

THIRD DIVISION

[G.R. No. 147559, June 27, 2008]

ARMED FORCES AND POLICE MUTUAL BENEFIT ASSOCIATION, INC., PETITIONER, VS. INES BOLOS SANTIAGO, RESPONDENT.

DECISION

NACHURA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated July 31, 2000 and the Resolution^[2] dated March 15, 2001 of the Court of Appeals (CA).

The Facts of the Case

The antecedent facts, as culled by the CA from the findings of the Land Registration Authority (LRA), are as follows:

This refers to a Notice of Levy on Attachment on Real Property dated September 12, 1994, issued in Civil Case No. Q-92-11198 entitled "The Armed Forces of the Philippines Mutual Benefit Association, Inc., Plaintiff, vs. Eurotrust Capital Corporation, Elsa B. Reyes, Rene M. Reyes, Celedonio N. Reyes, Digna Blanca, Fernando C. Francisco, Ma. Cristina C. Cornista, EBR Realty Corporation and B.E. Ritz Mansion International Corporation, Defendants, Regional Trial Court, Branch 216, Quezon City, levying all the rights, claims, shares, interests and participation of EBR Realty Corporation in the real property covered by Transfer Certificate of Title No. PT-79252.

On September 14, 1994, the Notice of Levy was presented for registration in the Registry of Deeds of Pasig City. The Notice was entered in the Primary Entry Book under Entry No. PT-1305. However, it was not annotated on TCT No. PT-79252 because the original copy of said title on file in the Registry of Deeds was not available at that time. Aniana Estremadura, the employee who examined the notice of levy, kept the said document in the meantime "hoping some later days said title may be found" as "at the time we were yet in turmoil or in disarray having just transferred from our old office."

On September 20, 1994 or six (6) days after the presentation of the Notice of Levy, a Deed of Absolute Sale dated February 24, [1994], executed by EBR Realty Corporation in favor of Ines B. Santiago involving the same parcel of land covered by TCT No. PT-97252 was presented for registration and entered under Entry No. PT-1653. The deed of sale was examined by the same employee who examined the notice of levy, but she failed to notice that the title subject of the sale was the same title

which was the subject of the notice of levy earlier presented. Unaware of the previous presentation of the notice of levy, the Register of Deeds issued TCT No. PT-94912 in the name of vendee Ines B. Santiago on the basis of the deed of sale. It was only after the Register of Deeds had already acted on the said deed of sale that Aniana Estremadura informed him of the presentation of the notice of levy. (Ltr. dated October 24, 1994 of the Register of Deeds to Ms. Ines B. Santiago).

Nevertheless, when the Register of Deeds discovered the error he immediately sent a letter dated October 24, 1994 to Ms. Ines B. Santiago requesting her to surrender the documents, particularly the deed of sale and owner's duplicate of TCT No. PT-94912 so that he can take appropriate rectification or correction. Ms. Santiago refused to surrender the documents and owner's duplicate of said title saying that "it was your office that caused this confusion so I do not see an iota of reason why I should be implicated in this kind of mess." This prompted the Register of Deeds to file a Manifestation dated November 11, 1995 in Civil Case No. Q-92-11198 informing the court of the foregoing circumstances and praying that the Register of Deeds be authorized to annotate on TCT No. PT-94912 the Notice of Levy on Attachment of Real Property.

Since the court has not yet issued any order on the matter, the Register of Deeds is now asking if he may proceed with the annotation of the Notice of Levy on the original copy of TCT No. PT-94912 or wait for the order of the court.^[3]

On May 28, 1997, acting on the consulta by the Registry of Deeds of Pasig City on the propriety of annotating the notice of levy on attachment on Transfer Certificate of Title (TCT) No. PT-94912, the LRA issued a Resolution,^[4] the *fallo* of which reads:

WHEREFORE, premises considered, this Authority is of the opinion and so holds that the subject Notice of Levy cannot be annotated on TCT No. PT-94912, except by order of the court.

SO ORDERED.^[5]

Petitioner filed a motion for reconsideration. On October 12, 1998, the LRA issued an Order^[6] denying the motion for reconsideration for lack of merit.

On appeal to the CA, petitioner submitted the following grounds in support of its contention that a court order is *not* necessary in order that the notice of levy on attachment may be annotated on TCT No. PT-94912: (1) the notice of levy on attachment in favor of petitioner was registered in the primary entry book before the deed of absolute sale in favor of respondent and such involuntary registration already binds the land subject of TCT No. PT-94912; (2) respondent is not an innocent purchaser for value because she had actual and constructive knowledge of the issuance of the notice of levy on attachment dated September 12, 1994; (3) the annotation of the notice of levy on attachment does not constitute an alteration, amendment or revocation of TCT No. PT-94912; and (4) the LRA decision requiring a court order before petitioner's attachment lien can be annotated on TCT No. PT-94912 is tantamount to penalizing petitioner for the irregularities committed by the Pasig Registry of Deeds.

On July 31, 2000, the CA dismissed the petition. The pertinent portions of the Decision read:

Records of the case disclose that at the time the levy on attachment in issue was inscribed in the Primary Entry Book on September 14, 1994, the property covered by Transfer Certificate of Title No. PT-79252 in the name of ERB Realty Corporation had already been previously sold to private respondent Santiago on February 24, 1994. With this in mind, it cannot be said at once that respondent Santiago is not a buyer in good faith and for value. To assume this position is too preposterous, premature and dangerously unprocedural since at the time of such sale, the inscription has not been done as yet.

Furthermore, Transfer Certificate of Title No. PT-94912 may undeniably be derived from Transfer Certificate of Title No. PT-79252, yet, to allow the inscription of the levy on attachment on TCT No. PT-94912 would be levying on a property not owned by anyone of the defendants in this (sic) main civil case. Albeit Ines Bolos Santiago is a sister of Elsa Bolos Santiago (a defendant in the civil case), the fact still remains that respondent Santiago is not one of the defendants in the suit.

Upon the other hand, to allow the inscription of the controversial levy on attachment upon the title of respondent Santiago will be tantamount to prematurely declaring her as a buyer in bad faith of the property. Such controversy is substantially a judicial issue over which the Registry of Deed nor the Land Registration Authority has no jurisdiction. Verily, on a mere Consulta, the Land Registration Authority could not rule on such issue on whether or not a registered owner is a buyer in good faith or not. Only our ordinary courts have that exclusive jurisdictional prerogative to try and decide such controversy. In fine, the question of whether or not the conveyance was made to defraud [the] creditor of the transferor should be left for determination of the proper court. There is much danger in giving this authority to the Register of Deeds without judicial intervention as there would be injustice in the suggested frustrations of a judicial victory for a party to the case. (*In re: Consulta of Vicente J. Francisco on behalf of Cabantug*, 67 Phil. 222, *Peña on Land Titles*, *supra*, p. 112).

In sum, We find no error in the challenged resolutions of the Land Registration Authority.

IN VIEW OF ALL THE FOREGOING, the instant petition for review is ordered DISMISSED. No pronouncement as to costs.

SO ORDERED.^[7]

Petitioner filed a motion for reconsideration; however, the same was denied in a Resolution dated March 15, 2001. Hence, this petition.

The Issues to Be Resolved