

FIRST DIVISION

[G.R. No. 122425, September 28, 2001]

**FLORDELIZA H. CABUHAT, PETITIONER, VS. THE HONORABLE
COURT OF APPEALS, SPECIAL FIFTH DIVISION AND MERCEDES
H. AREDE, RESPONDENTS.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Before this Court is a petition for review on *certiorari* of the Decision of the Court of Appeals in CA-G.R. CV No. 32910 dated January 9, 1995, disposing as follows:

WHEREFORE, in view of the foregoing, the instant appeal is hereby GRANTED. The portion of the lower court's decision upholding appellee's mortgage lien is hereby REVERSED and SET ASIDE.

SO ORDERED.^[1]

The undisputed facts as found by the respondent Court of Appeals:

Mary Ann Arede was barely three days old when appellant Mercedes Arede informally adopted her as the latter's own daughter. In December, 1972, appellant purchased a parcel of land situated in Bagbag, Ligdong, Rosario, Cavite comprising an area of 1,313 square meters. The said land was registered by appellant in Mary Ann Arede's name and the corresponding title was issued by the Register of Deeds of Cavite on December 9, 1972 as Transfer Certificate of Title No. T-56225. According to appellant, the said title was always in her possession which she kept in a locked drawer in her residence.

Upon reaching the age of majority and unknown to appellant, Mary Ann Arede obtained a reconstituted owner's duplicate of TCT No. T-56225 (Exhibit "D") thru the use of a falsified court order (Exhibit "B") supposedly issued by the Regional Trial Court of Cavite, Branch 17, on December 16, 1988, whereby the court purportedly directed the Register of Deeds of Cavite to issue another owner's duplicate copy of TCT No. T-56225, which Mary Ann Arede claimed to have lost. Using this reconstituted title, Mary Ann Arede mortgaged the land to the Rural Bank of Noveleta, Cavite on February 28, 1989. Upon release of the mortgage, the land was again mortgaged by Mary Ann Arede on May 16, 1990, this time to appellee Flordeliza Cabuhat for the amount of P300,000.00, which mortgage was registered by appellee on the following day at the Register of Deeds of Cavite.

It appeared however that prior to the second mortgage on May 16, 1990, the subject lot was sold by Mary Ann Arede to appellant Mercedes Arede in consideration of the sum of P100,000.00 as evidenced by a Deed of Sale dated January 17, 1990 (Annex E, Record, p. 17). Unfortunately, this sale was not registered by appellant.

Hence, upon knowledge of the mortgage to appellee Cabuhat, appellant was prompted to commence the instant suit for annulment of title.

Upon her failure to file answer within the reglementary period, defendant Mary Ann Arede was declared in default. Thereafter, trial ensued and judgment was rendered by the lower court on April 26, 1991, ordering as follows:

"WHEREFORE, the Court hereby decrees that:

- 1) the owner's duplicate copy of T.C.T. No. T-56225, with Serial No. 004470 of the Register of Deeds of the Province of Cavite, is null and void and, accordingly, the Register of Deeds is directed to cancel the same from their files and the owner's duplicate copy thereof with Serial No. SN2033078 is hereby revived;
- 2) the mortgage lien in favor of defendant Flordeliza H. Cabuhat is valid and binding;
- 3) defendant Mary Ann Arede is ordered to pay plaintiff Mercedes Arede the following amounts:
 - a) the sum of FIFTY THOUSAND (P50,000.00) PESOS as moral damages;
 - b) the sum of FIFTEEN THOUSAND (P15,000.00) PESOS, plus P500.00 per appearance of counsel, as attorney's fees; and
 - c) TWO THOUSAND (P2,000.00) PESOS as litigation expenses.

Cost against defendant Mary Ann Arede.

SO ORDERED.^[2]

Mercedes appealed to the Court of Appeals, seeking a reversal of the portion of the above-quoted decision upholding the mortgage lien in Flordeliza's favor. Mercedes argued that the mortgage lien was invalid because: (1) the registration was procured through the presentation of a forged owner's duplicate certificate of title, in violation of Section 53 of Presidential Decree 1529; and (2) the mortgage constituted when Mary Ann was no longer the absolute owner of the subject

property contravened Article 2085 of the New Civil Code.

While the appeal was pending, Mercedes passed away, leaving no legal representative or heirs qualified to take her place. Nevertheless, the Court of Appeals proceeded to resolve the case without substituting the appellant, it appearing that no prejudice would be caused to the parties.

On January 9, 1995, the Court of Appeals rendered judgment granting the late Mercedes' appeal, reversing and setting aside the trial court's decision upholding the mortgage lien in favor of Flordeliza.

Hence, this petition for review.

Petitioner contends that the Court of Appeals committed grave abuse of discretion when it disregarded the priority of registered rights over real property. She also assails the appellate court's conclusion that the real estate mortgage in her favor is null and void.

After a careful and thorough disquisition of the established facts and issues raised in the instant controversy, we find merit in this petition.

The Court of Appeals, in reversing the decision of the trial court, relied solely on the provisions of Article 2085 of the New Civil Code, which states, in part, that for a mortgage to be valid, the persons constituting the pledge or mortgage should have the free disposal of their property, and in the absence thereof, they should be legally authorized for the purpose. It also cited the 1954 case of *Parqui v. PNB*,^[3] wherein the mortgage was declared null and void since the registration thereof was procured by the presentation of a forged deed.

However, it is well-settled that even if the procurement of a certificate of title was tainted with fraud and misrepresentation, such defective title may be the source of a completely legal and valid title in the hands of an innocent purchaser for value.^[4] Thus:

Where innocent third persons, relying on the correctness of the certificate of title thus issued, acquire rights over the property the court cannot disregard such rights and order the total cancellation of the certificate. The effect of such an outright cancellation would be to impair public confidence in the certificate of title, for everyone dealing with property registered under the Torrens system would have to inquire in every instance whether the title has been regularly or irregularly issued. This is contrary to the evident purpose of the law. Every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go behind the certificate to determine the condition of the property.^[5]

Just as an innocent purchaser for value may rely on what appears in the certificate of title, a mortgagee has the right to rely on what appears in the title presented to him, and in the absence of anything to excite suspicion, he is under no obligation to look beyond the certificate and investigate the title of the mortgagor appearing on