

Title: Jose P. Jayag and Marilyn P. Jayag vs. BDO Unibank, Inc., Ex-Officio Sheriff, and/or Assigned Sheriff

Facts:

In 2005, the Jayag spouses secured a P1,700,000.00 loan from the Rural Bank of San Juan, Inc. (RBSJ) with 18% annual interest and a 5% monthly penalty for default. They later took an additional loan, using a property as security. RBSJ assigned the loan to BDO in 2012. A dispute over the loan balance led BDO to initiate an extrajudicial foreclosure in February 2013. The Jayags sought but failed to obtain a TRO/Injunction to block the sale. Asserting full or substantial payment, they amended their complaint to seek annulment of the mortgage and foreclosure. As BDO moved for and obtained a writ of possession, the Jayags challenged the move in various proceedings, culminating in a petition for certiorari which was dismissed by the CA for being the wrong remedy. This led to their appeal to the Supreme Court.

Issues:

1. Whether the Jayags employed the correct remedy in challenging the denial of a TRO/Injunction against the writ of possession.
2. Whether the writ of possession issued by the lower court was ministerial despite a decision annulling the foreclosure sale.
3. Whether the Jayags presented an urgent reason for the issuance of a TRO or injunctive relief against BDO.

Court's Decision:

The Supreme Court denied the petition, holding that:

1. The Jayags should have pursued an appeal rather than a petition for certiorari, as the writ of possession already issued had become final. Their failure to redeem the property allowed BDO to secure possession as a matter of right.
2. The issuance of the writ of possession is ministerial following the consolidation of title in the bidder/purchaser's name. A separate annulment action does not preclude the issuance of these writs.
3. The supposed urgent need for a TRO or injunctive relief does not override the procedural missteps and the lack of a demonstrated reversible error by the CA.

Doctrine:

- A writ of possession is a matter of right for the purchaser in an extrajudicial foreclosure sale once the redemption period lapses.

- Filing a separate action to annul the mortgage or foreclosure does not stay the issuance of a writ of possession.
- A petition for certiorari is not the proper remedy to challenge a writ of possession after foreclosure; instead, an appeal should be lodged.

Class Notes:

- **Writ of Possession**: Enforces judgment to recover land possession; issued as a right post-foreclosure if no redemption is made.
- **Procedural Posture**: Pursuit of appeal vs. certiorari in foreclosure contexts.
- **Standard for TRO/Injunction**: Urgent and compelling reason, potency of right being protected.
- **Relevant Law**: Sec. 7 of Act No. 3135 provides the buyer in a foreclosure sale the right to petition for possession during redemption.

Historical Background:

The case represents a common legal battle in the Philippines involving foreclosure and subsequent efforts by borrowers to nullify foreclosure proceedings and retain property. It elaborates on procedural requisites for challenging extrajudicial foreclosures and emphasizes the judiciary's interpretation of lenders' rights to secure possession of collateral property post-foreclosure, underscoring the significance of pursuing the correct legal remedy within prescribed periods.