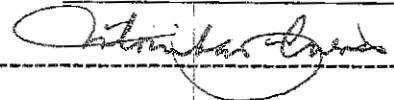


EN BANC

G.R. No. 209463 – *Florencia H. Duenas and Daphne Duenas-Montefalcon v. Metropolitan Bank and Trust Company, et al.*

Promulgated:

November 29, 2022



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CONCURRENCE

LAZARO-JAVIER, J.:

I concur.

To recall, the Metropolitan Bank and Trust Co. (MBTC) bought the three (3) parcels of land located on Buendia Avenue, corner Dian St., Makati City from AF Realty Development, Inc. (AFRDI) on January 31, 1994. At the time of the sale, MBTC was not aware of any claim or interest of some other person(s) in the properties nor of any defect or restriction in the title of the seller or its capacity to convey title.<sup>1</sup> Hence, MBTC was correctly found to be a purchaser in good faith and for value at the time it bought the properties.<sup>2</sup>

As it was, however, MBTC did not immediately cause the registration of the sale. But when it eventually did, there was already a prior entry of *lis pendens* on the title. What is then the effect of the entry of *lis pendens* on the sale and its belated registration?

I agree with the *ponencia* that the sale, though done earlier, but registered later, is subject and inferior to the earlier entry of *lis pendens*.

It is settled that banks and financial institutions are charged with the observance of elevated standards of diligence in dealing with real

<sup>1</sup> Draft Decision, p. 26.

<sup>2</sup> Id. at 27.

properties in the course of their business.<sup>3</sup> Thus, as a banking institution, MBTC was enjoined to exert a higher degree of diligence and prudence than ordinary individuals in handling real estate transactions. This is because banking institutions are impressed with public interest.<sup>4</sup>

In *Philippine National Bank v. Villa*,<sup>5</sup> the Court reminded banks to exercise the highest degree of diligence in its dealings with properties offered or acquired by them. This includes the prompt registration of their sale transactions for the purpose of preserving in full its rights therein as trustees of the shareholders to whom they have the utmost duty of care.

Adhering to the doctrine of *primus tempore, potior jure* (priority in time, stronger in right) and applying Sections 51, 52, and 76 of Presidential Decree 1529, the Court has consistently ruled in favor of a registered claim or right over a prior unregistered sale or mortgage.<sup>6</sup>

*Valdevieso v. Damalerio*,<sup>7</sup> is *apropos*. Although the subject land therein was sold to petitioner as early as December 5, 1995, it was not until June 6, 1996 that the conveyance was registered. In the interim though, the land was subjected to a levy on attachment. The Court clarified that insofar as third persons are concerned, what validly transfers or conveys a person's interest in real property is the registration of the deed. Thus, when Valdevieso bought the property on December 5, 1995, it was at that point, nothing but a private transaction between him and Spouses Uy. It needed to be registered before it could bind third parties, including Damalerio, *et al.*. Consequently, when the registration finally took place on June 6, 1996, it was already too late because, by then, the levy in favor of respondents, pursuant to the preliminary attachment ordered by the trial court, had already been annotated on the title. The settled rule is that levy on attachment, duly registered, takes preference over a prior unregistered sale. This is a necessary consequence of the fact that the property involved was duly covered by the Torrens system which works under the fundamental principle that registration is the operative act which gives validity to the transfer or creates a lien upon the land.<sup>8</sup>

In the same vein, the sale between MBTC and AFRDI on January 31, 1994 was nothing more than a private transaction between them and

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<sup>3</sup> *BPI Family Savings Bank, Inc. v. Sps. Soriano*, G.R. No. 214939, June 8, 2020 [Per J. Gaerlan, Third Division].

<sup>4</sup> See *Prudential Bank (now Bank of the Philippine Islands) v. Rapanot and Housing & Land Use Regulatory Board*, 803 Phil. 294, 312 (2017) [Per J. Caguioa, First Division].

<sup>5</sup> See 792 Phil. 86, 98 (2016) [Per J. Perez, Third Division].

<sup>6</sup> Draft Decision, p. 30.


<sup>7</sup> 492 Phil. 51, 57-58 (2005) [Per J. Chico-Nazario, Second Division].

<sup>8</sup> See *Du v. Stronghold Insurance Co., Inc.*, 475 Phil. 723, 733 (2004) [Per J. Panganiban, First Division]

remained such up until the sale was eventually registered to bind the whole world. It was only upon such registration that MBTC got to acquire preferential right to the property but only as against those who transacted thereon *post facto*. Since the entry of *lis pendens* here was done *ex ante*, it definitely enjoys precedence over the sale.

  
AMY C. LAZARO-JAVIER  
Associate Justice

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MARIA LUISA M. SANTILLA  
Deputy Clerk of Court and  
Executive Officer  
OCC-En Banc, Supreme Court