

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. THE REGIONAL TRIAL COURT OF MANILA, PRESIDED BY HON. JUDGE RICARTE M. TOGONON AND APOLINARIO BATACLAN, JULIA BATACLAN, FRANCISCO SAGUI...

G.R. No. 81541. October 04, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

Pedro Caragao, complainant in Criminal Case No. 87-53321 of the Regional Trial Court of Manila, National Capital Judicial Region, Branch 22, presided over by the respondent judge, for falsification of public document, invoking the name of the "People of the Philippines," petitions the Court for the review on certiorari, under Rule 45 of the Revised Rules of Court, of two orders of the respondent trial court, dated July 17, 1987 and August 26, 1987. The first order granted the defense motion to quash the information while the second denied the motion for reconsideration of the first order.

The controversy arose from the following facts:

On September 20, 1980, the private respondents sold several parcels of land located in Dasmariñas, Cavite, in favor of Ricardo Silverio. These parcels were at that time registered in the names of the private respondents. One of the parcels, covered by Transfer Certificate of Title No. T-110942 of the Registry of Deeds for the province of Cavite, is the subject matter of a litigation between the private respondents and Pedro Caragao and his co-owners for reconveyance and cancellation of title and damages docketed as Civil Case No. TG-493 before Branch XVIII of the Regional Trial Court of Cavite in Tagaytay City.

Pedro Caragao then caused the annotation of a notice of lis pendens at the back of the original of the Transfer Certificate of Title (T.C.T.) of the parcel of land under litigation, on file in the Register of Deeds for the province of Cavite, without the knowledge of the private respondents. Hence, the owners' (private respondents') copy of the title in question did not bear any annotation of such notice of lis pendens.

When the private respondents sold the two parcels of land to Silverio, including the one under litigation for reconveyance between Caragao and the private respondents, they warranted that the properties are "free from all liens and encumbrances whatsoever." Thus the Deed of Sale states:

2. That for and in consideration of the sum of TWELVE MILLION SEVEN HUNDRED SIXTEEN THOUSAND AND NINE HUNDRED TEN PESOS (P12,716,910.00), Philippine Currency, to be paid by the VENDEE-MORTGAGOR to the VENDOR-MORTGAGEE as specified hereunder, the latter, by these presents, do hereby SELL, TRANSFER and CONVEY unto the VENDEE-MORTGAGOR, its heirs, assigns and successors-in-interests the above-described two (2) parcels of land, together with all the improvements thereon, free from all liens and encumbrances whatsoever.[1] (Emphasis supplied.)

On the basis of this express warranty vis-a-vis the notice of lis pendens duly annotated at the back of the original

of the Transfer Certificate of Title (T.C.T.-110942) on file in the Registry of Deeds for the Province of Cavite, Assistant Fiscal Napoleon V. Dilao of the City of Manila filed an information for "Falsification of Public Document" against the private respondents. The information reads in part:

That on or about the 20th day of September 1980 in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, being then private persons and with intent to cause damage to public interest, did then and there wilfully, unlawfully and feloniously commit acts of falsification on a public document, in the following manner, to wit: by then and there making it appear that a parcel of agricultural land situated at Malinta, Dasmariñas, Cavite identified as Lot No. 3877-A-1 and now by TCT No. T-110942 is free from all liens and encumbrances, which is subject of a Deed of Sale With Mortgage signed and executed in favor of one Ricardo Silverio which was subscribed and sworn to before Notary Public Carolina L. De Guzman and entered in his (sic) Notarial Registry As Doc. No. 89, Page 11, Book No. 111, Series of 1980, and therefore a public document, by making it appear that the said parcel of agricultural land is "FREE FROM ALL LIENS AND ENCUMBRANCES", when in truth and in fact, it is not, as the accused fully well knew that the subject parcel of land is subject of litigation in Civil Case No. TG-493 in the Regional Trial Court, Branch XVIII of Tagaytay City for reconveyance and/or cancellation of title and damages, as evidenced by the "Notice of Lis Pendens" at the back of said TCT No. T-110942 under Entry No. 71086 dated August 9, 1980 and acts (sic) of inscription is (on) August 11, 1980, to the damage and prejudice of public interest.

Contrary to law.[2]

Before arraignment, the private respondents, accused in the respondent trial court, filed, under date of June 17, 1987, a "Motion To Quash" the information, on the ground that the facts charged do not constitute an offense [Par. (a), Sec. 3, Rule 117, Revised Rules of Court]. They contended "that a notice of lis pendens is not a lien or an encumbrance within the contemplation of the law much less of the parties." [3] Moreover, the "(a)ccused were not summoned by the Register of Deeds concerning the alleged notice of lis pendens" [4] despite the fact that all the parcels of land were, at the time of the sale to Silverio, registered in the names of the private respondents, accused in the court below. [5]

The respondents aver that, without their knowledge, Pedro Caragao had caused the annotation of the notice of lis pendens at the back of the original copy of the T.C.T. of the land under litigation [6] in the Register of Deeds for the province of Cavite. They stress that their (owner's) copy of the T.C.T. in question is "clean"--it did not bear any annotation of notice of lis pendens. They assure that prior to the sale, the accused did not mortgage or otherwise encumber the said property as security for the payment of any obligation. They claim that at the time of the sale on September 20, 1980, the accused believed that the properties being sold, including the one under litigation, were indeed free from all liens and encumbrances as they really were. [7]

The court a quo, in an order dated July 17, 1987, sustained the private respondents' Motion to Quash and dismissed the case ruling that a notice of lis pendens is not a lien or encumbrance. The court said:

The motion to quash is well-taken. A notice of lis pendens is not a lien or encumbrance under our civil law. It is a mere cautionary notice to prospective buyers of certain property that said property is under litigation, and that any sale made thereof shall be subject to the result of such litigation. It imposes no obligation on the owner, but on the prospective buyer.

It is to be noted, also, that the clause is merely a formal statement in sales contained in notarized documents inserted by the drafter of the deed even without any actual statement by the vendor. [8]

Only on August 7, 1987, [9] after the issuance of the order granting the Motion to Quash, did Pedro Caragao file his opposition. In a nutshell, he contended that the notice of lis pendens is the evidence of the lien or encumbrance

on the subject property, and not the lien or encumbrance itself charged in the information.

On August 12, 1987, Pedro Caragao moved for reconsideration of the July 17, 1987 order of quashal arguing that:

- a) The Notice Of Lis Pendens Is Not The Lien Or Encumbrance Charged In The INFORMATION, But Merely An Evidence Of Such Lien Or Encumbrance.
- b) The Information is clear and clear cut that The Lien Or Encumbrance Being Charged Is The Fact That "The Subject Parcel of Land is Subject of LITIGATION in Civil Case No. TG-493 x x x as EVIDENCED by the 'Notice of Lis Pendens' x x x"
- c) Litigation is both an encumbrance and lien on the property being litigated.
- d) Ignorance of the law excuses no one.
- e) Damage to a third person is NOT an element in falsification of a public document."[10]

The lower court in an order dated August 26, 1987, denied them private prosecutor's motion for reconsideration, hence, this petition.

Before us now, the petitioner assigns the following errors:

I

RESPONDENT TRIAL COURT ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT RULED THAT THE NOTICE OF LIS PENDENS ANNOTATED AT THE BACK OF TCT NO. T-110942 IS THE VERY LIEN OR INCUMBRANCE (sic) CHARGED IN THE INFORMATION, WHEN IN FACT, SAID ANNOTATION IS MERELY AN EVIDENCE OF PENDING LITIGATION AND IT IS THE PROPERTY'S STATUS OF BEING A LITIGATED PROPERTY THAT IS THE LIEN OR ENCUMBRANCE CHARGED IN THE INFORMATION

II

RESPONDENT TRIAL COURT ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DISMISSED THE SUBJECT CRIMINAL CASE FOR FALSIFICATION OF PUBLIC DOCUMENT ON THE GROUND THAT "FACTS CHARGED DO NOT CONSTITUTE AN OFFENSE," BECAUSE THE TRIAL JUDGE SUBSTITUTED THE PLAIN RECITALS OF THE INFORMATION AND DOCUMENTARY EVIDENCE SUPPORTING SUCH RECITALS WITH HIS ERRONEOUS OPINION AND INAPPLICABLE AND IRRELEVANT DOCTRINES.[11]

Even, if we disregard the semantics of the private prosecutor's first submission, it has no merit nonetheless.

Central to the controversy in this case is the issue as to whether or not a notice of lis pendens is a lien or encumbrance within the contemplation of criminal law, in particular, the crime of falsification of public document. If so, then the private respondents would have committed falsification because they stated in paragraph 2 of the deed of sale they executed in favor of Ricardo Silverio, that the real properties they sold were "free from all liens and encumbrances" although a notice of lis pendens is annotated at the back of the T.C.T. of one parcel.

The meaning, nature, recording, and effects of a notice of lis pendens are clearly stated in the Revised Rules of Court, Rule 14, Section 24, thus:

SEC. 24. Notice of lis pendens.-- In an action affecting the title or the right of possession of real property, the

plaintiff, at the time of filing the complaint, and the defendant, at the time of filing his answer, when affirmative relief is claimed in such answer, or at any time afterwards, may record in the office of the registrar of deeds of the province in which the property is situated a notice of the pendency of the action, containing the names of the parties and the object of the action or defense, and a description of the property in that province affected thereby. From the time only of filing such notice for record shall a purchaser, or incumbrancer of the property affected thereby, be deemed to have constructive notice of the pendency of the action, and only of its pendency against parties designated by their real names.

The notice of lis pendens here-inabove mentioned may be cancelled only upon order of the court, after proper showing that notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be recorded.

Lis pendens is a Latin term which literally means a pending suit^[12] or a pending litigation while a notice of lis pendens is an announcement to the whole world that a particular real property is in litigation, serving as a warning that one who acquires an interest over the said property does so at his own risk, or that he gambles on the result of the litigation over the said property.^[13] It is but a signal to the intending buyer or mortgagee to take care or beware and to investigate the prospect or non-prospect of the litigation succeeding before he forks down his money.

Notice of Lis pendens has been conceived and, more often than not, availed of, to protect the real rights of the registrant while the case involving such rights is pending resolution or decision. With the notice of lis pendens duly recorded, and remains uncanceled, he could rest secure that he would not lose the property or any part of it during the litigation.

"[T]he doctrine of lis pendens is founded upon reason of public policy and necessity, the purpose of which is to keep the subject matter of the litigation within the power of the Court until the judgment or the decree shall have been entered; otherwise, by successive alienations pending the litigation, its judgment or decree shall be rendered abortive and impossible of execution."^[14]

The lower court is therefore correct in ruling that a notice of lis pendens being a mere cautionary notice to a prospective buyer or mortgagee of a parcel of land under litigation, then it imposes no obligation on the owner, but on the prospective buyer. It cannot conceivably be the "lien or encumbrance" contemplated by law.

On the other hand, a "lien" is a charge on property usually for the payment of some debt or obligation.^[15] A "lien" is a qualified right or a proprietary interest, which may be exercised over the property of another. It is a right which the law gives to have a debt satisfied out of a particular thing.^[16] It signifies a legal claim or charge on property, either real or personal, as a collateral or security for the payment of some debt or obligation.

Similarly, an "encumbrance is a burden upon land, depreciative of its value, such as a lien, easement, or servitude, which, though adverse to (the) interest of (the) landowner, does not conflict with his conveyance of (the) land in fee."^[17]

The following are considered encumbrances: A claim, lien, charge, or liability attached to and binding real property; e.g., a mortgage, judgment lien, lease, security interest, easement or right of way, accrued and unpaid taxes.^[18] A lien is already an existing burden or charge on the property while a notice of lis pendens, as the very term connotes, is only a notice or warning that a claim or possible charge on the property is pending determination by the court.

Consequently, the effect of a notice of lis pendens is not to establish an actual lien on the property affected. All that it does is to give notice to third persons and to the whole world that any interest they may acquire in the property pending litigation will be subject to the eventuality or result of the suit. It follows to reason, therefore,

that the mere failure to state in a public document, as a notarized deed of sale, the existence of a notice of lis pendens does not constitute falsification of a public document under Article 172 of the Revised Penal Code. This is specially true in the case at bar because the notice of lis pendens is annotated only at the back of the original of the T.C.T. in the Registry of Deeds; it does not appear at the back of the owner's copy of the same T.C.T.

The petitioner has taken the semantic stance that the notice of lis pendens is not the lien or encumbrance charged in the information but that it is merely an evidence of such litigation. In sum, the petitioner claims that the status of being a litigated property is the very lien or encumbrance that is charged in the information.

The petitioner's sophistry stretches the legal meaning of lien and encumbrance too far to be tenable. Be that as it may, not all claims against a property can be considered a lien within the contemplation of law. First, such claims must be in satisfaction of some debt or performance of an act under a contract. Second, the legal right to enforce such payment or performance of an act be anchored on an existing or demandable obligation and not merely dependent upon the result of a pending litigation where the claims of the parties are not yet finally determined. Such claims in a pending litigation only ripen to a "lien" within the contemplation of law when there is already a valid judgment rendered because then it becomes a judgment or judicial lien.

The fact that the property is contested or under litigation does not necessarily give rise to the conclusion that the complainant or petitioner has a better legal right than the respondents so as to enable the former to enforce a lien thereon. That is exactly the reason for a notice of lis pendens--to warn those who may subsequently deal with the property to take cognizance of the conflicting rights between the parties.

In fine, a notice of lis pendens, or a pending litigation, or the fact that the property is under litigation is not within the purview of what is legally considered a lien or encumbrance. The term notice of lis pendens is a distinct concept, as differentiated from the term lien or encumbrance. The trial court, therefore, committed no reversible error in granting the private respondents' Motion to Quash, and thereby dismissing the information against them.

The issue raised by the Solicitor General and the private respondents that there is a patent lack of authority on the private prosecution to file this petition or even to move for reconsideration of the lower court's order granting the Motion to Quash is well-taken. But there is no need to dwell on that point further considering that the foregoing disquisition, without more, sufficiently disposes of the petition.

WHEREFORE, finding no reversible error committed by respondent court, the petition is hereby DISMISSED, and the two challenged orders: dated July 17, 1987 and August 26, 1987, are AFFIRMED.

Costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Rollo, 27.

[2] Id., 10.

[3] Id., 31, 3rd par.

[4] Id., 27, 3rd par.

[5] Id., 26.

[6] Id., 27.

[7] Id., 4th par.

[8] Id., 21.

[9] Id., 33.

[10] Id., Petition, 11-12.

[11] Id., 8-9.

[12] WORDS AND PHRASES, Permanent Edition, Volume 25A [1961], p. 7.

[13] Baranda, et al. vs. Gustilo, G.R. No. 81163, September 26, 1988; Tanchoco vs. Aquino, No. L-30670, September 15, 1987; Heirs of Maria Marasigan vs. Intermediate Appellate Court, G.R. No. 69303, July 23, 1987; St. Dominic Corporation vs. Intermediate Appellate Court, No. 67207, August 26, 1985, 138 SCRA 242; Constantino v. Espiritu, No. L-23268, June 30, 1972, 45 SCRA 563; Jose vs. Blue, No.L-28646, November 29, 1971, 42 SCRA 351; Nataño vs. Esteban, No. L-22034, October 28, 1966, 18 SCRA 481; See also Rehabilitation Finance Corporation vs. Morales, 101 Phil. 171 [1957], and Jamora vs. Duran, 69 Phil. 3.

[14] Laroza vs. Guia, No. L-45252, January 31, 1985, 134 SCRA 341.

[15] WORDS AND PHRASES, Volume 25, p. 361.

[16] Supra, at 364.

[17] WORDS AND PHRASES, Volume 14A, p. 151.

[18] BLACK'S LAW DICTIONARY, 473, 5th Edition (1979).

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