

34 Phil. 426

[ G.R. No. 11607. March 27, 1916 ]

**PHILIPPINE SUGAR ESTATES DEVELOPMENT COMPANY (LTD.), PLAINTIFF AND APPELLEE, VS. ARMANDO CAMPS Y CAMPS, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**JOHNSON, J.:**

This is a motion to dismiss the appeal presented by the defendant and appellant. The original action was brought for the purpose of foreclosing a mortgage. A judgment in that action was rendered in favor of the plaintiff and against the defendant for the foreclosure of said mortgage. The judgment was rendered on the 23d of July, 1915. Upon said judgment, after the defendant had failed to deposit the amount due on said mortgage in the court in accordance with the order of the court, an order was issued directing the sale of the mortgaged property. Against said order of sale, the defendant presented an objection. Notwithstanding said objection, the property was sold and the sheriff made a report to the court of said sale, for confirmation. An objection was made to the petition for confirmation of said sale. Notwithstanding said objection, the lower court, on the 18th of November, 1915, issued an order confirming said sale. On the 24th of November, 1915, the defendant duly excepted to the order of the judge confirming said sale and on the 4th of December, 1915, presented his bill of exceptions. The record was received in the Supreme Court on the 21st of January, 1916. The present motion to dismiss the appeal was presented on the 20th of March, 1916.

The only question presented by said motion is whether or not there exists the right of appeal from an order of the trial court confirming the report of the sheriff of a sale of property in foreclosure proceedings.

Section 257 of Act No. 190 provides that the sale of property under foreclosure procedure must be confirmed by the court. Said section provides that a sale by the sheriff does not have the effect of transferring the property sold until the same is confirmed by a decree of

the court. Thus it appears that the confirming of the sale is a very important order. The title of the property cannot pass to the purchaser until the sale is confirmed. The court may decline to confirm the sale, for good cause shown, and set the same aside and order a new sale. While the court may or may not confirm the sale within his discretion, we are of the opinion that, whatever his order is, the interested parties may appeal therefrom if they feel themselves aggrieved. (Warner, Barnes & Co. vs. Santos, 14 Phil. Rep., 446; Raymundo vs. Sunico, 25 Phil. Rep., 365.)

The defendant having the right to appeal from said order and having availed himself of that right within the time for the perfection of appeals, the motion to dismiss the appeal is hereby denied. So ordered.

*Torres, Moreland, Trent, and Araullo, JJ., concur.*

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