

PHILIPPINE NATIONAL BANK, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT (FOURTH CIVIL CASES DIVISION), JOSE B. DELFIN, AMADO E. ERGINA, MIGUEL CABREROS, EPIFANIA CABREROS, P...

G.R. No. 71753. August 25, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The instant petition for review on certiorari seeks to annul and set aside the July 29, 1985 decision of the Intermediate Appellate Court in AC-G.R. CV No. 66183 which reversed and set aside the April 20, 1979 decision of the trial court dismissing this case for gross insufficiency of evidence.

The late Fr. Venerando Reynes filed a petition before the then Court of First Instance of Cebu for consolidation and subdivision of two parcels of land numbered 5761 and 5764 pursuant to a plan duly approved by the Director of Lands. The court issued an order approving the plan and directing the Register of Deeds of Cebu to issue transfer certificates of title covering the lots in the name of Fr. Reynes.

One of the lots involved in the above proceeding was technically described as a "Public Open Space" with an area of 709 square meters. However, when TCT No. 12135 covering this lot was issued, the title did not contain an annotation that it was a public open space nor did it carry any restriction or limitation as to its use or disposition. The controversy arose from this omission.

Fr. Reynes donated the lot subject of the controversy to the spouses Luis Romero and Rosario Suarez. The deed of donation was annotated at the back of TCT No. 12135 on January 14, 1965. A new transfer certificate of title (TCT No. 31180) was later issued in favor of the donees. The latter on different dates twice mortgaged the property to Philippine Commercial and Industrial Bank.

On August 5, 1975, the spouses mortgaged once again the property to petitioner Philippine National Bank for the loan of P30,000.00. Two years later they sold the property to spouses Ildefonso Mercado and Isabel Palacio who assumed the loan with the said bank. The lot was again subdivided and two titles, TCT Nos. 69839 and 69840 were issued in the name of the buyers.

On January 18, 1978, the subdivision owners and/or residents of the Friendship Village commenced an action alleging that the lot in question had been reserved as a park or playground for the use of the residents of the village, adding that as early as 1960 a concrete basketball court with steel goals had been constructed at the expense of the City Government of Cebu and that Father Reynes acted in bad faith by using his influence in the issuance of TCT No. 12135 without the necessary annotation that the lot is a "Public Open Space."

The trial court rendered judgment dismissing the complaint as well as the counterclaim of the defendants.

On appeal, the Court of Appeals reversed the decision below and a new one was rendered annulling TCT Nos.

12135, 31180, 68939 and 69840 and ordering the Register of Deeds to issue another title in the name of Fr. Venerando Reynes or his successors in interest covering the lot, to wit:

"WHEREFORE, the decision appealed from is hereby reversed and another one is rendered annulling Transfer Certificates of Title Nos. 12135, 31180, 68939 and 69840, ordering the Register of Deeds of Cebu to issue another title in the name of Fr. Venerando Reynes, or his successors in interest, covering lot 9, Block 1, of the consolidation and subdivision plan Pcs-2742, being a portion of the consolidated Lots 5761 and 5764 of Cebu Cadastre, G.L.R.O. Cad. Record No. 9467, situated in the City of Cebu, as an "public open space", free from the mortgage encumbrance in favor of the defendant-appellee Philippine National Bank covering the loan of P30,000.00 of the defendants-appellees Luis Romero and Rosario Suarez assumed by defendants-appellees Ildefonso Mercado and Isabel Palacio, and ordering defendants-appellees Ildefonso Mercado and Isabel Palacio to vacate the property in question. No costs." (Rollo, p. 33)

Unhappy with the reversal of the decision by the appellate court, the petitioner brings the case to us.

The questions now raised before us are these: Is the ruling on the failure to annotate on the title that the land covered by TCT No. 12135 is a public open space or one subjected to restrictions or limitations as to its use and disposition a reversible error? What is the effect of this non-annotation on the transferees of the land?

Registration is the operative act that gives validity to the transfer or creates a lien upon the land (See Sec. 51, PD No. 1529). All persons dealing with property covered by a Torrens Certificate of Title are not required to go beyond what appears on the face of the title (Quimson v. Suarez, 45 Phil. 901 [1924]). These basic rules are applicable to the case at bar.

A Torrens title is the certificate of ownership issued under the Torrens system of registration by the government through the Register of Deeds, naming and declaring the owner in fee simple of the real property described therein free from all liens and encumbrances except such as may be expressly noted thereon or otherwise reserved by law. The liens and encumbrances which may be subsisting despite their non-annotation in the certificate of title are the following:

"First, Liens, claims or rights arising or existing under the laws and Constitution of the Philippines which are not by law required to appear of record in the Registry of Deeds in order to be valid against subsequent purchasers and encumbrancers of record;

"Second, Unpaid real estate taxes levied and assessed within two years immediately preceding the acquisition of any right over the land by an innocent purchaser for value, without prejudice to the right of the government to collect taxes payable before that period from the delinquent taxpayer alone;

"Third, Any public highway or private way established or recognized by law or any government irrigation canal or lateral thereof, if the certificate of title does not state that the boundaries of such highway or irrigation canal or lateral thereof have been determined;

"Fourth, Any disposition of the property or limitation in the use thereof by virtue of or pursuant to Presidential Decree No. 27 or any other law or regulation on agrarian reform. (Sec. 44, Presidential Decree No. 1529).

The case at bar does not in any way fall within the exceptions mentioned above. In fact it is the general rule which applies. Every registered owner receiving a certificate of title in pursuance of a decree of registration and every subsequent purchaser of registered land taking a certificate of title for value and in good faith shall hold the same free from all encumbrances not noted on the title. (Sec. 50, PD No. 1529)

When transfer certificates of title were issued in favor of the transferees (the donees and the purchaser) nothing was said therein about the land having been reserved for a public open space. Persons dealing with a property

covered by a Torrens Certificate of Title are not required to go beyond what appears on the face of the title (*Vda. de Median v. Cruz*, 161 SCRA 36 [1988]). When there is nothing on the face of the title to indicate any cloud or vice in the ownership of the property or any encumbrances thereon, the purchaser is not required to explore further 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 (*National Grains Authority v. IAC*, 157 SCRA 380 [1988]). Thus, a bank is not required before accepting a mortgage to make a detailed investigation of the history of the title of the property being given as security. And where innocent third persons like the mortgagees relying on the certificate of title acquire rights over the property, their rights cannot be disregarded.

WHEREFORE, the decision appealed from is REVERSED and SET ASIDE. A new one is issued upholding the validity of the donation inter vivos and sustaining the validity of the real estate mortgage executed by the spouses Luis Romero and Rosario Suarez in favor of the petitioner Philippine National Bank.

SO ORDERED.

Feliciano and Cortes, JJ., concur.

Fernan, C.J., (Chairman), No part. Formerly counsel for the Estate of Fr. Venerando Reynes.

Bidin, J., No part. He was one of the concurring members in the Intermediate Appellate Court.

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