entonces la hipoteca que se habia otorgado a favor de Philippine Trust Company y como vio que estaba firmada por Vicente Versoza, acepto la proposicion y otorgo la fianza por P10,000 juntamente con Far Eastern Surety & Insurance Co., Inc. Habiendo sufrido perdidas con motivo de la fianza que presto, la recurrente inicio en el Juzgado de Primera Instancia de Manila la causa civil No. 52270 contra Vicente Versoza, hijo, y Lucia de Marcaida, para recobrar de estos la suma de P8,016.59. Dictada sentencia por dicha cantidad a favor de la recurrente y habiendo quedado nrrne la misma, se expidio mandamiento de ejecucion y el Sheriff trabo embargo de los terrenos descritos en los Certificados de Transferencia de Titulo Nos. 17261 y 17262. Enterado de esto el recurrido Vicente Versoza, padre, presento reclamacion de terceria ante el Sheriff y como la recurrente presto fianza a favor de este funcionario, el embargo se mantuvo y los terrenos se vendieron en subasta publica. Para anular el embargo y la venta efectuados por el Sheriff y recobrar los terrenos cubiertos por los 2 ce'rtificados de transferencia de titulo, Vicente Versoza, padre, el recurrido, entablo en el Juzgado de Primera Instancia de Manila contra la recurrente, Far Eastern Surety & Ins. Co., Inc. y el Sheriff la causa civil No. 53544 que did origen al presente recurso.

La recurrente imputa a la decision del Tribunal de Apelacion varios errores, mas, a nuestro juicio, la principal cuestion a resolver es si el recurrido dejo de ser el duefio inscrito de los terrenos a que se contraen los 2 certificados de transferencia de titulo y si el embargo y la venta en subasta publica que el Sheriff efectuo a favor de la recurrente eran validos y confirio a esta el titulo absoluto de los terrenos.

Es un hecho indiscutible que el recurrido continua siendo el dueño inscrito de los terrenos porque los certificados de transferencia de titulo que ha obtenido no han sido cancelados hasta ahora. Tratandose de propiedades inmuebles inscritas bajo el sistema Torrens, no hay duefio de un inmueble registrado mas que la persona a cuyo favor se ha expedido el decreto final y el certificado de titulo original o el certificado de transferencia de titulo (art. 38, 39 y 55 de la Ley No. 496, conforme el primero y el ultimo han sido finalmente enmendados). El titulo que asi se obtiene es concluyente e irrevocable y no reconoce mas gravámenes que los en el expresados y exceptuados por la ley (art. 38 de la citada ley; Manila Railroad Company contra Rodriguez, 29 Jur. Fil., 357; Mariano Velasco & Co. contra Gochuico & Co., 33 Jur. Fil., 387; De los Reyes contra Paterno, 34 Jur. Fil., 445; Gobierno de las Islas Filipinas contra Avila, 38 Jur. Fil., 407; Reyes y otro contra Borbon y otro, 50 Jur. Fil., 827). Siendo el recurrido el duefio absoluto de los terrenos descritos en los Certificados de Transferencia de Titulo Nos. 17261 y 17262 y no apareciendo anotado en estos el gravamen que invoca la recurrente, la conclusion ineludible es que el embargo y la venta efectuados por el Sheriff son nulos y consiguientemente la recurrente no adquirio legalmente los terrenos.

Se arguye por la recurrente que el recurrido se halla en estoppel y no puede negar ni rechazar la transaccion que celebro con Vicente Versoza, hi jo, porque en^los certificados de transferencia de titulo aparecia que los terrenos se habian hipotecado por el ultimo a favor de Philippine Trust Company. No puede invocarse estoppel contra el recurrido porque este no intervino en la hipoteca ni en la contrafianza. Y era un extrano en ambos contratos y no tenia interes alguno en los mismos. Es digno de notar lo que el Tribunal de Apelacion dijo sobre el particular, al llegar a la misma conclusion y que el recurrido no esta en estoppel:

"The defendants' case, therefore, is that the plaintiff Vicente Versoza, having clothed his son Vicente Versoza, jr., with the appearances of ownership of the lands, should not now be permitted to deny such ownership.

"Vicente Versoza, the plaintiff, declared without contradiction, that he gave the two certificates of title to his son Vicente Versoza, jr., so that the latter may place them in the hands of the Philippine Trust Co. as a pledge to secure his (junior's) obligation,—not for the purpose of enabling the latter to place a mortgage on the same lots.

"The trial judge refused to apply the doctrine of estoppel, saying:

" 'It will be seen that Vicente Versoza, sr., did not make any false representation to the Visayan Surety as regards the ownership of the properties in question. He is not responsible for any acts, fraudulent or otherwise, that might have been committed by his son. The only act which may be considered against Vicente Versoza, sr., is that he gave the certificates of title to his son to be put as a guarantee with the Philippine Trust Company. This was explained by Vicente Versoza, sr., by saying that his purpose was to pledge the certificate to the Philippine Trust Company. Whether this explanation is satisfactory or not, the act cannot be availed of by the Visayan Surety, which is a different entity and to which no misrepresentation at all was made by Vicente Versoza, sr. Furthermore, a little investigation on the part of the Visayan Surety would have disclosed who the real owner of the properties was. * * * (p. 20, bill of exceptions).

"We are of the opinion that His Honor read the law correctly. The Visayan Surety & Insurance Corporation was a privy neither to the act whereby the plaintiff Vicente Versoza delivered the titles to his son Vicente Versoza, jr., nor to the mortgage subsequently made in favor of the latter institution. The fact is that the Visayan Surety was a perfect stranger to these acts,—on which the estoppel is planted—acts which took place years before the dealings had between it and Vicente Versoza, jr., dealings which, by the way, Vicente Versoza did not know. When the titles were delivered to, and the mortgage was executed by, Vicente Versoza, Jr., the counter-bond Exhibit 2 could not have been within the contemplation of Vicente Versoza, sr., the plaintiff.

"Corpus Juris says that:

" * * * estoppels operate only between parties and their privies, either in blood, in estate, or in law. A volunteer, or stranger to the subject matter made the basis of a claim of estoppel can not avail himself thereof. To constitute an estoppel by conduct the representation relied on must have been made to the party by whom or through whom the estoppel is set up, with the purpose of influencing his conduct, or it must have been of such a nature and have been made under such circumstances that the party making it must be taken to have contemplated that it would be communicated to, and acted upon by, the other party.

* * * (21 C. J., 1180-1181, citing many cases.)

"Illustrating the above principles, the following are some of the cases quoted in a footnote of the text:

" 'As only these to whom the representation is made or their privies can take advantage of an estoppel by conduct, representation by a depositor in a bank to a national bank examiner cannot avail the bank which he was examining. (Dosretler v. First Nat. Bank, 82 Or. 92, 161 P. 386; Carlon v. Roseburg First Nat. Bank, 80 Or. 354, 157 P. 809; Verrell v. First Nat. Bank, 80 Or. 550, 157 P. 813).

" 'The fact that one has caused property to be levied upon on the property of A does not estop him from denying A's ownership, and from claiming the property to be his own, in a controversy between himself and a third party. (Dinct v. Eilert, 9 111. A 644.)

" 'There, in an action for the conversion of wheat, defendant claimed it under a sale by plaintiff's son, testimony of one to whom the son had mortgaged the wheat, to the effect that plaintiff stated that the wheat was the son's, and that he has a right to mortgage or sell it did not create an estoppel in favor of defendant. (Hase v. Schette, 109 Mo. A. 458, 84 SW 1014.)

"And this should be the rule; for if estoppel applies when "a party has by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true and to act upon such belief" (sec; 333, Act No. 190, par. 1.), it is essential that the party estopped and the party claiming estoppel had some relations or dealings as a result of which the latter has acted; otherwise the former cannot logically be said to have intentionally and deliberately led him to believe "a particular thing true," and to act accordingly.

"On the other hand, it should be noted that the Visayan Surety cannot equitably claim estoppel, firstly, because when it agreed to act as guarantor of Vicente Versoza, jr., it did not rely on the lands represented by said certificates of title as a security, because it did not require Vicente Versoza, sr., to mortgage them to it; and it was informed that they were already mortgaged to the Philippine Trust Co. Secondly, because had it been careful, it would have found that when Vicente Versoza, jr., signed Exhibit 2, his real ' name as written in the back thereof was Vicente Versoza y Remolina, and the certificates of title are in the name of Vicente Versoza."

Con lo resuelto, no vemos la necesidad de considerar específicamente los señalamientos de error de la recurrente en vista de que, como se ha dicho, toda la cuestión gira al rededor del punto capital que ya se ha discutido y resuelto.

Se deniega el recurso de certiorari, con las costas a la recurrente. Así se ordena.

Avanceña, Pres., Diaz, Laurel, Moran, y Horrilleno, MM.

Se deniega el recurso.

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