

Republic of the Philippines  
Supreme Court  
Manila

CERTIFIED TRUE COPY  
*Wilfredo V. Lapitan*  
WILFREDO V. LAPITAN  
Division Clerk of Court  
Third Division

JUL 24 2019

**THIRD DIVISION**

**ROMA FE C. VILLALON,**  
Petitioner,

**G.R. No. 239986**

**Present:**

*-versus-*

PERALTA, J., *Chairperson,*  
LEONEN,  
REYES, A., JR.,  
HERNANDO, and  
INTING, JJ.

**RURAL BANK OF AGOO, INC.,**  
Respondent.

**Promulgated:**

July 8, 2019

X-----*Wilfredo V. Lapitan*-----X

**DECISION**

**PERALTA, J.:**

Before Us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>1</sup> dated August 4, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 106920.

The antecedent facts are as follows:

On May 18, 1998, the spouses George and Zenaida Alviar (*Spouses Alviar*) obtained a loan from herein respondent Rural Bank of Agoo, Inc. (RBAI) in the amount of ₱145,000.00, secured by a real estate mortgage over a residential lot and house of the spouses covered by Tax Declaration Nos. 93-001-43749 and 93-001-52100 located at Barangay I, San Fernando, La Union. On the same date, the mortgage was registered with the Register of Deeds of La Union.

<sup>1</sup> Penned by Associate Justice Rosmari D. Carandang (now a member of this Court), with Associate Justices Stephen C. Cruz and Nina G. Antonio-Valenzuela concurring; *rollo*, pp. 20-30.

The loan became due and payable on February 10, 1999, and was renewed for four (4) times with the following due dates: August 9, 1999, February 4, 2000, August 2, 2000, and January 26, 2001; all evidenced by a promissory note.

On July 30, 2000, the Spouses Alviar borrowed ₱400,000.00 from herein petitioner Roma Fe C. Villalon (*Villalon*) which was secured by a Real Estate Mortgage executed on July 30, 2000 over the same residential lot and house which the spouses used as collateral with RBAI. The real estate mortgage was registered with the Register of Deeds on July 6, 2001.

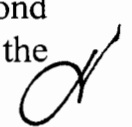
On several dates, the Spouses Alviar obtained additional loan from RBAI in the amount of ₱50,000.00 and ₱30,000.00, both secured by a real estate mortgage over the same residential lot and house. For their failure to pay their loan, an extrajudicial foreclosure was resorted to by RBAI. The foreclosure sale was reset to several dates.

The Spouses Alviar, likewise, failed to pay their loan to Villalon. Thus, Villalon applied for the extrajudicial foreclosure of the mortgaged realties. The foreclosure sale was conducted on June 26, 2002, wherein Villalon was declared as the highest bidder, with a bid of ₱1,050,000.00. A Certificate of Sale of Real Property was issued to Villalon on June 27, 2002, and the same was registered with the Register of Deeds on July 5, 2002.

On June 16, 2004, the foreclosure sale initiated by RBAI finally pushed through. RBAI was the highest bidder with a bid of ₱341,830.94 and the corresponding Certificate of Sale was issued to it. On October 14, 2005, RBAI paid the requisite fees, but despite its request, the Certificate of Absolute Deed of Sale was not issued to it.

On the other hand, a Certificate of Absolute Definitive Sale was issued on August 6, 2007 to Villalon, who had been in physical possession of the property since its foreclosure in 2002. Villalon had it declared for taxation purposes in her business name "*Villalon Lending Investor*," and had paid realty taxes for the same.

Upon discovering this, RBAI filed a Complaint for recovery of sum of money and damages before the Regional Trial Court (RTC) of Agoo, La Union against Villalon and the Spouses Alviar, claiming principally from Villalon, and alternatively from the Spouses Alviar, the amount of ₱750,818.34. RBAI alleged that since the mortgage of the said real properties in its favor is earlier than the mortgage to Villalon, then RBAI is the first mortgagee/superior lien holder, while Villalon is only the second mortgagee/subordinate encumbrancer/subordinate lien holder. While the



second mortgagee can foreclose ahead of the first mortgagee, RBAI claimed that the proceeds of the sale should be used to satisfy first the loan obtained from the first mortgagee. In other words, RBAI's claim of ₱750,818.34 should be satisfied from the amount of ₱1,050,000.00, the bid of Villalon. Despite demand for Villalon to remit or deliver the said amount of ₱750,818.34, the latter refused. In the event that Villalon would not be held liable for or would be unable to pay the said amount, RBAI averred that the Spouses Alviar should be ordered to pay the amount of ₱750,818.34.

The Spouses Alviar did not file their Answer despite due summons by publication.

Villalon, on the other hand, countered that RBAI has no cause of action against her since she was not a party to the contract between RBAI and the Spouses Alviar. Thus, she has no obligation to pay the loan granted by RBAI to the spouses. She has been in lawful and absolute ownership of the properties in question since June 27, 2002, and her ownership was confirmed and approved by Judge Carbonell,<sup>2</sup> when the latter issued in her favor the Certificate of Absolute Definitive Sale of Real Property on August 6, 2007. Hence, RBAI cannot assert any right over the properties in question.

On January 6, 2016, the RTC issued a Decision<sup>3</sup> ordering the Spouses Alviar to pay RBAI the sum of ₱750,818.34, plus interest of 12% *per annum* and attorney's fees in the amount of ₱50,000.00. The complaint against Villalon was dismissed. The RTC ruled that RBAI has no cause of action against Villalon there being no contractual relationship between them. It declared that the foreclosure initiated by Villalon is valid and, therefore, she has a better right over the foreclosed property. She has no obligation to pay RBAI with respect to the obligation of the spouses to RBAI. However, since it appears from evidence that the Spouses Alviar have an outstanding obligation to RBAI in the amount of ₱750,818.34, RBAI is entitled to recover from the spouses the unpaid loans and expenses in connection with the collection of such amount.

An appeal was filed by RBAI before the CA, arguing that it is legally entitled to recover from Villalon the amount of ₱750,818.34, plus interest. Being the first mortgagee and having registered the real estate mortgage ahead of Villalon, RBAI contended that Villalon, as a second mortgagee, has the legal obligation to acknowledge and respect the priority or preferred right of the first mortgagee. Hence, RBAI contends that the proceeds of the foreclosure sale initiated by Villalon in the amount of ₱1,050,000.00 should be used first to satisfy the loan obligation of the Spouses Alviar with RBAI

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<sup>2</sup> Civil Case No. 6869 for Annulment of Real Estate Mortgage filed by RBAI against Roma Fe C. Villalon.

<sup>3</sup> Penned by Executive Judge Romeo M. Atillo, Jr.; *rollo*, pp. 35-55.

which amounted to ₱750,818.34, plus interest until fully paid. The excess, if any, shall go to Villalon.

On August 4, 2017, the CA granted RBAI's appeal and set aside the decision of the RTC. It held that the RTC erred in dismissing the complaint against Villalon. According to the CA, RBAI has a cause of action against Villalon for it is enforcing its first lien or superior lien over the property on the basis of its prior mortgage as against Villalon, the second mortgagee or junior encumbrancer. Although the complaint is captioned as one for recovery of sum of money, the allegations in the complaint clearly show that RBAI is asserting its right as a superior lienholder.

The CA noted that the subject matter of the real estate mortgage is an unregistered property, which registration of transaction was first governed by Act No. 3344 and is now amended by Presidential Decree No. 1529. The proper foreclosure of the first mortgage by RBAI gave, not only the first mortgagee, but also subsequent lienholders like Villalon, the right to redeem the property within the statutory period. In order for Villalon to acquire full rights over the properties subject of the mortgage, she must first redeem the property by paying off the bid price of RBAI in the auction sale, which was ₱341,830.94, plus interest of 1% per month, and the assessments or taxes, if any, paid by the purchaser, with the same rate of interest.

A motion for reconsideration was filed by Villalon, but was denied by the CA in a Resolution<sup>4</sup> dated June 7, 2018.

Hence, this petition, raising the following assignment of errors:

- A) THE RESPONDENT COURT OF APPEALS GRAVELY ERRED IN ITS PRONOUNCEMENT THAT THE FIRST MORTGAGE WITH RESPONDENT RBAI PREVAIL OVER THE MORTGAGE TO THE PETITIONER;
- B) THE RESPONDENT COURT [OF APPEALS] COMMITTED GRAVE ERROR IN ORDERING THE PETITIONER TO PAY TO THE RESPONDENT RBAI THE BID PRICE, INTEREST AND ASSESSMENT OR TAXES IF ANY; [and]
- C) THE RESPONDENT COURT GRAVELY ERRED IN NOT ENTERTAINING THE CLAIM OF THE PETITIONER OF GOOD FAITH.<sup>5</sup>

Petitioner Villalon contends that since the foreclosure she initiated was published several times in the newspaper, which is considered as constructive notice to RBAI, the latter's non-action was tantamount as a waiver to protest the same. Likewise, petitioner Villalon claims that she was in good faith as she was not aware of the mortgage/s entered by and between RBAI and the

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<sup>4</sup> *Id.* at 31-34.

<sup>5</sup> *Id.* at 10-11.

spouses, and that no protest was received during the foreclosure proceedings she initiated. She also maintains that she has no contractual relationship with respondent RBAI, and the latter's recourse is against Spouses Alviar who did not appeal the decision of the RTC.

RBAI, in its Comment,<sup>6</sup> stated that the CA was correct in setting aside the decision of the RTC and in ordering Villalon to pay RBAI the redemption price, together with the assessments or taxes, if any, plus interest. It prayed that Villalon's petition be denied and the ruling of the CA be affirmed *in toto*.

We deny the petition.

In *Hidalgo v. La Tondeña*,<sup>7</sup> We held in the main decision that a mortgage created much ahead in point of time, but registered later than a levy of execution similarly registered, is preferred over the said levy. In the said case, the subject property was an unregistered land which was first mortgaged to La Tondeña to secure the payment of a debt contracted by Valenciano. The Deed of Mortgage was executed on December 12, 1952 and was registered only on August 14, 1954 with the Register of Deeds under Act No. 3344. On the other hand, Benipayo obtained a judgment in his favor and to enforce the same, he caused to be levied in execution the interest of Valenciano over the same property which levy was registered in the same Register of Deeds under the same Act on July 23, 1954. In view of the motion for reconsideration filed therein by Hidalgo, We modified our ruling<sup>8</sup> and held that Hidalgo's levy and lien was the better right since it was recorded earlier. This is because when La Tondeña caused its unregistered mortgage to be entered in the Registry, it was presumed to have become aware of and taken its mortgage subject to Benipayo's (Hidalgo's predecessor) execution levy (that under the Rules of Court created a lien in favor of the judgment creditor over the property levied upon).

In the case at bar, it is clear that RBAI's mortgage was first constituted over the unregistered real properties of the Spouses Alviar on May 18, 1998 and was, likewise, registered with the RD on the same day. On the other hand, Villalon's mortgage over the said properties was executed on July 30, 2000 and registered with the RD on July 6, 2001. Considering that RBAI's mortgage was created and registered much ahead of time than that of Villalon, RBAI's mortgage should be preferred. Thus, as correctly pointed out by the CA, the proper foreclosure of the first mortgage by RBAI gave, not only the first mortgagee, but also subsequent lienholders like Villalon, the right to redeem the property within the statutory period.

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<sup>6</sup> *Id.* at 59-71.

<sup>7</sup> 123 Phil. 445, 448-449 (1966).

<sup>8</sup> *Hidalgo v. La Tondeña, Inc., et al.*, 150-B Phil. 227, 231 (1972).

Further, Villalon cannot be deemed to be a third party with a better right, as provided for in Act No. 3344, as amended by Section 113 of Presidential Decree No. 1529, simply because she is a second mortgagee whose rights are strictly subordinate to the superior lien of the first mortgagee, RBAI. A second mortgagee of an unregistered land has to wait until after the debtor's obligation to the first mortgagee has been fully satisfied. Hence, notwithstanding that Villalon was first to foreclose; to have been issued a Certificate of Absolute Definitive Sale of Real Property; and is now in possession of the property as even the tax declaration is already in her name – these circumstances will not defeat the rights of RBAI whose mortgage was created and registered much ahead than that of Villalon. At most, Villalon, being a second mortgagee/junior encumbrancer, has only the right to redeem the property from RBAI, the first mortgagee.

The extrajudicial foreclosure of real estate mortgage, as in this case, is governed by Act No. 3135, as amended by Act No. 4118. Section 6 thereof provides:

Sec. 6. In all cases in which an extrajudicial sale is made under the special power hereinbefore referred to, the debtor, his successors in interest or any judicial creditor or judgment creditor of said debtor, or any person having a lien on the property subsequent to the mortgage or deed of trust under which the property is sold, may redeem the same at any time within the term of one year from and after the date of the sale; and **such redemption shall be governed by the provisions of sections four hundred and sixty-four to four hundred and sixty-six, inclusive, of the Code of Civil Procedure**, in so far as these are not inconsistent with the provisions of this Act.<sup>9</sup>

Section 28 of Rule 39 of the 1997 Rules of Civil Procedure provides:

Section 28. Time and manner of, and amounts payable on, successive redemptions; notice to be given and filed. — The judgment obligor, or redemptioner, may redeem the property from the purchaser, at any time within one (1) year from the date of the registration of the certificate of sale, **by paying the purchaser the amount of his purchase, with the per centum per month interest thereon in addition, up to the time of redemption, together with the amount of any assessments or taxes which the purchaser may have paid thereon after purchase, and interest on such last named amount at the same rate**; and if the purchaser be also a creditor having a prior lien to that of the redemptioner, other than the judgment under which such purchase was made, the amount of such other lien, with interest.<sup>10</sup>

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<sup>9</sup> Emphasis ours.

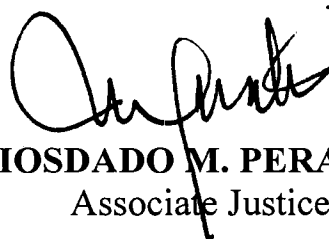
<sup>10</sup> Emphasis ours.

Thus, in order for Villalon to acquire full rights over the properties subject of the mortgage, she must first redeem them by paying off: (1) the bid price of RBAI in the auction sale, which is ₱341,830.94; (2) the interest on the bid price, computed at one percent (1%) per month; and (3) the assessments or taxes, if any, paid by the purchaser, with the same interest rate.

Petitioner cannot escape the fact that when she caused the mortgage to be entered in the Registry, RBAI's lien over the property was already registered as early as May 18, 1998. Thus, she cannot claim to have acted in good faith as when she caused its mortgage to be entered in the Registry, it was presumed to have become aware of and taken its mortgage subject to RBAI's lien over the property. This is because registration is the operative act that binds or affects the land insofar as third persons are concerned.<sup>11</sup> It is upon registration that there is notice to the whole world.<sup>12</sup>

**WHEREFORE**, premises considered, the petition is **DENIED**. The Decision and Resolution of the Court of Appeals, dated August 4, 2017 and June 7, 2018, respectively, in CA-G.R. CV No. 106920, are **AFFIRMED**.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice


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<sup>11</sup> *Egao v. Court of Appeals (Ninth Division)*, 256 Phil. 243, 252 (1989).

<sup>12</sup> *Calalang v. Register of Deeds of Quezon City*, 284 Phil. 343, 358 (1992).

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
 Associate Justice


  
**ANDRES B. REYES, JR.**  
 Associate Justice

  
**RAMON PAUL L. HERNANDO**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

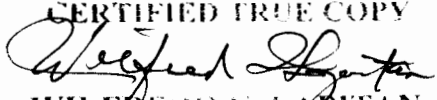
**ATTESTATION**

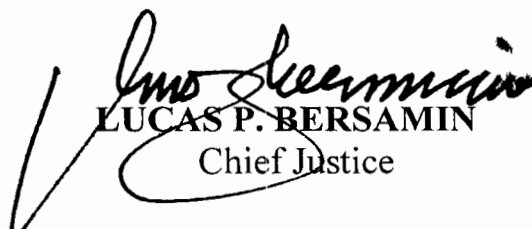
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
 Associate Justice  
 Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

  
**LUCAS P. BERSAMIN**  
 Chief Justice

JUL 24 2019