

## FIRST DIVISION

[ G.R. No. 156580, June 14, 2004 ]

**LUZ DU, PETITIONER, VS. STRONGHOLD INSURANCE CO., INC.,  
RESPONDENT.**

### D E C I S I O N

**PANGANIBAN, J.:**

Preference is given to a duly registered attachment over a subsequent notice of lis pendens, even if the beneficiary of the notice acquired the subject property before the registration of the attachment. Under the torrens system, the auction sale of an attached realty retroacts to the date the levy was registered.

The Case

Before us is a Petition for Review<sup>[1]</sup> under Rule 45 of the Rules of Court, seeking to nullify the March 19, 2002 Decision<sup>[2]</sup> and the December 5, 2002 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-GR CV No. 50884. The CA disposed as follows:

**"Parenthetically, when the decision in Civil Case No. 90-1848 became final and executory, levy on execution issued and the attached property sold at public auction, the latter retroacts to the date of the levy. Said the High Court:**

**'In line with the same principle, it was held that where a preliminary attachment in favor of 'A' was recorded on November 11, 1932, and the private sale of the attached property in favor of 'B' was executed on May 29, 1933, the attachment lien has priority over the private sale, which means that the purchaser took the property subject to such attachment lien and to all of its consequences, one of which is the subsequent sale on execution (Tambao v. Suy, 52 Phil. 237). The auction sale being a necessary sequel to the levy, it enjoys the same preference as the attachment lien enjoys over the private sale. In other words, the auction sale retroacts to the date of the levy. [Were] the rule be otherwise, the preference enjoyed by the levy of execution would be meaningless and illusory (Capistrano v. Phil. Nat. Bank, 101 Phil. 1117).' (Underscoring supplied)**

"By and large, We find no reversible error in the appealed decision.

"IN VIEW OF ALL THE FOREGOING, the instant appeal is ordered DISMISSED. No pronouncement as to cost."<sup>[4]</sup>

The questioned Resolution, on the other hand, denied petitioner's Motion for Reconsideration.

### **The Facts**

The CA narrated the facts as follows:

"x x x Aurora Olarte de Leon was the registered owner of Lot No. 10-A (LRC Psd 336366) per Transfer Certificate of Title No. 582/T-3. Sometime in January 1989, De Leon sold the property to Luz Du under a 'Conditional Deed of Sale' wherein said vendee paid a down payment of P75,000.00 leaving a balance of P95,000.00.

"Then again, on April 28, 1989, Aurora de Leon sold [the] same property to spouses Enrique and Rosita Caliwag without prior notice to Luz Du. As a result, Transfer Certificate of Title No. 582/T-3 was cancelled and Transfer Certificate of Title No. 2200 was issued in favor of the Caliwag spouses.

"Meanwhile, Stronghold Insurance Corp., Inc. x x x commenced Civil Case No. 90-1848 against spouses Rosita and Enrique Caliwag et al., for allegedly defrauding **Stronghold** and misappropriating the company's fund by falsifying and simulating purchases of documentary stamps. The action was accompanied by a prayer for a writ of preliminary attachment duly annotated at the back of Transfer Certificate of Title No. 2200 on August 7, 1990.

"On her part, on December 21, 1990, Luz Du initiated Civil Case No. 60319 against Aurora de Leon and the spouses Caliwag for the annulment of the sale by De Leon in favor of the Caliwags, anchored on the earlier mentioned Deed of Conditional Sale.

"On January 3, 1991, Luz Du caused the annotation of a Notice Of Lis Pendens at the back of Transfer Certificate of Title No. 2200.

"On February 11, 1991, the decision was handed down in Civil Case No. 90-1848 in favor of Stronghold, ordering the spouses Caliwag jointly and severally to pay the plaintiff P8,691,681.60, among others. When the decision became final and executory, on March 12, 1991, a notice of levy on execution was annotated on Transfer Certificate of Title No. 2200 and the attached property was sold in a public auction. On [August] 5, 1991, [5] the certificate of sale and the final Deed of Sale in favor of **Stronghold** were inscribed and annotated leading to the cancellation of Transfer Certificate of Title No. 2200 and in lieu thereof, Transfer Certificate of Title No. 6444 was issued in the name of **Stronghold**.

"It came to pass that on August 5, 1992, Luz Du too was able to secure a favorable judgment in Civil Case No. 60319 and which became final and executory sometime in 1993, as well.

"Under the above historical backdrop, Luz Du commenced the present case (docketed as Civil Case No. 64645) to cancel Transfer Certificate of

Title No. 6444 in the name of **Stronghold** with damages claiming priority rights over the property by virtue of her Notice Of Lis Pendens under Entry No. 13305 and inscribed on January 3, 1991, and the final and executory decision in Civil Case No. 60319 she filed against spouses Enrique and Rosita Caliwag. According to Luz Du, despite her said notice of lis pendens annotated, **Stronghold** still proceeded with the execution of the decision in Civil Case No. 90-1848 against the subject lot and ultimately the issuance of Transfer Certificate of Title No. 6444 in its (**Stronghold's**) name."<sup>[6]</sup>

The trial court ruled that Stronghold had superior rights over the property because of the prior registration of the latter's notice of levy on attachment on Transfer Certificate of Title (TCT) No. 2200. For this reason, it found no basis to nullify TCT No. 6444, which was issued in the name of respondent after the latter had purchased the property in a public auction.

### **Ruling of the Court of Appeals**

Sustaining the trial court *in toto*, the CA held that Stronghold's notice of levy on attachment had been registered almost five (5) months *before* petitioner's notice of lis pendens. Hence, respondent enjoyed priority in time. Such registration, the appellate court added, constituted constructive notice to petitioner and all third persons from the time of Stronghold's entry, as provided under the Land Registration Act -- now the Property Registration Decree.

The CA also held that respondent was a purchaser in good faith. The necessary sequels of execution and sale retroacted to the time when Stronghold registered its notice of levy on attachment, at a time when there was nothing on TCT No. 2200 that would show any defect in the title or any adverse claim over the property.

Hence, this Petition.<sup>[7]</sup>

### **Issues**

Petitioner submits the following issues for our consideration:

"I.

"Whether a Notice of Levy on Attachment on the property is a superior lien over that of the unregistered right of a buyer of a property in possession pursuant to a Deed of Conditional Sale.

"II.

"Whether the acquisition of the subject property by Respondent Stronghold was tainted with bad faith."<sup>[8]</sup>

### **The Court's Ruling**

The Petition has no merit.

**Main Issue:**  
**Superiority of Rights**

Petitioner submits that her unregistered right over the property by way of a *prior* conditional sale in 1989 enjoys preference over the lien of Stronghold -- a lien that was created by the registration of respondent's levy on attachment in 1990. Maintaining that the ruling in *Capistrano v. PNB* was improperly applied by the Court of Appeals, petitioner avers that unlike the circumstances in that case, the property herein had been sold to her before the levy. We do not agree.

The preference given to a duly registered levy on attachment or execution over a prior unregistered sale is well-settled in our jurisdiction. As early as *Gomez v. Levy Hermanos*,<sup>[9]</sup> this Court has held that an attachment that is duly annotated on a certificate of title is superior to the right of a prior but unregistered buyer. In that case, the Court explained as follows:

"x x x. It is true that she bought the lots with pacto de retro but the fact of her purchase was not noted on the certificates of title until long after the attachment and its inscription on the certificates. In the registry, therefore, the attachment appeared in the nature of a real lien when Apolonia Gomez had her purchase recorded. The legal effect of the notation of said lien was to subject and subordinate the right of Apolonia Gomez, as purchaser, to the lien. She acquired the ownership of the said parcels only from the date of the recording of her title in the register, which took place on November 21, 1932 (sec. 51 of Act No. 496; *Liong-Wong-Shih vs. Sunico and Peterson*, 8 Phil. 91; *Tabigue vs. Green*, 11 Phil. 102; *Buzon vs. Lucauco*, 13 Phil. 354; and *Worcester vs. Ocampo and Ocampo*, 34 Phil. 646), and the right of ownership which she inscribed was not an absolute but a limited right, subject to a prior registered lien, by virtue of which *Levy Hermanos, Inc.* was entitled to the execution of the judgment credit over the lands in question, a right which is preferred and superior to that of the plaintiff (sec. 51, Act No. 496 and decisions cited above). x x x"<sup>[10]</sup>

Indeed, the subsequent sale of the property to the attaching creditor must, of necessity, retroact to the date of the levy. Otherwise, the preference created by the levy would be meaningless and illusory, as reiterated in *Defensor v. Brillo*:<sup>[11]</sup>

"x x x. The doctrine is well-settled that a levy on execution duly registered takes preference over a prior unregistered sale; and that even if the prior sale is subsequently registered before the sale in execution but after the levy was duly made, the validity of the execution sale should be maintained, because it retroacts to the date of the levy; otherwise, the preference created by the levy would be meaningless and illusory.

"Even assuming, therefore, that the entry of appellants' sales in the books of the Register of Deeds on November 5, 1949 operated to convey the lands to them even without the corresponding entry in the owner's duplicate titles, *the levy on execution on the same lots in Civil Case No. 1182 on August 3, 1949, and their subsequent sale to appellee Brillo (which retroacts to the date of the levy) still takes precedence over and*