

**Title:** Cua Lai Chu, Claro G. Castro, and Juanita Castro v. Hon. Hilario L. Laqui, Regional Trial Court, Branch 218, Quezon City, and Philippine Bank of Communication

**Facts:**

- November 1994:** Petitioners obtained a loan amounting to P3,200,000 from the Philippine Bank of Communication (private respondent) secured by a Deed of Real Estate Mortgage over a property belonging to spouses Claro G. Castro and Juanita Castro.
- August 1997:** Petitioners increased their loan by P1,800,000, making it a total of P5,000,000, through an Amendment to the Deed of Real Estate Mortgage.
- Loan Default:** Petitioners defaulted on the loan, leading private respondent to apply for extrajudicial foreclosure of the mortgaged property.
- March 2002:** Upon receiving notice of the extrajudicial foreclosure sale, petitioners filed a petition with the Regional Trial Court of Quezon City (RTC) to annul the sale and sought a temporary restraining order (TRO).
- May 2002:** The trial court lifted the initial TRO but eventually reset the foreclosure sale to 29 May 2002. Private respondent emerged as the highest bidder and a certificate of sale was executed on 4 June 2002.
- June 2003:** After the one-year redemption period lapsed without redemption, private respondent consolidated its ownership and title over the foreclosed property, resulting in the issuance of Transfer Certificate of Title No. 251835 in private respondent's name.
- August 2004:** Private respondent applied for a writ of possession. Petitioners opposed the application but the RTC declared them in default and allowed private respondent to present evidence ex parte. Petitioners' subsequent notice of appeal was denied by the trial court.
- Petition for Certiorari:** Petitioners filed a petition for certiorari with the Court of Appeals challenging the issuance of the writ of possession. The Court of Appeals dismissed the petition on both procedural and substantive grounds. Petitioners' motion for reconsideration was also denied.

**Issues:**

1. Was the writ of possession properly issued despite a pending case questioning the validity of the extrajudicial foreclosure sale?
2. Were petitioners denied due process when they were declared in default in the proceeding for the issuance of the writ of possession?
3. Did the application for the issuance of the writ of possession constitute forum shopping?

**\*\*Court's Decision:\*\***

**\*\*1. Issuance of Writ of Possession During Pending Case Questioning Foreclosure's Validity:\*\***

The Supreme Court held that the issuance of a writ of possession is effectively ministerial once the basic requirements are fulfilled. Under Section 7 of Act No. 3135, as amended by Act No. 4118, a purchaser at an extrajudicial foreclosure sale is entitled to the possession of the property even during the redemption period if an indemnity bond is provided. After the redemption period lapses without redemption, the purchaser's right to possession becomes absolute, allowing for an ex parte issuance of a writ of possession. The pendency of an action questioning the foreclosure's validity does not impede this process.

**\*\*2. Due Process and Default Declaration:\*\***

The Court ruled that the application for the issuance of a writ of possession is ex parte in nature, meaning it can be resolved without the need for an adversarial proceeding. Petitioners were not deprived of due process as a writ of possession is issued as a matter of course, following compliance with statutory requirements, regardless of opposition filed, and thus the declaration of default was procedurally proper.

**\*\*3. Forum Shopping Allegation:\*\***

The Court declared that there's no forum shopping issue because the proceeding for a writ of possession and a case questioning the extrajudicial foreclosure sale are distinct. The former does not constitute a judgment on the merits that would create a res judicata scenario.

**\*\*Doctrine:\*\***

1. **\*\*Ministerial Duty for Writ of Possession:\*\*** Once the redemption period lapses without redemption, the issuance of the writ of possession to the highest bidder in an extrajudicial foreclosure is a ministerial duty of the court under Section 7 of Act No. 3135, as amended.

2. **Ex Parte Nature of Writ of Possession Proceedings:** The application for the issuance of a writ of possession in foreclosure proceedings is ex parte and non-adversarial. Opposition and defenses to foreclosure actions should be challenged through separate settings and not as an opposition to the writ itself.

3. **Separation of Ownership and Possession Issues from Foreclosure Validity:** The validity of the foreclosure sale is independent of the buyer's immediate right to possession under the statute governing foreclosure sales.

**Class Notes:**

1. **Real Estate Mortgage:** Understand the processes of loan securing, foreclosure, and procedures following default.

2. **Ex Parte Proceedings:** Analysis of how writs of possession are generally issued ex parte post-foreclosure.

3. **Due Process in Foreclosure:** How procedural defaults impact the parties' rights within the foreclosure process.

4. **Forum Shopping:** The distinction between multiple proceedings and the avoidance of conflicting judgments.

**Historical Background:**

The case reflects stringent procedural aspects linked to the foreclosure process, emphasizing creditor rights in the context of historical tendencies to safeguard lenders via established statutory provisions (Acts No. 3135 and 4118) to ensure the sanctity of secured transactions amid economic instability. The case reinforces legislative intents from early 20th-century reforms that sought to streamline mortgage enforcement actions, directly influencing modern judicial practices regarding loan defaults and remedial processes.