VICENTE P. LIM, SR., COMPLAINANT, VS. JUDGE JACINTA B. TAMBAGO, REGIONAL TRIAL COURT, BRANCH 48, MASBATE, MASBATE, AND ROLANDO G. SANDIGAN, CLERK OF COURT VI AND EX-OFFICIO PROV...

A.M. No. RTJ-99-1498. September 17, 2001

Ponente: PARDO, J.

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PARDO, J.:

Submitted for resolution are (1) the verified complaint dated February 21, 1998,[1] against Atty. Rolando G. Sandigan, Clerk of Court VI, Regional Trial Court, Masbate and Ex-Officio Provincial Sheriff of Masbate with grave abuse of authority, grave misconduct, oppression and harassment,[2] and (2) the verified complaint dated November 20, 1998,[3] against Judge Jacinta B. Tambago, Regional Trial Court, Masbate, Branch 48, with abuse of authority, serious misconduct, oppression and harassment, conduct unbecoming a Judge, and violation of R.A. No. 3019, Section 3 (f) (Anti-Graft and Corrupt Practices Act).[4]

The two (2) verified complaints were consolidated into one (1) administrative case.[5]

Complainant Vicente P. Lim, Sr. alleges that on November 3, 1997, he was the highest bidder of the three (3) parcels of land under TCT No. T-9228, T-8472 and T-8335, all located at Nursery Street, Masbate, Masbate owned by spouses Porderio and Liza Orbiso which the DBP sold at public auction in the amount of P1,470,000.00.[6]

On November 4, 1997, Atty. Rolando G. Sandigan, Clerk of Court VI, Regional Trial Court, Masbate, and Ex-Officio Provincial Sheriff of Masbate issued a Certificate of Sale,[7] approved by Executive Judge Ricardo M. Merdegia conveying the parcels of land in favor of Miss Susana Y. Lim.[8]

On October 30, 1998, respondent Sandigan notified complainant Lim that on November 3, 1998, the mortgagors-spouses Orbisos would redeem the foreclosed property.[9]

On November 3, 1998, at about 10:30 in the morning, complainant went to the office of the Clerk of Court but the mortgagors did not show up. Complainant requested the sheriff to issue a certificate of final sale but the sheriff denied the request.[10]

In the morning of November 5, 1998, complainant was notified to go to the office of the Clerk of Court because the mortgagors were there to redeem the property. Antonio Lim, son of the complainant, went to the Office of the Clerk of Court and asked the sheriff to compute the amount of redemption price and asked for the sheriff's phone number to enable the complainant to communicate with the sheriff. As requested, the sheriff computed the amount of redemption price which was P1,650,503.00 inclusive of interests and taxes, and wrote on the computation sheet[11] his telephone number.[12]

At about 8:00 in the morning of November 6, 1998, which was the last day to redeem the foreclosed property, the

sale at public auction having been registered a year earlier with the Register of Deeds, the Orbisos filed with the sheriff's office a notice of redemption. A copy of the notice was sent via registered mail to complainant and a copy of the notice was also filed with the Register of Deeds' Office. On the same day, the Orbisos filed an "Ex-Parte Motion to Pay and Deposit to the Judgment Creditor through the Office of the Provincial Sheriff" which motion was referred to respondent Judge who granted it. The order directed respondent sheriff to receive the amount of P1,646,400.00, representing the principal and interest plus the amount of P4,103.00 as registration fee or a total amount of P1,650,503.00.[13]

On November 6, 1998, respondent sheriff accepted the redemption money in the amount of P1,650,503.00 in cash although in the Official Receipt No. 5777252 dated November 6, 1998 which was issued therefor, a check sign (/) was placed at the left side portion of the box opposite the word "Treasury Warrant" as form of payment.[14]

Upon motion, on November 6, 1998, the respondent Judge issued an Order granting the ex-parte motion for the issuance of the certificate of redemption and directed the Provincial Sheriff to issue a certificate of redemption to the spouses Orbisos.[15] The redemption money was deposited with the Land Bank, Masbate Branch, in the name of the Regional Trial Court (Provincial Sheriff-Masbate).[16]

On November 20, 1998, complainant filed with the Court Administrator, Supreme Court a complaint against Atty. Rolando G. Sandigan, Clerk of Court and Ex-Officio Provincial Sheriff of Masbate, charging him with "Abuse of Authority, Grave Misconduct, Conduct Unbecoming of a Sheriff in having issued the Certificate of Redemption without complainant's consent and in refusing to issue to the complainant a certificate of final sale.[17]

On February 21, 1999, complainant filed with the Court Administrator, Supreme Court a complaint against respondent Judge Jacinta B. Tambago questioning the propriety of the two (2) orders, first, directing respondent sheriff to accept the redemption payment of the extra-judicially foreclosed property, and the second directing respondent sheriff to issue a certificate of redemption to the mortgagors. Complainant Lim pointed out that respondent Judge acted with Abuse of Authority, Grave Misconduct, Oppression, Harassment, Serious Misconduct and Conduct Unbecoming of a Judge.[18]

Complainant contended that the mortgagor-spouses Orbisos must be deemed to have waived their right to redeem their property because they failed to appear and pay the redemption amount on the scheduled date on November 3, 1998. Complainant also assailed the two (2) orders dated November 6, 1998 which granted the ex-parte motion to accept the redemption amount and ordered the issuance of a certificate of redemption without affording him an opportunity to comment or oppose the same, thus, denying him due process.

In response to Lim's complaint, respondent Atty. Sandigan denied the charges, claiming that his refusal to issue on November 3, 1998 a certificate of final sale was justified, the last day to redeem was on November 6, 1998, and that his acceptance of the redemption money and issuance of the certificate of redemption were pursuant to respondent Judge's order.[19]

In similar fashion, respondent Judge denied the charges, stating that her questioned orders were issued "in accordance with law and never for profit", and that the case against her was filed "to harass and cause incalculable damage to her integrity out of complainant's frustration in redeeming the property."[20]

On October 13, 1999, we referred the case to Associate Justice Conchita Carpio-Morales of the Court of Appeals for investigation, report and recommendation.[21]

After conducting an investigation, on February 28, 2000, Justice Morales submitted a report recommending that the charges against both respondents be dismissed for lack of merit.

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The Court agrees with the findings of the investigating justice.

Rule 39, Section 28 of the Revised Rules of Court provides that the judgment obligor, or redemptioner, may redeem the property from the purchaser at any time within one (1) year from the date of the registration of the certificate of sale.[22]

In this case, the certificate of sale was inscribed in the Register of Deeds on November 6, 1997, giving the mortgagor-spouses one (1) year to redeem it. Hence, the redemption made by the mortgagors-spouses on November 6, 1998, was within the period prescribed by the Rule.

WHEREFORE, the complaints against Judge Jacinta B. Tambago and Atty. Rolando G. Sandigan are hereby DISMISSED, for lack of merit.

SO ORDERED.

Davide, Jr., CJ., (Chairman), Kapunan, and Ynares-Santiago, JJ., concur.
Puno, J., on official business abroad.

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[1] Docketed as Administrative Case OCA IPI 98-552.

[2] Rollo, pp. 79-82.

[3] Docketed as Administrative Complaint OCA IPI 98-687.

[4] Rollo, pp. 1-4.

[5] Docketed as A.M. No. RTJ 99-1498.

[6] Administrative Complaint, par. 2, Rollo, p. 1.

[7] Complaint, Annex "A", Rollo, pp. 5-6

[8] Ibid., Annex "A", Rollo, pp. 5-6.

[9] Administrative Complaint, Annex "B", Rollo, p. 7. Administrative Complaint, par. 4, Rollo, p. 1.

[10] Ibid., pars. 5, 6, Rollo, pp. 1-2.

[11] Administrative Complaint, Annex "D", Rollo, p. 9.

[12] Ibid., par. 7, Rollo, p. 2.

[13] Complaint, Annex "H", Rollo, p. 14.

[14] Certificate of Redemption, Rollo, pp. 62-65. Official Receipt No. 5777252, Rollo, p. 130.

[15] Complaint, Annex "G", Rollo, p. 13.

[16] Certificate of Redemption, Rollo, pp. 62-65, at pp. 63-64.

[17] Administrative Complaint, Rollo, pp. 79-82.

[18] Administrative Complaint, Rollo, pp. 1-4.

[19] Answer, Rollo, pp. 40-43.

[20] 2[nd] Indorsement, Rollo, pp. 25-26.

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[21] Rollo, pp. 116-117.

[22] See Republic v. National Labor Relations Commission, 318 SCRA 459, 464 [1999].

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