

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MARIANO NABLE, JUDGE OF THE COURT OF FIRST INSTANCE OF NUEVA ECIJA, AND RICARDO DE GUZMAN, AS AN INTERESTED PARTY, RESPONDENTS.*G.R. No. L-4979. April 30, 1952*

Ponente: PARAS, C.J.

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On May 28, 1949, the justice of the peace court of Cabanatuan issued in civil case No. 80, Go So Chan (Cabanatuan Lumber Co.) vs. Ricardo de Guzman, an order of attachment against all the properties of the defendant De Guzman. On May 31, 1949, the Court of First Instance of Nueva Ecija in turn issued in criminal case No. 1096, People vs. Ricardo de Guzman et al., an order of attachment and garnishment against all the properties of the accused De Guzman. Pursuant to said orders of attachment, a dwelling house of Ricardo de Guzman was duly levied upon. On June 3, 1949, a decision was rendered by the justice of the peace court in civil case No. 80, ordering defendant De Guzman to pay to the plaintiff Go So Chan the amount of P2,000.00, with legal interest from May 28, 1949, plus the costs. On October 15, 1949, by virtue of a writ of execution issued in said civil case No. 80, the dwelling house of Ricardo de Guzman already levied upon, was sold at public auction, for the amount of P2,600.00, to one Vicente Mendoza. According to the sheriff's certificate of sale, the period of redemption was to expire on October 15, 1950. On September 25, 1950, the petitioner, Republic of the Philippines, notified the provincial sheriff of Nueva Ecija of its intention to redeem the house from Vicente Mendoza, and deposited with said sheriff the sum of P2,932.00 as the redemption price. The petitioner alleged that it was a creditor having a lien by attachment under Rule 39, section 25(b), of the Rules of Court. In view of the opposition of Vicente Mendoza to the exercise by the petitioner of the right of redemption, the matter was referred to the Court of First Instance of Nueva Ecija which, however, issued an order the dispositive part of which reads as follows:

"In view of the foregoing, the plaintiff Republic of the Philippines is hereby required to deposit in the office of the Provincial Sheriff whatever amount is needed for the exercise of the right of Ricardo de Guzman to repurchase the property in question from Vicente Mendoza and upon such deposit Vicente Mendoza is given ten days to reconvey in favor of Ricardo de Guzman the property in question, and once the property is in the name of Ricardo de Guzman, said property will be automatically subject to the right of attachment of the Republic of the Philippines in connection with the criminal cases for estafa thru falsification now pending in this court, plus the amount reimbursed by the Republic of the Philippines for the repurchase of the property from Vicente Mendoza."

Accordingly, in view of the deposit of the sum of P2,932.00 already made by the petitioner, the provincial sheriff of Nueva Ecija, on March 5, 1951, issued a certificate of redemption which provides in part as follows:

"WHEREFORE, by virtue of the order of the Court, dated November 21, 1950, with the conformity of the purchaser at the public auction on October 15, 1949, Mr. Vicente Mendoza and of the payments made by the Republic of the Philippines in behalf of the defendant, Ricardo de Guzman, in the above-entitled case, the levy

and certificate of sale issued by this office, dated May 28, 1949, and October 15, 1949, respectively is hereby cancelled, thus transferring the ownership of the house mentioned above to Ricardo de Guzman, subject to incumbrances mentioned in the order of the court dated November 21, 1950, in favor of the Republic of the Philippines."

On May 8, 1951, the petitioner filed a motion before the Court of First Instance of Nueva Ecija, praying that the provincial sheriff be ordered to deliver the possession of the house in question to the petitioner as provided by section 31 of Rule 39 of the Rules of Court, on the ground that no other redemptioner had exercised the right of redemption. This motion was denied on July 10, 1951, by the Court of First Instance of Nueva Ecija. On July 19, 1951, a motion for reconsideration was filed by the petitioner which was denied by the court on July 24, 1951. Whereupon the present petition for certiorari and mandamus was filed by the petitioner, Republic of the Philippines, to order the respondent Judge of the Court of First Instance of Nueva Ecija to issue a directive to the provincial sheriff of Nueva Ecija to execute a deed of conveyance in favor of the petitioner and to place the latter in possession of the house in question.

Under section 25(b) of Rule 39, a creditor having a lien by attachment, judgment, or mortgage on the property sold, or on some part thereof, subsequent to that under which the property was sold, may redeem said property, and such redeeming creditor is termed a redemptioner. This rule is invoked by the petitioner, it appearing that Ricardo de Guzman, debtor in civil case No. 80 and accused in criminal case No. 1096, has failed to exercise the right of redemption within the reglementary period. It is contended for the respondent, however, that the lien in favor of the petitioner is inchoate, depending upon the result of criminal case No. 1096, since said lien might become effective only in case Ricardo de Guzman shall have been convicted. Section 25(b) of Rule 39, however, makes no distinction, the only requirement being that there be a lien by attachment. We should not thus discriminate in favor of an ordinary creditor who sues out an attachment and against a plaintiff in a criminal case who levies upon the property of the accused by attachment, because the liens in both cases are inchoate in the sense that they are dependent upon the success of the creditor's civil suit and upon the conviction of the accused in the criminal case.

It is also argued on the part of the respondents that the respondent Judge, in his order authorizing redemption by the petitioner, required the latter to deposit the amount necessary for the exercise of the right of redemption of Ricardo de Guzman, and that Vicente Mendoza, the purchaser at the public sale held pursuant to the writ of execution issued in civil case No. 80, was ordered to reconvey to Ricardo de Guzman the house in question, subject automatically to the right of attachment of the petitioner in the criminal case against Ricardo de Guzman; and that, as a matter of fact, the provincial sheriff issued a certificate of redemption transferring the ownership of said house to Ricardo de Guzman, subject only to the attachment in favor of the petitioner. However, it should be noted that the petitioner sought to redeem the house in question in its own right, and not merely on behalf of Ricardo de Guzman. As section 25 of Rule 39 expressly enumerates those who may redeem, and the petitioner exercised the right of redemption in its own right as a creditor having a lien by attachment, the respondent Judge could not have legally considered the redemption made by the petitioner as a redemption on behalf of Ricardo de Guzman. The petitioner could certainly not have been allowed to redeem, if it was not among those expressly included in said section 25 of Rule 39.

Counsel for the respondents also urges that the petitioner could not redeem under section 25(b) of Rule 39, because the order of attachment in criminal case No. 1096, dated May 31, 1949, is anterior to the decision rendered in civil case No. 30 on June 3, 1949. In answer, suffice it to state that, while the attachment in criminal case No. 1096 was issued on May 31, 1949, the attachment in civil case No. 80 was issued on May 28, 1949, with the result that the lien by attachment of the petitioner is subsequent to the lien arising from the attachment in civil case No. 80.

As Ricardo de Guzman or any other entitled thereto, had failed to redeem the house in question within the reglementary period, all rights in and to the property should consolidate in the petitioner as a redemptioner in its own right. This situation is very fair, notwithstanding the fact that Ricardo de Guzman was not yet convicted in the criminal case against him at the time the petitioner exercised the right of redemption, since in all events Ricardo de Guzman, by failing to redeem his property on time, would lose the same. Upon the other hand, the petitioner parted with valuable consideration in availing itself of the right under the law. The petitioner is clearly entitled to the conveyance and possession sought in this case, in view of section 31 of Rule 39 which reads as follows:

"By whom executed or given. If no redemption be made within twelve months after the sale, the purchaser, or his assignee, is entitled to a conveyance and possession of the property; or, if so redeemed, whenever sixty days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner, or his assignee, is entitled to the conveyance and possession; but in all cases the judgment debtor shall have the entire period of twelve months from the date of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it. The possession shall be given by the same officer if no third parties are actually holding the property adversely to the judgment debtor."

Wherefore, the respondent Judge is directed to issue an order requiring the provincial sheriff of Nueva Ecija to reconvey the house in question to the petitioner and to place the latter in possession thereof. So ordered with costs against the respondent, Ricardo de Guzman.

Feria, Pablo, Bengzon, Tuason, Reyes, and Bautista Angelo, JJ., concur.

Montemayor, Jugo, & Labrador, JJ., took no part.

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